

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Comcast of Massachusetts III, Inc.)	
)	
<i>Complainant,</i>)	
v.)	D.T.C 14-2
)	
Peabody Municipal Light Plant and)	
Peabody Municipal Lighting)	
Commission)	
)	
<i>Respondents.</i>)	

**JOINT MOTION TO STAY ENFORCEMENT OF HEARING OFFICER'S ORDER ON
HEARING PROCEDURE AND MOTION TO INTERVENE AND TO TOLL THE PERIOD FOR
FILING AN APPEAL**

Pursuant to 220 C.M.R. § 1.04(5)(a), 220 C.M.R. § 1.06(d)(3), and 801 C.M.R. § 1.01(7)(l), Ashburnham Municipal Light Plant (“AMLP”), Peabody Municipal Light Plant, and the Peabody Municipal Light Plant Commission (together “PMLP”) hereby jointly move that the Hearing Officer stay the June 23, 2014 Order on Hearing Procedure and Motion to Intervene (“Order”) and toll the period for filing an appeal of that Order until three (3) days after the Joint Motion for Reconsideration filed simultaneously by AMLP and PMLP with their Motion to Stay is ruled upon.

In support of their Motion to Stay, AMLP and PMLP state as follows:

1. On June 27, 2014, AMLP and PMLP filed a Joint Motion for Reconsideration of a Portion of the Hearing Officer’s Order (“Motion for Reconsideration”).
2. AMLP and PMLP filed this Motion to Stay simultaneously with their Motion for Reconsideration as a matter of appropriate procedure.
3. The Order provides that any aggrieved party may appeal the Order to the Commissioner within five (5) days pursuant to 220 C.M.R. § 1.06(d)(3).

4. The Motion for Reconsideration renders the Order not a final order and un-appealable until the Motion for Reconsideration is ruled upon by the Hearing Officer.
5. Pursuant to 801 C.M.R. 1.01(7)(l), “[a] motion for reconsideration shall be deemed a motion for rehearing in accordance with G.L. c. 30A, § 14(1) for purposes of tolling the time for appeal.”
6. The Department has stated, “it is common Department practice to toll the period for filing an appeal when a motion for reconsideration is filed.” *AT&T CSC, Inc. v. Bd. of Selectmen of the Town of Westford*, Docket No. CTV 02-5, Ruling on Appellee’s Motion to File Opposition Late, at 3 (Oct. 25, 2002).
7. In order to preserve their rights and achieve a full and fair hearing in this matter, AMLP and PMLP request that the Hearing Officer stay enforcement of the Order and toll the period for filing an appeal of the Order until three (3) days after the Hearing Officer rules on the Joint Motion for Reconsideration. This extension would afford a reasonable period of time to prepare and file an appeal, without prejudice to any other party to this matter.
8. A stay of enforcement of the Order is proper and the interests of justice are well-served by preserving the status quo.
9. AMLP and PMLP recognize the deadline established by 220 C.M.R. § 45.08 (within 180 days after the complaint is filed) and the Department’s commitment to conduct this proceeding in an efficient manner.
10. In recognition of this, but balancing all interests in this matter, AMLP and PMLP also hereby move that the Hearing Officer extend the overall schedule set out in the Order by the amount of time, plus three (3) days, that the Hearing Officer takes to address and rule on the Motion for Reconsideration.
11. For all of the above reasons, AMLP and PMLP respectfully request that the Hearing Officer grant the Joint Motion to Stay.

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On behalf of the Peabody Municipal Light
Plant and the Peabody Municipal Lighting
Commission

Respectfully submitted,

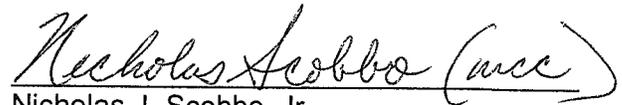
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On behalf of the Ashburnham Municipal
Light Plant

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CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2014, I served the foregoing Joint Motion to Stay Enforcement of Hearing Officer's Order on Hearing Procedure and Motion to Intervene and to Toll the Period for Filing an Appeal by electronic delivery, hand-delivery and first-class mail to the attached Service List in accordance with the requirements of 220 CMR § 1.04(5)(a) and 220 CMR § 1.05.


Nicholas J. Scobbo, Jr.