



# COMMONWEALTH OF MASSACHUSETTS

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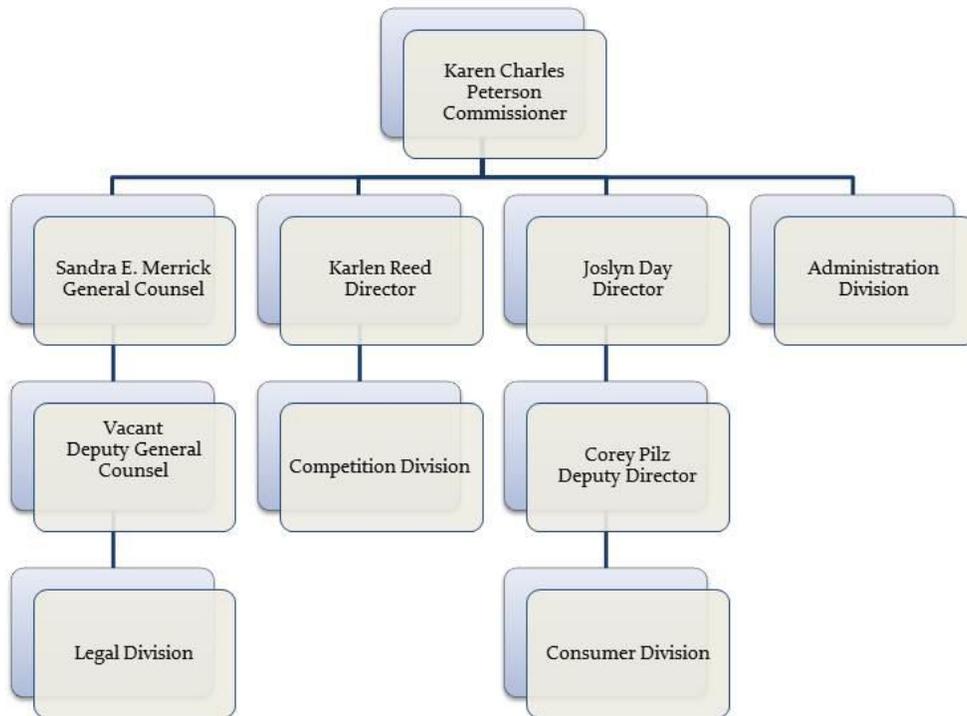
## **Massachusetts Department of Telecommunications and Cable Fiscal Year 2015 Annual Report Issued: October 28, 2015**

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# Organizational Chart

## Fiscal Year 2015 Department of Telecommunications and Cable



## **Department Regulatory Responsibilities**

The Department of Telecommunications and Cable (“Department”) is funded through an annual assessment by telecommunications and cable companies as authorized by the annual General Appropriations Act, line item 7006-0071 and pursuant to Chapter 25C, Section 7 of the Massachusetts General Laws (“M.G. L.”) and Chapter 19 of the Acts of 2007. The Department’s operating budget for Fiscal Year<sup>1</sup> (“FY”) 2015 was \$3 million. Any unexpended balances are credited to the following year’s industry assessment.

The telecommunications industry over which the Department has jurisdiction is made up of common carriers, including local exchange carriers, interexchange carriers, operator service providers, payphone companies, and cable companies. As of FY 2015, more than 350 telecommunications carriers were registered with the Department and reported nearly \$1.27 billion in intrastate telecommunications revenues for calendar year 2013.<sup>2</sup>

The cable industry in Massachusetts is comprised of 10 cable television providers serving over 2.19 million cable video subscribers in 308 of the Commonwealth’s 351 cities and towns. Cable providers include Comcast, Charter Communications, Time Warner Cable, Cox Communications, Verizon, RCN, Russell Cable Television, Braintree Electric Light Department, Norwood Light Department, and Shrewsbury Electric and Cable Operations. Cable providers reported more than \$2.5 billion in intrastate cable revenues in calendar year 2014.<sup>3</sup>

The Department’s mission is to: (1) regulate the telecommunications and cable industries in accordance with the statutory obligations imposed by the Commonwealth of Massachusetts and the federal government; (2) ensure that consumers receive high quality communications at just and reasonable rates; (3) promote sustainable competition which will increase consumer welfare for all Massachusetts residents; (4) maintain and enforce consumer protections, consistent with the public interest, particularly where market forces alone are not sufficient to do so, including investigating and responding to inquiries and complaints from consumers and carriers; and (5) provide expert input into the development of telecommunications- and cable-related policies for the Commonwealth.

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<sup>1</sup> The Commonwealth’s Fiscal Year runs from July 1 to June 30.

<sup>2</sup> Per statute, telecommunications carriers report calendar year revenues by March 31 of the following year. Statutory assessments against regulated carriers’ reported revenues for a particular calendar year are made in a subsequent FY. For instance, FY 2015 assessments are based on calendar year 2013 reported revenues.

<sup>3</sup> Like assessments against telecommunications carriers, statutory assessments against cable providers’ reported revenues for a particular calendar year are made in a subsequent FY. Again, FY 2015 assessments are based on calendar year 2013 reported revenues.

The Department's general responsibilities are:

### **1) Protect Consumers**

- Establish, educate, and enforce basic consumer protections (e.g., the Department's billing and termination requirements, including, for example, disconnect rules for senior citizens);
- Mediate consumer complaints, including "cramming," "slamming," service quality, and other complaints between residential, business, and municipal customers and their service providers;
- Coordinate with the State 911 Department to ensure access to quality telecommunications services for all Massachusetts consumers;
- Monitor and implement the federal Universal Service Fund ("USF") programs, including the Lifeline low-income discount, high-cost Connect America Fund, E-rate and rural health care programs; and
- Review and, where appropriate, approve applications for "eligible telecommunications carrier" ("ETC") status. ETCs must meet certain service obligations to be eligible to receive federal universal service funds.

### **2) Promote Competition**

- Revise existing policies and develop new policies in response to new technologies and market conditions;
- Collect and compile data on the status of competition in the communications industries in Massachusetts;
- Develop and implement policies that promote competition in areas of the state where it lags;
- Develop and enforce policies to promote wholesale and retail competition; and
- Implement competition-related rule changes consistent with state and federal law.

### **3) Inform and Advocate**

- Analyze major federal legislative and regulatory decisions to evaluate their impact on state regulation of the telecommunications and cable industries, and when appropriate, advocate on behalf of Massachusetts consumers before the Federal Communications Commission ("FCC") and Congress;

- Explain Department regulations and policies; and provide other information as requested by consumers, carriers, public officials, the Legislature, the Administration, and others;
- Monitor and evaluate proposed state legislation, and provide recommendations to the Administration;
- Analyze new technologies and market developments in order to determine their impact on consumers and the competitive marketplace;
- Participate in regional and national regulatory groups to ensure that Massachusetts interests are represented;<sup>4</sup> and
- Comply with periodic FCC reporting requirements.

## **Telecommunications Industry Regulation**

### **Regulatory Framework**

The Department regulates telecommunications providers principally through its enabling legislation, G. L. Chapters 25C, 159, and 166. The federal Telecommunications Act of 1996 (“Telecom Act”) led to major changes in the telecommunications industry and how it is regulated. The increase in competition, spurred in large part by technological innovation, required that the Department adjust its regulations to reflect changes in market conditions and relax its regulations where market forces are sufficient to protect consumer interests, thereby ensuring that the Department continues to promote competition. However, where market forces are not sufficient to safeguard consumer interests, the Department has continued to enforce necessary protections.

The Department has jurisdiction over telecommunications services that originate and terminate within or between Massachusetts’ two federally-designated “Local Access and Transport Areas” (“LATAs”).<sup>5</sup> The FCC generally regulates interstate and international services.

### **Department Responsibilities**

The Department’s primary telecommunications-related responsibilities include:

- Enforcing service quality standards;

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<sup>4</sup> National memberships and involvement include: the North America Numbering Council, the Federal Communication Commission’s Consumer Advisory Committee, the Federal-State Joint Board on Universal Service, the National Association of Regulatory Utility Commissioners, and the New England Conference of Public Utility Commissioners.

<sup>5</sup> The Western Massachusetts LATA consists of the 413 area code; all other area codes in the State fall under the Eastern Massachusetts LATA.

- Retail regulation;
- Public safety and network reliability regulation;
- Wholesale regulation; and
- Market entry and exit regulation.

### **1) Enforcing Service Quality Standards**

Verizon New England d/b/a Verizon MA (“Verizon”) is the Commonwealth’s incumbent local exchange carrier (“ILEC”) in all but a handful of towns in Massachusetts. Verizon also serves as the Commonwealth’s carrier-of-last-resort in its service area. As such, Verizon is subject to certain service quality standards and other requirements, which the Department monitors and enforces. Additionally, the Department ensures that Verizon allocates sufficient resources for the maintenance of service and call quality to all its customers, regardless of their location.

Several years ago, the Department adopted, and continues to monitor, a Retail Service Quality Plan for Verizon retail customers. This Plan consists of twelve service measures in the categories of Installation Service, Maintenance Service, and Service Response. Verizon reports its performance on each of the measures to the Department on a monthly basis. If Verizon’s performance falls below the Department’s threshold, Verizon pays a penalty in the form of a refund to all residential and business customers. The Department also evaluates Verizon’s retail service quality at the local level when the Department receives a formal complaint from city or town officials or customers.

Separately, the Department monitors Verizon’s compliance with a Performance Assurance Plan (“PAP”). The Department and Verizon instituted the PAP in order to ensure that Verizon provides high-quality service to competitive local exchange carriers (“CLECs”) pursuant to § 271 of the Telecom Act. The PAP includes: (1) the adoption of carrier-to-carrier service measurements and standards; (2) scoring mechanisms to determine whether CLECs are receiving non-discriminatory treatment; (3) a provision for the payment of bill credits to CLECs if Verizon’s reported performance does not meet certain standards; (4) monthly reporting requirements; and (5) provisions for annual review, updates, and audits. Like the Retail Service Quality Plan, Verizon submits PAP reports on a monthly basis.

## **2) Retail Regulation**

The Department develops and enforces policies to promote retail competition, including policies that relax regulation where market forces are sufficient to protect consumer interests. However, the Department continues to regulate certain Verizon retail services for which it still retains market power and regulates the rates, services, and practices of three small rural ILECs in western Massachusetts that have market power in their service territories. The Department also sets rates and monitors service quality for inmate calling services and ensures that reasonable service quality and certain consumer protections are provided by all carriers.

## **3) Public Safety/Network Reliability Regulation**

The Department helps to ensure adequate funding of the E-911 network (i.e., oversee the cost of the network and establish the retail surcharge to fund the network) and to provide oversight of the State 911 Department's expenditures, pursuant to Chapter 223 of the Acts of 2008. Additionally, the Department:

- Facilitates quick resolution of wholesale and retail service outages by working closely with carriers and the Massachusetts Emergency Management Agency ("MEMA");
- Enforces Verizon's major extended service outage rules, which are intended to address prolonged outages affecting 200 or more customers;
- Periodically reviews the adequacy of carrier network reliability plans;
- Enforces Verizon's central office collocations security rules; and
- Participates with other state utility commissions to guide federal policy impacting public safety requirements at the state and local levels.

## **4) Wholesale Regulation**

Apart from building their own facilities to serve customers, carriers that wish to compete in the retail telecommunications market have two modes of entry available to them. One of these is to lease unbundled network elements from the ILEC<sup>6</sup> or another carrier and provide service over this leased network. Verizon is the ILEC for all but four towns (Gosnold, Granby, Hancock, and Richmond) in Massachusetts. The Department has authority over Verizon's wholesale provision of unbundled network elements to ensure that they are provided in a non-discriminatory manner, and regulates the rates at which they are leased. The other way a carrier can enter the market is to purchase a service from another carrier (usually Verizon) at a predetermined wholesale discount rate, then brand the service with its own name and resell it. The Department develops the wholesale discount rate for Verizon pursuant to FCC methodology.

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<sup>6</sup> The ILEC is the entity that owned the network prior to the introduction of competition.

The Department plays a key role in setting the wholesale and resale rates at which carriers can lease parts of each other's networks—this applies in particular to ILECs' networks. Consistent with the Department's oversight of the wholesale telecommunications market, the Department:

- Establishes the terms and conditions under which facilities-based carriers interconnect their networks, exchange traffic, and generally conduct their business relationships;
- Resolves disputes between competing carriers over wholesale rates and service issues;
- Establishes and enforces wholesale service quality standards for Verizon through its PAP so that Verizon does not discriminate against competing carriers in providing wholesale services;
- Sets rates at which competitors can resell Verizon's retail services;
- Ensures that competing carriers do not create barriers to consumer choice (e.g., enforce number porting requirements);
- Enforces phone number allocation rules (i.e., monitor use of telephone numbers by carriers and promote number conservation to ensure an adequate supply of telephone numbers for the industry and to prevent the need for new area codes); and
- Coordinates with the Department of Public Utilities to ensure access to rights-of-ways for all carriers by establishing and enforcing rules concerning the rates and access to utility poles and conduits.

## **5) Market Entry and Exit Regulation**

In the mid-1990s, the Department streamlined the registration process for companies wishing to do business as carriers within the Commonwealth in order to reduce barriers to market entry and encourage competition for telecommunications service in Massachusetts. Previously, the Department conducted an investigation into the financial, managerial, and technical abilities of a carrier to offer service. Instead, most carriers may now offer service based simply on the submission of a Statement of Business Operations and a Department-approved rate schedule.<sup>7</sup> The streamlined entry process permits the Department and carriers to devote greater resources and staff time to other responsibilities. Reviewing the new registrations from companies seeking to provide telecommunications services in Massachusetts and ensuring compliance with

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<sup>7</sup> Payphone providers are not required to file rate schedules but are required to register and file annual returns with the Department. In addition, the Department requires that all payphones have labels clearly identifying the owner/operator of the phone, and must provide free access to 911 and directory assistance.

Department registration rules ensures quality service offerings. In monitoring market entry and exit, the Department:

- Reviews registrations and individual rate schedule filings and online rate schedules that establish new service offerings or change the rates, terms or conditions of existing service offerings;
- Enforces entry requirements to ensure that no carriers are operating illegally in Massachusetts;
- Facilitates a smooth, orderly process when carriers discontinue services or exit the market entirely to prevent disruption of service to customers; and
- Requires carriers to notify the Department of any transfers of ownership or control in order to ensure that Department records are up-to-date.

## **Cable Industry Regulation**

### **Regulatory Framework**

Cable television is regulated at the local, state, and federal levels. The Department regulates cable providers principally pursuant to its enabling legislation, G. L. c. 166A, and implementing regulations at 207 C.M.R. § 1.00 et seq. In recent years, new entrants have emerged in the marketplace, such as competitive overbuilders and municipally-owned companies. Principal among these competitive providers are telephone companies that have begun offering video service, as well as high-speed internet service, in competition with incumbent cable operators. As of the close of FY 2015, 118 communities are being served by an incumbent cable provider and at least one competitive cable provider.

### **Department Responsibilities**

The Department's primary cable-related responsibilities include:

- Oversight of cable television franchising, franchise renewal, and the transfer of cable franchises within the Commonwealth;
- Establishing basic service tier programming, equipment, and installation rates for communities in Massachusetts that have requested rate regulation;
- Enforcing consumer protection standards; and
- Collecting, compiling, and maintaining statistical data from cable providers on, among other things, consumer complaints, rates, terms and conditions, market share, and financial performance.

## **1) Oversight of Municipal Cable Franchising**

In Massachusetts, local municipalities act as the issuing authorities and negotiate and grant cable licenses, while the Department retains oversight authority in licensing matters. The Department conducts an extensive educational program for communities involved in the licensing process, regarding the applicable substantive and procedural requirements at the local, state, and federal levels. When licensing disputes or license transfers arise at the local level, the Department can facilitate discussions between cable operators and municipalities, and provide appellate review of final local level decisions.

## **2) Rate Regulation**

The Department regulates subscribers' rates for basic service tier programming, equipment, and installation in those Massachusetts communities that: (1) have requested rate regulation; and (2) do not have effective competition, as determined by the FCC. The Department reviews the proposed basic service tier rates to determine whether such rates are just and reasonable and in compliance with applicable federal law. Pursuant to federal law, the Department does not regulate rates for expanded cable or premium services.

## **Consumer Protections and Education**

The Department investigates and resolves individual consumer complaints, either by informal negotiation between the consumer and providers or by formal adjudicatory proceedings. The Department also tracks patterns of complaints in order to identify and resolve more widespread problems.

The Department has regulations designed to afford consumer protections to telephone and cable subscribers, particularly with respect to billing and termination of service. Cable operators must make annual filings to ensure compliance with these consumer protection regulations, whereas telephone provider rate schedules must reflect these requirements. Through dedicated telephone lines, published consumer information and advisories, fact sheets, outreach events, and a consumer-friendly website, the Department serves as a source of information for consumers seeking to understand the options available to them and other industry-related issues.

## **FY 2015 Accomplishments**

During FY 2015, the Department concluded several dockets impacting Massachusetts businesses and consumers. Docket matters included:<sup>8</sup>

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<sup>8</sup> Refer to Appendix A for additional docket information.

- Reviewing and approving basic service tier programming, equipment, and installation rates in communities served by Time Warner, Cox Communications and Charter Communications;<sup>9</sup>
- Approving a State 911 Department request to increase the Enhanced 911/Disability Access Surcharge (“E-911 Surcharge”) on consumer voice lines;
- Enforcing telecommunications carriers’ annual revenue reporting requirements;
- Resolving a pole attachment rate dispute between a provider and a municipality; and
- Implementing uniform reporting requirements and service standards for eligible telecommunications carriers (“ETCs”) providing service in Massachusetts.

In addition to docketed matters, the Department:

- Submitted 4 filings to the FCC;
- Issued two cable license transfer bulletins in FY 2015 to 68 communities relating to the transfers of Time Warner and Charter cable TV franchise licenses as part of a failed merger with Comcast;<sup>10</sup>
- Reviewed and approved 5 interconnection agreements;
- Reviewed more than 214 new and revised rate schedules;
- Provided continued support to the development of the Commonwealth’s Broadband Initiative. This support included assistance to the Massachusetts Broadband Institute (“MBI”) and its work to develop “middle-mile” and “last-mile” infrastructure solutions in western Massachusetts based on its successful federal Broadband Technology Opportunities Program grant and the Massachusetts Broadband Incentive Fund. Moreover, the Department provided support and guidance to MBI on various state and federal regulatory matters, and the Commissioner sits on the MBI’s Board of Directors;
- Resolved 3,114 individual consumer complaints;

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<sup>9</sup> The number of rate-regulated communities has decreased in recent years due to determinations of effective competition in those communities made by the FCC.

<sup>10</sup> Charter, Time Warner, and Bright House Networks recently submitted transfer applications to the FCC. The Department anticipates devoting time and resources in FY 2016 toward license transfer activities associated with this transaction.

- Drafted and issued several Consumer and Industry Notices on various matters. Topics included information on: (1) increases to the E-911 Surcharge; (2) changes to Verizon's infrastructure including copper retirement and fiber migration; (3) the federal Universal Service programs and Massachusetts ETCs; etc.

## **Administration Division**

### **Overview**

The Administration Division provides administrative support to the Department.

### **Division Responsibilities**

#### **Finance**

The Division handles budget preparation and controls, purchasing, accounts receivable and accounts payable, payroll, and other administrative financial services. The Department's budget for FY 2015 was \$3 million. Revenue collected during that same period was \$5 million of which \$1.76 million was returned to the General Fund from revenue sources that include telecommunications and cable filing fees.

#### **Human Resources**

In conjunction with the Office of Consumer Affairs and Business Regulation, the Division is responsible for payroll actions and human resource management.

#### **Legal Support**

The Division is responsible for publishing notices of all Department public hearings. In FY 2015, the Department conducted six (6) evidentiary and/or public hearings. The Division also processes all docket filings and Orders issued by the Department including management of record retention. Staff issued Nine (9) decisions in FY 2015. Additionally, staff responded to hundreds of requests for information regarding docketed matters.

## **Competition Division**

### **Overview**

The Competition Division provides technical and analytical support to the Commissioner of the Department, as well as to the Department's Legal, Administration, and Consumer Divisions and other Administration officials, in the regulation of the telecommunications

and cable industries in Massachusetts.<sup>11</sup> Through its various responsibilities, the Competition Division supports the Department's missions.

### **Division Responsibilities**

#### **Development of Policies that Promote Sustainable Competition and Conform the Level and Type of Regulation to Market Conditions**

In conjunction with the Legal Division, Competition Division staff conducts formal and informal policy investigations to ensure that consumers of telecommunications and cable services continue to reap the benefits of competition and that such competition accrues to all residents of Massachusetts. In addition, Competition Division staff safeguards consumers by implementing new regulatory policies to ensure that the rates, terms, and conditions of telecommunications and cable services are just and reasonable, where market forces alone cannot do so. Competition staff drafted discovery questions to and reviewed discovery responses from companies involved in Department investigations throughout FY 2015. The Competition Division assisted the Legal Division staff in preparing and finalizing Orders relating to ongoing investigations. In FY 2015, Competition Division staff conducted technical analyses in Department compliance proceedings, both formal and informal.

#### **Analysis and Implementation of Major Federal Regulatory Changes**

Decisions of the FCC, Congress, and state and federal courts affect the structure of the telecommunications and cable industries and the Department's authority to regulate those services. Competition Division and Legal Division staff monitor large volumes of relevant case law and actions from other agencies and jurisdictions, both federal and state, to keep abreast of major issues that may influence the provision of telecommunications and cable services within Massachusetts. Competition Division staff also monitor broadband-related activities, since it is increasingly becoming the pipeline by which telecommunications and cable services are being provided to Massachusetts consumers and is a major focus of many FCC reform proceedings.

In FY 2015, the Competition Division devoted substantial time supporting the Department's information and advocacy efforts before the FCC regarding the Universal Service Fund, Telecommunications Relay Services, broadband deployment, the IP transition, public safety, intercarrier compensation, Lifeline, cable regulation, inmate

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<sup>11</sup> In 1971, the Legislature established the Massachusetts Community Antenna Television Commission ("Cable Commission"). In 1997, the Cable Commission was merged into the Department of Telecommunications and Energy as the Cable Television Division. Pursuant to Chapter 19 of the Acts of 2007, the Department's predecessor agency, the Department of Telecommunications and Energy, ceased to exist. Jurisdiction over telecommunications and cable matters was placed in the newly-established Department. All telecommunications and cable authority and cases were initially transferred to the Department's Telecommunications and Cable Television Divisions, respectively. Shortly thereafter, the Department merged the separate Cable and Telecommunications Divisions to form the Competition Division, in order to increase efficiencies by taking advantage of synergies created by convergence in these industries.

calling services, E-rate, and cramming. In FY 2015, the Competition Division, with assistance from Legal Division and Consumer Division staff as needed, submitted 4 sets of comments and filings in several proceedings of particular importance to Massachusetts. A list of these filings and their summaries are provided as Appendix D to this Report.

### **Review of New Registrations and of Original and Amended Rate Schedule Filings**

Companies wishing to do business and provide telecommunications services in Massachusetts must file a Statement of Business Operations and have an approved retail rate schedule on file with the Department. The statement includes a general description of the services to be offered by the carrier; contact information for customers who need to reach the carrier with questions or complaints; and a statement that the company has made all appropriate federal and state income tax filings and paid all income taxes. During FY 2015, the Competition Division handled filings from 6 new carriers and 2 new payphone providers.

The Competition Division reviews competitive carriers' rate schedules to make sure that they do not contain any terms or provisions that are in violation of Department policy (e.g., a carrier cannot offer service on the condition that a customer agrees not to contest any charges). Some rate schedules are relatively short, but others are lengthy and complex. Competitive carriers are free to determine prices and service offerings based on what the market will bear ("market-based pricing"). In FY 2015, the Competition Division reviewed and approved 214 rate schedules and 5 interconnection agreements between carriers.

### **Market Monitoring and Reporting Function**

The evolution of the telecommunications and cable industries in Massachusetts has resulted in many new telecommunications service providers, new technologies, such as fixed Voice over Internet Protocol ("VoIP") telephone service, and a plethora of new service offerings. In addition, the competitive landscape is constantly changing, with new types of competitors and individual companies taking on a greater or lesser role in the marketplace each year. Because of the changing nature of the telecommunications and cable industries, the Competition Division analyzes new technologies and market developments in order to determine their impact on consumers and the competitive marketplace.

### **Consumer Education and Public Information**

The Competition Division devotes substantial staff time explaining the Department's regulations and policies to potential and existing providers of telecommunications and cable services, local and state officials, state and federal legislators, other Massachusetts agencies, the FCC and other state public utility commissions, and various other constituencies. Staff also devotes significant time to consumer inquiries from the Consumer Division. From time to time, the Department requires telecommunications carriers to develop customer education materials explaining major

changes in the provision of services. The Competition Division reviews these education materials for technical accuracy. As needed, staff develops educational materials in response to industry changes, Consumer Division requests, or Department Orders. In FY 2015, Competition Division staff assisted in the Department's ongoing investigation into consumer protection rules for Lifeline (low-income) services.

## **Legal Division**

### **Overview**

The Legal Division staff serves as the chief legal and policy advisor to the Commissioner and provides legal support to all Divisions of the Department. Legal Division staff members serve as hearing officers presiding over most of the Department's adjudicatory hearings.

### **Division Responsibilities**

#### **Formal Adjudication**

Pursuant to G. L. c. 25C, § 4, which permits the Commissioner to designate employees of the Department to preside over Department hearings, Legal Division staff attorneys serve as hearing officers at Department adjudicatory proceedings conducted under the Massachusetts Administrative Procedures Act (G. L. c. 30A) and the Department's procedural regulations (220 C.M.R. § 1.00 et seq.). During FY 2015, the Legal Division participated in the issuance of six Final Orders. A list of the Orders issued is attached as Appendix A. Adjudications are the formal determination of parties' rights through an administrative hearing process. All parties—the party(ies) filing the action and any respondents or intervenors—are entitled to due process safeguards, meaning that the parties are entitled to adequate notice and the opportunity to be heard. Parties to the action have the right to present evidence, cross-examine witnesses, and receive a written decision from the Department.

Adjudicatory proceedings vary in complexity, including the following types of proceedings:

- Service quality issues;
- Ratemaking, including cable rate and telecommunications rate schedule orders;
- “Slamming” (unauthorized switch of a consumer's telecommunications service);
- Interconnection disputes between telecommunications carriers;

- Certification of telecommunications carriers to do business within the Commonwealth;
- Certification of telecommunications carriers as “eligible telecommunications carriers” entitled to receive Universal Service Funds from the federal government; and
- Formal Consumer Adjudications.

In conducting a formal adjudicatory proceeding, the Department generally holds two types of hearings: (1) a public hearing and (2) an evidentiary hearing. Public hearings are publicized through legal notice in newspapers in the provider's service territory. In certain types of cases, public hearings are conducted in a provider's service territory. Public hearings are transcribed by a stenographer. If conducted in a provider's service territory, public hearings are typically conducted during the evening in an easily accessible public building such as the Town Hall, and are overseen by a Presiding Officer. Otherwise, public hearings are typically conducted at the Department's Boston office, or another convenient downtown Boston location. The public hearings afford local consumers the opportunity to learn more about a rate request, offer their input about the pending case, and comment on the practices of the provider. Public hearings also allow staff of the Department to hear concerns of customers and local elected officials. Residential and business customers, as well as municipalities are a valuable source of information to the Department in developing a case record.

Evidentiary hearings are conducted in a courtroom setting in the Department's Boston office. These proceedings are also transcribed by a stenographer. The Commissioner or a hearing officer presides over evidentiary hearings, with the active participation of the Department's technical and legal staff. Staff members question witnesses to ensure that the record is accurate and complete, while the Commissioner or hearing officer controls the conduct of the proceeding.

While the adjudicatory process does not require adherence to all formal rules of evidence, the evidentiary hearing process follows rules that mirror many of the civil procedure rules used by Massachusetts courts, and parties are typically represented by counsel.

Evidentiary hearings afford all parties, including intervenors, the opportunity to question witnesses. In many cases, the Attorney General (“AG”) of the Commonwealth is an intervenor. Other intervenors may include public interest organizations, and local consumer, business, or neighborhood groups. Sometimes intervenors put on a direct case with witnesses of their own. Based on the evidence in the record, the Department issues a Final Order at the conclusion of each adjudicatory proceeding. Pursuant to M.G. L. c. 25, § 5 and G. L. c. 166A, § 2, the Department's Final Orders are reviewed directly by the Massachusetts Supreme Judicial Court. In certain circumstances, Department Orders may also be appealed to the Federal District Court or the FCC.

## **Other Types of Adjudication**

### **Advisory Rulings**

The Department is sometimes called upon to issue advisory rulings with respect to the applicability of any statute or regulation enforced or administered by the Department. The Department has discretion to decline a request for an advisory ruling. See G. L. c. 30A, § 8; 220 C.M.R. § 2.08.44.

### **Rulemaking**

The Department conducts rulemaking pursuant to M.G. L. c. 30A, §§ 4-10 and 220 C.M.R. § 2.00, to adopt, amend, or repeal regulations pertaining to the activities of all industries the Department is charged by statute with regulating. A rulemaking proceeding may involve simple procedural regulations or may address complex regulatory issues. The Department is required to provide public notice of a proposed rulemaking and to allow an opportunity for public comment. After consideration of the public comment, the Department may issue final regulations. Any final regulation must be published in the Code of Massachusetts Regulations.

### **Compliance - General**

The Legal Division, in cooperation with other Divisions of the Department, ensures compliance with a wide variety of laws, regulations, and policies. More specifically, during FY 2015 the Department continued to ensure that telecommunications and cable providers were complying with state statutes, rules, Department orders, and all other regulatory requirements. For example, the Department continued its 13-AR annual returns investigation and compliance actions against carriers operating without Department approval and moved forward on carrier delinquencies relating to calendar year 2012 and 2013 annual returns. The Department's methods for ensuring compliance can include mass mailings notifying the industry of Department rules and regulations; issuing Notices of Probable Violation ("NOPVs"); opening investigations; issuing Orders to cease and desist; assessing forfeitures for non-compliance, and referring violators to the AG's Office for enforcement.

## **Consumer Division**

### **Overview**

The Consumer Division's primary responsibilities include enforcing and monitoring compliance with Massachusetts laws and Department regulations and policies to protect consumers of telecommunications and cable services. Hundreds of companies fall within the scope of the Consumer Division's regulatory authority.

While the Consumer Division primarily handles issues involving telecommunications and cable services, increasingly, consumers are contacting the Department seeking

assistance with issues relating to unregulated communications services. The Consumer Division routinely receives complaints from customers about internet/broadband service, voice over internet protocol technology (“VoIP”), and wireless cellular service providers.<sup>12</sup> See Appendix B for the breakdown of Consumer Division statistics for companies related to telecommunications, cable, and other industries.

### **Division Responsibilities**

#### **Enforce Residential Consumer Protections Rules:**

- Inform consumers of their rights;
- Ensure Company's compliance with billing and termination rules; and
- Conduct informal case investigations to resolve disputes.

#### **In addition:**

- Intervene in quality of service issues to maintain connectivity to networks, especially to 911 services; and
- Educate public about telecom and cable issues that impact consumers.

#### **Respond to Consumer Inquiries**

The Consumer Division conducts informal complaint investigations, responds to inquiries, and participates in the critical role of informing and educating consumers about various technological changes affecting their telecommunications and cable services. The Consumer Division’s most important duty is to respond to the roughly 60 telephone contacts it receives daily. Consumers may contact the Division by telephone, mail, email, and fax or by visiting the office, although the vast majority of consumer contacts are made by telephone. Contacts to the Consumer Division are further categorized as either inquiries or referrals, for which we provide information, or complaints which we investigate as cases that require direct involvement with a consumer’s service provider.

The Consumer Division operates a call management telephone system allowing consumers to receive personal and prompt attention by staff to answer inquiries and complaints, while also permitting for the option of automated voice response assistance to those consumers who initially wish to speak directly with their service provider but may have contacted the Division in error. Callers are automatically transferred to their service provider by speaking the name of a provider without having to place an

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<sup>12</sup> Also, due to its former role handling energy-related issues on behalf of the Department of Public Utilities (“DPU”), the Consumer Division handles a residual number of calls from consumers seeking to contact the DPU by referring or transferring them directly to their energy provider using Nuance, our automated telephone system, as a courtesy and to minimize inconvenience for the consumer.

additional call. The Division's call management system assists with routing calls to Consumer Division Specialists more readily to those callers requiring Consumer Division expertise. It also provides a menu option for Spanish speaking callers that wish to speak to a representative in their native language.

The Consumer Division receives a number of contacts that the Division classifies as "unregulated matters." These contacts typically consist of miscellaneous issues that are either unassociated with a particular company or involve non-regulated issues or entities outside of the Department's jurisdiction. Examples of such "unregulated matters" include contacts relating to wireless, satellite, internet/broadband, VoIP, telemarketing/Do Not Call Registry, and collection agency practices. These unregulated matters may be referred to an external agency such as the AG, the Federal Trade Commission ("FTC"), or the Federal Communications Commission ("FCC") for appropriate handling.

### **Investigate and Resolve Consumer Complaints**

The two main complaint types received in the Consumer Division concern billing disputes and quality of service problems. Lifeline issues related to getting eligible applicants recertified for the program this year was another main complaint type for the Division. In cases where the company is found to be at fault, as part of its informal investigation, the Consumer Division requires the company to provide an explanation addressing the problem, make the corrective action, make any warranted refunds or credits to consumer bills, or resolve any barriers to enrollment in the Lifeline program.

Every complaint opened by the Consumer Division must be resolved before it can be closed. If the residential telephone consumer or the company service provider is not satisfied with the investigator's resolution of a complaint, a request for additional mediation through an informal hearing is scheduled within the Consumer Division. Parties dissatisfied with the informal written decision issued on the complaint may request a formal adjudicatory hearing conducted by a hearing officer in the Department's Legal Division.

The unauthorized switching of a consumer's telephone service provider is known as "slamming" and is a violation of state law M.G. L. c. 93 §§108 to 113. Companies that engage in slamming may be subject to a fine. The Consumer Division enforces both federal and state laws prohibiting "slamming." If the Department determines that an unauthorized switch has occurred, consumers will receive a refund of any unauthorized charges that they paid. Under Massachusetts law, consumers must bring telephone service slamming complaints to the Division within 90 days.

### **Advise the Department**

The Consumer Division alerts the Department to important consumer issues including significant complaint trends, bundled billing issues, and technological changes impacting services that consumers subscribe to. A continuing complaint trend regarding deceptive marketing and advertising practices of promotional offers have caused the Department to examine more closely the full disclosure and notice requirements. The

Department has worked with the AGO on issues regarding disclosures and other issues.

### **Review Bills and Notices**

The Consumer Division reviews certain telecommunication and cable company billing material and customer notices to ensure that they provide consumers with clear and accurate information.

### **Provide Consumer Education**

The Department's website is regularly updated to provide consumers with information about significant complaint trends, (examples include transition of the telephone network from copper to fiber, tips for staying connected during emergencies, and Lifeline program) to educate the public about consumer protections, and to increase awareness and stay informed on many consumer issues. Also, the Consumer Division fields many calls from consumers requesting information or applications about the Massachusetts Lifeline program to obtain a discount on their landline or wireless telephone service in order to stay connected to the communications infrastructure. Staff assists with dispute resolution to facilitate problems encountered by eligible applicants.

The Consumer Division actively and regularly participates in outreach events to promote awareness of how the DTC can assist consumers, as well as to increase consumer participation in Lifeline and other consumer protection measures. The Consumer Division along with Administration Division regularly provides targeted communities with mass mailings and email blasts of its brochures.

### **Statistics**

The Consumer Division provides statistical information to the Department, industry-related companies, government representatives, and the media. The statistical complaint data compiled by the Consumer Division provides an important basis for determining whether fines should be levied against a company for failure to meet required service quality benchmarks. Statistical complaint data may also provide evidence of fraud or unfair trade practices, and if so, this information would be shared with the AG.

### **FY 2015 Telecommunications and Cable Accomplishments**

- Responded to inquiries;
- Investigated 2,888 telecommunication and cable complaints along with 226 unregulated industries complaints;
- Authorized \$178,308.36 consumer refunds;

- Monitored complaint trends and advised the Department on important consumer issues;
- Approved various bill notices and billing inserts;
- Provided consumer education to the general public, and training to staff at organizations geared to assisting low-income clients obtain services on the FCC's reforms of Lifeline and eligibility requirements in MA to qualify for Lifeline discounted telephone program. Prepared informational packages containing Lifeline brochures for mass distribution;
- Distributed the Cable Service Buying Guide to assist consumers to understand making purchases for cable service and Stay Connected During Emergencies Brochure for communicating during an emergency or disaster to assist consumers with wireline and wireless services;
- Compiled statistics for reporting and informational purposes; and
- Conducted 32 consumer outreach initiatives throughout the Commonwealth, including a national effort to increase awareness of Lifeline. Hosted two Lifeline Train-the-Trainer sessions in partnership with senior centers to provide their personnel, other community outreach workers, and advocates with Lifeline training to make them aware of program details and assist them in facilitating resolutions on behalf of their clients.
- The Consumer Division assisted consumers with energy-related matters by referring them to the DPU or directly to the appropriate utility company.
- Responded to 239 energy-related contacts for the year.
- Additionally, the Consumer Division assisted consumers with issues that are outside of the Department's jurisdiction (e.g., wireless, satellite television, internet, VoIP, etc.) by contacting their company to inform and/or resolve the issue.
- Responded to 117 contacts for the year;
- Investigated 226 complaints for the year; and
- Authorized \$31,266.55 consumer refunds for the year.

Note: The Consumer Division's contact numbers for the year include calls received that were transferred directly to companies through the Department's automated telephone software. Through this software, callers are directly transferred to a utility company or a telecommunications or cable provider of their choice simply by speaking the name of the company they wish to contact. During this period, 12,484 consumers were redirected to the appropriate company for assistance.

## Appendix A FY 2015 Department Orders Issued

Docket No.	Caption	Description	Date Order Issued	Date Closed
15-2	Petition of the State 911 Department for Adjustment of the Enhanced 911 Surcharge	Final Order	6/18/2015	7/8/2015
15-2	Petition of the State 911 Department for Adjustment of the Enhanced 911 Surcharge	Interim Order	5/28/2015	6/18/2015
13-AR	Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G. L. c. 159, §§ 12, 32, and 39, and G. L. c. 166, §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file annual returns for calendar years 2010 and/or 2011	Final Order	4/1/2015	4/21/2015
14-5	T-Mobile Northeast, LLC's Petition for Relinquishment of Its Eligible Telecommunications Carrier Designation Pursuant to 47 U.S.C. §214(E)(4)	Final Order	12/18/2014	1/7/2015
13-10	Petition of Time Warner Cable for Review of FCC Form 1240 and Form 1205 for the Great Barrington, North Adams, and Pittsfield Systems	Final Order	11/26/2014	
14-1	Cox Communications Form 1205 and Form 1240 Annual Filing for 2014 for the Town of Holland, MA	Final Order	11/26/2014	12/15/2014
13-8	Petition of Charter Communications to Establish and Adjust the Basic Service Tier Programming, Equipment, and Installation Rates for the Communities Served by Charter That Are Currently Subject to Rate Regulation	Final Order	10/27/2014	11/16/2014
14-2	Pole Attachment Rate Complaint of Comcast Massachusetts III, Inc. v. Peabody Municipal Light Plant and Peabody Municipal Lighting Commission	Phase I Order	9/3/2014	9/23/2014
13-4	Investigation by the Department on Its Own Motion Into the Implementation in Massachusetts of the Federal Communications Commission's Order Reforming the Lifeline Program	Order Implementing Requirements and Further Request for Comment	8/1/2014	8/21/2014

## Appendix B FY 2015 Consumer Division Telecommunications & Cable Statistics

INDUSTRY	COMPANY	CASES	REFERRAL	NUANCE	ADJUSTMENTS
<b>Cable</b>					
	Charter Cable	71	35	220	\$2,936.66
	Comcast Corp.	1,245	461	5,780	\$72,804.10
	Cox Communications	1	1	2	\$0.00
	Norwood (Cable & Broadband)	1	0	0	\$0.00
	Other Cable	1	2	2	\$0.00
	RCN Cable	57	117	1,094	\$2,449.01
	Russell Cable	0	0	5	\$0.00
	Shrewsbury Cable	1	0	47	\$442.64
	Time Warner Cable	23	9	76	\$0.00
	<b>Total</b>	<b>1,400</b>	<b>625</b>	<b>7,226</b>	<b>\$78,632.41</b>
<b>Not Applicable</b>					
	AT&T Wireless	12	3	0	\$275.18
	Cellular service	1	0	0	\$0.00
	Department of Public Utilities	0	239	0	\$0.00
	DirectTV	3	23	0	\$0.00
	DISH Network – Satellite TV	1	0	0	\$0.00
	Do Not Call list	2	30	0	\$0.00
	Metro PCS	1	0	0	\$0.00
	Other	9	24	0	\$0.00
	Sprint Wireless	14	2	0	\$815.50
	T-Mobile	12	2	0	\$681.80
	Verizon DSL	19	4	0	\$1,174.91
	Verizon FiOS	65	9	0	\$8,414.02
	Verizon Wireless	75	15	0	\$19,905.14
	Vonage – VoIP Services	1	1	0	\$0.00
	<b>Total</b>	<b>215</b>	<b>352</b>	<b>0</b>	<b>\$31,266.55</b>
<b>Telecommunications</b>					
	CAN	1	1	0	\$0.00
	Airnex Communications	1	0	0	\$100.80
	American Business Alliance, Inc.	0	1	0	\$0.00
	America's Tele-Network, Corp.	0	2	0	\$0.00
	Assurance Wireless by Sprint	209	136	824	\$20.00
	AT&T	31	19	121	\$12,597.41
	Broadview Networks	1	0	0	\$32.00
	BudgetPrePay – Lifeline	35	49	230	\$0.00
	Charter (Charter Fiberlink Telecom)	20	1	0	\$264.65
	Clear Rate Communications	2	0	0	\$114.31
	Comcast Phone, LLC	28	3	20	\$1,400.96

INDUSTRY	COMPANY	CASES	REFERRAL	NUANCE	ADJUSTMENTS
	Communications Network Billing	1	0	0	\$0.00
	DSCI Corporation	1	0	0	\$0.00
	Excel/Vartec	1	0	0	\$0.00
	Fairpoint Communications	1	0	0	\$0.00
	FCC	0	24	0	\$0.00
	GLOBAL Tel*Link Corporation	67	0	0	\$0.00
	Granby Telephone Company	0	4	10	\$0.00
	Granite Telecommunications, LLC	1	0	0	\$0.00
	Horizon Telecom	0	1	0	\$0.00
	IDT Corporation	4	1	0	\$72.00
	IMR Telecom	0	1	0	\$0.00
	In Reach – Lifeline by TMobile	2	2	73	\$0.00
	Lifeline Applications and Issues	51	21	0	\$0.00
	MCI-Agency Relations	2	0	23	\$0.00
	Metropolitan Telecommunications	2	0	0	\$0.00
	Multiline Long Distance	1	0	0	\$26.39
	New Horizon Communications Corp	1	0	0	\$0.00
	One Communications dba Earthlink	19	10	0	\$15,319.26
	One Touch Communications	1	1	0	\$100.00
	Cocots – Payphone	0	1	0	\$0.00
	Other Telephone Company	6	10	0	\$182.24
	Peerless Network	1	0	0	\$0.00
	Primus Telecommunications, Inc.	0	1	0	\$0.00
	Qwest Communications	0	0	0	\$623.40*
	RCN Telephone	3	4	0	\$20.00
	Richmond Telephone	0	1	3	\$0.00
	SafeLink – LIFELINE by TracFone	92	29	74	\$0.00
	Spectrotel, Inc.	1	0	0	\$0.00
	Sprint	8		13	\$238.89
	Stand UP Wireless – Lifeline by Global Connections Inc of America	1	5	19	\$0.00
	STI Telecom	0	1	0	\$0.00
	Taconic	0	0	5	\$0.00
	USBI	1	0	0	\$0.00
	Verizon	884	512	3,843	\$36,298.81
	XO Communications, Inc.	8	0	0	\$998.28
	<b>Total</b>	<b>1,488</b>	<b>841</b>	<b>5,258</b>	<b>\$68,409.40</b>
<b>Unknown</b>	Unknown/Not Identified	6	5	0	
	Unregulated Industry	5	0	0	
	<b>Total</b>	<b>11</b>	<b>5</b>	<b>0</b>	
<b>Grand Total for all industries</b>		<b>3,114</b>	<b>1,823</b>	<b>12,484</b>	<b>\$178,308.36</b>

\* Complaint was opened in FY14 but resolution was not completed until FY15

## Appendix C FY 2015 Consumer Outreach Events

Date	Event	Counties	Region
July 2014	Presentation	Bristol	Metro West
	Community Festival	Suffolk	Greater Boston
	Presentation	Worcester	Central
	Training	Norfolk	Metro West
	Community Festival	Essex	Northeast
August 2014	Community Festival	Middlesex	Northeast
	Veterans' Event	Suffolk	Greater Boston
	Community Festival	Middlesex	Greater Boston
September 6, 2014	Resource Fair	Norfolk	Greater Boston
	Presentation	Norfolk	Metro West
	Community Festival	Hampden	Pioneer Valley
	Training	Essex	Northeast
	Community Festival	Suffolk	Greater Boston
October 1, 2014	Resource Fair	Suffolk	Greater Boston
	Resource Fair	Bristol	Southern
	Veterans' Event	Hampden	Pioneer Valley
November 2104	Presentation	Middlesex	Greater Boston
December 2014	Presentation	Suffolk	Greater Boston
January 2015	Presentation	Suffolk	Greater Boston
March 2015	Community Festival	Norfolk	Greater Boston
	National Consumer Protection Event	Middlesex	Greater Boston
	Presentation	Plymouth	Metro West
April 2015	Resource Fair	Middlesex	Greater Boston
	Senior Conference	Middlesex	Metro West
	Info Session	Suffolk	Greater Boston
	Presentation	Middlesex	Greater Boston
May 2015	Info Session	Suffolk	Greater Boston
	Resource Fair	Hampshire	Pioneer Valley
	Presentation	Middlesex	Metro West
June 2015	Resource Fair	Franklin	Pioneer Valley
	Resource Fair	Middlesex	Metro West
	Veterans Event	Worcester	Central

## Appendix D

### FY 2015 Department FCC Filings

Note: All Department filings are available through the Department, as well as through the FCC's publicly-accessible Electronic Comment Filing System, which is available online at: <http://apps.fcc.gov/ecfs/>.

Date Filed	Filed As	FCC Docket	Filing Type	Filing Description
3/9/15	MDTC Commr Charles Peterson	PS Docket No. 14-174 GN Docket No. 13-5 RM-11358 WC Docket No. 05-25 RM-10593	Reply Comments	MDTC urged the FCC to maintain its commitment to working collaboratively with the states concerning rules and policies around technology transitions. Technology transitions include transition away from copper loops to all-Internet Protocol ("IP"). MDTC further urged all carriers to fully inform their customers of changes in service due to technology transitions.
3/26/15	Attorney Sean Carroll on behalf of the MDTC	MB Docket 13-92	Petition for Reconsideration	Notification of a negotiated agreement between MDTC and Time Warner that MDTC will not oppose Part B of the Motion for Reconsideration in exchange for Time Warner agreeing to an effective date of March 6, 2015 before effective competition goes into effect in Adams, MA.
4/9/15	MDTC Commr Charles Peterson	MB Docket No. 15-53 FCC 15-30	Initial Comments	MDTC opposes reversing the longstanding presumption that cable operators are not subject to effective competition.
4/21/15	MDTC Commr Charles Peterson	MB Docket No. 15-53 FCC 15-30	Reply Comments	MDTC argues that the FCC does not have a sufficient basis upon which to reverse the longstanding presumption that cable operators are not subject to effective competition.