

**STATE OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

In the Matter of	)	
	)	
Joint Notice of Inquiry by the Department of	)	Docket Nos. D.P.U 25-10/D.T.C. 25-1
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 on	)	
Public Rights-of-Way in the Commonwealth	)	

**COMMENTS OF CROWN CASTLE FIBER LLC**

Rebecca Hussey  
Associate General Counsel

D. Van Fleet Bloys  
Managing Counsel

CROWN CASTLE FIBER LLC  
8020 Katy Freeway  
Houston, Texas 77024  
(724) 416-2000

March 18, 2025

## TABLE OF CONTENTS

I.	INTRODUCTION .....	1
II.	BACKGROUND .....	2
III.	THE DEPARTMENTS SHOULD LEVERAGE FCC RULES TO STREAMLINE AND SIMPLIFY THE POLE ATTACHMENT PROCESS.....	4
	A. Enforceable Timelines for Pole Attachment Make-Ready Are Essential.....	4
	B. The Departments Should Adopt Rules Allowing Broader Use of Contractors for Survey and Make-Ready .....	9
	C. The Departments Should Clarify a New Attacher is Not Responsible for the Cost of Repairing or Replacing Poles with Preexisting Conditions.....	9
IV.	AN UPDATED AND CONSISTENT REGULATORY FRAMEWORK ACROSS JURISDICTIONS WILL FACILITATE DEPLOYMENT .....	11
V.	CONCLUSION.....	12

**STATE OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

In the Matter of	)	
	)	
Joint Notice of Inquiry by the Department of	)	Docket Nos. D.P.U 25-10/D.T.C. 25-1
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 on	)	
Public Rights-of-Way in the Commonwealth	)	

**COMMENTS OF CROWN CASTLE FIBER LLC**

Crown Castle Fiber LLC (“Crown Castle”) submits these comments in response to the Massachusetts Department of Public Utilities (“DPU”) and Department of Telecommunications and Cable (“DTC”) (together, the “Departments”) Joint Order Opening Inquiry (“*Inquiry*”) issued January 17, 2025, in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION**

Crown Castle commends the Departments for initiating this Inquiry on how to improve access to utility poles in the Commonwealth. This is a moment of unprecedented opportunity to close the digital divide and bring broadband access to unserved communities, with extraordinary levels of state and federal funding committed to support broadband deployment programs across the nation, including in Massachusetts. In light of these critical objectives, it is essential that the

---

<sup>1</sup> *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 on Public Rights-of-Way in the Commonwealth*, Docket Nos. D.P.U 25-10/D.T.C. 25-1 (Jan. 17, 2025).

Commonwealth's pole attachment rules facilitate timely, efficient, and nondiscriminatory access to the infrastructure necessary for broadband deployment.

The *Inquiry* seeks comment on whether any pole attachment rules or requirements adopted by the Federal Communications Commission ("FCC") or another state should be adopted by the Commonwealth. Adopting the FCC's pole attachment rules and requirements would address some significant issues communications providers, like Crown Castle, face in their efforts to deploy in Massachusetts. Delays in gaining access and attaching facilities to poles can interrupt carefully planned constructions schedules, leading providers to miss important deadlines. Ultimately, this jeopardizes the success of government-funded broadband programs like the Broadband Equity, Access, and Deployment ("BEAD") program and the Rural Digital Opportunity Fund ("RDOF"), among others, in Massachusetts.

In addition, adopting the FCC's pole attachment rules would facilitate attaching parties' reliance on qualified contractors to perform surveys and make-ready, which is often stymied by uncooperative pole owners that insist upon use of only one or two contractors. It would also clarify the allocation of costs for make-ready and for repair or replacement of poles with pre-existing conditions. Finally, consistency in the regulatory approaches among neighboring states would facilitate efficient and effective deployment that crosses state lines. Many of Massachusetts' neighbors have already adopted the changes Crown Castle recommends, and the Departments' *Inquiry* represents an opportunity to reexamine the Commonwealth's rules and update them to align with national trends as well as its fellow New England states.

## **II. BACKGROUND**

Crown Castle is at the forefront of our nation's communications revolution, deploying fiber optic and wireless infrastructure that will serve as the backbone for next-generation communications. Crown Castle has more than twenty-five years of experience building and

operating network infrastructure. With more than 40,000 towers, 105,000 small wireless facilities constructed or under contract, and more than 90,000 route miles of fiber, Crown Castle is the country's largest independent owner and operator of shared infrastructure. Crown Castle partners with wireless carriers, technology companies, municipalities, and utilities to design and deliver unique end-to-end infrastructure solutions that bring new innovations, opportunities, and possibilities to people and businesses around the country.

As an owner, operator, and/or manager of a wide range of telecommunications assets, Crown Castle interacts daily with state and local jurisdictions and utilities regarding a variety of deployment issues, including permitting and regulatory issues related to towers, small wireless facilities, and fiber. In its efforts to site tens of thousands of small wireless facilities and fiber optic lines across the country, Crown Castle regularly engages with investor-owned utilities and other pole owners in Massachusetts and other states to gain access to existing utility poles, streetlights, and other infrastructure for the deployment of telecommunications facilities. Accordingly, Crown Castle is in a unique position to speak to the issues that frequently arise in the context of deploying communications facilities and to offer solutions that will usher positive deployment outcomes in Massachusetts.

Crown Castle welcomes this proceeding as an opportunity to reexamine and update Massachusetts' regulatory approach to pole attachments and other aspects of network deployment. Despite oversight by both the DPU and the DTC, Crown Castle finds that there are few, if any, strong enforcement mechanisms in place for pole attachments in Massachusetts, leading to inconsistent make-ready timelines and delays in deployment. This proceeding represents a timely opportunity to address holes in the regulatory fabric and help drive the success of critical broadband initiatives.

### **III. THE DEPARTMENTS SHOULD LEVERAGE FCC RULES TO STREAMLINE AND SIMPLIFY THE POLE ATTACHMENT PROCESS**

Deploying broadband is complex and time-intensive, and the fact is that delays are all too common. And while the Departments jointly oversee pole attachment regulation, they have not to date implemented sufficient enforcement mechanisms to drive efficient pole attachment make-ready and deployment. One of the most effective actions the Departments could take to improve efficiency and reduce barriers to deployment would be to adopt the FCC's pole attachment regulatory framework, in particular, the FCC's rules governing attachment timeframes and processes. This would have multiple benefits, including establishing a set of enforceable deadlines for the different stages of the attachment process, from application to construction, providing the certainty providers need to invest resources in Massachusetts, and protecting attachers' rights and interests as they work to meet their own deadlines and deploy reliable networks to the communities that need them.

#### **A. Enforceable Timelines for Pole Attachment Make-Ready Are Essential**

One of the most challenging aspects of attaching to utility poles in Massachusetts is also one of the most addressable—the absence of enforceable timelines for pole attachment make-ready. While the rules do establish a deadline of 45 days from receipt for the pole owner to accept or reject a pole attachment application,<sup>2</sup> the majority of the steps involved in pole make-ready, including pre-construction survey, engineering, and make-ready construction, have no enforceable timelines. This leads to excessive delays at almost every stage, and, under the current rules, attachers are without a remedy to speed the process.

---

<sup>2</sup> See 220 CMR § 45.03(2).

As the Departments are aware, the majority of the poles in the Commonwealth are jointly owned by a power company such as National Grid and the incumbent local exchange carrier, Verizon.<sup>3</sup> Under the framework of rules currently in place, when a competitive communications provider like Crown Castle wishes to attach facilities to one of these jointly owned poles, applications must be submitted to both the Verizon and National Grid, effectively doubling the time and effort involved in the application process. Each pole owner then considers the application separately and performs its own survey and engineering, the costs of which the pole owners may recover from the applicant, thus doubling the expense. Moreover, the results of the survey and engineering performed by each of the joint owners often are not consistent and must be reconciled, significantly extending the timeframe for even reaching the stage where a make-ready estimate is provided.

Indeed, according to Crown Castle's records, the average time it takes to attach to poles owned by National Grid and/or Verizon vastly exceeds what would be permitted under the FCC's rules. For poles owned by National Grid, Crown Castle's records demonstrate an average time *277 days* from application to receipt of license when make-ready is required; this includes an average of 125 days from the date of application to receive a make-ready estimate and an average of 118 days to complete make-ready in the power space after the invoice for the estimate has been paid. Even when no make-ready is required, it takes an average of 91 days for Crown Castle to receive a license to attach to National Grid poles.

It is the same story with Verizon-owned poles. For these, Crown Castle's records show an average of *207 days* from application to license where make-ready is required, including an average of 68 days from application to receive a make-ready estimate and 105 days to complete

---

<sup>3</sup> *Inquiry* at 1-2.

make-ready in the communications space after the invoice for the estimate has been paid. For attachments that do not require make-ready, the average time to receive a license is 81 days.

For jointly owned poles, as discussed above, each owner separately performs its own field survey which then must be reconciled with each other. This reconciliation process is conducted for every pole surveyed, *even if* the recommended make-ready work from each of the joint owners or their contractors was the same. According to National Grid, even where the two surveys recommended the same make-ready for over 90 percent of the poles in an application, the average time for this reconciliation is 44 days.<sup>4</sup>

Such extended timelines would not be permitted under FCC rules, which require that both the utility and the attacher comply with strict deadlines throughout the application and make-ready process. As an initial matter, FCC rules require that joint pole owners allow a new attacher to submit a single application to attach to the jointly-owned poles, and that a single engineering survey be performed in order to prepare a single make-ready estimate.<sup>5</sup> Adopting this provision, alone, would save attachers significant time and expense, including avoiding the 44-day reconciliation period.

Likewise, in Massachusetts, Crown Castle encounters situations where a utility's contractor refuses to allow the new attacher to participate in a joint survey, which leads to inefficient post-survey attempts to resolve matters that could be resolved in the field. Under the FCC's rules, the utility (and therefore its contractor) must give the new attacher notice of the

---

<sup>4</sup> Comments of National Grid, DTC Docket 22-4, at 7 (filed May 15, 2024).

<sup>5</sup> See *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, Report and Order and Order on Reconsideration, 26 FCC Rcd. 5240 ¶ 84 (2011) ("We emphasize . . . that joint ownership or control of poles should not create or justify a confusing or onerous process for attachers. Thus, for example, we would consider utility procedures requiring attachers to undergo a duplicative permitting or payment process to be unjust and unreasonable.").



survey and allow the new attacher to participate.<sup>6</sup> A small rule change permitting the new attacher's participation can significantly help streamline deployment.

Moreover, under FCC rules, the survey must be performed within the 45 days allowed for the pole owner(s) to respond to the application, and the make-ready estimate must be provided within 14 days after that.<sup>7</sup> From the time the attacher has paid the estimate, make-ready must be complete within 30 days in the communications space (with an additional 45 days for large requests involving more than a threshold number of poles in a month).<sup>8</sup> All told, the FCC's rules contemplate an overall timeline of 103 days from receipt of a complete application for completion of make-ready for attachments in the communications space—less than half the observed time it takes for the same process under Massachusetts' rules.<sup>9</sup>

Even once reasonable, mandatory timelines are in place, without an effective enforcement mechanism, pole owners and other attachers may simply sidestep the rules. Among other enforcement tools, FCC rules include a “self-help” remedy at the survey and make-ready stages.<sup>10</sup> Under these provisions, if a utility fails to perform the preconstruction survey or make-ready construction on any part of the pole within the timeframe specified by the rules, the new attacher may hire a utility-approved contractor to complete the work instead.<sup>11</sup> This simple remedy ensures that an attaching entity's deployment is not unduly delayed by a utility that

---

<sup>6</sup> 47 C.F.R. § 1.1411(c)(3)(ii) (“A utility shall permit the new attacher and any existing attachers on the affected poles to be present for any field inspection conducted as part of the utility's survey.”)

<sup>7</sup> 47 C.F.R. §§ 1.1411(c)-(d).

<sup>8</sup> 47 C.F.R. §§ 1.1411(e)(1)(ii)-(2)(ii).

<sup>9</sup> *See* 47 C.F.R. §§ 1.1411(c)-(e).

<sup>10</sup> 47 C.F.R. § 1.1411(i).

<sup>11</sup> 47 C.F.R. §§ 1.1411(i), 1.1412.

cannot (or will not) keep up with reasonable deadlines. Accordingly, implementation of the self-help remedy to help enforce the timelines is essential.

For situations where self-help cannot remedy issues, the Departments should adopt a 60-day timeline for resolving pole attachment complaints related to access, including disputes related to pole attachment applications and make-ready work. A 60-day timeline would prevent significant delays and ensure that pole owners comply with the rules throughout the application and make-ready process. The Departments should also adopt a rapid response process for pole access complaints, similar to the FCC's Rapid Broadband Access Team,<sup>12</sup> to facilitate swift resolution of pole attachment disputes.

Finally, Crown Castle encourages the Departments to adopt an addition to the FCC's rules to assure that invoicing for make-ready work is timely. Under FCC rule 1.1411(d)(3), a utility or existing attacher must send a "final invoice" if the final cost for make-ready work differs from the make-ready estimate.<sup>13</sup> However, Crown Castle has encountered significant problems with utilities sending "true up" invoices many months, or in some cases over a year, after the make-ready work was performed, and those "true up" invoices frequently significantly exceed the original make-ready estimate that was approved and paid. Crown Castle recommends the Departments include in its rule a requirement that the utility or existing attacher send any final invoice for make-ready work that exceeds the original estimate within 60-days after completion of the work, and a requirement that if the final cost exceeds the estimate by more than 10%, the utility or existing attacher give advance notice before incurring the cost.

---

<sup>12</sup> See 47 C.F.R. § 1.1415.

<sup>13</sup> 47 C.F.R. § 1.1411(d)(3).

## **B. The Departments Should Adopt Rules Allowing Broader Use of Contractors for Survey and Make-Ready**

To further address delays in the make-ready process, Crown Castle supports adoption of rules that would allow for broader use of contractors for engineering and make-ready when utilities cannot meet their required deadlines. In Crown Castle's experience, there are often not enough utility-approved contractors available to complete make-ready in a timely manner. To help avoid these delays, attachers should be allowed to qualify additional contractors as authorized or utility-approved contractors pursuant to objective criteria. The FCC has adopted criteria for identifying qualified additional contractors, and for simple make-ready, if an approved contractor is not available, the attaching party can use a different contractor if it certifies the contractor meets the objective criteria.<sup>14</sup> The Commission should adopt similar standards and clarify that a pole owner may not unreasonably withhold its consent if an attacher chooses a contractor that meets the established criteria from performing make-ready work.<sup>15</sup>

## **C. The Departments Should Clarify a New Attacher is Not Responsible for the Cost of Repairing or Replacing Poles with Preexisting Conditions**

The pole attachment process can provide an opportunity for some pole owners to attempt to game the system and avoid responsibility for pole maintenance and replacement costs. A party that is seeking to deploy new broadband facilities is under considerable time pressure and

---

<sup>14</sup> See 47 C.F.R. §§ 1.1412(b); 1.1412(c)(1)-(5) ("Utilities must ensure that contractors on a utility-provided list, and new attachers must ensure that contractors they select ... meet the following minimum requirements: (1) The contractor has agreed to follow published safety and operational guidelines of the utility, if available, but if unavailable, the contractor shall agree to follow National Electrical Safety Code (NESC) guidelines; (2) The contractor has acknowledged that it knows how to read and follow licensed-engineered pole designs for make-ready, if required by the utility; (3) The contractor has agreed to follow all local, state, and federal laws and regulations including, but not limited to, the rules regarding Qualified and Competent Persons under the requirements of the Occupational and Safety Health Administration (OSHA) rules; (4) The contractor has agreed to meet or exceed any uniformly applied and reasonable safety and reliability thresholds set by the utility, if made available; and (5) The contractor is adequately insured or will establish an adequate performance bond for the make-ready it will perform, including work it will perform on facilities owned by existing attachers.").

<sup>15</sup> See, e.g., 47 C.F.R. § 1.1412(b).

lacks meaningful leverage against a pole owner demanding that the new attacher pay to correct all conditions on the pole before they may attach—despite the fact that the FCC, for example, has made very clear that new attachers may not be forced to pay for or wait for correction of preexisting violations or conditions. For example, the FCC has held that a “a utility cannot delay completion of make-ready while the utility attempts to identify or collect from the party who should pay for correction of the preexisting violation.”<sup>16</sup> Moreover, the FCC rejected the suggestion that the new attacher should be forced to “wait for the corrective process to run its course” or “cover[] the cost of correcting the violation, without recourse,” explaining that “[t]his approach is tantamount to forcing the new attacher to pay to correct the preexisting violation as the alternative would require the new attacher to postpone make-ready indefinitely.”<sup>17</sup>

To address this imbalance, as part of adopting the FCC’s rules, the Departments should emphasize that a pole owner may not charge a new attacher to bring poles, attachments, or third-party equipment into compliance with current published safety, reliability, construction standards and guidelines if such noncompliance pre-existed the application and was not caused by the new attacher.<sup>18</sup> Pre-existing conditions on utility-owned poles must be remedied by the party that caused them, whether existing attachers or the utility, in a manner that does not delay access by new attachers.

Crown Castle has encountered some pole owners who insist on remedying pre-existing conditions *before* completing make-ready work, resulting in long waiting periods between the make-ready survey and the completion of make-ready work. In these cases, wherever possible,

---

<sup>16</sup> See *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Third Report and Order and Declaratory Ruling, 33 FCC Rcd. 7705, ¶ 122 (2018) (“*2018 Pole Attachment Order*”).

<sup>17</sup> *Id.* ¶ 121, n.453.

<sup>18</sup> This is consistent with FCC rule 47 C.F.R. § 1.1411(d)(4).

remediation should occur at the same time as make-ready work, but without the cost being improperly imposed on the new attacher.

#### **IV. AN UPDATED AND CONSISTENT REGULATORY FRAMEWORK ACROSS JURISDICTIONS WILL FACILITATE DEPLOYMENT**

Adopting the FCC’s approach to pole attachment regulation would also have the advantage of bringing Massachusetts’ rules up to date with those of its New England neighbors. As communications providers like Crown Castle work to build their networks out into areas they did not previously serve, it streamlines the process immensely to have a reliable, consistent set of rules and requirements to inform their plans—even if those areas span two or more states. As the Departments are likely aware, most New England states have already adopted the FCC’s approach to pole attachment regulation. For example, Connecticut updated its rules by adopting the FCC’s framework, including application and make-ready timelines and self-help, in 2022.<sup>19</sup> New Hampshire adopted similar rules in 2021.<sup>20</sup> Maine and Vermont have both also adopted some, if not all, of the FCC’s pole attachment regulatory scheme.<sup>21</sup> Indeed, Massachusetts is the only certified state in New England that has not adopted the FCC’s approach, and the only New England state in which FCC rules do not apply in any form.<sup>22</sup> If, as Crown Castle suggests, the Commonwealth adopts the FCC’s framework, it will help provide the regulatory certainty needed for communications providers to deploy effectively and efficiently across New England.

---

<sup>19</sup> *PURA Investigation of Developments in the Third-Party Pole Attachment Process – Make-Ready*, Decision, Docket No. 19-01-52RE01 (May 11, 2022).

<sup>20</sup> New Hampshire S.B. 88, adopted Mar. 18, 2021.

<sup>21</sup> *Amendments to Chapter 880 of the Commission’s Rules – Attachments to Joint Use Utility Poles; Determination and Allocation of Costs; Procedure*, Maine PUC Docket No. 2020-00281 (April 8, 2021); Vt. Code R. § 3.700 (amendment effective July 10, 2020).

<sup>22</sup> Rhode Island is not a certified state and is subject directly to the FCC’s regulatory oversight of pole attachments in the state.

This proceeding offers the Commonwealth an important opportunity to review its current rules and update its framework to meet the moment of broadband deployment, as its New England neighbors have done before it, and ensure successful broadband deployment to the communities in need of connectivity. In this moment of unprecedented opportunity to close the digital divide, it is essential that deployment is not hindered by outdated or inconsistent regulation.

## **V. CONCLUSION**

As set forth in these Comments, the Departments have an opportunity to continue their important work by adopting the requested changes and ensuring fair access to utility infrastructure for parties deploying vital communications facilities. For the foregoing reasons, Crown Castle encourages the Departments to take actions as outlined in these comments.

Respectfully submitted,

/s/ D. Van Fleet Bloys  
Rebecca L. Hussey  
Associate General Counsel  
D. Van Fleet Bloys  
Managing Counsel  
CROWN CASTLE FIBER LLC  
8020 Katy Freeway  
Houston, Texas 77024  
Telephone: (202) 748-8893  
Email: van.bloys@crowncastle.com

Dated: March 18, 2025