

**ORIGINAL**

Timolyn Henry\*\*\*\*\*1

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**From:** ROXANNE LEVINGSTON [ROXANNE@reuphlaw.com]  
**Sent:** Monday, June 05, 2006 4:32 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Charles Beck; Adam Teitzman  
**Subject:** Filing for Docket No. 060300-TP

**Attachments:** GT Com Prehearing Statement 06 05 06.pdf



GT Com Prehearing  
Statement 06...

Please accept for electronic filing in Docket No. 060300-TP, the attached Prehearing Statement, on behalf of GTC, Inc., d/b/a GT Com.

Counsel for parties have been served electronically and by U.S. Mail.

Thank you for your attention to this request.

Roxanne Levingston, Legal Assostant  
Kenneth A. Hoffman, Esq.  
850-681-6788 (phone)  
850-681-6515 (fax)  
Roxanne@reuphlaw.com

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- COM 5
- CTR \_\_\_\_\_
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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for recovery of intrastate costs	)	
and expenses relating to repair, restoration	)	Docket No. 060300-TP
and replacement of facilities damaged by Hurricane	)	
Dennis by GTC, Inc. d/b/a GT Com	)	Filed: June 5, 2006
_____)		

**GT COM'S PREHEARING STATEMENT**

GTC, Inc. d/b/a GT Com ("GT Com") pursuant to Order No. PSC-060363-PCO-TP, hereby files the following Prehearing Statement:

- (a) **The names of all known witnesses that may be called by the party, and the subject matter of their testimony.**

<b>Witness</b>	<b>Subject Matter</b>
R. Mark Ellmer (Direct and Rebuttal)	All Issues (1-6)

Additionally, GT Com reserves the right to call witnesses to respond to any Florida Public Service Commission inquiries not addressed in direct and rebuttal testimony and to address issues not presently designated that may be designated by the Prehearing Officer at the Prehearing Conference in this docket.

- (b) **A description of all known exhibits that may be used by the party, (including individual components of a composite exhibit) and the witness sponsoring each.**

<b>Exhibit</b>	<b>Description</b>	<b>Sponsoring Witnesses(es)</b>
RME-1	Resume of R. Mark Ellmer	R. Mark Ellmer
RME-2	Costs and Expenses Charged to Work Order No. 2005838	R. Mark Ellmer
RME-3	Photos of Coastal Damage	R. Mark Ellmer
RME-4	Costs and Expenses Charged to Work Order No. 2005839	R. Mark Ellmer

RME-5	Photos of Damage to Alligator Point	R. Mark Ellmer
RME-6	Costs and Expenses Charged to Work Order No. 2005796	R. Mark Ellmer
RME-7	Costs and Expenses Charged to Work Order No. 2005797	R. Mark Ellmer
RME-8	Costs and Expenses Charged to Work Order No. 2005861	R. Mark Ellmer
RME-9	Costs and Expenses Charged to Work Order No. 2005798	R. Mark Ellmer
RME-10	Map of Work Order Costs to Petition Amounts	R. Mark Ellmer
RME-11	GT Com Carrying Costs and Taxes	R. Mark Ellmer
RME-12	Summary of Cost Allocations	R. Mark Ellmer
RME-13	2005 Tracom Contract Price List	R. Mark Ellmer
RME-14	GT Com Inventory Materials	R. Mark Ellmer
RME-15 – RME-?	R. Mark Ellmer Rebuttal Exhibit or Exhibits, if any (to be filed with Rebuttal Testimony on June 9, 2006)	R. Mark Ellmer

**Additional Exhibits**

In addition to the above prefiled exhibits, GT Com reserves the right to utilize any exhibit introduced by any other party or Staff. GT Com also reserves the right to introduce portions of transcripts of depositions offered into evidence by any other party or Staff. GT Com additionally reserves the right to introduce any additional exhibit necessary for rebuttal, cross-examination or impeachment at the final hearing or for use by additional witnesses as set forth in section (a) above.

**GT Com's Notice of Intent to use Confidential Information at Hearing**

GT Com was requested to provide and has provided confidential information to Commission Staff and Public Counsel in response to Staff data requests, Staff audit requests, and discovery requests by both Staff and Public Counsel, and may provide additional confidential information in response to future discovery or in connection with

its Rebuttal Testimony. GT Com reserves the right to use any such information at hearing, subject to appropriate measures to protect its confidentiality.

**(c) A statement of the party's basic position in the proceeding.**

Section 364.051(4)(b), Florida Statutes, specifically permits a local exchange telecommunications company that, like GT Com, is subject to carrier of last resort obligations, to recover its "intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants, or facilities" damaged by Hurricane Dennis. The statute provides only five limitations on such recovery:

- (1) The costs and expenses must be verified. §364.051(4)(b)2.
- (2) The costs and expenses must be reasonable under the circumstances for the specific storm. §364.051(4)(b)3.
- (3) If a company has a storm reserve fund, it may recover only those costs and expenses in excess of the amount available in the fund. §364.051(4)(b)4.
- (4) Cost recovery is capped at a maximum charge of \$6.00 per customer line per storm season. §§364.051(4)(b)5. and 8.
- (5) Finally, the costs and expenses must exceed a minimum amount that ranges from \$0 for companies with fewer than 1 million access lines up to \$5 million for companies with 3 million or more access lines.

These are the only restrictions on cost recovery set forth in §364.051(4)(b), Florida Statutes. GT Com has no storm reserve fund and is not required to meet a minimum damage threshold because it has fewer than 1 million access lines. Therefore, there are only three statutory inquiries relevant to GT Com's request:

- (1) Are the costs for which GT Com seeks recovery "intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants, or facilities damaged by a named tropical system"?

- (2) Has GT Com verified that it incurred such costs and expenses?
- (3) Are those costs and expenses reasonable under the circumstances for Hurricane Dennis?

GT Com has demonstrated that the answer to all three inquiries is “yes.” GT Com therefore is entitled to recover all such costs and expenses, up to a maximum of \$0.50 per customer line per month for a 12-month period, regardless of whether any particular cost or expense could be considered “incremental” to its normal operations, regardless of how any particular expense is treated for accounting purposes, and regardless of how a traditional rate base, rate of return regulated utility would recover such costs pursuant to other statutory authority.

Section 364.051(4)(b), Florida Statutes, does not in any way predicate recovery of costs upon (or define recoverable costs in terms of or with reference to) budgets, budgeted expenses or revenues, budget variances, financial statements, revenues, net operating income or loss, cost of capital, depreciation status, incremental costs or any information not specified in §364.051(4)(b), Florida Statutes. In addition, GT Com is a price-regulated small local exchange company. GT Com’s rates for basic local telecommunications services are not based on traditional rate base, rate of return regulation or oversight of GT Com’s revenues and expenses. Accordingly, GT Com will object to any attempt to introduce into evidence in this proceeding or otherwise bring before the Commission for consideration any documents or information that relate to matters irrelevant to this proceeding, including but not limited to those listed above.

d) A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.

**ISSUE 1:** What amount of intrastate costs and expenses did GT Com incur relating to repairing, restoring or replacing the lines, plants or facilities damaged by Hurricane Dennis?

**GT COM:** GT Com incurred intrastate costs and expenses of \$463,710 relating to repairing, restoring and replacing its lines, plants and facilities damaged by Hurricane Dennis.

**ISSUE 2:** Are the costs and expenses identified in Issue No. 2 reasonable under the circumstances for Hurricane Dennis?

**GT COM:** Yes. All such costs and expenses are reasonable under the circumstances, including GT Com's use of fiber, a carrier system and smaller copper cable to repair, restore and replace its Alligator Point lines, plant and facilities in lieu of an exact replacement of the existing lines, plant and facilities. In no event, however, should GT Com's prudent choice of replacement materials cause it to recover less than if it had opted to replace the exact facilities damaged by Hurricane Dennis.

**ISSUE 3:** What is the appropriate amount of intrastate costs and expenses related to damage caused by Hurricane Dennis that should be recovered pursuant to Section 364.051(4)?

**GT COM:** All costs and expenses incurred by GT Com relating to repairing, restoring or replacing the lines, plants and facilities damaged by Hurricane Dennis were reasonable under the circumstances and therefore the total amount of \$463,710 is eligible for recovery. However, §364.051(4)(b) 5. and 8. limits recovery to a maximum charge of \$0.50 pr customer line per month for a 12-month period. GT Com serves approximately 47,155 access lines and therefore will be able to recover only approximately \$283,000 of this amount.

**ISSUE 4:** What is the appropriate line item charge per access line, if any, that should be charged to the customers of GT Com for recovery of the amount identified in Issue 1?

**GT COM:** GT Com should be permitted to charge \$0.50 per customer line per month for a 12-month period.

**ISSUE 5:** If a line item charge is approved in Issue 2, on what date should the charge become effective and on what date should the charge end?

**GT COM:** The charge should become effective as soon as possible after Commission approval, and should continue for a total of 12 consecutive months.

**ISSUE 6:** Should the docket be closed?

**GT COM:** No. GT Com will monitor and review its cost recovery and at the end of the recovery period, will refund any collections in excess of the approved amount pursuant to §364.051(4)(b) 6, Florida Statutes. This docket therefore should remain open pending such final review and any necessary true-up.

(e) **A statement of each question of law the party considers at issue and the party's position on each such issue.**

GT Com's Legal Issue 1: Does §364.051(4)(b), Florida Statutes (2005), limit recovery of a telecommunications company's reasonable intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants or facilities damaged by a named tropical system to only those costs and expenses that would be considered "incremental" to an arbitrary baseline amount?

GT Com's Legal Issue 2: Does §364.051(4)(b), Florida Statutes (2005), limit recovery of a telecommunications company's reasonable intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants or facilities damaged by a named tropical system to only those costs and expenses that are not capitalized for accounting purposes?

(f) **A statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.**

None at this time.

(g) **A statement of issues to which the parties have stipulated.**

None at this time.

(h) **A statement of all pending motions or other matters the party seeks action upon.**

1. Citizens' Motion to Compel
2. GT Com's Motion for Leave to File Rebuttal Testimony

3. Due to the expedited schedule in this docket, the Order Establishing Procedure does not provide an opportunity for parties to file post-hearing briefs. However, this is the first case presented to the Commission under §364.051(4)(b), Florida Statutes (2005) and GT Com's and Public Counsel's witnesses (neither of which is an attorney) disagree regarding the proper interpretation thereof. Accordingly, GT Com requests that each party be directed to file a short pre-hearing Memorandum of Law of no more than 10 pages in length regarding the meaning and interpretation of §364.051(4)(b), Florida Statutes (2005), on or before June 23, 2006.

**(i) A statement identifying the parties' pending requests or claims for confidentiality.**

GT Com has requested or intends to request confidentiality for the following:

1. GT Com's Response to Staff Interrogatories Nos. 2 and 13;
2. GT Com's Response to Staff Requests for Production of Documents No. 2;
3. GT Com's Response to OPC Requests for Production of Documents No. 2;
4. GT Com's Responses to Staff Audit Requests Nos. 2 – 7, 9 and 12.

**(j) Any objections to a witness's qualifications as an expert.**

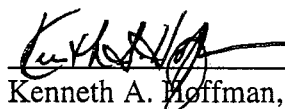
GT Com accepts Mr. Larkin's qualifications as an expert witness regarding financial accounting issues connected with monopoly utilities in a rate base, rate of return regulatory environment. However, Mr. Larkin has offered no qualifications as an expert regarding price cap regulation of telecommunications companies or hurricane cost recovery under §364.051(4)(b), Florida Statutes, and GT Com objects to his qualification as an expert on those or related subjects.



- (k) A statement as to any requirement set forth in the Order Establishing Procedure that cannot be complied with, and the reasons therefore.

At this time, GT Com is not aware of any requirements in the Order Establishing Procedure with which it cannot comply.

Respectfully submitted this 5<sup>th</sup> day of June, 2006.



Kenneth A. Hoffman, Esq.  
Marsha E. Rule, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
Telephone: 850-681-6788

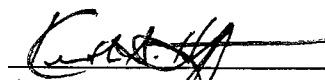
Attorneys for GTC Inc. d/b/a GT Com

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of GT Com's Prehearing Statement has been furnished by U.S. and electronic mail this 5<sup>th</sup> day of June, 2006, to the following:

Florida Public Service Commission  
Adam Teitzman, Esq.  
2450 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850  
[ateitzman@psc.state.fl.us](mailto:ateitzman@psc.state.fl.us)

Office of Public Counsel  
Charles J. Beck, Esq.  
111 West Madison St., #812  
Tallahassee, FL 32399-1400  
[beck.charles@leg.state.fl.us](mailto:beck.charles@leg.state.fl.us)

  
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Attorney