



Melissa G. Liazos
Senior Counsel

June 3, 2022

VIA E-FILING: dtc.efiling@mass.gov

Shonda Green, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, MA 02118-6500

Re: D.T.C. 18-3 – Investigation by the Department on its Own Motion into Accounting Practices and Recordkeeping of Telecommunications Carriers

Dear Secretary Green:

On behalf of Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid, NSTAR Electric Company d/b/a Eversource Energy, and Fitchburg Gas and Electric Light Company d/b/a Unitil, I am submitting for filing in Docket D.T.C. 18-3 joint comments in response to the May 3, 2022 Notice of Proposed Requirements and Further Request for Comment that the Department of Telecommunications and Cable (“DTC”) issued on May 3, 2022 in this docket.

Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink that reads "Melissa G. Liazos".

Melissa G. Liazos

Enclosure

cc: D.T.C. 18-3 Service List (electronic only)

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

Investigation by the Department of)	
Telecommunications and Cable on its own)	
Motion into Accounting Practices and)	D.T.C. 18-3
Recordkeeping of Telecommunications)	
Carriers)	

JOINT COMMENTS BY THE ELECTRIC DISTRIBUTION COMPANIES

NSTAR Electric Company d/b/a Eversource Energy, Fitchburg Gas and Electric Light Company d/b/a Unital, and Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid (collectively, the “Electric Distribution Companies” or “EDCs”) submit these joint comments in response to the May 3, 2022 Notice of Proposed Requirements and Further Request for Comment (“NOPR”) that the Department of Telecommunications and Cable (“DTC”) issued on May 3, 2022 in D.T.C. 18-3. The DTC proposes to require certain “Telecommunications Pole Owners,” a term to be specified in this proceeding, to file a “Pole Owner Report” annually with the DTC, and to maintain certain records related to these filings.

Unlike telecommunications companies, the EDCs are required to publicly file annually both returns with the Massachusetts Department of Public Utilities (“DPU”) as well as FERC Form 1s with the Federal Energy Regulatory Commission (“FERC”). These EDC reports fundamentally contain the information that the DTC is proposing to include in the Pole Owner Reports. On this basis, the EDCs maintain that they should not be defined as “Telecommunications Pole Owners” or be required to file another duplicative report with the DTC. In the alternative, if the DTC finds it needs this information from the EDCs, the EDCs

propose to avoid duplication of reporting and to file with the DTC for administrative notice their annual returns made with the DPU, once filed.

I. Background

The Federal Communications Commission (“FCC”) has the authority under federal law to regulate the rates, terms, and conditions for pole attachments except in those states which have certified to the FCC that they regulate such rates, terms, and conditions (“Reverse Preemption States”). 47 U.S.C. § 224(b)-(c). Massachusetts regulates pole attachment rates, terms, and conditions and has so certified to the FCC. G.L. c. 166, § 25A; *States that have Certified that they Regulate Pole Attachments*, WC Docket No. 20-302, Public Notice (Mar. 19, 2020); 220 C.M.R. 45.00. The DTC or the DPU determine and enforce reasonable rates, terms, and conditions for the use of utility poles for attachments when the utility and an attacher disagree on such rates, terms, or conditions. G.L. c. 166, § 25A; 220 C.M.R. 45.00.

On May 3, 2022, the DTC issued the NOPR in this proceeding, proposing that “Telecommunications Pole Owners” be required to file annual Pole Owner Reports with the DTC. In the NOPR, the DTC proposes to apply its Pole Owner Report requirements to all Telecommunications Pole Owners and seeks comment on how to define “Telecommunications Pole Owners” for purposes of these requirements, including “[w]hether owners of other poles, such as monopoles, installed in the public rights-of-ways should be required to file Pole Owner Reports.” NOPR at 17.

II. Comments

The pole attachment regulations, 220 CMR 45.00 et seq., are jointly overseen by the DTC and the DPU, and provide for a compliance procedure to determine the maximum attachment rate through the use of data inputs filed by the utilities. 220 CMR. 45.04(2)(d). Specifically, the regulations provide that data should be derived from publicly available reports already filed with

the DTC, DPU, FCC, FERC, such as the FERC Form 1, or other reports filed with state or regulatory agencies. Id. The DPU prescribes the form of books and a uniform system of accounts that the EDCs must keep (G.L. c. 164, sec. 81; 220 C.M.R. 51.00), and, as noted above, the EDCs must file annual returns with the DPU on a form that the DPU prescribes (G.L. c. 164, § 83; 220 CMR. 79.04). Additionally, FERC requires the EDCs to file FERC Form 1 every year. 18 C.F.R. § 141.1.

Based on the DTC's goals and directives above, the EDCs already have publicly available reports before other administrative agencies which can be used to support the DTCs goals in this NOPR. The DPU annual returns, and the FERC Form 1s, fundamentally contain the information that the DTC seeks to obtain through the proposed Pole Owner Report, and the DPU and DTC have long relied on information contained in these filings to regulate pole attachments in the Commonwealth.¹ Requiring the EDCs to file a report with the DTC that would be duplicative of the information contained in the annual return filed with the DPU and the FERC Form 1 filed with FERC, would impose an administrative burden on the EDCs without added benefit. Therefore, the EDCs should not be defined as "Telecommunications Pole Owners" and should not be required to file Pole Owner Reports.²

¹ When 220 CMR 45.00 was originally promulgated in 1984, the DTC and the DPU's predecessor agency required that complaint data be derived from, among other things, FERC Form 1s submitted by EDCs. In 1998, the DTE established the current Massachusetts Formula, which attachers and pole- and conduit-owners continue to rely upon in calculating pole attachment rates. In adopting the Massachusetts Formula, the agency's goal was to simplify pole attachment rates as much as possible by adopting standards that relied upon publicly available data, including, among other things, FERC Form 1s submitted by EDCs and annual returns filed with the DPU. Since that time, the data used to calculate rates under the Massachusetts Formula has been publicly available through annual returns submitted by EDCs to the DPU. D.P.U. 19-76-A/D.T.C. 19-4-A, at 16-17 (Dec. 7, 2021).

² DTC also seeks comments on its proposed March 1 annual filing deadline for the Pole Owner Reports. The EDCs are required to file their annual returns with the D.P.U. by March 31st each year. 220 CMR 79.00. Further, the EDCs are required to file their FERC Form 1s by April 18th each year (18 C.F.R. § 141.1), though utilities may request permanent standing extensions of that deadline. For example, because National Grid's fiscal year ends on March 31st, it has received a permanent standing extension from FERC to file its FERC Form 1 150 days after that date, or on August 28. (See Order in FERC Docket No. AC15-60-000, April 2, 2015.) If the EDCs were required to file the Pole Owner Reports (which they should not be), the filing deadline for that report should no later than one month after those reports are filed with the DPU or with FERC.

III. Conclusion

For the reasons stated, the EDCs should not be included in the definition of “Telecommunications Pole Owners” and should not be required to file the proposed annual Pole Owner Reports.

Respectfully submitted,

**NSTAR Electric Company d/b/a Eversource
Energy**

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Dated: June 3, 2022

**COMMONWEALTH OF MASSACHUSETTS
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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused to be served the foregoing documents in the above-referenced docket upon all parties of record in this proceeding electronically, in accordance with the requirements of 207 C.M.R. 1.05.

MASSACHUSETTS ELECTRIC COMPANY
NANTUCKET ELECTRIC COMPANY each
d/b/a NATIONAL GRID



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