

RECEIVED-PPSC

07 MAR -1 AM 10:40

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

COMMISSION  
CLERK

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** March 1, 2007

**TO:** Director, Division of the Commission Clerk & Administrative Services (Bayó)

**FROM:** Office of the General Counsel (Tan, Teitzman) *AT TLA RW*  
Division of Competitive Markets & Enforcement (Casey, Wright) *Wright*

**RE:** Docket No. 060598-TL – Petition to recover 2005 tropical system related costs and expenses, by BellSouth Telecommunications, Inc.

**AGENDA:** 03/13/07 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Edgar

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\060598.RCM.DOC

### Case Background

On September 1, 2006, BellSouth Telecommunications Company, Inc. (BellSouth, or company), filed a Petition to Recover 2005 Tropical System Related Costs and Expenses sustained as a result of the six named tropical storm systems. On September 20, 2006, BellSouth filed an Amended Petition to Recover 2005 Tropical System Related Costs and Expenses (Petition) pursuant to Section 364.051(4), Florida Statutes, and Rule 28-106.202, Florida Administrative Code. On January 10, 2007, Order No. PSC-07-0036-FOF-TL (Final Order) was issued.

DOCUMENT NUMBER-DATE

01899 MAR-16

FPSC-COMMISSION CLERK

*BellSouth's Motion*

On January 18, 2007, BellSouth filed a Motion to Modify the Final Order. BellSouth requests the Commission to modify the Final Order to incorporate a subsequent stipulation (Attachment A) that was reached between BellSouth, NuVox Communications, Inc. (NuVox) and Competitive Carriers of the South, Inc. (CompSouth).

In its Motion, BellSouth states that the Final Order requires BellSouth to initially use a 47% utilization factor in calculating the number of storm recovery line item surcharges that will apply to UNE high capacity loops. BellSouth states further that the Final Order requires BellSouth to recalculate the factor monthly using the most recent available billing data.

BellSouth contends that in order to efficiently implement the Final Order without incurring burdensome administrative changes, BellSouth, NuVox and CompSouth have reached an agreement on the manner in which the storm recovery line item surcharge will be implemented on UNE high capacity loops. BellSouth asserts that the stipulation provides that during the time period that the storm recovery line item surcharge is in effect, BellSouth will apply a 42% utilization factor in calculating the number of storm recovery line item surcharges that will apply to UNE high capacity loops, without fluctuation or recalculation. BellSouth notes that as a result of the parties stipulation, ten (10) storm recovery line item surcharges will be assessed on each DS1 loop (totaling \$5.00 per month per DS1 loop) and two hundred eighty-two storm recovery line item surcharges will be assessed on each DS3 loop (totaling \$141.00 per month per DS3 loop).

Staff's recommendation addresses BellSouth's Motion to Modify the Final Order.

### Discussion of Issues

**Issue 1:** Should the Commission grant BellSouth's Motion to Modify Order No. PSC-07-0036-FOF-TL?

**Recommendation:** Yes. Staff recommends the Commission grant the Motion to Modify Order No. PSC-07-0036-FOF-TL. The requested modification is the result of a stipulation the parties agreed will allow for the efficient implementation of the Order's requirement that a line item surcharge be applied to UNE high capacity loops. **(Teitzman)**

**Staff Analysis:** Staff recommends the Commission grant the Motion to Modify Order No. PSC-07-0036-FOF-TL. The requested modifications are the result of a stipulation the parties have agreed will allow for the efficient implementation of the Order's requirement that a line item surcharge be applied to UNE high capacity loops. Additionally, the stipulation states that the requested modification provides certainty to the parties as to the amount of the storm recovery line item surcharge for high capacity loops purchased by CLECs.

**Issue 2:** Should this docket be closed?

**Recommendation:** No. Staff recommends the docket should remain open pending the filing of BellSouth's report on the total storm recovery amount collected.

**Staff Analysis:** Staff recommends the docket should remain open pending the filing of BellSouth's report on the total storm recovery amount collected.

**STIPULATION**


The purpose of this stipulation is to permit BellSouth Telecommunications, Inc. ("BellSouth") to efficiently implement Order No. PSC-07-0036-FOF-TL and to provide certainty to the parties as to the amount of the storm recovery line item surcharge for high-capacity loops purchased by CLECs. Accordingly, BellSouth, Competitive Carriers of the South, Inc. ("CompSouth") and NuVox Communications, Inc. ("NuVox") agree as follows:

1. The agreement of CompSouth and NuVox to implementation of the Order as set forth below is in not an admission as to the Order's correctness and is not explicitly or implicitly a waiver of any rights CompSouth/NuVox have to seek reconsideration and/or appellate review of any aspect of the Order.

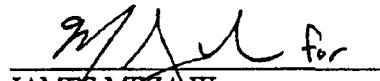
2. During the time that the storm surcharge is in effect, the charge shall apply to the UNE loops set out in the Order utilizing a 42% utilization factor, without fluctuation or recalculation. For DS1s, that will result in a charge of \$5.00 (24 lines x 42%= 10.08; 10.08 x .50 = \$5.00, rounded down) for each DS1 loop to which the charge applies. For DS3s, that will result in a charge of \$141.00 (672 x 42%=282.24; 282.24 x .50 =\$141.00, rounded down) for each DS3 loop to which the charge applies.

Executed this 18th day of January, 2007.

COMPSOUTH

  
VICKI GORDON KAUFMAN  
Moyle, Flanigan, et al.  
118 Gadsden St.  
Tallahassee, FL 32301  
(850) 681-3823

BELLSOUTH TELECOMMUNICATIONS, INC.

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

NUVOX COMMUNICATIONS, INC.

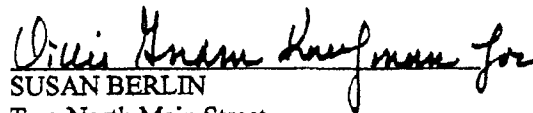
  
SUSAN BERLIN  
Two North Main Street  
Greenville, SC 29601  
(864) 331-7323

Exhibit A