

FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Market Disputes Resolution Division
445 12th St., SW
Washington, DC 20554

August 14, 2019

Copies sent by E-mail

T. Scott Thompson
Maria Browne
Ryan M Appel
Davis Wright Tremaine LLP
1919 Pennsylvania Ave., NW
Suite 800
Washington, DC 20006
scottthompson@dwt.com
ryanappel@dwt.com

Counsel for Complainant

Thomas B. Magee
Timothy A. Doughty
Keller and Heckman LLP
1001 G Street, NW
Suite 500 West
Washington, DC 20001
magee@khlaw.com
doughty@khlaw.com

Bradley R. Perkins
Assistant General Counsel, Regulatory
ComEd
10 South Dearborn Street, 49th Floor
Chicago, IL 60603
Bradley.perkins@exeloncorp.com

Counsel for Defendant

Re: *Crown Castle Fiber LLC v. Commonwealth Edison Company*,
Proceeding Numbers 17-169, 17-170, Bureau ID Numbers EB-19-MD-004, EB-19-MD-005

Dear Counsel:

This letter order addresses deficiencies in the Joint Statements that Crown Castle Fiber LLC (Crown Castle) and Commonwealth Edison Company (ComEd) filed in the above referenced matters.¹ The Joint Statements fail to provide certain information required by section 1.733 of our rules, 47 CFR § 1.733, and the directives in the Notice of Complaint letter rulings issued in these matters. First, the Joint Statements do not identify all proposals agreed to and disputes remaining with respect to discovery. *See* 47 CFR § 1.733(b)(1)(ii), (b)(2). Second, the Joint Statements fail to address a schedule for pleadings. *See* 47 CFR § 1.733(b)(1)(iv), (b)(2). Although the Joint Statements indicate that ComEd anticipates filing a motion seeking leave to respond to the replies Crown Castle's filed in the two proceedings,² the Joint Statements provide no indication as to the basis for the motion, when it will be filed, or a proposed schedule for such motion practice.

¹ *Crown Castle Fiber LLC v. Commonwealth Edison Company*, Joint Statement of Stipulated Facts, Disputed Facts, and Key Legal Issues, Proceeding Number 19-169, Bureau ID Number EB-19-MD-004 (filed Aug. 12, 2019) (Access Joint Statement); *Crown Castle Fiber LLC v. Commonwealth Edison Company*, Joint Statement of Stipulated Facts, Disputed Facts, and Key Legal Issues, Proceeding Number 19-170, Bureau ID Number EB-19-MD-005 (filed Aug. 12, 2019) (Rate Joint Statement) (collectively Joint Statements).

² Access Joint Statement at 14; Rates Joint Statement at 14.

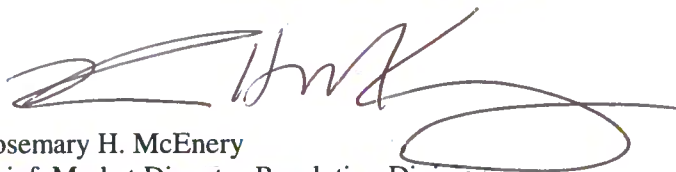
Third, although the Joint Statements recount past efforts to resolve the parties' dispute, they fail to address the current prospects for settlement as required by 47 CFR § 1.733(b)(1)(i), (b)(2).

Status conferences are intended to address such matters as discovery disputes, the schedule for the proceeding, and settlement prospects, among other things.³ Because these matters are not addressed in the Joint Statements, we find it necessary to postpone the status conference currently scheduled for August 22, 2019. We direct the parties to confer about the matters listed above and to prepare and file supplemental Joint Statements that address them. The supplemental Joint Statements shall be filed by no later than August 20, 2019.

Finally, we believe that staff-assisted mediation may help resolve or narrow disputed issues in these matters. We ask the parties to consider voluntary mediation before Commission staff and to be prepared to discuss that possibility in a conference call to be scheduled in the near future.

We issue this letter ruling under Sections 4(i), 4(j), 208, and 224 of the Act, 47 U.S.C. §§ 154(i), 154(j), 208, 224, Sections 1.3, 1.720-1.740, and 1.1401-1.1415 of the Commission's Rules, 47 CFR §§ 1.3, 1.720-1.740, 1.1401-1.1415, and the authority delegated in Sections 0.111 and 0.311 of the Commission's Rules, 47 CFR §§ 0.111, 0.311.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in dark ink, appearing to read 'R. McEnery', is written over a horizontal line.

Rosemary H. McEnery
Chief, Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission

³ See 47 CFR § 1.733(a).