

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.P.U. 26-10/D.T.C. 26-1

March 6, 2026

Joint Investigation by the Department of Public Utilities and the Department of Telecommunications and Cable on their own motion instituting a rulemaking pursuant to G.L. c. 30A, § 2, 220 CMR 2.00, and 207 CMR 2.00, to amend 220 CMR 45.00: Pole Attachment, Duct, Conduit, and Right-of-Way Complaint and Enforcement Procedures.

D.P.U. 25-10-A/D.T.C. 25-1-A

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.

ORDER INSTITUTING JOINT RULEMAKING AND
FURTHER INQUIRY ON MEMORANDUM OF AGREEMENT

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I. INTRODUCTION AND SUMMARY OF ITEMS FOR COMMENT

Through this Order, the Department of Public Utilities and the Department of Telecommunications and Cable (together, “Departments” or “agencies”) jointly open a rulemaking, docketed as D.P.U. 26-10/D.T.C. 26-1, seeking comment on proposed revisions to our shared regulations, 220 CMR 45.00: Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures. Through our pending inquiry proceeding, D.P.U. 25-10/D.T.C. 25-1, the agencies also seek further comment on: (1) a draft Amended and Restated Memorandum of Agreement (“Draft Amended and Restated MOA”) to be entered into by the agencies; and (2) potential, non-binding alternative dispute resolution (“ADR”) provisions that can be implemented by the Departments.

The Departments open the rulemaking on our own motion pursuant to 47 U.S.C. § 224(c); G.L. c. 164, § 34B; G.L. c. 166, § 25A; 207 CMR 2.00; 220 CMR 2.02; and the current MOA originally entered into by the agencies in 2008 to facilitate our shared jurisdiction over double poles, as well as over utility pole and conduit access and enforcement matters.¹ The Departments will conduct a virtual public hearing on our proposals on **Wednesday, May 27, 2026**, at 2:00 p.m. The Departments will also accept written comments on our proposals, establishing a **Tuesday, May 12, 2026**, deadline for initial comments, and a **Thursday, June 11, 2026**, deadline for reply comments. Additional details about the public hearing and for submitting comments are provided in Section V. of this Order.

¹ For ease of reference, the initial 2008 MOA and the most recent limited extension, which expires on July 31, 2026, are provided as appendices to this Order.

As discussed more fully below, the Departments seek comment on our proposed revisions to 220 CMR 45.00 et seq. The Departments' proposed amendments would constitute the most substantive revision to these regulations in more than 40 years, which at this time consist primarily of the agencies' procedural rules applicable to resolving complaints by both telecommunications and cable television ("CATV") providers seeking access to utility poles, conduit, and ducts on public rights-of-way ("ROWs") in the Commonwealth of Massachusetts. In implementing and enforcing these regulations, federal and state law requires the Departments to consider both the interests of telecommunications and CATV service subscribers and of utility service customers. 47 U.S.C. § 224(c)(2)(B); G.L. c. 166, § 25A.

The proposed revisions would broaden the scope of 220 CMR 45.00 et seq. to:

- (1) implement comprehensive state-wide terms and conditions for telecommunications, advanced telecommunications, broadband, and CATV providers, to apply for and access utility poles;
- (2) establish additional requirements and obligations for all utility pole owners, including:
 - (a) municipal lighting plants ("MLPs");
 - (b) the Commonwealth's investor-owned electric distribution companies ("EDCs"), NSTAR Electric Company d/b/a Eversource Energy ("NSTAR Electric"), Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid ("National Grid"), and Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil");
 - (c) telephone companies, including Verizon New England, Inc. d/b/a Verizon Massachusetts ("Verizon");²
- (3) establish express requirements and obligations for all utility pole

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 CATV providers, competitive telecommunications carriers, and others.

attachers, including licensees, such as municipalities and other municipal entities, MLPs, and all telecommunications, advanced telecommunications, broadband, and CATV providers;

(4) streamline and clarify the existing procedural requirements applicable to utility poles and conduit and duct access disputes, including in relation to joint adjudications to be conducted by the agencies; and (5) expand the procedural requirements to expressly allow utility pole owners to file complaints against attachers.

Of the proposed revisions listed above, the most substantive ones involve the addition of requirements for utility pole attachment applications and new processes for licensees to access utility poles, including: (1) timelines and make-ready requirements that vary based on an application's size, *i.e.*, the number of poles identified in a pole attachment application submitted to a utility pole owner; (2) permissible deviations from make-ready timelines by utility pole owners and licensees in specific circumstances; (3) provisions allowing utility pole licensees to engage in self-help and one-touch make-ready ("OTMR") work in specific circumstances and to mandate the creation of approved contractor lists by utility pole owners for (a) surveys; and (b) make-ready work conducted in the communications space of utility poles; (4) improved communications and coordination with appropriate government authorities, *i.e.*, state and local government authorities and officials that manage, authorize, and/or license work conducted on public ROWs, as well as with existing attachers on utility poles; and (5) annual reporting requirements by utility pole owners.

The agencies' proposed revisions to 220 CMR 45.00 *et seq.* are informed by Massachusetts-specific considerations coupled with utility pole attachment regulations and recent activities applicable in other states, including regulations implemented by the Federal

Communications Commission (“FCC”), to facilitate additional broadband and advanced telecommunications deployment. The agencies’ proposals are also informed by the extensive comments, data, and input received by the Departments from a broad array of interested stakeholders during our joint inquiry proceeding, which remains pending. See generally Joint 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, D.P.U. 25-10/D.T.C. 25-1.

Additionally, building from comments and input received by the agencies in D.P.U. 25-10/D.T.C. 25-1, the Departments seek comment on a Draft Amended and Restated MOA. The Draft Amended and Restated MOA identifies new instructions and agency action in relation to the joint adjudication of any future formal attachment or access complaints to be filed by entities pursuant to 220 CMR 45.00. The Departments also seek further comment on potential informal and non-binding ADR provisions that may be incorporated into a future revised MOA between the agencies. The agencies’ goal is to implement an ADR mechanism that would allow interested stakeholders the opportunity to resolve disputes with non-binding agency guidance before any formal complaint would be filed under 220 CMR 45.00. The Departments envision that any ADR mechanism adopted by the agencies would supplement parties’ due process rights applicable under G.L. c. 30A.

II. BACKGROUND

Since 1978, pursuant to federal law, the rates, terms, and conditions for access to utility-owned or controlled poles, conduits, ducts, and ROWs by CATV providers and, later,

telecommunications providers, have been 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); 47 C.F.R. §§ 1.1401-1.1416; Order Instituting Rulemaking to Establish Complaint and Enforcement Procedures to Ensure that Telecommunications Carriers and Cable System Operators have Non-Discriminatory Access to Utility Poles, Ducts, Conduits, and Rights-of-Way, D.T.E. 98-36, at 1 (1998). As a result of the Commonwealth's initial enactment of G.L. c. 166, § 25A, in 1978, subsequently amended, and the agencies' implementation of 220 CMR 45.00 et seq., Massachusetts has certified to the FCC that it regulates such rates, terms, and conditions. 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) ("Reverse-Preemption Public Notice"); Letter from Kajal Chattopadhyay, General Counsel, Department of Telecommunications and Cable, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-101 (August 25, 2010); 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). As a result, Massachusetts is a reverse-preemption state where the FCC's pole attachment and conduit and duct access regulations do not apply.³ See, e.g., Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket Nos. 17-84 and 17-79, Third Report and Order and Declaratory Ruling, FCC 18-111, ¶ 13

³ To date, the District of Columbia and 23 states including Massachusetts have jurisdiction over pole attachments and conduit and duct access. Accelerating Wireline Broadband Deployment by Removing Barrier to Infrastructure Investment, WC Docket No. 17-84, FCC 25-38, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders on Reconsideration at 3 n.10 (25 WL 2144600 (F.C.C.)) (July 25, 2025) ("FCC 25-38"), citing Reverse-Preemption Public Notice.

(33 FCC Rcd. 7705) (August 3, 2018) (“FCC 18-111”). Additionally, unlike states where federal pole attachment and conduit access regulations apply, such requirements applicable in Massachusetts involve infrastructure owned by a broader range of entities, including MLPs. Compare 47 U.S.C. § 224(a)(1), (3), and 47 C.F.R. § 1.1402(a), (h) (definitions of “utility” and “State”), with G.L. c. 166, § 25A (definition of “utility”); see also Comcast v. Peabody MLP and Peabody Municipal Lighting Commission, D.T.C. 14-2, at 5-6, 9 (2014) (statutory definition of “utility” under G.L. c. 166, § 25A, includes MLPs); NextG Networks v. RCN, D.T.C. 08-5, at 4, 6-7 (2009) (discussing the statutory definition of “utility” under G.L. c. 166, § 25A).

When Massachusetts first certified its authority to the FCC, jurisdiction to enforce G.L. c. 166, § 25A, applied to an earlier iteration of the Department of Public Utilities. At the time, the agency had jurisdiction over telephone companies subject to G.L. c. 159 and G.L. c. 166, as well as over electric, gas, and water utilities subject to G.L. c. 164 and G.L. c. 165, among other functions. In 1997, the Department of Public Utilities was renamed the Department of Telecommunications and Energy with additional jurisdiction over a growing telephone and telecommunications marketplace and over CATV providers subject to G.L. c. 166A. Effective April 11, 2007, and pursuant to Chapter 19 of the Acts of 2007, the Legislature dissolved the Department of Telecommunications and Energy 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. 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 emissions, and expanded the Department of Telecommunications and Cable's ability to request information to inform the work of the Massachusetts Broadband Institute. G.L. c. 25, § 1A; G.L. c. 25C, § 9.

Both G.L. c. 164, § 34B (double poles) and G.L. c. 166, §25A (pole attachments and conduit and duct access) involve infrastructure primarily owned jointly by an electric company (*i.e.*, Eversource, National Grid, Unitil, or an MLP) and Verizon.⁴ More specifically, approximately 90 percent of the utility poles in Massachusetts continue to be jointly owned by electric and telephone companies (*see, e.g.*, D.P.U. 25-10/D.T.C. 25-1, Eversource Comments, Att. ES-A-1 (March 18, 2025) (reporting that as of December 31, 2024, it owned a total of 522,084 utility poles in the Commonwealth, with 465,677 of those poles jointly-owned); D.T.C. 25-10/D.T.C. 25-1, National Grid Comments, Att. NG-A-1 (March 18, 2025) (reporting that as of December 31, 2024, it owned a total of 707,517 utility poles in the Commonwealth, with 636,380 of those poles jointly-owned).⁵ *See also Boston Edison Co. v. Town of Bedford*, 444 Mass. 775, 776 (2005). In contrast, the FCC has noted that pole ownership by incumbent telephone utilities appears to have otherwise declined elsewhere. FCC 18-111, ¶¶ 124-126.

⁴ In D.P.U. 25-10/D.T.C. 25-1, Verizon reported that it owned utility poles in at least 347 of the Commonwealth's 351 municipalities (*see* D.P.U. 25-10/D.T.C. 25-1, Verizon Comments (Supp.) at 1-2 & Att. 19, Excel version (May 8, 2025)).

⁵ The numbers reported in D.P.U. 25-10/D.T.C. 25-1 are not audited.

Moreover, utility poles and electric distribution lines are a core and integral part of not only an electric company's distribution system and the provisioning of electric service to customers, but also of the provisioning of telecommunications, broadband, and CATV services to customers by telecommunications, broadband, and CATV providers. See Electric Sector Modernization Plans, D.P.U. 24-10/D.P.U. 24-11/D.P.U. 24-12, at 17-26 (2024) ("ESMP Order"); FCC 18-111, ¶ 1. The location of these poles and lines owned by utilities very generally align with the electric and incumbent telephone utility service territories that began developing in the Commonwealth more than a century ago, and for which individual municipalities provided grants of location to utilities. See G.L. c. 166, §§ 21, 22, 24; Petition of Chicopee Municipal Lighting Plant Seeking the Right to Serve Certain Customers Within the City of Chicopee Currently being Served by Western Massachusetts Electric Company, D.P.U. 16-39, at 20, 31, 32-33, 37 (2019); Department of Telecommunications and Cable, Competition Status Report at 7 (February 12, 2010) ("DTC Competition Status Report"); New England Telephone & Telegraph Company v. Department of Public Utilities, 262 Mass. 137 (1928) ("NET v. DPU").

Like Congress and the FCC, the Departments recognize the unique economic characteristics that shape relationships between pole owners and attachers, and there is no practical alternative for network deployments by competitive telecommunications, broadband, and CATV providers, except to utilize available space on existing poles, the ownership and control of which are largely governed by monopoly utilities. Implementation of Section 224 of the Act and a National Broadband Plan for our Future, WC Docket No. 07-245 and GN Docket No. 09-51, Report and Order and Order on Reconsideration, FCC 11-50, ¶ 4 (26 FCC Rcd. 5240)

(April 7, 2011) (“FCC 11-50”), citing S. Rep. No. 580, 95th Congress, 1st Sess. at 13 (1977).

Thus, Congress granted the FCC or states asserting jurisdiction, like Massachusetts, the authority to ensure that utility pole attachments are provided on just and reasonable rates, terms, and conditions on a non-discriminatory basis. 47 U.S.C. § 224(c), (f); FCC 11-50, ¶ 4.

Over time, Congress, the FCC, and, consequently, the Departments’ predecessor mandated that utilities provide non-discriminatory access to their utility poles, ducts, and conduit to telecommunications and CATV providers, but that such utilities may deny access on a non-discriminatory basis where there is insufficient capacity and for the reasons of safety, reliability, and generally applicable engineering purposes. 47 U.S.C. § 224(f); 220 CMR 45.01, 45.03(1); D.T.E. 98-36-A at 5-6, 32-33 (2000); see also Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 and Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 95-185 and 96-98, First Report and Order, FCC 96-325, ¶¶ 1119-1123, 1143, 1151-1158 (11 FCC Rcd. 15499) (August 8, 1996) (subsequent history omitted) (“FCC Local Competition Order”). Because of the continued intersection of electric distribution and telecommunications infrastructure and without further clarification by the Massachusetts Legislature, the Departments agree that, by necessity, we share jurisdictional authority for enforcement of G.L. c. 164, § 34B, and G.L. c. 166, §25A.⁶ See also St. 2007, c. 19, § 52(h) (“Whenever the term “department of telecommunications and energy” appears in any statute, regulation, contract or

⁶ Despite the dissolution of the Department of Telecommunications and Energy, the Massachusetts Legislature did not revise the language in either G.L. c. 164, § 34B, or G.L. c. 166, §25A.

other document, it shall be taken to mean the department of telecommunications and cable to the extent that it relates to telecommunications or [CATV] or calls upon the department of telecommunications and energy to take actions relating to telecommunications or [CATV]. Otherwise, it shall be taken to mean the department of public utilities”). The Departments also agree that 220 CMR 45.00 et seq. are the applicable regulations with respect to utility pole attachments and conduit and duct access, which, to date, primarily provided procedures for telecommunications and CATV providers to file attachment and conduit access complaints with the agencies and their predecessors. See D.T.E. 98-36-A at 6, 31-32 (2000); Petition of New England Cable Television Association, Inc. Requesting Adoption of Pole Attachment and Conduit Access Regulations, D.P.U. 930, Order Adopting Regulations at 3, 12 (1984).

III. D.P.U. 26-10/D.T.C. 26-1: PROPOSED REVISIONS AND ALTERNATIVE REVISIONS TO REGULATIONS

A. Introduction

Through our proposed amendments and revisions, the Departments intend to provide greater certainty and guidance on just and reasonable terms and conditions of access to utility poles throughout the Commonwealth for both utility pole owners and by competitive telecommunications, CATV, and broadband providers. The Departments also aim to ensure greater collaboration and coordination between utilities, all existing licensees and municipal attachers, requesting attachers, and government authorities that oversee and/or authorize work on public ROWs in the Commonwealth.

Since 2000, broadband has become an essential infrastructure in almost every facet of daily life and the need for equitable access is critical. See Commonwealth of Massachusetts,

Massachusetts Broadband Strategic Plan at 3 (July 2022) (“Mass. Broadband Strategic Plan”);⁷ see also Western Massachusetts Electric Company, D.P.U. 87-260, at 177 (1988) (“electricity is a basic necessity of life in modern society”). This need became amplified during the COVID-19 pandemic, exposing physical and monetary barriers to broadband access and adoption in all parts of the Commonwealth. Mass. Broadband Strategic Plan at 3. In recent years, there has been a nationwide effort, including in Massachusetts, to facilitate additional, competitive broadband deployment to ensure greater broadband access by consumers, which requires significant funding and investment for and by broadband providers and increased access to utility poles, ducts, and conduit on and under public ROWs.

At the same time, a fundamental evolution has been taking place in the way electricity is produced and consumed in the Commonwealth. ESMP Order at 59. This evolution involves a clean energy transition that has been driven, in large part, by a number of state legislative and administrative policy initiatives designed to address climate change and foster a clean energy economy, with transportation and building electrification as top priorities. ESMP Order at 59-60 (citations omitted); Commonwealth of Massachusetts, Clean Energy and Climate Plan for 2050, at 7, 18-25, 48-84 (December 2022). This transition similarly necessitates substantial investment in infrastructure to support electrification efforts, including updates and/or changes to utility pole and conduit infrastructure, lines, and attachments. Moreover, grid modernization distribution infrastructure and corresponding benefits to electric ratepayers rely, in part, on telecommunications and broadband infrastructure investments and access. See, e.g.,

⁷ Available at <https://broadband.masstech.org/sites/default/files/2022-10/MassBroadbandStrategicPlan-2022-07.pdf> (last visited March 6, 2026).

D.P.U. 24-10-A/D.P.U. 24-11-A/D.P.U. 24-12-A at 33-35, 117-124 (June 13, 2025) (addressing National Grid’s ESMP-related communications investments); Second Grid Modernization Plans, D.P.U. 21-80-B/D.P.U. 21-81-B/D.P.U. 21-82-B, at 29-30, 33-34, 44-47, 53-55, 196-187 (2022) (discussing and addressing communications-related needs involving each EDC’s advanced metering infrastructure investments).

It is within this framework that the Departments opened their inquiry in D.P.U. 25-10/D.T.C. 25-1, on January 17, 2025, requesting comments and input on an extensive array of topics and questions related to utility pole attachment, conduit access, double pole, and related considerations applicable to utility work conducted on public ROWs in the Commonwealth. The Departments expressed their intent to open a separate rulemaking to update the agencies’ shared regulations, 220 CMR 45.00, based on the comments and data received in response to their inquiry. D.P.U. 25-10/D.T.C. 25-1, Order Opening Inquiry at 3, 33-34, 39 (2025). On June 18, 2025, after initial comments were filed, the Departments released for comment and input a redlined version of 220 CMR 45.00 et seq. prepared by the Department of Telecommunications and Cable. D.P.U. 25-10/D.T.C. 25-1, Memorandum at 1, 3 (June 18, 2025).

The Departments received comments and data from numerous stakeholders, including: (1) jointly from the Executive Office of Energy and Environmental Affairs (“EEA”) and Executive Office of Economic Development (“EOED”); (2) the Massachusetts Bay Transportation Authority (“MBTA”); (3) the Attorney General of the Commonwealth of Massachusetts (“Attorney General”); (4) the Massachusetts Municipal Association (“MMA”); (5) individually from 20 MLPs that provide electric services or electric and telecommunications

or broadband services⁸ and four broadband-only MLPs that provide broadband service;⁹ (6) individually from six municipalities and/or municipal officials;¹⁰ (7) the Cape Light Compact JPE (the “Compact”) on behalf of its member communities¹¹ and Dukes County; (8) the EDCs, NSTAR Electric, National Grid, and Unitil; (9) Verizon, as the Commonwealth’s primary utility pole owner and traditional telephone utility that serves all but a handful of municipalities in Massachusetts; (10) AT&T, as a conduit owner; (11) industry associations, including (a) the New England Connectivity and Telecommunications Association (“NECTA”) on behalf of its CATV broadband provider members, including Comcast, Charter Communications, Cox Communications, and Breezeline, and (b) CTIA – The Wireless Association (“CTIA”) on behalf of its wireless communications industry and mobile ecosystem members; (12) competitive

⁸ For purposes of this Order, the Departments define these types of MLPs as those that provide electric service and generally own utility poles and conduit in their service territories. Certain of these MLPs also offer telecommunications, broadband, or other services. The following more traditional MLPs submitted data and/or comments: Braintree, Concord, Georgetown, Hingham, Holden, Holyoke, Hudson, Littleton, Mansfield, Merrimac, Middleborough, Middleton, Paxton, Peabody, Princeton, Reading, Shrewsbury, S. Hadley, Templeton, and W. Boylston.

⁹ The following broadband-only MLPs submitted data and/or comments: Charlemont, Leverett, Shutesbury, and WiredWest. WiredWest’s membership consists of MLPs in Becket, Heath, New Salem, Rowe, Washington, and Windsor (D.P.U. 25-10/D.T.C. 25-1, WiredWest Comments at 1 (March 18, 2025)).

¹⁰ Under this category, the Departments received comments from each of the following: the City of Cambridge, the Town of Nantucket, the Bernardston Highway Department, the Billerica Department of Public Works (“DPW”), the Falmouth DPW, and the Medford DPW.

¹¹ The Compact’s member towns include Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Edgartown, Eastham, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, West Tisbury, Wellfleet, and Yarmouth (D.P.U. 25-10/D.T.C. 25-1, Compact Comments at 1 (March 18, 2025)).

telecommunications broadband providers CRC Communications, LLC, d/b/a GoNetspeed (“GoNetspeed”) and Crown Castle Fiber LLC (“Crown Castle”); and (13) entities that addressed targeted inquiries from the Department relating to pole-mounted and ROW electric vehicle supply equipment (“EVSE”), including the Massachusetts Clean Energy Center (“MassCEC”), the Metropolitan Area Planning Council, Voltpost, Inc., EVSE LLC, and It’s Electric, Inc.

As part of the inquiry, the Departments conducted four days of technical sessions from June 23 through June 26, 2025, covering many topics.¹² The Departments and interested stakeholders, as well as interested members of the public watching virtually, received topic-specific presentations at each day of technical sessions from Verizon and jointly from the EDCs, as well as presentations from NECTA, GoNetspeed, CTIA, and the Compact. Each of these entities, the MMA, and the Departments participated in in-depth, technical discussions, which the Departments found to be beneficial and informative. Specifically, the presentations and discussions helped to inform and frame existing utility pole attachments practices and processes in the Commonwealth, and provided additional understanding regarding the limitations and concerns raised by each stakeholder relating to those processes. The Departments appreciate the time and effort that each of the stakeholders invested in the matter.

¹² The technical sessions addressed the following topics: (1) technical, safety, and engineering considerations for pole attachments; (2) ROW planning and coordination with municipalities, MassDOT, and public safety; (3) attachment applications, survey, and make-ready work and associated costs; (4) the National Joint Utilities Notification System; (5) double poles; (6) the Massachusetts Formula and inputs; (7) MOA and dispute resolution; and (8) EVSE. D.P.U. 25-10/D.T.C. 25-1, Memorandum on the Technical Session Agenda and Guidelines for Participation (May 8, 2025).

Additionally, on August 13, 2025, staff from both Departments participated at a focus group session generously facilitated by MMA to discuss utility pole matters and related municipal concerns. Staff from the Department of Public Utilities provided a background presentation on the issue, which was followed by discussions with attendees. More than 40 municipal officials in roles ranging from public works and MLP employees to select board and finance committee members, participated. The Departments appreciate the time and input provided by these officials, which the Departments found incredibly informative.

Since July 2025, staff from both Departments met regularly to discuss takeaways from the technical sessions and MMA session, written stakeholder comments, actions by the FCC and other states to streamline pole attachment processes, and to contemplate a draft set of revisions to 220 CMR 45.00 et seq. Accordingly, the Departments' proposed revisions take into consideration: (1) the comments and data received in the inquiry proceeding, as well as presentations and information discussed at the technical sessions and with municipal officials; (2) attachment and conduit access regulations implemented in other states that assert jurisdiction over these matters, i.e., reverse-preemption states such as New York, Maine, Vermont, and Connecticut, as well as those states where the FCC's regulations, 47 C.F.R. §§ 1.1401-1.1416, apply; and (3) considerations specific to Massachusetts. The Departments also weighed the interests of telecommunications and CATV services subscribers with the interests of utility customers, which federal and state law requires, and ensured that the continued safety, security, and reliability of services provided by utilities would be maintained (D.P.U. 25-10/D.T.C. 25-1, Attorney General Comments at 2 (March 18, 2025) (requesting that the Departments provide a fair and balanced treatment for all stakeholders)). 47 U.S.C. § 224(c)(2)(B); G.L. c. 25, § 1A;

G.L. c. 166, § 25. This section details the revisions agreed upon and proposed by the agencies. The actual language proposed by the agencies is attached to this Order, including redlines to our current regulations.

B. 220 CMR 45.00: Title of Regulations

The Departments propose to revise the title of the existing regulations from “Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures” to “Pole Attachment, Duct, Conduit and Right-of-Way Access, Removal, Complaint and Enforcement Procedures” to encapsulate the broader scope of the proposed regulations. Currently, the existing regulations primarily focus on complaint and enforcement procedures, whereas the proposed regulations incorporate additional terms and conditions that would be applicable to facilitate the access and removal of attachments to utility poles located on public ROWs.

C. 220 CMR 45.01: Purpose and Applicability

The Departments propose to expand the purpose of these regulations to reflect the broader scope of the proposed regulations and to add language clarifying the purpose and applicability of 220 CMR 45.00 et seq., consistent with utilities’ existing public service obligations, statutory, and regulatory requirements. See, e.g., G.L. c. 25, § 1A; G.L. c. 164, §§ 1I-1K; G.L. c. 166, § 25A; 220 CMR 19.00; Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 18-150, at 53, 122 (2019); Verizon Alternative Regulation Plan Investigation, D.T.E. 01-31, Phase IV Order at 2-3 (November 28, 2016); D.T.E. 01-31, Stamp-Approved Verizon Alternative Regulation Plan, ¶ T & Att. C (Retail Service Quality Plan) (June 6, 2003); see also Attorney Gen. v. Haverhill Gaslight Company, 215 Mass. 394, 400, (1913) (“A public service corporation by accepting the rights and privileges conferred by its

act of incorporation and by entering into the enjoyment of its franchises undertakes to perform all the public duties required of it. [I]t cannot surrender its franchises nor disable itself from the performance of its public functions without the consent of the Legislature”). Specifically, while 220 CMR 45.00 et seq. is intended to effectuate legislative policy in favor of competition and consumer choice in telecommunications, any such endeavor must be balanced with requisite consumer protections to ensure that utility services are safe, secure, reliable, and affordable. Moreover, both Congress and the Massachusetts Legislature have expressly mandated that, in regulating the rates, terms, and conditions applicable to utility pole attachments and conduit and duct access, the regulating agency must consider not only the interests of telecommunications and CATV provider customers, but also the interests of utility customers. 47 U.S.C.

§ 224(c)(2)(B); G.L. c. 166, § 25A.

Based on the broadened scope of the proposed regulations, the Departments also consider the utilities’ need to have sufficient time to update their internal software, processes, training, and procedures and their vendor contracts to ensure compliance with the proposed regulations (see D.P.U. 25-10/D.T.C. 25-1, Verizon Comments at 18 (March 18, 2025); EDC Joint Reply Comments at 30-31 (August 8, 2025)). New England Telephone & Telegraph Company v. Department of Public Utilities, 371 Mass. 67, 84 (1976) (“[w]hen a major change in the regulatory standard is in prospect, there should ordinarily be warning sufficient to enable the Company to adjust both its practices and its proof to the new situation”). As a result, the Departments propose language in this section to delay the effective date for the proposed revisions to 220 CMR 45.06 through 45.12 and § 45.17 to 90 days after final publication in the Massachusetts Register. Further, these proposed revisions (220 CMR 45.06 through 45.12

and 45.17) would only apply prospectively, i.e., to utility pole applications submitted after that date. If the utilities anticipate that they would require additional time to ensure compliance, then they shall in any comments they submit identify with specificity and provide support for the need for sufficient, additional time.

D. 220 CMR 45.02: Definitions

1. New Definitions

The Departments propose to add the following new definitions to the regulations: (1) an “appropriate government authority,” which the Departments propose to define as a government entity with jurisdiction over the public ROWs affected by a new licensee’s proposed project, that may be involved in approving permits or other requests necessary to complete a new licensee’s project, or that may be asked to provide resource (e.g., police details) to facilitate completion of a new licensee’s project; (2) “communications space,” which utilizes the definition currently used by the FCC, 47 C.F.R. § 1.1402(r), but incorporate elements of the definition used in the National Electric Safety Code (“NESC”)¹³ at 8 (2023 Edition); (3) “cyclical pole inspection report,” which utilizes the definition used by the FCC in 47 C.F.R. § 1.1411(c)(4)(iii); (4) “make-ready,” including definitions for “complex,” “simple make-ready,” and “one-touch make-ready,” which utilize, clarify, and expand upon the definitions and language currently used

¹³ NESC is the primary, voluntary standard for Massachusetts utilities that describes the basic provisions for safeguarding persons from hazards arising from the installation, operation, or maintenance of electric supply and communication lines and associated equipment, as well as work rules for the construction, maintenance, and operation. Boston Edison Company, D.P.U./D.T.E. 97-95, at 114 (2001). If adopted by a utility, the NESC must be applied in a non-discriminatory manner. D.P.U./D.T.E. 97-95, at 115.

by the FCC in 47 C.F.R. §§ 1.1402(o)-(q) and 1.1411(k),¹⁴ rely on additional regulatory guidance issued by the FCC, e.g., 47 C.F.R. § 1.1411(i)(3) (“[s]elf-help shall not be available for pole replacements”) and FCC 18-111, ¶ 18 (“we interpret the definition of complex make-ready to include all pole replacements”), and the potential growing market for the use of pole-mounted EVSE in the Commonwealth (see generally An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers, St. 2024, c. 239; D.P.U. 25-10/D.T.C. 25-1, MassCEC Comments (March 18, 2025); EVSE LLC Comments (May 8, 2025); It’s Electric, Inc. Comments (May 8, 2025); Voltpost, Inc. Comments (August 8, 2025)); (5) “wireless attachment,” which derives from language used by the FCC in 47 C.F.R. § 1.1402(p) describing complex make-ready; and (6) the memorialization of several acronyms used in the proposed regulations, i.e., EVSE, NESC, “NJUNS” for the National Joint Use Notification System, and “OSHA” for the Occupational Safety and Health Administration.

2. Modified Definitions

The Departments proposed to modify the following definitions used in the regulations for: (1) “attachment,” to better align with the existing statutory definition used in G.L. c. 166,

¹⁴ The Departments acknowledge that the FCC is contemplating, for application in other states, expansion of (1) the definition of OTMR to include complex survey and make-ready work, and (2) its make-ready requirements to apply to metal light poles (see D.P.U. 25-10/D.T.C. 25-1, GoNetspeed Reply Comments at 11-13 (August 8, 2025), citing FCC 25-38, ¶ 60). See also FCC 25-38, ¶¶ 60, 66-67. The Departments decline, however, to include or consider similar proposals in the current rulemaking, as such considerations would be premature. The Departments, similarly, also decline to include or consider implementing “an automatic trigger” for or mirroring the FCC’s rules (D.P.U. 25-10/D.T.C. 25-1, CTIA Comments at 5 (March 18, 2025); NECTA Reply Comments at 12 (August 8, 2025)). See Joint Pole Attachment Rulemaking, D.P.U. 19-76-A/D.T.C. 19-4-A at 31-32 (2021).

§ 25A, through the removal of “Duct,” and “conduit” is not limited to “telegraph” or “telephone” ducts and conduit, and through the addition of “or other means of telecommunications” to better reflect the broader range of services in today’s market currently offered by wireless communications, telephone, and CATV providers, among others; (2) “complaint,” “complainant,” and “respondent,” to distinguish the terms in relation to any future formal complaints to be filed pursuant to 220 CMR 45.15 versus future petitions for interim relief to be filed pursuant to 220 CMR 45.14; (3) “Department,” to reflect that the use of the term throughout the regulations references both agencies; (4) “licensee,” through expansion of the current definition based on language used throughout the proposed regulations, to account for requirements mandated under federal law in relation to wireless providers, and in consideration of potential deployment of pole-mounted EVSE attachments; and (5) “wireless provider,” through the proposed deletion of this definition due to the incorporation of the term within the proposed definition for “licensee.”

E. 220 CMR 45.03: Computation of Time

The Departments propose to shift the current terms of 220 CMR 45.03: Duty to Provide Access; Modifications; Notice of Removal, Increase or Modification; and Petition for Interim Relief into to a new 220 CMR 45.05: Duties of Utilities and a new 220 CMR 45.14: Petitions for Interim Relief and Alternative Dispute Resolution Procedure, with modification, as discussed further below. The Departments propose to add, in its place, a new section describing how time should be computed for purposes of deadlines in the proposed new regulations. The proposed terms are consistent with those already required in the Departments’ existing procedural regulations. See 207 CMR 1.02 (4); 220 CMR 1.02(4).

F. 220 CMR 45.04: Duties of Licensees and Attachment Owners

1. Current Proposed Regulation

The Departments propose to shift the current terms of 220 CMR 45.04: Complaint into a new 220 CMR 45.15: Formal Complaint Procedure, with modification, as discussed further below. The Departments propose to add, in its place and consistent with comments received in D.P.U. 25-10/D.T.C. 25-1, a new section that establishes clear duties and obligations of licensees and existing attachment owners, including municipalities.¹⁵ The Departments' proposals would require that: (1) no attachment shall be made without the consent of the utility, consistent with G.L. c. 166, § 25A, and existing contractual requirements; (2) all licensees and attachers, including municipalities, must register and participate in any joint utility notification database, such as NJUNS, utilized by the utilities; (3) all licenses and attachers must complete work in a reasonable time upon notification from a utility, a new licensee, NJUNS, or any successor database to NJUNS, consistent with the new proposed make-ready requirements proposed by the Departments; and (4) all licensees and attachers must include identification tags on their attachments consistent with G.L. c. 166, § 31 (see, e.g., D.P.U. 25-10/D.T.C. 25-1, Verizon Comments at 9, 16-17 (March 18, 2025) (discussing the use of NJUNS and “next-to-go” notifications, and urging that participation in NJUNS be required by all utility poles owners and attachers for purposes of efficiency and transparency); City of Cambridge Comments at 2

¹⁵ Not all municipal attachers are licensees; rather, over the last century, certain municipalities provided grants of location to utility pole owners with conditions to allow at least one municipal attachment on poles (see, e.g., D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 36 (August 8, 2025) (“municipalities do not always have agreements for their attachments”); Charlemont MLP Comments at 2 (March 18, 2025)).

(May 5, 2025) (supporting efforts to increase participation in NJUNS); NSTAR Electric Comments, Att. ES-B-6, at 16-17 (March 18, 2025) (contractual requirement addressing unauthorized attachments); GoNetspeed Comments at 19 (March 18, 2025) (requesting that attachers in the communications space be required to affix identification tags); EDC Joint Reply Comments at 36 (August 8, 2025) (requesting that all attachers, including municipalities, be required to participate in NJUNS)). The Departments anticipate that this proposed language will facilitate not only more timely and efficient attachment processes but also more timely double pole removals, which is a key concern for municipalities (see, e.g., D.P.U. 25-10/D.T.C. 25-1, MMA Comments at 1-3 (March 18, 2025); Compact Comments at 1, 6-11; City of Cambridge Comments at 2 (May 2, 2025); Falmouth DPW Comments at 2 (March 7, 2025); Town of Nantucket Comments at 3-4 (March 18, 2025)).¹⁶

Further, the EDCs and Verizon have represented to the Departments that attachers' registration and participation in NJUNS is free-of-charge to attachers (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 4 Technical Session Presentation, at 14 (filed June 16, 2025); Verizon Topic 4 Technical Session Presentation, at 9 (filed June 16, 2025)). The Departments request that

¹⁶ The Departments otherwise decline in this rulemaking to consider the implementation of regulations involving municipal enforcement of double pole violations, as suggested by MMA (D.P.U. 25-10/D.T.C. 25-1, MMA Comments at 2-3 (March 18, 2025)), as such an action would be beyond legislative intent and our existing jurisdictional authority. See G.L. c. 164, § 34B; Boston Edison Company v. Town of Bedford, 444 Mass. 775, 781-783 (2005) (finding that the comprehensive nature of Chapter 164 preempted municipalities from "imposing a fine on pole owners or otherwise" from enforcing G.L. c. 164, § 34B, and that the Massachusetts Legislature intended the agency to enforce this statutory provision on a statewide basis "in the absence of specific contrary legislation"); see also Report to the Legislature on Reducing the Number of Double Poles, D.T.E. 03-87, at 7-10 (November 28, 2003).

existing licensees and attachers confirm or respond to this representation by the utility pole owners. To the extent that an attacher has been charged for participation in NJUNS, we request that the attacher notify and provide non-confidential documentary support of these costs to the Departments as part of their comments. The Departments also request that the EDCs and Verizon coordinate to jointly identify and provide non-confidential support and/or address as part of their initial comments: (1) if permitted to be publicly available, the costs they have incurred for each of the past five years, and charged to their customers, for their participation in NJUNS; and (2) if known, a list of all existing licensees and attachers that are not registered or not actively participating in NJUNS and the approximate number of utility poles to which each have attachments.

2. Alternative Proposed Regulation: Single Visit Transfer Process

The current proposed regulations would mandate the following:

When an existing licensee receives a next-to-go or other notification from a utility, a new licensee, NJUNS, or any successor database to NJUNS, informing the existing licensee of its duty to modify one or more of its attachments as part of the make-ready process, the existing licensee shall complete such work within a reasonable time in coordination with the utility and other licensees to the pole. For make-ready work in the communications space, failure to complete such work within a reasonable time may result in modification of the existing licensee's attachment by a new licensee pursuant to the self-help provisions identified in 220 CMR 45.08(6).

220 CMR 45.04(3) (proposed). In place of the proposed language, the Departments are also considering adoption of the following for 220 CMR 45.04(3), which, if adopted, would effectively incorporate a single-visit transfer ("SVT") process into the final regulations:

When an existing licensee receives a next-to-go or other notification from a utility, a new licensee, NJUNS, or any successor database to NJUNS, informing the existing licensee of its duty to modify one or more of its attachments as part of the make-ready process, the existing licensee shall complete such work within a

reasonable time in coordination with the owner of the infrastructure upon which the attachment is installed, the jointly-owning utility, and other licensees to the utility pole.

- (a) For make-ready work in the communications space, failure to complete such work within a reasonable time may result in modification of the existing licensee's attachment by a new licensee pursuant to the self-help mechanisms made available in 220 CMR 45.8(6).
- (b) If an existing licensee in the communications space fails to perform work on its attachments within a reasonable time for work other than make-ready work, the utility may perform the work on the existing licensee's attachments and charge the associated costs to that licensee. The utility may select a contractor from a utility's contractor list maintained for make-ready work pursuant to 220 CMR 45.11.

The Departments observe that, like the FCC, we have long envisioned and preferred negotiated resolution of pole attachment terms and conditions. See, e.g., FCC 25-38, at 8 n.50 (“[p]arties have always been free to reach negotiated agreements with terms that differ from our rules”), ¶¶ 19-20, 29, 47; Accelerating Wireline Broadband Deployment, Declaratory Ruling, WC Docket No. 17-84, Declaratory Ruling, ¶¶ 3-4, 6, 14-18, DA 20-796 (35 FCC Rcd. 7936) (July 29, 2020) (“DA 20-796”); FCC Local Competition Order, ¶ 1143; D.T.C. 08-5, at 10 (explaining that negotiations were envisioned under G.L. c. 166, § 25A, and 220 CMR 45.00); Boston Edison Company, D.P.U./D.T.E. 97-95, at 118 (2001); D.P.U. 930, at 16.

At the same time, municipalities and others have identified ongoing delays in the removal of double poles set by utilities in contravention of the timelines established by G.L. c. 164, § 34B (D.P.U. 25-10/D.T.C. 25-1, Compact Topic 5 Technical Session Presentation at 5-9; MMA Comments at 1-3 (March 18, 2025); Compact Comments at 1, 6-8; Falmouth DPW Comments at 2 (March 7, 2025); Town of Nantucket Comments at 3 (March 18, 2025)). Several commenters noted that delays in double pole removal may generally be attributed to the existing

volume of attachments on utility poles in many areas, and existing attachers in the communications space not moving their own attachments in a timely manner (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 5 Technical Session Presentation at 3; Verizon Topic 5 Technical Session Presentation at 2; Compact Reply Comments at 4 (August 8, 2025); EDC Reply Comments at 35-36 (August 8, 2025); Peabody MLP Comments at 15 (March 27, 2025); Verizon Reply Comments at 4 (August 8, 2025)). Additional factors identified for delays include the existence of unlicensed and/or untagged attachments, competing work and resources (e.g., utilities' emergency event response), the need for more complicated work to be performed relating to the pole replacements, and scheduling and cost-efficiencies (e.g., companies and municipalities may wait to perform work in a larger area at a single time rather than multiple visits over a period of time, thus resulting in lower costs to the entity) (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 5 Technical Session Presentation at 3; Verizon Topic 5 Technical Session Presentation at 2; EDC Reply Comments at 35-36 (August 8, 2025); Georgetown Municipal Light Department ("MLD") Comments (March 9, 2025); Holden MLD Comments at 4 (March 18, 2025); Middleton Gas and Electric Light Department ("GELD") Comments at 16 (February 12, 2025); Peabody MLP Comments at 15 (March 27, 2025); Verizon Reply Comments at 4 (August 8, 2025)). Verizon also explained that double pole creation and removal is an ongoing, dynamic process, with the company and EDCs altogether annually installing between 8,000-10,000 double poles throughout the state and removing approximately the same number of double poles during the same periods (D.P.U. 25-10/D.T.C. 25-1, Verizon Reply Comments at 3-4 (August 8, 2025)).

As a result, in response to our inquiry, EEA, EOED, and the Compact urged adoption or consideration of an SVT process in the regulations, and the EDCs generally supported such a process for attachments in the communications space (D.P.U. 25-10/D.T.C. 25-1, EEA/EOED Joint Comments at 3 (March 9, 2025), citing Connecticut Public Utilities Regulatory Authority (“CT PURA”), Single Visit Transfer Process for Double Poles, Docket No. 21-07-29, Decision (December 21, 2022) (approving an SVT pilot program to explore and facilitate establishment of accelerated double pole removal processes); Compact Reply Comments at 3, 5 (August 8, 2025)). The EDCs and Verizon conveyed, however, that an SVT process would require additional guidance by the Departments on various issues (e.g., contractor pricing, cost allocation, liability, streetlight ownership) or that it would be difficult to meet the needs of all the parties (see, e.g., D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 3 Technical Session Presentation at 10; EDC Joint Topic 5 Technical Session Presentation at 4; EDC Joint Reply Comments at 37 (August 8, 2025); Verizon Reply Comments at 5 (August 8, 2025)). The Compact similarly observed that several issues need to be considered with the adoption of an SVT process, including those involving cost sharing, contractor qualifications, and liability, and noted an SVT pilot for the communications space occurring in New Hampshire (D.P.U. 25-10/D.T.C. 25-1, Compact Reply Comments at 5 (August 8, 2025)).

Due to the proposed adoption of self-help and contractor requirements related to make-ready work (see, e.g., 220 CMR 45.06(a) (proposed) and 220 CMR 45.11 (proposed)), which may inform SVT requirements, the Departments request comment on the alternative proposed language identified by the agencies for incorporation into the final regulations. Further, the Departments request that, if any entity opposes incorporation of this or similar

language at this time, their comments address with specificity each issue that must be resolved, proposals on how best the issue could be resolved by the Departments, and the timing for implementing such a resolution.

G. 220 CMR 45.05: Duties of Utilities

The Departments propose to shift the current terms of 220 CMR 45.05: Response into a new 220 CMR 45.15: Formal Complaint Procedure, with modification, as discussed further below. The Departments propose to add a new section, 220 CMR 45.05: Duties of Utilities, that reframes and expands upon the current requirements of 220 CMR 45.03(1)-(3) applicable to utilities. In particular, the Departments propose to: (1) eliminate existing language “or a wireless provider” due to the proposed incorporation of wireless providers in the definition of “licensees” (see Section III.D., above); (2) clarify that utilities must publish and provide responses to requests for access pursuant to 220 CMR 45.17(2)(e) (proposed), 220 CMR 45.08(2)(f) (proposed), and 220 CMR 45.09(2)(g) (proposed); (3) impose a requirement for utilities to offer electronic payment methods to attachers while also allowing utilities to assess a reasonable charge for electronic payments; and (4) clarify and expand upon existing requirements applicable to utilities pursuant to the current requirements under 220 CMR 45.03(3).

Additionally, the Departments propose to delete language in the current regulation that permits utilities the ability to deny access to a licensee “for good cause shown,” because this language is not currently reflected in G.L. c. 166, § 25A, 47 U.S.C. § 224, or otherwise addressed in the FCC’s regulations. The Departments’ predecessor first incorporated this language in 2000. To date, no entity has filed a complaint with the Departments or our

predecessor arising from a dispute over a denial of access for good cause. As a result, the Departments request comment on our proposal. To the extent any utility opposes this proposal, the Departments request that the utility discuss in its comments circumstances for where it has or would deny access for good cause, in addition to discussing why the language should be retained and complies with G.L. c. 166, § 25A, and legislative intent.

H. 220 CMR 45.06: Utility Poles – Attachment Application Size

The Departments propose to shift the current terms of 220 CMR 45.06: Procedures Where Formal Hearing is Waived into a new section, 220 CMR 45.15: Formal Complaint Procedure, with modification, as discussed further below. The Departments propose to add a new section, 220 CMR 45.06: Utility Poles – Attachment Applicant Size, that identifies and defines categories of attachment requests for new licensees by the following application sizes for the provision of telecommunications, including one of advanced telecommunications capability, broadband, and CATV services, based upon the number of poles identified in the application:

- (1) “small orders,” which would involve attachment requests up to the lesser of 50 poles or 0.1 percent of the utility’s poles in Massachusetts;
- (2) “regular orders,” which would involve attachment requests exceeding small orders up to the lesser of 300 poles or 0.5 percent of the utility’s poles in Massachusetts;
- (3) “mid-sized orders,” which would involve attachment requests exceeding regular orders up to the lesser of 3,000 poles or 5.0 percent of the utility’s poles in Massachusetts;
- (4) “large orders,” which would involve attachment requests exceeding mid-sized orders up to the lesser of 5,000 poles or 10.0 percent of the utility’s poles in Massachusetts;
- and (5) “very large orders,” which would involve attachment requests greater than the lesser of 5,000 poles or 10.0 percent of the utility’s poles in Massachusetts.

In establishing the proposed application sizes, the FCC's defined categories of application sizes served as a guide for the Departments. The Departments also considered the number of utility poles owned by each utility in each municipality in Massachusetts, as reported by existing pole owners, and additional guidance and requirements identified by the FCC (see D.P.U. 25-10/D.T.C. 25-1, NSTAR Electric Comments, Att. ES-A-1 (March 18, 2025); National Grid Comments, Att. NG-A-1 (March 18, 2025); Unitol Comments at 2 (March 18, 2025); Verizon Comments (Supp.) at 1-2 & Att. 19, Excel version (May 8, 2025); Holden MLD Comments at 1 (March 18, 2025); Middleton GELD at 2 (March 7, 2025); Reading MLP Comments at 1 (March 21, 2025); Shrewsbury Electric and Cable Operations ("SELCO") Comments at (March 18, 2025)). See also 47 C.F.R. § 1.1411(a)(4)-(5). The Departments also included an additional category of application sizes (small orders). This additional category should inform the Departments and interested stakeholders of the actual scale of work and applications received annually by the utilities when they report that data to the Departments. See Section III.R., below (discussing 220 CMR 45.17(1)(a) (proposed)). Such a category may also help to facilitate the opportunity for attachers to elect OTMR. See Section III.J.5.a., below.

Further, the Departments expand upon the FCC's definitions based on the number of poles owned by utilities in each municipality. The Departments propose to mandate that multiple applications from a single licensee within a 60-day period would constitute a single request by an applicant, beyond the 30 days currently required by the FCC. See 47 C.F.R. § 1.1411(g)(5). The Departments' intent is to ensure that an applicant does not game the proposed requirements, does not overwhelm a utility's resources, and allows sufficient time for a utility to plan its resources, including in relation to the anticipated need for acquisition and

coordination of multiple government authority permits. See, e.g., Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84, Fourth Report and Order, Declaratory Ruling, and Third Further Notice of Proposed Rulemaking, FCC 23-109, ¶ 55 & n.212-213 (38 FCC Rcd. 12379) (December 15, 2023) (requesting and addressing comments on timing requirements and limitation proposals for the submittal of applications). The Departments request comments on this approach.

Finally, because most utility poles in Massachusetts are jointly owned by an electric utility and Verizon, many MLPs are also joint owners of most of their poles (see, e.g., D.P.U. 25-10/D.T.C. 25-1, Holden MLD Comments at 1 (March 18, 2025) (of the approximate 5,100 poles it owns, around 4,885 are jointly owned); Middleton GELD Comments at 2 (March 7, 2025) (of the 2,671 poles it owns, 2,081 are jointly owned); Reading MLP Comments at 1 (March 21, 2025) (of the 8,565 poles it owns, 7,752 are jointly owned); but see SELCO Comments at (March 18, 2025) (explaining that it is the sole owner of its 6,744 poles); Unitil Comments at 2 (March 18, 2025) (explaining that it is the sole owner of its 20,991 poles)). Due to the different size and scale of MLPs in comparison to Verizon, the category of an attachment application may differ between jointly-owned entities. For instance, what may constitute a small or regular order for Verizon may constitute a mid-sized or larger order for an MLP. Because the order categorizations proposed by the Departments also inform the timelines proposed elsewhere in the regulations, there would be a potential discrepancy between the MLPs and Verizon as to what timelines would apply for particular orders. Accordingly, the Departments also propose and seek comment on the following provision: “For applications involving poles jointly owned by an electric municipal lighting plant utility and a telephone utility, for both utilities, the

applicable order application size, timelines, and related requirements identified in 220 CMR 45.07 through 220 CMR 45.12, shall be based on the size of the application to the municipal lighting plant.” 220 CMR 45.06(2) (proposed).

I. 220 CMR 45.07: Utility Poles – Advance Notice and Meet-and-Confer Requirements

The Departments propose to shift the current terms of 220 CMR 45.07: Remedies into a new section, 220 CMR 45.15: Formal Complaint Procedure, with modification, as discussed further below. The Departments propose to add a new section, 220 CMR 45.07: Utility Poles – Advance Notice and Meet-and-Confer Requirements, that expands upon similar requirements recently adopted by the FCC, but which remain pending until publication in the Federal Register, and consistent with comparable requirements and practices applicable to distributed generation (“DG”) entities and other large loads seeking to interconnect their facilities to the EDCs’ distribution systems. See FCC 25-38, ¶¶ 14-19 & Appx. A (47 C.F.R. § 1.1411(c) (pending)); 220 CMR 8.04(6). The Departments recognize that proper coordination and ongoing communication between multiple entities is key to ensuring more timely utility pole access in Massachusetts by telecommunications, broadband, and CATV providers, and to facilitate necessary preparation, planning, and authorizations by utilities and various government authorities (e.g., Massachusetts Department of Transportation (“MassDOT”), MBTA, municipalities, local police, planning departments, etc.).

Moreover, several commenters urged the Departments to ensure greater or more effective communication and involvement on projects planned along public ROWs (see, e.g.

D.P.U. 25-10/D.T.C. 25-1, Compact Comments at 6-7 (March 18, 2025); EDC Joint Reply Comments at 15-16 (August 8, 2025) (urging adoption of advance notice requirements longer

than those adopted by the FCC); Georgetown MLD Comments at (March 9, 2025); GoNetspeed Reply Comments at 11-13 (August 8, 2025) (urging the Departments to adopt the FCC’s rules identified in FCC 25-38, including advance written notice and meet-and-confer requirements); MMA Comments at 2 (March 18, 2025); Middleton GELD Comments at 12-13 (February 12, 2025); Shutesbury MLP Comments at 2 (March 18, 2025); Town of Nantucket Comments at 3-4 (March 18, 2025)). Commenters observed that strong communications from utilities to departments of public works, local legislative bodies, chief municipal officers, and local law enforcement are often cited as key to successful coordination of ROW work (D.P.U. 25-10/D.T.C. 25-1, Compact Comments at 6-7 (March 18, 2025); MMA Comments at 2 (March 18, 2025)). The Compact surveyed its member communities and reported that, for utility and private entity projects to be conducted on public ROWs, its members: (1) were evenly divided between “all projects are given the same priority” and “some projects are given higher priority,” such as important municipal projects requiring coordination with the utility, those critical to health or public safety, and MassDOT Chapter 90 projects; (2) have community liaisons/direct utility contacts; and (3) identified municipal requirements when projects require trenching on or along public ROWs (D.P.U. 25-10/D.T.C. 25-1, Compact Comments at 3-7 (March 18, 2025)). Several municipal officials and MLPs provided similar guidance (see, e.g., D.P.U. 25-10/D.T.C. 25-1, Bernardston Highway Department Comments at 1 (January 31, 2025); Billerica DPW Comments at 1 (March 14, 2025); Falmouth DPW Comments at 1 (March 7, 2025); Holyoke Gas & Electric Comments at 1-2 (March 6, 2025); Town of Nantucket Comments at 3 (March 18, 2025); South Hadley Electric Light Department Comments at 2 (March 17, 2025)).

As a result, the Departments propose to require applicants, i.e., new licensees, to provide advance written notice to not only each utility pole owner but also to each existing licensee in the communications space on the poles identified in the application, and to any appropriate government authority which would be affected by or require action relating to the anticipated work. 220 CMR 45.07(1)(a) (proposed). Such advance notice must be provided at least 45 days in advance for all mid-sized orders and at least 90 days in advance for all large and very large orders. 220 CMR 45.07(1)(a) (proposed). The Departments propose and outline minimum requirements to be included in the advance notices, and repercussions if an applicant does not provide the requisite advance notice. 220 CMR 45.07(1)(b)-(c) (proposed).

Additionally, the Departments propose to require new licensees, utilities, and existing licensees in the communications space to meet-and-confer at a mutually agreeable date and time in-person, virtually, or by phone, to engage in good faith discussions regarding the mechanics and timing of an application. 220 CMR 45.07(2) (proposed). The relevant parties must invite appropriate government authorities to this meeting. 220 CMR 45.07(2) (proposed). The Departments propose requiring that such meetings occur no later than 30 days after the date of the notice for mid-sized orders and no later than 60 days after the date of the notice for large and very large orders. 220 CMR 45.07(2) (proposed).

Similarly, as noted below in Section III.J.3., the Departments also propose additional advance notice and meet-and-confer requirements in 220 CMR 45.08(5) after all necessary government approvals have been provided, among other proposed requirements, in order for the utilities to commence make-ready work and to ensure ongoing collaboration and coordination among the affected stakeholders.

J. 220 CMR 45.08 and 220 CMR 45.09: Utility Poles – Non-OTMR and OTMR Options – Timelines, Application, Survey, Make-Ready, and Related Requirements for Access

1. Introduction and Background

The Departments propose to shift the current terms of 220 CMR 45.08: Time Limit and 220 CMR 45.09: Appeal from Department Decisions into a new section, 220 CMR 45.15: Formal Complaint Procedure, with modifications, as discussed further below. The Departments propose to add two new sections, 220 CMR 45.08: Utility Poles – Non-OTMR Option – Timelines, Application, Survey, Make-Ready, and Related Requirements for Access and 220 CMR 45.09: Utility Poles – OTMR Option – Timelines, Application, Survey, Make-Ready, and Related Requirements for Access, that are informed by similar requirements adopted by the FCC and other states. See, e.g., 47 C.F.R. § 1.1411; CT PURA, PURA Investigation of Third-Party Pole Attachment Process, Docket No. 19-01-52RE01, Final Decision (May 11, 2022) (“CT PURA 2022 Order”);¹⁷ Maine Public Utilities Commission, 65-407 CMR Ch. 880, §§ 1-11;¹⁸ New York Public Service Commission (“NY PSC”), Proceeding to Review Certain Pole Attachment Rules, Case 22-M-0101, Order Adopting Modifications to the 2004 Policy Statement on Pole Attachments and Related Proceedings (July 22, 2024) (“NY PSC 2024

¹⁷ Available at [https://www.dpuc.state.ct.us/dockcurr.nsf/\(Web+Main+View/All+Dockets\)?OpenView&StartKey=19-01-52RE01](https://www.dpuc.state.ct.us/dockcurr.nsf/(Web+Main+View/All+Dockets)?OpenView&StartKey=19-01-52RE01) (last visited March 6, 2026).

¹⁸ Available at <https://www.maine.gov/mpuc/legislative/laws-rules> (last visited March 6, 2026).

Order”);¹⁹ New Hampshire Department of Energy, N.H. Code Admin. R. En §§ 1301.01-1303.13;²⁰ Vermont Public Utility Commission, Vt. Admin. Code 18-1-8:3.700 et seq. (effective February 1, 2020)).²¹

As background, several entities previously urged the Departments in 2019 to modify 220 CMR 45.00 to incorporate requirements implemented by the FCC in federal-default states, such as timelines and make-ready requirements. D.P.U. 19-76-A/D.T.C. 19-4-A at 20-26. The proposals were geared towards facilitating additional broadband deployment and other advanced technologies throughout the Commonwealth. D.P.U. 19-76-A/D.T.C. 19-4-A at 22-25, 27. At the time, the Departments declined to implement those changes and similar proposals, explaining 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 [their] adoption.” D.P.U. 19-76-A/D.T.C. 19-4-A at 33.

In 2024, GoNetspeed petitioned the Departments to open a rulemaking to revise 220 CMR 45.00 et seq. to facilitate timely and non-discriminatory access by broadband providers to utility poles, noting extensive roadblocks and delays experienced by companies

¹⁹ Available at <https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=22-M-0101> (last visited March 6, 2026)

²⁰ Available at <https://www.energy.nh.gov/rules-and-regulatory/administrative-rules> (last visited March 6, 2026).

²¹ Available at <https://puc.vermont.gov/document/commission-rule-3700-pole-attachments> (last visited March 6, 2026).

attempting to attach to poles in Massachusetts (D.P.U. 25-10/D.T.C. 25-1, GoNetspeed Comments, Att. (1) at 3 (March 18, 2025)). GoNetspeed urged the Departments to adopt regulations informed by the FCC's requirements and adopted in neighboring northeastern states (D.P.U. 25-10/D.T.C. 25-1, GoNetspeed Comments, Att. (1) at 1, 3 (March 18, 2025)). Shortly thereafter, the Departments opened the inquiry proceeding, noting that we addressed issues raised by GoNetspeed in the inquiry and that the inquiry would inform future actions by the agencies on a broader set of interrelated issues. D.P.U. 25-10/D.T.C. 25-1, at 16 n.24. As a result, the Departments declined to open a rulemaking based on GoNetspeed's request but invited GoNetspeed and other interested stakeholders to submit proposed comments and redlines in the inquiry for the agencies' consideration. D.P.U. 25-10/D.T.C. 25-1, at 16 n.24; CRC Communications, LLC, D.P.U. 24-188/D.T.C. 24-5, Closing Memorandum (March 11, 2025). As discussed in further detail below, the Departments received numerous comments on whether to revisit and adopt make-ready requirements similar to those implemented by the FCC and other states.

After extensive and careful deliberation over the comments received, practices implemented by the FCC and other states, and considerations specific to Massachusetts, the Departments deem it necessary and appropriate to establish baseline requirements specific to utility pole attachment timelines, and application, survey, make-ready, and related requirements for access, rather than require telecommunications, CATV, and broadband providers to continue to rely on the patchwork of processes and requirements currently in place across the Commonwealth established by the utility pole owners. The Departments also recognize that significant coordination among various stakeholders is necessary to provide physical access to

utility poles, and the Departments must balance the need to ensure a timely response to access requests with the need to adopt regulations that reflect, to the extent practicable, just and reasonable practices between utilities and licensees. D.P.U. 98-36-A at 43.

The Departments detail our proposals in relation to these requirements, and in relation to both OTMR and non-OTMR options, below. The Departments anticipate that these proposals, if adopted or adopted in substantially similar form, will provide greater certainty and guidance on timelines and procedures applicable both to utility pole owners as well as telecommunications, broadband, and CATV attachers. This will ultimately benefit and facilitate broadband, telecommunications, grid modernization, and clean energy deployment activities, and double pole removals. At the same time, the Departments recognize that multiple factors will continue to affect the timing of attachment processes and double pole removals, including state and local permitting requirements, the availability of police details, weather and other emergency events, and other circumstances outside the pole owners' control. Further, the Departments recognize the current "top-down" approach in Massachusetts is applicable to the shifting of attachments and removal of double poles, with the telephone utility shifting its attachments last (see D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 1 Technical Session Presentation at 4; Verizon Reply Comments at 12 (August 8, 2025)).

2. Comments

During the inquiry proceeding, competitive telecommunications and broadband providers operating in Massachusetts, including CATV providers, overwhelmingly urged the Departments to expand our pole attachment regulations to incorporate survey, make-ready, self-help, OTMR, and timeline requirements, among other proposed changes (see, e.g., generally D.P.U. 25-10/

D.T.C. 25-1, Crown Castle Comments (March 18, 2025); CTIA Comments (March 18, 2025); GoNetspeed Comments (March 18, 2025); NECTA Comments (March 18, 2025); Shutesbury MLP Comments (March 18, 2025)). The providers noted efficiencies and cost savings where similar reforms were implemented in other states and argued that implementation in Massachusetts would facilitate similar benefits as well as promote competition in the broadband market (D.P.U. 25-10/D.T.C. 25-1, Crown Castle Reply Comments at 1-2, 5-10 (August 8, 2025); CTIA Reply Comments at 1-8 (August 8, 2025); GoNetspeed Comments at 1-6 (March 18, 2025); GoNetspeed Reply Comments at 1-2, 14-15 (August 8, 2025); NECTA Comments at 1-12 (March 18, 2025); Shutesbury MLP Comments at 1-2 (March 18, 2025)). The providers also noted that Massachusetts was an outlier from most other states in not implementing similar requirements (see, e.g., D.P.U. 25-10/D.T.C. 25-1, Crown Castle Comments at 11 (March 18, 2025); GoNetspeed Reply Comments at 1-2, (August 8, 2025); NECTA Comments at 6-7 (March 18, 2025)).

The EDCs countered that dramatic changes to the Commonwealth's pole attachment rules were not justified and were not likely to lead to more broadband deployment in unserved and underserved areas (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 10-13 (August 8, 2025)). The EDCs observed that when the FCC significantly revised its regulations and adopted policies such as self-help in the power space, it did so in the hopes of bridging the large digital divide which existed in many large rural states (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 10-11 (August 8, 2025)). The EDCs also asserted that, contrary to the arguments by GoNetspeed, NECTA, CTIA, and Crown Castle about needing to update the regulations to facilitate the deployment of broadband in the state, broadband deployment in

Massachusetts is ubiquitous and robust, and broadband quality, cost, and access has consistently ranked among the highest in the nation (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 10-11 (August 8, 2025)). The EDCs noted that approximately 11,000 individuals remain in unserved or underserved locations in Massachusetts and the Department of Telecommunications and Cable Commissioner's acknowledgement of this small number of individuals during a technical session (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 12 (August 8, 2025), citing EEA/EOED Joint Comments at 2).

To the extent the Departments sought to revise the regulations, the EDCs requested that the agencies: (1) not impose timelines or requirements on larger orders (e.g., 3,000 or more poles in an application), consistent with the FCC's existing requirements; (2) permit deviations in timelines based on circumstances outside their control, including MassDOT and other permitting delays, extreme weather, mutual aid, resource constraints, etc.; and (3) as addressed in Section III.I., above, require advance notice requirements for larger applications (D.P.U. 25-10/D.T.C. 25-1, National Grid Comments at 20, 25 (March 18, 2025); NSTAR Electric Comments at 26-27 (March 18, 2025); Unitil Comments at 15 (March 18, 2025); EDC Joint Reply Comments at 13-17 (August 8, 2025)). The EDCs conveyed that they did not oppose OTMR where it is limited to simple make-ready in the communications space and as long as: (1) the pole owners agree that the requested make-ready is simple; (2) attachers notify pole owners that they are engaging in OTMR; and (3) a deadline is imposed on pole attachers to ensure that the work is performed in a timely manner so that field conditions do not change (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 17 (August 8, 2025)). The EDCs observed,

however, that where their affiliates operate, OTMR has not widely been used or even requested (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 17 (August 8, 2025)).

The EDCs also explained that Verizon's expertise and experience is in the communication space, whereas the EDCs possess expertise and experience in the power space that Verizon does not (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 29 (August 8, 2025)). As a result, according to the EDCs, it would be challenging to find one entity with the expertise to properly survey and provide make-ready estimates for both the power space and the communications space (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 29 (August 8, 2025)). NSTAR Electric and National Grid suggested, however, that the Departments streamline survey requirements, pointing to the time that Verizon typically takes in reconciling surveys, make-ready designs, and estimates identified by the EDCs in response to attachment applications (D.P.U. 25-10/D.T.C. 25-1, NSTAR Electric Comments at 21, 28-29 (March 18, 2025); National Grid Comments at 20, 27 (March 18, 2025)).

At the same time, the EDCs expressed concerns with self-help by contractors in the communications space impacting the integrity of poles and compliance with the NESC (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 18 (August 8, 2025)). NSTAR Electric and Unitol generally confirmed that they use a mix of internal, collective bargaining employees and approved third-party contractors to perform make-ready work, with work first assigned to internal employees if they are available (D.P.U. 25-10/D.T.C. 25-1, NSTAR Electric Comments at 14, 20 (March 18, 2025); Unitol Comments at 10 (March 18, 2025)). In contrast, National Grid conveyed that they generally rely on third-party contractors for third-party attachment work (D.P.U. 25-10/D.T.C. 25-1, National Grid Comments at 19 (March 18, 2025)).

The EDCs strongly opposed self-help by attachers in the electric (power) space on poles and observed that several neighboring states, including Connecticut, New York, and New Hampshire do not permit such practices, unlike the FCC (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 11, 17, 20, 22, 32 (August 8, 2025), citing CT PURA 2022 Order at 32; NY PSC 2024 Order at 35). The EDCs also strongly opposed permitting attachers to select third-party contractors to perform make-ready work in the electric space (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 18 (August 8, 2025)). The EDCs explained that work in the electric space should only be performed by EDC employees and qualified contractors under the supervision of the EDCs, because the EDCs could not delegate responsibility for the safety and reliability of the electric system to pole attachers and state law prohibits pole attachments made without the consent of the utility (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 19-22 (August 8, 2025), citing G.L. c. 166, § 25A; NET v. DPU, 262 Mass. at 143-144, 147-148; D.P.U. 18-150, at 53, 122; Boston Gas Company and Colonial Gas Company, D.P.U. 13-78, at 13 (2014); Commonwealth Electric Company, D.P.U. 92-3C-IA, at 6 (1995); Boston Edison Company, D.P.U. 87-1A-A, at 57 (1987)).

Verizon stated that it did not take a position on the adoption of OTMR or self-help but observed that, under current processes, pole transfer work for its attachments is handled exclusively by collective bargaining agreements between Verizon and the International Brotherhood of Electrical Workers (“IBEW”), and that certain municipalities also exclusively use union employees for transfer work (D.P.U. 25-10/D.T.C. 25-1, Verizon Reply Comments at 5, 9-10). Like the EDCs, Verizon also observed that where OTMR has been adopted, very few attachers have elected to use it (D.P.U. 25-10/D.T.C. 25-1, Verizon Reply Comments at 9-10).

(August 8, 2025), citing FCC 25-38, ¶ 60). As GoNetspeed observed, however, Verizon previously endorsed adoption of the FCC’s OTMR rules and rules governing timelines for access and use of contractors (D.P.U. 25-10/D.T.C. 25-1, GoNetspeed Comments at 1 (March 18, 2025), citing D.P.U. 19-76/D.T.C. 19-4, Verizon Reply Comments at 1 (September 24, 2019)).

One broadband-only MLP endorsed adoption of an OTMR process (D.P.U. 25-10/D.T.C. 25-1, Shutesbury MLP Comments at 1 (March 18, 2025)). With limited exception, the traditional MLPs, municipalities, other municipal officials, and the Attorney General, did not generally address whether the Departments should adopt OTMR, make-ready timelines, or other FCC-informed requirements (but see D.P.U. 25-10/D.T.C. 25-1, Holden MLD Comments at 4 (March 18, 2025) (“MLPs should retain local control”); Paxton MLP Comments at 5 (March 18, 2025) (Massachusetts should not adopt requirements similar to the FCC’s requirements, because the FCC’s requirements “are in the best interests of the telecommunications sector and not thinking of the lineworkers”)). Several MLPs noted that they did not have sufficient experience or were unable to respond to OTMR- or FCC-related inquiries, and some generally conveyed that they relied exclusively on their own workers and third-party contractors to perform make-ready work (see, e.g., D.P.U. 25-10/D.T.C. 25-1, Braintree Electric Light Department (“BELD”) Comments at 8, 16-17 (February 28, 2025); Georgetown MLD Comments at 9, 15-16 (March 9, 2025); Hingham MLP Comments at 13, 17 (March 5, 2025); Littleton Electric Light and Water Departments Comments at 6 (March 17, 2025); West Boylston MLP Comments, Att. (1) at 4 (March 10, 2025)). Similar to Verizon, certain MLPs confirmed that their workers operated under collective bargaining agreements (see, e.g., D.P.U. 25-10/D.T.C. 25-1, BELD Comments at 8 (February 28, 2025); Hingham MLP Comments at 9 (March 5, 2025);

Middleborough Gas & Electric Company Comments at 5 (March 7, 2025); Templeton Municipal Light & Water Plant at 5 (March 12, 2025); West Boylston MLP Comments, Att. (1) at 4 (March 10, 2025)).

Other than the comments discussed herein, the Departments did not otherwise receive comments addressing the FCC's regulations or stakeholder proposals relating to OTMR, self-help, timelines, contractor, and other make-ready requirements, including from union or public safety officials.

3. 220 CMR 45.08: Utility Poles – Non-OTMR Option

The Departments propose comprehensive non-OTMR requirements involving attachment timelines and related requirements involving attachment applications, surveys, and make-ready work. These requirements would apply to all utility pole owners, including the EDC, MLPs, Verizon, and other telephone utilities. Further, many of these proposed requirements are informed by but do not mirror the FCC's and other states' requirements.

The requirements outlined in 220 CMR 45.08 (proposed) would apply to telecommunications, broadband, and CATV provider attachment applications involving non-OTMR requests and identify with specificity when these provisions would apply, i.e., (1) the application is categorized as a small, regular, or mid-sized order but includes attachments that require complex make-ready; (2) the application is characterized as a large or very large order; or (3) if a new licensee does not elect to proceed with the OTMR option identified in 220 CMR 45.09 (proposed) in its initial application to the utility for the project. 220 CMR 45.08(1) (proposed).

The Departments propose to establish application and survey process requirements, with associated timelines, applicable to new telecommunications, broadband, and CATV provider attachers seeking to attach to utilities' poles. The Departments not only propose requirements and timelines that would apply to the utilities but also propose requirements and timelines that would apply to new licensees requesting to attach to utility poles. See, e.g., 220 CMR 45.08(7) (proposed). Proposed requirements applicable to utilities and/or licensees include those relating to: (1) information to be identified in a new licensee's application; (2) application completeness and resubmission processes; (3) surveys analyzing the work necessary to accommodate the attachment requests, and associated payment requirements; (4) make-ready cost estimates and payments, including discussion of when utilities must provide copies of their cyclical pole inspection reports; (5) government authority permitting, authorizations, and approvals; (6) make-ready advance notice and meet-and-confer requirements; (7) additional make-ready considerations; and (8) self-help limited to municipal, CATV, and telecommunications provider attachments located in the communications space of a pole. 220 CMR 45.08(1)-(6) (proposed).

Two key distinctions from FCC regulations arising from the regulations proposed by the Departments, among others, would include the requirements that: (1) attachers not in compliance with certain proposed requirements would risk their applications being voided (220 CMR 45.08(2)(e)2., (3)(c)c. (proposed)); and (2) make clear that make-ready timelines would not begin to toll until a utility has received all necessary permitting and approvals from

government authorities to commence make-ready work. 220 CMR 45.08(5)(a), (b)7.(1), (b)8.(2) (proposed).²²

The Departments identify various timelines throughout their proposed regulations. Of particular note, the Departments would require a utility to:

coordinate and confer with any jointly-owning utilities to complete a survey of poles for which access has been requested and shall, in coordination with any jointly-owning utilities, conduct the survey, review the application on its merits, and provide a written response to the new licensee either granting or denying access within the following timeframes from the receipt of a complete application: 45 days for small and regular orders, 60 days for mid-sized orders, or 90 days for large orders. For very large orders, the utility, any jointly-owning utilities, and new licensee shall negotiate in good faith to establish the timeline for completing survey work and issuing a written decision either granting or denying access.

220 CMR 45.08(2)(f) (proposed).

For areas requiring simple make-ready work, the Departments propose to require utilities to ensure sequential, top-down completion of make-ready for all licensees in the communications space that is no later than 30 days after receipt of government authority approvals for poles identified in small and regular orders originally submitted by the new licensee, 75 days after receipt of government authority approvals for poles identified in mid-sized orders originally submitted by the new licensee, or 120 days after receipt of government authority approvals for poles identified in large orders originally submitted by the new licensee. 220 CMR 45.08(b)7.(1) (proposed).

²² State law requires that licensees must be authorized to attach to a utilizes poles. G.L. c. 166, § 25A. This includes licensees first obtaining requisite government authority approvals. See Complaint of Fiber Technologies Network, LLC, against Shrewsbury Electric Light Plant, D.T.E. 01-70, Order on Motion for Reconsideration and Clarification at 13-15 (2004).

For areas requiring complex make-ready work, the Departments propose to require the utilities to ensure sequential, top-down completion of make-ready for all licensees in the communications space that is no later than 90 days after receipt of government authority approvals for poles identified in small and regular orders originally submitted by the new licensee, 135 days after receipt of government authority approvals for poles identified in mid-sized orders originally submitted by the new licensee, or 180 days after receipt of government authority approvals for poles identified in large orders originally submitted by the new licensee. 220 CMR 45.08(b)7.(1) (proposed). In either instance, make-ready associated with very large orders would require negotiation, coordination, and performance in good faith by the utilities, existing licensees, and new licensees, in consultation with appropriate government authorities. 220 CMR 45.08(b)9.(1) (proposed). Additional timelines are identified throughout the Departments' proposed regulations, including a summary chart of timelines that the Departments propose to include as an appendix to the regulations.

Further, the Departments seek comment on the feasibility of the utilities' streamlining their application processes to establish a single application process for joint pole owners, in particular, the EDCs and Verizon. Comments from the utilities on establishing a single application process should address with specificity the resources and requirements that would be necessary to enable such a process.

4. 220 CMR 45.09: Utility Poles – OTMR Option

Additionally, the Departments propose OTMR requirements involving attachment timelines and related requirements involving attachment applications, surveys, and make-ready work. These requirements would also apply to all utility pole owners, including the EDC, MLPs,

Verizon, and other telephone utilities. Further, many of these proposed requirements are also informed by but do not mirror the FCC's and other states' requirements.

The requirements outlined in 220 CMR 45.09 (proposed) would apply to OTMR requests and identify with specificity when these provisions would apply, i.e., (1) the new licensee seeks to attach telecommunications, including those of advanced telecommunications capabilities, and cable television provider facilities to the communications space of a pole; (2) the application size is categorized as a small, regular, or mid-sized order; (3) the poles identified in the application require only simple make-ready work; (4) the need for complex make-ready work is not identified during the survey process or disputed by the utilities; and (5) the new licensee expressly elects to proceed with the OTMR process identified in 220 CMR 45.09 in its initial application to the utility. 220 CMR 45.09(1), (2)(g)2. (proposed).

The Departments propose to establish application and survey process requirements, with associated timelines, applicable to new telecommunications, broadband, and CATV provider attachers seeking to attach to utilities' poles using the OTMR process. The Departments not only propose requirements and timelines that would apply to the utilities but also propose requirements and timelines that would apply to new licensees requesting to attach to utility poles. See, e.g., 220 CMR 45.09(3)(e) (proposed) (requiring new licensees to conduct approved OTMR within 30 days of the utilities' approvals of the licensee's application(s) on the merits or risk forfeiture of its designated space on the utilities' poles). Proposed requirements applicable to utilities and/or licensees include those relating to: (1) information to be identified in a new licensee's application; (2) application completeness and resubmission processes; (3) surveys analyzing the work necessary to accommodate the attachment requests; (4) government authority

permitting, authorizations, and approvals; (5) make-ready timelines and related considerations; and (6) post-make-ready timelines and related considerations. 220 CMR 45.09(1)-(4) (proposed). One key provision distinguishing the Departments' proposal from the FCC's regulations is language making clear that make-ready timelines would not begin to toll until a utility has received all necessary permitting and approvals from government authorities to commence make-ready work. 220 CMR 45.09(3)(a) (proposed).

5. Additional Considerations for Current Proposed Regulations

a. Application Size as a Factor in OTMR Eligibility

As discussed above in Section III.J.3. and Section III.J.4., the Departments propose to establish clear parameters as to when OTMR may or may not apply. 220 CMR 45.08(1) (proposed); 220 CMR 45.09(1) (proposed). One factor proposed for each of these determinations would involve the size of an attachment application. 220 CMR 45.08(1)(b) (proposed); 220 CMR 45.09(1)(b) (proposed). The EDCs, Verizon, and the FCC have observed that, where OTMR has been implemented, it has rarely or never been used (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 17 (August 8, 2025); Verizon Reply Comments at 9-10 (August 8, 2025)). FCC 25-38, ¶ 60. According to the FCC and Verizon, few attachers may have elected OTMR to date, partially because it is not available for complex make-ready work (D.P.U. 25-10/D.T.C. 25-1, Verizon Reply Comments at 9-10 (August 8, 2025)). FCC 25-38, ¶ 60.

The Departments recognize that the number of poles in an attachment application directly correlates to the likelihood of whether any of the utility poles identified would require complex make-ready work, e.g., pole replacements, service interruptions, the splicing and cutting of

existing cables, and work in the electric space. In other words, the greater the number of utility poles identified in an application, then the greater the likelihood that complex work is required, especially in a state like Massachusetts where many utility poles have eight or more attachments in more urban areas (see D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 1 Technical Session Presentation at 4, 7; EDC Joint Reply Comments at 35 (August 8, 2025)).²³ Although Verizon and the FCC raise the possibility that OTMR has not been adopted because of the current limitations involving complex make-ready work, other factors may exist. For instance, similar to utility concerns in relation to shifting attachments owned by other entities, attachers may also have liability concerns with self-help. Further, there may be limitations arising from government permitting and approvals.

With our proposed regulations, the Departments seek to facilitate greater opportunity for the use of OTMR in Massachusetts. As a result, we propose the creation of a small orders category for attachment applications. We seek further comment from interested stakeholders as to any additional proposed regulations that may support this endeavor, including input on whether an order's size should factor into whether an application is eligible for OTMR. If an

²³ In Massachusetts, utility poles may contain an array of attachments, including: (1) pole-top antennas for wireless providers; (2) electric company fiber in the electric space for reliability equipment; (3) streetlights, often owned by municipalities; (4) municipal fire department wires; (5) municipal fiber; (6) meters for cameras, power supply boxes, or wireless provider antennas; (7) CATV and competitive telecommunications lines; (8) telephone utility lines; (9) cameras; (10) smart city devices; (11) street signs, which are generally unauthorized; (12) in very limited circumstances, EVSE chargers; (13) power supply and fiber hubs; and (14) conduit risers, which often contain wires from a utility pole that shift underground to connect to residential or business customers (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Topic 1 Technical Session Presentation at 4-7, 10-20; Verizon Topic 1 Technical Session Presentation at 4, 6-7).

interested stakeholder disagrees with the inclusion of order sizes as a factor in determining whether an application is eligible for OTMR, the Departments request that the stakeholder explain its rationale. The agencies advise interested stakeholders, however, that we decline to consider expanding the scope of OTMR to include complex make-ready in the current rulemaking.

b. Municipal Licensee Payment Terms

The Departments recognize that municipalities and broadband-only MLPs seeking to attach to utility poles, especially for larger projects, may be subject to certain statutory limitations not applicable to other entities seeking to attach to utility poles. See, e.g., G.L. c. 41, § 56 (warrants for payments of bills). In recent years, several municipalities have pursued deployment of municipal-owned broadband networks through the creation of broadband-only MLPs (D.P.U. 25-10/D.T.C. 25-1, Charlemont MLP Comments at 1 (March 18, 2025); Leverett MLP Comments at 1 (May 19, 2025); Shutesbury MLP Comments at 1 (March 18, 2025); WiredWest Comments at 1 (March 18, 2025)). Additional Massachusetts municipalities are exploring this as an option. See, e.g., City of Quincy, Massachusetts, Request for Qualifications re: Municipal Fiber Optic Project at 2-4;²⁴ The Patriot Ledger, “Municipal broadband in Quincy? It’s coming to 2 neighborhoods soon” (April 25, 2023).²⁵

²⁴ Available at https://www.quincyma.gov/bid_detail_T2_R876.php (last visited March 6, 2026).

²⁵ Available at <https://www.patriotledger.com/story/news/2023/04/25/municipal-broadband-in-quincy-its-coming-to-2-neighborhoods-soon/70148173007/> (last visited March 6, 2026).

Based on these considerations, the Departments propose to incorporate the following language into our regulations:

Municipal New Licensee. Pursuant to M.G.L. c. 41, § 56, written notice of acceptance of an estimate shall satisfy the requirements of 220 CMR 45.08(c) in lieu of payment when the new licensee is a municipality, or any political subdivision thereof. Payment in full shall be provided by such a new licensee within 30 days of receipt of a final invoice pursuant to 220 CMR 45.08(3)(d).

220 CMR 45.08(c)4. (proposed). The Departments request comment, in particular, from municipalities, MLPs that provide broadband or are considering the deployment of broadband infrastructure, and utilities regarding this language and whether, and if so what, modifications or further considerations relating to municipal payments are necessary for incorporation into the regulations. The Departments also request comments from the utilities as to how they have previously accommodated broadband-only MLP payments for the completion of make-ready work. Additionally, to the extent the Departments adopt alternative proposed regulation language for 220 CMR 43.13: Utilities Poles – Terms and Conditions Presumed Reasonable as noted in Section III.N., below, the agencies request input on whether adoption of alternative language would preclude the need for municipal payment language in 220 CMR 45.08(c)4. (proposed).

K. 220 CMR 45.10: Utility Poles – Deviations from Timelines

The Departments propose to shift the current terms of 220 CMR 45.10: Rates Charged Any Affiliate, Subsidiary, or Associated Company into a new section, 220 CMR 45.16: Rates Charged Any Affiliate, Subsidiary, or Associated Company, with minor modifications to the text, as noted further below. The Departments propose to add a new section, 220 CMR 45.10: Utility Poles – Deviations from Timelines, that would permit utilities and existing licensees in

limited circumstances to deviate from certain make-ready timelines proposed for 220 CMR 45.08: Utility Poles – Non-OTMR Option – Timelines, Application, Survey, Make-Ready, and Related Requirements for Access. The Departments’ proposals in this section received guidance from similar requirements adopted by the FCC. Some of these requirements remain pending until publication in the Federal Register. See 47 C.F.R. § 1.1411(h); FCC 25-38, Appx. A (47 C.F.R. § 1.1411(i)(3) (pending)). The Departments were also informed by comments submitted in our inquiry proceeding. For instance, the EDCs and certain MLPs observed that circumstances outside a utility’s control can necessitate deviations from planned timelines for attachment requests (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 13-15 (August 8, 2025)). Given the implementation of 47 C.F.R. § 1.1411(h)(2) and (3), the FCC recognizes that it may be “infeasible” for a utility or an existing attacher to meet certain make-ready timelines. Accordingly, the Departments deem it necessary to incorporate language into our proposed regulations that would expressly permit deviations from certain of the timelines identified in 220 CMR 45.08 (proposed).

In particular, the agencies propose to allow utilities to deviate from make-ready timelines “for good cause,” consistent with FCC language. The agencies propose to expand the FCC’s language to include a list of situations that would qualify as good cause, including: (1) repair work required for a utility to restore service following a widespread service outage; (2) major weather or emergency events that trigger the utility’s emergency response plan; (3) roadway or traffic moratoriums implemented by a government authority; (4) the availability of police details or flaggers as required by a government authority; and (5) pending issuance of permits or approvals by a government authority. 220 CMR 45.10(1)(a) (proposed).

Instances of permissible deviations by utilities would require the utilities to provide written notices with specific details to new licensees, all affected existing licensees, and, if applicable, appropriate government authorities at least every 30 days for as long as the deviation persists. 220 CMR 45.10(1)(b) (proposed). Moreover, the Departments tie the proposed utility notice requirements to the self-help provisions proposed for inclusion in 220 CMR 45.08(6)(b), which currently specifies:

Make-ready. If simple or complex make-ready in the communications space is not complete within the timelines specified pursuant to 220 CMR 45.08(5), the utilities and existing licensees have not provided any notice of deviations from the timelines in accordance with 220 CMR 45.10: Utility Poles – Deviation from Timelines, the electric utility has completed any necessary make-ready on the pole, and the new licensee has received the requisite authorization(s) to install its attachments along public rights-of-way by the appropriate government authorities, then a new licensee may conduct the make-ready in the communications space in place of the telephone utility and existing telecommunications, cable television, and municipal licensees, as applicable, by hiring a contractor from the telephone utility’s pre-approved contractor list to complete the make-ready.

Similarly, the agencies propose to allow existing licensees to deviate from complex make-ready timelines. 220 CMR 45.10(2) (proposed). Specifically, the Departments propose to permit licensee deviations “for reasons of utility delays, delays caused by other licensees required to move their attachments before the existing licensee, or safety or service interruption that renders it infeasible for the existing licensee to complete the complex make-ready work within the specified time limits and to provide written notice of any deviations.”

220 CMR 45.10(2)(a) (proposed). The Departments also propose to require existing licensees to provide written notice of deviations arising from safety or service interruptions to the utilities, the new licensee that necessitated work to be performed by the existing licensee, other affected

licensees and, if applicable, appropriate government authorities. 220 CMR 45.10(2)(a) (proposed).

The Departments aim to balance, based on real-world scenarios, the need for enabling more timely access to utility poles by telecommunications, broadband, and CATV providers with the need for utilities and existing licensees to be able to sufficiently plan their resources around an increasing number of access requests, while also ensuring the utilities' continued ability to preserve the safety, security, and reliability of their systems. In coupling the proposed permissible deviations language with the Departments' proposals in 220 CMR 45.07 (involving implementation of advance notice and meet-and-confer requirements) and 220 CMR 45.08(5) (not permitting make-ready timelines to toll until after appropriate government authority authorizations have been obtained), the agencies aim to strike the appropriate balance. The Departments request input on these proposals and considerations.

L. 220 CMR 45.11: Utility Poles – Contractors for Survey and Make-Ready

The Departments propose to shift the current terms of 220 CMR 45.11: Severability into a new section, 220 CMR 45.18: Severability, with a minor modification to the text, as noted further below. The Departments propose to add a new section, 220 CMR 45.11: Utility Poles – Contractors for Survey and Make-Ready, with provisions relating to permissible contractors that may be used by new licensees to perform self-help survey and make-ready work pursuant to 220 CMR 45.08(6) (proposed) and OTMR work pursuant to 220 CMR 45.09 (proposed). Specifically, the Departments' propose to require: (1) each electric and telephone utility to maintain a reasonably sufficient list of contractors it authorizes to conduct surveys on its poles; (2) each telephone utility to maintain a reasonably sufficient list of contractors it authorizes to

conduct simple and complex make-ready work in the communications space of its poles; and (3) each licensee electing self-help or OTMR to choose a contractor on the relevant list, as applicable, of each utility with ownership of the affected pole(s) as of the date the licensee sends notice of its intent to use the contractor. 220 CMR 45.11(1)-(2) (proposed). The Departments also propose to incorporate language that allows licensees to request the addition to a telephone utility's survey and make-ready lists of any contractor that meets certain minimum qualifications previously identified and circumstances for when the telephone utility may reject such a request. 220 CMR 45.11(3)-(4) (proposed).

The Departments acknowledge that we propose to establish survey and make-ready contractor requirements that would differ between electric and telephone utilities. Our proposals, however, are consistent with our proposed language elsewhere in these regulations, which would limit the ability of new licensees to perform self-help make-ready or OTMR to municipal, CATV, broadband, and telecommunications attachments in the communications space. See 220 CMR 45.08(6)(b) (proposed); 220 CMR 45.09(1) (proposed). Our proposals are also comparable to requirements implemented in other reverse-preemption states, including New York and Connecticut. NY PSC 2024 Order at 33-35, 42-45; CT PURA 2022 Order at 11-13, 22-33 & Appxs. A and B. Safety and reliability concerns are greater when work is performed in the electric space. The electric utilities, subject to the Department of Public Utilities' oversight, have established mechanisms to vet trained third-party contractors (D.P.U. 25-10/D.T.C. 25-1, National Grid Comments at 24 (March 18, 2025); NSTAR Electric Comments at 20 (March 18, 2025); Unitol Comments at 10 (March 18, 2025); EDC Joint Reply Comments at 14-16, 21, 37). See also An Act Relative to Restructuring the Electric Utility Industry in the Commonwealth,

Regulating the Provision of Electricity and Other Services, and Promoting Enhanced Consumer Protection Therein, St. 1997, c. 164, § 1(h) (“reliable electric service is of utmost importance to the safety, health, and wealth of the [C]ommonwealth’s citizens and economy”); ESMP Order at 56, citing Fitchburg Gas and Electric Light Company, D.P.U. 09-01-A at 6-8 & n.14 (2009) (additional citations omitted) (explaining that “safety, security, reliability of service, and affordability, represents the [EDCs’] longstanding public service obligations and the central tenets for over a century by which the Department [of Public Utilities] has overseen the utilities it regulates”).

Moreover, make-ready work currently performed on Verizon’s telephone system infrastructure is performed exclusively by collective bargaining employees (D.P.U. 25-10/D.T.C. 25-1, Verizon Comments at 10 (March 18, 2025); Verizon Reply Comments at 5 (August 8, 2025)). This situation may complicate Verizon’s ability to develop its own authorized contractor lists. Therefore, the Departments request comment and alternative language that ensures that any contractor list prepared by Verizon or other telephone utility encompasses a sufficient amount of eligible contractors. The Departments also request comment on whether the electric and telephone utilities should include a minimum number of authorized contractors on their lists. To the extent any commenter supports requiring a minimum number of authorized contractors on the utilities’ lists, the Departments request that the commenters identify an appropriate number of contractors to be included and provide support for that.

Several of the Departments’ proposed revisions take into account union and public safety considerations addressed by other state public utility commissions and our understanding of the processes, practices, and laws applicable in Massachusetts. As such, the Departments request

comments from union officials addressing any concerns they may have with the proposed revisions. Furthermore, it would be helpful if commenters propose alternative terms for consideration to incorporate into the final regulations that would alleviate their concerns yet still enable accelerated access to utility poles in Massachusetts. The Departments encourage the submission of such alternative terms as redlines to the clean version of our proposed regulations. The Departments also respectfully request union input on existing utility practices and requirements that may complicate the ability of telecommunications, broadband, and CATV providers to access utility poles in a timely manner, and actions the Departments may take in this rulemaking to facilitate timely access.

M. 220 CMR 45.12: Utility Poles – Overlapping Wires in the Communications Space

The Departments propose to implement a new section of our regulations, 220 CMR 45.12: Utility Poles – Overlapping Wires in the Communication Space, that outlines requirements that would be applicable for a new licensee to overlap its wires to existing wires located in the communications space of utility poles. Several commenters previously endorsed adoption of overlapping requirements implemented by the FCC through 47 C.F.R. § 1.1416, and the EDCs took no position on the issue other than to suggest that overlappers be required to label overlaps with identification tags (D.P.U. 25-10/D.T.C. 25-1, GoNetspeed Comments at 1 (March 18, 2025); NECTA Reply Comments at 8 (August 8, 2025); EDC Joint Reply Comments at 31 (August 8, 2025); Verizon Reply Comments at 14 (August 8, 2025)). Upon further consideration of the FCC’s overlapping regulation, the Departments worry that, if the FCC’s terms were implemented in Massachusetts verbatim, complications and disputes would arise as

to the entity that would be responsible for shifting those attachments when future utility pole work or replacements are required.

To limit potential complications for future utility pole replacements (and corresponding double pole removals), and to ensure more efficient attachment application review and processes, the Departments propose to require new licensees to submit with their attachment applications to utilities documentation and specific information relating to approvals by existing licensees to allow the new licensee to overlash to their wires. 220 CMR 45.08(2)(b), 45.09(2)(b), 45.12 (proposed). Regarding the EDCs' suggestion about identification tags, the Departments propose identification tag requirements consistent with G.L. c. 166, § 31, in 220 CMR 45.04(4) (proposed). The Departments also propose the following language in 220 CMR 45.12 (proposed):

A licensee that engages in overlashing shall not obscure identification tags on existing attachments. If an overlashing licensee obscures the identification tags of another licensee, the overlashing licensee shall be responsible at its expense for new identification tags to be affixed to the wires where the other licensee's tags were obscured.

The Departments invite comment on these proposals.

N. 220 CMR 45.13: Utility Poles – Terms and Conditions Presumed Reasonable

In recognition of the efficiencies that arise from standardized make-ready rules and protocols, the Departments propose to implement a new section of our regulations, 220 CMR 45.13: Utility Poles – Terms and Conditions Presumed Reasonable, with the following language:

The provisions established in 220 CMR 45.04: Duties of Licensees and Attachment Owners through 220 CMR 45.12: Overlashing Wires in the Communications Space are presumed to be reasonable terms and conditions for non-discriminatory pole access on public rights-of-way in Massachusetts. A

utility shall not establish rates, terms or conditions related to attachment applications or attachment agreements which conflict with applicable state laws or these regulations.

See DA 20-796, ¶ 14. This regulation would restrict the ability of pole owners to impose different standards on proposed attachers by contract or otherwise, without approval by the Departments. The Departments invite comment on this proposed language, and specifically request comment on whether the regulation should permit utilities and licensees to negotiate alternative terms and conditions, and if so under what circumstances.

O. 220 CMR 45.14: Petitions for Interim Relief and Alternative Dispute Resolution Procedure

The Departments propose to add a new section, 220 CMR 45.14: Petitions for Interim Relief and Alternative Dispute Resolution Procedure, that retains with minor modification requirements relating to petitions for interim relief currently found in 220 CMR 45.04. The Departments also propose to incorporate the following language in this section:

Alternative Dispute Resolution. Prior to the filing of a formal complaint pursuant to 220 CMR 45.15: Formal Complaint Procedure, a utility or a licensee may first pursue an informal, alternative dispute resolution consistent with: (1) any contractual terms entered into by the involved parties, or (2) any informal process established by the Department of Public Utilities and the Department of Telecommunications and Cable and outlined in any Memorandum of Agreement between the two agencies.

220 CMR 45.14(2) (proposed). The Departments request comment on this proposed language.

As discussed in further detail in Section IV., below, the Departments also request further comment as part of our inquiry proceeding relating to the terms of our MOA and potential ADR procedures that may be adopted by the agencies.

P. 220 CMR 45.15: Formal Complaint Procedure

The Departments propose to shift and modify the current regulation sections, 220 CMR 45.04: Complaints through 220 CMR 45.09: Appeal from Department Decisions, into a new section, 220 CMR 45.15: Formal Complaint Procedure. The Departments' proposals, if implemented, would: (1) streamline and clarify procedural requirements applicable to utility pole and conduit access disputes to be more consistent with the agencies' typical procedural practices and requirements for conducting other types of adjudications pursuant to 207 CMR 1.00 et seq. and 220 CMR 1.00 et seq.; (2) consistent with the agencies' previous guidance, incorporate language that reflects joint adjudication procedures to be conducted by the agencies going forward (see D.P.U. 25-10/D.T.C. 25-1, at 34; D.P.U. 25-10/D.T.C. 25-1, Memorandum (January 30, 2026)); (3) consistent with requests by the EDCs and Verizon, incorporate procedural requirements applicable to utility complaints that may be filed against licensees (D.P.U. 25-10/D.T.C. 25-1, EDC Joint Reply Comments at 49-50; Verizon Reply Comments at 18, citing NY PSC 2024 Order at 14); (4) create a mechanism by which the agencies may jointly convert a complaint petition, or issues therein, into a joint rulemaking, where the complaint involves policy considerations of general applicability not otherwise addressed by these regulations; and (5) consistent with federal law, allow the agencies to extend the deadline to resolve complaints from 180 to 360 days, if needed (see 47 U.S.C. § 224(c)(3)(B)(ii)).

In the inquiry proceeding, no commenter opposed the Departments' proposal to jointly adjudicate complaints going forward, although several offered suggestions in the event the agencies were unable to reach an agreement (D.P.U. 25-10/D.T.C. 25-1, Verizon Topic 7

Technical Session Presentation at 2; EDC Reply Comments at 47-48 (August 8, 2025); NECTA Reply Comments at 14-15 (August 8, 2025); but see GoNetspeed Reply Comments at 24-26 (August 8, 2025), citing G.L. c. 166, § 5, and St. 2007, c. 19, § 43 (interpreting jurisdiction of G.L. c. 166, § 25A, as only vesting with the Department of Telecommunications and Cable)).²⁶ Commenters disagreed, however, over whether the opinion of one agency over the other should take precedence in the event of an impasse (D.P.U. 25-10/D.T.C. 25-1, EDC Reply Comments at 47-48 (August 8, 2025); NECTA Reply Comments at 14-15 (August 8, 2025); Verizon Reply Comments at 18 (August 8, 2025)). Commenters also addressed the appropriate length of time for resolving complaint adjudications filed under 220 CMR 45.00 et seq. For instance, Crown Castle and NECTA urged that the current procedural timelines under the regulations were too long, whereas the EDCs countered that the timeline identified in the current regulation is consistent with federal law and necessary for a proper adjudication and due process requirements under G.L. c. 30A, § 11 (D.P.U. 25-10/D.T.C. 25-1, Crown Castle Comments at 8 (March 18, 2025); EDC Reply Comments at 49 (August 8, 2025); NECTA Comments at 9 (March 18, 2025)).

The Departments appreciate stakeholders' input on our dispute resolution requirements and related processes. In response, the Departments observe that, if the agencies fail to resolve a formal complaint within the permissible timeframe allowed under our regulations and federal

²⁶ As addressed in Section II., above: state and federal law requires the agency(ies) asserting jurisdiction over attachments to consider the interests of CATV and telecommunications subscribers and of utility customers. Through an MOA, the agencies have shared jurisdiction over these issues for nearly 20 years to effectuate this joint regulatory scheme.

law, then jurisdiction over the complaint would revert to the FCC. See 47 U.S.C. § 224(c)(3)(B)(ii); 47 C.F.R. § 1.1405(f)(2). Such a requirement incentivizes the agencies to resolve disagreements to retain jurisdiction over the regulation of pole attachments and conduit access or associated complaints that may be filed pursuant to 220 CMR 45.00. See D.P.U. 19-76-A/D.T.C. 19-4-A at 31. Moreover, the Departments anticipate that each agency's areas of jurisdiction and expertise, and corresponding deliberations, will be better facilitated through joint adjudications by allowing the Departments to deliberate on issues that must, under state and federal law, consider both the interests of customers of utility services and the interests of subscribers of CATV and telecommunications services, as well as consider denials of access based on safety, security, and reliability considerations.

Additionally, consistent with requirements under federal law, 47 U.S.C. § 224(c)(3)(B), states asserting jurisdiction over pole attachment complaints must take final action within 180 days after the complaint is filed or within 360 days if prescribed within the regulations of the state. In consideration of the proposed substantive revisions to the current regulations, plans by the agencies to jointly adjudicate attachment and conduit access disputes going forward, and the potential need to resolve more complex disputes at times, the Departments propose incorporating a mechanism into the regulations that would permit the agencies to extend a complaint resolution deadline to 360 days, if needed. The Departments would otherwise endeavor to resolve formal complaints as expeditiously as possible within the initial 180 days. The Departments also intend to explore implementation of an ADR mechanism, as discussed in further detail in Section IV., below, which the agencies expect would provide an avenue for stakeholders to informally resolve disputes and alleviate the need for most formal complaint proceedings.

Q. 220 CMR 45.16: Rates Charged Any Affiliate, Subsidiary, or Associate Company

The Departments propose to add a new section, 220 CMR 45.16: Rates Charged Any Affiliate, Subsidiary, or Associate Company, that retains with minor modification the requirements currently residing in 220 CMR 45.10.

R. 220 CMR 45.17: Annual Informational Filings and Website Postings

Similar to requirements implemented by the NY PSC, the Departments propose to establish new annual reporting and website posting requirements for electric distribution utilities and telephone utilities that own utility poles. NY PSC 2024 Order at 2, 7-8, 24-29. The new requirements would be reflected in our shared regulations and, as a result, we propose to add a new section, 220 CMR 45.17: Annual Informational Filings and Website Postings, that identifies these requirements. The Departments request input and comment on the details and data points to be included in the utilities' annual filings and website postings. As the title of the proposed regulation indicates, the agencies plan for the annual filings to be informational-only, similar to the double pole reporting requirements currently applicable to the EDCs and Verizon. The Departments anticipate that the requirements proposed here will help to better facilitate pole attachment and conduit access applications in the Commonwealth, provide greater transparency and detail on utility workloads and processes for attachment and conduit access requests, and allow the agencies to better monitor such processes.

S. 220 CMR 45.18: Severability

Finally, the Departments propose to add a new section, 220 CMR 45.18: Severability, that retains with minor modification the language currently residing in 220 CMR 45.11.

IV. D.P.U. 25-10/D.T.C. 25-1: PROPOSED AMENDED AND RESTATED MEMORANDUM OF AGREEMENT; ALTERNATIVE DISPUTE RESOLUTION CONSIDERATIONS

On January 30, 2026, the Departments entered into an eleventh extension of the terms and conditions of our MOA first established in 2008. D.P.U. 25-10/D.T.C. 25-1, Memorandum (January 30, 2026). The Departments reaffirmed that we intended to pursue joint adjudication of complaints under our shared regulations, as well as our intent to open this rulemaking in the near term. D.P.U. 25-10/D.T.C. 25-1, Memorandum at 2-3 (January 30, 2026). The Departments explained that we had prepared the Draft Amended and Restated MOA providing for joint adjudications and, due to the intersection of the terms of the draft regulations and the Draft Amended and Restated MOA, we would issue the Draft Amended and Restated MOA for comment with our proposed regulations. D.P.U. 25-10/D.T.C. 25-1, Memorandum at 2-3 (January 30, 2026). Accordingly, the Departments provide as Attachment E to this Order a copy of the Draft Amended and Restated MOA for comment relating to the joint adjudication provisions and corresponding references to the proposed regulations. The Departments anticipate entering into a final, amended and restated MOA prior to the expiration of the eleventh extension of the existing MOA, i.e., by July 31, 2026, and before any revised regulations take effect.

In addition to comments on our Draft Amended and Restated MOA, the Departments request further input and comment on potential, non-binding ADR mechanisms that could be implemented by the agencies and would take place prior to (and, preferably, obviate the need for) the filing of any formal complaints that would be submitted pursuant to 220 CMR 45.00. The Departments request whether and which elements from the FCC's rapid broadband

assessment team (“RBAT”) processes, as suggested by NECTA and CTIA, and existing DG interconnection dispute resolution procedures could be adopted by the agencies, and whether the ADR mechanism should apply to all informal pole attachment and conduit access disputes or be limited to particular types of disputes.

Further, the Departments would welcome draft guidelines identifying a potential ADR process that could be utilized by the agencies and aggrieved parties to facilitate informal resolution of disputes. Any such guidelines should identify the necessary details that should be submitted to the agencies to initiate any such process, as well as timelines for action by the agencies, aggrieved parties, and other participants to the process. *See, e.g.*, 47 C.F.R. § 1.1415; FCC Form 5653, Request for Review and Assessment (July 2024);²⁷ NSTAR Electric tariff, M.D.P.U. No. 55C, § 9.0 (Dispute Resolution Process); National Grid tariff, M.D.P.U. No. 1599, § 9.0; Unitil tariff, M.D.P.U. No. 474, § 9.0. The Departments also request proposed redlines to the Draft Amended and Restated MOA, or an Appendix thereto, for future implementation beyond July 31, 2026, that would incorporate a new ADR mechanism section with requirements applicable to the agencies.

V. SOLICITATION OF COMMENTS

To provide an opportunity for comment on the proposed regulations, the Departments will jointly conduct a public hearing pursuant to G.L. c. 30A, § 2, 220 CMR 2.05, and 207 CMR 2.01. The Departments will conduct the hearing using Zoom videoconferencing on **Wednesday, May 27, 2026, at 2:00 p.m.** Attendees may join by entering this link,

²⁷ Available at <https://www.fcc.gov/enforcement/rapid-broadband-assessment-team-rbat-review-and-assessment> (last visited March 6, 2026).

<https://us06web.zoom.us/j/81418706323>, from your computer, smartphone or tablet. For audio-only access to the hearing, attendees can dial in at **(646) 931-3860** (not toll free) and then enter webinar **ID# 814 1870 6323**. Due to the interplay of certain of the proposed regulations and the agencies' MOA in relation to joint adjudications to be conducted by the Departments going forward, the Departments will also accept public comments at the hearing on the terms of our proposed Draft Amended and Restated MOA provided as Attachment E to this Order.

The Departments also seek initial written comments on the proposed regulations, Draft Amended and Restated MOA, and possible ADR mechanisms, no later than **Tuesday, May 12, 2026**. Following the public hearing, written reply comments must be filed no later than **Thursday, June 11, 2026**. All written comments shall be submitted in electronic format by e-mail attachment to the Departments through the following distribution list:

dpu.efiling@mass.gov, dtc.efiling@mass.gov, kerri.phillips@mass.gov, scott.seigal@mass.gov, william.bendetson@mass.gov, and kevin.roberts@mass.gov.²⁸ The text of the e-mail must

specify: (1) the docket numbers of the proceeding (D.P.U. 26-10/D.T.C. 26-1, D.P.U. 25-10/D.T.C. 25-1); (2) the name of the person, entity, or company submitting the filing; and (3) a brief descriptive title of the document. The e-mail must also include the name, title, e-mail, and telephone number of a person to contact in the event of questions about the filing. The electronic attachment file name should identify the document but should not exceed 50 characters in length.

All documents submitted to or issued by the Departments in this matter will be available on each agency's website as soon as practicable. The Department of Public Utilities will post

²⁸ Each written comment should be submitted through a single e-mail to all the recipients identified for both agencies, rather than multiple e-mails.

documents through its online File Room (enter “26-10” on the line for “Docket No.”, then click “Enter” on your keyboard) at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dashboard>. The Department of Telecommunications and Cable will post documents through its online File Room (enter “26-1” on the line for “Or enter a Docket #”, then click “Search” on that line) at <https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx>.

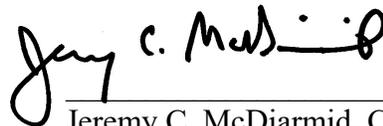
Please note that in the interest of transparency, any comments are posted to each agency’s website as received and without redacting personal information, such as addresses, telephone numbers, or e-mail addresses. As such, consider the extent of information that you wish to share when submitting public comments. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Department of Public Utilities’ ADA coordinator at eeadiversity@mass.gov or (617) 626-1282.

By Order of the Department of
Telecommunications and Cable

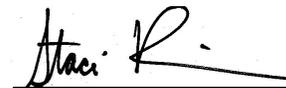


Karen Charles, Commissioner

By Order of the Department of
Public Utilities,



Jeremy C. McDiarmid, Chair



Staci Rubin, Commissioner



Elizabeth A. Anderson, Commissioner

ATTACHMENT A – REDLINED REGULATIONS (PROPOSED)

This is provided as a separate attachment.

ATTACHMENT B – CLEAN REGULATIONS (PROPOSED)

This is provided as a separate attachment.

ATTACHMENT C – REGULATIONS APPENDIX – TIMELINE SUMMARY CHARTS
(PROPOSED)

This is provided as a separate attachment.

ATTACHMENT D – 2008 MEMORANDUM OF AGREEMENT

This is provided as a separate attachment.

ATTACHMENT E – DRAFT AMENDED AND RESTATED MEMORANDUM OF
AGREEMENT

This is provided as a separate attachment.