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Charles R. Borders
Commissioner

December 8, 2009

PARTIES OF RECORD

Re: Case No. 2009-00127

Attached is a copy of the memorandum which is being filed in the record of the above-referenced case. If you have any comments you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. If you have any questions, please contact John E.B. Pinney at 502/564-3940, Extension 427.

Sincerely,


A handwritten signature in black ink, appearing to read "Jeff Derouen".

Jeff Derouen
Executive Director

JP/ew

Attachment

INTRA-AGENCY MEMORANDUM
KENTUCKY PUBLIC SERVICE COMMISSION

TO: Case File
FROM: J.E.B. Pinney, Staff Attorney 
DATE: December 8, 2009
SUBJECT: Case No. 2009-00127
dPi Teleconnect v. BellSouth Telecommunications, Inc. d/b/a AT&T
Kentucky

On November 3, 2009, representatives for BellSouth Telecommunications, Inc. d/b/a AT&T Kentucky ("AT&T Kentucky") and dPi Teleconnect, L.L.C. ("dPi Teleconnect") participated with Commission Staff in an informal conference regarding the above-styled case. A copy of the sign-in sheet of those who attended is attached.

The purpose of the meeting was to discuss dPi Teleconnect's complaint against AT&T Kentucky involving credits for resale elements and whether settlement was possible or the case needed to progress.

Counsel for dPi Teleconnect noted that similar complaints had been filed in the BellSouth legacy states. Counsel also noted that a hearing regarding a complaint was scheduled on November 12, 2009 in North Carolina.

Counsel for AT&T Kentucky enumerated the defenses AT&T Kentucky would possibly submit to dPi Teleconnect's complaint. The first defense is that the cash-back credits were subject to resale, and not the parties' interconnection agreement. The second defense is that, even if the interconnection agreement governs the credits, the promotions were a reasonable restriction on resale. The third defense, if the first two defenses failed, is that AT&T Kentucky would dispute the amount of the credit that dPi Teleconnect alleged it was due. The parties discussed that some of these issues were legal in nature and others were factual disputes.

The parties agreed to attempt settlement negotiations and to provide a status update to the Commission within 30 days of the issuance of the informal conference memorandum. If no settlement was reached, the parties would have an additional 30 days by which to jointly submit a proposed procedural schedule. Commission Staff noted that the Commission would provide procedural latitude in order to address potential motions for summary judgment, joint stipulations and/or other procedural or substantive matters as long as the parties agreed to it.

Thereafter, the conference adjourned.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DPI TELECONNECT, L.L.C.)	
)	
COMPLAINANT)	
VS.)	CASE NO. 2009-00127
)	
BELLSOUTH TELECOMMUNICATIONS, INC. D/B/A AT&T KENTUCKY)	
)	
DEFENDANT)	
)	
_____)	
)	
DISPUTE OVER INTERPRETATION OF THE PARTIES' INTERCONNECTION AGREEMENT REGARDING BELLSOUTH'S FAILURE TO EXTEND CASH BACK PROMOTIONS TO DPI)	
)	

SIGN IN SHEET FOR NOVEMBER 3, 2009 INFORMAL CONFERENCE

<u>NAME</u>	<u>PARTY</u>
<u>J.E.B. Pinney</u>	<u>PSC Staff</u>
<u>Chris Malish</u>	<u>dP: Teleconnect</u>
<u>Don Brent</u>	<u>dP: Teleconnect</u>
<u>Jim Tipton</u>	<u>ATT</u>
<u>Kyle Willard</u>	<u>PSC - Engineering</u>
<u>Jim Stevens</u>	<u>PSC</u>
<u>Joelle Phillips</u>	<u>ATT (via conf. call)</u>
<u>Patrick Turner</u>	<u>ATT (via conf. call)</u>
<u>Mary Kayer</u>	<u>ATT</u>