



# COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 16-2

September 6, 2016

Investigation by the Department of Telecommunications and Cable, On its Own Motion, Instituting A Rulemaking and Regulation Review Pursuant to G.L. c. 30A, 207 C.M.R. § 2.00, 220 C.M.R. § 2.00, and Executive Order No. 562 To Reduce Unnecessary Regulatory Burdens

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## ORDER INSTITUTING RULEMAKING

### I. Introduction

By Executive Order No. 562, the Governor's Office directed each Executive Agency, including the Department of Telecommunications and Cable ("D.T.C."), to undertake an immediate review of its regulations.<sup>1</sup> Accordingly, on July 27, 2015, the D.T.C. requested public comment on its regulations, and on August 19, 2015, held a public listening session on the same. Taking the written public comments and input at the listening session into account, on October 6 and November 6, 2015, the D.T.C. issued Hearing Officer recommendations on each of its regulations, and requested further comment on each of those recommendations. In light of this review, the D.T.C. now opens an investigation on its own motion to amend its regulations accordingly.

The D.T.C. limits its investigation to those regulations subject to its jurisdiction under Titles 207 and 220 of the Code of Massachusetts Regulations ("C.M.R."), as listed below and on the D.T.C.'s website.<sup>2</sup>

### ***Cable Regulations – 207 C.M.R.***<sup>3</sup>

Chapter 2.00	General Rules
Chapter 3.00	Licensing

<sup>1</sup> See Office of the Governor, Commonwealth of Massachusetts, Executive Order No. 562 (Mar. 31, 2015).

<sup>2</sup> *Id.* § 1. The D.T.C.'s current regulations are available at: <http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/legal-division/dtc-regulations/dtc-regs/> (last viewed Aug. 31, 2016).

<sup>3</sup> 207 C.M.R. §§ 1.00, 5.00, and 7.00-9.00 are Reserved.

Chapter 4.00	Transfer or Assignment of Control of a Final License
Chapter 6.00	Rate Regulation
Chapter 10.00	Billing and Termination of Service

***Telecommunications Regulations – 220 C.M.R.***<sup>4</sup>

Chapter 1.00	Procedural Rules
Chapter 2.00	Adoption of Regulations
Chapter 5.00	Tariffs, Schedules and Contracts
Chapter 13.00	Consumer Protection from the Unauthorized Changing of Local or Long Distance Service Providers
Chapter 15.00	Accelerated Docket for Disputes Involving Competing Telecommunications Carriers
Chapter 16.00	Rules Governing the Recovery of Expenses Relating to the Provision of Wireline Enhanced 911 (E-911) Services, Dual Party TDD/TTY Message Relay Services, and Adaptive Equipment Services by Telecommunications Carriers
Chapter 26.00	Security Deposits and Late Payment Charges Applicable to Non-Residential Customers (§§ 26.09 and 26.10, only)
Chapter 37.00	Automatic Telephone Dialing Systems
Chapter 45.00	Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures
Chapter 77.00	Voting Trust Certificates of Public Utilities
Chapter 78.00	Accounting Treatment of Investment Tax Credit for Utilities
Chapter 273.00	Distribution and Maintenance of Telecommunications Devices for the Deaf and Specialized Customer Premises Equipment to Residential Subscribers with Disabilities

II. Proposed Regulations

The D.T.C.’s regulations currently reside in two Titles of the C.M.R., with cable regulations located in Title 207 and telecommunications regulations located in Title 220. However, the Secretary of the Commonwealth has assigned Title 220 to the D.T.C.’s sister agency, the D.P.U. Due to the joint history of the D.P.U. and the D.T.C., several chapters within Title 220 remain within the regulatory purview of the D.T.C. Further, certain chapters, including 220 C.M.R. §§ 1.00, 2.00, 5.00, 26.00, 45.00, 77.00, and 78.00, are presently used by both the D.T.C. and the D.P.U. and are applicable to industries regulated by both agencies.

<sup>4</sup> Title 220 has been assigned to the Department of Public Utilities (“D.P.U”). However, due to the joint history of the D.P.U. and the D.T.C., several chapters within Title 220 remain within the regulatory purview of the D.T.C. In addition, due to longstanding practice, the D.T.C. relies on the regulations as they are drafted and listed on the D.T.C.’s website rather than those previously amended by the D.P.U. (e.g., Chapters 1.00, 2.00, and 5.00).

With the exception of 220 C.M.R. § 45.00, which will continue to apply to both the D.T.C. and the D.P.U., the D.T.C. proposes to shift all D.T.C. regulations into Title 207. In addition, again with the exception of 220 C.M.R. § 45.00, the D.P.U. will independently propose to amend Title 220 to remove that Title's applicability to telecommunications common carriers.<sup>5</sup>

The D.T.C. also proposes to merge procedural regulations applicable to cable and telecommunications into a single chapter, 207 C.M.R. § 1.00, and similarly merge regulations involving the adoption, amendment, or repeal of regulations into 207 C.M.R. § 2.00. Other proposed changes include technical corrections, updating outdated references, and choosing not to repromulgate certain unnecessary or shared regulations. In particular, the D.T.C. proposes not to repromulgate 220 C.M.R. §§ 16.00 and 273.00 in Title 207. The D.T.C. also proposes not to repromulgate telecommunications-specific provisions contained in 220 C.M.R. §§ 77.00 and 78.00 in Title 207. Based on the D.T.C.'s initial inquiry into these regulations, the D.T.C. has determined that these regulations are not mandated by current law or necessary to the fulfillment of the D.T.C.'s duties. As noted above, because Title 220 has been assigned to the D.P.U., that agency will independently propose to rescind telecommunications regulations not under its jurisdiction.

The D.T.C.'s proposed regulations, in clean and redline versions, are attached to this Order and also may be inspected at the D.T.C.'s office, 1000 Washington Street, Suite 820, Boston, Massachusetts, 02118. The D.T.C. has also posted a copy of the Order and proposed amended regulations on its website. Pursuant to G.L. c. 30A, and as fully detailed in the attached Notice of Public Hearing, the D.T.C. seeks additional public input through a formal hearing and request for comment.

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<sup>5</sup> 220 C.M.R. § 126.00, which contains safety regulations applicable to telephone, telegraph, and community television antenna lines, but is under the jurisdiction of the D.P.U., will also remain in Title 220.

III. Order

In accordance with the foregoing, it is:

ORDERED: That the D.T.C. open an investigation instituting a rulemaking and regulation review pursuant to G.L. c. 30A, 207 C.M.R. § 2.00, 220 C.M.R. § 2.00, and Executive Order No. 562 to reduce unnecessary regulatory burdens; and it is

FURTHER ORDERED: That the Secretary of the D.T.C. shall publish the accompanying legal notice in The Boston Globe and The Republican; and it is

FURTHER ORDERED: That the Secretary of the D.T.C. shall serve a copy of this Order and Notice of Public Hearing on the persons identified on the distribution list prepared for noticing this inquiry.

By Order of the D.T.C.,



Karen Charles Peterson, Commissioner