

**Matilda Sanders**

**ORIGINAL**

**From:** Fatool, Vicki [Vicki.Fatool@BellSouth.COM]  
**Sent:** Wednesday, September 20, 2006 3:57 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 060598-TL Motion for Leave to Amend Petition and Amended Petition to Recover 2005 Tropical System Related Costs and Expenses  
**Attachments:** Amended\_.pdf; LEGAL-#645148-v3-BST's\_Petition\_for\_Recovery\_of\_Costs\_Associated\_with\_Six\_Named\_Tropical\_Systems\_in\_2005\_(storm\_rec.DOC)

- A. Vicki Fatool  
Legal Secretary to James Meza III and Manuel Gurdian  
BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5560  
[vicki.fatool@bellsouth.com](mailto:vicki.fatool@bellsouth.com)
- B. Docket No. 060598-TL: In Re: Petition to recover 2005 tropical system related costs and expenses by BellSouth Telecommunications, Inc.
- C. BellSouth Telecommunications, Inc.  
on behalf of Manuel A. Gurdian
- D. 18 pages total .pdf (including letters, certificate of services and pleadings)  
11 pages total word doc.
- E. BellSouth Telecommunications, Inc.'s Motion for Leave to Amend Petition and *Amended* Petition to Recover 2005 Tropical System Related Costs and Expenses

.pdf version attached word version

<<Amended\_.pdf>> <<LEGAL-#645148-v3-BST's\_Petition\_for\_Recovery\_of\_Costs\_Associated\_with\_Six\_Named\_Tropical\_Systems\_in\_2005\_(storm\_rec.DOC)>>

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9/20/2006

ORIGINAL

Legal Department

Manuel A. Gurdian  
Attorney

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
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September 20, 2006

Mrs. Blanca S. Bayó  
Director, Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

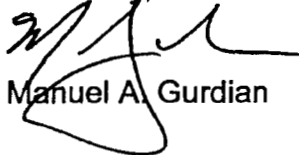
**Re: Docket No. 060598-TL: Petition by BellSouth Telecommunications,  
Inc., pursuant to Florida Statutes §364.051(4), to Recover 2005  
Tropical System Related Costs and Expenses**

Dear Ms. Bayó:

Enclosed is BellSouth Telecommunications, Inc.'s Motion for Leave to Amend Petition and *Amended* Petition to Recover 2005 Tropical System Related Costs and Expenses, which we ask that you file in the captioned docket.

Copies were served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: All Parties of Record  
Jerry D. Hendrix  
E. Earl Edenfield, Jr.  
James Meza III

DOCUMENT NUMBER-DATE

08673 SEP 20 06

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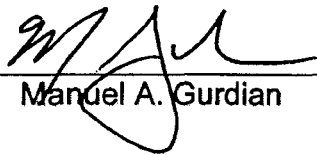
**CERTIFICATE OF SERVICE**  
**Docket No. 060598-TL**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via Electronic Mail and First Class U. S. Mail this 20th day of September, 2006 to the following:

Patrick Wiggins  
Staff Counsel  
Florida Public Service  
Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
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Charlie Beck  
Deputy Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
Phone: (850) 488-9330  
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Vicki Gordon Kaufman  
Moyle Flanigan Katz Raymond  
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118 North Gadsden Street  
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Represents NuVox  
Represents CompSouth



Manuel A. Gurdian

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Petition by BellSouth Telecommunications, Inc.,	)	Docket No. 060598-TL
pursuant to Florida Statutes § 364.051(4) to Recover	)	
2005 Tropical System Related Costs and Expenses	)	
<hr/>		September 20, 2006

**BELLSOUTH TELECOMMUNICATIONS, INC.'S MOTION FOR  
LEAVE TO FILE AMENDED PETITION**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Rules 28-106.202 and 28-106.204, Florida Administrative Code, hereby files this Motion for Leave to File Amended Petition ("Motion") with the Florida Public Service Commission ("Commission"). In support, BellSouth states the following:

1. On September 1, 2006, BellSouth petitioned the Commission for authority to recover its intrastate, incremental expenses relating to repairing, restoring and replacing its lines, plant, and facilities damaged by six named tropical systems in 2005 as authorized by Florida Statutes § 364.051(4)(b).

2. BellSouth requests leave to file an Amended Petition in order to correct errors that resulted in the understatement of the number of unbundled loops in service as of June 2006 and, thus, the amount that BellSouth estimates it is entitled to potentially recover pursuant to Florida Statutes § 364.051(4)(b). Specifically, based on this revised number, BellSouth estimates that, pursuant to June 2006 data, it can recover up to \$34.6 million instead of the \$32.3 million contained in the original Petition. BellSouth's Amended Petition is attached hereto as Exhibit "A." In addition, with the Amended Petition, BellSouth intends to make other minor modifications to clarify certain items in the original Petition.

3. Contemporaneously with the filing of its Amended Petition, BellSouth has filed Amended Direct Testimony of Kathy Blake to correct the mathematical errors and other clarifications described above. To assist the Commission in its review, BellSouth has highlighted the changes in Ms. Blake's testimony.

4. Pursuant to Rule 28-106.202, Florida Administrative Code, "[t]he petitioner may amend [its] petition after the designation of the presiding officer only upon order of the presiding officer." "The longstanding policy in Florida, and of this Commission in particular, is to allow pleadings to be freely amended so that disputes may be resolved on their merits." *See In re: Complaint of Cargill Crop Nutrition, Inc. f/k/a Cargill Fertilizer, a subsidiary of Cargill Corporation, against Verizon Florida Inc. for enforcement of FCC orders and Florida Public Service Commission decisions eliminating application of tariff charges for complex inside wiring, and request for relief*, Docket No. 030746-TP, Order No. PSC-03-1305-PCO-TP (Issued November 14, 2003). *See also, In re: Petition of AT&T Communications of the Southern States, LLC for Suspension and Cancellation of Switched Access Contract Tariff No. FL2002-02 filed by BellSouth Telecommunications, Inc.*, Docket No. 020738-TP, Order No. PSC-02-1291-PCO-TP (Issued September 23, 2002) and *In re: Application for staff-assisted rate case in Highlands County by The Woodlands of Lake Placid, L.P. In re: Application for certificates to operate a water and wastewater utility in Highlands County by The Woodlands of Lake Placid, L.P., and for deletion of portion of wastewater territory in Certificate No. 361-S held by Highlands Utilities Corporation*, Docket No. 020010-WS, Docket No. 990374-WS, Order No. PSC-03-0516-PCO-WS (Issued January 30, 2003). Similarly, the Commission has held that "[t]he law is clear that leave to amend pleadings

should be freely granted in order to allow disputes to be resolved on their merits.” *In re: Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company*, Docket No. 041291-EI, Order No. PSC-05-0283-PCO-EI, (Issued March 16, 2005). Moreover, it is well “established that the Commission has broad discretion to allow amendment of pleadings” and that “the Commission should follow a policy of allowing pleadings to be freely amended, if the privilege to amend has not been abused, in order that disputes may be resolved by the parties.” *In re: Complaint by Supra Telecommunications and Information Systems, Inc. against BellSouth Telecommunications, Inc. regarding BellSouth’s use of carrier to carrier information*, Docket No. 030349-TP, Order No. PSC-03-0721-PCO-TP, (Issued June 17, 2003). *See also, In re: Petition by Telenet of South Florida, Inc. for relief under Section 252(i) of the Telecommunications Act of 1996 with respect to rates, terms and conditions for interconnection and related arrangement with BellSouth Telecommunications, Inc.*, Docket No. 970730-TP, Order No. PSC-98-0332-PCO-TP, (Issued February 26, 1998).

5. Florida courts have also long recognized that leave to amend should be freely given. *See Gamma Development Corp. v. Steinberg*, 621 So.2d 718 (Fla. 4<sup>th</sup> DCA 1993). *See also, Haag v. Philips*, 333 So.2d 507 (Fla. 2d DCA 1976) (“In the spirit of liberality, amendments to pleadings should be freely granted.”). Florida courts have also held that “[a]ll doubts should be resolved in favor of allowing amendments.” *Adams v. Knabb Turpentine Co.*, 435 So.2d 944, 946 (Fla. 1<sup>st</sup> DCA 1983). *See also Gate Lands Co. v. Old Point Vedra Beach Condo.*, 715 So.2d 1132 (Fla. 5<sup>th</sup> DCA 1998). Absent

exceptional circumstances, motions to amend pleadings should be granted. *See Thompson v. Publix Supermarkets, Inc.*, 615 So.2d 796 (Fla. 1<sup>st</sup> DCA 1993).

6. To date, no party has filed an Answer or Motion to Dismiss BellSouth's Petition.

7. Further, this proceeding is in its infancy. Other than BellSouth, no party has filed testimony and the hearing date is not until December 6, 2006.

8. In addition, to date, only the Office of Public Counsel and the Competitive Carriers of the South, Inc. have filed discovery that is not yet due. BellSouth's responses will not be affected by the Amended Petition, and BellSouth will provide responses within the original time periods required for this discovery. Simply put, BellSouth will not use the filing of the Amended Petition to seek to extend the time period to file responses to the previously-issued discovery.

9. Moreover, the Amended Petition will not prejudice any party for the following reasons. First, the only substantive change that results from the Amended Petition is to increase the number of potential wholesale loops that were in service as of June 2006 to estimate the total amount that BellSouth could be entitled to recover under Section 364.051(4)(b). However, the amount BellSouth can actually recover is determined by the exact number of access lines and potentially wholesale loops in service at the time the line-item charge becomes effective at the end of this proceeding and not the June 2006 data used to provide BellSouth's estimates. Second, the Amended Petition does not alter the methodology used to calculate its intrastate, incremental expenses relating to repairing, restoring and replacing its lines, plant, and facilities damaged by six named tropical systems in 2005.

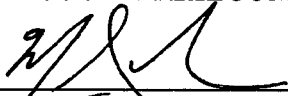
10. BellSouth has not abused the privilege to amend, as the instant Motion is BellSouth's first request to amend its petition.

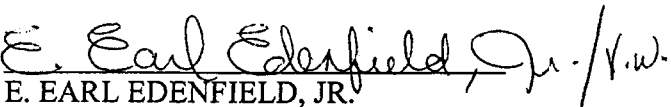
11. BellSouth attempted to contact the parties to this docket regarding the filing of the instant Motion; however, BellSouth did not receive a response as to whether any of the parties had an objection to the Motion.

WHEREFORE, for the foregoing reasons, BellSouth respectfully requests that the Commission grant its Motion for Leave to File Amended Petition.

Respectfully submitted this 20th day of September, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.

  
\_\_\_\_\_  
JAMES MEZA III  
MANUEL A. GURDIAN  
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(305) 347-5558

  
\_\_\_\_\_  
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(404) 335-0763

649846



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition by BellSouth ) Docket No. 060598-TP  
Telecommunications, Inc., pursuant to Florida )  
Statutes §364.051(4) to Recover 2005 )  
Tropical System Related Costs and Expenses )  
\_\_\_\_\_ ) Filed: September 20, 2006

**BELLSOUTH TELECOMMUNICATIONS, INC.'S AMENDED PETITION TO RECOVER 2005 TROPICAL SYSTEM RELATED COSTS AND EXPENSES**

BellSouth Telecommunications, Inc. ("BellSouth"), pursuant to Section 364.051(4), Florida Statutes, and Rule 28.106.201, Florida Administrative Code, hereby files this Amended Petition to Recover 2005 Tropical System Related Costs and Expenses ("Petition") with the Florida Public Service Commission ("Commission"). In support, BellSouth states the following:

1. BellSouth is a local exchange company lawfully doing business in the State of Florida whose regulated operations are subject to the jurisdiction of the Commission pursuant to Chapter 364, Florida Statutes.

2. BellSouth is subject to carrier of last resort obligations pursuant to the provisions of Chapter 364, Florida Statutes.

3. BellSouth's principal place of business is 675 W. Peachtree St., NE, Suite 4500, Atlanta, GA 30375. Pleadings and process may be served upon:

James Meza III  
Manuel A. Gurdian  
c/o Nancy H. Sims  
150 South Monroe Street  
Suite 400  
Tallahassee, Florida 32301  
(305) 347-5558

4. The Commission has jurisdiction to grant the relief requested in this Petition pursuant to Florida Statutes § 364.051(4)(a). Specifically, Florida Statutes § 364.051(4)(a) allows a price-regulated incumbent local exchange company ("ILEC"), such as BellSouth, to request an increase in its basic local service rates based on the ILEC's compelling showing of a substantial change in circumstances. Florida Statutes § 364.051(4)(b) further provides that "evidence of damage occurring to the lines, plant, or facilities of a local exchange telecommunications company that is subject to carrier-of-last-resort obligations, which damage is the result of a tropical system occurring after June 1, 2005, and named by the National Hurricane Center, constitutes a compelling showing of changed circumstances." Pursuant to Florida Statutes § 364.051(4)(a), the Commission must render a decision within 120 days of the filing of this Petition.

5. In addition, regarding any petition to recover tropical system related costs and expenses, Florida Statutes § 364.051(4)(b) provides in pertinent part:

(b) For purposes of this section, evidence of damage occurring to the lines, plants, or facilities of a local exchange telecommunications company that is subject to the carrier-of-last-resort obligations, which damages is the result of a tropical system occurring after June 1, 2005, and named by the National Hurricane Center, constitutes a compelling showing of changed circumstances.

1. A company may file a petition to recover its intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plants, or facilities damaged by a named tropical system.

2. The commission shall verify the intrastate costs and expenses submitted by the company in support of its petition.

3. The company must show and the commission shall determine whether the intrastate costs and expenses are reasonable under the circumstances for the named tropical system.

4. A company having a storm-reserve fund may recover tropical-system-related costs and expenses from its customers only in excess of any amount available in the storm-reserve fund.

5. The commission may determine the amount of any increase that the company may charge its customers, but the charge per line item may not exceed 50 cents per month per customer line for a period of not more than 12 months.

6. The commission may order the company to add an equal line-item charge per access line to the billing statement of the company's retail basic local telecommunications service customers, its retail nonbasic telecommunications service customers, and, to the extent the commission determines appropriate, its wholesale loop unbundled network element customers. At the end of the collection period, the commission shall verify that the collected amount does not exceed the amount authorized by the order. If collections exceed the ordered amount, the commission shall order the company to refund the excess.

7. In order to qualify for filing a petition under this paragraph, a company with 1 million or more access lines, but fewer than 3 million access lines, must have tropical-system-related costs and expenses exceeding \$1.5 million, and a company with 3 million or more access lines must have tropical-system-related costs and expenses of \$5 million or more. A company with fewer than 1 million access lines is not required to meet a minimum damage threshold in order to qualify to file a petition under this paragraph.

8. A company may file only one petition for storm recovery in any 12-month period for the previous storm season, but the application may cover damages from more than one named tropical system.

This paragraph is not intended to adversely affect the commission's consideration of any petition for an increase in basic rates to recover costs related to storm damage which was filed before the effective date of this act.

6. BellSouth serves 93 exchanges in Florida. These exchanges serve the major Florida cities of Miami, Fort Lauderdale, West Palm Beach, Jacksonville, Cocoa Beach, Daytona Beach, Gainesville, Orlando, Port St. Lucie, Pensacola, Panama City, and Melbourne. As of June 2006, BellSouth had approximately 5 million retail lines and approximately 797,300 unbundled loops in service in Florida.

7. After June 1, 2005, the following six named tropical systems impacted and damaged areas served by BellSouth: Tropical Storm Arlene<sup>1</sup>, Hurricane Cindy<sup>2</sup>, Hurricane Dennis<sup>3</sup>, Hurricane Katrina<sup>4</sup>, Hurricane Rita<sup>5</sup>, and Hurricane Wilma<sup>6</sup> ("2005 Storms").

8. BellSouth's total storm related expenses for repairing, restoring, or replacing its lines, plants, and facilities damaged by the 2005 Storms was approximately \$202.4 million. Of this amount, BellSouth's total incremental expenses for the 2005 Storms was \$156.0 million. A breakdown of BellSouth's total expenses is attached as SP Exhibit 1 to the direct testimony of Steve

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<sup>1</sup> Avila, Lixion A. and Brown, Daniel P., National Hurricane Center, *Tropical Cyclone Report: Tropical Storm Arlene, 8-13 June 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

<sup>2</sup> Stewart, Stacy R., National Hurricane Center, *Tropical Cyclone Report: Hurricane Cindy, 3-7 July 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

<sup>3</sup> Beven, Jack. National Hurricane Center, *Tropical Cyclone Report: Hurricane Dennis, 4-13 July 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

<sup>4</sup> Knabb, Richard D., Rhome, Jamie R., and Brown, Daniel P. National Hurricane Center, *Tropical Cyclone Report: Hurricane Katrina, 23-30 August 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

<sup>5</sup> Knabb, Richard D., Brown, Daniel P., and Rhome, Jamie R., National Hurricane Center, *Tropical Cyclone Report: Hurricane Rita, 18-26 September 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

<sup>6</sup> Pasch, Richard J., Blake, Eric S., Cobb III, Hugh D., and Roberts, David P. National Hurricane Center, *Tropical Cyclone Report: Hurricane Wilma, 15-25 October 2005*, <http://www.nhc.noaa.gov/2005atlan.shtml>.

Pendergrass, which was previously filed. *See also*, RLH Exhibit 2 attached to the direct testimony of Ron Hilyer, which was previously filed.

9. The intrastate portion of the total incremental expenses relating to repairing, restoring, or replacing BellSouth's lines, plants, and facilities damaged by the 2005 Storms was \$95.5 million. *See* SP Exhibit 1. The incremental intrastate portion is determined by taking the total incremental expenses incurred by BellSouth and applying the intrastate jurisdictional factor of 61.2144%.<sup>7</sup>

10. Tropical Storm Arlene formed on June 8, 2006, and made landfall just west of Pensacola, in Florida's Panhandle, in the afternoon of June 11, 2005.<sup>8</sup> Tropical Storm Arlene was a large tropical storm that had maximum sustained winds of 70 mph and produced precipitation over a very wide area. Tropical Storm Arlene dropped 4-6 inches of rain in portions of Florida and caused a storm surge of up to 5 feet in Walton County.<sup>9</sup> Nearly 4,000 BellSouth access lines were impacted by loss of power or physical damage. As a result of the damage to BellSouth's lines, plant and facilities caused by Tropical Storm Arlene, BellSouth incurred intrastate, incremental expenses of approximately \$2.2 million. *See id.*

11. Hurricane Cindy reached hurricane status on July 5, 2005 after having crossed over the Yucatan Peninsula early on July 4, 2005 into the Gulf of Mexico. Hurricane Cindy made direct landfall on July 6, 2005 in Grand Isle,

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<sup>7</sup> The intrastate jurisdictional factor was computed from the 2005 BellSouth-Florida ARMIS 43-01, Plant Specific and Non-Specific Operating Expenses report.

<sup>8</sup> *Tropical Cyclone Report: Tropical Storm Arlene*, p. 1.

<sup>9</sup> *Id.* p. 5-7. *See also*, The Associated Press. "Gulf Coast Dries Out After Arlene." MSNBC.com, <http://www.msnbc.msn.com/id/8156450/>, dated June 13, 2005.

Louisiana with maximum winds of 75 mph.<sup>10</sup> It then traveled northeast and crossed over the western panhandle region of Florida.<sup>11</sup> Nearly 1,000 BellSouth access lines were impacted by loss of power or physical damage due to Hurricane Cindy. As a result of the damage to BellSouth's lines, plant and facilities caused by Hurricane Cindy, BellSouth incurred intrastate, incremental expenses of approximately \$675,000. *See id.*

12. Hurricane Dennis formed on July 5, 2005 and reached hurricane strength on the afternoon of July 6, 2005.<sup>12</sup> Hurricane Dennis, which at its peak reached Category 4 strength, eventually made landfall on the afternoon of July 10, 2005 west of Navarre Beach in Pensacola as a Category 3 storm with wind speeds of 120 mph.<sup>13</sup> Hurricane Dennis brought storm surges of 6-9 feet in portions of Florida and dropped almost 6 inches of rain on certain portions of the state ranging from Key West to Tallahassee.<sup>14</sup> By the time the effects of Hurricane Dennis left BellSouth's territory on July 11, 2005, approximately 225,000 lines had been impacted and damaged by Hurricane Dennis. As a result of the damage to BellSouth's lines, plant and facilities caused by Hurricane Dennis, BellSouth incurred intrastate, incremental expenses of approximately \$2.2 million. *See id.*

13. Hurricane Katrina made landfall near the Dade and Broward County line between Hallandale Beach and North Miami Beach, on August 25,

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<sup>10</sup> *Climate of 2005: Atlantic Hurricane Season Summary*, p. 17-18.

<sup>11</sup> Graham Brink, Joni James and Brady Dennis. "Dennis grows stronger – and moves closer." *St. Petersburg Times*, July 8, 2005, Weather, P. 1B.

<sup>12</sup> *Climate of 2005: Atlantic Hurricane Season Summary*, p. 18.

<sup>13</sup> *Id.*

<sup>14</sup> *Tropical Cyclone Report: Hurricane Dennis*, p. 10-12.

2005, as a Category 1 hurricane, with wind speeds of approximately 80 mph and gusts of over 90 mph.<sup>15</sup> Radar indicated that up to 15 inches of rain fell in parts of Dade County and caused severe flooding.<sup>16</sup> Hurricane Katrina exited the southwest part of Florida on August 26 and continued in a north, northwesterly direction towards the Gulf Coast. While Hurricane Katrina did not make direct landfall in the Florida panhandle, the northwestern portion of the state experienced strong winds, major rainfall and a storm surge of up to 5 feet when the storm made landfall a second time in Louisiana.<sup>17</sup> Approximately 600,000 access lines were affected either due to loss of power or by physical damage to BellSouth network facilities. As a result of the damage to BellSouth's lines, plant and facilities caused by Hurricane Katrina, BellSouth's incurred intrastate, incremental expenses of approximately \$15.4 million. *See id.*

14. Hurricane Rita passed through the Florida Straits and affected the southern portion of BellSouth's service territory. While impacting BellSouth's service territory, Hurricane Rita was a Category 1 storm causing sustained tropical storm winds on Key West with gusts of up to 76 mph and, again, the customers in Dade and Broward counties were the most impacted.<sup>18</sup> By the time the storm's effects subsided late on September 20<sup>th</sup>, 3-5 inches of rain had fallen on portions of south Florida from the Keys to Fort Lauderdale, with Key West

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<sup>15</sup> NCDC, NOAA, *Climate of 2005: Summary of Hurricane Katrina*, p. 3 and 5, <http://www.ncdc.noaa.gov/oa/climate/research/2005/katrina.html>, last updated Dec. 29, 2005.

<sup>16</sup> PalmBeachPost.com, *Hurricane Katrina: Day-by-day Recap*, [http://www.palmbeachpost.com/storm/content/storm/2005/atlantic/katrina/day\\_by\\_day\\_archive.html](http://www.palmbeachpost.com/storm/content/storm/2005/atlantic/katrina/day_by_day_archive.html), p. 2

<sup>17</sup> *Tropical Cyclone Report: Hurricane Katrina*, p. 10 and 24.

<sup>18</sup> *Climate of 2005: Atlantic Hurricane Season Summary*, p. 13.

experiencing a storm surge of approximately 5 feet.<sup>19</sup> BellSouth had to repair and/or replace 75 spans of cable due to the storm. As a result of the damage to BellSouth's lines, plant and facilities caused by Hurricane Rita, BellSouth incurred intrastate, incremental expenses of approximately \$37,000. *See id.*

15. Hurricane Wilma became a Category 1 hurricane on October 18, 2005. On October 19, Hurricane Wilma strengthened to a Category 5 hurricane with its minimum central pressure estimated at 882 MB, the lowest pressure and therefore the most powerful hurricane on record in the Atlantic basin.<sup>20</sup> Hurricane Wilma made landfall on the southwest coast of Florida, near Marco Island on October 24, 2005, as a very strong Category 3 hurricane with wind speeds of 125mph.<sup>21</sup> It crossed the state and exited just to the north of Palm Beach, as a Category 2 hurricane, with wind speeds of 100 mph.<sup>22</sup> While in Florida, Hurricane Wilma caused widespread damage. Damage occurred as far north as Indian River County to as far south as the Florida Keys (which experienced 4-5 foot storm surges and massive flooding).<sup>23</sup> As a result of the damage to BellSouth's lines, plant and facilities caused by Hurricane Wilma, BellSouth incurred intrastate, incremental expenses of approximately \$75 million. *See id.*

16. BellSouth's intrastate incremental expenses incurred in repairing, restoring, or replacing its lines, plants, and facilities damaged by the 2005 Storms were reasonable under the circumstances.

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<sup>19</sup> *Tropical Cyclone Report: Hurricane Rita*, p. 7.

<sup>20</sup> NCDC, NOAA, *Climate of 2005: Summary of Hurricane Wilma*, p. 3-4, <http://www.ncdc.noaa.gov/oa/climate/research/2005/wilma.html>, last updated Oct. 31, 2005.

<sup>21</sup> *Climate of 2005: Summary of Hurricane Wilma*, p. 5.

<sup>22</sup> *Id.*

<sup>23</sup> *Tropical Cyclone Report, Hurricane Wilma*, p. 4.



17. BellSouth has more than 3 million access lines and its tropical system related costs and expenses exceed \$5 million.

18. BellSouth has not previously filed a petition for storm recovery in any 12-month period for the 2005 storm season.

19. BellSouth did not have any insurance coverage which provided reimbursement for any of BellSouth's intrastate costs and expenses incurred in repairing, restoring, or replacing its lines, plants, and facilities damaged by the six named tropical systems in 2005.

20. BellSouth does not have a storm reserve fund.

21. The intrastate costs and expenses BellSouth incurred as a result of the impact of the six named tropical systems constitutes a "compelling showing of changed circumstances" as set forth in Florida Statutes § 364.051(4).

22. BellSouth proposes to recover its intrastate, incremental expenses via a charge not to exceed \$.50 per month per line for a period of not more than 12 months. BellSouth proposes that the line-item charge be recovered on a per line basis from retail basic and nonbasic local exchange service lines, including residential and business lines, payphone lines, PBX trunk lines, Network Access Registers ("NARs") lines (including NARs used in conjunction with BellSouth ESSX<sup>®</sup> Service and MultiServ Plus Service), B Channels of both Basic ISDN and ISDN PRI, and all unbundled wholesale loop network element ("UNE") customers (including stand-alone loops, ISDN loops, DS1 and DS3 loops (stand-alone and as part of an enhanced extended loop), xDSL loops). Thus, the total amount

BellSouth is seeking to recover due to the 2005 Storms is approximately \$34.6 million.

23. The amount BellSouth is seeking to collect is approximately one-third of the intrastate, incremental expenses incurred by BellSouth and approximately 17 percent of the total costs that BellSouth experienced in repairing, replacing and restoring its lines, plant and facilities that were damaged as a result of the 2005 Storms.

24. BellSouth does not know of any agency being affected by the Petition and this Petition is not filed in response to any agency decision.

25. BellSouth does not believe that any specific rule or statute exists which would require reversal or modification of an agency's proposed action.

25. At the time of the filing of its original Petition, BellSouth did not know of any disputed issues of material fact. Since the original filing, Competitive Carriers of the South, Inc. and NuVox Communications, Inc. have filed Petitions to Intervene, which allege that a disputed issue of fact exists as to whether it is appropriate for the Commission to permit BellSouth to assess the requested line item charge on UNE customers.

26. BellSouth's substantial interests, as indicated above and as set forth in greater detail in the Direct Testimony previously filed, will be affected by the Commission's determination as to whether and how much BellSouth is entitled to recover under the provisions of Florida Statutes § 364.051(4)(b).


27. There are no specific facts which require reversal or modification of any agency decision. The ultimate facts alleged which support BellSouth's

Petition are provided above in paragraph nos. 1 through 23 and in the Direct Testimony previously filed.

WHEREFORE, for the foregoing reasons, BellSouth requests that the Commission grant BellSouth's Amended Petition and allow BellSouth to impose a line-item charge of \$0.50 for 12 months on the above-identified access lines to allow BellSouth to recover its intrastate, incremental expenses relating to repairing, restoring, and replacing its lines, plant, and facilities damaged by the 2005 Storms.

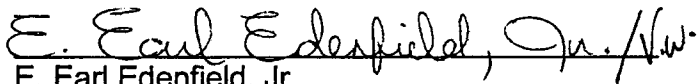
Respectfully submitted this 20th day of September, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.



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