

Before the
Federal Communications Commission
Washington, DC 20554

BELLSOUTH
TELECOMMUNICATIONS, LLC
d/b/a AT&T FLORIDA,

Complainant,

v.

FLORIDA POWER AND LIGHT
COMPANY,

Defendant.

Proceeding No. 19-187
Bureau ID No. EB-19-MD-006

COMMISSION
CLERK

2019 OCT - 8 AM 8:22

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CONSENT MOTION FOR ADJUSTMENT OF DEADLINES

Pursuant to Rules 1.46 and 1.729, 47 C.F.R. §§ 1.46 and 1.729, Complainant BellSouth Telecommunications, LLC d/b/a AT&T Florida (“AT&T”) respectfully submits this motion requesting that the deadlines applicable to this proceeding be adjusted by 16 days as set forth below. Defendant Florida Power and Light Company (“FPL”) consents to the schedule adjustments requested in this motion. In further support of this motion, AT&T states as follows:

1. AT&T requests a 16-day extension of its October 21, 2019 Reply deadline to permit full and fair briefing of this matter in light of the parties’ negotiation of a Confidentiality and Non-Disclosure Agreement (“Confidentiality Agreement”), which delayed for 16 days the date that AT&T’s witnesses and outside consultant could obtain access to redacted information in FPL’s September 16, 2019 Answer, Brief, and Declarations (collectively, “Answer”), and delayed for 42 days the date that AT&T’s witnesses and outside consultant could obtain access to redacted information in FPL’s August 21, 2019 responses to AT&T’s First Set of Interrogatories.

2. On August 21, 2019, FPL served AT&T a public version of its responses to AT&T's First Set of Interrogatories, which redacted significant portions of FPL's responses and omitted thousands of pages of supplemental information. On September 16, 2019, FPL served AT&T a public version of its Answer, which likewise redacted significant substantive information.

3. FPL contends that the redacted information is confidential or highly confidential information that requires protections above and beyond those provided by 47 C.F.R. § 1.731. Although AT&T considers the protections of 47 C.F.R. § 1.731 sufficient for this proceeding, it was willing to negotiate a mutually agreeable confidentiality agreement. Following lengthy negotiations and the assistance from the Enforcement Bureau, FPL's counsel notified AT&T's counsel on Thursday, September 26, 2019 that FPL agreed to the terms of the draft Confidentiality Agreement. On Tuesday, October 1, 2019, FPL returned a signed copy of the Confidentiality Agreement to AT&T, and AT&T has since signed the Confidentiality Agreement and begun obtaining the required affirmations from those who require the information in order to respond to FPL's Answer.

4. FPL did agree to provide a select group of AT&T in-house and outside counsel access to the confidential information before the Confidentiality Agreement was signed, and FPL delivered the confidential versions to these counsel on Thursday, September 19, 2019 and Friday, September 20, 2019. AT&T was nonetheless constrained in its efforts to prepare a substantive response to FPL's Answer because counsel was not permitted to share FPL's full and complete filings with the AT&T employees and outside expert that have the experience and expertise to analyze FPL's data and information and determine the appropriate response.

5. AT&T thus requests a 16-day extension of its Reply deadline to account for the 16 days that AT&T's fact and expert witnesses were not able to access a confidential version of FPL's Answer and the 42 days that they were not able to access a confidential version of FPL's interrogatory responses. AT&T's witnesses must now begin to review FPL's nearly 400-page confidential version of FPL's Answer, about 20 pages of interrogatory responses, and thousands of pages of supplemental materials initially omitted from FPL's interrogatory responses.

6. AT&T requests that the deadlines be adjusted as follows:

	Current Deadline	Proposed New Deadline
Reply	October 21, 2019	November 6, 2019
AT&T's Response to Interrogatories	October 28, 2019	November 13, 2019
Joint Statements	November 4, 2019	November 20, 2019
Briefing / Discovery Deadline	December 2, 2019	December 18, 2019

7. AT&T believes there is good cause for this requested extension, which will ensure that the time required to address FPL's request for heightened confidentiality protections does not adversely impact AT&T's ability to respond fully to FPL's Answer. AT&T has not previously requested an extension, although it has consented to the procedural schedules proposed in FPL's two prior requests for extensions of time.

8. Because briefing will be completed by December 18, 2019 under this proposed schedule, AT&T would prefer that final action in this matter be taken by May 21, 2020, which is the date on which the shot clock presently expires. However, AT&T does not object to a further 16-day extension of the shot clock to accommodate this requested 16-day extension.

9. Counsel for AT&T has conferred with counsel for FPL about this request, and FPL consents to the relief sought and schedule proposed in this motion.

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Dated: October 4, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2019, I caused a copy of the foregoing Consent Motion for Adjustment of Deadlines to be served on the following (service method indicated):

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