

By Senator Bennett

21-02707A-08

20081176__

1 A bill to be entitled

2 An act relating to storm cost recovery for small local
3 exchange companies; amending s. 364.051, F.S.; providing
4 an exception for a small local exchange company with
5 regard to the evidentiary requirements of a cost recovery
6 petition; creating s. 364.053, F.S.; providing legislative
7 findings; providing that a small local exchange company
8 may file a petition to recover actual gross intrastate
9 costs and expenses for storm damage; providing that such
10 costs and expenses may include, but are not limited to,
11 capital expenses, labor, and material provided by the
12 company or a third party and overhead and benefit
13 allocations; requiring the Public Service Commission to
14 authorize recovery regardless of the company's revenues,
15 whether the costs and expenses were incurred or recovered
16 as part of the company's normal operations, whether the
17 costs and expenses are incremental or above the normal
18 operating expenses, and whether they are capital costs;
19 requiring the commission to determine the amount of costs
20 and expenses by verifying documentation submitted by the
21 company; requiring the commission to act on a company's
22 petition within 90 days after filing; requiring the
23 commission to offset the insurance proceeds relative to
24 storm damage, the net cost of such insurance, and the
25 amount in the company's storm-reserve fund; requiring the
26 commission to authorize recovery up to a maximum charge
27 per line item of 50 cents per month per customer line for
28 no more than 12 months; requiring the commission to
29 authorize the company to add an equal line-item charge per

21-02707A-08

20081176__

30 access line to customers' billing statements; requiring
31 the commission to verify the amount collected and to order
32 the company to refund any excess amounts; providing that a
33 company may file only one petition in any 12-month period
34 for the previous storm season; providing that the petition
35 may cover damages from more than one storm; providing an
36 effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

39
40 Section 1. Subsection (4) of section 364.051, Florida
41 Statutes, is amended to read:

42 364.051 Price regulation.--

43 (4) (a) Notwithstanding subsection (2), if a ~~any~~ local
44 exchange telecommunications company ~~that~~ believes circumstances
45 have substantially changed ~~substantially~~ to justify an ~~any~~
46 increase in the rates for basic local telecommunications
47 services, it may petition the commission for a rate increase;
48 however, ~~but~~ the commission shall grant the petition only after
49 an opportunity for a hearing and a compelling showing of changed
50 circumstances. Under part II of this chapter, the costs and
51 expenses of any government program or project required in that
52 part ~~II~~ may not be recovered under this subsection unless the
53 costs and expenses are incurred in the absence of a bid and
54 subject to carrier-of-last-resort obligations ~~as provided for in~~
55 ~~part II~~. The commission shall act upon the petition within 120
56 days after its filing.

57 (b) For purposes of this section, evidence of damage
58 occurring to the lines, plants, or facilities of a local exchange

21-02707A-08

20081176__

59 | telecommunications company that is not a small local exchange
60 | telecommunications company as defined by s. 364.052 and is
61 | subject to the carrier-of-last-resort obligations, which ~~damage~~
62 | is the result of a tropical system occurring after June 1, 2005,
63 | and named by the National Hurricane Center, constitutes a
64 | compelling showing of changed circumstances.

65 | 1. A company may file a petition to recover its intrastate
66 | costs and expenses for ~~relating to~~ repairing, restoring, or
67 | replacing the lines, plants, or facilities damaged by a named
68 | tropical system.

69 | 2. The commission shall verify the intrastate costs and
70 | expenses submitted by the company in support of its petition.

71 | 3. The company must show and the commission shall determine
72 | whether the intrastate costs and expenses are reasonable under
73 | the circumstances for the named tropical system.

74 | 4. A company having a storm-reserve fund may recover
75 | tropical-system-related costs and expenses from its customers
76 | only in excess of any amount available in the storm-reserve fund.

77 | 5. The commission may determine the amount of an ~~any~~
78 | increase that the company may charge its customers, but the
79 | charge per line item may not exceed 50 cents per month per
80 | customer line for a period of not more than 12 months.

81 | 6. The commission may order the company to add an equal
82 | line-item charge per access line to the billing statement of the
83 | company's retail basic local telecommunications service
84 | customers, its retail nonbasic telecommunications service
85 | customers, and~~r~~ to the extent the commission determines
86 | appropriate, its wholesale loop unbundled network element
87 | customers. At the end of the collection period, the commission

21-02707A-08

20081176__

88 shall verify that the collected amount does not exceed the amount
89 authorized by the order. If collections exceed the authorized
90 ~~ordered~~ amount, the commission shall order the company to refund
91 the excess.

92 7. In order to qualify for filing a petition under this
93 paragraph, a company with 1 million or more access lines, but
94 fewer than 3 million access lines, must have tropical-system-
95 related costs and expenses exceeding \$1.5 million, and a company
96 with 3 million or more access lines must have tropical-system-
97 related costs and expenses of \$5 million or more. A company with
98 fewer than 1 million access lines is not required to meet a
99 minimum damage threshold in order to qualify to file a petition
100 under this paragraph.

101 8. A company may file only one petition for storm recovery
102 in a any 12-month period for the previous storm season; however,
103 ~~but~~ the petition application may cover damages from more than one
104 named tropical system.

105
106 This paragraph is not intended to adversely affect the
107 commission's consideration of a any petition for an increase in
108 basic rates to recover costs related to storm damage which was
109 filed before the effective date of this act.

110 Section 2. Section 364.053, Florida Statutes, is created to
111 read:

112 364.053 Storm cost recovery for small local exchange
113 telecommunications companies.--

114 (1) The Legislature finds that small local exchange
115 telecommunications companies as defined by s. 364.052 have
116 substantial obligations as universal service providers and

21-02707A-08

20081176__

117 carriers of last resort while providing basic local exchange
118 telecommunications services to rural areas. The Legislature
119 further finds that small local exchange telecommunications
120 companies must fulfill such obligations without the customer
121 base, revenue streams, and economies of scale to offset the costs
122 associated with damages caused by a named tropical system.
123 Furthermore, the Legislature finds that authorizing and assuring
124 cost recovery for damages caused by a named tropical system will
125 increase the likelihood of promptly restoring service to the
126 public, thus promoting the public health and safety and lowering
127 the overall costs of repairing, restoring, or replacing the
128 lines, plants, or facilities damaged by a named tropical system.

129 (2) For purposes of this section and s. 364.051(4) (a),
130 evidence of damage occurring to the lines, plants, or facilities
131 of a small local exchange telecommunications company that is
132 subject to the carrier-of-last resort obligations, which is the
133 result of a tropical system occurring after June 1, 2005, and
134 named by the National Hurricane Center, constitutes a compelling
135 showing of changed circumstances.

136 (a) A small local exchange telecommunications company that
137 has elected price cap regulation under s. 364.051 may file a
138 petition to recover its actual gross intrastate costs and
139 expenses for repairing, restoring, or replacing the lines,
140 plants, or facilities damaged by a named tropical system,
141 including, but not limited to, capital expenses, labor, and
142 materials provided by the company or a third party, and overhead
143 and benefit allocations under 42 C.F.R. part 32. The company
144 shall recover such costs and expenses regardless of:

21-02707A-08

20081176__

145 1. The company's revenues, including, but not limited to,
146 revenues from the Federal Universal Service Fund;

147 2. Whether the company incurred or recovered such costs and
148 expenses as part of its normal operations;

149 3. Whether such costs and expenses are incremental or above
150 the company's normal operating expenses; and

151 4. Whether such costs and expenses are capital costs.

152 (b) The commission shall determine the amount of intrastate
153 costs and expenses by verifying the amounts contained in
154 invoices, bills, or other appropriate documentation submitted by
155 the company in support of its petition. The commission shall act
156 upon the petition within 90 days after its filing.

157 (c) The commission shall offset from recovery:

158 1. The amount of insurance proceeds, if any, minus the cost
159 of such insurance, directly attributable to the repairs,
160 restoration, and replacement of lines, plants, or facilities
161 damaged by a named tropical system; and

162 2. The amount, if any, available in a storm-reserve fund
163 approved by the commission.

164 (d) The commission shall authorize recovery of the
165 company's actual gross intrastate costs and expenses for
166 repairing, restoring, or replacing the lines, plants, or
167 facilities damaged by a named tropical storm up to a maximum
168 charge per line item of 50 cents per month per customer line for
169 a period of not more than 12 months.

170 (e) The commission shall authorize the company to add an
171 equal line-item charge per access line to the billing statement
172 of the company's retail basic local telecommunications service
173 customers, retail nonbasic telecommunications service customers,

21-02707A-08

20081176__

174 resale basic local telecommunications service customers, and, to
175 the extent the commission determines appropriate, its wholesale
176 looped unbundled network element customers. At the end of the
177 collection period, the commission shall verify that the collected
178 amount does not exceed the amount authorized by the order. If
179 collections exceed the authorized amount, the commission shall
180 order the company to refund the excess.

181 (f) A company may file only one petition for storm cost
182 recovery in any 12-month period for the previous storm season;
183 however, the petition may cover damages from more than one named
184 tropical system.

185 Section 3. This act shall take effect July 1, 2008.