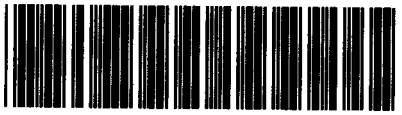

Control Number: 32182

Item Number: 51

Addendum StartPage: 0

AT&T
May 30, 2006

TABLE OF CONTENTS

PROJECT NO. 32182

PUC INVESTIGATION OF METHODS TO IMPROVE ELECTRIC AND TELECOM INFRASTRUCTURE THAT WILL MINIMIZE LONG TERM OUTAGES AND RESTORATION COSTS ASSOCIATED WITH GULF COAST HURRICANES	§ § § § § §	PUBLIC UTILITY COMMISSION OF TEXAS

AT&T TEXAS' RESPONSES TO STAFF RECOMMENDATIONS OF MAY 10, 2006

51

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PUC INVESTIGATION OF METHODS TO IMPROVE ELECTRIC AND TELECOM INFRASTRUCTURE THAT WILL MINIMIZE LONG TERM OUTAGES AND RESTORATION COSTS ASSOCIATED WITH GULF COAST HURRICANES	**§ § § § § §**	**PUBLIC UTILITY COMMISSION OF TEXAS**

AT&T TEXAS' RESPONSES TO STAFF RECOMMENDATIONS OF MAY 10, 2006

COMES NOW Southwestern Bell Telephone, L.P., d/b/a AT&T Texas and hereby submits its responses to the Staff Recommendations issued May 10, 2006 in the above matter.

I. INTRODUCTORY CONCERNS

As indicated previously, AT&T Texas appreciates the opportunity to participate and provide input in this proceeding. AT&T Texas fully appreciates Staff's desire to explore ways to minimize outages associated with severe weather events, like many Texans experienced in 2005 with Hurricane Rita. However, AT&T Texas is concerned that the majority of the May 10, 2006 Staff Recommendations, upon closer inspection, entail goals that are simply unrealistic or are plainly unadvisable.

AT&T Texas continues to believe, consistent with its previous statements in this proceeding in both written comments and at workshops, that a better focus is on prompt repair and restoration in the wake of severe weather events, rather than on "network hardening" measures.[1] AT&T Texas believes that it has learned important lessons from

[1] *See* AT&T Texas' February 24, 2006 Responses to Staff Inquiries of February 3, 2006, Docket No. 32182.

last year's devastating Gulf Coast hurricanes, and that it can put those lessons to work in response to future hurricanes and other severe weather events.

Next, AT&T Texas would re-urge Staff's consideration of cost-related and applicability suggestions that AT&T Texas submitted earlier, but which were not addressed in Staff's May 10, 2006 recommendations.[2] AT&T Texas would suggest that Staff consider and comment on the cost recovery mechanism recently approved in Florida.[3] Further, AT&T Texas would suggest that Staff consider and explain whether its recommendations would be applied to all telecommunications providers (whether incumbents, CLECs, cellular providers, broadband over power line (BPL) providers, fixed wireless providers, cable company providers of telecommunications services, etc.). AT&T Texas firmly believes that any mandates should be applied in a competitively neutral manner.

Finally, it is not clear under what authority Staff believes it is conducting this proceeding to begin with, or what results might properly follow. If it is Staff's intent to modify its Substantive Rules, or to create new ones, then there is a rulemaking process which must be adhered to, and which is specifically governed by statute and the Commission's Procedural Rules. AT&T Texas is unaware of any other authority under which Staff might believe that this proceeding is properly being conducted, or by which any final Staff recommendations herein could be applied to industry with the force of law. AT&T Texas does not suggest that this proceeding is pointless – and indeed,

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[2] *See* AT&T Texas' February 24, 2006 Responses to Staff Inquiries of February 3, 2006, Docket No. 32182, especially p. 6.

[3] In addition, AT&T Texas would point out the limitations imposed by PURA § 58.053 (proscribing service standard changes that would require investments of 10% or more of an electing company's average annual intrastate additions to capital investment). AT&T Texas' February 24, 2006 Responses did not address this provision, but it could very well apply to Staff's May 10, 2006 draft recommendations.

AT&T Texas agrees that positive recommendations for change can be developed, through consensus building – but AT&T Texas would be highly concerned about the attempted imposition of mandates (and ill-advised ones, at that) outside of proper procedural channels.[4]

II. RESPONSES

A. Responses Generally Applicable to the Timing Aspects of Staff's Recommendations

Staff's May 10, 2006 Recommendations are divided into three categories, according to the timeframes in which compliance would be required.[5] AT&T Texas generally notes its concerns with the timeframes, especially those for which compliance would be required within six months or one year. Generally speaking, the proposed mandates would call for enormous amounts of work for which compliance in six months or one year is simply not realistic, whether in absolute terms or given the enormous expenses that would be involved in the event such timelines were actually required. Moreover, it is not entirely clear what justification exists to support the notion that some of the recommendations should be implemented within six months or a year, while others may be implemented later.

B. Responses to Specifically Numbered Staff Recommendations

1. Require the development and implementation of an inspection cycle for vegetation management for all overhead electrical and telecommunication lines. This cycle should consider the growth rates of common vegetation in the service area.

[4] As a case in point, this proceeding commenced as one to look at network concerns in coastal areas and specifically in regard to hurricanes. But just this month, Staff has suggested that its recommendations should be applied statewide and to all types of severe weather events. Disregarding other concerns, it is not clear that all potentially interested parties have even been put on notice that their interests may be impacted by this proceeding.

[5] Staff's May 10, 2006 Recommendations Nos. 1 – 3 are classified as "immediate" and would require compliance within six months; Recommendations Nos. 4 – 9 are classified as "short-term" and would require compliance within one year; Recommendations Nos. 10 – 18 are classified as "long term" and would require compliance after one year and on an ongoing basis.

Utilities should provide the Commission with the details of its vegetation inspection program within six months.

AT&T Texas presently inspects and trims trees as needed when technicians are on location to place or splice cable, or when performing other services. Trees are trimmed in cases where limbs are touching or are within direct reach of the telecommunications infrastructure. AT&T Texas' policy is working, and no change is warranted.

While this recommendation lacks specific details, it is nonetheless very clear that embarking on such a course would be an extremely expensive, multi-million dollar proposition. Dozens of fulltime employees would be required to do the suggested inspections, and the trimming that appears to be envisioned by this recommendation (see recommendation #5 below) would add further, very enormous costs.

2. Require the development and implementation of a regular, ground-based inspection cycle for all overhead electrical and telecommunication facilities, including a condition-based assessment of wood pole suitability for continued service. Utilities should provide the Commission with the details of this inspection program within six months.

As was described previously in this proceeding, AT&T Texas inspects poles prior to the commencement of any work operation that involves contact with the poles (including ladders against poles, or against strands attached to poles). These inspections, conducted pursuant to detailed, written guidelines, identify damaged or worn poles and require poles to meet specified standards. Poles deemed defective are replaced. It must be emphasized that AT&T Texas' trucks are rolling all the time, as AT&T Texas provides service to its customers, so it comes as no surprise that AT&T Texas is constantly monitoring and inspecting its network and the neighborhoods into

which that network extends. In short, AT&T Texas' current inspection policy is working, and no change is warranted.

In cases in which AT&T Texas does not own poles, AT&T Texas' joint use contracts, typically with electric utilities, require the owner to maintain the poles in a safe and serviceable condition, and to replace poles that are defective.

3. Require utilities to establish processes, and incorporate these requirements into their existing contracts or tariffs, to ensure the structural integrity of poles and attachments in situations where utilities augment or add cable facilities to existing poles.

AT&T Texas currently has internal guidelines in place to maintain the structural integrity of poles that it owns. Further, all joint use contracts between AT&T Texas and other pole owners already require poles' structural integrity to be maintained in a manner consistent with current NESC guidelines. No additional regulation is necessary.

4. Require each utility to provide the Commission with a report within one year that evaluates the level of inventory for transmission facilities considering the requirements of staff's recommendations.

Per Staff, AT&T Texas understands that this recommendation is not applicable to telecommunications.

5. Require removal within one year of all trees that could potentially damage electrical or telecommunication structures or facilities and that are located within the right of way (ROW) easement.

This recommendation grossly underestimates the likely financial impact and predictable public outcry associated with any requirement that would mandate tree removal in the public rights of way. It also lacks a cogent qualifying standard, and instead, calls for the removal of trees that "could potentially" damage infrastructure.

Considering this recommendation in conjunction with recommendation #1 above (and these two recommendations logically go hand in hand), it becomes obvious that implementation would be prohibitively expensive. AT&T Texas estimates that costs

associated with this recommendation (and #1) could easily exceed $100,000,000 a year, making implementation an unwise policy choice. AT&T Texas' estimate assumes that about 100 employees would need to be devoted to the inspection of the more than *48,600 miles* of aerial cable in Texas, and to securing tree trimming contractors to trim trees as recommended. This estimate disregards a number of unquantifiable factors, such as the expense of lawsuits and compensation issues related to likely disputes with property owners, as well as the expense of consulting with vegetation experts as suggested in #1 above.

Finally, it seems apparent that Staff itself is uncertain about the wisdom of this recommendation. For example, at the May 15, 2006 workshop, Staff indicated, upon questioning, that it might be acceptable to revise the removal time from within "one year" to within "three to five" years.[6] Where Staff itself doubts the suitability of a recommendation, it should be reconsidered.

6. Require each utility to perform a study within one year that evaluates the reasonableness and costs of retrofitting overhead distribution facilities so that, under conditions of high wind and/or ice loading, the conductors and/or support hardware will fail before the structures fail and provide the Commission with its evaluation and any recommendations.

While AT&T Texas could undertake such a study, it is concerned at the outset that the suggested result would raise safety concerns greatly outweighing the "cure" in which Staff seems interested. Namely, if "support hardware" were designed to become displaced during severe weather events, it would unquestionably pose higher risks to automobiles and pedestrians than currently exist. Likewise, it would certainly result in more damage to surrounding structures. The characteristics of today's

[6] *See* Transcript of May 15, 2006 workshop, pp. 31-32.

telecommunications network have evolved for more than 100 years, and there are good reasons behind many of the characteristics that have resulted. There is good reason for the fact that aerial facilities are designed to fall more often in one piece when subject to high wind stress, not in piece-parts.

7. Require utilities to perform a study within one year that evaluates the current practice of automatically sectionalizing a distribution line to improve reliability and examines a practice of increasing the number of automatic sectionalizers to gain additional enhancements to reliability. The utilities should provide the Commission with this study and any recommendations.

Per Staff, AT&T Texas understands that this recommendation is not applicable to telecommunications.

8. Require utilities to conduct inspections of all distribution circuits to determine whether the amount of non-electric equipment on structures is causing an overload on those structures. If overloads are identified utilities should be required to correct the problem. Furthermore, utilities should be required to institute practices that will prevent such overloads in the future. The results of this initial inspection should be reported to the Commission within a year.

Per Staff, and in particular, given statements by Staff at the May 15, 2006 workshop,[7] AT&T Texas understands that this recommendation is not applicable to telecommunications providers in cases in which they own the facilities. To the extent that the recommendation does pertain to telecommunications providers, AT&T Texas would note that its joint use contracts require the owner, in cases in which overload is identified, to replace the affected poles, with the joint user (which would include AT&T Texas and other providers attaching to the cable) to bear the expenses.

AT&T Texas would also remind Staff that there have been no instances – zero – in which electric utilities have attributed their pole failures (in connection with Hurricane Rita or other weather events) to the presence of telecommunications cables or other

[7] *See* Transcript of May 15, 2006 workshop, p. 48 (statements that this recommendation applies "primarily" to electric utilities, and not to "telecommunications distribution wire", etc.).

equipment on their poles. To the contrary, electric utilities have denied such failures in response to Staff inquiries specifically posing that question.[8]

9. Require telecommunications utilities to install onsite generators with a minimum of seventy-two hours of fuel in all central offices in hurricane prone areas. Utilities should also be required to have processes in place to ensure refueling of these generators for extended periods of time.

The requirements suggested by this recommendation are not warranted. AT&T Texas equips its central offices ("COs") with stationary standby generators where economically feasible. Other COs are equipped with the connections necessary for the use of portable standby engine/alternator sets. The determination is based upon the price of equipment, space considerations including office size, and service requirements.

Generally, a new tank will be sized to supply enough fuel for 72 hours of operation of the engine-alternator if 75% full, and for 96 hours if 100% full. In the geographic area defined as "hurricane prone", all but five of AT&T Texas' COs have (or, by the end of 2006, will have) permanent generators that provide 72 hours of operation. The five locations without permanent generators are small COs. These offices have extended battery reserves permitting ongoing service until a portable generator can be placed. With typical advance notice of hurricanes, AT&T Texas is able to position generators at these COs. AT&T Texas provisions for the "busy hour load", which is the highest hourly average DC power drain.

The rationale for a portable generator versus a permanent generator is a balance of risk and cost. Portable generators are typically placed in locations with small offices or huts. While AT&T Texas considers all of its telephone buildings important, some

[8] *See, e.g.,* Transcript of January 17, 2006 workshop, p. 55.

small sites and/or huts carry less impact should a power outage occur. In these sites, AT&T Texas has provisioned a portable generator set that can be transported to the CO within the provisioned DC battery reserve time. Although the typical battery reserve is four hours, the five small offices in the "hurricane prone" area have extended battery reserves to allow for the placement of the portable generator. In the case of a hurricane, there is typically a defined area that will be impacted, and AT&T Texas is able to position portable generators in advance of the storm. In the event of a lengthy outage, AT&T Texas has contracts with vendors to refuel the generator tanks at set periods of time. All COs are important to AT&T Texas, and the decision to use a portable generator takes into account the ability to get a portable generator in place, as well as the ability to ensure there is adequate fuel to permit the generator to operate for extended periods of time, as necessary. In making its deployment decisions, AT&T Texas allocates finite resources in an effective and efficient manner.

During Hurricane Rita, there were several COs in Texas that lost commercial power. Several of these offices remained on stand-by generators for several weeks before all commercial power was restored. The fact that AT&T Texas had COs on generators for several weeks demonstrates that AT&T Texas has a viable plan with its suppliers, and that its suppliers are able to move in fuel to keep the generators operable. At no time during or after Hurricane Rita were any of AT&T Texas' COs lost due to power failures. The only office lost during Hurricane Rita was the Sabine Pass CO, which was completely damaged by the storm. The loss of service from the Sabine Pass CO was a direct result of storm surge, not commercial power or backup power failures. In this situation, no generator (permanent or portable) and no amount of fuel

would have made a difference: the building was lost. In situations like this, the devastation is so bad that there are other issues that affect service other than the loss of power.

10. Require annual upgrades to current National Electric Safety Code (NESC) wind loading standards of at least 10% of the 230 kV or greater above-ground transmission infrastructure and 5% of the 138 kV or less starting with the highest voltage lines.

In addition, all transmission infrastructure upgrades within ten (10) miles of the Texas coastline should be required to meet current NESC standards assuming 140 mile-per-hour wind speed. Annual reports on the utilities' upgrading programs should be reported to the Commission.

Per Staff, AT&T Texas understands that this recommendation is not applicable to telecommunications.

11. Require all new and replacement transmission structures to be pre-stressed concrete or steel.

Per Staff, AT&T Texas understands that this recommendation is not applicable to telecommunications.

12. Require utilities, through negotiation with landowners, to remove all trees that have limbs extending into, or those that may potentially extend into, the transmission and distribution ROW easements under high wind conditions.

The concerns noted above in regard to #1 and #5 apply equally to this recommendation. Further, because this recommendation would extend providers' obligations beyond the public rights-of-way easement and onto nearby private property, expenses related to litigation and compensation are increased, and <u>*exponentially*</u> so – and this disregards likely prohibitions by affected municipalities. This recommendation should be withdrawn.

13. Require utilities to identify any damage of transmission and distribution facilities that occurs as the result of a weather event other than lightning, and provide an annual report to the Commission that includes; the cause of the damage, the type of facility involved and the voltage, and age of the structure or facility.

As it pertains to telecommunications providers, Staff can obtain at least some of the information requested by this recommendation from the FCC. For example, in light of FCC 04-188, ET Docket No. 04-35 (*In the matter of New Part 4 of the Commission's Rules Concerning Disruptions to Communications*), the FCC requires providers to explain the circumstances behind service outages that exceed certain defined thresholds. Rather than require the compilation and production of duplicative information, Staff should consult this FCC data for the purposes it referred to at the May 15, 2006 workshops.[9]

Requiring providers to log and record the cause of damage beyond that already required by the FCC, especially in connection with major disasters such as hurricanes, will slow down restoration times with no corresponding benefit. When inspection crews visit hurricane-devastated areas in order to determine repair needs (and access in these circumstances is often very problematic to begin with), they should not be saddled with the additional task of ascertaining and noting whether a given pole failed due to wind, flying debris, etc., for it is obvious that the damage is related in some manner to the storm. Instead, inspectors should be permitted to quickly focus their efforts on determining which facilities are in need of repair, so that appropriate infrastructure can be ordered.[10]

14. Require utilities to design and construct all substations so that no water enters the control house or damage any electrical equipment in the substation during a 500-year rain event rendering electrical equipment inoperable due to accumulated water.

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[9] In addition, the Commission should refrain from requiring the compilation of information that Staff has no plans to use. *See* Transcript of May 15, 2006 workshop, p. 80, where Staff suggested that providers need not submit the data annually, but that they should nonetheless compile it. AT&T Texas questions the necessity of such an approach.

[10] Further, it must be recognized that damage to transmission and distribution facilities can occur without immediate service disruption. Hence, damage may not be discovered until well after the fact, and by then, it may be all but impossible to attribute the damage to any particular cause.

Per Staff, AT&T Texas understands that this recommendation is not applicable to telecommunications.

15. Electric utilities have embarked on projects to modernize the electric grid by deploying intelligent devices on the network. These deployments will enable real time monitoring of outages, selective switching of electric supply routes, and preventative maintenance of protective devices to increase the reliability of the power grid. The Commission should establish incentives to encourage such deployments by electric utilities.

While this recommendation would seemingly apply only to electric utilities, given the onset of Broadband Over Powerlines ("BPL"), the Commission should take steps to ensure that no incentives it might create would favor one provider over another.[11] BPL is real. Its providers plan to offer "Texas consumers broadband and wireless services, including the triple play of voice, television and high speed access delivered across the existing electric infrastructure into outlets in the home or business."[12] Any BPL deployment incentives should be consistent with PURA and should maintain a level playing field vis-à-vis similarly situated providers.

16. If new underground distribution facilities must be installed in the rear of residential lots, require developers and homeowners to provide at least a 10-foot ROW restriction upon the inclusion of trees or other structures so that suitable access is available for any future repair work.

AT&T Texas opposes any measure that would require it to assume the role of "policeman" for obligations that properly rest with others, including developers. Further, it is not clear to AT&T Texas why this recommendation would be limited to distribution, when it could be applied to all facilities.

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[11] This applies to all of Staff's May 10, 2006 recommendations.

[12] *See* Current Technologies press release, December 19, 2005.

17. Require burial of all new distribution lines serving new residential developments.

2006 data indicates that more than 95% of AT&T Texas' newly installed residential lines in Texas have been buried cable, and this is AT&T Texas' first choice. But as AT&T Texas has suggested in its earlier comments, there are sometimes very good reasons to place aerial cable, and the Commission should not impose rigid, "one size fits all" solutions. For instance, it is hard to argue that aerial cable is not the appropriate choice where a line may need to cross an area of solid rock, or pass over water or swampland, and in such instances a requirement for underground deployment would be ridiculous. Further, in cases in which power and cable television lines are aerial, cost determinations suggest that AT&T Texas should make use of that infrastructure. Also as AT&T Texas has previously noted in comments, aerial cable has definite advantages in natural disaster situations, because repairs can be accomplished much more quickly and cheaply than can underground repairs. When all factors are considered, AT&T Texas remains convinced that aerial cable is and will continue to be a necessary deployment alternative, and in many, many cases, the very best alternative.

18. Encourage developers of new residential developments to locate underground facilities in front of homes or in accessible alleyways.

While AT&T Texas has no objection to this recommendation, it is not clear that the Commission would be in a position to require it. In any event, it should not be the responsibility of providers to enforce it; rather, it seems to be an issue best suited for municipalities and developers.

Respectfully submitted,

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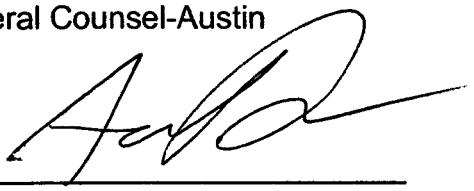

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