

RECEIVED-FPSC

2020 NOV 17 PM 12:37

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

COMMISSION
CLERK

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

Complainant, *

v. *

FLORIDA POWER AND LIGHT
COMPANY, *

Respondent. *

Proceeding No.: 20-214
File No.: EB-20-MD-002

**FLORIDA POWER & LIGHT COMPANY'S
SECOND SUPPLEMENTAL RESPONSES
TO AT&T'S FIRST SET OF INTERROGATORIES**

Defendant Florida Power & Light Company ("FPL"), pursuant to Rule 1.730, submits the following second supplemental responses to the "First Set of Interrogatories" served by Complainant Bellsouth Telecommunications, LLC d/b/a AT&T Florida ("AT&T").

General Response

FPL adopts and incorporates, as if fully set forth herein, its July 17, 2020 Opposition and Objections to AT&T's First Set of Interrogatories. All responses set forth herein are subject to the July 17, 2020 Opposition and Objections to AT&T's First Set of Interrogatories.

The responses set forth herein are based on information presently known and available to FPL. FPL reserves the right to supplement these responses as additional information becomes known or available through the discovery process or otherwise.

Responses to Individual Interrogatories

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.

Supplemental Response. Notwithstanding and without waiving the objections set forth above and general objections contained in FPL's July 17, 2020 Opposition and Objections, FPL states that shortly after sending the Abandonment Notice, FPL hired an independent vendor ("Field Inspector") who was engaged and instructed to visit each pole identified on the Schedule to confirm that AT&T was still on the pole and was in fact the only attacher left or next-to-go on

the FPL pole. If the Field Inspector confirmed that AT&T was the only attacher to the pole, a sign was placed on the pole stating the pole would belong to AT&T effective on February 20, 2019. The Field Inspector then took a picture showing that AT&T was the only attacher on the pole and noted the pole's GPS location. On February 14, 2019, the Field Inspectors had finished their initial visit to the 11,142 poles. The Field Inspector determined that AT&T was the only remaining attacher or next-to-go on 6,042 FPL poles that had been originally identified in the Schedule.

On February 22, 2019, FPL sent a revised Schedule to AT&T identifying the 6,042 poles where AT&T was next-to-go ("Revised Schedule").

After completing the first visit to the poles, and after the 60 days had elapsed from the time the Abandonment Notice was delivered to AT&T, the Field Inspector visited each pole identified in the Revised Schedule a second time to confirm which of the listed poles still had AT&T facilities on them. If AT&T facilities still on the pole at the time of the second visit, a picture was taken of the pole (including GPS notation). The Field Inspector finished the second inspection on or about March 13, 2019. During this second inspection, the Field Inspector confirmed that AT&T facilities remained on 5,230 FPL poles.

Second Supplemental Response. Notwithstanding and without waiving the objections set forth above and general objections contained in FPL's July 17, 2020 Opposition and Objections, FPL states that the identities of the Field Inspectors are as follows:

Osrose Utilities Services, Inc.
635 Highway 74 South
Peachtree City, Georgia 30269

QTI, Inc.
15880 South Cherry Court
Olathe, Kansas 66062

Interrogatory No. 7. Identify the alleged “amount due FPL for the ownership transfer of the identified poles” referenced in Mr. Jarro’s February 22, 2019 letter to AT&T (Pole Attachment Complaint Exhibit 20) and, if different, the alleged “amount due FPL for the transfer of ownership for the identified abandoned poles” referenced in Mr. Jarro’s March 20, 2019 letter to AT&T (Pole Attachment Complaint Exhibit 21). Separately provide the total amount and the per-pole amount FPL contends was due for the 5,230 poles listed in the attachment to Mr. Jarro’s March 20, 2019 letter to AT&T (Pole Attachment Complaint Exhibit 21). Include in your response the basis, methodology, and assumptions used by FPL to calculate the “amount due,” the date FPL first communicated to AT&T the “amount due,” and the date FPL first provided AT&T documentation of and support for FPL’s calculation of the “amount due.”

Response. There is no difference in the amount due as referenced in Mr. Jarro’s February 22, 2019 letter as compared to Mr. Jarro’s March 20, 2019 letter. The per-pole amount due is \$310. Details regarding the calculation are included on the attached file.

Supplemental Response. From FPL’s sub-ledger assets system, a netbook value query was performed for all Mass Distribution Plant poles, as of December 2018.

Pole vintages were filtered for 1951 to 2007 and for the counties where AT&T and FPL share poles, and separated into wood and concrete for 35/40/45FT. Average pole costs were calculated based on the total book cost divided by the quantity of poles for each county, segregated by wood and concrete poles.

Second Supplemental Response. Because FPL has not yet invoiced AT&T for the “amount due,” FPL first provided AT&T documentation of and support for FPL’s calculation of the “amount due” on August 28, 2020 in its Responses to AT&T’s First Set of Interrogatories. This is also the same date that FPL first communicated to AT&T the “amount due” FPL for the

ownership transfer of the identified poles pursuant to the terms of the parties' Joint Use Agreement.

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT,
LLC

/s/ Cody T. Murphey
Charles A. Zdebski
Robert J. Gastner
Cody T. Murphey
1717 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(Tel) 202.659.6600
(Fax) 202.659.6699
czdebski@eckertseamans.com

Joseph Ianno, Jr.
Maria Jose Moncada
Charles Bennett
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

Counsel to Florida Power and Light Company

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2020, I caused a copy of the foregoing to be served on the following by hand delivery, U.S. mail or electronic mail (as indicated):

Christopher S. Huther, Esq.
Claire J. Evans, Esq.
Wiley Rein LLP
1776 K Street, N.W.
Washington, DC 20006
chuther@wileyrein.com
cevans@wileyrein.com
*Attorneys for BellSouth
Telecommunications, LLC*
(Via e-mail)

Robert Vitanza
Gary Phillips
David Lawson
AT&T Services, Inc.
1120 20th Street NW, Suite 1000
Washington, DC 20036
(Via U.S. Mail)

Lisa B. Griffin
Lia Royle
Federal Communications Commission
Enforcement Bureau
Market Disputes Resolution Division
445 12th Street, SW
Washington, DC 20554
(Via ECFS and e-mail)

Marlene H. Dortch, Secretary
Federal Communications Commission
9050 Junction Drive
Annapolis Junction, MD 20701
(Via ECFS)

Kimberly D. Bose, Secretary
Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426
(Via U.S. Mail)

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399
(Via U.S. Mail)

/s/ Cody T. Murphey