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August 12, 2019

**VIA ECFS**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: Crown Castle Fiber LLC v. Commonwealth Edison Company  
Proceeding Number 19-169  
Bureau ID Number EB-19-MD-004**

Ms. Dortch:

Pursuant to 47 C.F.R. § 1.730(c), Crown Castle Fiber LLC submits the attached Responses to Commonwealth Edison Company's First Set of Interrogatories filed in the above-referenced proceeding.

Sincerely,

Davis Wright Tremain LLP

A handwritten signature in blue ink, reading "Ryan Appel".

Ryan M. Appel

cc: Service List

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

CROWN CASTLE FIBER LLC,

*Complainant,*

v.

COMMONWEALTH EDISON COMPANY,

*Respondent.*

Proceeding Number 19-169

Bureau ID Number EB-19-MD-004

**COMPLAINANT’S RESPONSES TO RESPONDENT’S FIRST SET OF  
INTERROGATORIES**

Complainant Crown Castle Fiber LLC, pursuant to the Notice of Formal Complaint issued June 21, 2019 by the Commission’s Enforcement Bureau in this proceeding and pursuant to Section 1.730(c) of the Commission’s Rules, submits the following responses to Commonwealth Edison Company’s (“ComEd”) First Set of Interrogatories.

**GENERAL OBJECTIONS**

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

B. Crown Castle 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.

C. Because ComEd's Interrogatories specify that all of the information requested pertains to ComEd's Answer to Crown Castle's Complaint, Crown Castle objects to ComEd's Interrogatories to the extent they do not pertain to ComEd's Answer.

D. Because ComEd's Interrogatories specify that ComEd is not seeking information that is available from any source other than Crown Castle, Crown Castle objects to the Interrogatories to the extent they seek information that is available from a source other than Crown Castle, including information that is publicly available or already in ComEd's possession, and therefore would impose no greater burden for ComEd to obtain than for Crown Castle to provide.

E. Crown Castle 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. In particular, ComEd defines "Complainant" and "Crown Castle" to mean "any persons associated with it, including, but not limited to . . . attorneys . . . ." Crown Castle objects to this definition to the extent that it seeks privileged information. The inadvertent disclosure of privileged information shall not constitute a waiver of any applicable privilege.

F. Crown Castle objects to these Interrogatories to the extent that they seek confidential and/or proprietary information. Subject to and without waiving said objection, Crown Castle will produce responsive information subject to an appropriate protective order regarding the confidentiality of such information, mutually agreeable to the parties in this action.

G. Crown Castle objects to these Interrogatories to the extent that they seek the disclosure of information not in Crown Castle's possession, custody, or control.

H. Crown Castle objects to these Interrogatories to the extent that they are vague, ambiguous, overbroad, unduly burdensome, unreasonably duplicative, and oppressive, or seek documents that are not reasonably calculated to lead to the discovery of admissible evidence in this action.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify every correspondence Crown Castle has had with the Illinois Commerce Commission regarding the issues raised in the Complaint.

**RESPONSE:** In addition to its general objections, Crown Castle objects to Interrogatory No. 1 on the grounds that it seeks information that is not relevant to claims or defenses in this case. Crown Castle's correspondence with the Illinois Commerce Commission is irrelevant.

**INTERROGATORY NO. 2:** Describe with particularity each communications service provided by Crown over each facility attached to ComEd poles, whether wireline or wireless. If the services provided differ by Crown facility, disaggregate the services to each individual Crown facility.

**RESPONSE:** In addition to its general objections, Crown Castle objects to Interrogatory No. 2 on the grounds that it seeks information that is not relevant to Crown Castle's claims and is overly broad and unduly burdensome. The term "communications service" is not defined and is not relevant under 47 U.S.C. § 224. In addition, even if Crown Castle assumes that ComEd intended to ask for a description of "telecommunications services," a description of each telecommunication service provided by Crown Castle

over each of its facilities is not relevant and is overly broad. In addition, “over each facility attached to ComEd poles” is vague and ambiguous.

Subject to and without waiving its objections, Crown Castle responds that its Certificates of Service Authority from the Illinois Commerce Commission establish that it is a telecommunications carrier and provider of telecommunications services, and Crown Castle uses the facilities it attaches to ComEd’s poles to provide or to offer to provide telecommunications services involving the transmission of customers’ information between points of the customer’s choosing without change in the form or content of the customer’s information as sent and received.

Using the fiber optic lines it attaches to ComEd’s poles, Crown Castle offers and provides a variety of telecommunications services to enterprise, institutional, governmental, educational, and carrier customers. It offers those services to the universe of potential users that might desire such services.

While the majority of the fiber Crown Castle has deployed and plans to deploy on ComEd’s poles will provide telecommunications service to enterprise customers, Crown Castle also plans to provide a telecommunications service called “RF transport service.” “RF transport service” is essentially a trade name that refers to the fact that Crown Castle is transporting, via its fiber optic lines, the radio frequency (“RF”) signals of its customers, who are themselves providers of wireless services. “RF transport,” however, does not refer to transport over the air via radio frequencies. Instead, Crown Castle provides RF transport service between points chosen by its customers using fiber optic lines that are configured in what are sometimes called Distributed Antenna System (“DAS”) or small cell networks. With its RF transport service, Crown Castle transports

communications for customers over Crown Castle's terrestrial, fiber optic lines between remote "Nodes" located on poles in the public rights of way and a central "Hub" location. The equipment comprising a typical Node in Crown Castle's DAS and small cell networks commonly includes a small, low-power antenna, laser, and amplifier equipment for the conversion of radio frequency, or "RF," signals to optical signals (or vice versa), fiber optic lines, and associated equipment (such as power supplies). The Hub, located on the other end of the fiber optic line from the Node, is a central location that contains such equipment as routers, switches, and signal conversion technology.

Crown Castle's customers for this RF Transport service are generally companies that provide retail wireless service to consumers. These retail wireless carriers, which are also known as "commercial mobile radio service" ("CMRS") carriers, are the entities that hold licenses from the FCC to use and control radio frequencies. CMRS carriers are the entities that provide personal wireless service to end-user wireless customers. All radio transmissions and wireless services are generated and controlled by the wireless carrier-customer through its equipment that is commonly located at the Hub. Once Crown Castle has transported a communication over its terrestrial, fiber optic facilities to the antenna at the Node, the communication is converted back to an RF signal, but the CMRS carrier-customer controls and furnishes that wireless transmission to its own end-user customer's mobile device.

**INTERROGATORY NO. 3:** Identify every Illinois Commerce Commission authorization Crown Castle currently in effect which authorizes Crown Castle to provide the services Crown Castle provides using Crown Castle's attachments to ComEd's distribution poles.

**RESPONSE:** In addition to its general objections, Crown Castle objects to Interrogatory No. 3 on the grounds that it seeks information that is not relevant to Crown Castle's claims and is overly broad. Subject to and without waiving its objections, Crown Castle will respond to Interrogatory No. 3.

Subject to and without waiving its objections, Crown Castle refers to the Illinois Commerce Commission Certificates of Service Authority attached to Attachment A of the Complaint at Exhibit 6 (the "RCN New York Communications LLC" Certificates).

**INTERROGATORY NO. 4:** Identify with particularity Crown's customers for each service provided by Crown over each facility attached to ComEd poles, and state whether service is provided pursuant to tariff. If the service is provided pursuant to tariff, identify the tariff. If the service is provided pursuant to contract, identify any regulatory contract approvals.

**RESPONSE:** In addition to its general objections, Crown Castle objects to Interrogatory No. 4 on the grounds that it seeks information that is not relevant to Crown Castle's claims. The identity of Crown Castle's customers is irrelevant. In addition, whether Crown Castle's telecommunications service is provided via tariff assumes a legal conclusion and is irrelevant. In addition, to the extent it asks to identify any regulatory contract approvals, it assumes a legal conclusion and is irrelevant. In addition, Crown Castle objects that Interrogatory No. 4 seeks information that is confidential and proprietary. Crown Castle also objects to Interrogatory No. 4 because it seeks information that is publicly available.

Subject to and without waiving its objections, Crown Castle responds that Illinois law does not require Crown Castle to maintain a tariff. Crown Castle is a competitive

telecommunications provider that has de-tariffed in accordance with the ICC's rules.

Pursuant to Illinois Public Utility Act ("PUA") Section 13-501 and the ICC's August 3, 2013 memorandum, Crown Castle submitted a letter on November 2, 2016 withdrawing its prior tariff issued under its previous name RCN New York Communications, LLC d/b/a RCN Metro Optical Networks. Because Crown Castle has de-tariffed in accordance with relevant law, a tariff is not required to comply with the ICC's regulations.

Regulatory approval is not required for contracts between Crown Castle and its customers, pursuant to 220 ILCS 5/13-509.

Respectfully submitted,

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Date submitted: August 12, 2019



**RULE 1.721(m) VERIFICATION**

I have read Complainant's Responses to Respondent's First Set of Interrogatories filed by Crown Castle Fiber LLC on August 12, 2019 in the above-referenced proceeding. To the best of my knowledge, information and belief formed after reasonable inquiry, the Responses are well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. The Responses are not interposed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of the proceeding.

Respectfully submitted,

/s/ T. Scott Thompson

T. Scott Thompson

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Attorney for Crown Castle Fiber LLC

Date submitted: August 12, 2019

## **CERTIFICATE OF SERVICE**

I hereby certify that on August 12, 2019, I caused a copy of the foregoing Complainant's Responses to Respondent's First Set of Interrogatories to be served on the following (service method indicated):

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