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March 18, 2025

VIA ELECTRONIC MAIL ONLY (dpu.efiling@mass.gov)

Secretary Mark D. Marini
Department of Public Utilities
One South Station, 3rd Floor
Boston, MA 02110

Re: D.P.U. 25-10

Joint Notice of Inquiry by the Department of Public Utilities and the Department of Telecommunications and Cable on their own Motion to explore utility pole attachment, conduit access, double pole, and related considerations applicable to utility work conducted on public rights-of-way in the Commonwealth

Dear Secretary Marini:

Pursuant to the Notice of Inquiry and Request for Comments dated January 17, 2025, attached for filing please find the Cape Light Compact JPE's (the "Compact") Comments in the above-referenced proceeding.

Thank you for your attention to this matter. If you require further information or have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Rebecca F. Zachas'.

Rebecca F. Zachas

RFZ/drb
Enclosure

cc: Kerri Phillips, Esq., DPU Hearing Officer (w/enc.) (via email only)
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THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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Joint Notice of Inquiry by the Department of Public)
Utilities and the Department of Telecommunications)
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Commonwealth.)
)

COMMENTS OF THE CAPE LIGHT COMPACT JPE

Pursuant to the Joint Order Opening Inquiry issued on January 17, 2025 (the “Order”) by the Department of Public Utilities (“DPU”) and the Department of Telecommunications and Cable (“DTC”) (together, the “Departments”), the towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth (together, the “Member Towns”), as well as Dukes county, organized pursuant to G.L. c. 164, §134 and G.L. c. 40, §40A ½ and acting collectively together as the Cape Light Compact JPE (the “Compact”) hereby respectfully submit the following comments.¹

In these comments, the Compact provides responses from some of its Member Towns to the Departments’ questions in its Order (at 27) for local entities that manage public rights-of-way (“ROWS”). The Compact also comments on its long-standing concerns related to double poles and asks for the Departments to consider more comprehensive reporting on double poles, review of the double pole data in the National Joint Utilities Notification System (“NJUNS”), and stakeholder involvement on double poles.

¹ The Compact’s Joint Powers Agreement is available online at <https://www.capelightcompact.org/wp-content/uploads/2025/01/Third-Amended-and-Restated-JPA-Final-4-10-24.pdf>.

I. BACKGROUND OF THE COMPACT

The Compact is a governmental aggregator under G.L. c. 164, §134 that provides energy services to consumers on Cape Cod and Martha's Vineyard. The Compact operates a municipal aggregation competitive supply program pursuant to a municipal aggregation plan, most recently approved in D.P.U. 14-69-B on February 2, 2023, which provides electric power supply on an opt-out basis to customers across all customer classes located on Cape Cod and Martha's Vineyard. The purposes of the Compact include, among other things, to negotiate the best terms and conditions for electricity supply and transparent pricing for consumers, to utilize and encourage renewable energy development to the extent practicable through contract provisions and demonstration projects, and to advance consumer protection and interests for the residents of Cape Cod and Martha's Vineyard. Third Amended and Restated Joint Powers Agreement of the Cape Light Compact JPE at Article II. The Compact maintains a business office at 261 Whites Path, Unit 4, South Yarmouth, Massachusetts 02664.

The Compact also provides comprehensive energy efficiency services to Cape Cod and Martha's Vineyard as a Program Administrator of the Massachusetts Joint Statewide Three-Year Electric and Gas Energy Efficiency Plans, most recently approved on February 28, 2025, in D.P.U. 24-140 through D.P.U. 24-149. The Compact's energy efficiency programs target the residential, income eligible, and commercial & industrial customer sectors.

II. PROCEDURAL BACKGROUND

The Departments jointly issued the Order to explore utility pole attachment, conduit access, double poles, and other considerations related to utility work in public ROWs in the Commonwealth. The Departments in the Order recognize that over the next several years, "substantial" electric distribution infrastructure investments and broadband infrastructure

expansion and upgrades are planned across the state. Order at 1. These investments will “require timely access and upgrades to a multitude of utility poles and underground ducts and conduit owned primarily by NSTAR Electric, National Grid, Unitil, Verizon, and various municipal light plants.” *Id.* The Order requested comment from a range of stakeholders on various questions related to these issues.

III. COMMENTS

A. Responses to Questions for Local Entities that Manage Public ROWs.

The Departments posed specific questions to local officials to understand in greater detail the timelines and processes required at the local level for utilities and attachers to conduct pole and conduit work on public ROWs. Order at 27. The Compact surveyed its Member Towns on the questions below, with six Member Towns providing responses.² The Compact in turn compiled the collective feedback received from those six Member Towns in the comments below.

1. For routine utility pole and conduit work

- a. **How do state and local officials assess and prioritize applications to conduct utility projects on public ROWs in relation to other projects on public ROWs? Are particular types of projects fast-tracked or given higher priority? If so, describe circumstances in which these scenarios would apply.**

Regarding how local officials assess and prioritize applications to conduct utility projects on public ROWs, the responding Member Towns were evenly divided between “all projects are given the same priority” and “some projects are given higher priority.” For those where higher priority may be given, particular types of projects may be fast-tracked or given higher priority due to:

² Member Towns may also file their own separate comments.

- Important municipal projects that need fast response or coordination with the utility companies (e.g., the construction of a shared use path that is happening in conjunction with the Eversource reliability upgrade project).
- If the project is critical to the health, public safety or security of residents or to providing continuity of essential services without disruption.
- Fully designed and funded Chapter 90 projects.

One Member Town emphasized that any issue involving public safety is always given a higher priority in review and planning.

b. How do state and local officials communicate with pole and conduit owners on needs for larger or higher-priority projects requiring multiple pole replacements, e.g., intersection and/or roadway expansions, addition of bike lanes, etc.?

Of the six responding Member Towns, two noted that they have existing utility contacts that they use who generally meet their needs in regard to communication on larger or higher-priority projects. On the other hand, four Member Towns responded that they are not always able to reach their utility contact in a timely manner. Comments on specific instances when the Member Towns' local officials were not always able to reach utility contacts included:

- The town had difficulty even finding a point of contact much less being able to communicate effectively with someone.
- The town may have a contact for one particular project, but frequent personnel changes constantly alter the low-level managers so by the next project, the public official no longer has that contact. At that point they have great difficulty and have to place many phone calls to find a new, solid contact.
- The town may be able to contact the utility, but may have difficulty coordinating timely work (e.g., “derelict poles left in place or jury-rigged together”).
- A town noted that there has been turnover in certain key positions at the utilities which has made it challenging to find people within the utility organization who can assist the town in the planning and execution of permitting and projects.

c. How do state and local officials review completed utility work for safety, including remediation of safety issues?

Two Member Towns responded that they review completed utility work through on-site inspection, while four towns responded that their review depends on the particular project. One Member Town noted that communication of on-site inspectors and key town personnel has at times been inefficient in setting up mutually acceptable dates and times to review completed work. The Member Towns had the following comments regarding remediation work that is commonly needed after utility work:

- Tree clearing, requests for removal of double poles and relocated poles, etc.
- Restoration of pavement if it is cut.
- Removal of a double pole (multiple occasions with little success).
- Repaving sunken aprons, loaming/seeding, picking up site of work debris, etc.

d. What considerations and/or limitations apply to pole and conduit owners if utility work requires trenching on public ROWs, as well as trenching from poles to local residences and businesses?

Regarding trenching on public ROWs, the responding Member Towns stated that limitations or considerations that would apply include:

- Approval from the director of the department of public works (“DPW”).
- A utility hearing is conducted by town administration while the DPW issues a road cut permit.
- Local permitting requirements and moratoriums on newly paved roads.
- Pole hearing and road opening permit.
- Work should be coordinated with local community to avoid conflict with drainage, wastewater lines, etc.
- One Member Town noted that it is a seasonal community, and that doing routine work during the tourist months adds to the complexity of police details, road closures and

traffic restrictions. Coordination of the various resident cables, wires and equipment on utility poles is a challenge and sometimes can lead to long durations for completion of the overall work.

2. How does non-routine utility pole and conduit work as a result of storm response and emergency events impact the safety of this infrastructure and affect schedules for routine work on public ROWs?

The Member Towns had the following comments related to non-routine utility pole and conduit work as a result of storm response and emergency events:

- The town works closely with utility companies during and after storm response and emergency events. Emergency work takes priority over routine work.
- Storm responses typically require the DPW to respond in coordination with the utility and public safety to open roads.
- Public safety and storm response falls into a different category where inconvenience related to traffic and pedestrians is expected and can be tolerated. The accelerated needs to address power outages and unsafe conditions surrounding damaged utility poles requires different priorities and above normal acceptance.

3. As the Departments seek to coordinate and facilitate accelerated utility pole and conduit work for broadband deployment projects and clean energy projects, please identify any pertinent scheduling limitations or safety considerations. Additionally, discuss how utility pole and conduit owners can best coordinate with state and local officials.

Regarding scheduling limitations and safety considerations, the Member Towns had the following responses:

- Approval of DPW director is needed with special attention paid to roads that have recently been repaved and upgraded. The town strongly prefers bi-directional boring to digging up roadways with significant useful life left in the pavement, etc. Nothing frustrates the town officials more than when recently paved roads (i.e., within the last five years) are dug up as the patching never works as well as the original paving. Repaving costs should be borne by the utility companies as part of their project costs.
- Double poles have been a long-standing problem in the town. The last inventory the DPW took of double poles in the town in 2021 indicated that the town has 143 double poles.

- Verizon usually just shows up randomly. It would be nice to be given notice as to when they plan on doing work in the town.
- Double poles continue to plague another town’s community. On a three-quarter mile stretch of Cranberry Highway (Route 6A), one local official counted 21 double poles. Some poles have had one or two utilities swapped to the new pole while other new poles had no utility at all. These are Class 1 heavy duty poles sitting without a utility for years. There is a significant lack in communication between utility companies with new pole installations and utility swap over; the program needs a major overhaul.
- Abandoned poles should be removed after making connections to new poles.

B. Comments on Double Poles.

The Compact greatly appreciates the Departments opening this inquiry and asks for a full examination of double poles in this proceeding. As discussed below, the Compact has long expressed concerns in regulatory proceedings about safety and reliability issues with and the aesthetics of double poles. G.L. c. 164, §34B requires in part, that a utility removing a pole to install a new one “shall complete the transfer of wires, all repairs, and the removal of the existing pole from the site within 90 days of the installation of the new pole.” Based on the reporting in D.T.E. 03-87, it appears that there are many double poles exceeding that 90-day timeframe. At a minimum, the Compact asks for the Departments in this proceeding to:

- (1) explore more comprehensive reporting to better understand the issue of double poles in the Commonwealth;
- (2) direct the utilities to conduct a review of double pole accounting in the NJUNS; and
- (3) ensure that stakeholders have a mechanism to provide feedback on double poles in the future.

1. Background: Compact participation regarding double poles

On November 28, 2003, in D.T.E. 03-87, the DPU issued a report to the Massachusetts Legislature (at 3) that noted that it was of “particular concern and importance to the Department” to design “a system that would facilitate the pole owners’ ability to comply with G.L. c. 164,

§34B, as well as to eliminate the backlog of double poles.” The most recent double pole report submitted by NSTAR Electric Company d/b/a Eversource Energy (“Eversource” or the “Company”) on December 13, 2024, showed that the Company has 3,995 double poles. While the number of double poles has decreased since 2004, the number of double poles remains significant. That latest report shows that there is room for improvement and for better understanding why there are still so many double poles over 20 years later. Examination of double poles is especially critical right now when the utilities are ramping up investments related to grid modernization and meeting climate goals that will result in significant construction on the streets of municipalities across the Commonwealth, potentially leading that double pole number to increase. Eversource acknowledged that potential double pole increase in its double pole report dated December 20, 2023, in D.T.E. 03-87.

Over the years, the Compact has heard continuous concerns from its Member Towns on the effects of double poles in their communities. For that reason, in the role as consumer advocate, the Compact has raised double poles as an ongoing issue in DPU proceedings. While double pole reports are filed in D.T.E. 03-87, that periodic utility reporting does not provide a comprehensive enough view of double poles and does not allow for stakeholder feedback.

In D.P.U. 12-120, D.P.U. 17-05 and D.P.U. 24-10, the Compact argued for reporting or metrics related to double poles. In D.P.U. 12-120, the Compact asked for a double pole metric related to the Service Quality Guidelines to increase the visibility of double poles to utility management and provide incentives to comply with the law. D.P.U. 12-120, Compact Initial Comments at 10-12 (March 15, 2013). The Compact noted some of the costs to the communities where double poles are located: (i) safety (due to blocked lines of sight at intersection, poles leaning into the street or over the sidewalk, additional line sag from the leaning old pole, and the

risk of the overloaded new pole falling over); (ii) reliability (given the stress on the new pole of bearing the off-center weight of the old pole and all the equipment still attached to that pole); and (iii) aesthetics (particularly important in historic, entertainment and tourist areas). *Id.* at 10-11.

In D.P.U. 17-05 (Eversource Rate Case), the Compact argued for performance incentives to measure how well Eversource works with municipalities and other public entities for purposes including responsiveness on double poles. D.P.U. 17-05, Compact Initial Brief at 57-58 (July 21, 2017). Some locations of double poles are bound to be more of a safety hazard than others (e.g., blocking sidewalks or bicycle lanes); communication with public officials who know their communities could help identify problematic double poles.

More recently in D.P.U. 24-10, the Compact emphasized the following reasons to believe that the double pole count may rise in the years to come:

- (1) In D.T.E. 03-87 (where the EDCs are required to report twice per year on double pole counts), Eversource acknowledged that the increase in infrastructure upgrades and investments may result in the double pole number rising in the years to come. D.T.E. 03-87, Eversource’s Semi-Annual Double Pole Report at 2-3 (December 20, 2023).
- (2) In response to Compact discovery questions, Eversource also stated that its current poles are “rapidly approaching the end of their useful life in all regions,” and that Eversource is replacing these older poles along with others for resiliency and hardening in light of the frequency and intensity of storms from climate change.³ D.P.U. 24-10, Exh. ES-ESMP-1 at 61; see D.P.U. 24-10 Compact Initial Brief at 18 (May 17, 2024). The Company noted its efforts to replace Class 3 and 4 poles with Class 1 and 2 poles. *Id.*

The Compact asked Eversource a long series of discovery requests pertinent to double poles as a result of Eversource’s comment in D.T.E. 03-87 that the increase in infrastructure work, including related to the ESMP, may contribute to a rise in double poles. D.P.U. 24-10,

³ Eversource also stated in D.P.U. 24-10 that undergrounding may not reduce the number of poles because there are instances where poles are left up as a dual redundant service for customers. See D.P.U. 24-10, Compact Initial Brief at 18.

Exh. CLC-ES-5-2; Exh. CLC-ES-5-4 (March 19, 2024). Despite this tie back of double poles to ESMP infrastructure work, Eversource did not answer most of the double pole questions, stating they were outside the scope of the proceeding and referring to D.T.E. 03-87 where there is no ongoing process for stakeholders.⁴ Given that, the Compact greatly appreciates that the Departments are asking questions related to double poles in this proceeding, and the Compact hopes to be able to get answers to some of those information requests here.

Ultimately, in D.P.U. 24-10, the Compact asked DPU to direct Eversource to report on or develop metrics on double poles. In the ESMP Order, DPU provided that the Compact may raise double poles in the metrics compliance phase. D.P.U. 24-10, Order at 461-62 (August 29, 2024). The ESMP metrics compliance phase is ongoing, but thus far, as evidenced by its comments during the January 23, 2025, technical session, Eversource has steadfastly refused to consider questions on double poles outside of D.T.E. 03-87 – where there has only been periodic utility reporting rather than opportunity for stakeholder feedback.

2. Compact requests for consideration on double poles

The Compact appreciates the ongoing need for utility work in ROWs and to swap out poles, and for some of the coordination efforts with multiple parties having equipment on the double poles. However, there are clearly delays in the removal of the double pole backlog, and the periodic reporting in D.T.E. 03-87 is not providing enough information on double poles. Ahead of the significant, upcoming utility work, discussions on double poles should be renewed

⁴ Such refusal included information requests on how the Company coordinates with NJUNS to monitor double poles; whether Eversource specifically targets resolution of its older double poles; whether the Company has data on the location of the double poles; whether complaints have been received on double poles; why double poles exist that were installed prior to 2015. Exh. CLC-ES-5-2; Exh. CLC-ES-5-4.

to understand why double poles remain passed the 90-day mark and how a better system can be developed to overcome the existing obstacles to clearing the backlog.

In addition, there is some confusion on the number of double poles reported in the NJUNS and the number actually seen driving down the street. Member Towns have expressed concern that the double pole data in the NJUNS may be outdated.⁵ This concern dates back to the Compact's comments in D.P.U. 12-120 where discrepancies were noted.⁶

Despite raising double poles in multiple proceedings over the years, nothing yet has transpired from those dockets to help with the double pole issues seen in Member Towns, and the Compact continues to shine a spotlight on this issue for its communities. Without a mechanism to comment on double pole reports, stakeholders do not have a voice at the Departments to raise concerns. For these reasons, the Compact asks for the Departments to include consideration of these requests in this proceeding: (1) more comprehensive reporting on double poles; (2) a review of double pole accounting in the NJUNS; and (3) a mechanism to ensure that stakeholders have a mechanism to provide feedback on double poles in the future.

⁵ For example, a Member Town commented that a three-quarter mile stretch of Cranberry Highway (Route 6A) has 21 double poles. However, in reviewing the most recent report filed in D.T.E. 03-87, this stretch of roadway appears to include only four double poles greater than the 90-day removal window.

⁶ Those comments included the following example: “[O]ne NSTAR territory town, Lexington, recently made an effort to identify the double poles on its streets and to check the PLM against reality. That town found that, in March 2012, of the 138 double poles along its streets, the PLM listed only 96 and was missing 42. Another 15 double poles listed in the PLM did not exist. Of the 138 double poles, 109 had been in place for more than six months (twice the statutory limit), 49 for more than two years, 27 for more than three years, and 8 for more than four years.” D.P.U. 12-120, Compact Initial Comments at 12, n.2 (March 15, 2013).


IV. CONCLUSION

The Compact appreciates the opportunity to provide these comments, and looks forward to participating in this important proceeding.

Respectfully submitted,

CAPE LIGHT COMPACT JPE

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