

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.

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P R O C E E D I N G S

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

MR. MANN: All right. Item Number 13 involves a storm cost recovery petition by Embargo Florida. On September 26th, 2006, Embargo filed a petition to recover tropical system related costs and expenses sustained as a result of three named tropical storm systems in 2005: Hurricane Dennis, Katrina and Wilma.

On January 4th, 2007, the Commission held an administrative hearing in Tallahassee for this item. Issue Number 1 as described on Page 6 of the recommendation was stipulated as a preliminary matter at the hearing. Today staff seeks a posthearing decision, and participation in this matter is limited to the Commissioners and staff.

As a brief summary, the following five issues are before you today: Issue 2A, the appropriate type and number of retail access lines; Issue 2B, the appropriate type and number of wholesale UNE lines; Issue 3, the appropriate line item charge to be assessed; Issue 4, the collection period for the storm charge; and then Issue 5, the close the docket issue.

Pursuant to Section 364.051(4), Florida Statutes, the Commission has 120 days or until January 23rd to make a decision on this petition.

Staff is now prepared to answer any questions that you may have or to address the remaining issues individually,

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

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.

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.

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

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

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

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.)

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STATE OF FLORIDA)
 :
COUNTY OF LEON)

CERTIFICATE OF REPORTER

I, LINDA BOLES, CRR, RPR, Official Commission Reporter, 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' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 29th day of January, 2007.

Linda Boles
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