

ORIGINAL

Timolyn Henry

From: ROBERTS.BRENDA [ROBERTS.BRENDA@leg.state.fl.us]
Sent: Friday, May 19, 2006 9:52 AM
To: Filings@psc.state.fl.us
Cc: Charles Beck
Subject: e-filing (Docket No. 060300-TL)
Attachments: 060300 OPC Motion to Compel.e-filed version.doc

Electronic Filing

a. Person responsible for this electronic filing:

Charles J. Beck, Deputy Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(850) 488-9330
beck.charles@leg.state.fl.us

b. Docket No. 060300-TL

In re: Petition for Recovery of Intrastate Costs and Expenses Relating to Repair, Restoration and Replacement of Facilities Damaged by Hurricane Dennis by GTC, Inc. d/b/a GT Com

c. Document being filed on behalf of Office of Public Counsel

d. There are a total of 6 pages.

e. The document attached for electronic filing is Citizens' Motion to Compel.

(See attached file: 060300 OPC Motion to Compel.e-filed version.doc)

Thank you for your attention and cooperation to this request.

CMP Brenda S. Roberts
Secretary to Charles J. Beck, Deputy Public Counsel.
COM 5 Office of Public Counsel
Telephone: (850) 488-9330
CTR Fax: (850) 488-4491

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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 and Replacement of Facilities ) Docket No. 060300-TL  
Damaged by Hurricane Dennis by ) Filed: May 19, 2006  
GTC, Inc. d/b/a GT Com )  
\_\_\_\_\_ )

### CITIZENS' MOTION TO COMPEL

Florida's Citizens ("Citizens"), through Harold McLean, Public Counsel, file this motion requesting the Prehearing Officer to issue an order requiring GTC, Inc. d/b/a GT Com ("GT Com") to produce all documents responsive to Citizens' requests for documents number 2, 4, and 8 contained in Citizens' first set of requests for documents to GT Com, and in support thereof state the following:

1. On April 4, 2006, Citizens served our first set of requests for production of documents on GT Com. The following are the specific requests contained in the first set of requests for documents which are relevant to this motion to compel:

"2. Please provide a copy of the monthly budget and budget variance reports of GT Com's Florida operations for each month of 2005."

"4. Please provide a copy of any documents in the company's possession, custody or control dealing with the incremental costs of storm restoration."

"8. Please provide the company's budget for contract labor during 2005, and please provide all documents discussing the impact of hurricanes or storms on that budget."

2. All of these requests directly relate to GT Com's incremental cost of repairing damage from Hurricane Dennis. Indeed, without this information, it is impossible to determine the incremental cost of hurricane damage to the company. GT Com, however, objected to providing any of the requested documents, claiming that the information in the documents is not relevant to any issue in this proceeding and is not reasonably calculated to lead to any relevant information. Citizens disagree.

3. The PSC has repeatedly used incremental costs to determine recoverable hurricane damages. In docket 041291-EI (the 2004 Florida Power & Light Company storm case), the Commission found that a modified incremental cost approach that addresses both capital items and income statement items is the appropriate methodology to be used for booking costs to the storm damage reserve. The Commission found, for example, that by moving all O&M expenses associated with the storm repair to the storm reserve, without taking into account the normal level of expenditures funded by base rates that customers pay, FPL's proposal would have required customers to pay twice for the same costs. GT Com's proposal in this case is much like the one rejected by the Commission in the FPL 2004 storm case and would, like FPL's proposal, make customers pay twice for the same costs.

4. In the 2004 FPL storm case FPL also asked that all storm related plant additions and cost-of removal be charged to the storm reserve, much like GT Com wishes to charge such costs to customers through a surcharge in this case. The Commission found, however, that under an incremental cost approach, costs for new

plant additions under normal operating conditions should be booked to plant in service rather than the storm reserve. GT Com's proposal, like the one rejected for FPL, fails to book normal plant additions to plant in service.

5. In the FPL 2005 securitization and storm recovery docket (docket 060038-EI), the Commission again adopted the incremental cost approach, including an adjustment to remove normal capital costs, as the appropriate methodology to be used for booking the 2005 storm damage costs to the Storm Damage Reserve and thus to be charged to customers through a surcharge. Another electric utility -- Gulf Power Company -- volunteered to use the incremental cost approach in a petition seeking securitization of storm recovery costs. See docket 060154-EI.

6. Use of the incremental cost approach storm for storm cost recovery is not limited to the electric utility industry. In docket 050374-TL, Sprint filed for recovery of incremental storm costs pursuant to a stipulation of fact entered into between Sprint and the Office of Public Counsel. Consistent with an incremental cost approach, Sprint excluded the following costs from any recoverable amount: normal capital project costs; regular time labor (salary and hourly); budgeted overtime labor; contractor budget levels; capitalized material; capitalized building repairs, generators, fuel, line card repair and return; overheads; revenue credits and other uncollectibles and lost revenue. In addition, Sprint included only extraordinary capital reconstruction costs, so that the recovery amount included only capital costs to the extent the cost of reconstruction exceeded the normal material and labor cost of construction, the costs attributable to

extraordinary contractor premium rates, and excluded the normal cost of removal expense applicable to retired assets due to 2004 hurricane damage. GT Com's proposal includes, rather than excludes, most or all of the costs excluded by Sprint.

7. Florida Statute section 364.051(4)(b)3, which is applicable to this case, states that 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. This is the same standard which applied in the Sprint case, but Sprint asked only for and received only incremental costs. In the securitization cases, the enabling statute allowed the Commission to approve reasonable and prudent storm recovery costs. See section 366.8260(2)(a)8b, Florida Statutes. Whether it is an electric utility seeking recovery of hurricane costs through securitization or a local exchange telecommunications company seeking recovery of hurricane costs through the telecommunications price regulation statute, the same test of "reasonableness" applies. Utilities have either voluntarily used an incremental cost approach or have been required to use such an approach under Commission precedent.

8. GT Com refuses to provide documents related to incremental cost of Hurricane Dennis, despite the overwhelming precedent that would not only allow but would require the use of incremental costs. GT Com instead proposes a cost recovery methodology much like that proposed by FPL in 2004 and rejected by the Commission because it requires customers to pay twice for the same costs.

9. At this juncture the only question is whether information related to incremental costs is relevant to GT Com's petition. The precedent set from Commission cases to date compels the conclusion that it is.

**WHEREFORE**, Citizens respectfully request the Prehearing Officer to issue an order requiring GTC, Inc. d/b/a GT Com ("GT Com") to produce all documents responsive to Citizens' requests for documents number 2, 4, and 8 contained in Citizens' First Set of Requests for Documents to GT Com.

Respectfully submitted,

s/ Charles J. Beck  
Charles J. Beck  
Deputy Public Counsel  
Florida Bar No. 217281

Office of Public Counsel  
c/o The Florida Legislature  
111 W. Madison Street  
Room 812  
Tallahassee, FL 32399-1400  
(850) 488-9330

Attorney for Florida's Citizens

**DOCKET NOS. 060300-TL  
CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail and electronic mail to the following parties on this 19th day of May, 2006.

s/ Charles J. Beck

Charles J. Beck

Patrick Wiggins  
Adam Teitzman  
Office of the General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Kenneth A. Hoffman, Esquire  
Marsha E. Rule, Esquire  
Rutledge, Ecenia, Purnell &  
Hoffman, P.A.  
215 South Monroe St., Suite 420  
Tallahassee, FL 32301