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

FLORIDA CABLE
TELECOMMUNICATIONS ASSOCIATION,
INC.,

Complainants,

v.

GULF POWER COMPANY,

Respondent.

E.B. Docket No. 04-381

**GULF POWER'S SECOND SUPPLEMENTAL RESPONSES TO COMPLAINANTS'
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS**

Gulf Power Company ("Gulf Power") supplements its responses to complainants' Second Request for Production, in accordance with the Presiding Judge's November 18, 2005 Third Discovery Order, as follows:

GENERAL RESPONSES AND OBJECTIONS

1. Gulf Power adopts and incorporates its responses and objections to complainants' second set of request for production of documents, as if fully set forth herein.
2. Gulf Power adopts and incorporates it response to complainants' third motion to compel as if fully set forth herein.
3. The responses and objections herein supplement and/or amend Gulf Power's August 26, 2005 responses and objections.

SPECIFIC RESPONSES AND OBJECTIONS

12. In light of the Presiding Judge's ruling that "this hearing is limited to 'reasonable compensation' from rates charged for Complainants' CATV attachments" and his order excluding as irrelevant evidence "relating to non-CATV attachments," produce, and specify by Bates number, all documents which Gulf Power relied or relies upon in making its contention, in its Description of Evidence, that there is

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an “unregulated market for pole space,” to the extent that that contention applies to CATV attachments.

ORIGINAL RESPONSE:

Gulf Power does not interpret the Discovery Order to mean that evidence regarding what other attachers pay for the same space occupied by complainants will be excluded as irrelevant. This would be legally incorrect, and at odds with Gulf Power’s burden to demonstrate a more appropriate alternative rate. Gulf Power relied, in part, upon the attachment agreements and billing information for attachers paying more than complainants. These documents are within Bates range Gulf Power 00826 - 2309, and other such documents were made available at the May 27-28, 2005 document review.

SUPPLEMENTAL RESPONSE:

Gulf Power is unclear as to what it is being ordered to do. In its original response, Gulf Power identified by Bates range the documents requested (and already copied and produced). Gulf Power’s reference to “other such documents” which “were made available at the May 27-28, 2005 document review” was a specific reference to the cart of documents made available in the first floor conference room of Gulf Power’s headquarters, organized by attacher, which contained (among other things) attachment agreements, permits and billing information. To wit, this is where complainants spent approximately one-and-a-half days reviewing documents. These documents were produced “as they are kept in the usual course of business” with the exception that multiple file drawers in other places at Gulf Power’s headquarters were consolidated on one cart for the convenience of complainants.

SECOND SUPPLEMENTAL RESPONSE:

In the Presiding Judge’s November 18, 2005 Third Discovery Order (FCC 05M-56), Gulf Power Company (“Gulf Power”) was ordered to “identify specific Bates numbered documents on which it relies as evidence of an ‘unregulated market for pole space’” in response to Complainants’ Document Request No. 12. Pursuant to the Third Discovery Order, Gulf Power identifies the following Bates numbered documents as evidence of an unregulated market for pole space:

BATES NUMBER/RANGE	DOCUMENT DESCRIPTION
00826-00865, 00903-00941	Gulf Power/Madison River Communications pole attachment contract.
00962	Interest statement billed to Madison River Communications for interest on Just Comp. rate.
00964	Bill to Madison River Communications for

	pole attachments at Just Comp. rate.
00966	Bill to Madison River Communications for pole attachments at Just Comp. rate.
00967	Bill to Madison River Communications for pole attachments at Just Comp. rate.
00968-69	Payment from Madison River Communications for pole attachments at Just. Comp. rate.
00970	Payment from Madison River Communications for pole attachments at Just. Comp. rate.
00971-72	Bill to Madison River Communications for pole attachments at Just Comp. rate.
00974-75	Letter from Mike Dunn to Harold Killian
00977-78	Bill to Madison River Communications for pole attachments at Just Comp. rate.
01028-01069, 01087-01192, 01214-01256	Gulf Power/KMC Telecom II pole attachment contract.
01073	Letter from Mike Dunn to Charlie Jordan, Dusty Fisher, and Linda Malone
01082	Letter from Mike Dunn to Charlie Jordan, Dusty Fisher, and Linda Malone
01211-12	Letter from Mike Dunn to Joiava Philpott
01265	Notes from conversation with Tricia Breckenridge @ KMC Telecom
01424-25	Payment from KMC Telecom for pole attachments at Just. Comp. rate.
01430	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01432	Interest statement billed to KMC Telecom for interest on Just Comp. rate.
01433	Interest statement billed to KMC Telecom for interest on Just Comp. rate.

01434	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01435	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01436	Interest statement billed to KMC Telecom for interest on Just Comp. rate.
01437	KMC Telecom Billing Summary (March 5, 2002).
01438	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01439-41	Letter from Mike Dunn to KMC Telecom
01446	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01447	Bill to KMC Telecom for unpermitted pole attachments at Just Comp. rate.
01448	Payment from KMC Telecom for unpermitted poles.
01449	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01449	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01451-53	Payment from KMC Telecom for pole attachments at Just Comp. rate.
01454	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01455	Bill to KMC Telecom for pole attachments at Just Comp. rate.
01456	Interest statement billed to KMC Telecom for interest on Just Comp. rate.
01457	Interest statement billed to KMC Telecom for interest on Just Comp. rate.

01458	Interest statement billed to KMC Telecom for interest on Just Comp. rate.
01459	KMC Telecom payment of interest and late fee on Just Comp. rate.
01460-61	Letter from Mike Dunn to Michael Sternberg with invoice for KMC Telecom's pole attachments billed at Just Comp. rate.
01464-67	Letter from Mike Dunn to Michael Sternberg.
01473-01511	Gulf Power/Southern Light pole attachment contract.
01532	Bill to Southern Light for pole attachments at Just Comp. rate.
01533	Bill to Southern Light for pole attachments at Just Comp. rate.
01534	Payment from Southern Light for pole attachments at Just Comp. rate.
01535-36	Bill to Southern Light for pole attachments at Just Comp. rate.
01537-39	Bill to Southern Light for pole attachments at Just Comp. rate.
01540	Payment from Southern Light for pole attachments at Just Comp. rate.
01541-42	Bill to Southern Light for pole attachments at Just Comp. rate.
01552	Bill to Southern Light for pole attachments at Just Comp. rate.
01554-55	Bill to Southern Light for pole attachments at Just Comp. rate.
01563	Payment from Southern Light for pole attachments at Just Comp. rate.
01564-65	Bill to Southern Light for pole attachments at Just Comp. rate.

01566	Interest payment from Southern Light on Just Comp. rate.
01567	Bill to Southern Light for pole attachments at Just Comp. rate.
01569	Bill to Southern Light for pole attachments at Just Comp. rate.
01573-01575	Letter from Mike Dunn to Eric Daniels.
01652	Adelphia Reorg. Plan reflecting amount owed to Gulf Power.
01683-84	Bill to Adelphia Business Solutions for pole attachments at Just Comp. rate.
01685	Bill to Adelphia Business Solutions for pole attachments at Just Comp. rate.
01687	Bill to Adelphia Business Solutions for pole attachments at Just Comp. rate.
01689-93	CATV Payment Summary
01962	Bill to Adelphia Business Solutions for pole attachments at Just Comp. rate.
01965	Bill to Adelphia Business Solutions for pole attachments at Just Comp. rate.
01966	Interest statement billed to Adelphia Business Solutions for interest on Just Comp. rate.
01967	Interest statement billed to Adelphia Business Solutions for interest on Just Comp. rate.
01968	Adelphia Business Solutions Billing Summary
01969	Interest statement billed to Adelphia Business Solutions for interest on Just Comp. rate.
01970	Adelphia Business Solutions Billing Summary
01972	Interest statement billed to Adelphia Business Solutions for interest on Just Comp. rate.

01974	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01975	Payment from Adelpia Business Solutions for pole attachments at Just Comp. rate.
01976-77	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01978	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01979-82	Letter from Mike Dunn to Cathy Fox
01984	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01986	Payment from Adelpia Business Solutions for pole attachments at Just Comp. rate.
01987-88	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01989	Payment from Adelpia Business Solutions for pole attachments at Just Comp. rate.
01990	Interest statement billed to Adelpia Business Solutions for interest on Just Comp. rate.
01991	Letter from Mike Dunn to Jim Parsons
01992	Bill to Adelpia Business Solutions for pole attachments at Just Comp. rate.
01994	Payment from Adelpia Business Solutions for pole attachments at Just Comp. rate.
01995-02000	Letter from Mike Dunn to Cathy Fox.
02001-02039	Walton County Lease Agreement.
02013	Email from Ben Bowen to Tanya Beal.
02018-21, 02306-02309	Walton County pole attachment invoices.
02040-02061	Crest Corporation of Panama City Beach Lease Agreement.

02048-51, 02053-55, 02301-02305	Crest Corporation pole attachment invoices.
012060	Letter from Rex Brooks to Bill Young.
02062-02088	R.L. Singletary Lease Agreement.
02070-73, 02297-02300	R.L. Singletary pole attachment invoices.
02089-02112	Joint Use Agreement between Gulf Power Company and BellSouth Telecommunications.
02113-02131	Joint Use Agreement between Gulf Power Company and Sprint Florida.
02132-02148	Joint Use Agreement between Gulf Power Company and GTC, Inc.

15. Produce, and specify by Bates number, all documents, including maps, diagrams, or schematics, which existed prior to Gulf Power's retention of its consultant Osmose in February 2005, that depict the specific Gulf Power poles containing Complainants' attachments that Gulf Power contends were or have been at "full capacity."

ORIGINAL RESPONSE:

Gulf Power made all such documents available during the May 27-28, 2005 document review. Certain of these documents were among those copied for complainants following the document review, at complainants' request.

SUPPLEMENTAL RESPONSE:

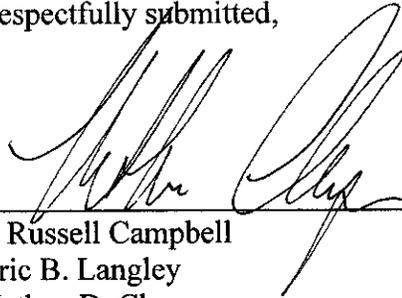
Gulf Power is unclear as to what it is being ordered to produce. The only "maps, diagrams, or schematics" in Gulf Power's possession already have been produced. As Gulf Power clarified in its response to complainants' second motion to compel, the documents made available at the May 27-28 document review which are responsive to this request were the 1996 and 2001 pole count documents (boxes were specifically identified when produced). Gulf Power further clarified in its response to complainants' second motion to compel, "[i]f complainants are looking for maps which designate specific poles at 'full capacity,' there are no such maps." (Gulf Power's Response, p. 6).¹

¹ Gulf Power's contemporaneously-filed motion to reconsider sought reconsideration of the portion of the Second Discovery Order addressing Request No. 15 which required Gulf Power to create new documents (in the form of "circled" or "color coded" maps).

SECOND SUPPLEMENTAL RESPONSE:

In the Presiding Judge's November 18, 2005 Third Discovery Order (FCC 05M-56), Gulf Power Company ("Gulf Power") was ordered to provide "a method of depicting poles holding Complainants' CATV cable attachments identifying those poles that Gulf Power contends are at full capacity." Pursuant to the Third Discovery Order, Gulf Power identifies the following Bates numbered maps, numbers 02474 – 02486, which depict Gulf Power utility poles containing Complainants' CATV cable attachments that are at "full capacity" and/or "crowded" under the *Alabama Power v. FCC* test.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Second Supplemental Responses to Complainants' Second Request For Production of Documents has been served upon the following by Electronic Mail and by United States Mail on this the 9th day of December, 2005:

<p>Lisa Griffin Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail</p>	<p>Shiela Parker Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail</p>
<p>Rhonda Lien Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail</p>	<p>Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street, SW Washington, D.C. 20554</p>
<p>James Shook Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554 Via E-mail</p>	<p>David H. Solomon Federal Communications Commission 445 12th Street, S.W. Washington, D.C. 20554</p>
<p>Director, Division of Record and Reporting Florida Public Service Commission 2540 Shumard Oak Blvd. Tallahassee, Florida 32399-0850</p>	<p>Federal Energy Regulatory Commission Docket Room 1A-209 888 First Street, NE Washington, D.C. 20426</p>
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