

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

BELLSOUTH TELECOMMUNICATIONS,\*  
LLC D/B/A AT&T FLORIDA \*

Complainant, \*

v. \*

FLORIDA POWER & LIGHT  
COMPANY, \*

Respondent. \*

Proceeding No. 20-214  
Bureau ID No.: EB-20-MD-002

**FLORIDA POWER & LIGHT COMPANY'S OPPOSITION  
AND OBJECTIONS TO AT&T'S FIRST SET OF INTERROGATORIES**

Defendant Florida Power & Light Company ("FP&L"), pursuant to Rule 1.730, submits the following objections to the "First Set of Interrogatories" served by Complainant BellSouth Telecommunications, LLC d/b/a AT&T Florida ("AT&T").

**Opposition**

FP&L disagrees with AT&T's claim that, "[t]he information sought in each Interrogatory is necessary to the resolution of this dispute, or will become necessary to the resolution of this dispute should FPL seek to rebut the presumption set forth at 47 C.F.R. § 1.1413(b) ..." AT&T's First Set of Interrogatories, p.1. Many of the interrogatories seek information that not only is unnecessary to the resolution of this dispute, but also irrelevant to any potential claim or defense in this proceeding, as set forth more fully below.

**General Objections**

1. FP&L objects to AT&T's First Set of Interrogatories to the extent that they violate the scope, purpose and limitations set forth in Rule 1.730.

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2. FP&L objects to AT&T's First Set of Interrogatories to the extent that the number of interrogatories, together with subparts, total more than the ten interrogatories allowed by Rule 1.730.
3. FP&L objects to AT&T's First Set of Interrogatories to the extent that they seek information protected from disclosure under the attorney-client communication and work-product doctrines.
4. FP&L objects to AT&T's First Set of Interrogatories insofar as they, in essence, ask for FP&L's full, substantive response to the complaint within the deadline for responding to the interrogatories.

#### **Objections to Definitions**

FP&L objects to the definition of "FPL" on the grounds that it is overly broad and unduly burdensome and, if applied literally within each interrogatory, would seek information that is protected by the attorney-client privilege and work-product doctrine, would thwart the purpose of consulting and testifying experts, and would seek information that is not relevant to any claim or defense in this proceeding. AT&T defines "FPL" to mean "Florida Power & Light Company and any persons associated with it, including but not limited to, each of its current or former parents, subsidiaries, affiliates, officers, directors, independent contractors, agents, servants, attorney, successors, predecessors, representatives, investigators, experts, employees, ex-employees, consultants, representatives and others who are in possession of, or who may have obtained, information for or on behalf of the above-mentioned persons or entities." *See* AT&T's First Set of Interrogatories, p. 2.

FP&L objects to the definition of the term "identify" on the grounds that it would render each interrogatory in which the term is used vague, overly broad, unduly burdensome and not

reasonably calculated in scope. For example, the definition of “identify” when “referring to data” not only would require type, vintage, and location of collection but also would require “the rules or guidelines governing its collection, and all facts, figures, measurements, and other data collected and analyses performed.” AT&T’s First Set of Interrogatories, p. 3.

### **Objections to Individual Interrogatories**

**Interrogatory No. 1.** Identify all FPL Joint Use Agreements and License Agreements that were in effect at any time from 2011 forward that contain a Pole Abandonment Provision. Include in your response the name of the entity that is a party to the Joint Use Agreement or License Agreement with FPL, the language of the Pole Abandonment Provision, and the dates on which the Joint Use Agreement or License Agreement was in effect. In lieu of quoting each Pole Abandonment Provision, FPL may produce a copy of the relevant FPL Joint Use Agreements and License Agreements.

**Objection.** FP&L objects to this interrogatory as being overly broad in scope and burdensome as it would take a significant amount of resources and expense to search through countless records and gather the requested data dating back to 2011. More importantly, this interrogatory is seeking information entirely irrelevant to this proceeding. The allegations and legal claims found in AT&T’s complaint focus solely on FP&L’s Joint Use Agreement with AT&T. The terms and conditions of other agreements with third parties are not relevant to any claim or defense in this proceeding. Finally, such other third party agreements contain confidential and proprietary information that FPL does not share with third parties.

**Interrogatory No. 2.** With respect to each entity identified in response to Interrogatory 1, separately identify every FPL pole by pole number and location that FPL claims to have abandoned to that entity from 2011 forward. Include in your response the date on which FPL provided notice

of its intention to transfer ownership of each pole under the Pole Abandonment Provision, the date the transfer of ownership occurred, the amount the entity paid FPL for the pole, the manner in which the payment amount was calculated for each pole, and the dates on which the payment amount was invoiced and paid. Separately list FPL poles for which the transfer of ownership was disputed and undisputed.

**Objection.** FP&L incorporates its objections to interrogatory 1. Additionally, this request is even more burdensome in that it would require FPL to go through all of its records searching for notices sent to third parties dating back to 2011.

**Interrogatory No. 3.** With respect to each entity identified in response to Interrogatory 2, separately identify the number of FPL poles to which the entity had facilities attached during the year FPL claims to have abandoned each pole identified in response to Interrogatory 2. If this information is not available, identify the number of poles or attachments for which FPL invoiced pole attachment rent during the year FPL claims to have abandoned each pole identified in response to Interrogatory 2.

**Objection.** FP&L incorporates its objections to interrogatories numbered 1 and 2.

**Interrogatory No. 4.** On an annual basis from 2011 forward, identify the number of poles FPL replaced or relocated pursuant to a Storm Hardening Plan and the amount that the Florida Public Service Commission has authorized FPL to recover in its electric rates or otherwise for the removal and disposal of the poles replaced or relocated in connection with a Storm Hardening Plan. Provide the amount as a total amount, annual amount, and per-pole amount, and include all support for FPL's calculation.

**Objection.** FP&L objects to this interrogatory as being overly broad in scope and burdensome as it would take a significant amount of resources and expense to gather and provide

the requested data dating back to 2011. In seeking historic information dating back to 2011, this interrogatory seeks information entirely irrelevant to this proceeding and not related to any claim or defense at issue.

**Interrogatory No. 6.** Describe in detail the field audit referenced in Mr. Jarro's March 20, 2019 letter to AT&T (Pole Attachment Complaint Exhibit 21). In your response, identify all entities and persons who designed and/or performed the field audit, the method and manner in which the field audit was performed, the number of poles that were visited in person to determine whether AT&T's facilities were attached, the date on which each pole was visited, the cost FPL incurred or paid for the field audit, and the results of the field audit. Include in your response the data that was collected during the field audit, the accuracy requirements, if any, imposed or related to the compilation or collection of the data, and the rules, parameters, or guidelines upon which the data was collected.

**Objection.** FP&L objects to this interrogatory as being overly broad and as seeking information entirely irrelevant to this proceeding. The allegations and legal claims found in AT&T's complaint in this proceeding are solely focused on the plain language of FP&L's Joint Use Agreement with AT&T. The remedy sought by AT&T is solely focused on the reformation of that contractual language. Thus, the results of any audit conducted by FP&L and additional details surrounding any such audit are completely irrelevant to the relief sought by AT&T and the legal claims underpinning its request for relief. As such, the information sought by this interrogatory is not relevant to any claim or defense in this proceeding.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2020 I caused a copy of the foregoing Opposition and Objections to AT&T's First Set of Interrogatories to be served on the following as indicated below:

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