The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.P.U. 25-10/D.T.C. 25-1 January 17, 2025

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.

JOINT ORDER OPENING INQUIRY

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I. INTRODUCTION

The Department of Public Utilities and the Department of Telecommunications and Cable (together, "Departments" or "agencies") jointly open this inquiry to explore utility pole attachment, conduit access, double pole, and related considerations applicable in the Commonwealth of Massachusetts ("Commonwealth"). The Departments share jurisdiction over utility pole, conduit access, and double pole matters pursuant to G.L. c. 164, § 34B, G.L. c. 166, § 25A, the agencies' pole attachment, duct, conduit, and right-of-way ("ROW") complaint and enforcement regulations, 220 CMR 45.00 *et seq.*, and a Memorandum of Agreement ("MOA") entered into by the agencies to facilitate shared jurisdiction.[1] Over the next several years, substantial electric distribution infrastructure investments are planned, in part, to facilitate the clean energy transition in the Commonwealth, including the deployment of ROW and pole-mounted electric vehicle supply equipment ("EVSE") to contribute to equitable transportation electrification options. Simultaneously, broadband infrastructure expansion and upgrades are also planned throughout the state.

Both sets of investments will require timely access and upgrades to a multitude of utility poles and underground ducts and conduit owned primarily by: (1) the state's investor-owned electric distribution companies ("EDCs"), NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric"), Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid ("National Grid"), and Fitchburg Gas and Electric Light Company d/b/a Until ("Unitil"); (2) the statewide traditional telephone provider, Verizon New England, Inc.

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[1] For ease of reference, the initial MOA and the most recent limited extension, issued concurrently with this Order, are provided as attachments to this Order.

d/b/a Verizon Massachusetts ("Verizon"); and (3) various municipal light plants ("MLPs").[2] These utility poles and underground ducts and conduit are primarily located on and under public ROWs. Utility pole and conduit work conducted on public ROWs in the Commonwealth must comply with various requirements, including the National Electric Safety Code ("NESC"),[3] requirements established by the Massachusetts Department of Transportation ("MassDOT") and local cities and towns, and those involving collective bargaining agreements applicable to unions for overhead line workers, communications workers, and police officers.

Based on these considerations, the Departments open this inquiry and seek comment, input, and data from a broad range of stakeholders on several utility pole and conduit access considerations to inform how the existing utility pole attachment, double pole, and conduit access regulations, practices, and requirements established by the Departments and applicable to utilities should be updated while remaining consistent with various other requirements outside the control of the Departments (e.g., NESC, state and MassDOT requirements and local ordinances involving work conducted on public ROWs, and collective bargaining agreements). As part of this inquiry, the Departments seek particular comment on: (1) database considerations for pole and conduit data; (2) whether any pole attachment requirements adopted by the Federal Communications Commission ("FCC") or other states that regulate pole attachments and/or

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[2] Public documentation indicates that, to a much lesser extent, a small number of poles and underground ducts and conduit on and under public ROWs are also owned by cable television providers, competitive telecommunications carriers, and others.

[3] NESC is a national standard, which is revised periodically, for the safety, clearance, strength, and work rules for the installation and operation of electric transmission and distribution facilities by electric utilities and communications utilities. Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 11-56, at 24 n.19 (2013).

conduit access should be adopted in the Commonwealth and, generally, on how pole attachment processes may be streamlined in the state; (3) amendments to the current MOA and pole attachment complaint process to facilitate joint adjudication by the agencies and, additionally, possible alternative dispute resolution options; (4) double pole considerations; and (5) how to facilitate the deployment of ROW and pole-mounted EVSE in the Commonwealth in accordance with the recent directives in An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239. The Departments intend to open a rulemaking to update 220 CMR 45.00 *et seq.* based on the comments received in response to this inquiry.

As the entities that own a substantial majority of utility poles in the Commonwealth and that are subject to the jurisdictional authority of the Department of Public Utilities or the Department of Telecommunications and Cable, respectively, NSTAR Electric, National Grid, Unitil, and Verizon shall participate in this proceeding. The Departments also respectfully request comment and input from local and state officials that manage and/or license work conducted on public ROWs, including municipalities and MassDOT; entities that attach to utility poles or that may rely on duct and conduit access to provide their services, specifically, municipal entities, broadband providers, competitive telecommunications providers, cable television providers, and EVSE manufacturers, owners, and operators , and other interested stakeholders, as relevant to the issues identified herein. As discussed in further detail below, the Departments establish deadlines for the submission of written comments and for requests by interested stakeholders to be included on the electronic distribution list to be used for this matter. The Departments will also conduct one or more technical sessions on relevant issues after reviewing any comments that are submitted. The Departments will establish a reply comment

deadline to occur after the initial technical session in due course. The Departments have docketed this proceeding as D.P.U. 25-10/D.T.C. 25-1.

II. STATUTORY AND REGULATORY AUTHORITY

Pursuant to federal law, the rates, terms, and conditions for pole attachments are subject to regulation by the FCC, except where a state has certified to the FCC that the state regulates such rates, terms, and conditions. 47 U.S.C. § 224(b), (c). Massachusetts has certified to the FCC that it regulates pole attachments. See FCC, States That Have Certified That They Regulate Pole Attachments, WC Docket No. 10-101, Public Notice DA 22-630, 37 FCC Rcd. 6724 (June 13, 2022).[4,5]

Between 1997 and 2007, the Departments were a single agency known as the Department of Telecommunications and Energy.[6] Effective April 11, 2007, and pursuant to Chapter 19 of the Acts of 2007, the Legislature dissolved the Department of Telecommunications and Energy

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4 Available at https://docs.fcc.gov/public/attachments/DA-22-630A1.pdf (last visited January 17, 2025).

5 In 1978, after the enactment of G.L. c. 166, § 25A, Massachusetts first certified that it regulated pole attachments. Letter from Paul F. Levy, Chair, Department of Public Utilities, to James M. Talens, General Attorney, FCC, WC Docket No. 10-101 (September 1, 1978), available at https://www.fcc.gov/ecfs/document/6015603014/1 (last visited January 17, 2025); see also Letter from Kajal Chattopadhyay, General Counsel, Department of Telecommunications and Cable, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-101 (August 25, 2010), available at https://www.fcc.gov/ecfs/document/6016053346/1 (last visited January 17, 2025).

6 Iterations of the agencies and provisions of the General Laws applicable to the agencies and the entities over which we have jurisdiction have existed for more than a century. Prior to 1997, utilities and telephone providers were subject to earlier iterations of the Department of Public Utilities, and cable television providers were subject to the jurisdiction of a separate agency.

and created the separate Departments. Following this reorganization, the Legislature vested the Departments with different oversight roles and statutory responsibilities. The Department of Public Utilities retained general supervision over gas, water, and electric utilities, pipelines, and transportation industries under Chapters 25, 159, 164 and 165. The Department of Telecommunications and Cable gained general supervision over telecommunications and cable television companies under Chapters 25C, 159, 166 and 166A.[7]

The Departments agree that 220 CMR 45.00 *et seq.* are the applicable regulations with respect to pole attachments. MOA at ¶ 6. Currently, these regulations provide only for complaint and enforcement procedures to ensure that telecommunications carriers and cable television providers have nondiscriminatory access to poles, ducts, conduits, and ROWs. 220 CMR 45.01. Because the provisions of G.L. c. 164, § 34B, G.L. c. 166, §25A, and 220 CMR 45.00 involve infrastructure often jointly owned by electric companies and Verizon, and as the attachments at issue are used for various purposes, the Departments use the MOA to clarify the roles of each agency under 220 CMR 45.00. See MOA at ¶¶ 3-6. Under the MOA, neither agency may amend the pole attachment regulations or related policies outside of a joint

[7] The Legislature has since also added provisions directing the Department of Public Utilities to prioritize with respect to itself and the entities it regulates the safety, security, reliability, affordability, equity and reductions in greenhouse gas ("GHG") emissions, and expanded the Department of Telecommunications and Cable's ability to request information to inform the work of the Massachusetts Broadband Institute ("MBI"). G.L. c. 25, § 1A; G.L. c. 25C, § 9.

proceeding. MOA at ¶ 6. A ninth extension of this MOA remains in effect until its expiration on July 15, 2025.[8]

III. POLE ATTACHMENT AND CONDUIT ACCESS OVERVIEW AND POLICY PRIORITIES

A. Description of Utility Pole, Duct, and Conduit Owners and Related Processes and Practices in Massachusetts

The entities that own the substantial majority of utility poles, ducts, and conduit on public ROWs throughout the Commonwealth are: (1) the EDCs subject to the jurisdiction of the Department of Public Utilities – NSTAR Electric, National Grid, and Unitil; (2) a telecommunications provider, Verizon, which is subject to the jurisdiction of the Department of Telecommunications and Cable; and (3) MLPs, which are subject to the limited jurisdiction of the Departments on particular matters, including attachment requirements relating to utility poles and conduit access. See, e.g., G.L. c. 166, § 25A ("utility" under this section includes MLPs, although the paragraph applicable to wireless provider attachments excludes MLPs); Comcast of Massachusetts III, Inc. v. Peabody Municipal Light Plant and Peabody Municipal Lighting Commission, D.T.C. 14-2, at 10 (2014) (noting that G.L. c. 166, § 25A, gives direct and unambiguous authority over the pole attachment rates of MLPs); Town of Danvers, D.P.U. 19-75, at 3 (2021) (citations omitted) (discussing the Department of Public Utilities'

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[8] To accommodate the comment period established herein, which may help to inform revisions to substantive terms of the MOA, the Departments have entered an extension of the MOA concurrent with this Order. Action on the MOA, including the current extension and future revisions, are made by the agencies outside this notice of inquiry proceeding.

limited jurisdiction over MLPs under Chapter 164 as compared to jurisdiction exercised over investor-owned utilities).

In Massachusetts, NSTAR Electric is the primary EDC for 140 cities and towns; National Grid is the primary EDC for more than 172 cities and towns; Unitil is the primary EDC for the towns of Lunenburg, Townsend, and Ashby, and the City of Fitchburg and also provides individual service in Leominster, Shirley, and Westminster; Verizon is the incumbent local exchange carrier ("ILEC") in all but three towns; and 41 MLPs serve all or part of 50 municipalities for electric service. See, e.g., Electric Sector Modernization Plans, D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12, at 17, 21, 25 (August 29, 2024) ("ESMP Order") (discussing the services territories of the EDCs); IntraLATA Competition, D.P.U. 1731, at 21, 73-76 (1985) (designating Verizon's predecessor and other telephone providers as carriers of last resort to ensure the continuation of universal service for basic telecommunications services in Massachusetts); Department of Telecommunications and Cable Fiscal Year ("FY") 2023 Annual Report at 5.[9,10]

The EDCs and Verizon have collectively reported ownership of approximately 1.3 million utility poles throughout the Commonwealth, with a substantial majority jointly owned by these companies. Boston Edison Co. v. Town of Bedford, 444 Mass. 775, 776 (2005)

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9 Available at https://www.mass.gov/info-details/dtc-reports (last visited January 17, 2025).

10 The specific towns served by the electric distribution companies and MLPs are available through the Department of Public Utilities' website at https://www.mass.gov/info-details/find-my-electric-gas-and-water-company and https://www.mass.gov/info-details/massachusetts-municipally-owned-electric-companies, respectively (last visited January 17, 2025).

("[a]pproximately ninety per cent of the utility poles in Massachusetts are owned jointly by electric and telephone companies . . ."); ESMP Order at 18, 22, 25; CRC Communications, LLC v. Massachusetts Electric Company and Verizon New England, D.T.C. 22-4, Exhs. OT-NG 1-1; OT-VZ 1-1; Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 23-150, Exh. NECTA 1-2, Att.; NSTAR Electric Company, D.P.U. 22-22, Exh. DPU 58-2.[11] In Massachusetts, utility poles generally include attachments from four or more entities, with greater numbers of attachments in more urban areas. Additionally, many utility poles in the Commonwealth include streetlights as well as wires that connect from utility poles to local homes and businesses through underground conduit.

Attachments generally occur in sequential order, from the top of the pole to a lower "usable space" area of the pole as follows and as applicable: electric utility provider, cable television providers, municipal (e.g., police and fire) and competitive telecommunications providers within the designated communications space, with the ILEC at the bottom. This sequence provides an orderly process and identification method for when attachments need to be shifted and/or poles are replaced as a result of routine work, such as planned infrastructure projects, and emergency work. This process also ensures the safety of workers performing the transfers and limits disruptions of services. Boston Edison Co. v. Town of Bedford, 444 Mass.

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[11] NSTAR Electric's distribution system includes approximately 11,500 circuit miles of overhead lines and 9,200 circuit miles of underground lines, National Grid's distribution system includes approximately 13,500 miles of overhead lines and 5,000 miles of underground lines, and Unitil's distribution system includes approximately 454 miles of overhead lines and 68 miles of underground lines. ESMP Order at 18, 22-23, 25.

at 777. As technology has evolved, more recent attachments to utility poles include small cell wireless antennae and, in limited cases, pole-mounted EVSE.

Pole replacements often result in double poles until all attachments have been shifted to the new pole and the entity responsible for removal of the old pole is able to schedule that removal. Boston Edison Co. v. Town of Bedford, 444 Mass. at 777. Pole owners in Massachusetts currently utilize and rely on the National Joint Utilities Notification System ("NJUNS") to track and coordinate pole transfers and replacements.[12] See, e.g., Double Poles, D.T.E. 03-87, NSTAR Electric Semi-Annual Double Pole Report at 1-2 (December 13, 2024); D.T.E. 03-87, National Grid Semi-Annual Double Pole Report at 2 (November 27, 2024); D.T.C. 22-4, Exh. DTC-VZ 1-9. NSTAR Electric, National Grid, Unitil, and Verizon also rely on NJUNS for data included in their biannual double pole reports submitted in D.T.E. 03-87.[13]

To conduct utility work on public ROWs, pole and conduit owners and attachers must comply with multiple requirements, which can add time and expense to the pole attachment and conduit access process. For instance, utility poles and attachments must comply with safety requirements, including those outlined in the NESC. See D.T.C. 22-4, at 15, 16, 31 (2022); Town of Middlefield, D.T.C./D.T.E. 06-6, at 17 (2008); Boston Edison Company, D.P.U./D.T.E. 97-95, at 114-115 (2001). Similarly, to ensure the safety of pedestrians, motorists, bicyclists, and workers, state law and local ordinances generally require the use of

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12 Additional information about NJUNS and Massachusetts members are available at https://web.njuns.com/members/ (last visited January 17, 2025).

13 The Department of Public Utilities posts these reports to our online File Room, available at https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber (enter "03-87") (last visited January 17, 2025).

police details and/or flaggers for work conducted on public ROWs before work can proceed. See, e.g., An Act Financing Improvements to the Commonwealth's Transportation System, St. 2008, c. 86, § 10; 700 CMR 6.00 *et seq.*; City of Haverhill Code, c. 240, § 2; Stoneham Town Code, c. 8, § 8-5.

B. Policy Priorities

1. Clean Energy Transition

Since 2008, when the Departments first implemented their MOA, a fundamental evolution has been taking place in the way electricity is produced and consumed in the state. See ESMP Order at 59-60; Second Grid Modernization Plans, D.P.U. 21-80-B/D.P.U. 21-81-B/ D.P.U. 21-82-B at 193 (2022) ("Second Grid Modernization Plans (Track 2)"); NSTAR Electric Company, D.P.U. 22-22, at 48-49 (2022). This evolution involves a clean energy transition that has been driven, in large part, by a number of legislative and administrative policy initiatives designed to address climate change and foster a clean energy economy. See, e.g., An Act Driving Clean Energy and Offshore Wind, St. 2022, c. 179; An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy, St. 2021, c. 8; An Act to Advance Clean Energy, St. 2018, c. 227; An Act to Promote Energy Diversity, St. 2016, c. 188; An Act Relative to Competitively Priced Electricity in the Commonwealth, St. 2012, c. 209; An Act Relative To Green Communities, St. 2008, c. 169; An Act Establishing the Global Warming Solutions Act, St. 2008, c. 298; Executive Office of Environmental Affairs ("EEA"), Clean Energy and Climate Plan for 2050 (December 2022); EEA, Energy Pathways to Deep Decarbonization: A Technical

Report of the 2050 Decarbonization Roadmap Study (December 2020); EEA, Massachusetts Clean Energy and Climate Plan for 2025 and 2030 at xi (June 30, 2022).[14]

This transition is geared towards mitigating the effects of climate change, ensuring the Commonwealth meets its net zero GHG emissions targets for 2050, and fostering a clean energy economy, with transportation and building electrification as top priorities. This transition necessitates substantial investment in electric distribution system infrastructure to support electrification efforts, which will require corresponding updates and/or changes to utility pole and conduit infrastructure, lines, and attachments and coordination between multiple entities. See, e.g., Electric Vehicles, D.P.U. 21-90/D.P.U. 21-91/D.P.U. 21-92, at 153 (2022) (recognizing pole-mounted EVSE as an innovative approach to increasing EV charging opportunities for customers without access to at-home charging while also recognizing the complexities of coordinating the pole attachment process among multiple stakeholders). Further, grid modernization infrastructure relies, in part, on communications infrastructure. In the absence of funding from federal and state grants and similar programs, these types of investments are generally funded by the customers of the EDCs, subject to certain requirements. See ESMP Order at 457-458.

The Department of Public Utilities has also taken several actions to facilitate the clean energy transition. For instance, between 2010 and 2012, the Department of Public Utilities approved a smart grid pilot program for each EDC. Massachusetts Electric Company and

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[14] EEA prepares a clean energy and climate plan ("CECP') every five years, beginning in 2010. The CECP sets forth a policy roadmap for the Commonwealth to meet the state's greenhouse gas emissions limits by 2050.

Nantucket Electric Company, D.P.U. 11-129 (2012); NSTAR Electric Company, D.P.U. 09-33 (2010); Fitchburg Gas and Electric Light Company, D.P.U. 09-31 (2010). In 2018, the Department of Public Utilities approved with modification the EDCs' first grid modernization plans, preauthorizing a total of approximately $275.4 million in grid modernization costs. Grid Modernization, D.P.U. 15-120/D.P.U. 15-121/D.P.U. 15-122 (2018). In 2022, the Department of Public Utilities approved with modification the EDCs' second grid modernization plans and advanced metering infrastructure ("AMI") implementation plans, preauthorizing a total of approximately $1.7 billion in grid modernization costs (inclusive of AMI infrastructure), and separately approved the EDCs' most recent EV program proposals with costs totaling approximately $395 million. See generally Second Grid Modernization Plans (Track 2); Second Grid Modernization Plans, D.P.U. 21-80-A/D.P.U. 21-81-A/D.P.U. 21-82-A (2022); D.P.U. 21-90/D.P.U. 21-91/D.P.U. 21-92. Under the 2022 preauthorization, the EDCs plan to fully deploy AMI infrastructure within their service territories within the next few years.[15] On August 29, 2024, the Department of Public Utilities approved with modification the EDCs' electric sector modernization plans through June 30, 2030 – roadmaps which identified more than $4.07 billion in costs to accelerate the clean energy transition. See generally ESMP Order.

Most recently, on November 20, 2024, the Legislature enacted a comprehensive clean energy bill entitled An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239. The legislation includes multiple directives to the Department of

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15 Additional information regarding these programs is available through the Department of Public Utilities' website at https://www.mass.gov/info-details/grid-modernization-and-ami-resources and https://www.mass.gov/electric-sector-modernization-plans-esmps (last visited January 17, 2025).

Public Utilities and to the EDCs for action within the next few years. Relevant to the current inquiry, the Department of Public Utilities is directed to open a proceeding by July 31, 2025, to facilitate ROW or pole-mounted EVSE throughout the Commonwealth. St. 2024, c. 239, § 134.

2. Broadband Deployment

On a parallel track since 2008, the Commonwealth has dedicated substantial time, energy, and funding towards high-speed broadband deployment throughout the state. See Massachusetts Broadband Institute ("MBI"), Commonwealth of Massachusetts Five-Year Action Plan – Broadband Equity, Access, and Deployment Program at 3-4 (August 2023).[16] The Commonwealth through MBI remains engaged and active in soliciting federal funding to further bridge the digital divide within the state.

For instance, due to MBI's efforts, federal funds have been earmarked for broadband deployment expansion and access efforts in Massachusetts. See, e.g., National Telecommunications and Information Administration ("NTIA") Press Release, "Biden-Harris Administration Approves Massachusetts' 'Internet for All' Initial Proposal" (July 25, 2024) (awarding Massachusetts over $147 million to close the digital divide in the state);[17] U.S. Department of Treasury, Massachusetts Capital Projects Fund Allocation webpage (awarding MBI over $145 million for broadband infrastructure projects where reliable broadband service is unavailable, as well as approximately $22 million for a residential retrofit program for

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16 Available at: https://broadband.masstech.org/internetforall (last visited January 17, 2025).

17 Available at https://www.ntia.gov/press-release/2024/biden-harris-administration-approves-massachusetts-internet-all-initial-proposal (last visited January 17, 2025).

affordable housing developments);[18] MBI Press Release, "Biden-Harris Administration Approves Massachusetts Internet Expansion Proposal" (July 25, 2024);[19] MBI Press Release, "Mass. Broadband Institute Launches $145M Gap Networks Infrastructure Grant Program" (October 26, 2023).[20]

C. Pole Attachment Reform at the FCC and other States

In recent years, the FCC has implemented multiple revisions to its pole attachment regulations, in part, to facilitate and promote broadband expansion and deployment in rural areas. See, e.g., 47 C.F.R. §§ 1.4111 (c)(4) and 1.415; FCC, Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, Third Report and Order and Declaratory Ruling, 33 FCC Rcd 7705, 7711-75 (2018); and FCC, WC Docket No. 17-84, Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking, 38 FCC Rcd. 12379 (2023). For example, the FCC has revised and clarified cost causation rules, expanded the definition of "red tagged" poles, created a rapid response team (the "Rapid Broadband Assessment Team"), required the provision of certain pole

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[18] Available at https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund/cpf-allocation-map/ma (last visited January 17, 2025).

[19] Available at https://broadband.masstech.org/news/biden-harris-administration-approves-massachusetts-internet-expansion-proposal (last visited January 17, 2025).

[20] Available at https://broadband.masstech.org/news/mass-broadband-institute-launches-145m-gap-networks-infrastructure-grant-program (last visited January 17, 2025).

inspection reports to prospective attachers, and adopted one-touch make-ready ("OTMR") requirements.[21]

The FCC's pole attachment rules apply in 27 states ("federal default states"), most of which are large and rural, and do not apply to municipally owned utility poles. See FCC, States That Have Certified That They Regulate Pole Attachments, WC Docket No. 10-101, Public Notice DA 22-630, 37 FCC Rcd. 6724 (June 13, 2022). In contrast, the District of Columbia and the remaining states, including Massachusetts, have elected to assert jurisdiction over pole attachment regulation, consistent with the requirements of 47 U.S.C. § 224 and individual state laws. Of the 23 states that assert jurisdiction ("certified states"), many, including those neighboring the Commonwealth, have adopted rules that either largely or exactly mirror the FCC's rules. Of the certified states, Massachusetts' neighbors have reformed their own pole attachment regulations and related requirements. See, e.g., Maine Public Utilities Commission Report to the Joint Standing Committee on Energy, Utilities and Technology, "Interim Report Pursuant to Resolves 2023, c. 81, Resolved, to Study the Effect of Current Laws and Rules on the Expansion of Broadband" (February 15, 2024) (discussing history, proceedings, and rule changes involving pole attachment considerations and related reform in the state);[22] Connecticut Public Utilities Regulatory Authority, Docket No. 19-01-52RE01, Decision (May 11, 2022)

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21 These regulations are not applicable in Massachusetts because Massachusetts chooses to exercise jurisdiction in the area of pole attachment rates, terms, and conditions. The Departments may incorporate or be informed by some, all, or none of the FCC's requirements on this issue. See Cablevision of Boston Company et al., D.P.U./D.T.E. 97-82, at 17 (1998).

22 Available at https://www.maine.gov/mpuc/sites/maine.gov.mpuc/files/inline-files/Report-Resolve%202023%20ch.81-Final.pdf (last visited January 17, 2025).

(updating requirements applicable to pole attachment application and make-ready processes and revising dispute resolution processes); see generally 65 Me. Code. R. Ch. 880; Vt. Pub. Util. Comm'n R. § 3.700 *et seq*.

Both telecommunications and cable television providers have requested that the Departments revisit pole attachment requirements applicable in the Commonwealth to facilitate both competitive and subsidized broadband deployment in the state. See, e.g., D.T.C. 22-4, at 9, 49; Joint Pole Attachment Rulemaking, D.P.U. 19-76-A/D.T.C. 19-4-A at 20-28 (2021).[23] Most recently, CRC Communications, LLC d/b/a GoNetSpeed ("GoNetSpeed") petitioned the Departments to amend 220 CMR 45.00, which petition the Department of Public Utilities docketed as D.P.U. 24-188, and the Department of Telecommunications and Cable docketed as D.T.C. 24-5. GoNetSpeed's filing included proposed amendments to 220 CMR 45.00.[24]

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[23] On this point, the Departments previously declined to incorporate into 220 CMR 45.00 the FCC's requirements or similar recommendations initially made at the federal level, finding that "[t]he suitability of adoption of any one of the recommendations in Massachusetts has not been determined and we would need to thoroughly investigate the potential impacts that any of these recommendations could have on public safety and electric reliability in Massachusetts prior to considering adoption of any of the recommendations." D.P.U. 19-76-A/D.T.C. 19-4-A at 33.

[24] The Departments address issues raised by GoNetSpeed through the current inquiry, which will inform future actions by the agencies on a broader set of interrelated issues. Accordingly, no Order will be issued by the Departments in D.P.U. 24-188 and D.T.C. 24-5, and those dockets will be closed by the Hearing Officers assigned to those matters. GoNetSpeed and other interested parties may, however, submit proposed redlines and comments in the instant matter on potential amendments to the Departments' shared regulations. See Sections IV.B.3. and V., below.

IV. AREAS OF INQUIRY

A. Introduction

As discussed in further detail below, the Departments seek comment, input, and data from a broad range of stakeholders on several utility pole and conduit access considerations, including: (1) data from existing utility pole and conduit owners on numbers of existing utility poles and non-electric attachment types, the current pole attachment and conduit rates charged, and whether they anticipate increases to the number of double poles and conduit work to accommodate future electric distribution, pole-mounted EVSE, and broadband projects over the next several years; (2) input and data from existing pole and conduit owners, state and local officials, and other interested stakeholders on processes and requirements applicable to utility pole and conduit work conducted on public ROWs and prioritization of projects on ROWs; (3) how routine and clean energy projects and broadband deployment projects requiring utility pole work and/or conduit access may be better coordinated between pole owners and attachers; (4) how existing pole attachment and conduit access processes, including application, survey, make-ready, and complaint processes may be streamlined or informed by processes applicable in states where the FCC's regulations on these issues apply to telecommunications and cable attachments; (5) unique characteristics specific to the Commonwealth that should be considered if the Departments seek to adapt the FCC's pole attachment regulations to meet local needs; (6) whether and, if so, how updates should be made to the formula that currently applies only to the rates charged for telecommunications and cable television attachments to utility poles and

conduit access in Massachusetts ("Massachusetts Formula");[25] (7) recommendations from stakeholders regarding data, if any, that the Departments should include on our websites and how a public database involving pole and conduit data should be implemented; (8) revisions to dispute resolution processes before the agencies and corresponding revisions to the agencies' MOA; and (9) considerations that would facilitate the deployment of ROW or pole-mounted EVSE throughout the Commonwealth and inform plan filings with the Department of Public Utilities in accordance with An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239, § 134.

B. Pole Attachments, Ducts, and Conduit

1. To utility pole, duct, and conduit owners

a. Introduction

Publicly available data indicates that multiple providers own pole attachments, ducts, and conduit access beyond those facilities owned by the EDCs, Verizon, and MLPs. See, e.g., D.T.E. 03-87, Verizon Double Pole Report for the Period May 1, 2024 through October 31, 2024, New Pole summary tab (November 15, 2024) (identifying double poles jointly owned by EDCs, Verizon, and/or MLPs, as well as a limited number of double poles jointly owned with municipal fire departments and "non-participating third-party attachers"); Massachusetts Department of Revenue, Division of Local Services, "Centrally Value Utilities – Telephone and Pipeline Companies" webpage, FY2025 Telephone Values (identifying 18 landline telephone

[25] Additional details regarding the data and inputs applicable to the Massachusetts Formula are outlined in multiple Orders. See, e.g., D.P.U. 19-76-A/D.T.C. 19-4-A at 15-17 & n.14; A-R Cable Services et al., D.T.E. 98-52 (1998); Cablevision of Boston Company et al., D.P.U./D.T.E. 97-82 (1998); Greater Media et al., D.P.U. 91-218 (1992).

companies besides Verizon that own poles, wires, and underground conduits, wires, and pipes);[26] Petition of NextG Networks of New York, D.T.C. 08-5 (2009). To provide context for potential revisions to the Departments' shared regulations, 220 CMR 45.00, in future proceedings and to inform the Departments and interested stakeholders in the instant matter, the Departments request that owners of pole attachments, ducts, and conduit, including NSTAR Electric, National Grid, Unitil, MLPs, Verizon, ILECs other than Verizon, and other utilities as that term is used in G.L. c. 166, § 25A, provide non-proprietary input and data on the following topics. Please provide this information through attachments[27] to comments and authenticate the data submitted through affidavits.[28] Please also identify the source(s) of any information provided.

b. By the Numbers

The Departments request the following information from all utility pole and conduit owners, including the EDCs, Verizon, MLPs, and others. Please identify as of December 31, 2024:

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26 Available at https://www.mass.gov/lists/centrally-valued-utilities-telephone-and-pipeline-companies (last visited January 17, 2025).

27 For attachments to your comments, please mark those documents consistent with the instructions provided in Section V., below.

28 In the interest of transparency and stakeholder engagement, and the non-adjudicatory nature of this matter, interested stakeholders should not submit confidential data in this proceeding. For purposes of the Commonwealth's record retention requirements for docketed matters before the agencies, the Departments also request that interested stakeholders submit attachments rather than public weblinks. See Massachusetts Statewide Records Retention Schedule, Quick Guide Schedule Number 06-18, at 121 (rev. March 2023), available at https://www.sec.state.ma.us/divisions/archives/records-management/agency-records.htm (last visited January 17, 2025).

- By statewide total and by individual city and town, the number of single and jointly owned poles that your company owns.
- By statewide total and by individual city and town, the number of poles that your company owns with conduit attached for wires providing service to local residences and businesses.
- By statewide total and by individual city and town, the number of poles that your company owns with streetlights attached.
- By statewide total and by individual city and town, the average height of single and jointly owned poles that your company owns.
- By statewide total and by individual city and town, the total number of attachments on your company's Massachusetts poles by attachment type, i.e., telecommunication, cable television, wireless, pole-mounted EV attachments, etc.
- The total miles of overhead lines or wires that your company owns in the Commonwealth and approximately what percentage of those lines are located on public ROWs.
- The total miles of underground conduit that your company owns in the Commonwealth and approximately what percentage of that conduit is located on public ROWs.
- The pole attachment and conduit access rates charged by your company to wireline (i.e., non-wireless) telecommunications and cable television attachers for each of the past five calendar years through 2024, and to the extent that they have been established, 2025. Please identify with specificity any assumptions and sources, including lines, tabs, and/or page numbers, relied upon.

- Identify and discuss any differences in rates charged to attachers on jointly owned poles or other differences due to type of attacher, region, etc.
- If the company's attachment and/or conduit access rates have not been updated in the past five years, explain why.
- Confirm whether your company charges attachment and conduit rates utilizing the Massachusetts Formula. See D.P.U. 19-76-A/D.T.C. 19-4-A at 16-17 (discussing the history of the Massachusetts Formula and the data to be used). If your company charges pole attachment and/or conduit access rates that differ from those that would apply using the Massachusetts Formula, explain why and provide a comparison of the current rate(s) charged versus the applicable rates calculated using the Massachusetts Formula.
- For poles that are jointly owned, discuss how attachment rates are billed to attachers, e.g., direct billing to attachers by each pole owner or some other method.

- The rates charged by your company to wireless attachers for each of the past five calendar years through 2024, and to the extent that they have been established, for 2025. Please explain how wireless attachment rates are calculated and identify any sources and assumptions relied upon.
- The rates charged by your company to pole-mounted EVSE attachment providers for each of the past five calendar years through 2024, and to the extent that they have been established, for 2025. Please explain how pole-mounted EVSE attachment rates are calculated and identify any sources and assumptions relied upon.

- The accounting method relied on by your company in calculating your existing pole attachment and conduit rates (e.g., Generally Accepted Accounting Principles versus Uniform System of Accounts). See D.P.U. 19-76-A/D.T.C. 19-4-A at 16-19; Accounting Practices and Recordkeeping of Telecommunications Carriers, D.T.C. 18-3, Notice of Proposed Requirements and Further Request for Comment at 2-3, 11-13 (2022).

To the extent that any of the above data is not available at the level of detail requested, the Departments request that utility pole and conduit owners explain why in their written comments.

c. Existing Planning and Practices

The Departments request that the EDCs, Verizon, and MLPs that own utility poles and conduit discuss in detail your company's existing planning and practices for utility pole and conduit access work conducted on public ROWs in the Commonwealth, addressing the following information, as well as any other relevant information. Provide copies of relevant practices, policies, and template agreements used by your company applicable to these topics.[29]

- Pole attachment and conduit access application, survey, and make-ready processes, for sole and jointly owned poles:

[29] As noted above, please provide as attachments to your comments and not as weblinks. For attachments to your comments, please mark those documents consistent with the instructions provided in Section V., below. If applicable, please clarify in any response whether practices, procedures, or cost calculations are specific to cable, telecommunications, electric, or pole-mounted EVSE attachments.

- Describe how the company conducts each of these processes for enabling pole attachments and conduit access for prospective attachers and what is required to move to the next stage of the process.
- Describe any processes or resources for proactively facilitating future attachment requests prior to receiving an application.
- Describe the types and calculation of costs associated with each stage of the process charged to applicants.
- What is the average timeline associated with each of these processes? What are the reasons for these timelines? How or why may these timelines be affected?
- Discuss whether your company's affiliates, if applicable, utilize OTMR practices in other states or jurisdictions. If so, summarize by affiliate name and state applicable federal or state law(s) and regulations and the affiliate's OTMR processes, including those applicable to simple and more complex make-ready work, and describe the average timeline in the jurisdiction for pole attachment and conduit access application, survey, and make-ready work. If the average timelines differ from any applicable regulatory requirements, discuss why.
- Explain whether and how the company utilizes the NJUNS database for each of these processes.
- Does your company limit the number of poles permitted per application? If so, discuss why and identify the limit.
- Are there any considerations that the Departments should be aware of for large versus small pole attachment applications?

- Explain NESC considerations and identify applicable NESC rules for municipal, telecommunications, cable, and pole-mounted EV attachments (e.g., climbing space, spacing between attachments, weight on poles, etc.).
- Are there any differences in processes and needs based on the roadway's speed limit and/or roadway type (e.g., state road versus local road, rural versus urban road, etc.)? If so, please describe those differences, identify state laws and municipal ordinances applicable within the company's service territory, and provide copies of the language of those state laws and ordinances. If your company's service territory exceeds twenty cities and towns, please provide a sampling of applicable municipal ordinances in at least twenty municipalities representing a mixture of urban, suburban, and rural areas.
- Are there any cities or towns in your company's service territory with neighborhoods or areas in which service is provided entirely through underground conduit, i.e., no overhead lines or utility poles on public ROWs? If so, identify any applicable cities and towns to which this applies, and provide a sampling of any applicable municipal ordinances.
- When/how does your company utilize internal, collective bargaining employees versus third-party contractors for conducting any stage of this work?
- Describe how your company ensures safe, efficient make-ready practices when utilizing third-party contractors for utility pole and conduit access work.

- If your company's affiliates perform OTMR in other states or jurisdictions, describe the role of third-party contractors and organized labor in performing OTMR in each such state or jurisdiction.
- Explain whether your company allows temporary attachments and, if so, describe your company's procedures for attaching and replacing temporary attachments.
    - Discuss whether your company's affiliates operating in other jurisdictions allow temporary attachments. If so, describe each affiliate's procedures for attaching and replaying temporary attachments.
- How are attachment and conduit access applications and associated work prioritized and placed in order of queue of company and other attacher projects?
    - Discuss how and why attachment and conduit access applications and associated work may be reprioritized or delayed.
- Discuss whether and/or how the scheduling of pole attachment and conduit work may be impacted by other projects on ROWs.
- Explain whether and how your company coordinates planned company projects with companies submitting applications for a small number of poles versus applications for a large number of poles.
- Explain whether and how your company coordinates attachment project work with other attachers, pole owners, and municipal and/or local officials, as applicable.
- Explain whether attachment applications are more easily accommodated during a particular time of year, e.g., summer versus winter months. If so, discuss why.

- Explain circumstances when your company or a requesting attacher may move attachments owned by other attachers.
- Explain how your company derives survey and make-ready costs. As part of this response, identify factors that may increase such costs, explain how these costs are communicated to entities requesting to attach, and discuss how cost disputes are typically resolved.

- Explain how your company distinguishes between routine versus emergency utility pole and conduit work.
- Explain in detail practices and planning associated with non-emergency pole replacements. Include in this explanation a discussion of the factors your company considers when deciding whether a pole needs to be replaced (e.g., age, updates to or replacements of other distribution infrastructure and/or clean energy work, accommodation of attachment requests, NESC considerations). Also explain when and how often your company conducts routine inspections for structural integrity and other relevant factors for company-owned poles.
  - Discuss the circumstances under which your company allocates the costs of pole replacements to attachers.
  - Explain any differences in non-emergency pole replacements when alternative attachment techniques (e.g., opposite side attachments) are present.
- Explain how your company tracks, at the individual pole level, routine versus emergency work, pole replacements, and attachments (e.g., NJUNS, internal databases, other).

- Explain how your company tracks, at the individual pole level, costs associated with routine versus emergency work, pole replacements, and attachments (e.g., NJUNS, internal databases, other).
- For routine versus emergency utility pole and conduit work, explain the process(es) and policies used by your company to select and/or rely on third-party contractors versus internal, collective bargaining employees.

2. To State and local entities that manage public ROWs

The Departments seek to understand in greater detail the timelines and processes required at the state and local level for utilities and attachers to conduct pole and conduit work on public ROWs. As the Departments contemplate revisions to existing pole attachment and conduit access requirements applicable to the EDCs, MLPs, Verizon, and other pole and conduit owners pursuant to G.L. c. 166, § 25A, and 220 CMR 45.00, we must ensure that our actions do not result in inadvertent conflicts with other existing laws or otherwise jeopardize the safety of utility workers, third-party contractors, and the public at large. With these considerations in mind, the Departments seek to understand in greater detail the timelines and processes required at the state and local level for utilities and attachers to conduct pole and conduit work on public ROWs. The Departments respectfully request and welcome input from state and local officials on the following questions:

- For routine utility pole and conduit work:
    - 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.

- 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.?
- How do state and local officials review completed utility work for safety, including remediation of safety issues? Identify any common remediation work needed after utility work.
- 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?

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

3. To all interested stakeholders

- Please suggest and discuss in detail ways to streamline the pole attachment and conduit access process for attachers in Massachusetts. Suggested redline edits of 220 CMR 45.00 are welcome.

- Are there any limitations under existing state law or practices, or any conflicts between FCC requirements and G.L. c. 166, § 25A, and other state laws, that may preclude adoption of pole attachment requirements similar to those adopted by the FCC in 47 CFR Subpart J?
- Should the Departments adopt requirements involving allocation of unusable space costs consistent with FCC regulation 47 CFR 1.1409? Why or why not?
- Should the Departments adopt timelines for access to utility poles consistent with FCC regulation 47 CFR 1.1411? Why or why not?
- Should the Departments mandate the use of agreed-upon contractors for non-electric attachment survey and make-ready work on poles consistent with FCC regulation 47 CFR 1.1412? Why or why not?
- If the Departments adopt mandatory deadlines for application, survey, and make-ready processes, describe the necessary requirements and other considerations for your company to adhere to these deadlines and identify any exemptions that should apply.
- Should the Departments consider revisions to the Massachusetts Formula applicable to telecommunications and cable television attachers? Why or why not? If so, describe in detail the revisions that should be made and why, and how best to procedurally effectuate those changes.
- Should the Departments consider revising the Massachusetts Formula in relation to the usable space on poles and/or to additional attachments on poles? If so, how should the Departments account for wireless attachments, alternative attachment practices (such as opposite side construction), and pole-mounted EVSE.

- Should the Departments expand the Massachusetts Formula to apply to wireless attachments and pole-mounted EVSE on utility poles? Why or why not? If so, should usable space assumptions and allocations be adjusted for wireless attachments, alternative attachment practices, and pole-mounted EV chargers?
- Should the Departments expand application of 220 CMR 45.00 to attachments beyond those owned by telecommunications carriers and cable system operators, e.g., pole-mounted EVSE? Explain why or why not.
- What standards other than the NESC apply to pole-mounted EVSE?
- Should the Departments require utility pole and conduit owners to publicly post pole attachment and conduit rates charged, as well as related requirements and policies, applicable to requesting attachments to promote transparency? Why or why not? If so, should the Departments similarly require annual informational filings with our agencies with pole attachment and conduit rate data? If not, explain why.
- Explain whether there are specific processes that may improve coordination between joint pole owners in processing attachment applications, such as a single pole application, a single field survey, or a single make-ready estimate.
- Are there any additional comments or suggestions from interested stakeholders on the matters described in this Section or issues addressed elsewhere in this inquiry? Are there any additional issues that the Departments need to consider and, if so, why?

C. Double Poles

The EDCs and telephone companies like Verizon are subject to double pole replacement requirements under G.L. c. 164, § 34B. The EDCs and Verizon also submit biannual double

pole reports to the Department of Public Utilities.[30] The Departments request that the EDCs and Verizon provide the following information.

- Based on data reported in D.T.E. 03-87, for each of the last ten years through October 2024, please provide separately the total number of solely and jointly owned double poles installed and removed in your company's service territory.
- Identify the total number of double poles in your company's service territory as of December 31, 2024.
- Identify the total number of double poles in your company's service territory as of December 31, 2024, that have been in place longer than 90 days from the date of installation.
- Discuss the different circumstances for why double poles may be installed.
- Discuss the processes in place to install and remove solely and jointly owned double poles, including discussion of how such installations and removals are prioritized.
- Provide a detailed explanation for why double poles should be allowed to remain in place beyond 90 days.
- With the clean energy transition and broadband deployment efforts planned for the next decade, do utility pole owners anticipate an increase in double poles? Why or why not?

D. Agency Webpages, Databases, and Related Considerations

The Departments request input on the following from all interested stakeholders.

30 The Department of Public Utilities posts these reports to its online File Room at https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber/03-87 in docket D.T.E. 03-87.

- Should the Departments each include a dedicated utility pole webpage on their websites? If so, what data should be included and why?
- Should the Department of Telecommunications and Cable require an express registration form for all telecommunications and broadband attachers who seek to attach to poles in the Commonwealth? If not, explain why.
- Should the Department of Public Utilities require some form of contact and/or registration form for pole-mounted EVSE attachers that seek to attach to poles in the Commonwealth? Please explain whether the Department of Public Utilities has jurisdiction to implement this requirement for these entities.
- Should the Departments explore implementation of a new database that provides access to interested stakeholders with access to pole- and conduit-related attachment and cost data? If so:
    - identify the type of data that should be included and why;
    - identify limitations to implementing such a database;
    - discuss whether and, if so, how such a database would be duplicative of existing practices and processes;
    - discuss how the costs for implementing and maintaining such a database should be recovered;
    - address which entity(ies) should be tasked with maintaining the database and discuss why; and
    - address any other relevant considerations.

- Are there any additional comments or suggestions on the matters described in this Section? Are there any additional issues that the Departments need to consider and, if so, why?

E. Memorandum of Agreement and Dispute Resolution

As noted above, the Departments are briefly extending their MOA concurrent with this Order until July 15, 2025. MOA, Ninth Extension, at 2 (January 17, 2025). Since its inception in 2008, the Departments have not changed the substantive terms of the document other than to extend the expiration date. Under the current terms of the MOA, attachment complaints are to be adjudicated by the Department of Public Utilities or the Department of Telecommunications and Cable based on the primary purposes of the attachment at issue, e.g., for any application related to or affecting the electric smart grid or advanced metering versus for a communications service. MOA at 2-3, 5 (October 14, 2008). The agencies also agreed that "[n]otwithstanding an attachment's primary purpose . . . any attachment that affects or could affect the provision of electric smart grid or advanced metering, whether on poles, underground, at substations, or between the poles and the customer's electric meter, shall be under the jurisdiction of the [Department of Public Utilities]." MOA at 5.

At the time of its initial implementation, the Chair of the Department of Public Utilities ("DPU Chair") and the Commissioner of the Department of Telecommunications and Cable ("DTC Commissioner") jointly responded to stakeholder comments addressing the terms relating to the primary purpose of the attachment, as well as safety and reliability considerations, among other issues. See MOA Memorandum from DPU Chair Paul J. Hibbard and DTC Commissioner Sharon E. Gillet at 24 (October 15, 2008) ("MOA Memorandum"). The DPU Chair and DTC

Commissioner stated that, prior to the expiration of the MOA, the agencies would review our experiences under the MOA and have another opportunity to address any concerns raised by stakeholders. MOA Memorandum at 4.

As discussed in Section III.B., above, infrastructure and policy priorities in the Commonwealth have evolved substantially since the Departments first implemented our MOA in 2008. Moreover, during the next several years, grid modernization, AMI, EVSE, and broadband infrastructure investment projects will be deployed, possibly in the same areas, on and near public ROWs, and communications infrastructure affects the provisioning of grid modernization and AMI infrastructure. Accordingly, after a brief extension of the MOA, the Departments anticipate jointly adjudicating formal complaints filed pursuant to 220 CMR 45.04 going forward. As such, the Departments welcome comment and redlines from all interested stakeholders with suggested revisions to the original MOA language that would best effectuate joint adjudications by the agencies in an administratively efficient manner. Comments on this issue should focus on the procedural aspects of this process and suggest revisions to language in paragraphs three through nine of the original MOA. See MOA at 2-4.

The Departments also seek general comment on how informal and formal pole attachment complaints can otherwise best be resolved by the Departments, both through revisions to the MOA and/or through revisions to our shared regulations. Additionally, the Departments seek input on:

- the effectiveness of the current complaint adjudication procedures;
- possible changes that would streamline the current complaint adjudication process; and

- whether and, if so, describe in detail how, an informal alternative dispute resolution option such as mediation may be implemented, while remaining consistent with Chapter 30A of the General Laws, to resolve complaints in a shorter timeframe than the formal complaint process.

F. Facilitation of ROW and Pole-Mounted EVSE

The Legislature directed the Department of Public Utilities to facilitate ROW and pole-mounted EVSE in the Commonwealth. St. 2024, c. 239, § 134. The Department of Public Utilities seeks to ensure equitable access to such infrastructure, including for rural communities, low- and moderate-income populations, and renters. Accordingly, we seek input on the matters that are implicated by ROW and pole-mounted EVSE and request responses to the below questions.

- What are the advantages and disadvantages of ROW EVSE in relation to pole-mounted EVSE? How does each technology compare with traditional ground-mounted EVSE in terms of costs and complexity of deployment? Are there limitations to the types of EVSE (e.g., Level 1 chargers, Level 2 chargers, direct current faster chargers, or other charger types) that can be mounted on ROWs and utility poles?
- What ROW or pole-mounted EVSE pilot programs or municipal partnerships have been undertaken in Massachusetts or in other jurisdictions? Please describe: (a) the scope and goal(s) of these programs and partnerships, including whether the program or partnership was designed to address a specific concern (and identify the concern); (b) the design and planning criteria considered to determine the number, type, and

location to deploy the ROW or pole-mounted EVSE (e.g., socio-economic conditions, EV density, system capacity, etc.); (c) the average timeline and costs to deploy ROW and/or pole-mounted EVSE; and (d) any lessons learned from these pilot programs or municipal partnerships.

- What are the barriers to the deployment of ROW and/or pole-mounted EVSE and what strategies can be employed to overcome those barriers? What changes to the Department of Public Utilities' existing policies, practices, regulations, and/or requirements are necessary to help facilitate ROW and/or pole-mounted EVSE deployment, including partnerships between companies and municipalities or other governmental entities? Should the Department of Public Utilities consider other factors?
- Please identify and describe ROW and pole-mounted EVSE currently deployed in the Commonwealth which are owned and/or operated, in whole or in part, by a private entity, and provide details of the ownership and operation (e.g., privately-owned pole-mounted EVSE that is leased, operated, and maintained by a municipality or other third party). What are the potential impacts of EDC ownership of ROW or pole-mounted EVSE on the competitive market? Should the ownership model of ROW and pole-mounted EVSE differ for environmental justice populations and non-environmental justice populations, and why?
- In addition to the EDCs, which entities should the Department of Public Utilities direct to submit plans to facilitate the deployment of ROW or pole-mounted EVSE in the Commonwealth?

- What policies and practices should be implemented to ensure equitable access to ROW and/or pole-mounted EVSE in rural communities and in low- and moderate-income areas?
- What federal, state, or other funding is available to facilitate the deployment of ROW and/or pole-mounted EVSE?
- How should ROW and/or pole-mounted EVSE plan proposals promote the use of utility poles for pole-mounted EVSE?
- For existing ROW and pole-mounted EVSE deployed in the Commonwealth, who maintains the ROW and pole-mounted EVSE equipment in a state of good repair? What liability provisions are necessary to ensure that owners of ROW and pole-mounted EVSE, or their lessees, maintain equipment in a state of good repair? What terms and conditions are or should be incorporated into pole attachment agreements to address emergency storm response and the shifting of attachment to facilitate removal of double poles in a timely manner?

V. REQUEST FOR COMMENTS

For the issues discussed above, the Departments seek comment from a broad range of stakeholders. We strongly encourage interested stakeholders to present consensus positions and submit comments jointly, where possible. Initial comments and any proposed redlines to 220 CMR 45.00 or the agencies' MOA shall be due on **Tuesday, March 18, 2025**. The Departments will conduct one or more technical sessions with pole and conduit owners and other

stakeholders on topics to be determined based on the comments received on these issues and will accept reply comments following the technical session to be scheduled.[31]

All comments should be submitted in electronic format by e-mail attachment jointly to the Department of Public Utilities at dpu.efiling@mass.gov, kerri.phillips@mass.gov, and scott.seigal@mass.gov, to the Department of Telecommunications and Cable at dtc.efiling@mass.gov and william.bendetson@mass.gov.[32] The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 25-10/D.T.C. 25-1); (2) the name of the person or entity submitting the filing; and (3) indicate that the document is a written comment. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. For comments and any attachments, the electronic file name for each document should identify the document but **should not exceed 50 characters in length**. Importantly, all large files submitted must be broken down into electronic files that **do not exceed 20 MB**. **To facilitate transparency, commenters should not submit confidential materials in this matter.**

To the extent a comment includes multiple attachments, the Departments request that the filing party include an organized list briefly describing each attachment. Attachments should be marked for identification on each page in the upper right-hand corner in the following format:

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31 The Departments anticipate providing interested stakeholders at least 30 days following the technical sessions to submit reply comments. The Departments may also seek additional comment on issues raised at the technical session.

32 As a joint proceeding, comments and attachments should not be submitted separately to each Department.

Docket: D.P.U. 25-10/D.T.C. 25-1
DocName: [no more than 15 characters]
Date:
H.O.: Phillips/Bendetson
Page:

Attachments provided by an interested party should have an internally consistent and easily usable form of referencing. Documents of three pages or more should be marked with consecutive page numbers. For purposes of the Commonwealth's record retention requirements for docketed matters before the agencies, the Departments also request that interested stakeholders submit attachments rather than public weblinks.

All documents submitted in electronic format will be posted on each agency's website as soon as practicable. The Department of Public Utilities will post docket materials on its website at https://eeaonline.eea.state.ma.us/DPU/Fileroom/ (enter "25-10"). The Department of Telecommunications and Cable will post docket materials on its website at https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx (enter "25-1"). The Departments will determine the appropriate next steps for this proceeding and technical session details after completing our review of the comments submitted. The Departments intend to open a joint rulemaking to update 220 CMR 45.00 *et seq.* based on the comments received in response to this notice of inquiry. The Departments will also review comments submitted in this proceeding to inform revisions to the agencies' MOA. Any action on the MOA, however, including the current extension and future revisions, are made by the agencies outside this notice of inquiry proceeding.

VI. ELECTRONIC DISTRIBUTION LIST

NSTAR Electric, National Grid, Unitil, and Verizon shall participate in this proceeding and notify the Departments by **Tuesday, February 18, 2025,** of the individuals for inclusion on the electronic distribution list to be established for this matter. Individuals to be included on the electronic distribution list shall be limited to legal counsel on behalf of these entities and any named support staff.

To the extent any other entity would like to be included on the electronic distribution list for this matter, please jointly notify Kerri DeYoung Phillips and Scott Seigal, Hearing Officers, Department of Public Utilities, and William Bendetson, Hearing Officer, Department of Telecommunications and Cable, via e-mail at kerri.phillips@mass.gov, scott.seigal@mass.gov, and William.bendetson@mass.gov, respectively, no later than close of business on **Tuesday, February 18, 2025**. To be included on the electronic distribution list, the request must include the following information: (1) name and organization represented, if any; (2) address; (3) telephone number; and (4) e-mail address.

VII. ORDER

Accordingly, the Department of Public Utilities:

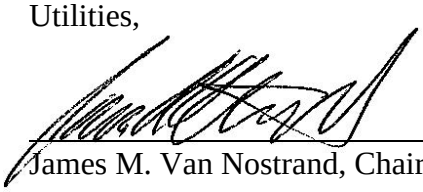
VOTES: To open a joint inquiry with the Department of Telecommunications and Cable to explore utility pole and conduit access considerations associated with the clean energy transition and broadband deployment in the Commonwealth; and it is

ORDERED: That the Secretary of the Department of Public Utilities, in coordination with the Secretary of the Department of Telecommunications and Cable, shall publish notice of this joint inquiry in The Boston Globe or the Boston Herald; and it is

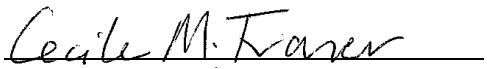
FURTHER ORDERED: That the Secretary of the Department of Public Utilities, in coordination with the Secretary of the Department of Telecommunications and Cable, send notice of this proceeding and a copy of this Order to the Joint Committee on Telecommunications, Utilities and Energy; NSTAR Electric Company d/b/a Eversource Energy; Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid; and Fitchburg Gas and Electric Light Company d/b/a Unitil; and it is

FURTHER ORDERED; That the Secretary of the Department of Public Utilities, in coordination with the Secretary of the Department of Telecommunications and Cable, send notice of this proceeding to each municipal light plant subject to the jurisdiction of the Department of Public Utilities; each city and town in the Commonwealth; the Attorney General of the Commonwealth; the Massachusetts Department of Transportation; the Department of Energy Resources; the Massachusetts Municipal Association; and other interested stakeholders.

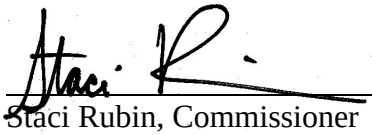
By Order of the Department of Public Utilities,



James M. Van Nostrand, Chair



Cecile M. Fraser, Commissioner



Staci Rubin, Commissioner

Accordingly, by the Department of Telecommunications and Cable it is:

ORDERED: To open a joint inquiry with the Department of Public Utilities to explore utility pole and conduit access considerations associated with the clean energy transition and broadband deployment in the Commonwealth; and it is

ORDERED: That the Secretary of the Department of Telecommunications and Cable, in coordination with the Secretary of the Department of Public Utilities, shall publish notice of this joint inquiry on the Department of Telecommunications and Cable's website; and it is

FURTHER ORDERED: That the Secretary of the Department of Telecommunications and Cable, in coordination with the Secretary of the Department of Public Utilities, send a copy of this Order to Verizon New England d/b/a Verizon Massachusetts; all other incumbent local exchange carriers in Massachusetts; the Massachusetts Broadband Institute; telecommunications industry associations; and other interested stakeholders.

By Order of the Department of
Telecommunications and Cable,

Karen Charles, Commissioner

ATTACHMENT A – ORIGINAL MOA

This is provided as a separate attachment.

ATTACHMENT B – NINTH MOA EXTENSION

This is provided as a separate attachment.