

**DRAFT AMENDED AND RESTATED
MEMORANDUM OF AGREEMENT**
**between the Massachusetts Department of Public Utilities and the
Massachusetts Department of Telecommunications and Cable
regarding the regulation of attachments to utility poles, ducts, and conduits
pursuant to G.L. c. 166, § 25A and double poles pursuant to
G.L. c. 164, § 34B**

This amended and restated Memorandum of Agreement (“Amended and Restated MOA”) is entered into this **DATE** between the Department of Public Utilities (“DPU”) and the Department of Telecommunications and Cable (“DTC”) (together, “agencies”). This Amended and Restated MOA supersedes the Memorandum of Agreement entered into by the agencies on October 14, 2008, the terms of which were most recently extended until January 30, 2026.

WHEREAS, on April 11, 2007, pursuant to Article 87 of the Amendments to the Massachusetts Constitution, Chapter 19 of the Acts of 2007 (“2007 Act”) reorganized the Governor’s cabinet and certain agencies of the Executive Department, separating the functions of the then-existing Department of Telecommunications and Energy (“DTE”) into two successor agencies;

WHEREAS, the 2007 Act created the DPU within the Executive Office of Energy and Environmental Affairs, as the successor to the DTE, for purposes of regulating gas, water, and electric utilities and pipeline and transportation safety, among other functions;

WHEREAS, the 2007 Act created the DTC within the Executive Office of Housing and Economic Development (“EOHED”) as the successor to the DTE, for purposes of regulating the telecommunications and cable television industries, and on May 4, 2023, Chapter 7 of the Acts of 2023 reorganized the Governor’s cabinet to rename EOHED as the Executive Office of Economic Development (“EOED”);

WHEREAS, effective June 24, 2021, pursuant to Chapter 8 of the Acts of 2021, the General Court directed that the DPU, with respect to itself and the entities it regulates, prioritize safety, security, reliability of service, affordability, equity and reductions in greenhouse gas emissions limits and sublimits established pursuant to Chapter 21N of the General Laws;

WHEREAS, effective July 1, 2021, pursuant to Chapter 24 of the Acts of 2021, and as modified by Chapter 268 of the Acts of 2022, the General Court expanded to role of the DTC to include the development of statewide policy regarding advanced telecommunications capability, i.e., high-speed, switched, broadband telecommunications capability, within the Commonwealth;

WHEREAS, in the intervening years since the agencies were established and through the foreseeable future, the Commonwealth’s legislative mandates and policy priorities include efforts to facilitate electrification of the building and transportation sectors, deployment of electric vehicle charging infrastructure on public rights-of-way (“ROWS”), electric distribution grid modernization and advanced metering infrastructure investments and upgrades, and competitive broadband deployments, all of which rely, in part, on utility pole attachments and/or work conducted on public ROWs, and investments relating to these legislative mandates and

policy priorities will likely increase demand for new attachments to utility poles and necessitate pole replacements and double poles on public ROWs;

WHEREAS, the agencies have agreed on a modified process to share jurisdiction over issues relative to attachments to utility poles, ducts, and conduits (“attachments”) pursuant to G.L. c. 166, § 25A and relative to double poles under G.L. c. 164, § 34B;

NOW THEREFORE, the parties to this Amended and Restated MOA, intending to be legally bound thereby, agree as follows:

1. As utility poles, ducts, and conduits and related attachments are necessary for electricity distribution and broadband deployment and are often jointly owned by electric and telecommunications companies, DTC and DPU will continue to share jurisdiction over issues related to attachments pursuant to G.L. c. 166, § 25A, and over double poles pursuant to G.L. c. 164, § 34B.
2. The agencies agree that 220 CMR 45.00 et seq. are the applicable regulations with respect to attachments. If either agency seeks changes to these regulations, or to other policies or procedures applicable to attachments, the agencies agree to jointly develop and promulgate such regulations, policies, or procedures consistent with G.L. c. 166, § 25A.
3. FORMAL ATTACHMENT COMPLAINT PROCEDURES. As of the effective date of this Modified MOA, the agencies agree to adjudicate pole attachment complaints filed pursuant to G.L. c. 166, § 25A and 220 CMR 45.00, in accordance with the procedures described below.
 - a. The agencies will require that all formal complaints will be submitted simultaneously to each agency in the same e-mail to dpu.efiling@mass.gov and dtc.efiling@mass.gov. If either the DPU or the DTC is excluded from the filing, the agency in receipt of the filing will send an electronic copy to the other agency’s General Counsel and to either dpu.efiling@mass.gov or dtc.efiling@mass.gov, as appropriate. A filing will not be deemed complete until such time as it is received by both agencies.
 - b. Within five (5) business days of receipt by both agencies, each agency will assign:
 - i. a docket number to the filing unique to its agency; and
 - ii. a hearing officer to the docket, consistent with the requirements for such designation applicable to the DPU pursuant to G.L. c. 25, § 4, and to the DTC pursuant to G.L. c. 25C, § 4.
 - c. Within five (5) business days after assigning the docket number, each agency will assign technical staff, as needed, to assist on the matter.

- d. All actions, including those taken by designated hearing officers within such proceedings, shall be conducted and/or issued jointly by the agencies under both docket numbers. Hearing officers shall cooperate on all procedural and preliminary rulings with the shared goal of timely and efficiently reaching a decision.
 - e. When adjudicating a pole complaint, DTC shall comply with DPU's *ex parte* regulations, 220 CMR 1.02(9), in its communications with parties to the complaint. Communication regarding pole complaints or joint pole rulemakings between DPU and DTC shall not be considered *ex parte* communications under 220 CMR 1.02(9).
 - f. Consistent with 220 CMR 45.00, within twenty-one (21) days of receipt of a response to a formal complaint, if upon review the agencies determine that the allegations raise policy considerations of general applicability, where a petitioner effectively seeks modification of longstanding utility practices in the Commonwealth and a determination by the agencies that such practices are no longer just and reasonable, the agencies may by joint order convert the filing into a petition for joint rulemaking addressed consistent with 220 CMR 2.00: Rules for Adopting, Amending, or Repealing Regulations and for Issuing Advisory Rulings.
 - g. All orders require signature by the Commissioner of the DTC and a Commissioner of the DPU.
4. The DPU and DTC agree to cooperate in the implementation of this Amended and Restated MOA, including responding to requests for information and meetings, upon request by either agency, to discuss information or issues related to the Amended and Restated MOA.
 5. The DPU and DTC agree to explore an alternative dispute resolution process that utilities and attachers may use to facilitate resolution of disputes prior to the filing of a formal complaint to the agencies pursuant to 220 CMR 45.00. The agencies will adopt any agreed alternative dispute resolution process through an amendment or appendix to this Amended and Restated MOA.
 6. The agencies agree to meet at least once every twelve months to discuss and evaluate the execution of this Amended and Restated MOA, stakeholder concerns, and industry trends involving attachments and double poles. The agencies shall seek public input on this Amended and Restated MOA and its execution as necessary, including through written comments, collaborative forums, and/or technical sessions. The agencies agree to further amend this Amended and Restated MOA as necessary and appropriate.
 7. Absent any intervening and pertinent statutory amendments applicable to G.L. c. 166, § 25A or G.L. c. 164, § 34B, this Amended and Restated MOA shall expire three (3) years from the date of execution. No later than six (6) months prior to the expiration date, the agencies shall meet and confer to discuss an

appropriate renewal of this Amended and Restated MOA. This Amended and Restated MOA may be modified at any time by written agreement of the agencies.

IN WITNESS WHEREOF, the DPU and DTC hereby execute this Amended and Restated Memorandum of Agreement, in duplicate, on the **xxth day of Month**, 2026.

COMMONWEALTH OF MASSACHUSETTS

By and through:

DEPARTMENT OF PUBLIC UTILITIES

By: _____
Jeremy C. McDiarmid, Chair

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

By: _____
Karen Charles, Commissioner