



September 15, 2021

VIA ELECTRONIC FILING

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Office of Commission Clerk Representative,

Attached please find the Comments of Crown Castle Fiber LLC on Proposed Rule 25-18.010, F.A.C., Pole Attachment Complaints, which are being filed today with the Commission in Docket No. 20210137-PU.

The Certificate of Service associated with the Comments of Crown Castle Fiber LLC is also appended hereto.

Please contact me at (614) 657-4294 or rebecca.hussey@crowncastle.com with any questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads 'Rebecca L. Hussey'.

Rebecca Hussey

**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of:)
) Docket No. 20210137-PU
Proposed Adoption)
of Rule 25-18.010, F.A.C.,)
Pole Attachment Complaints.)

COMMENTS OF CROWN CASTLE FIBER LLC

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September 15, 2021

I. INTRODUCTION

Crown Castle Fiber LLC (“Crown Castle”) submits the following comments on Proposed Rule 25-18.010, F.A.C. (“Proposed Rule 25-18.010” or “Proposed Rule”), a draft procedural rule designed to administer and implement section 366.04(8), Florida Statutes (2021), as required by section 366.04(8)(g), Florida Statutes (2021), concerning pole attachment complaints. Crown Castle appreciated the opportunity to participate in the staff rule development workshop on Proposed Rule 25-18.010 on September 1, 2021 and offers these written comments in furtherance of the comments it submitted at the workshop.

Crown Castle is at the forefront of our nation’s broadband revolution, deploying fiber optic and wireless infrastructure that will serve as the backbone for the telecommunications networks of the future. Crown Castle has more than twenty-five years of experience building and operating network infrastructure and, with more than 40,000 towers, 70,000 small wireless facilities constructed or under contract, and more than 80,000 route miles of fiber across the United States, is the country’s largest independent owner and operator of shared infrastructure. Crown Castle partners with wireless carriers, technology companies, broadband providers, municipalities, and, of key importance to this Commission, utilities to design and deliver unique end-to-end infrastructure solutions that bring new innovations, opportunities, and possibilities to people and businesses in 49 states, including in Florida.

Access to utility poles and conduit and streamlined processes and rules that promote the safe, expeditious, and cost-effective deployment of telecommunications facilities on utility infrastructure are key to Crown Castle’s network expansion efforts. To that end, Crown Castle engages with utilities and state utility commissions daily to ensure access to utility poles and conduit so Crown Castle can deploy network infrastructure under reasonable rates, terms, and

conditions. Accordingly, Crown Castle is in an apt position to speak to the types of rules and policies that provide the regulatory certainty necessary to efficiently and safely deploy wireline and wireless telecommunications networks.

II. RECOMMENDATIONS FOR PROPOSED RULE 25-18.010

Crown Castle supports the adoption of rules that implement clear procedures and allow for timely resolution of disputes regarding the rates, terms, and conditions of attachment to poles, including pole access. To that end, Crown Castle recommends certain refinements to Proposed Rule 25-18.010 which will help to ensure that Florida is better poised for the efficient deployment of telecommunications networks, including next-generation technologies.

A. Proposed Rule 25-18.010(5) should be modified to include a 180-day timeline for resolution of pole access complaints.

Proposed Rule 25.18.010(5) directs the Commission to take final action on a pole attachment complaint no later than 360 days after the complaint's filing date. Crown Castle believes that the 360-day resolution timeline for complaints involving matters such as rates of pole attachment is appropriate; however, for pole access complaints, a shorter timeline for resolution is necessary.¹

Although all pole attachment complaints have important implications, timely resolution of pole access complaints is more urgent than resolution of complaints related to rates, terms, and conditions of attachment, as pole access complaints generally have only one remedy—a grant of immediate access. The ability to deploy telecommunications networks in a pole access complaint is delayed unless or until the complaint is resolved. Given the importance that connectivity plays

¹ Like Crown Castle, both Florida Internet and Television Association and CTIA support timelines of less than 360 days for resolution of pole access complaints. *See In re Proposed Adoption of Rule 25-18.010, F.A.C., Pole Attachment Complaints*, Docket No. 20210137-PU, Staff Rule Development Workshop (Sept. 1, 2021), Transcript at 14, ln 12-20; 17, ln 22-25; and 18, ln 1-2 (hereinafter, "Workshop Transcript").

in our ability to work, learn, receive care, communicate with our loved ones, and countless other applications, and considering that denials of access may amount to denial of the connectivity or capacity needed to carry out these important functions, Crown Castle recommends the following changes to Proposed Rule 25-18.010:

- (5) The Commission will take final action on a pole access complaint at a Commission Conference no later than 180 days after the complaint's filing date or, for any other complaint on the rates, terms, or conditions of pole attachment, t~~The Commission will take final action on a complaint~~ at a Commission Conference no later than 360 days after the complaint's filing date. The filing date of any pole attachment complaint shall be determined as set forth in subsection (2) of this rule.

B. Additional clarity is needed in Proposed Rule 25-18.010(4) about the attachment rate from which a cost-based alternative may be proposed in a rate complaint filed with the Commission.

Proposed Rule 25-18.010(4) directs a pole owner or attaching entity that “intends to ask the Commission to establish an alternative cost-based pole attachment rate” to “provide the methodology with the complaint or response.” Unfortunately, the Proposed Rule does not make clear what attachment rate the alternative rate would replace, if adopted pursuant to the Commission’s decision on the complaint.

As mentioned previously, section 366.04(8)(g), Florida Statutes (2021) directs the Commission to propose procedural rules to administer and implement section 366.04(8). Paragraph (b) of 366.04(8) provides:

[I]n the development of rules pursuant to paragraph (g), the commission shall consider the interests of the subscribers and users of the services offered through such pole attachments, as well as the interests of the consumers of any pole owner providing such attachments.

As the Commission develops precedent on the establishment of pole attachment rates through the complaint process, it is in the best interest of the subscribers and users of the services of attaching parties, as well as the customers of pole owners, that attachment rates continue to be

calculated as they are presently. This approach provides continuity with the prior scheme for calculation of rates, minimizing any disruptive impacts to customers and stakeholders until the Commission has had an opportunity to develop precedent on attachment rates.

For this reason, it is important for Proposed Rule 25-18.010(4) to state that any alternative cost-based rate proposed in a complaint is an alternative to the rate calculated pursuant to 47 CFR 1.1406(d), better known as the FCC formula. As the Florida Internet and Television Association shared at the Staff Rule Development Workshop,

[T]he statute says that the Commission shall apply the decision and orders of the FCC and the appellate court to determine just and reasonable rates, terms, and conditions, unless the pole owner establishes by competent substantial evidence an alternative cost-based rate that is just and reasonable and in the public interest. [If t]he rule does not expressly state that the FCC rules are the default or the starting point, then the language regarding an alternative is unclear. Becomes an alternative to what?²

Regulated pole attachment rates in Florida have been calculated pursuant to the FCC formula for many years, making it an appropriate baseline from which a pole owner or attaching entity may propose an alternative rate in the context of a complaint proceeding. For maximum clarity and cost continuity as the Commission develops pole attachment rate precedent, Crown Castle recommends the following revision to Proposed Rule 25-18.010:

- (4) If the pole owner or attaching entity intends to ask the Commission to establish an alternative cost-based pole attachment rate to the rate established under 47 C.F.R. 1.1406(d) in a Section 120.569 and 120.57, Florida Statutes, evidentiary proceeding, it must provide the methodology with the complaint or with the response.

III. CONCLUSION

Crown Castle thanks the Commission for the opportunity to submit comments on the Proposed Rule, and appreciates the efforts undertaken by staff and the Commission to ensure

² See Workshop Transcript at 12, ln. 15-25; 13, ln. 1-2.

clarity and procedural certainty as Commission rules are developed. Clear rules governing complaints that allow for swift resolution of disputes on the rates, terms, and conditions of pole attachment are critically important to ensuring connectivity in Florida. Crown Castle thanks the Commission and its staff for consideration of these important concepts as Proposed Rule 25-18.010 is finalized.

Respectfully submitted,

CROWN CASTLE FIBER LLC

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CERTIFICATE OF SERVICE

I, Rebecca Hussey Callif, hereby certify that the Comments of Crown Castle Fiber LLC were filed electronically with the Public Service Commission in the above captioned docket today, September 15, 2021, and that a copy of the same has been served via electronic mail to the interested persons listed below:

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