1

1 BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

2

3 DOCKET NO. 060644-TL

4 In the Matter of:

5 PETITION TO RECOVER 2005 TROPICAL

SYSTEM RELATED COSTS AND EXPENSES,

6 BY EMBARQ FLORIDA, INC.

7 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/

8

9

10

11 ELECTRONIC VERSIONS OF THIS TRANSCRIPT ARE

A CONVENIENCE COPY ONLY AND ARE NOT

12 THE OFFICIAL TRANSCRIPT OF THE HEARING,

THE .PDF VERSION INCLUDES PREFILED TESTIMONY.

13

14 PROCEEDINGS: AGENDA CONFERENCE

ITEM NO. 13

15

BEFORE: CHAIRMAN LISA POLAK EDGAR

16 COMMISSIONER MATTHEW M. CARTER, II

COMMISSIONER KATRINA J. TEW

17

DATE: Tuesday, January 23, 2007

18

PLACE: Betty Easley Conference Center

19 Room 148

4075 Esplanade Way

20 Tallahassee, Florida

21 REPORTED BY: LINDA BOLES, CRR, RPR

Official Commission Reporter

22 (850) 413-6734

23

24

25

FLORIDA PUBLIC SERVICE COMMISSION

2

1 PARTICIPATING:

2 JASON FUDGE, ESQUIRE, JOHN MANN, SUE OLLILA, PAT LEE,

3 CATHERINE BEARD and BUTCH BROUSSARD, appearing on behalf of the

4 Florida Public Service Commission Staff.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

FLORIDA PUBLIC SERVICE COMMISSION

3

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

2 CHAIRMAN EDGAR: Okay. I think we are now ready.

3 MR. MANN: All right. Item Number 13 involves a

4 storm cost recovery petition by Embarq Florida. On

5 September 26th, 2006, Embarq filed a petition to recover

6 tropical system related costs and expenses sustained as a

7 result of three named tropical storm systems in 2005:

8 Hurricane Dennis, Katrina and Wilma.

9 On January 4th, 2007, the Commission held an

10 administrative hearing in Tallahassee for this item. Issue

11 Number 1 as described on Page 6 of the recommendation was

12 stipulated as a preliminary matter at the hearing. Today staff

13 seeks a posthearing decision, and participation in this matter

14 is limited to the Commissioners and staff.

15 As a brief summary, the following five issues are

16 before you today: Issue 2A, the appropriate type and number of

17 retail access lines; Issue 2B, the appropriate type and number

18 of wholesale UNE lines; Issue 3, the appropriate line item

19 charge to be assessed; Issue 4, the collection period for the

20 storm charge; and then Issue 5, the close the docket issue.

21 Pursuant to Section 364.051(4), Florida Statutes, the

22 Commission has 120 days or until January 23rd to make a

23 decision on this petition.

24 Staff is now prepared to answer any questions that

25 you may have or to address the remaining issues individually,

FLORIDA PUBLIC SERVICE COMMISSION

4

1 depending on the pleasure of the Chairman.

2 CHAIRMAN EDGAR: Okay. And so you know, that would

3 be today for a decision. Timely as always.

4 Commissioners, as Mr. Mann described, Issue 1 we took

5 up at hearing and so no vote is required because we have

6 already taken care of that prior to this date. And so we have

7 2A, 2B, 3, 4 and 5, and I think what I'd like to do is -- 2A, B

8 and 3 in my mind kind of are hand in hand, go together. So

9 what I'd like to do is ask staff to, and however you have it

10 divided up is fine, but give us a very brief description,

11 summary of the recommendation for 2A, 2B and 3.

12 MS. OLLILA: Good morning, Commissioners. Sue Ollila

13 for staff. 2A is the type and number of retail access lines.

14 Staff's recommendation for Embarq's single line residential and

15 business customers is the same as what you approved in the

16 BellSouth decision. As with the BellSouth decision, Lifeline

17 customers would not be assessed.

18 Staff's recommendation for Embarq's retail business

19 customers is different from what you approved for BellSouth

20 based on the record in this case. It is also more

21 conservative.

22 The number of retail storm charges under staff's

23 recommendation is approximately $1.6 million. Staff is

24 available for your questions.

25 MS. LEE: Good morning, Commissioners. Pat Lee on

FLORIDA PUBLIC SERVICE COMMISSION

5

1 behalf of staff. Issue 2B concerns the type and number of

2 wholesale lines that a storm charge may be assessed.

3 Consistent with your decision in the BellSouth storm recovery

4 docket, staff recommends that it is appropriate to assess UNE

5 loop lines.

6 Embarq also proposes in this case to assess resale

7 lines and the wholesale local service platform offerings

8 provided in commercial agreements. Based on the plain reading

9 of the statute, staff believes that neither of these wholesale

10 offerings are authorized to be assessed to storm charge, as

11 neither are wholesale unbundled network loops. However, staff

12 believes that if agreements exist that explicitly provide for

13 storm recovery from resale or from the local service platform

14 offerings, the amounts generated should be counted towards the

15 total intrastate amount of storm cost recovery approved in

16 Issue 1 for true-up purposes.

17 Staff's recommendations for assessing Embarq's

18 wholesale UNE loops are based on the same methodology used in

19 assessing the retail loops. Staff is available for questions.

20 CHAIRMAN EDGAR: Thank you. And let's go ahead, if

21 you would, and address 3, as I see that as kind of a fallout

22 issue from 2A and B.

23 MS. BEARD: Catherine Beard on behalf of Commission

24 staff. Issue Number 3 in this docket addresses what the

25 appropriate monthly line item charge per access line should be.

FLORIDA PUBLIC SERVICE COMMISSION

6

1 Since Embarq's total costs exceed the maximum amount

2 recoverable under Florida Statute, staffs recommends that the

3 appropriate monthly line item charge per access line is

4 50 cents per line per month for 12 months. Staff is available

5 for questions.

6 CHAIRMAN EDGAR: Thank you. Commissioners, questions

7 or discussions on these? We can take them up separately or we

8 can go on and hear from staff on 4, whichever is your pleasure.

9 Commissioner Carter.

10 COMMISSIONER CARTER: Thank you, Madam Chairman. I

11 would suggest that we take them up together. And I think that

12 from the review of the record and also from staff's

13 presentation that they seem consistent with what we've already

14 approved in a similar case in this, during this year, and I

15 would propose that we take items 3A, 3B -- excuse me,

16 correction -- Items 2A, 2B and 3 as represented -- recommended

17 by staff. At the appropriate time I would move the acceptance

18 of these recommendations.

19 CHAIRMAN EDGAR: Okay. Commissioner Tew, do you have

20 questions or discussion?

21 COMMISSIONER TEW: No. I can second the motion.

22 CHAIRMAN EDGAR: Okay. Then all in favor of the

23 motion, say aye.

24 (Unanimous affirmative vote.)

25 Show it adopted.

FLORIDA PUBLIC SERVICE COMMISSION

7

1 And if you could give us the description on Item 4.

2 And I'm looking because, I'm sorry, I don't remember

3 who is the lead on 4. Okay. Thank you.

4 MR. BROUSSARD: Good morning, Commissioners. Butch

5 Broussard on behalf of staff. Issue 4 addresses the effective

6 and ending dates in the line item, of the line item charge

7 approved in Issue 3. Staff recommends that the charge be

8 assessed at Embarq's earliest convenience, but no earlier than

9 30 days from the date of the Commission vote.

10 Staff also recommends that the charge be effective

11 for 12 consecutive months, and that Embarq provide staff with

12 the wording to be used on its customers' bills regarding the

13 storm charge prior to issuance. Staff is prepared to answer

14 any questions the Commission may have.

15 CHAIRMAN EDGAR: Okay. Thank you, Mr. Broussard.

16 Commissioner Carter.

17 COMMISSIONER CARTER: Thank you, Madam Chairman.

18 Just for a comment, from reviewing the record and also

19 reviewing the, excuse me, the statements by the parties

20 involved, I see from looking at this and I see from a

21 standpoint of what's in the best interest and the fairness and

22 reasonableness of the consumers, you know, I would just -- I

23 like staff's recommendation, but I would just kind of modify it

24 to the standpoint to where we wouldn't -- I think somebody used

25 the term "pancake." Maybe we could wait until after October

FLORIDA PUBLIC SERVICE COMMISSION

8

1 when this, this charge is completely paid and then have the 50

2 cents charge per month for 12 months take effect at that point

3 in time.

4 Aside from that, Madam Chairman, I think that staff

5 has delineated, I've seen the review of the statute and the

6 arguments of the parties and perspective and all like that, it

7 seems to be in order. So that, that would be my recommendation

8 on how we deal with this Issue 4, Madam Chairman.

9 CHAIRMAN EDGAR: Okay. I note from the staff

10 discussion and the written material in front of us and also

11 from my reading of the statute that, as we all know, we've had

12 many opportunities to review this particular statute over the

13 past year and a half, that the statute is silent on the timing

14 and, therefore, I believe that that gives discretion to this

15 Commission to weigh all of the data and information presented

16 at hearing, et cetera. And that we would need to have the

17 surcharge as approved begin no earlier than 30 days from the

18 date that the current storm charge expires, which is I think

19 what I'm hearing you say.

20 Commissioner Tew, do you have questions or

21 discussion?

22 COMMISSIONER TEW: I do have a question or two

23 actually for staff.

24 If another overlap situation presents itself in the

25 future, if we have more hurricanes and this issue comes up

FLORIDA PUBLIC SERVICE COMMISSION

9

1 again, would we be bound to follow the same, the same decision

2 if, if we go forward with Commissioner Carter's recommendation?

3 And I think that I'm correct as a Part B that in that instance

4 we would be looking at a maximum of a 50-cent charge on a

5 50-cent charge and that the maximum would be a dollar. So it

6 would be somewhat different from this case too. But could you

7 just help me out with that?

8 MR. FUDGE: Yes, Commissioner. While I think it

9 would be improbable that it would occur in the future because

10 of the way the statute is written and that the 50-cent charge

11 is only effective for 12 months, if it did occur in the future,

12 I don't think you would be bound by this decision because in

13 this decision you're weighing the facts and circumstances of

14 the current 85-cent charge in light of the new 50-cent charge.

15 COMMISSIONER TEW: I've got a comment or two.

16 CHAIRMAN EDGAR: You're recognized.

17 COMMISSIONER TEW: Thank you. I would say that some

18 of the arguments that the parties made in this case I do agree

19 with. But I also do have concerns about affordability and I

20 think that it is in our discretion, given the silence on that

21 issue, to do so. But I would say that I don't believe that

22 Embarq asked for anything that was prohibited in the statute

23 either. But for the reasons we've discussed, particularly with

24 regard to affordability and having to be very cognizant of that

25 in this day and age when customers are squeezed on several

FLORIDA PUBLIC SERVICE COMMISSION

10

1 different items, I would second Commissioner Carter's motion

2 when that's appropriate.

3 CHAIRMAN EDGAR: Further comment?

4 Then all in favor of the motion, say aye.

5 (Unanimous affirmative vote.)

6 Show it adopted.

7 And then we need to take up the close the docket.

8 MS. BEARD: Catherine Beard on behalf of Commission

9 staff. Staff recommends that this docket remain open until the

10 end of the collection period, at which time Embarq shall file a

11 report on the amounts collected. Once staff has verified the

12 amounts collected and that those amounts do not exceed the

13 amount authorized and no refund is necessary, this docket can

14 be closed administratively.

15 CHAIRMAN EDGAR: Is there a motion?

16 COMMISSIONER CARTER: Move staff.

17 COMMISSIONER TEW: Second.

18 CHAIRMAN EDGAR: All in favor, say aye.

19 (Unanimous affirmative vote.)

20 Opposed? Show it adopted.

21 Thank you all, and we are adjourned.

22 (Agenda adjourned at 11:49 a.m.)

23

24

25

FLORIDA PUBLIC SERVICE COMMISSION

11

1 STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

2 COUNTY OF LEON )

3

4 I, LINDA BOLES, CRR, RPR, Official Commission

Reporter, do hereby certify that the foregoing proceeding was

5 heard at the time and place herein stated.

6 IT IS FURTHER CERTIFIED that I stenographically

reported the said proceedings; that the same has been

7 transcribed under my direct supervision; and that this

transcript constitutes a true transcription of my notes of said

8 proceedings.

9 I FURTHER CERTIFY that I am not a relative, employee,

attorney or counsel of any of the parties, nor am I a relative

10 or employee of any of the parties' attorneys or counsel

connected with the action, nor am I financially interested in

11 the action.

12 DATED THIS \_\_\_\_\_\_ day of January, 2007.

13

14 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

LINDA BOLES, CRR, RPR

15 FPSC Official Commission Reporter

(850) 413-6734

16

17

18

19

20

21

22

23

24

25

FLORIDA PUBLIC SERVICE COMMISSION