

**Matilda Sanders**

**From:** Woods, Vickie [Vickie.Woods2@bellsouth.com]  
**Sent:** Monday, November 13, 2006 3:58 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** 060598-TL BellSouth's Prehearing Statement  
**Importance:** High  
**Attachments:** Preheari.pdf; LEGAL-#656983-v1-060598-TL\_BST's\_Prehearing\_Statement.DOC

**ORIGINAL**

CMP \_\_\_\_\_  
 COM 5 \_\_\_\_\_  
 CTR \_\_\_\_\_  
 ECR \_\_\_\_\_  
 GCL \_\_\_\_\_  
 OPC \_\_\_\_\_  
 RCA \_\_\_\_\_  
 SCR \_\_\_\_\_  
 SGA \_\_\_\_\_  
 SEC 1 \_\_\_\_\_  
 OTH \_\_\_\_\_

A. Vickie Woods  
 Legal Secretary to James Meza III and Manuel Gurdian  
 BellSouth Telecommunications, Inc.  
 150 South Monroe Street  
 Suite 400  
 Tallahassee, Florida 32301  
 (305) 347-5560  
vickie.woods2@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. 13 pages total (.pdf version) (including letter, pleading and certificate of service)  
 11 pages total (word doc.)

E. BellSouth Telecommunications, Inc.'s Prehearing Statement  
 .pdf version attached .word doc.

<<Preheari.pdf>> <<LEGAL-#656983-v1-060598-TL\_BST's\_Prehearing\_Statement.DOC>>

\*\*\*\*\*

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential, proprietary, and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from all computers. GA623

11/13/2006

DOCUMENT NUMBER-DATE

10425 NOV 13 8

FPSC-COMMISSION CLERK

Manuel A. Gurdian  
Attorney

BellSouth Telecommunications, Inc.  
150 South Monroe Street  
Room 400  
Tallahassee, Florida 32301  
(305) 347-5561

ORIGINAL

November 13, 2006

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

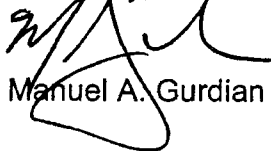
**Re: Docket No. 060598-TL: Petition by BellSouth Telecommunications, Inc., pursuant to Florida Statutes §364.051(4), to Recover 2005 Tropical System Related Costs and Expenses**

Dear Ms. Bayó:

Enclosed is an original and fifteen copies of BellSouth Telecommunications, Inc.'s Prehearing Statement, which we ask that you file in the captioned docket.

Copies of this letter will be served to the parties shown on the attached Certificate of Service.

Sincerely,



Manuel A. Gurdian

cc: Jerry D. Hendrix  
E. Earl Edenfield, Jr.  
James Meza III

DOCUMENT NUMBER-DATE

10425 NOV 13 06


FPSC-COMMISSION CLERK

**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 13th day of November, 2006 to the following:

Patrick Wiggins  
Adam Teitzman  
Felicia West  
Theresa Lee Eng Tan  
Staff Counsels  
Florida Public Service  
Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[pwiggins@psc.state.fl.us](mailto:pwiggins@psc.state.fl.us)  
[ateitzma@psc.state.fl.us](mailto:ateitzma@psc.state.fl.us)  
[fbanks@psc.state.fl.us](mailto:fbanks@psc.state.fl.us)  
[ltan@psc.state.fl.us](mailto:ltan@psc.state.fl.us)

NuVox Communications, Inc.  
Susan J. Berlin (+)  
Two North Main Street  
Greenville, SC 29601  
Phone: 864-331-7323  
FAX: 864-672-5105  
[sberlin@nuvox.com](mailto:sberlin@nuvox.com)

  
\_\_\_\_\_  
Mandel A. Gurdian

(+) Signed Protective Agreement

Charlie Beck  
Deputy Public Counsel  
Office of Public Counsel  
111 West Madison Street, Room 812  
Tallahassee, FL 32399-1400  
Phone: (850) 488-9330  
Fax No. (850) 488-4491  
[Beck.Charles@leg.state.fl.us](mailto:Beck.Charles@leg.state.fl.us)

Vicki Gordon Kaufman (+)  
Moyle Flanigan Katz Raymond  
& Sheehan, PA  
118 North Gadsden Street  
Tallahassee, FL 32301  
(850) 681-3828  
[vkaufman@moylelaw.com](mailto:vkaufman@moylelaw.com)  
Represents NuVox  
Represents CompSouth

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 )
November 13, 2006

BELLSOUTH TELECOMMUNICATIONS, INC.'S PREHEARING STATEMENT

BellSouth Telecommunications, Inc. ("BellSouth"), in compliance with the Order Establishing Procedure (Order No. PSC-06-0783-PCO-TL) issued on September 20, 2006 and Order Granting Motion for Leave to File Amended Petition and Modifying Procedural Schedule (Order No. PSC-06-0818-PCO-TL) issued on October 4, 2006, hereby submits its Prehearing Statement for Docket No. 060598-TL.

A. Witnesses

BellSouth proposes to call the following witness to offer testimony on the issues in this docket:

Table with 2 columns: Witness and Issue(s). Rows include William McKinney, C. S. (Steve) Pendergrass, Ronald L. Hilyer, and Kathy K. Blake with their respective issue numbers.

BellSouth reserves the right to call additional witnesses, witnesses to respond to Florida Public Service Commission ("Commission") inquiries not addressed in direct and yet-to-be filed surrebuttal testimony, and witnesses to address issues not presently designated that may be designated by the Prehearing Officer at the prehearing conference to be held on November 20, 2006. Further, because the deadline for

BellSouth to file surrebuttal testimony is November 17, 2006, BellSouth reserves the right to supplement and revise this list as appropriate.

### **B. Exhibits**

- \* RLH-1 attached to the Direct Testimony of Ronald L. Hilyer  
Comparison of OPC and BellSouth Treatment of Certain Expense and Capital Storm Recovery Items
- \* RLH-2 attached to the Direct Testimony of Ronald L. Hilyer  
Florida Storm Recovery Costs for 2005 Named Storms, Incurred through March 31, 2006
- \* Exhibit 1 attached to the Direct Testimony of William McKinney  
Photographs of Damage to BellSouth's service areas affected by the 2005 Named Storms
- \* SP Exhibit 1 attached to the Direct Testimony of C. S. (Steve) Pendergrass  
BellSouth Telecommunications, Inc. Florida Storm Recovery Storm Costs for 2005 Named Storms Incurred through March 31, 2006
- \* Any exhibits attached to BellSouth's surrebuttal testimony to be filed on November 17, 2006.
- \* BellSouth's Responses and Supplemental Responses to all Audit Requests issued by Staff, including but not limited to BellSouth's Responses and Supplemental Responses to Audit Requests Nos. 1 to 34.
- \* BellSouth's Responses and Supplemental Responses to all Interrogatories and Requests for Production issued by Staff, Office of Public Counsel and CompSouth, including but not limited to Responses and Objections to Public Counsel's First Set of Interrogatories and First Request for Production, Responses and Objections to CompSouth's First Set of Interrogatories and First Request for Production, Responses and Objections to Staff's First Set of Interrogatories and First Request for Production, Supplemental Response and Objection to Staff's First Set of Interrogatories No. 6, Responses and Objections to CompSouth's Second Set of Interrogatories and Second Request for Production, Supplemental Response to CompSouth's Second Set of Interrogatories Nos. 14 and 15, and Response to CompSouth's Third Set of Interrogatories No. 24.
- \*CompSouth's Responses to any discovery issued by BellSouth or Staff.
- \*Staff's Responses to any discovery issued by BellSouth or CompSouth.
- \* All transcripts of depositions that are scheduled to take place prior to the discovery cut-off date.

BellSouth expressly reserves the right to file exhibits to its surrebuttal testimony to be filed on November 17, 2006. Moreover, BellSouth reserves the right to file exhibits to any testimony that may be filed under the circumstances identified in Section "A" above. BellSouth also reserves the right to utilize any exhibit introduced by any other party or Staff and the right to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and Rules of this Commission.

**C. Statement of Basic Position**

The 2005 storm season was one of the most active and most costly seasons BellSouth has experienced. Six named tropical systems impacted areas served by BellSouth in Florida: Tropical Storm Arlene, Hurricane Cindy, Hurricane Dennis, Hurricane Katrina, Hurricane Rita, and Hurricane Wilma ("2005 Storms"). These systems struck Florida from June 11, 2005 through October 24, 2005, causing hundreds of millions of dollars of damage. Specifically, BellSouth's total costs relating to storm damage incurred as a result of the 2005 Storms was approximately \$202.4 million. Of the \$202.4 million, BellSouth's intrastate incremental storm recovery expense incurred as a result of the 2005 storm season was \$95.5 million.

Florida Statutes § 364.051(4)(b) specifically permits a local exchange telecommunications company that, like BellSouth, is subject to carrier of last resort obligations, to recover its "intrastate costs and expenses relating to repairing, restoring, or replacing the lines, plant, or facilities damaged by a named tropical system." Florida Statutes § 364.051(4)(b) identifies the requirements necessary for BellSouth to obtain

relief under the statute. BellSouth has met all of the requirements under this statute. Specifically,

- BellSouth is a local exchange carrier that is subject to carrier-of-last-resort obligations and has more than 3 million access lines in Florida.
- BellSouth suffered damages caused by six named tropical systems, occurring after June 1, 2005, that exceeded the \$5 million minimum.
- BellSouth has not filed a petition for hurricane cost recovery for the 2005 storm season in the last 12-month period.
- The intrastate costs and expenses incurred in repairing, restoring and replacing its lines, plant and facilities as a result of the named tropical systems were reasonable under the circumstances.
- BellSouth does not have a storm reserve fund.

Accordingly, as BellSouth has complied with all of the requirements of Section 364.051(4)(b), Florida Statutes, BellSouth is entitled to recover its storm related costs and expenses for the 2005 Storms. Pursuant to Section 364.051(4)(b), Florida Statutes, BellSouth is limited to applying a maximum line-item charge of \$0.50 per appropriate retail access line and unbundled loop per month for a 12-month period in order to recover its incremental, intrastate costs that BellSouth experienced as a result of the 2005 Storms. Based on June 2006 data, BellSouth had approximately five million retail access lines and approximately 797,300 unbundled loops in service. Thus, the total amount BellSouth is seeking to recover due to the 2005 Storms is approximately \$34.6 million, which is 17% of the actual total costs BellSouth experienced as a result of the 2005 Storms.

#### **D. BellSouth's Position on the Issues<sup>1</sup>**

**Issue 1: WHAT AMOUNT OF ANY STORM DAMAGE RESERVE FUND SHOULD BE CONSIDERED WHEN DETERMINING THE AMOUNT OF TROPICAL-SYSTEM-RELATED INTRASTATE COSTS AND EXPENSES TO BE RECOVERED?**

**Position:** No storm reserve fund should be considered in evaluating BellSouth's Petition for the simple reason that BellSouth has no such fund. Specifically, because BellSouth is no longer operating pursuant to rate-of-return regulation and instead is price-cap regulated, BellSouth neither has a storm reserve fund nor has it maintained an accrued reserve for future storm damage. In fact, pursuant to Generally Accepted Accounting Principles ("GAAP"), BellSouth is prohibited from maintaining such a reserve. Thus, no amount of a storm damage reserve fund should be considered when determining the amount of tropical-system-related intrastate costs and expenses to be recovered. In addition, assuming *arguendo* that BellSouth was still rate-of-return regulated and had maintained a storm reserve of \$10 million a year since 1994, the amount of the reserve would be at least a negative \$80 million due to the tropical-system related expenses that BellSouth experienced from 1994 to 2005.

**Issue 2: WHAT IS THE APPROPRIATE AMOUNT OF INTRASTATE COSTS AND EXPENSES RELATED TO DAMAGE CAUSED DURING THE 2005 STORM SEASON, IF ANY, THAT SHOULD BE RECOVERED BY BELLSOUTH, PURSUANT TO SECTION 364.051(4), FLORIDA STATUTES?**

**Position:** BellSouth incurred \$202.4 million in storm related damage as a result of the 2005 Storms. Of the \$202.4 million, BellSouth's intrastate, incremental storm

---

<sup>1</sup> Because BellSouth is still preparing its surrebuttal testimony that will be filed on November 17, 2006, BellSouth has not fully established all of its positions for the identified issues. Accordingly, BellSouth reserves the right to amend the positions stated herein to be consistent with its surrebuttal testimony.



recovery expense incurred as a result of the 2005 storm season was \$95.5 million. This amount excludes all capital expense and is reduced to reflect only intrastate expenses. All of these expenses were reasonable, and BellSouth did not recover any of the expenses via a storm reserve fund or insurance.

Pursuant to Section 364.051(4)(b), Florida Statutes, BellSouth is limited to applying a maximum line-item charge of \$0.50 per applicable retail access line and unbundled loop per month for a 12-month period. Based on June 2006 data, BellSouth had approximately five million retail access lines and approximately 797,300 unbundled loops in service. Thus, based on June 2006 data, the total approximate amount BellSouth is seeking to recover due to the 2005 Storms is approximately \$34.6 million.

**Issue 3:**      **(a) WHAT IS THE APPROPRIATE TYPE AND NUMBER OF RETAIL ACCESS LINES, BASIC AND NONBASIC, TO WHICH ANY STORM DAMAGE RECOVERY MAY BE ASSESSED?**

**Position:**    As of June 2006, BellSouth had approximately five million retail access lines. In accordance with Florida Statutes Section 364.051(4), the line-item charge can be assessed "per access line to the billing statement of the company's retail basic local telecommunications service customers" and "its retail nonbasic telecommunications service customers". 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), and B Channels of both Basic ISDN and ISDN PRI. BellSouth proposes to use its general billing database to determine the

appropriate line counts because this database contains the uniform service ordering codes that BellSouth will use in order to apply the line-item charge to the service that each access line carries. Further, because the total number of applicable lines fluctuates on a daily basis, BellSouth proposes to apply the \$.50 charge to the classes of service identified above.

**(b) IS A LINE ITEM CHARGE ON BELL SOUTH'S WHOLESALE UNE LOOPS APPROPRIATE PURSUANT TO SECTION 364.051(4)(b)(6), FLORIDA STATUTES AND FEDERAL LAW? IF YES, ON WHICH TYPES OF LINES SHOULD THE CHARGE BE ASSESSED AND HOW SHOULD THE LINES BE COUNTED? WHAT IS THE TOTAL NUMBER OF UNE LOOPS TO BE ASSESSED, IF ANY?**

**Position:** Yes, the line-item charge on BellSouth's wholesale UNE Loops is appropriate pursuant to Section 364.051(4)(b)(6), Florida Statutes, and federal Law. Section 364.051(4)(b)(6), Florida Statutes, allows the Commission to apply the line-item charge to BellSouth's wholesale loop unbundled network element customers. This charge does not constitute a change in the TELRIC price of the loop; rather, it is a temporary line-item charge authorized under Florida law for the recovery of intrastate expenses that BellSouth is seeking to apply to its retail and wholesale loop customers. The charge is unrelated to BellSouth's federal Section 251 obligations and thus does not impact any TELRIC pricing requirements. Further, because the charge is unrelated to Section 251, no amendment of an interconnection agreement is required.

BellSouth proposes that the line-item charge be recovered on a per access line basis from all unbundled wholesale loop network element customers (including stand-alone loops, ISDN loops, DS1 and DS3 loops (stand-alone and as part of an enhanced

extended loop), xDSL loops). BellSouth proposes to apply the charge on a nondiscriminatory basis for all affected CLECs by charging CLECs \$.50 a line for all lines leased by the CLEC, regardless of the loop type purchased. Such a proposal is consistent with the Commission's decision in Order No. PSC-06-0172-FOF-TP, where the Commission determined that a DS1 should be counted as 24 business lines because it corresponds to 24 64 kbps-equivalents. BellSouth also proposes to use its general billing database to determine the appropriate line counts, because this database contains the uniform service ordering codes that BellSouth will use in order to apply the line-item charge to the applicable wholesale loops. Using this data source and as of June 2006, BellSouth had approximately 797,300 unbundled loops in service.

**Issue 4:**      **WHAT IS THE APPROPRIATE LINE ITEM CHARGE PER ACCESS LINE, IF ANY?**

**Position:**      Because BellSouth experienced over \$95 million in intrastate, incremental expenses related to the 2005 Storms, BellSouth proposes to recover its intrastate, incremental expenses via a line-item charge of \$.50 per month per access line for a period of 12 months.

**Issue 5:**      **IF A LINE ITEM CHARGE IS APPROVED IN ISSUE 4, ON WHAT DATE SHOULD THE CHARGE BECOME EFFECTIVE AND WHAT DATE SHOULD THE CHARGE END?**

**Position:**      The charge should become effective as soon as possible after Commission approval, taking into consideration time for BellSouth to modify its billing processes necessary to implement the Commission's order. Accordingly, it is

BellSouth's proposal that the assessment of the line-item charge begin approximately 60 days following a final order of the Commission. Once BellSouth begins billing the line-item charge, it should be allowed to apply the charge for 12 consecutive months, as permitted by the statute.

**Issue 6: SHOULD THE DOCKET BE CLOSED?**

**Position:** No. BellSouth will monitor and review its cost recovery process and will, at the end of the 12 months, demonstrate to the Commission that it collected the line-item charge in accordance with the Commission's order resulting from this proceeding. This docket should remain open pending such final review.

**E. BellSouth's Notice of Intent to Use Confidential Information at Hearing**

BellSouth was requested to provide and has provided confidential information to Commission Staff and to the Parties in response to data requests, audit requests and discovery requests by Staff and the Parties, and may provide additional confidential information in response to future discovery or in connection with its Surrebuttal Testimony. BellSouth has requested or intends to request confidentiality for the following:

1. BellSouth's Response to Citizen's First Request for Production Nos. 1, 2, 3, 4, 5 and 7;
2. BellSouth's Response to Staff's First Request for Production No. 2 and attachment to First Set of Interrogatories No. 3;

3. BellSouth's Response to CompSouth's First Request for Production Nos. 4 and 5;
4. BellSouth's Response to Staff's subpoena issued on September 18, 2006;
5. BellSouth's Responses and Supplemental Responses to Staff Audit Requests Nos. 1, 5, 10, 18, 19, 22, 23, 24, 27, 29, and 32.

BellSouth reserves the right to use any such information at hearing, subject to appropriate measures to protect its confidentiality.

**F. Stipulations**

BellSouth is unaware of any stipulations at this time.

**G. Pending Motions**

BellSouth is not aware of any pending motions in this proceeding. However, on or about November 30, 2006, in compliance with the Second Order on Procedure (Order No. PSC-06-0941-PCO-TL) issued November 8, 2006, BellSouth will file a prehearing legal memoranda on the issue of whether a line item charge on BellSouth's wholesale UNE loops is appropriate pursuant to Section 364.051(4)(b)(6), Florida Statutes and federal law.

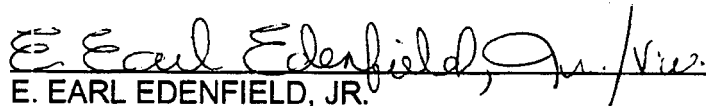
Respectfully submitted this 13<sup>th</sup> day of November, 2006.

BELLSOUTH TELECOMMUNICATIONS, INC.



---

JAMES MEZA III  
MANUEL A. GURDIAN  
c/o Nancy H. Sims  
150 So. Monroe Street, Suite 400  
Tallahassee, FL 32301  
(305) 347-5558



E. EARL EDENFIELD, JR.  
Suite 4300, BellSouth Center  
675 W. Peachtree St., NE  
Atlanta, GA 30375  
(404) 335-0763

COUNSEL FOR BELLSOUTH  
TELECOMMUNICATIONS, INC.

656983