



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

D.T.C. 14-2

September 2, 2014

Comcast of Massachusetts III, Inc. v. Peabody Municipal Light Plant and Peabody Municipal Lighting Commission.

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**HEARING OFFICER ORDER  
ON MOTION FOR RECONSIDERATION**

On March 19, 2014, pursuant to G.L. c. 166, § 25A and 220 C.M.R. § 45.04, Comcast of Massachusetts III, Inc., (“Comcast”), filed with the Department of Telecommunications and Cable (“Department”), a pole attachment rate complaint (“Complaint”) against the Peabody Municipal Light Plant and the Peabody Municipal Lighting Commission (together, “PMLP”). *See Comcast of Mass. III, Inc. v. Peabody Mun. Light Plant & Peabody Mun. Lighting Comm’n*, D.T.C. 14-2 Docket Sheet (“Docket”) at 1. On June 23, 2014, the Department issued a Hearing Officer Order on Hearing Procedure and Motion to Intervene, establishing a two-phase hearing, and granting Ashburnham Municipal Light Plant (“AMLP”) limited intervener status to participate in Phase I. *See* Hearing Officer Order on Hearing Procedure and Motion to Intervene, D.T.C. 14-2 (June 23, 2014) (“Procedural Order”).

On June 27, 2014, PMLP and AMLP jointly filed a Motion for Reconsideration of a Portion of the Procedural Order (“Motion for Reconsideration”), and a Motion to Stay Enforcement of the Hearing Officer’s Order on Hearing Procedure and Motion to Intervene and to Toll the Period for Filing an Appeal (“Motion to Stay Enforcement”). Docket at 1.

On July 1, 2014, the Department denied the Motion to Stay Enforcement, and tolled the period to file an appeal until five business days after the Department rules on the Motion for

Reconsideration. *See* Hearing Officer Email of July 1, 2014, Docket at 1. The Department now DENIES the Motion for Reconsideration.

Pursuant to 220 C.M.R. § 45.01, “[t]he general procedural rules set forth at 220 C.M.R. § 1.00 are also applicable to proceedings initiated under this part...” Therefore, the procedural rules set forth in 220 C.M.R. § 1.00 *et seq.* guide the Department’s investigation of this Complaint. The relevant section governing motions for reconsideration states “[n]o later than 20 days after the service of a *final Department Order*, a party may file a motion for reconsideration.” 220 C.M.R. § 1.11(10) (emphasis added). Hence, “[t]he regulations do not authorize the filing of a motion for reconsideration in response to either an Interlocutory Order by the Commission or a Hearing Officer decision.” *See Brief and Response of the Department of Public Utilities*, DTC 14-2 at 8 (citing UNE Rates Investigation, D.T.E. 01-20, Interlocutory Order at 3 (October 8, 2001); Verizon Alternative Regulation, D.T.E. 01-31-Phase I, Hearing Officer Ruling at 3-4 (August 20, 2001); Price Cap Plan, D.T.E. 94-50, Interlocutory Order at 3 n.3 (July 14, 1994)).

AMLP and PMLP “request that the Hearing Officer reconsider and modify that portion of the June 23, 2014 Order on Hearing Procedure and Motion to Intervene, which limits Phase I of this proceeding to a legal inquiry only, without any consideration of factual evidence.” Motion for Reconsideration at 1.

Because the Motion for Reconsideration requests reconsideration of a decision that is not a final Department Order, the Department finds the Motion procedurally invalid, and therefore DENIES the AMLP and PMLP Motion for Reconsideration.

So Ordered,

*/s/ Lindsay E. DeRoche* \_\_\_\_\_  
Lindsay E. DeRoche  
Hearing Officer

NOTICE OF RIGHT TO APPEAL

Under the provisions of 220 C.M.R. § 1.06(d)(3), any aggrieved party may appeal this Ruling to the Commissioner by filing a written appeal with supporting documentation within five (5) days of this Ruling. A copy of this Ruling must accompany any appeal. A written response to any appeal must be filed within two (2) days of the appeal.