

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

Application of Crown Castle NG West LLC
(U-6745-C), pursuant to Decision 98-10-058
for Arbitration of Dispute over Denial by
Pacific Gas and Electric Company (U-39-E) of
Access to Utility Support Structures.

Application 18-10-004

**MOTION OF CROWN CASTLE NG WEST LLC (U-6745-C)
TO FILE EXHIBIT NUMBER JOINT-01 UNDER SEAL AND SEEK CONFIDENTIAL
TREATMENT OF EXHIBIT NUMBERS CROWN-03, CROWN-04, CROWN-05, AND
JOINT-02**

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December 7, 2018

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
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Pursuant to Rule 11.4 of the Commission’s Rules of Practice and Procedure (“Rules”), and the order of Administrative Law Judge Miles on November 29, 2018,¹ Crown Castle NG West LLC (U-6745-C) (“Crown Castle”) respectfully submits this Motion to request that sensitive information be filed under seal and to request that the Commission afford confidential treatment to Crown Castle Exhibits 3 - 5, as well as Joint Exhibits 1 - 2. Administrative Law Judge Miles has indicated that all such documents will be given confidential treatment.² Further, the Commission has granted confidential protection to these types of documents in the past, and should do so now.

¹ 11/29/18 Hearing Tr. 134: 23 to 135:4 (“I’m ordering you to submit one document, which is a complete copy of the 1998 Northern California Joint Pole Agreement [Joint Exhibit 1] ... I am ordering you to submit a motion of confidential treatment which encompasses the Northern California Joint Pole Association documents ... as well as any Crown exhibits that I already have, so don’t have to submit them.”)

² 11/29/18 Hearing Tr. 134:8-10 (“the JPA documents will have confidential treatment and be sealed.”); 11/29/18 Hearing Tr. 129:3-5 (“It [Authorization for Joint Pole Transaction] is going to be confidential, so will not be subject to scrutiny by the ‘public,’”).

I. CONFIDENTIAL INFORMATION

A. Crown Castle Exhibits 3 - 5: Authorizations for Joint Pole Transactions

Crown Castle Exhibits 3 – 5, which have already been submitted into evidence, are three separate form Authorization for Joint Pole Transactions, facilitated through the processes of the Northern California Joint Pole Association (“NCJPA”). As noted above, the assigned Administrative Law Judge has already indicated that these three documents would be treated confidentially. And there is good reason for such confidential treatment. First, these are not public documents and the parties have not shared these documents publicly. Second, state and federal law protects against disclosure of critical network infrastructure information, including the detailed utility pole information submitted herein, because disclosure of such information could harm public safety by putting critical infrastructure at risk. Specifically, the CPRA protects against disclosure of confidential “utility systems development” data.³ Moreover, the CPRA protects against disclosure that is prohibited under federal law⁴—federal law protects against the disclosure of information regarding critical infrastructure,⁵ which has been found to include communications network information like the information being submitted here.⁶ Therefore, the Commission should afford confidential treatment to information enclosed herein.

³ Gov. Code § 6254(e) (“this chapter does not require the disclosure of...(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.”).

⁴ Gov. Code § 6254(k) (“this chapter does not require the disclosure of...(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law....”).

⁵ 6 U.S.C. § 133(a)(1)(E) (protecting against state government disclosure of voluntarily shared critical infrastructure information).

⁶ *See, e.g.*, D.16-08-024 at 25 (identifying information regarding the location, function, and relationship between network facilities, including the identity of critical infrastructure as information that would meet the requirement for confidential treatment).

B. Joint Exhibits 1 -2: NCJPA Documents

Joint Exhibit 1 is the 1998 Northern California Joint Pole Agreement. Per the request of Administrative Law Judge Miles, this document is attached as **Confidential Attachment 1** to this motion. Joint Exhibit 2 is the NCJPA Operations/Routine Handbook, which has already been submitted into evidence in this proceeding. As noted above, the assigned Administrative Law Judge has already indicated that these two documents would be treated confidentially. And there is good reason for such confidential treatment. First, these are not public documents and the parties have not shared these documents publicly. Joint Exhibits 1 and 2 are confidential documents of the private member organization Northern California Joint Pole Association (“NCJPA”), which contain proprietary information regarding the processes used for the administration of the NCJPA.

II. CONCLUSION

For these reasons, Crown Castle respectfully requests confidential treatment of Crown Castle Exhibits 3 - 5, as well as Joint Exhibits 1 - 2 and that the Commission protect this information from release to persons and parties outside of the Commission.

Respectfully submitted December 7, 2018 at San Francisco, California.

/s/
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**[PROPOSED] ORDER GRANTING MOTION OF CROWN CASTLE NG WEST LLC
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CONFIDENTIAL TREATMENT OF EXHIBIT NUMBERS CROWN-03, CROWN-04,
CROWN-05, AND JOINT-02**

On December 7, 2018, Crown Castle NG West LLC (U-6745-C) (“Crown Castle”) filed the confidential version of Joint Exhibit 1 is the 1998 Northern California Joint Pole Agreement. Crown Castle further requested that the Commission afford confidential treatment to Crown Castle Exhibits 3 - 5, as well as Joint Exhibits 1 – 2. The confidential information included in those documents relates to information relates to its critical network infrastructure, internal procedures, and proprietary processes which (i) are competitively sensitive and would place Crown Castle significant unfair business disadvantage if released, (ii) could jeopardize network security if released, and (iii) is not generally available to the public.

No opposition to this Motion has been submitted and the time for submission of such opposition has expired. No hearing on the Motion is necessary.

Good cause having been shown, and no opposition to the Motion having been submitted,
IT IS HEREBY RULED that:

1. Crown Castle’s Motion to file under seal Joint Exhibit 1 and for confidential treatment of Crown Castle Exhibits 3 - 5, as well as Joint Exhibits 1 - 2 is granted.

2. The identified information shall be received under seal, shall remain under seal, and shall not be made accessible to the public or disclosed to anyone other than Commission staff, except upon further order or ruling of the Commission.

Dated _____, 2018 at San Francisco, California.

Administrative Law Judge

Attachment 1

Exhibit No. Joint-01 - 1998 Northern California Joint Pole Agreement

(FILED UNDER SEAL)