

**Ruth Nettles**

080631-TP

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**Sent:** Thursday, October 09, 2008 12:35 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Laura King; Ray Kennedy  
**Subject:** DSLi's Petition to the FL PSC to Intervene, Investigate, and Mediate a Dispute between DSLi and AT&T  
**Attachments:** Petition to Intervene, Investigate, and Mediate (10-08-08).pdf

To: Clerk, Florida Public Service Commission :

- a. Eduardo E. Maldonado, MBA  
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- b. N/A
- c. DSL Internet Corporation d/b/a DSLi Corp.
- d. Petition to Intervene, Investigate, and Mediate: 5
- e. Petition to Intervene, Investigate, and Mediate: Petition to the FL PSC by DSLi to intervene, investigate, and mediate a dispute between DSLi and AT&T

Regards,

**Eduardo E. Maldonado, MBA**

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10/9/2008

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09546 OCT-98  
FPSC-COMMISSION CLERK

STATE OF FLORIDA

PUBLIC SERVICE COMMISSION

In the Matter of :

DSL INTERNET CORPORATION,  
Petition For the Commission to Intervene,  
Investigate and Mediate a dispute Between  
DSL*i* and AT&T.

Docket Number:

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PETITION TO INTERVENE, INVESTIGATE AND MEDIATE

COMES NOW, *DSL INTERNET CORPORATION*, pursuant to applicable FPSC Rules and the Interconnection Agreement by and between DSL Internet Corporation ("DSL*i*) and BellSouth Telecommunications, Inc. ("AT&T) and files this Petition for the Public Service Commission to Intervene, Investigate and Mediate a dispute between AT&T (formerly BellSouth) and DSL Internet Corporation and as grounds therefore states as follows:

FACTS

1. DSL Internet Corporation (d/b/a DSL*i*), company code TX609 is a Competitive Local Exchange Carrier with a certificate to provide telecommunication services within the State of Florida.<sup>1</sup>
2. On or about February 12, 2007, DSL*i* and BellSouth Telecommunications, Inc. executed an Interconnection Agreement which is attached hereto and identified as Exhibit "A". This interconnection agreement was prepared by BellSouth Telecommunications, Inc. and it did not afford DSL*i* the opportunity to amend the agreement.

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<sup>1</sup> Certificate Number is 7941 issued on December 17, 2001

3. On or about May 28, 2008, AT&T (formerly "BellSouth Telecommunications, Inc.") issued DSLi an invoice which contained the amount of \$188,820.59 on account number 305N280044 for "true-ups" to special access rates going back to March 10, 2005.
4. On or about July 17, 2008, DSLi submitted to AT&T a dispute of the True-ups.
5. Again, on or about September 26, 2008, DSLi submitted to AT&T a dispute of the True-ups.
6. On or about September 26, 2008, AT&T without discussion rejected DSLi's dispute.
7. On October 7, 2008, AT&T verbally advised DSLi that if payment of the Disputed amount was not received by it on October 8, 2008, that it would suspend the services it provides to DSLi.

#### DISCUSSION

The interconnection agreement signed by the parties carefully lays out the billing, dispute resolution and true-up procedures as to the proper implementation of the Interconnect Agreement that the parties must follow.

*ISSUE: The Billing provisions of the Interconnection Agreement does not apply to the Rate True-Up provisions.*

Section 28, Interconnect Agreement titled "Rate True-Up" applies to rates that are expressly subject to true-up. The section states in relevant parts, "Each Party shall keep its own records upon which the true-up can be based, and any final payment from one Party to the other shall be in the amount agreed upon by the Parties based on such records." [Emphasis Added]. DSLi has not agreed to the amount of the true-up and has disputed same with AT&T.

Section 1, attachment 7 governs the Payment and billing arrangements between the parties. Section 1.1.4 states in part that "Bellsouth will bill DSLi in advance for all services. . . " and Section 1.1.2 governs the method of rendering the bill from BellSouth to DSLi. The section does not apply to the billing and collection of rate true-ups.

ISSUE: The Resolution of Dispute provisions of the Interconnection Agreement does apply to the Rate True-Up provisions.

Section 8, Interconnect Agreement titled "Resolution of Disputes" applies to disputes which arise in the interpretation and implementation of this agreement. The section states in relevant parts, "The aggrieved party, if it elects to pursue resolution of the dispute shall petition the Commission for a resolution of the dispute."

ISSUE: The True-up by AT&T is outside the scope of the Interconnection and the order of the Florida Public Service Commission.

Section 28, Interconnect Agreement titled "Rate True-Up" applies to rates that are expressly subject to true-up. The section states in relevant parts, "A final and effective order of the Commission that forms the basis of a true-up shall be based upon cost studies submitted by either or both Parties to the commission and shall be binding upon BellSouth and DSLI". In this case, DSLI was not afforded an opportunity to submit and participate in the cost studies; and, the agreement calls for both parties to participate.

Additionally, Section 28, The Rate True-Up, applies only to services provided by AT&T after the effective date of the Interconnection agreement. Therefore, AT&T is not allowed to back bill the true-ups to March 10, 2005.

### CONCLUSIONS

The rate true-ups that AT&T is seeking against DSLI is not justified for the following reasons. First, the agreement requires true-ups to be based upon agreement of the parties or a final and effective order of the commission. Neither occurred in this case. Secondly, AT&T failed to implement the true-ups as required by Section 28.2 of the Interconnection Agreement; and, Thirdly, the Interconnection Agreement states that any disputes with respect to true-ups shall be governed by the dispute resolution process stated in Section 8.

Under the terms of the Interconnection Agreement, mediation is available to resolve disputes.

DSLII Requests the following actions from the Commission:

- A. An order which enjoins AT&T (Formerly BellSouth Telecommunications, Inc.) from suspending the services of DSLi and thereby keeping the Florida Consumers protected;
- B. An order which denies AT&T the true-up of rates requested against DSLi; and,
- C. For such other and further relief as the Commission deems necessary and just to protect the Florida Consumer.

Respectfully submitted,

DSL Internet Corporation  
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(305)779-5752

BY:

  
Eduardo Maldonado  
Vice President - Operations

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing **PETITION**  
**TO INTERVENE, INVESTIGATE AND MEDIATE** was furnished via regular United States

Mail to:

Tracy W. Hatch  
Senior Attorney  
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Sonia Daniels  
Docket Manager  
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This 8<sup>th</sup> day of October, 2008.

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BY:

  
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