

ORIGINAL

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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COMMISSION  
CLERK

FLORIDA CABLE  
TELECOMMUNICATIONS ASSOCIATION,  
INC.,

Complainants,

v.

GULF POWER COMPANY,

Respondent.

E.B. Docket No. 04-381

**GULF POWER COMPANY'S SECOND SET OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS TO COMPLAINANTS**

Gulf Power Company ("Gulf Power"), pursuant to 47 C.F.R. §§ 1.323 and 1.325, submits this Second Set of Interrogatories and Requests for Production of Documents to Complainants, to be answered separately and severally. The instructions and definitions that follow are incorporated into all Requests by reference and should be reviewed carefully.

CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
RCA \_\_\_\_\_  
SCF \_\_\_\_\_  
SGA \_\_\_\_\_  
SEC 1 \_\_\_\_\_  
OTH \_\_\_\_\_

**DEFINITIONS**

1. "You" and "your" means the responding complainant.
2. "Identify" means, with reference to a document, the date, author(s) (where

applicable), recipient(s) (where applicable), the nature of the document (i.e., whether a letter, memorandum, etc.), the title of the document (where applicable), whether any other document(s) was attached to or included with such document, and the number of pages in such document and any attachments or enclosures. With respect to a person or entity, the term "Identify" means the person's or entity's full name, present residential address, present residential telephone number, present business affiliation, and position, present business address, and present business

DOCUMENT NUMBER-DATE

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telephone number. If you do not know the person's and entity's current location, identify the person's last known residential address and telephone number and the person's and entity's last known business address or business telephone number.

3. As used herein, the term "document" means any medium upon which intelligence or information can be recorded, written, or retrieved, and includes, without limitation, the original and each copy and nonduplicate copy, regardless of origin or location, of any book, pamphlet, periodical, letter, memorandum (including any memorandum or report of a meeting or conversation), invoice, bill, order form, receipt, financial statement, correspondence, accounting entry, diary, calendar, telex, telegram, cable, telecopy or telefacsimile, report, photographic or electronic surveillance (or the transcript thereof), record, contract, agreement, study, audio or video recording, handwritten note, draft, working paper, chart, paper, print, laboratory report, drawing sketch, draft, index, list, tape, photograph, electronic mail (e-mail) or other electronic or computerized data, data stored on computer disks or otherwise electronically or magnetically stored, microfilm, data sheet, or data processing card, or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however printed, typed, written, recorded, produced or reproduced, which is in your possession, custody, control or which was, but is no longer, in your possession, custody, or control.

4. "*Alabama Power v. FCC*" means *Alabama Power Company v. F.C.C.*, 311 F.3d 1357 (11<sup>th</sup> Cir. 2002).

### **INTERROGATORIES**

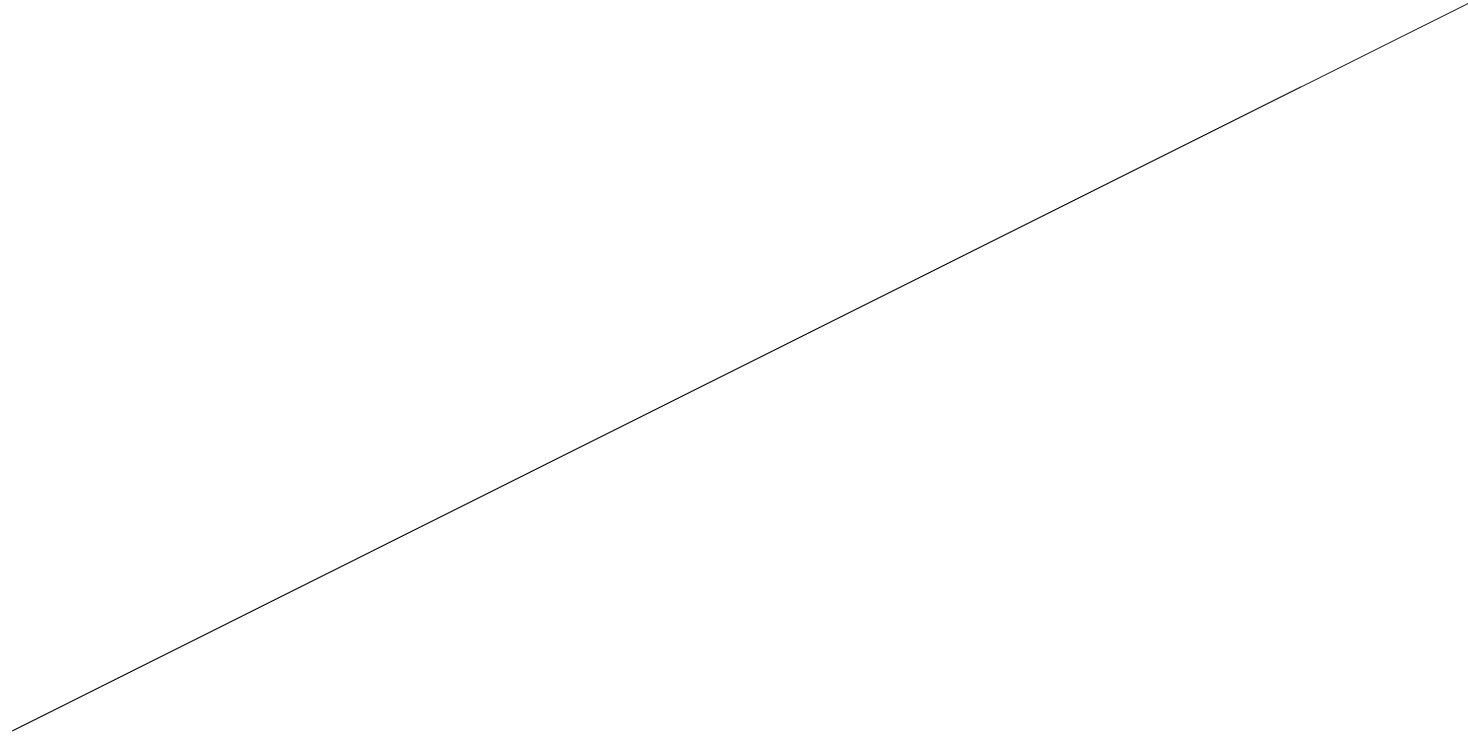
1. Identify the total annual number of Gulf Power poles, for each year from 2001 through the present, to which you have been attached.

2. Identify and define any differences between your definition or interpretation of the term “full capacity” and the terms “crowded” or “lack of capacity” under *Alabama Power v. FCC*.

3. Describe and explain the basis or methodology you have used or propose to use to quantify or measure “full capacity,” “crowding,” or “lack of capacity,” or any combination thereof for an individual pole to which you are attached. Identify any applicable safety codes, specifications, agreements, or economic or regulatory literature that supports your response.

4. For the pole attachments identified in response to Interrogatory No. 1, identify, for the period from 2000 through the present:

- (a) the total number of Gulf Power poles that you contend were not, are not, or have not been at “full capacity” or “crowded” under *Alabama Power v. FCC*;
- (b) the location and individual pole number of the specific poles you contend were not, are not, or have not been at “full capacity” or “crowded” under *Alabama Power v. FCC*;
- (c) the specific period of time you contend the poles you identified were not, are not, or have not been at “full capacity” or “crowded” under *Alabama Power v. FCC*; and
- (d) the specific reason or reasons why you contend such poles were not, are not, or have not been at “full capacity” or “crowded” under *Alabama Power v. FCC*.



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5. Describe and explain your definition, understanding, and/or interpretation of the terms “waiting in the wings” and “higher valued use” as they are used in *Alabama Power v. FCC*.

6. Identify and describe the total number of poles owned by Gulf Power that you requested that Gulf Power perform make-ready and/or a pole change-out upon from January 1, 2000 through the present. Specify the exact location of each pole, the work requested, and final disposition of any request, including denials, work-orders, agreements, or any other document relating to or referring to the specific request.

7. Identify and describe any instance in which Gulf Power has denied your request for make-ready and/or a pole change-out from January 1, 2000 through the present.

8. Identify any poles, ducts, or conduits that you own, have owned, or are in the process of acquiring, jointly or otherwise, from 1998 through the present anywhere within your service territory. Identify the location of any such poles, ducts, or conduits. Specifically identify any and all persons or entities that were attached or are currently attached to any of the poles you own and rental rates paid to you as compensation for attachment.

#### **REQUESTS FOR PRODUCTION**

1. Produce all documents that list, catalogue, describe, or depict any Gulf Power pole on which you currently maintain an attachment or have maintained an attachment at any time since January 1, 2000.

2. Produce all documents, produced, written, reviewed or compiled by any consultant, contractor, expert witness or other person or entity that you have used or are using to

document, study, report upon, or otherwise evaluate any and all Gulf Power poles containing your attachments.

3. Produce all documents, including but not limited to maps, diagrams, schematics, or depictions that identify all Gulf Power poles to which you are attached that you contend are not at full capacity and/or crowded.

4. Produce all safety codes, regulations, and/or construction standards, including your own internal safety manuals, policies and/or procedures that govern, relate to, or refer to the pole attachment process, including make-ready, guying, or pole change-outs.

5. For each Gulf Power pole to which you are attached that you contend is not at full capacity and/or is not crowded, produce documents that substantiate the basis and reasons for your contention that the pole is not at full capacity or crowded.

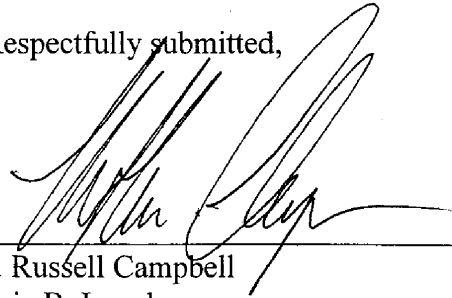
6. Produce all accounting or financial documents, invoices, billing statements, customer lists, service or maintenance orders that refer to, relate to, or contain information regarding income or revenue received from any and all customers serviced by cable lines attached to Gulf Power poles at any point from signal distribution to customer reception.

7. Produce any press releases, 10K statements, prospectuses, internal memoranda, or other documents in which you have ever referred to the Cable Rate or Telecom Rate.

8. Produce all joint use pole agreements, including but not limited to all drafts thereof, between you and any entities other than Gulf Power.

9. Produce all documents referring to, relating to, or regarding any surveys, audits, pole counts, or attachment counts pertaining to poles owned by you or Gulf Power conducted by you, your agents, or any other person or entity from 2000 through the present.

Respectfully submitted,



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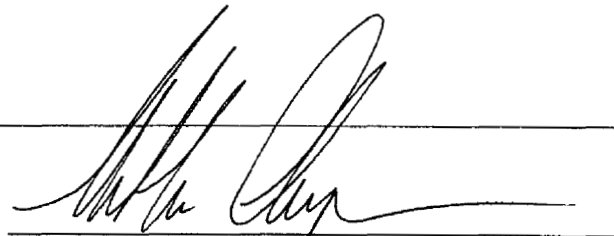
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**Counsel for Respondent**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Second Set of Interrogatories and Requests For Production of Documents to Complainants has been served upon the following by Electronic Mail and by United States Mail on this the 4<sup>th</sup> day of November, 2005:

Lisa Griffin Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	Shiela Parker Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>
Rhonda Lien Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, D.C. 20554
James Shook Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 <b>Via E-mail</b>	David H. Solomon Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554
Director, Division of Record and Reporting Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0850	Federal Energy Regulatory Commission Docket Room 1A-209 888 First Street, NE Washington, D.C. 20426
John D. Seiver Geoffrey C. Cook Rita Tewari COLE, RAYWID & BRAVERMAN 1919 Pennsylvania Avenue, N.W. Suite 200 Washington, D.C. 20006 <b>Via E-mail</b>	John W. Berresford Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554

  
\_\_\_\_\_  
OF COUNSEL