

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20180213-TL

Complaint by the Florida Inland  
Navigation District against  
BellSouth Telecommunications,  
LLC d/b/a AT&T Florida d/b/a  
AT&T Southeast for failure to  
relocate utility line.

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PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 5

COMMISSIONERS  
PARTICIPATING: CHAIRMAN GARY F. CLARK  
COMMISSIONER ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, September 1, 2020

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

PREMIER REPORTING  
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## 1 P R O C E E D I N G S

2 CHAIRMAN CLARK: Next item on the agenda, Item  
3 No. 5, Ms. Helton.

4 MS. HELTON: Item No. 5 addresses Florida  
5 Inland Navigation District's, or FIND's, complaint  
6 against AT&T for failure to relocate a subaq--  
7 subaqueous -- I am not sure how to say that, Mr.  
8 Chairman -- utility line located beneath the  
9 Intracoastal Waterway. FIND argues that AT&T's  
10 failure to relocate the line has resulted in  
11 delayed completion and increased costs of the  
12 Broward deepening project along a two-mile section  
13 of the Intracoastal Waterway in Ft. Lauderdale.

14 Staff recommends that the Commission has no  
15 jurisdiction to require AT&T to relocate its  
16 utility line that's under water. However, it is  
17 staff's understanding that progress has been made  
18 with respect to the relocation of the line.

19 Jon Moyle and FIND's executive director Mark  
20 Crosley would like to address the Commission. And  
21 Tracy Hatch with AT&T would also like to address  
22 the Commission. And you also have staff on the  
23 line available to answer questions.

24 CHAIRMAN CLARK: Thank you, Ms. Helton.

25 Mr. Moyle, are you on the line?

1 MR. MOYLE: I am, Mr. Chairman.

2 CHAIRMAN CLARK: You are recognized.

3 MR. MOYLE: Good morning. And I wanted to --  
4 to thank the Commission for their engagement and  
5 involved in this. In talking to staff, and also  
6 with Tracy Hatch, we thought it would make sense  
7 for -- for Tracy, who is closest to the situation,  
8 to provide the Commission with an update, and  
9 then -- and then I had -- had a few comments, and I  
10 believe the executive director, Mark Crosley, may  
11 have a comment or two, but shouldn't -- shouldn't  
12 take long, but I think an update from Mr. Hatch is  
13 probably in order.

14 CHAIRMAN CLARK: All right. Thank you.

15 Mr. Hatch, you are recognized.

16 MR. HATCH: Good morning, Mr. Chairman,  
17 Commissioners. My name is Tracy Hatch. I am  
18 appearing on behalf of AT&T Florida.

19 To answer Ms. Helton's last point first is,  
20 yes, there is -- progress has been made. The  
21 project actually is already under construction. If  
22 you have read the Inland initial complaint filed a  
23 couple years ago now, it's a litany of basically  
24 permitting problems, not really AT&T's issues.  
25 Just trying to get all the permits at the right

1 place at the right time. We have finally succeeded  
2 in doing that.

3 The last report that I had from last week is  
4 that they are beginning the preliminaries for the  
5 bore under the inland waterway, and we are  
6 currently waiting on Ft. Lauderdale to give us the  
7 bore logs for their -- their facility so that we  
8 won't hit -- we know where they are and we won't  
9 hit them in our bore.

10 So that's kind of where we are. The project  
11 is in motion. I can't give you an -- an expressed  
12 completion date because I just don't know, and my  
13 guys won't tell me. But that's where we are. I  
14 think it basically will be done and completed now  
15 that it's actually under construction.

16 CHAIRMAN CLARK: Okay. Thank you, Mr.  
17 Crosley.

18 MR. MOYLE: Yeah, Mr -- Mr. Chair, if I -- if  
19 I could jump in real quick.

20 CHAIRMAN CLARK: Yes, Mr. Moyle.

21 MR. MOYLE: Right, so, you know, we wanted to  
22 thank the Commission for spending time, energy and  
23 resources on this issue, and also AT&T and Mr.  
24 Hatch.

25 You know, I think it's important that -- that

1           this be noted, that Inland Navigation District, our  
2           firm has had a long relationship with them over the  
3           years, much longer than this issue has been here.  
4           And the issue what has been, you know, been out  
5           there for five years to -- to be able to deal with  
6           this situation, where there was a line coming  
7           across the -- the intercoastal, and there was a  
8           need to -- to dredge, which is not uncommon, and  
9           it's taken a very, very long time to get this  
10          moving forward.

11                   And with the analysis, your -- your Commission  
12          said, well, I am not sure we have jurisdiction over  
13          this, but then, you know, has worked with the  
14          parties to -- to move it forward, and we appreciate  
15          you all being involved and engaged. But I think --  
16          I think also that your decision here will also  
17          point out an issue that it's probably going to  
18          occur again.

19                   I mean, the intercoastal waterway is our key  
20          economic drives in our state. The Florida Inland  
21          Navigation District has been around since 1927, and  
22          is charged with keeping the intercoastal clear of  
23          impediments, sandbars, and keeping it dredged,  
24          so -- so navigation can take place. It has a big  
25          economic impact on the counties from -- from DuVal,

1 Jacksonville, all the way down to -- to Miami, and  
2 it plays an important role.

3 So as we move forward, you know, it may be  
4 that something like the Power Plant Siting Act,  
5 where you have a one-stop permitting forum is -- is  
6 something that the Legislature may look at; but it  
7 shouldn't, in our opinion, continue to be a  
8 situation where, you know, it takes a long, long  
9 time to -- to get something done like this so you  
10 can keep the intercoastal navigable for all -- all  
11 types of commerce, including big boats, and there  
12 is a lot of barges that go up and down the  
13 intercoastal. There is also an intercoastal on the  
14 west coast that -- that likely could be affected by  
15 this as well.

16 So -- so I guess at the end, Mr. Chairman, I  
17 just wanted to thank you and the Commission for  
18 spending time on this, and also AT&T and Tracy. I  
19 was getting with Tracy. He hadn't been in front of  
20 the Commission for a while, and this gives him  
21 another chance to get back before you, but I  
22 think -- I think that we are pleased that progress  
23 is being made and construction is underway, but  
24 this may be an issue that needs to be addressed in  
25 some other forum.

1           So with that I will conclude. And if Mr.  
2           Crosley has any comments to ad, you know, he is  
3           obviously the executive director and can answer  
4           questions, or provide any comments depending on --  
5           on your pleasure.

6           CHAIRMAN CLARK: Thank you, Mr. Moyle.

7           Mr. Crosley, any comments?

8           MR. CROSLEY: Just a couple of things to ad.

9           Mr. Moyle, thank you. And I want to thank the  
10          Commission for giving us this time. And I want to  
11          thank AT&T also for working with us.

12          I would like to reiterate a couple of points  
13          that Mr. Moyle made. One is that we have been  
14          working on this issue for five years, and it did --  
15          it probably cost the taxpayers of Florida another  
16          half-a-million dollars since the cable was not --  
17          an illegal cable that was not at the proper depth  
18          was not relocated in a timely fashion.

19          I do think it's concerning that when we got  
20          into this issue and we were having -- getting  
21          frustrated that things weren't moving, my board  
22          suggested that we get in touch with the Public  
23          Service Commission. And when we found out that the  
24          Public Service Commission doesn't have regulatory  
25          jurisdiction over this matter, it was a little bit

1           concerning, because it appears that perhaps nobody  
2           does.

3           So this may be an oversight by the State of  
4           Florida, but I would just like to point out that,  
5           as Mr. Moyle did, that there is a lot of utilities  
6           crossing a lot of navigable waterways in Florida.  
7           It's important that the utilities are properly  
8           installed, and permitted, and maintained. And in  
9           most of the cases, that's -- that is the -- in most  
10          instances that is the case.

11          We did back in the old -- years ago, before  
12          there was a lot of tracking and permitting on this  
13          issue, we did have -- I think there was some  
14          unscrupulous subcontractors that may have said we  
15          are going to ditch this thing in and laid the cable  
16          on the bottom.

17          Put it this way, we found a lot of cables out  
18          there, and they are not just communication cables.  
19          There is all kinds of lines.

20          It's important -- the waterway is, just on the  
21          east coast of Florida, is almost 17 billion a year  
22          to the State of Florida. It's our job as the local  
23          sponsor, the only corporate engineers, to maintain  
24          that and yet again, we just say thank you, and  
25          thanks for hearing our points, and I thank AT&T for



1 making some progress on this.

2 CHAIRMAN CLARK: Thank you, Mr. Crosley.

3 Okay, Commissioners?

4 Commissioner Polmann.

5 COMMISSIONER POLMANN: Thank you, Mr.

6 Chairman.

7 I -- I appreciate the comments that were just  
8 provided, and certainly concur that utility  
9 conflicts are of great concern. I understand that  
10 in this particular case, we do not have  
11 jurisdiction, and nonetheless, the matter of -- the  
12 importance of addressing utility conflicts is  
13 critical.

14 Now, I don't know that there is anything in  
15 the larger picture that the Public Service  
16 Commission can contribute, but I do appreciate the  
17 effort that staff has gone -- gone through to  
18 participate in the discussion, and as appropriate,  
19 perhaps the administration can continue to  
20 participate in a discussion, which is not to say  
21 that we should expend resources inappropriately.

22 But I just wanted to comment that I agree,  
23 utility conflicts are -- are a great concern, and,  
24 Mr. Chairman, if there is no other discussion, I  
25 would move the staff recommendation on all issues.

1           CHAIRMAN CLARK: We have a motion. Do I have  
2 a second?

3           COMMISSIONER FAY: I'll second.

4           COMMISSIONER GRAHAM: Second.

5           CHAIRMAN CLARK: A motion and a second to  
6 approve staff recommendation on all items?

7           Any discussion?

8           On the motion, all in favor say aye -- oh,  
9 Commissioner Graham, I am sorry.

10          COMMISSIONER GRAHAM: Yeah, Mr. Chairman, I  
11 was just going to welcome Mr. Hatch back before the  
12 Commission, even though he is not actually sitting  
13 in our chambers. It's good to hear his voice.

14          And I agree with Mr. Moyle. I think maybe  
15 this should be something like the Siting Act.  
16 Maybe this is something that should go before --  
17 before the Cabinet. You know, it's unfortunate  
18 that there is no one-stop-shop for this answer and,  
19 you know, maybe that's something that at session  
20 that somebody should push for.

21          But anyway, that's all I had. Thank you, Mr.  
22 Chairman.

23          CHAIRMAN CLARK: Well, in light of your  
24 comment, I will add my concerns as well.

25          I have long expressed my concerns over the

1 issues that we've had, things limited nature of our  
2 involvement, things such as pole attachments and  
3 how those things are handled during -- especially  
4 during storms and emergency situations. Not only  
5 that, but just the unsightliness that we see  
6 driving down the highways when we have utility  
7 companies that can't seem to work together to do  
8 relocations of the infrastructure at the same time.  
9 We've seen a lot of issues and problems of this  
10 nature, and it's certainly something that I agree  
11 needs to be addressed, and I certainly look forward  
12 to working to help anyone craft something to  
13 address those issues.

14 With that, any other comments?

15 Commissioner Brown.

16 COMMISSIONER BROWN: Well, now I have to say  
17 me too, because I agree with all of that. And  
18 we've been -- this is an ongoing thing that we've  
19 talked about, and so I -- I appreciate it just kind  
20 of coming to us, even though it looks like AT&T is  
21 making its best efforts to get this done and get it  
22 done correctly, but, yeah, I agree with all three  
23 of you.

24 CHAIRMAN CLARK: All right. With that,  
25 welcome back to the PSC, Mr. Hatch.

1 All in favor, say aye.

2 (Chorus of ayes.)

3 CHAIRMAN CLARK: Opposed?

4 (No response.)

5 CHAIRMAN CLARK: Motion is approved.

6 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, DEBRA KRICK, Court Reporter, do hereby  
certify that the foregoing proceeding was heard at the  
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IT IS FURTHER CERTIFIED that I  
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same has been transcribed under my direct supervision;  
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DATED this 11th day of September, 2020.



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DEBRA R. KRICK  
NOTARY PUBLIC  
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