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Writer's Direct Access
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November 27, 2019

Via ECFS

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

**Re: Metropolitan Edison Company, Pennsylvania Electric Company, and
Penn Power Company's Objections to Complainants' First Set of
Interrogatories (Proceeding Number 19-354; Bureau ID Number EB-19-
MD-008)**

Ms. Dortch:

Please find attached Metropolitan Edison Company, Pennsylvania Electric Company, and
Penn Power Company's Objections to the Complainants' First Set of Interrogatories in
Proceeding Number 19-354; Bureau ID Number EB-19-MD-008.

Sincerely,



Timothy A. Doughty
Attorney for Metropolitan Edison Company,
Pennsylvania Electric Company, and Penn Power
Company

Enclosures

cc: Rosemary McEnery, Enforcement Bureau
Anthony DeLaurentis, Enforcement Bureau

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

)	
)	
Verizon Pennsylvania LLC and)	
Verizon North LLC,)	
)	
<i>Complainants,</i>)	
)	Proceeding Number 19-354
)	
v.)	Bureau ID Number EB-19-MD-008
)	
Metropolitan Edison Company,)	
Pennsylvania Electric Company, and)	
Penn Power Company,)	
)	
<i>Defendants</i>)	

**METROPOLITAN EDISON COMPANY, PENNSYLVANIA ELECTRIC COMPANY,
AND PENN POWER COMPANY’S OBJECTIONS
TO COMPLAINANT’S FIRST SET OF INTERROGATORIES**

Defendants Metropolitan Edison Company, Pennsylvania Electric Company, and Penn Power Company (“FirstEnergy”), pursuant to Section 1.730 of the Commission’s Rules, 47 C.F.R. §1.730, submit the following objections to the First Set of Interrogatories of Complainants Verizon Pennsylvania LLC and Verizon North LLC (“Verizon”) to FirstEnergy.

GENERAL OBJECTIONS

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

FirstEnergy objects to these Interrogatories because the Commission will soon lack jurisdiction to resolve this Complaint for the reasons stated in FirstEnergy's Motion to Hold Proceeding in Abeyance, which was filed November 27, 2019, in the above-captioned proceeding. FirstEnergy will be prejudiced by filing responses in this proceeding that will soon be terminated.

FirstEnergy 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.

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

FirstEnergy 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.

FirstEnergy objects to the definition of "Concerning," as being overly broad and unduly burdensome (Definition Number 3).

FirstEnergy objects to the definitions of "FirstEnergy," "You," and "Your," as being overly broad and unduly burdensome (Definition Numbers 4 and 18).

FirstEnergy objects to the definition of "identify," as being overly broad and unduly burdensome (Definition Number 6).

FirstEnergy objects to the definition of "Verizon" as being overly broad and unduly burdensome (Definition Number 17).

FirstEnergy objections to Instructions 2 and 4 as being overly broad and unduly burdensome.

INTERROGATORIES

INTERROGATORY NO. 1:

Beginning with the 2011 rental year, state the annual pole attachment rental rates that FirstEnergy contends are “just and reasonable” for Verizon’s use of FirstEnergy’s poles under 47 U.S.C. § 224(b). Include in your response all facts on which you rely for your contention that the annual pole attachment rental rates are “just and reasonable” under 47 U.S.C. § 224(b), the formula, calculations, inputs, assumptions, and source data used to calculate each annual pole attachment rental rate, and the corresponding pole attachment rental rate that would apply to FirstEnergy’s use of Verizon’s poles.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overbroad and unduly burdensome. FirstEnergy also objects to the extent it seeks a legal analysis and not information, and to the extent it seeks information to be included in FirstEnergy’s Answer.

INTERROGATORY NO. 2:

Explain in detail what, if any, steps FirstEnergy has taken to ensure that its Joint Use Agreements and License Agreements comply with the “just and reasonable” rate provision of 47 U.S.C. § 224(b), the Pole Attachment Order, the Verizon Florida decision, the Verizon Virginia decision, and the rate section of the Third Report and Order (Section III.C).

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory to the extent it seeks a legal analysis and not information, and objects to the extent it seeks information to be included in FirstEnergy’s Answer.

INTERROGATORY NO. 3:

Beginning with the 2011 rental year, identify all entities that have had a Joint Use

Agreement or License Agreement with FirstEnergy and state whether the entity is an incumbent local exchange carrier, CLEC, cable company, wireless provider, or other entity.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory because it seeks competitively sensitive confidential information.

INTERROGATORY NO. 4:

Beginning with the 2011 rental year, state the annual pole attachment rental rate that FirstEnergy charged each entity identified in response to Interrogatory 3, the number of poles or attachments for which the pole attachment rental rate was charged, and whether the entity uses FirstEnergy's poles pursuant to a License Agreement or a Joint Use Agreement. Include in your response the formula, calculations, inputs, assumptions, and source data used to calculate each pole attachment rental rate charged and state whether the rate was charged on a per-pole, per-attachment, or other basis and whether the rate was paid.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects to the extent it seeks a production of documents, and objects because it seeks competitively sensitive confidential information.

INTERROGATORY NO. 5:

State the rates, terms, and conditions of all Joint Use Agreements and License Agreements with FirstEnergy that were in effect at any time from the 2011 rental year forward. Include in your response the name of the entity that is a party to the Joint Use Agreement or License Agreement with FirstEnergy and the dates on which the Joint Use Agreement or License Agreement with FirstEnergy was in effect. In lieu of stating the rates, terms, and conditions of all Joint Use

Agreements and License Agreements, FirstEnergy may produce copies of each such Joint Use Agreement and License Agreement.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects because it seeks competitively sensitive confidential information, and objects because it is a request for production of documents and not a proper Interrogatory.

INTERROGATORY NO. 6:

With respect to each License Agreement identified in response to Interrogatory 5, identify any advantage or benefit that FirstEnergy contends Verizon receives under any JUA, and any disadvantage imposed on Verizon under any JUA, as compared to the terms and conditions provided to the attaching entity. Include in your response, beginning with the 2011 rental year, a quantification of the annual monetary value of each such claimed advantage, benefit, or disadvantage expressed on a per-pole basis, the JUA to which the claimed advantage, benefit, or disadvantage applies, the language from each License Agreement that establishes or supports the claimed advantage, benefit, or disadvantage, and all data, formulas, calculations, inputs, assumptions, and source data used to quantify the monetary value of each claimed advantage, benefit, or disadvantage.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects because it seeks competitively sensitive confidential information, objects to the extent it seeks a production of documents, objects to the extent it seeks a legal analysis and not information, and objects to the extent it seeks information to be included in FirstEnergy's Answer.

INTERROGATORY NO. 7:

With respect to each “Verizon Competitive Advantage” listed in the bullet-point list in David J. Karafa’s email to Brian H. Trosper, dated June 7, 2018 (a copy of which email is included as Exhibit 29 to the Pole Attachment Complaint), state all facts that supported Mr. Karafa’s characterization of each bullet-pointed item as a “Verizon Competitive Advantage.” Include in your response all data, analyses, formulas, calculations, inputs, or assumptions used to quantify each “Verizon Competitive Advantage.”

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects to the extent it seeks competitively sensitive confidential information, objects to the extent it seeks a production of documents, objects to the extent it seeks a legal analysis and not information, objects to the extent that it requires information that is in Verizon’s possession and has not been provided to FirstEnergy, and objects to the extent it seeks information to be included in FirstEnergy’s Answer.

INTERROGATORY NO. 8:

Beginning with the 2011 rental year, for each claimed advantage or benefit identified in response to Interrogatory 6 and for each “Verizon Competitive Advantage” identified in Interrogatory 7, state by year the amount of money that FirstEnergy collected from each entity identified in response to Interrogatory 3 concerning that claimed advantage, benefit, or “Verizon Competitive Advantage,” and the number of poles for which the amounts were charged and collected. Include in your response all formulas, calculations, inputs, assumptions, and source data used to invoice these amounts.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects to the extent it seeks competitively sensitive confidential information, objects to the extent it seeks a production of documents, and objects to the extent it seeks information to be included in FirstEnergy's Answer.

INTERROGATORY NO. 9:

Beginning with the 2011 rental year, state the rate of return used by FirstEnergy in the calculation of rates under 47 C.F.R. § 1.1406(d), including the cost of debt, cost of equity, and capital structure, and, if different, FirstEnergy's state-authorized weighted average cost of capital and/or weighted cost of equity, including, as appropriate, the cost of debt, cost of equity, and capital structure. Include in your response the formula, calculations, inputs, assumptions, and source data used.


OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad, objects to the extent it seeks a production of documents, and objects to the extent it seeks information to be included in FirstEnergy's Answer.

INTERROGATORY NO. 10:

Identify all data regarding poles jointly used by Verizon and FirstEnergy, including all survey, audit or sampling data, concerning pole height, the average number of attaching entities, the space occupied by Verizon, FirstEnergy, and any other entity. Include in your response when the data was compiled or collected, the entity or entities that compiled or collected it, the accuracy requirements, if any, imposed or related to the compilation or collection of the data, and the rules, parameters, and guidelines upon which the data was collected.

OBJECTION: In addition to its general objections above, FirstEnergy objects to this Interrogatory as overly broad and unduly burdensome, objects to the extent it seeks competitively sensitive confidential information, objects to the extent it seeks a production of documents, and objects to the extent it seeks information to be included in FirstEnergy's Answer.

Respectfully submitted,



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November 27, 2019

CERTIFICATE OF SERVICE

I, Timothy A. Doughty, hereby certify that on this 27th day of November 2019, a true and authorized copy of Metropolitan Edison Company, Pennsylvania Electric Company, and Penn Power Company's Objections to the Complainants' First Set of Interrogatories was served on the parties listed below via electronic mail and was filed with the Commission via ECFS.

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