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June 8, 2026

**VIA ELECTRONIC FILING**

Matthew Homsher, Secretary  
PA Public Utility Commission  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265


Re: Armstrong Telecommunications, Inc., v. FirstEnergy Pennsylvania Electric Company  
Docket No. C-2026-3062601 (RBAT Accelerated Docket)

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Dear Secretary Homsher,

Enclosed for electronic filing please find Armstrong Telecommunications, Inc. (“Armstrong”) Motion to Compel for the above-referenced matter. Copies are being provided as indicated on the Certificate of Service.

Sincerely,

  
Bryce R. Beard

BRB/dmc  
Enclosure

cc: The Honorable John M. Coogan (*via email*)  
The Honorable Gail M. Chiodo (*via email*)  
Certificate of Service

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of Armstrong's Motion to Compel in the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**VIA E-MAIL**

Tori L. Giesler, Esquire  
Jessica W. Rhea, Esquire  
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Post & Schell, P.C.  
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Harrisburg, PA 17101-1601  
[ekawa@postschell.com](mailto:ekawa@postschell.com)

Dated: June 8, 2026

  
\_\_\_\_\_  
Bryce R. Beard, Esquire

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Armstrong Telecommunications, Inc.,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2026-3062601
	:	(RBAT Accelerated Docket)
FirstEnergy Pennsylvania Electric	:	
Company,	:	
Respondent.	:	

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**NOTICE TO PLEAD**

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TO: Tori L. Giesler, Esquire  
Jessica W. Rhea, Esquire  
FirstEnergy Pennsylvania Electric Company  
341 White Pond Dr.  
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You are hereby notified that an Answer to the enclosed **Motion to Compel** of Armstrong Telecommunications, Inc. must be filed within **two (2) calendar days** of the date of service pursuant to the May 28, 2026 Order in the above referenced docket.

All documents must be filed with the Secretary of the Pennsylvania Public Utility Commission with a copy served to counsel for Armstrong Telecommunications, Inc., and the Administrative Law Judges presiding over the proceeding.

File with:

Matthew Homsher, Secretary  
Pennsylvania Public Utility  
Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

With a copy to:

Bryce R. Beard, Esq. (I.D. No. 325837)  
Norman J. Kennard, Esq. (I.D. No. 29921)  
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Date: June 8, 2026

/s/ Bryce R. Beard

Bryce R. Beard, Esquire  
*Counsel for Armstrong Telecommunications,  
Inc.*

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Armstrong Telecommunications, Inc.,	:	
Complainant,	:	
	:	
v.	:	Docket No. C-2026-3062601
	:	(RBAT Accelerated Docket)
FirstEnergy Pennsylvania Electric	:	
Company,	:	
Respondent.	:	

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**ARMSTRONG TELECOMMUNICATIONS, INC.’S  
MOTION TO COMPEL RESPONSES TO INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS - SET I**

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**I. INTRODUCTION**

Armstrong Telecommunications, Inc. (“Armstrong”) respectfully moves, pursuant to 52 Pa. Code §§ 5.342(g) and 5.349(d), for an order dismissing the objections served by FirstEnergy Pennsylvania Electric Company (“FE PA”) and compelling full and complete responses to Armstrong’s Set I interrogatories, Nos. 2 through 4, 6 through 8, and 13 through 16. This motion includes the interrogatories objected to and FE PA’s objections, as required by 52 Pa. Code §§ 5.342(g) and 5.349(d), as **Attachment A**.

*Counsel for Armstrong and FE PA conferred on Wednesday, June 3, 2026, regarding potential resolutions of FE PA’s objections, but the parties were unable to resolve those objections before FE PA served the written objections addressed in this Motion.*

**II. ARGUMENT**

**A. Background of Pennsylvania Rapid Broadband Assessment Team (“PA-RBAT”) Complaint and Issues Raised**

1. This PA-RBAT Complaint action, *inter alia*, alleges that FE PA has refused to disclose the requisite detail to support its make-ready pole attachment estimates as required

under Federal Communications Commission (“FCC”) standards and the related Pennsylvania Public Utility Commission (“Commission”) regulations adopting those standards, and has not produced the estimates in a timely fashion.

2. After determining a pole attachment application is complete, FE PA is required to present an estimate of charges to perform all necessary make-ready within a time specified by the relevant regulations.<sup>1</sup>

3. This make-ready estimate must also include a detailed, itemized estimate of charges to perform all necessary make-ready inclusive of documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of its estimate.<sup>2</sup>

4. Frustrated in its attempts to obtain this crucial information in a timely manner, Armstrong filed a Request for PA-RBAT Review and Assessment on May 8, 2026.<sup>3</sup> Section 3(A) of that filing lists the following “Alleged Statutory Provision(s) Violated”:

Consistent and repeated violations of the various requirements of 47 CFR § 1.1411, 52 Pa. Code § 77.4(a), 66 Pa. C.S. § 1301 and 66 Pa. C.S. § 1501 related to the failure to meet prescribed attachment application deadlines, the refusal to provide itemized make ready cost estimates and excessive charges.<sup>4</sup>

5. The PA-RBAT form filed by Armstrong advised the Commission and FE PA that some discovery would be necessary in Section 5(C):

FE PA has, thus far: refused to provide detailed itemized make ready estimates; and refused to describe the process, techniques and underlying calculations for establishing make-ready estimates.

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<sup>1</sup> 47 C.F.R. § 1.1411(d); 52 Pa. Code § 77.4(a).

<sup>2</sup> 47 C.F.R. § 1.1411(d) (“Estimate. Where a new attachers’ request for access is not denied, a utility shall present to a new attachers a detailed, itemized estimate, on a pole-by-pole basis where requested, of charges to perform all necessary make-ready . . . . The utility shall provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of its estimate.”); 52 Pa. Code § 77.4(a).

<sup>3</sup> See Armstrong’s PAPUC Request for PA-RBAT Review and Assessment (filed May 8, 2026).

<sup>4</sup> *Id.* § 3(A).

Without limiting its discovery rights, Armstrong may use the discovery process to force FE PA to describe how its estimates are prepared, the parameters of these very high estimates, and demand itemization required by law to ensure the prudent use of taxpayer funds.<sup>5</sup>

6. FE PA replied to Armstrong's PA-RBAT form by letter dated May 14, 2026:

*FE PA has also been working through what additional billing information it can gather and provide to supplement the per-pole cost and maps with work descriptions it currently offers with its invoices to satisfy Armstrong.*<sup>6</sup>

7. Armstrong then filed the instant formal complaint on May 27, 2026.

Within that document, Armstrong alleged at Paragraph 18 as follows:

18. Where provided, FE PA's make-ready estimates are grossly incomplete. By law, FE PA is required to present a detailed, itemized estimate of charges to perform all necessary make-ready. These estimates must include documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of its estimate. 47 CFR § 1.1411(d); 52 Pa. Code § 77.4(a). No such detail has been provided in FE PA's make-ready estimates. The estimates presented to Armstrong by FE PA consist only of a conclusory total dollar amount, devoid of any underlying costing detail whatsoever, which would permit Armstrong to determine the basis of such charges.<sup>7</sup>

8. FE PA denied this allegation in its Answer filed June 4, 2026, as follows:

18. Denied. FE PA provides additional information with invoices that show each pole annotated with the tasks required to complete the make-ready with every application invoice. Additionally, FE PA provides total costs on a pole-by-pole basis with engineering and construction broken out for each proposal. FE PA incorporates Paragraphs 9 and 12, *supra*, by reference as though they were set forth herein in their entirety. Paragraph 18 also contains legal

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<sup>5</sup> *Id.* § 5(c).

<sup>6</sup> See Letter of Jessica W. Rhea, Esq., Attorney for FirstEnergy, to Sharon K. Rogers, Legal Division Supervisor (May 14, 2026), at 2 (emphasis added).

<sup>7</sup> Formal Complaint of Armstrong Telecommunications, Inc. at ¶ 18.

conclusions to which no response is required. To the extent a response is deemed necessary, FE PA denies the same.<sup>8</sup>

9. On May 28, 2026, Armstrong filed direct testimony describing FE PA’s lack of timely and detailed make-ready estimates:

There are no cost calculations whatsoever provided by FE PA. The only dollar value provided by FE PA is the total amount that FE PA claims is owed to them. No costing detail whatsoever supporting that bottom line number is provided. [IN-TEXT FOOTNOTE]. My Exhibit AA-2 contains copies of all make-ready estimates supplied by FE PA for the attachments associated with the ABC Program. They are devoid of any meaningful cost detail . . . . FE PA has refused to provide itemized, detailed make-ready estimates despite our repeated requests that they provide the details as required under Commission regulations. FE PA will not provide Armstrong with the sources of data, the cost of materials or the calculations undertaken. I am not familiar with how FE PA allocates costs in their make-ready estimates. Because of this violation of the Commission’s rules, Armstrong is unable to fully address the accuracy of FE PA’s make-ready estimates.

[IN-TEXT FOOTNOTE: Schematic maps are provided with the make-ready estimates but contain no costing details. The maps identify some of the equipment to be installed, but do not list all material to be used and contain no statement of the required labor. There is no information provided by FE PA showing how the equipment listed on the maps is priced out and calculated by FE PA to produce the make-ready dollars invoices shown on Exhibit AA-2. It would be impossible for Armstrong to accurately recreate FE PA’s undisclosed calculations. Nor is Armstrong required to do so. Providing itemized, detailed estimates is FE PA’s responsibility.].<sup>9</sup>

10. Armstrong Statement No. 2, which is Armstrong’s Director of Outside Plant Construction Adam Alexander’s direct testimony, includes Exhibit AA-2, which “contains

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<sup>8</sup> Answer of FirstEnergy Pennsylvania Electric Company to the Complaint of Armstrong Telecommunications, Inc. at ¶ 18. It is Armstrong’s position that “total costs on a pole-by-pole basis” fulfills some, but not all, of FE PA’s disclosure obligation as explicitly set forth in the Commission’s regulations.

<sup>9</sup> Armstrong St. No. 2 at 13.

copies of all make-ready estimates supplied by FE PA for the attachments associated with the ABC Program. They are devoid of any meaningful cost detail.”<sup>10</sup>

11. The assignment of specific costs to Armstrong in the make-ready estimates is an important aspect of Armstrong’s PA-RBAT complaint, as alleged in the pleading:

19. Armstrong believes, and therefore avers, that FE PA’s make-ready estimates improperly include costs to enhance FE PA’s electric infrastructure by establishing arbitrary and excessive construction policies for pole heights that far exceed the National Electric Safety Code (“NESC”) requirements. This practice has the effect of shifting costs that benefit FE PA’s electric service to attaching telecommunications carriers. Moreover, they constitute a “pre-existing condition” that may not be charged to Armstrong. This is a complete violation of established law and results in unjust and unreasonable attachment charges that harm the public interest and the ABC Program objectives.<sup>11</sup>

12. In its Answer, FE PA has also broadly denied this allegation:

19. Denied. FE PA lacks sufficient information or knowledge as to what “Armstrong believes” and, therefore, denies the same. Further, FE PA’s construction policies are designed to ensure compliance with National Electrical Safety Code (“NESC”) minimums. FE PA also incorporates Paragraphs 9 and 12, *supra*, by reference as though they were set forth herein in their entirety. Paragraph 19 also contains legal conclusions to which no response is required. To the extent a response is deemed necessary, FE PA denies the same.<sup>12</sup>

13. On June 2, 2026, Armstrong submitted its “Set I Interrogatories and Requests for Production of Documents Addressed to FirstEnergy Pennsylvania Electric Company.”

14. On June 4, 2026, FE PA filed its “Objections of FirstEnergy Pennsylvania Electric Company to the Interrogatories and Requests for Production of Documents of Armstrong Telecommunications, Inc. – Set I,” to which Armstrong now replies.

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<sup>10</sup> *Id.*

<sup>11</sup> Formal Complaint of Armstrong Telecommunications, Inc. at ¶ 19.

<sup>12</sup> Answer of FirstEnergy Pennsylvania Electric Company to the Complaint of Armstrong Telecommunications, Inc. at ¶ 19.

## B. General Response to Objections

15. FE PA's objections should be dismissed because they are unsupported, generic, and directed to information at the center of this pole attachment dispute. Discovery before the Commission is broad: a party may obtain nonprivileged discovery relevant to the subject matter of the pending action, including the existence, description, nature, content, custody, condition, and location of books, documents, and other tangible things; inadmissibility at hearing is not a ground for objection if the information appears reasonably calculated to lead to admissible evidence.<sup>13</sup>

16. An objection must state the specific ground for the objection and include a description of the facts and circumstances purporting to justify it.<sup>14</sup> A party must answer each interrogatory fully and completely, unless a valid objection is made, and an objection is not valid merely because the answer will involve an opinion or contention that relates to fact or the application of law to fact.<sup>15</sup>

17. The Commonwealth Court has further reinforced the broad scope of discoverable information, stating that "relevancy should be interpreted broadly and liberally, and any doubts regarding the relevancy of subject matter should be resolved in favor of relevancy."<sup>16</sup> As emphasized by the Commonwealth Court, the party contending discovery is not relevant has the burden of proving irrelevancy.<sup>17</sup>

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<sup>13</sup> 52 Pa. Code § 5.321(c) ("**[A] party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.**").

<sup>14</sup> *Id.* § 5.342(c)(2)–(3).

<sup>15</sup> *Id.* § 5.342(a)(4), (c)(5).

<sup>16</sup> *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006).

<sup>17</sup> *Id.*

18. Regarding bald assertions that discovery is unduly burdensome to comply, the Commonwealth Court has unequivocally dismissed discovery objections where the party challenging the discovery failed to adequately expand on an objection and rather relied on “boilerplate discovery objections without sufficient elaboration.”<sup>18</sup> As the Court noted, “a **bald assertion** that [discovery] is unduly burdensome to comply . . . does not explain **how it will be burdened** if it is required to produce the documents.”<sup>19</sup>

19. FE PA also cannot withhold information merely by labeling it proprietary or by suggesting that a contractor or other third-party may have participated in preparing the estimates. The document request rule reaches documents and compilations of data in FE PA’s possession, custody, or control.<sup>20</sup> Proprietary concerns are handled through protective-order procedures; a party may not refuse to provide information it reasonably believes to be proprietary to a party that agrees to treat the information as if covered by a protective order.<sup>21</sup>

20. In its objections, FE PA states generally that it “objects to Armstrong to FE PA Set I, Nos. 1-16.”<sup>22</sup> However, FE PA’s specific objections address only Armstrong Set I Interrogatory Nos. 2 through 4, 6 through 8, and 13 through 16. To the extent FE PA purports to object to Armstrong Set I Interrogatory Nos. 1, 5, and 9 through 12, those objections should be deemed waived or dismissed because FE PA did not restate the interrogatories, state specific grounds, or include facts and circumstances justifying an objection as required by the Commission’s regulations.<sup>23</sup>

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<sup>18</sup> *Toland v. Pa. Bd. of Prob. & Parole*, 311 A.3d 649 (Pa. Commw. Ct. 2024), *aff’d*, 344 A.3d 744 (Pa. 2025).

<sup>19</sup> *Id.* (emphasis in original).

<sup>20</sup> 52 Pa. Code § 5.349(a)(1).

<sup>21</sup> *Id.* § 5.365(c)(4).

<sup>22</sup> Objections of FirstEnergy Pennsylvania Electric Company to the Interrogatories and Requests for Production of Documents of Armstrong Telecommunications, Inc. – Set I, at 1 [hereinafter *Objections*].

<sup>23</sup> 52 Pa. Code § 5.342(c)(2)–(3).

## C. Response to FE PA'S Specific Objections

### 1. Armstrong to FE PA Set I, No. 2

#### Armstrong Set I Interrogatory No. 2:

For each of the make-ready estimates included in Armstrong Exhibit-AA-2 provide a detailed, itemized estimate, on a pole-by-pole basis, of the underlying charges to perform all necessary make-ready tasks. Provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

#### FE PA's Objection:

FE PA Objects to this request on the basis that it is insufficiently specific, duplicative, overly broad and unduly burdensome, particularly given that Armstrong has access to or possession of the identified materials, the request could require the gathering of data from third parties, and the request could require separation of the proprietary data relevant to other parties.<sup>24</sup>

#### Argument:

FE PA's objection to Armstrong Set I Interrogatory No. 2 should be dismissed. The request is that FE PA provide the same exact detail required by the relevant regulations that should have been presented to Armstrong months ago. This interrogatory request contains the same specificity as the FCC's regulation and specifically, recites the exact, word-for-word requirements of 47 C.F.R. § 1.1411(d). A request that tracks the governing regulatory duty by FE PA is reasonably particular, directly relevant, and cannot be overly broad or unduly burdensome.

If FE PA does not possess the information required by regulation, it should so state explicitly. If it does have the detail, as it seems to claim in its Answer to the Formal Complaint, the information must be provided. Indeed, as FE PA wrote in its May 14, 2026 letter responding to the PA-RBAT filing: "FE PA has also been working through what additional billing information it can gather and provide to supplement the per-pole cost and maps."<sup>25</sup> Yet, now

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<sup>24</sup> *Objections* at 1–2.

<sup>25</sup> Letter of Jessica W. Rhea, Esq., Attorney for FirstEnergy, to Sharon K. Rogers, Legal Division Supervisor (May 14, 2026), at 2.

apparently that information does not exist. FE PA should be required to produce the information it previously referenced that is clearly relevant to this matter.

FE PA is the “gatekeeper” and exclusively in control of information critical to the outcome of this case: costing detail supporting its make-ready estimates as required by the relevant federal and state regulations.<sup>26</sup> Beyond those requirements, certainly FE PA must be in possession of some level of itemized detailed calculations that would support the summary, non-specific invoices presented to FE PA and reproduced in Exhibit AA-2.

The interrogatory is sufficiently specific; it identifies a finite universe of make-ready estimates (those included in Armstrong Exhibit AA-2) and asks for the itemized, pole-by-pole cost detail and supporting documentation for those estimates.

The request also is not duplicative. FE PA’s statement that Armstrong has access to, or possession of, unidentified materials does not show that Armstrong has the underlying cost support for FE PA’s estimate. If FE PA contends the same information was previously provided to Armstrong, then under the Commission’s regulations it must specify where the information is located.<sup>27</sup> FE PA has not identified any specific documents, data, or estimate workpapers that supposedly make this request duplicative.

Nor has FE PA shown undue burden, unless it is arguing that compliance with the Commission’s regulations is burdensome. Moreover, the objection merely presents the bald conclusion and fails to describe why and how production of a make-ready estimate that complies with the exact language of the regulation (which should have been provided months ago) is burdensome. FE PA offers only speculation that the request “could” require third-party data and “could” require separation of proprietary data. That does not satisfy Section 5.342(c)(3), which

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<sup>26</sup> 47 C.F.R. § 1.1411(d); 52 Pa. Code § 77.4(a).

<sup>27</sup> 52 Pa. Code § 5.361(c).

requires facts and circumstances supporting the objection.<sup>28</sup> The requested documents are the documents FE PA or its agents used to prepare FE PA's own charges. If FE PA intends to rely on those estimates to charge Armstrong, compliance with the rule requiring documentation of those charges cannot be deemed an undue burden.

Third-party and proprietary concerns do not excuse production. To the extent FE PA used a contractor or other third-party to prepare the estimates, the underlying information is within FE PA's possession, custody, or control, or is at least obtainable by FE PA in connection with the work performed for it.

Armstrong submitted a proposed Protective Order to Your Honors and FE PA on June 5, 2026. To the extent FE PA contends any portion of an interrogatory answer is proprietary, FE PA should produce it subject to the terms of this document, not refuse production.

Your Honors should compel a full and complete response to Armstrong Set I Interrogatory No. 2. If FE PA cannot produce support for a charge, it should not be permitted to rely on that unsupported charge in this proceeding.

## **2. Armstrong to FE PA Set I, No. 3**

### Armstrong Set I Interrogatory No. 3:

Reference preceding interrogatory. If FE PA is unable or unwilling to provide such fully responsive information, fully and completely explain the reasons for such inability or unwillingness. Provide full and complete copies of any and all documents related thereto.

### FE PA's Objection:

FE PA objects to the request to provide all documents related thereto as insufficiently specific and overly broad and unduly burdensome. Given the tight timelines in this proceeding, this interrogatory should identify specific types of information requested.<sup>29</sup>

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<sup>28</sup> *Id.* § 5.342(c)(3).

<sup>29</sup> *Objections* at 2.

Argument:

FE PA's objection should be dismissed because Armstrong Set I Interrogatory No. 3 is a narrowly tethered follow-up to Interrogatory No. 2. It does not ask for every document in FE PA's files; it asks only for the reasons why FE PA is unable or unwilling to provide the cost basis information required by Interrogatory No. 2, and for documents related to those reasons. The scope is therefore defined by FE PA's own inability or refusal to provide the information.

The objection is also circular. If FE PA claims it cannot produce the documentation supporting its make-ready estimates, Armstrong is entitled to know why. The reasons for non-production could include the identity of a contractor custodian, a claim that data no longer exists, a claim that FE PA never obtained the underlying data, a claim of proprietary restrictions, or a claim that no documents were used. Those facts are discoverable because they bear on the reliability and admissibility of FE PA's estimates and on whether FE PA may rely on the disputed charges.

The scope of the requested documents is specific. The instructions to Set I state:

The terms "relates to" or "relating to" mean referring to, concerning, responding to, containing, regarding, discussing, describing, reflecting, analyzing, constituting, disclosing, embodying, defining, stating, explaining, summarizing, or in any way pertaining to.<sup>30</sup>

The expedited PA-RBAT timeline is not a basis to refuse this targeted discovery, and Your Honors have already thoroughly addressed the applicable discovery procedures for this matter. In an expedited pole attachment dispute, the need for a prompt, complete explanation is greater, not lesser. FE PA should be ordered to provide a verified response stating whether responsive information and documents exist, identifying each category of withheld or unavailable information, identifying any third-party custodian, and producing all nonprivileged

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<sup>30</sup> Armstrong Telecommunications, Inc.'s Set I Interrogatories and Requests for Production of Documents Addressed to FirstEnergy Pennsylvania Electric Company, at 7.

documents concerning any claimed inability or unwillingness to respond. Therefore, Your Honors should compel a full and complete response to Armstrong Set I Interrogatory No. 3.

### **3. Armstrong to FE PA Set I, No. 4**

#### Armstrong Set I Interrogatory No. 4:

For each of the make-ready estimates included in Armstrong Exhibit-AA-2, provide a full and complete copy of any and all documents used to prepare the make-ready estimate.

#### FE PA's Objection:

FE PA objects to this request as overly burdensome given the amount of time allotted for collection; particularly as such collection may involve a third party.<sup>31</sup>

#### Argument:

FE PA's burden objection should be dismissed. Armstrong Set I Interrogatory No. 4 is precise: it seeks the documents FE PA used to prepare the make-ready estimates in Armstrong Exhibit AA-2. That is a narrow request, rather than a general request for all documents concerning pole attachments or make-ready. The request is confined to a defined set of estimates and to documents that were actually used in preparing those estimates.

The documents used to prepare the estimates are plainly relevant to the disposition of this matter. They are the source materials for FE PA's proposed charges, and the governing pole attachment rule requires documentation sufficient to determine the basis of estimated charges.<sup>32</sup> If FE PA seeks to charge Armstrong for material, labor, pole replacements, third-party transfers, or other make-ready work, Armstrong is entitled to see the documents on which those charges are based.

FE PA's reference to "the amount of time allotted" does not establish undue burden. Section 5.342(c)(3) requires facts and circumstances, yet FE PA provides none.<sup>33</sup> FE PA does

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<sup>31</sup> *Objections* at 2–3.

<sup>32</sup> 47 C.F.R. § 1.1411(d).

<sup>33</sup> 52 Pa. Code § 5.342(c)(3).

not state the number of estimates, number of documents, systems to be searched, custodians involved, estimated time to collect, or why the documents cannot be produced on a rolling basis. The possibility that a third-party may be involved also is not a defense. If FE PA retained or directed a contractor to prepare estimates, FE PA must obtain and produce the contractor materials used to prepare FE PA's own estimates, or state under verification why those materials are not within its possession, custody, or control. Therefore, Your Honors should compel a full and complete response to Armstrong Set I Interrogatory No. 4.

#### **4. Armstrong to FE PA Set I, No. 6**

##### Armstrong Set I Interrogatory No. 6:

Reference the response to the preceding interrogatory. Identify and provide copies of all documents containing instructions relating to the preparation of make-ready estimates provided by FE PA to the make-ready estimate preparers.

##### FE PA's Objection:

FE PA objects to this request[] to the extent it requests 'all documents' rather than documents sufficient to evidence the instructions relating to the preparation of make-ready estimates.<sup>34</sup>

##### Argument:

FE PA's objection should be dismissed because it unilaterally rewrites the request. Armstrong Set I Interrogatory No. 6 seeks "all documents containing instructions" that FE PA provided to estimate preparers regarding make-ready estimates. That universe is limited by subject matter, source, recipient, and purpose. It is not overbroad merely because it asks for all documents within that limited category.

The requested instructions are important. They will show whether FE PA told estimate preparers to include particular categories of costs, how to allocate pole replacement costs, how to treat pre-existing conditions, how to address third-party noncompliance, what labor and material

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<sup>34</sup> *Objections* at 3.

assumptions to use, and whether FE PA instructed preparers to comply with the pole-by-pole documentation requirements. The instructions therefore bear directly on the reasonableness and legality of the estimates.

Production of only “documents sufficient to evidence” the instructions would allow FE PA to select documents that favor its position while withholding other instructions that may qualify, limit, contradict, or supplement them. If there are exact duplicates, FE PA can produce one copy and identify the recipients and dates; it need not produce identical copies. But FE PA should not be permitted to substitute its own narrower request for Armstrong’s request for all instructional documents. Therefore, Your Honors should compel a full and complete response to Armstrong Set I Interrogatory No. 6.

#### **5. Armstrong to FE PA Set I, Nos. 7 and 8**

##### Armstrong Set I Interrogatory Nos. 7 and 8:

7. For each of the make-ready estimates included in Armstrong Exhibit-AA-1, identify the date the make-ready estimate was due (“due date”) under 47 C.F.R. § 1.1411(c)(3)(i) and 52 Pa. Code § 77.4(a). For each and every instance where the make-ready estimate was provided on a date subsequent to the “due date,” fully and completely explain the reasons for each delay.

8. Reference the response to the preceding interrogatory. Fully and completely identify all actions undertaken by FE PA to limit the delays identified in response to the preceding interrogatory. Provide copies of any and all documents related thereto.

##### FE PA’s Objection:

FE PA objects to these requests on the basis that they request FE PA to draw legal conclusions and are insufficiently specific.<sup>35</sup>

##### Argument:

FE PA’s objections should be dismissed. Armstrong’s Set I Interrogatory Nos. 7 and 8 seek facts: the due date for each make-ready estimate, the date the estimate was actually provided, the reasons for any delay, the actions FE PA took to limit the delay, and documents

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<sup>35</sup> *Objections* at 3.

concerning those actions as to specific identified pole attachment applications. FE PA can answer those questions from its records of the applications, survey completion dates, estimate issuance dates, internal status records, contractor records, and communications.

FE PA is absolutely capable of explaining its many delays and is the only entity that can do so. For example, FE PA's Answer to Armstrong formal complaint states that: "[m]ake-ready estimates can take longer to process due to a number of factors, including resource adequacy, application resubmission, and denials of poles in applications."<sup>36</sup>

Surely, FE PA is aware of the Commission's pole attachment rules and the deadlines for the actions it is obligated to provide. *This is not a request for a legal conclusion.* To the extent that FE PA is not aware, it may refer to the verified direct testimony of Adam Alexander.<sup>37</sup> A plain reading of the time-frames for reply under specific regulations does not require legal expertise.

Moreover, the "legal conclusion" objection is invalid under the Commission's rules. Section 5.342(c)(5) expressly provides that an objection is not valid if based solely on the claim that an answer involves an opinion or contention related to fact or to the application of law to fact.<sup>38</sup> Calculating a due date under the applicable pole attachment timeline is, at most, an application of law to fact. FE PA must provide its calculation or, if it disagrees with Armstrong's cited subsection, state the subsection it contends applies, provide the resulting due date, and explain the factual basis for its position.

The requests also are sufficiently specific. They identify the estimates at issue (those in Armstrong Exhibit AA-1), the requested field of information (due dates), the condition triggering explanation (estimates provided after the due date), and the required follow-up (actions taken to

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<sup>36</sup> Answer of FirstEnergy Pennsylvania Electric Company to the Complaint of Armstrong Telecommunications, Inc. at ¶ 17.

<sup>37</sup> See Armstrong Statement No. 2 at 9–10.

<sup>38</sup> 52 Pa. Code § 5.342(c)(5).

limit delays and related documents). The Commission’s pole attachment timeline itself requires utilities to act by specific deadlines, and where a utility deviates from the time limits during make-ready, the utility must “immediately” provide written notice identifying the affected poles and giving a detailed explanation and new completion date.<sup>39</sup> The existence and adequacy of FE PA’s explanations for delay are therefore directly relevant.

Therefore, Your Honors should compel a full and complete response to Armstrong Set I Interrogatory Nos. 7 and 8. Indeed, FE PA should be ordered to provide an application-by-application chart identifying the following: application date, completeness date, survey completion date, estimate due date, estimate provided date, whether the estimate was late, reasons for any delay, actions taken to limit delay, and all related documents. If FE PA contends no delay occurred, it should state the facts supporting that contention expressly. If FE PA contends a rule-based extension or deviation applies, it should identify the rule, the affected poles, and the contemporaneous notice and documentation supporting the deviation.

#### **6. Armstrong to FE PA Set I, Nos. 13 through 16**

##### Armstrong Set I Interrogatory Nos. 13, 14, 15, and 16:

13. For each of the make ready estimates included in Armstrong Exhibit-AA-2, fully and completely identify each pole where the make ready estimate includes the cost of a higher pole. In each such instance:

- a. Identify the percentage cost of each pole replacement and the associated dollar cost proposed to be charged to Armstrong;
- b. Identify the original installation date of each such pole to be replaced and the height of each;
- c. Provide the pole inspection history of each pole to be replaced;
- d. State whether the existing pole meets the “safety zone” requirement contained in the NESC; and

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<sup>39</sup> 47 C.F.R. § 1.1411(i)(2).

e. For each document in response to a-e, clearly identify the author(s) if the author is not apparent on the face of the document.

14. Reference the response to the preceding interrogatory. Identify each and every instance where the pole to be replaced is a pre-existing condition (i.e., a condition that existed prior to Armstrong's attachment application).

15. For each of the make-ready estimates included in Armstrong Exhibit-AA-2, fully and completely identify each pole where the make-ready estimate includes the cost to bring third-party equipment or facilities, such as an existing attachment, into compliance with current standards. In each such instance:

- a. Identify the percentage cost and the associated dollar cost proposed to be charged to Armstrong;
- b. Identify the original installation date and nature of each such instance of noncompliance;
- c. Any past inspection reports of such third-party equipment; and
- d. The history of any attempt by FE PA to remedy such noncompliance with the third-party.

Provide full and complete copies of any and all communications with such third-party.

16. Reference the response to the preceding interrogatory. Identify each and every instance where the noncompliance to be remedied is a pre-existing condition (i.e., a condition that existed prior to Armstrong's attachment application).

FE PA's Objection:

FE PA objects to these requests on the basis that they are unduly burdensome given the time constraints of the RBAT proceeding.<sup>40</sup>

Argument:

FE PA's objection should be dismissed. Armstrong Set I Interrogatory Nos. 13 through 16 seek the core information needed to test whether FE PA is charging Armstrong for costs that the pole attachment rules do not permit. As alleged in Armstrong's Formal Complaint, the rules prohibit a utility from charging a new attacher to bring poles, attachments, or third-party

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<sup>40</sup> *Objections* at 3–5.

equipment into compliance with current standards if the condition existed because of another party's work before the new attachment.<sup>41</sup> The requested pole replacement, higher pole, inspection history, safety-zone, third-party noncompliance, and pre-existing-condition information goes directly to that prohibition.

FE PA cannot assert a make-ready estimate against Armstrong while withholding the data that shows what is being charged and why. If an estimate includes the cost of a higher pole, FE PA necessarily should be able to identify the pole, the proposed replacement, the cost allocated to Armstrong, the reason for replacement, and the documentation on which that cost was based. If an estimate includes costs to correct third-party noncompliance, FE PA likewise should be able to identify the pole, the attachment, the noncompliance, the entity responsible, FE PA's prior knowledge or inspection history, and FE PA's efforts to address the issue with the responsible party.

The request for pole inspection history is independently supported by the Commission's rules. Upon request, a utility must provide a new attacher information from the utility's most recent cyclical pole inspection reports, or any more recent pole inspection report, for poles covered by the application.<sup>42</sup> Inspection history is highly probative of whether a pole condition predated Armstrong's application and whether the proposed charges are lawful and reasonable.

FE PA's burden assertion is unsupported. FE PA does not identify the number of poles implicated, the number of records to review, the location of the records, the number of third-parties, or the time needed to produce the information. The fact that the proceeding is expedited does not justify refusing discovery; expedited pole attachment dispute processes exist to resolve disputes that impede broadband deployment promptly. FE PA can produce this information in a

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<sup>41</sup> 47 C.F.R. § 1.1411(d)(4).

<sup>42</sup> *Id.* § 1.1411(c)(4).

spreadsheet or by cross-referencing its pole-by-pole estimate data, inspection records, and contractor workpapers.

Proprietary or third-party issues also do not support a blanket objection. Communications with existing attachers and documents concerning third-party equipment can be produced subject to an appropriate protective order, redactions limited to unrelated proprietary information, or a confidentiality designation. What FE PA cannot do is use third-party compliance costs or pole replacement costs as part of a charge to Armstrong while refusing to disclose the facts necessary to determine whether those costs are recoverable.

FE PA should be ordered to produce pole-by-pole information in its possession identifying every higher-pole or replacement charge, every third-party compliance charge, the dollar amount and percentage allocated to Armstrong, the installation and inspection history, the basis for any NESC or safety-zone claim, whether the condition pre-existed Armstrong's application, and all supporting documents and communications. If FE PA does not produce the requested support, FE PA should be precluded from relying on those costs or from claiming that those unsupported costs are properly chargeable to Armstrong.

Therefore, Your Honors should compel a full and complete response to Armstrong Set I Interrogatory Nos. 13 through 16.

### **III. CONCLUSION**

For the reasons above, Armstrong respectfully requests that Your Honors enter an order:

1. Dismissing FE PA's objections to Armstrong Set I Interrogatory Nos. 2, 3, 4, 6, 7, 8, 13, 14, 15, and 16;
2. Deeming any unsupported, nonspecific objections to Armstrong Set I Interrogatory Nos. 1, 5, and 9 through 12 waived or dismissed to the extent FE PA purports to assert them;

3. Compelling FE PA to serve verified, full, and complete responses and to produce all responsive nonprivileged documents within five business days, or such shorter period as is deemed appropriate;
4. Precluding FE PA from relying on any estimate component, pole-replacement charge, third-party compliance charge, delay justification, instruction, workpaper, or other responsive material not produced by the deadline set in the order, consistent with 52 Pa. Code §§ 5.371 and 5.372; and
5. Granting such other relief as is just and appropriate.

**WHEREFORE**, Armstrong Telecommunications, Inc. respectfully requests that the Presiding Officers grant this Motion to Compel and enter the relief set forth above.

Respectfully submitted,



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Date: June 8, 2026

*Counsel for Armstrong Telecommunications, Inc.*

**Attachment A**

**FE PA June 4, 2026 Objections  
To Armstrong Set I**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Armstrong Telecommunications, Inc.,	:	
	:	
Complainants	:	
	:	
v.	:	
	:	Docket No. C-2026-3062601
First Energy Pennsylvania Electric Company	:	
	:	
Respondents	:	
	:	
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**OBJECTIONS OF FIRSTENERGY PENNSYLVANIA ELECTRIC COMPANY TO THE  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS OF  
ARMSTRONG TELECOMMUNICATIONS, INC. – SET I**

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Pursuant to 52 Pa. Code §§ 5.342(c) and 5.349(d), FirstEnergy Pennsylvania Electric Company (“FE PA” or the “Company”), by and through its attorneys, hereby serves these objections to the first set of interrogatories and requests for production of documents of Armstrong Telecommunications, Inc. (“Armstrong”) served on April 15, 2026 (“VZ to FE PA Set IV”).

FE PA objects to Armstrong to FE PA Set I, Nos. 1-16. As explained herein, the grounds for such objections are that one or more of these requests are overly broad and unduly burdensome,

In support, FE PA states as follows:

**I. SPECIFIC OBJECTIONS**

**A. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NO. 2**

1. Armstrong to FE PA Set I, No. 2 requests the following:

For each of the make-ready estimates included in Armstrong Exhibit-AA-2 provide a detailed, itemized estimate, on a pole-by-pole basis, of the underlying charges to

perform all necessary make-ready tasks. Provide documentation that is sufficient to determine the basis of all estimated charges, including any projected material, labor, and other related costs that form the basis of the estimate.

FE PA Objects to this request on the basis that it is insufficiently specific, duplicative, overly broad and unduly burdensome, particularly given that Armstrong has access to or possession of the identified materials, the request could require the gathering of data from third parties, and the request could require separation of the proprietary data relevant to other parties.

**B. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NO. 3**

Reference preceding interrogatory. If FE PA is unable or unwilling to provide such fully responsive information, fully and completely explain the reasons for such inability or unwillingness. Provide full and complete copies of any and all documents related thereto.

FE PA objects to the request to provide all documents related thereto as insufficiently specific and overly broad and unduly burdensome. Given the tight timelines in this proceeding, this interrogatory should identify specific types of information requested.

**C. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NO. 4**

4. For each of the make-ready estimates included in Armstrong Exhibit-AA-2, provide a full and complete copy of any and all documents used to prepare the make-ready estimate.

**FE PA objects to this request as overly burdensome given the amount of time allotted for collection; particularly as such collection may involve a third party.**

**D. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NO. 6**

6. Reference the response to the preceding interrogatory. Identify and provide copies of all documents containing instructions relating to the preparation of make-ready estimates provided by FE PA to the make-ready estimate preparers.

**FE PA objects to this requests to the extent it requests ‘all documents’ rather than documents sufficient to evidence the instructions relating to the preparation of make-ready estimates.**

**E. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NO. 7 AND 8**

7. For each of the make-ready estimates included in Armstrong Exhibit-AA-1, identify the date the make-ready estimate was due (“due date”) under 47 C.F.R. § 1.1411(c)(3)(i) and 52 Pa. Code § 77.4(a). For each and every instance where the make-ready estimate was provided on a date subsequent to the “due date,” fully and completely explain the reasons for each delay.

8. Reference the response to the preceding interrogatory. Fully and completely identify all actions undertaken by FE PA to limit the delays identified in response to the preceding interrogatory. Provide copies of any and all documents related thereto.

**FE PA objects to these requests on the basis that they request FE PA to draw legal conclusions and are insufficiently specific.**

**F. OBJECTIONS TO ARMSTRONG TO FE PA SET I, NOS. 13 -16**

13. For each of the make ready estimates included in Armstrong Exhibit-AA-2, fully and completely identify each pole where the make ready estimate includes the cost of a

higher pole. In each such instance:

- a. Identify the percentage cost of each pole replacement and the associated dollar cost proposed to be charged to Armstrong;
  - b. Identify the original installation date of each such pole to be replaced and the height of each;
  - c. Provide the pole inspection history of each pole to be replaced;
  - d. State whether the existing pole meets the “safety zone” requirement contained in the NESC; and
  - e. For each document in response to a-e, clearly identify the author(s) if the author is not apparent on the face of the document.
14. Reference the response to the preceding interrogatory. Identify each and every instance where the pole to be replaced is a pre-existing condition (i.e., a condition that existed prior to Armstrong’s attachment application).
15. For each of the make-ready estimates included in Armstrong Exhibit-AA-2, fully and completely identify each pole where the make-ready estimate includes the cost to bring third-party equipment or facilities, such as an existing attachment, into compliance with current standards. In each such instance:
- a. Identify the percentage cost and the associated dollar cost proposed to be charged to Armstrong;
  - b. Identify the original installation date and nature of each such instance of noncompliance;
  - c. Any past inspection reports of such third-party equipment; and
  - d. The history of any attempt by FE PA to remedy such noncompliance with the third-party.


Provide full and complete copies of any and all communications with such third-party.

16. Reference the response to the preceding interrogatory. Identify each and every

instance where the noncompliance to be remedied is a pre-existing condition (i.e., a condition that existed prior to Armstrong's attachment application).

**FE PA objects to these requests on the basis that they are unduly burdensome given the time constraints of the RBAT proceeding.**

Respectfully submitted,



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Dated: June 4, 2026

*Counsel for FirstEnergy Pennsylvania Electric Company,*