

1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001
tel. 202.434.4100
fax 202.434.4646

Writer's Direct Access
Timothy A. Doughty
(202) 434-4271
doughty@khlaw.com

June 26, 2019

Via ECFS

Marlene J. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554

**Re: Commonwealth Edison Company's Objections to Complainant Crown
Castle Fiber LLC's First Set of Interrogatories (Proceeding Number 19-
169; Bureau ID Number EB-19-MD-004)**

Ms. Dortch:

Please find attached Commonwealth Edison Company's Objections to Complainant
Crown Castle Fiber LLC's First Set of Interrogatories in Proceeding Number 19-169; Bureau ID
Number EB-19-MD-004.

Sincerely,



Timothy A. Doughty
Attorney for Commonwealth Edison Company

Enclosures

cc: Lisa Saks, Enforcement Bureau
Anthony DeLaurentis, Enforcement Bureau

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

_____)	
)	
Crown Castle Fiber LLC)	
<i>Complainant,</i>)	
)	Proceeding Number 19-169
v.)	Bureau ID Number EB-19-MD-004
)	
Commonwealth Edison Company,)	
<i>Defendant</i>)	
_____)	

**COMMONWEALTH EDISON COMPANY’S OBJECTIONS
TO COMPLAINANT’S FIRST SET OF INTERROGATORIES**

Defendant Commonwealth Edison Company (“ComEd”), pursuant to Section 1.730 of the Commission’s Rules, 47 C.F.R. §1.730, submits the following objections to the First Set of Interrogatories of Complainant Crown Castle Fiber LLC (“Crown Castle”) to ComEd related to its Access Complaint captioned above.

GENERAL OBJECTIONS

ComEd objects generally to the Interrogatories as set forth below (the “General Objections”). ComEd will also assert specific objections to each Interrogatory as appropriate. To the extent that ComEd responds to Interrogatories to which it objects, such objections are not waived and are expressly reserved.

ComEd objects to these Interrogatories because the State of Illinois has certified that it regulates pole attachments and therefore the FCC has no jurisdiction to resolve the above-

captioned Complaint. It would be unduly burdensome to require ComEd to respond to these objections until this jurisdiction issue has been resolved.

ComEd objects to these Interrogatories to the extent that they seek discovery of any matter that is not relevant to the material facts in dispute in the pending proceeding. *See* 47 C.F.R. § 1.730.

ComEd objects to the Interrogatories to the extent they seek information that is available from a source other than ComEd, including information that is publicly available or already in Crown Castle's possession, and therefore would impose no greater burden for Crown Castle to obtain than for ComEd to provide.

ComEd objects to these interrogatories to the extent that they seek information protected by the attorney-client privilege, attorney work-product, or any other applicable privilege.

ComEd objects to the definitions of "ComEd," "You," "Your," and "Yourself," as being overly broad and unduly burdensome (Definition Number 1).

ComEd objects to the definition of "communication" as being overly broad and unduly burdensome (Definition Number 5).

ComEd objects to the definitions of "describe," "discuss," and "analyze" as being overly broad and unduly burdensome (Definition Number 6).

ComEd objects to the definition of "document" as being overly broad and unduly burdensome. (Definition Number 7).

ComEd objects to the definition of "information" as being overly broad and unduly burdensome (Definition Number 9).

ComEd objects to the definitions of “identify,” “identity,” “identification,” “state,” “describe,” and “explain” as being overly broad and unduly burdensome (Definition Number 10).

ComEd objects to the definitions of “identify,” “describe,” “state the factual basis for,” and “state the legal basis for” as being overly broad and unduly burdensome (Definition Number 11).

ComEd objects to the definitions of “relating to,” “relate(s),” “related to,” and “concerning” as being overly broad and unduly burdensome (Definition Number 12).

ComEd objects to Instruction Number 2 and Number 5 as being overly broad and unduly burdensome. In addition, ComEd objects to Crown Castle’s request for the production of an index identifying any documents withheld under a claim of privilege as being overly broad and unduly burdensome.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe all documents related to ComEd's Pole Inspection program.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 1 on the basis that it is overly broad and unduly burdensome and because the term "ComEd's Pole Inspection program" is undefined.

INTERROGATORY NO. 2:

Describe the criteria or standards, including pole strength and structural integrity, that ComEd uses during pole inspections to determine whether a pole is classified as a Priority Non-Restorable (Replacement) Reject Pole, Non-Priority Non-Restorable (Replacement) Reject Pole, Priority Restorable (Reinforcement/C-Truss) Reject Pole, or Non-Priority Restorable (Reinforcement/C-Truss) Reject Pole.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 2 on the basis that it is overly broad and unduly burdensome and because the terms "pole inspection," "Priority Non-Restorable (Replacement) Reject Pole," "Non-Priority Non-Restorable (Replacement) Reject Pole," "Priority Restorable (Reinforcement/C-Truss) Reject Pole," and "Non-Priority Restorable (Reinforcement/C-Truss) Reject Pole," are undefined.

INTERROGATORY NO. 3:

State whether ComEd conducts Load Calculations of actual conditions on poles designated as "red tagged," and if it does, for each pole for which Crown Castle has applied to attach that ComEd claims is red tagged, describe the Load Calculations performed, if any, including an explanation of the methodology that ComEd used to conduct the Load Calculations.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 3 on the basis that it is overly broad and unduly burdensome because no time period is specified, and because the term “Load Calculations” is undefined.

INTERROGATORY NO. 4:

If ComEd performs load calculations for Non-Priority Non-Restorable (Replacement) Reject Poles, identify the “set time frame” that ComEd works within to perform those load calculations for Non-Priority Non-Restorable (Replacement) Reject Poles.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 4 on the basis that it is overly broad and unduly burdensome because no time period is specified, and because the terms “set time frame,” “Non-Priority Non-Restorable (Replacement) Reject Poles” are undefined.

INTERROGATORY NO. 5:

For each and every pole that Crown Castle has applied to attach to that ComEd has designated as red tagged, state the basis for denying Crown Castle access to each and every one of those poles.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 5 on the basis that it is overly broad and unduly burdensome because of the number of poles involved.

INTERROGATORY NO. 6:

Describe the basis for prohibiting Crown Castle to install temporary fiber and wireless attachments on poles that ComEd has classified as “red tagged.”

OBJECTION: ComEd relies on its general objections above.

INTERROGATORY NO. 7:

If You contend that ComEd does not have sufficient resources to process Crown Castle's applications for attachments within timelines prescribed by the Federal Communications Commission, identify all facts and assumptions on which you rely to support such contention.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 7 on the basis that it is speculative, and because the term "all facts and assumptions" is overly broad. In addition, as recognized by ComEd's general objections, this request presupposes that the FCC's timelines apply.

INTERROGATORY NO. 8:

Explain Your basis for prohibiting Crown Castle from directing third party contractors, approved by ComEd, to complete pre-construction surveys, make-ready estimates, or make-ready work.

OBJECTION: ComEd relies on its general objections above.

INTERROGATORY NO. 9:

Since January 1, 2014, for each and every red tag pole designated by You as Priority Non-Restorable (Replacement), Priority Restorable, Non-Priority Non-Restorable (Replacement), or Non-Priority Restorable, identify the date the pole was designated as red tag, the date it was replaced, and the standards or criteria used to designate it as Priority Non-Restorable (Replacement), Priority Restorable, Non-Priority Non-Restorable (Replacement), or Non-Priority Restorable.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 9 on the basis that it covers time periods that are not subject to FCC refunds and on the basis that it is overly broad and unduly burdensome because of the number of poles involved. In addition, ComEd objects to Interrogatory Number 9 because the terms “Priority Non-Restorable (Replacement),” “Priority Restorable,” “Non-Priority Non-Restorable (Replacement),” and “Non-Priority Restorable” are undefined.

INTERROGATORY NO. 10:

Describe ComEd’s pole inspection program, including but not limited to the scope of work for inspecting wood poles, such as the steps, if any, that are include in addition to visual inspection and any remedial treatments applied during the inspection.

OBJECTION: In addition to the general objections listed above, ComEd objects to Interrogatory Number 10 on the basis that the term “pole inspection program” is undefined.

Respectfully submitted,



Thomas B. Magee
Timothy A. Doughty
Keller and Heckman LLP
1001 G Street NW
Suite 500 West
Washington, DC 20001
(202) 434-4100 (phone)
(202) 434-4646 (fax)
magee@khlaw.com
doughty@khlaw.com

Attorneys for Commonwealth Edison Company

June 26, 2019

CERTIFICATE OF SERVICE

I, Timothy A. Doughty, hereby certify that on this 26th day of June 2019, a true and authorized copy of Commonwealth Edison Company's Objections to Complainant Crown Castle Fiber LLC's First Set of Interrogatories was served on the parties listed below via electronic mail and was filed with the Commission via ECFS.

Marlene J. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street SW
Washington, DC 20554
ecfs@fcc.gov
(By ECFS Only)

Anthony DeLaurentis
Federal Communications Commission
Enforcement Bureau
445 12th Street SW
Washington, DC 20554
Anthony.DeLaurentis@fcc.gov

Ryan Appel
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue NW, Suite 800
Washington, DC 20006
ryanappel@dwt.com

Lisa Saks
Federal Communications Commission
Enforcement Bureau
445 12th Street SW
Washington, DC 20554
Lisa.Saks@fcc.gov

T. Scott Thompson
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue NW, Suite 800
Washington, DC 20006
scottthompson@dwt.com

/s/

Timothy A. Doughty