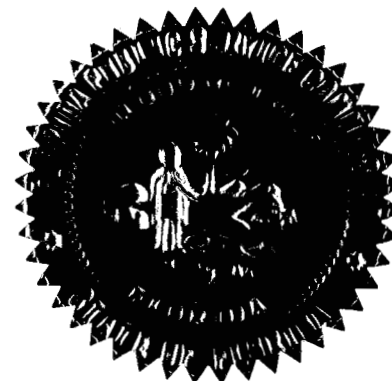


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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 060300-TL

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.



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PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER ISILIO R. ARRIAGA  
PREHEARING OFFICER

DATE: Monday, June 19, 2006

TIME: Commenced at 1:30 p.m.  
Concluded at 1:44 p.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Hearing Reporter Services Section  
FPSC Division of Commission Clerk and  
Administrative Services  
(850) 413-6732

## 1 APPEARANCES:

2 MARSHA E. RULE, ESQUIRE, and KENNETH HOFFMAN,  
3 ESQUIRE, Rutledge Law Firm, 215 South Monroe St., Suite 420,  
4 Tallahassee, Florida 32301, appearing on behalf of GT Com.

5 CHARLES J. BECK, ESQUIRE, Office of Public Counsel,  
6 c/o The Florida Legislature, 111 W. Madison Street, Room 812,  
7 Tallahassee, Florida 32399-1400, appearing on behalf of the  
8 Office of Public Counsel.

9 ADAM TEITZMAN, ESQUIRE, and PAT WIGGINS, ESQUIRE,  
10 FPSC General Counsel's Office, 2540 Shumard Oak Boulevard,  
11 Tallahassee, Florida 32399-0850, appearing on behalf of the  
12 Florida Public Service Commission Staff.

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## P R O C E E D I N G S

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2 COMMISSIONER ARRIAGA: Good afternoon. We call this  
3 prehearing to order.

4 Mr. Teitzman, please read the notice.

5 MR. TEITZMAN: Pursuant to notice issued June 1st,  
6 2006, this time and place has been set for a prehearing  
7 conference in Docket Number 060300-TL, petition for recovery of  
8 intrastate costs and expenses relating to repair, restoration,  
9 and replacement of facilities damaged by Hurricane Dennis by  
10 GTC, Inc., doing business as GT Com.

11 COMMISSIONER ARRIAGA: Thank you. Let's take  
12 appearances, please.

13 MS. RULE: Commissioner, I'm Marsha Rule with the law  
14 firm Rutledge, Ecenia, Purnell and Hoffman, representing GT  
15 Com, and also entering an appearance for Kenneth Hoffman.

16 COMMISSIONER ARRIAGA: Would you kindly repeat your  
17 last name and spell it for me?

18 MS. RULE: R-U-L-E.

19 COMMISSIONER ARRIAGA: Rule. Okay. Thank you.

20 MR. BECK: Good afternoon, Commissioner. My name is  
21 Charlie Beck with the Office of Public Counsel appearing on  
22 behalf of the customers of GT Com.

23 MR. TEITZMAN: Adam Teitzman on behalf of Commission  
24 Staff, and I'm also entering an appearance on behalf of Patrick  
25 Wiggins.

1 COMMISSIONER ARRIAGA: Thank you. Any preliminary  
2 matters?

3 MR. TEITZMAN: There are none, Commissioner.

4 COMMISSIONER ARRIAGA: So we go to procedural  
5 matters, and we will go through each section-by-section, and  
6 you please let me know if you have any comments or revisions.

7 Section I, conduct of proceedings.

8 Ms. Rule?

9 MS. RULE: No changes or objections.

10 COMMISSIONER ARRIAGA: Mr. Beck?

11 MR. BECK: No changes, Commissioner.

12 COMMISSIONER ARRIAGA: Staff?

13 MR. TEITZMAN: No changes.

14 COMMISSIONER ARRIAGA: Section II, case background.  
15 Please let me know if you have any -- speak out and let me know  
16 if you have any --

17 MS. RULE: No changes, Commissioner.

18 COMMISSIONER ARRIAGA: Thank you.

19 MR. BECK: No changes, Commissioner.

20 COMMISSIONER ARRIAGA: Staff?

21 MR. TEITZMAN: No changes, Commissioner.

22 COMMISSIONER ARRIAGA: Section III, procedure for  
23 handling confidential information.

24 MS. RULE: GT Com has no changes. We do have a  
25 comment, however, that GT Com does not plan to introduce as

1 part of its case in chief any confidential documents, but does  
2 reserve the right to use any such information defensively if it  
3 becomes necessary to do so.

4 COMMISSIONER ARRIAGA: So noted. Mr. Beck?

5 MR. BECK: No comments, Commissioner.

6 MR. TEITZMAN: No comments, Commissioner.

7 COMMISSIONER ARRIAGA: Section IV, prefiled testimony  
8 and exhibits; witnesses.

9 MS. RULE: Commissioner, on behalf of GT Com, we've  
10 provided staff with a slight change to the rebuttal issues to  
11 be addressed by Mr. Ellmer, GT Com's witness. The draft  
12 prehearing order that I have listed him as testifying on Issues  
13 1 through 6, and instead he will be testifying on Issues 1, 2,  
14 and 3 in connection with his rebuttal.

15 COMMISSIONER ARRIAGA: So I understand, he's not  
16 testifying in 4, 5, and 6?

17 MS. RULE: Correct.

18 COMMISSIONER ARRIAGA: Is that okay, Staff?

19 MR. TEITZMAN: Yes, we'll make that change.

20 COMMISSIONER ARRIAGA: Mr. Beck, any objections to  
21 that?

22 MR. BECK: No objections.

23 COMMISSIONER ARRIAGA: Any comments on the order of  
24 witnesses -- I'm sorry, on prefiled testimony and exhibits? We  
25 are in Section IV -- or are we on V?

1 MR. BECK: Yes, I'm just looking at the issues. I  
2 think Mr. Larkin will be the same as Mr. Ellmer, that he is not  
3 testifying on Issues 4, 5, or 6, either.

4 MR. TEITZMAN: We'll make that change, Commissioner.

5 COMMISSIONER ARRIAGA: Thank you.

6 MR. BECK: And as far as the order, I have no  
7 comments. I have a question for counsel for GT Com.

8 Is Mr. Ellmer going to provide direct and rebuttal  
9 simultaneously?

10 MS. RULE: We would prefer to do them separately, but  
11 this will be up to the Commission's pleasure.

12 COMMISSIONER ARRIAGA: Staff?

13 MR. TEITZMAN: The standard practice is to combine  
14 direct and rebuttal. That would be what is traditionally done  
15 here at the Commission, and that's the way the prehearing order  
16 is set up right now.

17 COMMISSIONER ARRIAGA: So I understand, there's no  
18 objection to the prehearing order?

19 MS. RULE: There is no objection, but I would like to  
20 state the reason for our preference. This is a case involving  
21 an issue the Commission has not yet addressed. Specifically,  
22 the coverage of the Statute 364.051(4)(b). And because the  
23 Commission has not yet had an opportunity to address that, we  
24 would like Mr. Ellmer to be able to answer the Commission's  
25 questions that may arise after Mr. Larkin or Mr. Buckley

1 testify, and that's the reason for our preference.

2 COMMISSIONER ARRIAGA: But you have no objection to  
3 the way the prehearing order is set?

4 MS. RULE: We would not object if the Commission --  
5 if you ordered it in that way.

6 COMMISSIONER ARRIAGA: Again, Mr. Teitzman, is there  
7 a preference on our side, or does it matter?

8 MR. TEITZMAN: Well, in response to what Ms. Rule  
9 said, I would just point out that with regard to the statutory  
10 provision, neither Mr. Larkin or Mr. Buckley is an attorney, so  
11 they will not be giving any legal positions on those issues.  
12 So I don't know that the concern of them discussing the statute  
13 or how to interpret the statute is a valid one. I would prefer  
14 that Mr. Ellmer would give his direct and rebuttal at the same  
15 time. Like I said, that is what we usually do here at the  
16 Commission.

17 COMMISSIONER ARRIAGA: Any preference on the side of  
18 Public Counsel?

19 MR. BECK: Oh, no, I agree with Mr. Teitzman,  
20 Commission, and would also point out, since there is opening  
21 and closing statements by counsel, I think counsel will be able  
22 to address the legal issues.

23 COMMISSIONER ARRIAGA: And I want you to know that I  
24 am very much interested in the legal issue that is coming up,  
25 and you will have ample opportunity to discuss it, because I

1 want to learn about it. It is the first time, like you say,  
2 and we will have it, but let's leave the order as it is.

3 MS. RULE: Thank you, Commissioner.

4 COMMISSIONER ARRIAGA: Section VI, basic positions.

5 Ms. Rule?

6 MS. RULE: GT Com has no changes.

7 COMMISSIONER ARRIAGA: Mr. Beck?

8 MR. BECK: No changes by the OPC.

9 MR. TEITZMAN: Staff has no changes.

10 COMMISSIONER ARRIAGA: Section VII, issues and  
11 positions.

12 MS. RULE: GT Com has no change to Issue 1. Would  
13 you like to go issue-by-issue, or the whole thing?

14 COMMISSIONER ARRIAGA: Yes. Let's take your comments  
15 issue-by-issue, and then we will go to Mr. Beck and Mr.  
16 Teitzman.

17 No, let's go by issue-by-issue. Issue 1, 2, 3, tell  
18 me all your comments on all the issues.

19 MS. RULE: On all issues?

20 COMMISSIONER ARRIAGA: Do you prefer to do it that  
21 way?

22 MS. RULE: Whatever your pleasure is. We have no  
23 change on Issue 1 or 2. On Issue 3 there is a very small  
24 change we provided to staff. On the 5th line of GT Com's  
25 position there's a typographical error, it should read 50 cents



1 per customer line per month. And I believe that's it.

2 COMMISSIONER ARRIAGA: What about Issues 4, 5, 6? No  
3 comments or changes?

4 MS. RULE: No, sir, no changes.

5 MR. BECK: Commissioner, no changes by OPC.

6 COMMISSIONER ARRIAGA: Mr. Teitzman?

7 MR. TEITZMAN: Staff has two changes. We have  
8 addressed them with counsel, and there are no objections. We  
9 would like to revise our positions on Issue 4 and Issue 5.

10 I will start with Issue 4. Currently it reads,  
11 "Staff has no position at this time." Staff would like to  
12 change it to the following: "The appropriate monthly line item  
13 charge per access line is the amount, if any, approved in Issue  
14 3 divided by 47,155 access lines divided by 12."

15 For Issue 5, it currently reads, "Staff has no  
16 position at this time." We would like to revise that position  
17 to: "If a charge is approved in Issue 4, the company should  
18 file a tariff within 30 days of the vote in this docket. The  
19 tariff should be effective for a total of 12 consecutive  
20 months." That completes Staff's changes.

21 COMMISSIONER ARRIAGA: So noted. Thank you.

22 Section VIII, exhibit list.

23 MS. RULE: Commissioner, GT Com has previously  
24 provided staff with the short titles of its Exhibits RME-15  
25 through RME-21. If you would like, I can recite them, but I

1 think Mr. Teitzman has them and they are in the record. Other  
2 than that, there are no changes, sir.

3 COMMISSIONER ARRIAGA: Mr. Beck?

4 MR. BECK: No changes.

5 COMMISSIONER ARRIAGA: Mr. Teitzman, any comments  
6 regarding --

7 MR. TEITZMAN: Yes, they have actually already been  
8 incorporated into the most recent drafts, so we have them.

9 COMMISSIONER ARRIAGA: So there is no need to recite  
10 them?

11 MR. TEITZMAN: No need, we have them.

12 COMMISSIONER ARRIAGA: Thank you.

13 Section IX, proposed stipulations.

14 MS. RULE: GT Com is aware of no proposed  
15 stipulations.

16 MR. BECK: Likewise by OPC, Commissioner.

17 MR. TEITZMAN: Likewise for staff.

18 COMMISSIONER ARRIAGA: Section X, pending motions.

19 Ms. Rule?

20 MS. RULE: GT Com has requested the opportunity to  
21 provide a prehearing memorandum of law to the Commission. We  
22 would like it limited to ten pages, just to be brief and  
23 succinct, and we would like both parties ordered to file on or  
24 before June 23rd, 2006.

25 And as I mentioned before, this is the first time the

1 Commission will address cost-recovery under 364.051(4)(b). We  
2 do have a couple of witnesses in the case, however, and there  
3 are no attorneys. And because this is on a very expedited time  
4 schedule and there is no time in the current schedule for  
5 post-hearing filings, we believe it would be helpful to the  
6 Commissioners as well as something we'd seek to advocate on  
7 behalf of our client to file a memorandum prior to the hearing.

8 COMMISSIONER ARRIAGA: Mr. Beck.

9 MR. BECK: Commissioner, I have no objection, and  
10 actually I think it would be a good idea if the Commission  
11 thinks it would be useful. I would certainly agree.

12 COMMISSIONER ARRIAGA: Let me ask you a question. Do  
13 you think that you would have ample time to file your comments  
14 if the proposed date of June 23rd is approved?

15 MR. BECK: Yes.

16 COMMISSIONER ARRIAGA: You have no problem with that?

17 MR. BECK: No, sir.

18 COMMISSIONER ARRIAGA: Mr. Teitzman.

19 MR. TEITZMAN: Staff has no objection.

20 COMMISSIONER ARRIAGA: I wanted to say that, again,  
21 because this is the first time that we are working on this, and  
22 I think other companies may be watching this proceeding to see  
23 how they can act in the future. And being the fact that we  
24 have no attorneys already testifying, I think it would be a  
25 good idea to see how this is interpreted for our own personal

1 use, institutional use. It would be something worthwhile  
2 pursuing.

3 I'm going to look forward to see those writings,  
4 those memorandums of law. And I would suggest, if you don't  
5 mind, that during the opening statements you address those  
6 issues, so we can have a good idea of how to move forward. It  
7 will be a great exercise. So if there are no objections to  
8 filing the memorandum of law of no more than ten pages in  
9 length regarding the meaning and interpretation of  
10 364.051(4)(b) on or before June 23rd, is that okay?

11 MS. RULE: Yes, sir.

12 MR. BECK: Yes.

13 COMMISSIONER ARRIAGA: So ordered.

14 Do we have any additional outstanding motions on  
15 Section X? Any pending motion on Section X?

16 MS. RULE: None from GT Com.

17 MR. BECK: None by OPC.

18 MR. TEITZMAN: None from staff.

19 COMMISSIONER ARRIAGA: Move on to the next section,  
20 which is XI, pending confidentiality matters.

21 MS. RULE: GT Com has listed four items for which it  
22 has or may need to request confidentiality, and at this point  
23 there are no others.

24 COMMISSIONER ARRIAGA: Mr. Beck.

25 MR. BECK: None by OPC.

1 MR. TEITZMAN: For those that GT Com has requested  
2 confidentiality, I just want to note for the record we intend  
3 to have those orders out prior to the hearing, so we'll be  
4 drafting those.

5 COMMISSIONER ARRIAGA: So noted.

6 Section XII, rulings.

7 Any changes, Ms. Rule?

8 MS. RULE: No, sir.

9 MR. BECK: None by OPC.

10 MR. TEITZMAN: Currently, Commissioner, it states in  
11 there that the parties' opening and closing statements shall  
12 not exceed ten minutes. I would just like to make sure that's  
13 okay with both sides.

14 MS. RULE: Yes, sir, it is fine with GT Com. We  
15 would like some clarification, though. Is that ten minutes to  
16 be divided between opening and closing, or is it ten minutes  
17 opening and ten minutes closing?

18 MR. TEITZMAN: Staff has no preference. I would  
19 definitely leave it to the parties to reach an agreement on  
20 that.

21 COMMISSIONER ARRIAGA: What is your preference, ten  
22 and ten, or ten and five, or five and five?

23 MR. BECK: I don't care.

24 MS. RULE: In order to --

25 COMMISSIONER ARRIAGA: I'm here to please.

1 MS. RULE: I don't know that we need ten minutes, but  
2 I would hate to be limited to five and then need more time. So  
3 I would say ten and ten.

4 COMMISSIONER ARRIAGA: But knowing our chairlady that  
5 likes to really move things along -- is she going to be around  
6 at that hearing?

7 MR. TEITZMAN: Yes.

8 COMMISSIONER ARRIAGA: Well --

9 MS. RULE: Well, I would prefer to have ten minutes  
10 and use five, and then I look like I'm very timely, as opposed  
11 to have five and use the whole thing.

12 COMMISSIONER ARRIAGA: Okay, fine. Ten and ten will  
13 be fine. And I will encourage you to try to limit it as much  
14 as possible. And, remember, please do address the issues of  
15 law that we are all very concerned with. Okay.

16 So ten and ten will be fine, Mr. Teitzman?

17 MR. TEITZMAN: Yes, we will make sure that is noted  
18 clearly in the order.

19 COMMISSIONER ARRIAGA: Any other matters that need to  
20 be discussed?

21 MS. RULE: Not at this time on GT Com's behalf.

22 MR. BECK: And none by OPC.

23 MR. TEITZMAN: I believe that covers everything  
24 today, Commissioner.

25 COMMISSIONER ARRIAGA: Well, if there are not any

1 other matters that need to be discussed, this prehearing is  
2 adjourned. Thank you.

3 MR. TEITZMAN: Thank you.

4 (The prehearing concluded at 1:44 p.m.)

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STATE OF FLORIDA     )  
  
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COUNTY OF LEON     )


CERTIFICATE OF REPORTER

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk and Administrative Services, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 22nd day of June, 2006.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
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