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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 the Commission's June 21, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC and Commonwealth Edison Company submit the attached Joint Statement filed in the above-referenced proceeding.

Sincerely,

Davis Wright Tremain LLP

A handwritten signature in blue ink, reading "Ryan Appel", with a stylized flourish at the end.

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

**JOINT STATEMENT OF STIPULATED FACTS, DISPUTED FACTS,
AND KEY LEGAL ISSUES**

Pursuant to the Commission's June 21, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC ("Crown Castle") and Commonwealth Edison Company ("ComEd"), through undersigned counsel, submit the following Joint Statement Of Stipulated Facts, Disputed Facts, and Key Legal Issues.

I. FACTS NOT IN DISPUTE

By submitting the following, neither Crown Castle nor ComEd agree or represent that the following identifies all facts not genuinely in dispute. Moreover, by submitting the following, neither Crown Castle nor ComEd agree that the following Facts Not In Dispute are relevant.

A. Background and parties

1. ComEd is an investor-owned electric utility in the business of providing electric transmission and distribution services. ComEd has a general business address of 440 South LaSalle Street, Chicago, IL 60605.
2. Crown Castle's mailing address is 1220 Augusta Drive, Suite 600, Houston, Texas 77057-2261.
3. ComEd owns or controls poles in the State of Illinois that are used for, among other things, the attachment of wireline and wireless communication facilities.

4. ComEd itself is not a railroad, a person who is cooperatively organized, or a person owned by the Federal Government or any State.
5. Crown Castle has installed and continues to install fiber and small wireless facilities on ComEd poles in the Chicago area.
6. Crown Castle does not offer wireless telecommunications in Illinois and does not itself transmit wireless signals in Illinois. Crown Castle disputes that these facts are legally relevant.
7. Crown Castle does not, itself, provide wireless service in Illinois via the wireless antennas it installs on ComEd's poles. Crown Castle disputes that this fact is relevant.

B. The parties' agreements

i. RCN New York/Sidera/Lighttower

1. In 2007, the ICC granted RCN New York Communications, LLC ("RCN") a Certificate of Interexchange Service Authority to provide "facilities-based interexchange telecommunications services" in Illinois, a Certificate of Service Authority to provide "resold local and interexchange telecommunications services, and a Certificate of Exchange Service Authority to provide "facilities-based local exchange telecommunications services" in Illinois (the "RCN CPCN"). A copy of the RCN CPCN is attached to the Complaint as Attachment A, Ex. 6, CCF102 – CCF107
2. On July 26, 2013, Sidera Networks, LLC d/b/a Lighttower Fiber Networks and ComEd entered into a pole attachment agreement (the "Lighttower Pole Attachment Agreement") that permits Lighttower to attach fiber optic lines and related attachments to ComEd poles.
3. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.

ii. NextG Networks of Illinois

4. On December 22, 2004, NextG Networks of Illinois, Inc., and ComEd entered into a pole attachment agreement that permits Crown Castle to attach fiber optic lines and related attachments and wireless facilities to ComEd poles.
5. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.
 - a. Due to its consolidation into Crown Castle Fiber LLC, Crown Castle NG Central LLC requested the ICC to cancel its Certificates of Service Authority to provide "competitive facilities-based and resold local exchange and interexchange

telecommunications service” in Illinois. On March 6, 2019, the ICC granted this request.

iii. Sunesys

6. On May 5, 2005, Sunesys, Inc. and ComEd entered into a pole attachment agreement (the “Sunesys Pole Attachment Agreement”) that permits Sunesys to attach fiber optic lines and related attachments to ComEd poles.
7. ComEd contends that Crown Castle and its predecessors in interest provided no notice of assignment of this agreement to ComEd, but Crown Castle contends no assignment occurred that required notice under the agreement and that, at a minimum, ComEd had effective notice that Crown Castle is the current party to the agreement.
8. In 2006, the ICC granted Sunesys, LLC Certificates of Service Authority to provide “resold competitive facilities-based and resold local exchange and interexchange telecommunications service.”
 - b. Due to its consolidation into Crown Castle Fiber LLC, Sunesys, LLC requested the ICC to cancel its Certificates of Service Authority to provide “competitive facilities-based and resold local exchange and interexchange telecommunications service” in Illinois. On March 6, 2019, the ICC granted this request.

C. ComEd’s “red tag” policies

9. ComEd jointly owns some poles with AT&T.
10. ComEd uses a 10-year cycle for inspecting its poles.
11. ComEd designates red tagged poles as either “Priority” or “Non-priority,” and further differentiates poles that are Restorable or Non-Restorable. Thus, ComEd has four categories: (i) Priority Non- Restorable (Replacement) Reject poles, (ii) Non-priority Non-Restorable (Replacement) Reject poles, (iii) Priority Restorable Reject poles, and (iv) Non-priority Restorable Reject poles.
12. The version of the NESC adopted in Illinois is the 2002 version of the Code.
13. ComEd will not allow Crown Castle to install facilities on any “reject” or “red tagged” pole without first paying to replace it or reinforce it.
14. Crown Castle did not cause ComEd’s poles to be “red tagged.”
15. ComEd has a database containing information about its poles that have been inspected, and Osmose provides the input information for the database. It is possible to query the database to identify which of those poles are red tagged. Crown Castle may have asked for access to this database to assist it in engineering its fiber routes.
16. ComEd has refused to provide Crown Castle access to ComEd’s database.

17. ComEd's specification for pole maintenance services is shared with its pole co-owners, sister companies, and its service provider. Beyond that, ComEd's specification documents are treated as internal proprietary documents.
18. A "Technical Bulletin" provided to Crown Castle by ComEd asserts that Non-Priority Restorable poles "will be Restored/Reinforce/C-Truss after Load Calculation classification within a set timeframe."
19. "Non-priority" poles are scheduled for remediation whenever any entity (including ComEd) wants to upgrade facilities, add additional facilities to the pole, or subsequent inspection adjusts priority.
20. From June 2017 to March 2019, ComEd would permit attachment to "red tag" poles if and only if Crown Castle replaced the pole; ComEd did not give Crown Castle the option to reinforce the poles.
21. From June 2017 to March 2019, and before, for attachment of its own facilities, ComEd remedied "red tag" poles through reinforcement in some cases rather than pole replacement in every case.
22. ComEd has required Crown Castle to pay for pole replacement after it granted attachment applications. In October and November 2017, ComEd issued permits to Crown Castle for attachments to 35 poles. Subsequently, ComEd rescinded those permits and declared that the poles were being "red tagged." As a result, Crown Castle was required pay [REDACTED] to replace the 35 poles.
23. Until May 2019, ComEd had allowed Crown Castle to install temporary attachments on some red-tagged poles as an interim solution to delays associated with pole replacements. ComEd allowed Crown Castle to install temporary attachments on some red-tagged poles on a case-by-case basis, but still required Crown Castle to replace the pole. In May 2019, ComEd's Distribution Standards department was asked to review this practice and from that time forward disallowed the practice because no one on ComEd's system, including ComEd, is allowed to install new temporary attachments on red-tagged poles.

D. Application processing

24. In 2017 and 2018, Crown Castle provided ComEd with forecasts to give ComEd advanced notice of the volume of fiber and wireless attachment applications that Crown Castle intended to submit in 2018 and 2019.
25. Since 2017, ComEd has not processed all of Crown Castle's applications within the timelines prescribed by the Commission, although ComEd contends such timelines did not apply.
26. Crown Castle has met with ComEd on many occasions since 2017.
27. Crown Castle at times reprioritized more recent applications over older applications.

28. To address ComEd's purported shortage of resources, on May 28, 2019, Crown Castle requested ComEd to approve Thayer Power & Communication as an authorized contractor to perform complex and above the communications space make-ready and simple make-ready.
29. ComEd has not granted or denied the request to approve Thayer Power & Communication as an authorized contractor.
30. ComEd has not approved Thayer as a contractor because ComEd has a process to qualify contractors and Thayer has not gone through that process. Thayer is not a contractor of choice and despite Crown Castle's representation that Thayer was an approved vendor, ComEd's records reflect no such arrangement.
31. By letter dated May 30, 2019, ComEd asked Crown Castle for proof that Thayer was an approved contractor, but Crown Castle never responded. ComEd also asked Crown Castle for proof that Thayer met the five criteria Crown Castle cited, but Crown Castle never responded to that request either.
32. ComEd Fiber Application Number 18-0899-CN was submitted on May 10, 2018, which is 345 days prior to April 30, 2019.

E. Attempts at dispute resolution

33. On December 4, 2018, Crown Castle and ComEd held an executive-level meeting at ComEd's office located at 2 Lincoln Centre, Oakbrook Terrace, IL 60181.
34. At the executive-level meeting, the parties agreed to schedule a follow-up meeting for December 14, 2018, to further discuss the "red tag" issue.
35. During the follow-up call on December 14, 2018, parties agreed to form two "sub-teams" comprised of operational representatives from both Crown Castle and ComEd to specifically focus on resolving the red tag issue and pole attachment rates.
36. An executive-level meeting was held on May 13, 2019 at Crown Castle's office located at 947 Parkview Boulevard, Lombard, Illinois.
37. Counsel for the parties met and conferred on July 30, 2019. No dispute resolution was discussed during that telephone conference.
38. On October 25, 2018, the Illinois Commerce Commission adopted a letter to the FCC stating that it does not regulate "attachments by telecommunications companies to poles owned by electric utilities."

II. DISPUTED FACTS

The Parties have submitted extensive pleadings setting forth in detail their factual and legal contentions, and generally refer the Commission to those pleadings. Unless identified above, the Parties are unable to agree that a fact is not in dispute. By submitting the following, neither Crown Castle nor ComEd agree or represent that the following identifies all facts genuinely in dispute. Moreover, by submitting the following, neither Crown Castle nor ComEd agree that the following are relevant. Without waiving any of the factual or legal arguments or objections in their pleadings, the Parties identify the following:

1. Crown Castle claims that Crown Castle offers and provides telecommunications services and is a telecommunications carrier in Illinois.
2. Crown Castle contends that Crown Castle has a Certificate of Service Authority issued by the Illinois Commerce Commission (“ICC”) to RCN New York Communications, LLC in 2007.
3. ComEd claims that the wireless antennas Crown Castle installs on ComEd’s poles are incapable of providing any telecommunications service until Crown Castle’s wireless customers come along and use those antennas to themselves provide a service. Crown Castle contends that ComEd’s claim is legally irrelevant because the antennas are an attachment by a provider of telecommunications service and thus protected by Section 224 and the Commission’s rules, and that in addition, the antennas installed by Crown Castle are an integral part of one of the telecommunications services it provides and therefore are used in the provision of telecommunications service.
4. ComEd disputes whether Crown Castle has a written pole attachment agreement with ComEd.
5. Crown Castle disputes that the identity of Crown Castle or any of the following corporate transactions and name changes are or can be legitimately in dispute. ComEd asserts that it has not had a chance to review the following corporate transactions and name changes.

i. RCN New York/Sidera/Lighttower

6. Regarding the identity of Crown Castle Fiber LLC, Crown Castle asserts as follows:
 - a. In 2007, the ICC granted RCN New York Communications, LLC (“RCN”) a Certificate of Interexchange Service Authority to provide interexchange facilities-based telecommunications services in Illinois, a Certificate of Service Authority to provide resold local and interexchange telecommunications services, and a Certificate of Exchange Service Authority to provide local facilities-based telecommunications

services in Illinois (the “RCN CPCN”). A copy was attached at Complaint, Attachment A, Ex. 6, CCF102 – CCF107.

- b. On November 18, 2010, RCN changed its name to Sidera Networks, LLC.
- c. On October 1, 2014, Sidera Networks, LLC changed its name to Lightower Fiber Networks II, LLC.
- d. On May 16, 2018, Lightower Fiber Networks II, LLC changed its name to Crown Castle Fiber LLC.
- e. Crown Castle Fiber LLC is the same entity granted the RCN CPCN as the result of several name changes.
- f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by Sidera Networks, LLC d/b/a Lightower Fiber Networks and ComEd (“Lightower Pole Attachment Agreement”) on July 26, 2013.
- g. On October 1, 2014, Sidera Networks, LLC changed its name to Lightower Fiber Networks II, LLC.
- h. On November 1, 2017, Crown Castle International Corp., through several indirect subsidiaries, acquired Lightower Fiber Networks II, LLC. Lightower Fiber Networks II’s existence remained unchanged, however, other than a change of its ultimate parent entity.
- i. On May 16, 2018, Lightower Fiber Networks II, LLC changed its name to Crown Castle Fiber LLC.
- j. Thus, Crown Castle Fiber LLC is the same entity that entered the Lightower Pole Attachment Agreement.

i. NextG Networks of Illinois

- 7. Regarding the corporate connection between Crown Castle Fiber LLC and NextG Networks of Illinois, Inc. Crown Castle asserts as follows:
 - a. In 2003, the ICC granted NextG Networks of Illinois, Inc. a Certificate of Interexchange Service Authority to provide interexchange facilities-based telecommunications services, Certificate of Service Authority to provide resold local and interexchange telecommunications services in Illinois, and a Certificate of Exchange Service Authority to provide local facilities-based telecommunications services. A copy was attached at Complaint, Attachment A, Ex. 7, CCF110.
 - b. On May 3, 2012, NextG Networks of Illinois, Inc. changed its name to Crown Castle NG Central Inc.

- c. Crown Castle NG Central Inc. then converted into to Crown Castle NG Central LLC on December 20, 2013.
- d. Crown Castle NG Central LLC was subsequently merged into Crown Castle Fiber LLC, which was an affiliate of Crown Castle NG Central LLC via common ownership, effective as of 11:59 pm on December 31, 2018.
- e. Due to its merger into Crown Castle Fiber LLC, which already held Certificates of Authority from the ICC (as discussed above), Crown Castle NG Central LLC requested the ICC to cancel its Certificates of Service Authority to provide competitive facilities-based and resold local exchange and interexchange telecommunications service in Illinois. On March 6, 2019, the ICC granted this request.
- f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by NextG Networks of Illinois, Inc. and ComEd (“Crown Castle Pole Attachment Agreement”) on December 22, 2004.

ii. Sunesys

- 8. Regarding the corporate connection between Crown Castle Fiber LLC and Sunesys, Inc., Crown Castle asserts as follows:
 - a. In 2006, the ICC granted Sunesys, Inc. a Certificates of Service Authority to provide resold competitive facilities-based and resold local exchange and interexchange telecommunications service. A copy was attached at Complaint, Attachment A, Ex. 7, CCF113.
 - b. Sunesys, Inc. converted into Sunesys, LLC on December 28, 2006 via a merger, which had the effect of changing the corporate form of the entity.
 - c. On August 4, 2015, through a merger at the ultimate parent level, Sunesys LLC became an indirect subsidiary of Crown Castle International Corp. Sunesys LLC’s existence remained unchanged, other than its ultimate parent.
 - d. On December 31, 2018, Sunesys, LLC was ultimately merged into Crown Castle Fiber LLC, which was an affiliate of Sunesys, LLC via common ownership.
 - e. Due to its merger into Crown Castle Fiber LLC, Sunesys, LLC requested the ICC to cancel its Certificates of Service Authority to provide competitive facilities-based and resold local exchange and interexchange telecommunications service in Illinois. On March 6, 2019, the ICC granted this request.
 - f. Crown Castle Fiber LLC is the proper entity to file a complaint under the pole attachment agreement executed by Sunesys, Inc. and ComEd (“Sunesys Pole Attachment Agreement”) on May 5, 2005.

9. Crown Castle further contends that it is a telecommunications carrier and provider of telecommunications services in Illinois.
10. ComEd contends that Crown Castle is not acting as a telecommunications carrier and provider of telecommunications services in Illinois with respect to the antenna attachments that Crown Castle installs on ComEd's poles and with respect to the attachments used to provide RF transport service on ComEd's poles. Crown Castle disputes the legal relevance of ComEd's argument. Crown Castle further disputes the legal argument inherent in ComEd's interpretation of "telecommunications carrier." In addition, Crown Castle contends that it is a telecommunications carrier and provider of telecommunications services in Illinois, and that the antennas and fiber optic lines that Crown Castle attaches on ComEd's poles are attachments by a provider of telecommunications service. Further Crown Castle contends that ComEd has introduced no evidence to support its contention that Crown Castle is not a provider of telecommunications service or a telecommunications carrier.

B. ComEd's Inspection Process and Red Tag Policies

11. ComEd asserts that any pole which upon inspection is found to present a danger to life or property is promptly repaired, disconnected or isolated. Any other pole that is found to have deteriorated below 67% of its original strength is "red tagged" and deemed a "reject pole." Poles exhibiting this deterioration or any other defect in the course of inspection are recorded, and such records of defects are maintained until the defects are corrected. To aid in the prioritization of corrective maintenance work, these red tagged rejected poles are further classified as either a "Priority Reject" pole or a "Non-Priority Reject" pole.
12. ComEd asserts that for "non-priority" poles, ComEd treats them immediately upon inspection with a pole treatment product from Osmose in order to control the decay, maintain the asset, and "extend the useful life" of the pole.
13. ComEd asserts that Osmose's website states: "Applying effective remedial treatments to extend the safe, reliable service-life of the pole. Remedial treatment is the key to getting the most out of your investment. The use of remedial treatments will earn dividends via extended pole life and improved plant resiliency."
14. ComEd asserts that once "non-priority" poles are discovered and immediately treated, ComEd does not allow anyone (including ComEd itself) to install additional facilities to that pole without first replacing it or reinforcing it.
15. ComEd asserts that with limited exceptions, Priority Restorable poles are restored in the current inspection year and Priority Non-Restorable (Replacement) poles are scheduled for replacement the "next calendar year after inspection."
16. ComEd contends that a pole's red-tagged status is easily discernable through a simple visual evaluation of poles across routes.
17. ComEd contends that any Crown Castle request to access ComEd database was responded to by stating the information is confidential, and that Crown Castle must in any event survey the poles before they submit an application. ComEd contends that any ComEd determination

whether to replace or reinforce a pole is a design decision driven by the location of the decay, the size of the decay, the location of risers, the direction of the load, the extent of electric facilities, the height of the banding, whether the pole top is decayed, whether there are woodpecker holes, and dozens of other factors.

18. ComEd contends that ComEd's policy was not to allow third parties like Crown Castle to reinforce poles during this same period based on a discretionary judgment. In any event, only a small subset of red-tagged poles might qualify under the same guidelines to be reinforced.
19. ComEd contends that a large part of the reason Crown Castle must replace the overwhelming majority of "red tag" poles rather than reinforce them is because two-thirds of the distribution poles in Chicago are three-phase poles, which carry a lot of electric load and which affect a large number of electric customers, and most of Crown Castle's attachments are in Chicago and similarly population dense areas.
20. ComEd admits that it once required Crown Castle to pay for pole replacement after it granted attachment applications. In October and November 2017, ComEd issued permits to Crown Castle for attachments to 35 poles. Subsequently, ComEd rescinded those permits and declared that the poles were being "red tagged." As a result, Crown Castle was required pay [REDACTED] to replace the 35 poles. In response, ComEd contends that an intern at ComEd mistakenly authorized ComEd's Real-Estate Department to release the permits for these applications, even though attachment was inappropriate because the applications contained 35 poles which required make-ready.
21. ComEd admits that until May 2019, ComEd had allowed Crown Castle to install temporary attachments on some red-tagged poles as an interim solution to delays associated with pole replacements. ComEd allowed Crown Castle to install temporary attachments on some red-tagged poles on a case-by-case basis, but still required Crown Castle to replace the pole. In response, ComEd contends that in May 2019, ComEd's Distribution Standards department was asked to review this practice and from that time forward disallowed the practice because no one on ComEd's system, including ComEd, is allowed to install new temporary attachments on red-tagged poles.
22. The parties agree that ComEd's Fiber Application Number 18-0899-CN was submitted on May 10, 2018, which is 345 days prior to April 30, 2019. ComEd contends that the poles associated with Application Number 18-0899-CN are part of the second Osmose pilot program, which seeks to determine whether the poles can be reinforced as an alternative to being replaced, and that the pilot program is the reason 345 days elapsed from the date of submission. Crown Castle contends that ComEd placed Application Number 18-0899-CN in the "second Osmose pilot program" without informing or asking Crown Castle.
23. ComEd contends that the 2002 and the 2017 versions of the NESC differ from one another.
24. ComEd contends that for new attachments to be accommodated on a red tagged pole, ComEd must expand capacity by installing a replacement pole (or by reinforcing the existing pole, if appropriate).

C. “Red tag” pole costs (invoiced and paid)

25. Crown Castle asserts that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED] to reinforce 71 red tagged poles. ComEd asserts that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED] for reinforcement of poles.
26. Crown Castle asserts that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED] to replace and reinforce 1,117 red tag poles. ComEd asserts that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED] to replace red tagged poles.
27. Crown Castle asserts that as of April 30, 2019, ComEd has invoiced Crown Castle for 1,144 total red tag poles for reinforcement or replacement at a cost of [REDACTED], and Crown Castle has paid to replace or reinforce 1,117 red tag poles at a cost of [REDACTED]. ComEd has had no opportunity to respond to this allegation.

D. Application processing

28. Regarding review of Crown Castle’s applications, Crown Castle asserts that, as of April 30, 2019:
 - a. Crown Castle had submitted 836 fiber attachment applications (covering 9,159 poles) that were still pending without a permit being issued from ComEd.
 - b. ComEd had failed to complete pre-construction surveys for 41 fiber attachment applications within 60 days; some of which had been pending for over 262 days;
 - c. ComEd had failed to complete make-ready estimates for 446 fiber attachment applications for more than 74 days; some of which had been pending for almost a year (355 days);
 - d. 579 of Crown Castle’s fiber attachment applications had been pending for more than 193 days;
 - e. Crown Castle had submitted 854 wireless attachment applications that were still pending without a permit being issued from ComEd;
 - f. ComEd had failed to complete pre-construction surveys for 114 wireless attachment applications within 60 days;
 - g. ComEd had failed to complete make-ready estimates for 378 of Crown Castle’s wireless attachment applications for more than 74 days; nine of which had been pending for over a year;
 - h. 254 of Crown Castle’s wireless attachment applications had been pending for more than 223 days; 124 of which had been pending for over nine months and 17 of which had been pending for over a year.

29. ComEd contends that as of April 30, 2019:

- i. Crown Castle had submitted 748 fiber attachment applications (covering 8,075 poles) that are still pending without a permit being issued from ComEd;
- j. ComEd had not completed pre-construction surveys for 13 fiber attachment applications within 60 days; one of which ComEd admits has been pending for over 262 days, and contends this is because ComEd had not received a survey payment for it;
- k. ComEd had not completed make-ready estimates for 387 fiber attachment applications for more than 74 days; one of which has been pending for 345 days, although ComEd contends the reason for the delay in that one application is because the poles associated with that application are part of the second Osmose pilot program, which seeks to determine whether the poles can be reinforced as an alternative to being replaced; Crown Castle contends that ComEd assigned that application to the “pilot program” without asking or telling Crown Castle.
- l. 482 of Crown Castle’s fiber attachment applications had been pending without final action for more than 193 days.
- m. Crown Castle had submitted 783 wireless attachment applications that were still pending without a permit being issued from ComEd;
- n. ComEd had not completed pre-construction surveys for 37 wireless attachment applications within 60 days;
- o. ComEd had not completed make-ready estimates for 322 of Crown Castle’s wireless attachment applications for more than 74 days; one of which had been pending for over a year;
- p. 156 of Crown Castle’s wireless attachment applications had been pending without final action for more than 223 days; 71 of which had been pending for over nine months and six of which had been pending for over a year.

30. ComEd admits that in 2017 and 2018, Crown Castle provided ComEd with forecasts to give ComEd advanced notice of the volume of fiber and wireless attachment applications that Crown Castle intended to submit in 2018 and 2019. In response, ComEd contends that these forecasts were inaccurate and unreliable.

31. ComEd claims that it has more than quadrupled its full time equivalent employees for back office third party attachment support since 2018. ComEd further claims that these increased resources and favorable weather for make ready work have increased May-June completions for Crown Castle to an amount 300% higher than the first four months of 2019. Finally, ComEd claims it proactively reached out to multiple contractors to solicit additional resources and offered overtime for its internal workforce as well as the contractors.

32. Crown Castle contends that there is no evidence that ComEd has increased May-June 2019

completions for Crown Castle to an amount 300% higher than the first four months of 2019, that even if a 300% increase were true, it would be insignificant because it would be a 300% increase in a number that was so low to begin with and that any increase in productivity may be in response to Crown Castle's complaint.

q. Attempts at dispute resolution

39. ComEd contends that in 2017-2018, both parties met repeatedly with the ICC to try to resolve this red tag and make-ready dispute.

E. Red Tag Costs

40. Crown Castle contends that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED], for replacement or reinforcement of red tagged poles.
41. Crown Castle contends that between May 1, 2019 and July 15, 2019, Crown Castle paid ComEd [REDACTED] for replacement or reinforcement of red tagged poles. ComEd has not had an opportunity to respond to this allegation.
42. ComEd contends that as of April 30, 2019, Crown Castle had paid ComEd [REDACTED] to replace or reinforce red tagged poles.

III. KEY LEGAL ISSUES

The Parties have submitted extensive pleadings setting forth in detail their legal arguments, and the Parties refer the Commission to those pleadings for a complete statement of their legal arguments. Despite extensive discussion, the Parties are not able to agree on a statement of the key legal issues.

**JOINT STATEMENT OF ALL PROPOSALS AGREED TO AND REMAINING
DISPUTES**

Pursuant to the Commission's June 21, 2019 Notice of Formal Complaint and 47 C.F.R. 1.733(b), Crown Castle Fiber LLC ("Crown Castle") and Commonwealth Edison Company ("ComEd"), through undersigned counsel, submit the following Joint Statement Of All Proposals Agreed To And Remaining Disputes.

I. PROPOSALS AGREED TO

None at this time.

II. REMAINING DISPUTES

The Parties have resolved none of their disputes, and other than the agreed to facts identified above, represent that all factual and legal issues set forth in their pleadings remain in dispute.

III. DISCOVERY MATTERS

The parties have exchanged interrogatories. Crown Castle has identified certain deficiencies in ComEd's responses and anticipates filing a motion to compel. ComEd has not yet received Crown Castle's responses to ComEd's interrogatories since those responses are due today.

ComEd further asserts that it intends to seek further discovery. Crown Castle will oppose any such request.

IV. SCHEDULES FOR PLEADINGS

ComEd anticipates filing for leave to respond to Crown Castle's Reply, which Crown Castle intends to oppose.

Respectfully submitted,

Crown Castle Fiber LLC

/s/ T. Scott Thompson
By its Attorneys
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Commonwealth Edison Company

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August 12, 2019

RULE 1.721(m) CERTIFICATIONS

I, T. Scott Thompson, Complainant Crown Castle Fiber LLC verify that I have read these Joint Statements and to the best of my knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law; and it is not interposed for any improper purpose.

/s/ T. Scott Thompson

Further, I, Thomas B. Magee, counsel for Respondent Commonwealth Edison Company verify that I have read these Joint Statements and to the best of my knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law; and it is not interposed for any improper purpose.

/s/ Thomas Magee

CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2019, I caused a copy of the foregoing Joint Statements to be served on the following (service method indicated):

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/s/ T. Scott Thompson
T. Scott Thompson