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January 14, 2010

The Honorable Charles Terreni
Chief Clerk of the Commission
Public Service Commission of South Carolina
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T South Carolina, Complainant/Petitioner v. dPi Teleconnect, LLC, Defendant/Respondent
Docket No. 2010-18-C

Dear Mr. Terreni:

Enclosed for filing is AT&T South Carolina's Motion for Consolidation in the above-referenced matter.

By copy of this letter, I am serving all parties of record with a copy of this pleading as indicated on the attached Certificate of Service.

Sincerely,

Patrick Turner

Patrick W. Turner

PWT/nml
Enclosure
cc: All Parties of Record
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BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

In Re: BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Affordable Phone Services, Incorporated d/b/a High Tech Communications
Docket No. 2010-14-C

BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Dialtone & More Incorporated
Docket No. 2010-15-C

BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Tennessee Telephone Service, LLC d/b/a Freedom Communications USA, LLC
Docket No. 2010-16-C

BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. OneTone Telecom, Incorporated
Docket No. 2010-17-C

BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. dPi Teleconnect, LLC
Docket No. 2010-18-C

BellSouth Telecommunications, Incorporated d/b/a AT&T Southeast d/b/a AT&T South Carolina v. Image Access, Incorporated d/b/a New Phone
Docket No. 2010-19-C

AT&T SOUTH CAROLINA'S MOTION FOR CONSOLIDATION

BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T South Carolina ("AT&T South Carolina") respectfully requests that the Public Service Commission of South Carolina ("the Commission") consolidate these dockets for the limited purposes of expeditiously resolving the two common issues set forth below.[1] At a minimum, this limited consolidation will result in a more manageable set of issues for

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[1] These common issues, and a summary of AT&T South Carolina's position on them, are set forth in Section IV. of the respective Complaints and Petitions.

resolution in each of the six individual dockets, and it may even eliminate the need for further proceedings in the individual dockets.

I. LAW

The South Carolina Rules of Civil Procedure provide that "[i]f actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay."[2] Similarly, the Commission "may order two or more proceedings involving a similar question of law or fact to be consolidated for hearing where rights of the parties or the public interest will not be prejudiced by such procedure."[3] For the reasons set forth below, the Commission should exercise its discretion to grant AT&T South Carolina's motion to consolidate.[4]

II. ARGUMENT

These six dockets currently address, in the aggregate, more than $5 million of past-due and unpaid balances, and that amount grows each month. Each month, AT&T South Carolina sends each of the defendants in these dockets (collectively, "Defendant CLECs") bills for services they purchase for resale, and each month the Defendant CLECs refuse to pay a significant portion of those bills. A substantial amount of the Defendant CLEC's respective unpaid balances are subject to one or both of the following common issues between the Defendant CLECs and AT&T South Carolina: (1) whether AT&T South Carolina can apply the resale discount approved by this Commission to the

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2 *See* S.C.R. Civ. P. 42(a).

3 S.C. Code Regs. §103-840.

4 *Cf. Keels v. Pierce*, 433 S.E.2d 902, 904 (S.C. Ct. App. 1993) ("An appellate court will not disturb a trial court's ruling on a motion to consolidate absent an abuse of discretion.").

cashback component of various promotional offers that AT&T South Carolina makes available for resale; and (2) whether AT&T South Carolina's customer referral marketing promotions (such as the "word-of-mouth" promotion) are subject to resale.

The facts associated with these common issues do not vary significantly (if at all) from one docket to the next, and few (if any) of those facts are in dispute. Moreover, the legal issues associated with these common issues are the same from docket to docket. Because the facts and law associated with these common issues are substantially similar across all six of these dockets, AT&T South Carolina respectfully requests that the Commission consolidate these six dockets for the limited purpose of expeditiously resolving these common issues. This limited consolidation will achieve the following benefits:

1. the Commission will have the benefit of hearing evidence (if any) and argument from all of the parties involved before issuing a decision on the merits of the two common issues;

2. addressing the two common issues in a single hearing (rather than in six separate hearings) will conserve the time and resources of the Commission, its Staff, the Office of Regulatory Staff, and the parties;

3. addressing the two common issues in a single hearing (rather than in six separate hearings) will conserve space on the Commission's already-crowded hearing calendar;

4. an expeditious resolution of the two common issues will break the existing stalemate that results in increasing receivables for AT&T South Carolina and increasing payables for the Defendant CLECs,

5. an expeditious resolution of the two common issues will provide business certainty for AT&T South Carolina and the Defendant CLECs on a going-forward basis; and

6. if it does not altogether eliminate the need for further proceedings in the individual dockets, this limited consolidation will result in a more focused and manageable set of issues for resolution in the individual dockets.[5]

CONCLUSION

For the reasons set forth above, AT&T South Carolina respectfully requests that the Commission consolidate these six dockets for the limited purposes of expeditiously resolving the two common issues set forth above.

Respectfully submitted this 14th day of January, 2010.

BELLSOUTH TELECOMMUNICATIONS, INC.
d/b/a AT&T SOUTHEAST d/b/a AT&T SOUTH CAROLINA

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[5] Once the two common issues are resolved, AT&T South Carolina and one or more of the individual Defendant CLECs likely can reach agreement on the amounts associated those issues. Additionally, once the two common issues are resolved, the remaining amounts due and owing in many cases will be relatively small and likely can be resolved by agreement of the parties. Even if that is not the case, however, the issues that remain after the two common issues are resolved are likely to be fewer, better-defined, and less overlapping than they would be absent the limited consolidation requested by AT&T South Carolina.

STATE OF SOUTH CAROLINA)
) CERTIFICATE OF SERVICE
COUNTY OF RICHLAND)

The undersigned, Jeanette B. Mattison, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. d/b/a AT&T Southeast d/b/a AT&T South Carolina ("AT&T") and that she has caused AT&T South Carolina's Motion for Consolidation in Docket No. 2010-18-C to be served upon the following on January 14, 2010:

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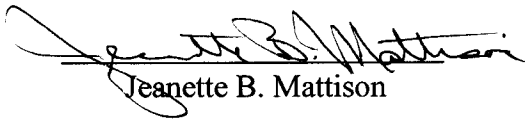

Jeanette B. Mattison

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