

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

BELLSOUTH)	
TELECOMMUNICATIONS, LLC d/b/a)	
AT&T Florida,)	
)	
Complainant,)	
)	
v.)	Proceeding No.: 20-276
)	Bureau ID No.: EB-20-MD-003
DUKE ENERGY FLORIDA, LLC,)	
)	
Defendant.)	
)	
)	

**DUKE ENERGY FLORIDA, LLC’S
FIRST SET OF INTERROGATORIES TO AT&T**

Defendant Duke Energy Florida, LLC (“DEF”), pursuant to Rule 1.730 and in accordance with the Enforcement Bureau’s September 17, 2020 Notice of Complaint, requests that Complainant BellSouth Telecommunications, LLC d/b/a AT&T Florida (“AT&T”) answer the following interrogatories by December 1, 2020.

The information sought in each interrogatory is necessary to the resolution of this dispute because each interrogatory seeks information regarding the joint use relationship between AT&T and DEF. The information sought in each interrogatory is not presently available from any other source, as it is not obtainable from a public source, is within AT&T’s sole possession, custody, or control, or is otherwise not available to DEF.

Definitions

1. “AT&T” means BellSouth Telecommunications, LLC d/b/a AT&T Florida 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, attorneys, 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.

2. “Identify” means:

a. When referring to a person, the person’s full name, title, business address, e-mail address, and telephone number, and relationship to AT&T. If you do not know the person’s current information, provide the person’s last known business affiliation and title, business address and telephone number, residential address and telephone number, e-mail address, and relationship to AT&T.

b. When referring to a document, the type of document (*e.g.*, letter, memorandum, e-mail, etc.) or some other means of identification, its author(s) and addressee(s), its date, its subject, and all present locations by address and custodian.

c. When referring to an oral communication, the type of communication, the persons who participated in, heard, or witnessed it, the date of the communication, and the subject and substance of the communication, and identify any documents that set forth, summarize or refer to any portion of such oral communication.

d. When referring to a business organization, the corporate name or other names under which said organization does business and the location and phone number of its principal place of business.

e. When referring to data, the type of data, its vintage, the geographic location where the data was collected, the rules or guidelines governing its collection, and all facts, figures, measurements, and other data collected and analyses performed.

If any of the foregoing information requested is not known, the response shall indicate what of the foregoing information is not known.

3. “JUA” means the joint use agreement between Florida Power Corporation (“DEF”) and Southern Bell Telephone and Telegraph Company (“AT&T”), dated June 1, 1969, as amended.

4. “1990 Amendment” means the amendment executed by Florida Power Corporation (“DEF”) and Southern Bell Telephone and Telegraph Company (“AT&T”), dated January 2, 1990, which modified the cost sharing methodology under Section 10.4 of the JUA.

5. “Joint Use Agreement” means any agreement entered into by AT&T and any electric utility that grants each party access to the other’s distribution poles, including any amendments, exhibits, appendices, and operational guidelines, practices, or policies.

6. “You” and “your” have the same meaning as AT&T.

Instructions

1. In response to each interrogatory, first restate the interrogatory.

2. Provide all responsive information that is in the possession, custody or control of AT&T or any other person acting in the interest of, or on behalf of, AT&T. If AT&T does not have responsive information, or has information that is only partially responsive, AT&T should provide the available information and identify the information that is not available.

3. If any response contains any objection, state with specificity the grounds for the objection and the part of the interrogatory to which the objection is made but respond to the interrogatory fully insofar as it is not deemed objectionable. If any information requested was, but is no longer, in your possession or subject to your control, or is no longer in existence, state whether it is missing or lost, destroyed, transmitted or transferred voluntarily or involuntarily to others, or

otherwise disposed of and explain the circumstances surrounding the authorization for such disposition and the date or approximate date thereof.

4. These interrogatories are continuing, and AT&T must supplement its responses upon discovering or learning of additional information in its custody, possession, or control that was not produced or included in an earlier response.

Interrogatories

1. Does AT&T contend that the cost sharing methodology established by the 1990 Amendment to the JUA was (a) unjust or unreasonable at the time the 1990 Amendment was executed, and/or (b) the result of unequal bargaining power between the parties? If so, please identify the basis for this contention, with reference to data, documents and communications between the parties. If any part of your answer relies on the parties' relative joint use pole ownership, please explain specifically how this relative pole ownership provided bargaining leverage to one party or the other at the time of the execution of the 1990 Amendment.

2. Identify all data in your possession regarding poles jointly used by DEF and AT&T, including, but not limited to, all survey, audit or sampling data concerning pole height, the average number of attaching entities, the number of attachments owned by AT&T, AT&T's attachment height on DEF poles, and the space occupied by DEF and AT&T on each party's poles. Include in your response when the data was compiled or collected, the entity or entities that compiled or collected it, the accuracy requirements, if any, imposed or related to the compilation or collection of the data, and the rules, parameters, and/or guidelines pursuant to which the data was collected.

3. Please identify each and every wireless provider (carrier, infrastructure provider or otherwise) with antenna attachments to AT&T's poles in Florida and for each year from 2015

forward, state the per pole rate paid by such wireless provider and the methodology by which such rate was calculated.

4. State the rates, terms, and conditions of all pole attachment or pole license agreements that AT&T has with any cable television system or telecommunications carrier within the state of Florida, and that were in effect at any time from January 1, 2015 forward. Include in your response the name of the entity that is the counterparty to each such agreement, the dates on which the agreement was in effect, the annual pole attachment rates thereunder, the number of each party's attachments to AT&T poles. AT&T may, alternatively, respond to this interrogatory by producing copies of each such agreement, along with the applicable rates and attachment totals.

5. Please state whether AT&T or its currently retained contractors in DEF's service area have the training and equipment necessary to set AT&T joint use poles with DEF electric facilities attached to them, including the requisite training and equipment to work with or in close proximity to live electrical facilities. If the answer is yes, please identify those contractors and state the number of poles per year since 2015 such contractors have set in energized lines and include within your answer the voltage class of such poles.

6. What size and type of pole(s) does AT&T set when such pole(s) will not be jointly used with DEF or another electric utility pursuant to a Joint Use Agreement? Please identify the costs incurred by AT&T in the preceding 5 years to construct non-joint use pole lines (including the cost of installing AT&T's communication facilities) and identify the total number of poles installed.

7. Please identify AT&T's average cost to replace a joint use poles (including AT&T's cost of transferring its facilities to the new pole) in 2019 and identify the number of poles replaced in 2019.

8. Does AT&T contend that it has ever been required to pay modification costs to DEF in order to make use of its allocated space under the JUA? If so, please identify all such instances and state the costs paid for such modification work. Exclude from your answer all instances in which AT&T paid modification costs in order to obtain more than its allocated space under the JUA

9. Prior to filing its complaint, did AT&T perform any calculations or analysis to ascertain the scope of its avoided make-ready costs under the JUA? If so, please state the results of such calculations or analysis.

Dated: October 30, 2020

Respectfully submitted,

/s/ Eric B. Langley
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CERTIFICATE OF SERVICE

I hereby certify that on October 30, 2020, a true and correct copy of Duke Energy Florida, LLC’s First Set of Interrogatories to AT&T was filed with the Commission via ECFS and was served on the following (service method indicated):

Robert Vitanza Gary Phillips David Lawson AT&T SERVICES, INC. 1120 20th Street NW, Suite 1000 Washington, DC 20036 (by overnight Federal Express)	Marlene H. Dortch, Secretary Federal Communications Commission 445 12th Street, SW Washington, DC 20554 (by ECFS)
Christopher S. Huther Claire J. Evans Frank Scaduto WILEY REIN LLP 1776 K Street NW Washington, DC 20006 chuther@wileyrein.com cevans@wileyrein.com fscaduto@wileyrein.com (by E-Mail)	Mike Engel Federal Communications Commission Market Disputes Resolution Division Enforcement Bureau michael.engel@fcc.gov (by E-Mail)
Rosemary H. McEnery Federal Communications Commission Market Disputes Resolution Division Enforcement Bureau 445 12th Street, SW Washington, DC 20554 rosemary.mcenery@fcc.gov (by E-Mail)	Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street, NE Washington, DC 20426 (by overnight Federal Express)
Gary F. Clark, Chairman Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, FL 32399-0850 (by U.S. Mail)	

/s/ Eric B. Langley _____
OF COUNSEL