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June 3, 2022

VIA ELECTRONIC MAIL

Ms. Shonda D. Green
Department Secretary
Massachusetts Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118-6500

Re: Docket No. 18-3, Investigation by the Department of Telecommunications and Cable on its Own Motion into Accounting Practices and Recordkeeping of Telecommunications Carriers

Dear Ms. Green:

Enclosed please find NECTA's Comments in Response to Further Request for Comment in the above-referenced proceeding.

Please feel free to contact me should you have any questions related to the submission.

Sincerely,

DAVIS WRIGHT TREMAINE LLP

Maria Browne

cc: Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Investigation by the Department of Telecommunications and Cable into Accounting Practices and Recordkeeping of Telecommunications Carriers	D.T.C. 18-3 June 3, 2022

NECTA COMMENTS IN RESPONSE TO FURTHER REQUEST FOR COMMENT

NECTA respectfully submits these Comments in response to the Notice of Proposed Requirements and Further Request for Comment ("Notice") issued by the Massachusetts Department of Telecommunications and Cable ("Department") in the referenced proceeding on May 3, 2022, proposing annual data reporting and record keeping requirements for certain telecommunications pole owners ("Telco Pole Owners"), namely Verizon Communications, Inc. ("Verizon").

I. INTRODUCTION

NECTA appreciates the Department undertaking this important rulemaking and issuing proposed requirements critical to ensuring that pole attachment and conduit rates[1] charged by Telco Pole Owners, including Verizon, are just, reasonable, and non-discriminatory in accordance with G.L. c. 166, § 25A. It is widely recognized that pole owner imposition of unreasonable pole attachment rates and charges impedes essential broadband investment and service deployment, thereby harming not only competing providers who must rely on pole attachments to provide broadband service, but also residents, institutions, and businesses seeking access to high-speed broadband service.[2] NECTA's members are attached to nearly one million Verizon-owned poles

[1] Hereinafter, NECTA refers jointly to pole attachment and conduit rates as "pole attachment rates."

[2] *See* Edward J. Lopez & Patricia D. Kravtin, Advancing Pole Attachment Policies to Accelerate National Broadband Buildout, Connect the Future, at 1, 10-11, https://connectthefuture.com/wp-

located in Massachusetts and also occupy Verizon conduit. Currently, NECTA members combined pay approximately $4 million annually in pole attachment rent to Verizon, on top of direct reimbursements to Verizon for make-ready work, surveys, engineering, and permit processing. Accordingly, NECTA's members and their subscribers would be substantially impacted if Verizon were to raise pole and conduit rents above reasonable cost-based levels.

As set forth herein, NECTA fully supports the Department's decision to require Telco Pole Owners to annually file publicly available reports that include Massachusetts pole plant related data necessary for the Department to fulfill its duty to ensure just, reasonable, and non-discriminatory pole attachment and conduit rates. No other regulatory body requires the Commonwealth's Telco Pole Owners to file this critically important information, required for setting pole attachment rental rates in Massachusetts. Accordingly, as recognized by the Department in the Notice, it would be insufficient and far too risky to simply rely upon Verizon's unenforceable promise to continue filing some of this information voluntarily with the Federal Communications Commission ("FCC") on FCC Form 43-01. That form, which lacks certain detailed information required by the Department in fulfilling its statutory mandate, is not required by the FCC to be filed for certified states, such as Massachusetts. NECTA also agrees that each Telco Pole Owner should be required to maintain financial records sufficient to evaluate its cost allocation practices and the appropriate amounts reflecting its gross cost of poles and/or conduit when setting proposed rates.

While NECTA applauds the Department's Notice in these respects, it respectfully urges the Department to reconsider other aspects of its proposed requirements. First, as set forth herein,

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content/uploads/2021/11/Advancing-Pole-Attachment-Policies-To-Accelerate-National-Broadband-Buildout-National-Report.pdf (last visited June 1, 2022).

and as reflected in Exhibit 1 setting forth targeted in-line changes to the proposed Pole Owner Report, NECTA urges the Department to require Telco Pole Owners to maintain and report additional specific pole related data essential to ensuring just, reasonable, and non-discriminatory pole attachment and conduit rates. Specifically, as explained more fully herein, NECTA urges the Department to require annual reporting of:

(1) Pole plant records sufficient to determine the actual average pole height used to calculate the usable space allocator and the appropriate investment deduction for appurtenances;
(2) An explanation of the allocators used to attribute the percentage of aggregated total plant in service costs to poles and conduit;
(3) The number of solely-owned ("SO") and jointly-owned ("JO") poles in addition to Pole Equivalents and an explanation if there is a significant change (more than 5 percent) in year over year SO or JO pole counts;
(4) The number of SO/JO poles replaced by the Telco Pole owner in the reporting period;
(5) Any investment included in Gross Pole Investment not associated with individual pole units ("non-unitized investment");
(6) Total and itemized direct reimbursements from attachers for surveys, engineering, and make-ready, including pole replacements, and an explanation of how those reimbursements were accounted for in their financial records; and
(7) The average number of ducts in a conduit bank.

This additional information will further reduce the likelihood of attacher complaints and the related need for the Department to solicit additional necessary data through discovery, facilitate more precision in the rate setting process, and enable attaching entities to evaluate rates independently, reducing the likelihood of disputes and the need for Department involvement.

In addition, NECTA respectfully urges the Department to reconsider its tentative decision to allow Telco Pole Owners to migrate to GAAP accounting without the continued use of the FCC's Implementation Rate Differential ("IRD") or other safeguards. As demonstrated herein, if Verizon is permitted to transition to GAAP without applying the IRD to rates calculated using the Massachusetts Formula, its maximum rates could increase by ***more than 100%*** as soon as January 1, 2023. Unless the Commission requires the IRD or other safeguards, there is nothing preventing

Verizon from implementing this increase, and competitive broadband service will be negatively impacted as providers who rely on attachments to Verizon's poles or conduit will suffer unjustified and significantly increased costs of maintaining their broadband networks.

II. DISCUSSION

A. NECTA Supports A Department Rule Requiring Telco Pole Owners to Annually File Publicly Accessible Pole and Conduit Data Reports and to Maintain Certain Financial Records Necessary to Ensure Just, Reasonable, and Non-discriminatory Pole and Conduit Rental Rates

M.G.L. 166 § 25A charges the Department with establishing just and reasonable rates for the use of poles and conduits. Those rates may not exceed "the proportional capital and operating expenses of the utility attributable to that portion of the pole, duct, or conduit occupied by the attachment."[3] In fulfilling this statutory mandate, the Department's predecessor, the Department of Telecommunications and Energy ("DTE"), adopted the FCC's pole attachment rate formula applicable to cable system operators with minor adjustments in 1998 (hereinafter "Massachusetts Formula").[4] In 2014, this Department reaffirmed that "the Massachusetts Formula results in a pole attachment rate that is in compliance with the statutory requirements, and results in fully-allocated costs."[5] As recently clarified by the Department, the data required for application of the

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[3] M.G.L. 166 § 25A.

[4] *In re Cablevision of Boston Co.*, D.P.U./D.T.E. 97-82, 1998 WL 35235111, Order at Table 1 (Mass. D.P.U. Apr. 15, 1998); *see A-R Cable Servs., Inc. v. Mass. Elec. Co.*, D.T.E. 98-52, Order at 7 (Nov. 6, 1998) ("The Department's intent remains to have a simple, predictable, and expeditious procedure that will allow parties to calculate pole attachment rates without the need for Department intervention.").

[5] *Comcast of Massachusetts III, Inc. v. Peabody Municipal Light Plant & Peabody Municipal Lighting Comm'n*, D.T.C. 14-2, Phase I Order, at 4 (Mass. D.T.C. Sept. 3, 2014) ("[T]he Department developed the Massachusetts Formula as its legal standard. . . . "the Department endorsed the FCC method which it found 'simplifies the regulation of pole attachment rates as much as possible by adopting standards that rely on publicly available . . . data' . . . [which] 'will facilitate the resolution of pole attachment rate complaints without the need for costly hearings.'") (citation omitted).

Massachusetts Formula, set forth in 220 C.M.R. 45.04(2)(d), must be derived from publicly available reports filed with a government entity.[6]

Until now, in evaluating Telco Pole Owner pole and conduit rates pursuant to its statutory charge, the Department has relied upon Verizon's annual FCC Form 43-01 filings.[7] This form collects certain information that is essential for applying the Department's pole attachment and conduit rental formulas including gross investment in poles and conduit, accumulated depreciation for poles and conduit, depreciation rates for poles and conduits, deferred operating income taxes for poles and conduit, pole and conduit maintenance and rental expenses, general and administrative expenses, operating taxes, and the number of poles and conduit system trench and duct kilometers.[8] However, as set forth in the Notice, the FCC no longer requires Telco Pole Owners to file these reports for certified states, such as Massachusetts.[9] Nor does the FCC form, which was created by the FCC for pole owners using Part 32 Uniform System of Accounts

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[6] The Department amended 220 C.M.R. 45.04(2)(d) in 2021 to codify "a requirement that data must be derived from publicly available reports" and require pole owners to provide underlying rate calculations upon request. *See Joint Investigation by the Department of Public Utilities and the Department of Telecommunications and Cable, on their own motions, instituting a rulemaking pursuant to Executive Order No. 562 to Reduce Unnecessary Regulatory Burden, G.L. c. 30A, § 2, 220 CMR 2.00, and 207 CMR 2.00, to amend 220 CMR 45.00,* Opinion, D.P.U. 19-76-A; D.T.C. 19-4-A, 2021 Mass. PUC LEXIS 400, at *11-14 (Dec. 7, 2021) ("2021 Joint Investigation").

[7] While Verizon and/or its predecessor New England Telephone (NET) previously reported similar USOA cost information to the Department in its annual Form M filing, upon which the DPU relied, *see Greater Media, Inc. v. New England Tel. & Tel. Co*., D.P.U. 91-218, 1992 WL 159931, at *5 (Mass. D.P.U. D.P.U. 91-218.) (1992) (Apr. 17, 1992), Verizon long ago ceased filing that report.

[8] *See In re Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks*, Memorandum Opinion and Order, 28 FCC Rcd. 7627, 7657-60 ¶¶ 61-65 (2013) (explaining that "[w]ithout ongoing access to the data derived from Part 32 accounts, neither the Commission nor interested parties could ascertain or verify that pole attachment rates based on the Commission's rate formula reflect actual costs, or that these calculations produce just and reasonable rates in accordance with our rules").

[9] Notice at 7 ("When the FCC eliminated financial reporting requirements for Reverse Preemption States like Massachusetts it acknowledged that those states might need to establish their own financial reporting requirements to collect the data necessary to regulate pole attachments.").

("USOA"), include all of the information required to fully evaluate Telco Pole Owners rates using the Massachusetts Formula as applied to GAAP cost data.[10]

Recognizing pole and conduit data as essential to fulfilling its statutory function, the Department proposes to require Telco Pole Owners to file publicly available reports including the prior Form 43-01 information for evaluating rates under the Massachusetts Formula on an annual basis. In doing so, the Department rejects Verizon's suggestion that the Department rely solely upon its voluntary filings with the FCC or, alternatively, only require reports when a Telco Pole Owner changes its pole attachment and/or conduit rate.[11] The Department also recognizes that "the public availability of this data allows existing and potential pole attachers to evaluate pole attachment rates themselves, without having to file a complaint" and thereby "minimizes the burdens on all stakeholders."[12] Consistent with its earlier comments in this proceeding, NECTA wholeheartedly agrees with the Department's proposal.[13]

NECTA also agrees that the Department would "improve the efficiency of its pole attachment adjudications and the specificity of its rate determinations" if it were to require reporting of additional detailed cost data related to poles and conduit data beyond that required by

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[10] Unlike USOA, GAAP allows pole owners to maintain financial records at aggregated plant levels. It is therefore extremely important to have information concerning how costs are allocated to the pole plant level.

[11] *Id.* at 7-8.

[12] *Id*. at 4. As NECTA explained in earlier comments, the Department and attachers must have access to annual pole cost data. Year over year cost trends reveal significant and important information about the various inputs used in the Massachusetts Formula which is especially critical given the transition to GAAP. *See* Written Reply Comments of the New England Cable & Telecommunications Association, Inc., D.T.C. 18-3 (filed Aug. 9, 2018) ("NECTA 2018 Reply Comments") at 3-4. In addition, this information is necessary to ensure that any *un*changed rate does not exceed the maximum rate allowed by the Massachusetts Formula. *Id*.

[13] *See* Written Comments of the New England Cable & Telecommunications Association, Inc., D.T.C. 18-3, at 7 (filed July 25, 2018) ("NECTA 2018 Comments"); *see also* NECTA 2018 Reply Comments at 2-5.

FCC Form 43-01. As set forth in the Notice, even when Telco Pole Owners reported cost data in conformance with Part 32 USOA accounting, the Department had to seek additional information through discovery.[14] Even then, certain required data was not available, forcing the Department to rely upon "estimates or approximations."[15] The need for additional information is even more critical today given the vintage of certain formula presumptions, and the Department's decision to allow Telco Pole Owners to transition to away from Part 32 USOA. Among other things, GAAP accounting aggregates expenses at a much higher level than Part 32 USOA and, as explained in NECTA's prior comments in this docket, generally results in overstated costs, double recovery of costs already recovered through depreciation, and inflated carrying charge expenses.[16]

To address these shortfalls, in addition to seeking additional information through its proposed annual Pole Owner Reports, the Department proposes to require each Telco Pole Owner to retain data and documentation of the accounting methods and procedures used to allocate its costs reflected in the Pole Owner report, including the actual money cost of (or the then current money value of any consideration other than money exchanged for) property at the time it was purchased.[17]

NECTA agrees that Telco Pole Owners should maintain and report the information outlined in the Notice. However, NECTA believes the Department should require additional information in the annual Pole Owner Reports, and should delineate certain information relevant to cost allocations that must be maintained and provided upon request. It is highly likely that

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[14] Notice at 7 ("The Department's previous reliance on FCC Form 43-01 made it necessary to solicit [additional] data for pole attachment adjudications through discovery."). This is due, at least in part, to the formula's reliance upon rebuttable presumptions for certain inputs. *See id.* at 15-16.

[15] *Id.* at 7.

[16] NECTA 2018 Comments at 7-8.

[17] Notice at 16.

unless Telco Pole Owners are required to maintain and report this additional information, it will not be available for the time period or in the form necessary to achieve the Department's stated objectives. In NECTA's members experience, pole owners often claim not to maintain many pole related records or, if they have them, do not cooperate in making their records readily available to attaching entities unless required to do so as part of a formal adjudicatory process. Moreover, given Verizon's aggregation of cost data under GAAP leading to grossly inflated pole costs, it is absolutely critical that it be required to report information concerning how it allocates aggregated plant costs to poles.

Accordingly, NECTA urges the Department to amend its proposed Pole Owner Report to require inclusion of the following:

(1) **Pole plant records necessary to ascertain the Telco Pole Owner's actual average pole height.** Pole height has an immediate and significant impact on pole attachment rates, and is information held solely by pole owners. Massachusetts, like the FCC, presumes an average pole height of 37.5 feet and a corresponding usable space factor of 7.41%, but that presumption may be rebutted with actual pole height data. Based upon a joint survey conducted by Verizon and National Grid in 2018, Verizon's average pole height is at least 36.67 feet, and is likely considerably taller currently. Indeed, pole owners today regularly install poles that are 40 to 45 feet in height as compared to the 35 and 40 foot joint use poles typically installed in the late 1970s when the presumptive pole height was established.[18] As a result, regulators in other states, including Connecticut, Vermont and Oregon, have approved use of a 40 foot pole to calculate pole rates.[19]

(2) **Pole plant records necessary to ascertain the Telco Pole Owner's actual investment in appurtenances**. Like the FCC, Massachusetts presumes that only 5% of the Telco Pole Owner's reported pole plant investment is attributable to

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[18] *See In re Adoption of Rules for Regulation of Cable Television Pole Attachment*s, Memorandum Opinion and Second Report and Order, 72 FCC2d 59, 69 ¶ 21 (1979) ("the most commonly used poles are 35 and 40 feet high").

[19] *See* Vermont Public Utility Commission Rule 3.706(D)(2)(c) ("total usable space shall be 16 feet, which is based upon a presumed pole height of 40 feet, less 24 feet presumed unusable space"); Connecticut Public Utility Regulatory Authority Docket No. 17-10-46 Apr. 18, 2018 Decision (approving Eversource Energy rate agreement using a 40-foot presumptive pole height); Oregon Administrative Rules 860-028-0020(22) ("There is a rebuttable presumption that the average bare pole is 40 feet ….").

appurtenances. The Notice uses appurtenance information as an example of the "gaps in available data" necessary to evaluate rates under the Massachusetts Formula.

(3) **An explanation of allocators used to attribute the percentage of aggregated total plant in service costs to poles and conduit**. As NECTA explained in earlier comments in this proceeding, GAAP uses a higher level of plant and expense aggregation than Part 32 USOA thereby allowing carriers to attribute higher expenses related to lines and cable to less costly poles and ducts.[20] For example, while GAAP may permit reporting of pole maintenance expense within "Cable & Wire Facilities Expense," Part 32 Class A accounting requires carriers to track and report the much lower, specific disaggregated pole plant maintenance expenses.[21] As a result, GAAP data commingles lower pole maintenance expenses with the much higher costs of maintaining Telco Pole Owners' aerial lines and underground buried cable.

(4) **The number of SO and jointly-owned JO poles in addition to Pole Equivalents and an explanation where there is a significant change (more than 5 percent) in year over year pole counts.** The pole count is one of the most impactful inputs in the pole rent formula, as it is used to derive the average per pole investment against which the pole owner's carrying costs and use ratio are applied. When poles are jointly owned by electric and telephone companies, it is necessary to derive pole count equivalents to ensure that the pole units match the amount invested. However, it is not always the case that contractual joint ownership ratios match the level of investment committed by each respective pole owner.[22] Verizon has reported a decrease in the number of pole equivalents every year since 2018, causing its maximum per pole rate to increase.[23] If this is due to decreased investment relative to its electric company joint owners, attaching entities should have access to this information to ensure that each owner reports the correct number of poles tied to its pole plant investment.

(5) **The number of poles replaced by the Telco Pole owner in the reporting period.** This information will assist the Department in assessing numerous Massachusetts Formula inputs, including gross pole investment. Under the Department's cost-based formula, pole investment should only increase consistent with actual capital costs

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[20] NECTA 2018 Comments at 12.

[21] *See* 47 C.F.R. § 32.5999(b)(3).

[22] *See, e.g.*, *Application of United Illuminating Co. to Increase its Rates and Charges*, Docket No. 16-06-04, Decision, at 99 (Dec. 14, 2016), http://www.dpuc.state.ct.us/dockhistpost2000.nsf/8e6fc37a54110e3e852576190052b64d/0585d33b5c3fd0a48525829c006fe19e?OpenDocument

[23] Verizon's reported pole counts decreased from 2018 to the present as follows: 2018: 745,216; 2019: 736,398; 2020: 692,920; 2021: 699,804. *See* Exhibit 2.

incurred in the purchase and installation of new poles, not because of accounting technicalities.[24]

(6) **Any non-unitized investment included in Gross Pole Investment**. As recognized by other state regulators, pole owners often book investment to property records in advance of recording the added poles.[25] Thus, removal of non-unitized investment is necessary to ensure that "investment dollars are properly matched to pole units."[26]

(7) **Direct reimbursements from attachers for surveys, engineering, and make-ready, including pole replacements, and an explanation of how those reimbursements were accounted for in their financial records.** In accordance with the FCC rules to which this Department looks for guidance,[27] reimbursed make-ready costs must be credited against FERC accounts used to calculate the pole attachment rates.[28] If pole owners do not credit reimbursed non-recurring costs, including plant costs, against the FERC accounts used in the pole attachment rate formula, attachers who paid the make-ready will be charged effectively twice for the same costs.

(8) **Average number of ducts in a conduit bank.** This information is helpful to validate the duct mileage over which costs are allocated.

In sum, NECTA supports the need for mandatory annual reporting that is publicly available and agrees with the Department that information beyond that historically provided using FCC Form 43-01 should be required. NECTA has offered specific additional data points that will greatly assist the Department in fulfilling its statutory mandate. This data – which is often difficult

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[24] As NECTA explained in earlier comments, "[b]y shifting accounting practices, such as by resetting investments in pole plant upon merger or acquisition, pole owners could charge again for pole expenses that attachers have previously paid through depreciation expenses." NECTA 2018 Comments at 5.

[25] *See, e.g.* Order in Case 08-E-0330 Tariff filing by Central Hudson Gas & Electric Corp. to update the pole attachment rates applicable to cable system operators and telecommunications carriers (June 19, 2008) at 3. https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=08-E-0330&CaseSearch=Search (finding it necessary to remove non-unitized investment "from the cost of the net investment per bare pole calculation because, at this point in time, only investment dollars have been added to the CPR and not the corresponding number of units").

[26] *Id.*

[27] Given that "[t]he majority of the provisions in 220 C.M.R. 45.00 mirror regulatory provisions enacted by the FCC," the Department has found it "helpful to consider the manner in which issues . . . have been addressed by the FCC." *Greater Media*, 1992 WL 159931 at *25.

[28] *See* 47 C.F.R. § 1.1406(b) ("The Commission shall exclude from actual capital costs those reimbursements received by the utility from cable operators and telecommunications carriers for non-recurring costs.").

to obtain from pole owners voluntarily – is increasingly necessary to analyze whether pole owners' rates are just and reasonable. Public reporting of this information should help on two fronts – publicly reported information is generally more reliable than internal information and making this information available upfront will help to eliminate questions relating to cost allocations that often lead to avoidable disputes. Reliance upon publicly available information, facilitates a straightforward, self-executing, and economical approach for determining just and reasonable pole attachment rates.[29]

B. Rate Shock Will Ensue Unless the Department Requires Verizon to Adjust Rates Using the FCC IRD At Least Through 2034 or Limit's Verizon Recovery of Capital Costs Recovered Prior to Its Transition to GAAP

While Verizon chose to move to GAAP accounting in Massachusetts in advance of the Department's approval, it has at least mitigated that transition to date by applying the FCC's IRD, albeit "voluntarily."[30] A review of Verizon's pole attachment data submitted to the FCC annually in CC Docket No. 86-182 for the last several years reveals that the IRD is the only thing keeping Verizon's rates at reasonable cost-based levels in conformance with the Massachusetts Formula.

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[29] *See* Notice at 4 ("The public availability of this data allows existing and potential pole attachers to evaluate pole attachment rates themselves, without having to file a complaint with the Department."): *see also Amendment of Rules and Policies Governing Pole Attachments, Implementation of Section 703(e) of the Telecommunications Act of 1996,* Consolidated Partial Order on Reconsideration, 16 FCC Rcd. 12103, 11214-15 ¶ 17 (2001) (relying on publicly reported historic cost data adds "certainty and clarity to negotiations" and fulfills Congressional intent "to rely on existing regulatory accounts and avoid a prolonged rate making process."); *see also* S. Rep. No. 95-580, at 21 (1977) (stating that it was the desire of the drafters "that the Commission institute a simple and expeditious CATV pole attachment program which will necessitate a minimum of staff, paperwork and procedures consistent with fair and efficient regulation").

[30] It also transitioned to GAAP in advance of the FCC ruling upon a Petition for Reconsideration filed by NCTA – The Internet & Television Association in *Comprehensive Review of the Part 32 Uniform System of Accounts,* WC Docket No. 14-30, CC Docket No. 80-286. As of the date of this filing, the FCC has not issued a final ruling.

Verizon initially increased its annual pole attachment rate for solely owned poles in 2021 from $6.32 to $6.89 using (1) the Massachusetts Formula, (2) year-end 2019 GAAP data reported to the FCC, and (3) applying the FCC's IRD. Based upon Verizon's own calculation, had it not applied the IRD, the rate would have been $11.40 – nearly double.[31] When NECTA questioned certain of the formula inputs, Verizon subsequently adjusted the IRD and rate downward to $6.45 per pole.[32] Using the same approach undertaken by Verizon for its 2021 rate increase, NECTA calculated the maximum rate allowed by the Massachusetts Formula using Verizon's year-end 2021 GAAP data reported to the FCC in April.[33] As shown in Exhibit 6, based on this data, unprotected by the IRD, Verizon's 2023 rate calculated using GAAP data would increase to **$14.64.** Even with the IRD rates could increase to **$9.83** – a 52% increase from today's $6.45 rate. A rate increase of this magnitude has the potential to thwart competitive broadband deployment across Verizon's footprint, harming attachers and broadband consumers alike.

The Department's tentative decision to allow Verizon to transition to GAAP without the IRD or other guardrails is based largely upon its stated belief that pole rents will not increase significantly because they have not done so to date.[34] But, as set forth above, Verizon's reported

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[31] *See* Exhibit 3 (Verizon pole rent calculation using 2019 year-end GAAP data provided to NECTA with necessary corrections agreed to by Verizon in orange highlight). *See also* Exhibits 4 and 5 (letters between Verizon and NECTA memorializing necessary adjustments to Verizon calculations).

[32] *See* Exhibits 3, 4 and 5. The rate decreased in part due to replacement of the 37.5 presumptive pole height with an average pole height agreed to by Verizon of 37.67. In fact, based upon data from Verizon's pole audit conducted in 2014, its average pole height is likely significantly taller.

[33] *See* Exhibit 6 (calculating Verizon's SO rates using 2016 to 2021 YE data).

[34] Notice at 12 "([T]he record in this proceeding does not contain evidence that the *2017 FCC Order*, adopted more than five years ago—and Verizon's subsequent decision to cease using USOA—has impacted pole attachment rates in Massachusetts.").

numbers evince more than a "theoretical rate increase." In fact, in 2021, Verizon told NECTA it will not continue to apply the IRD to any rate changes "if the MA DTC rejects it."[35]

Moreover, as NECTA demonstrated in its opening comments, Verizon has been nothing if not strategic in transitioning to GAAP. First, Verizon set the IRD as low as possible by minimizing the increases allowable under GAAP in the year of the IRD's calculation (2017).[36] In fact, when it increased pole attachment rates last year, Verizon conceded to NECTA that it had underreported its GAAP maintenance expense in 2017, the year the IRD was calculated, resulting in an IRD understatement of $0.30.[37] To correct for this error, it increased the IRD originally calculated from $4.52 to $4.82 (although not by the full amount NECTA urged was needed in prior filings). Now Verizon hides behind its current, relatively low rate, suggesting but not expressly committing to the Department that it will continue keep rates low. However, as demonstrated here, unless the Department adopts certain safeguards, including, at a minimum, requiring Verizon to apply the IRD, its rates will in fact increase significantly.

As Congress recognized in 1978 in adopting the federal Pole Attachment Act, as a pole owner and competitor, Verizon has incentives to charge more than what is reasonable for accessing poles that are essential to broadband deployment.[38] Massachusetts similarly understood the

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35 *See* Exhibit 5 (Verizon Letter to Maria Browne dated April 2, 2021).

36 NECTA Reply to Supplemental Comments in D.T.C. 18-3, at 3-5 (Dec. 19, 2019) ("Verizon made a tactical decision to report nearly identical amounts under GAAP and USOA for pole related expenses in 2017, which had the effect of *lessening* the GAAP/USOA differential in the year the IRD is calculated.").

37 *See* Exhibit 5.

38 *See* S. Rep. No. 95-580, at 19-20 (1977), *reprinted in* 1978 U.S.C.C.A.N. 109, 127-28; *FCC v. Florida Power Corp.*, 480 U.S. 245, 247-48 (1987) (Congress enacted this legislation as a solution to a perceived danger of anticompetitive practices by utilities in connection with cable television service); As found by the FCC in *Better T.V., Inc. of Dutchess Cty. v. N.Y. Tel. Co.*, 31 FCC2d 939, 946 ¶ 20 (1971), Verizon (then N.Y. Tel.) has the ability to favor its own services "by reason of its control over the subterranean conduits" and had "committed some acts which tend to support a finding that it made improper use of that control." *See also NCTA v. Gulf Power Co.*, 534 U.S. 327, 330 (2002) ("Since the inception of cable television, cable companies have sought . . . to run a wire into the home of each

inherently unfair bargaining leverage enjoyed by pole owners. To this end, "220 CMR 45.00 effects legislative policy in favor of competition and consumer choice . . . to ensure that telecommunications carriers and cable system operators have nondiscriminatory access to poles, ducts, conduits, and rights-of-way."[39]

As NECTA demonstrated in its earlier comments in this proceeding, in transitioning to GAAP accounting, Verizon magically erased 40% of its accumulated depreciation despite having already recovered more than 100% of its costs from attachers through the annual rent rates.[40] Its maintenance expense also doubled likely due to aggregation of expenses at the total plant level.[41] While these adjustment may have been appropriate using GAAP accounting methods, they fundamentally alter the Department's reliance upon historic cost-based rates required by the Massachusetts Formula. Indeed, in its 2002 Order establishing new rates for Verizon-Massachusetts' unbundled network elements (UNEs) and interconnection, the DTE recognized the hazards of shifting from regulated accounts to GAAP, and chose to stay with regulated cost accounts, finding that the use of GAAP would overstate costs.[42] This is why the FCC required carriers transitioning to GAAP to calculate and apply the IRD throughout a multi-year transition period.

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subscriber [and] have found it convenient, and often essential, to lease space . . . on . . . utility poles. Utilities, in turn, have found it convenient to charge monopoly rents.").

39 *See* 220 C.M.R. 45.01.

40 *See* NECTA Reply to Supplemental Comments in D.T.C. 18-3, at 2.

41 *Id*.

42 *In re Verizon New England Inc*., D.T.E. 01-20, 2002 WL 31928522 (Mass. D.T.E. Aug. 23, 2002) (finding that "[t]he use of GAAP [depreciation] lives would overstate costs," and noting FCC concerns that "[a]n incumbent LEC using GAAP would have substantial latitude to select different methods of depreciation, such as accelerated depreciation, that could significantly alter the depreciation expense that the LEC could claim.").

Just as the Department concluded that it could not rely upon Joint Pole Owner voluntary submission of FCC Form 43-01, the Department should not rely on Verizon's voluntary continued willingness to keep rates at cost-based levels. Rather, to ensure that rates remain at just, reasonable and non-discriminatory levels, the Department should, at a minimum, require Verizon to continue adjusting its rates using the IRD through at least 2034 – creating a similar 12-year transition period to that adopted by the FCC. This time period is critical for those companies undertaking to upgrade and construct new broadband networks across the Commonwealth, including to rural areas very much in need of access to broadband services.

Alternatively, as NECTA recommended in its earlier comments and believes is the better approach here, the Department should rule that those Telco Pole Owners that had already depreciated their pole costs to less than zero under Part 32, such as Verizon, may no longer charge attachers for capital investment, but only for pole expenses.[43] The FCC "lower-bound" formula, adopted as a protectionary measure to ensure that pole owners recover the incremental costs of accommodating an attachment, takes this approach.[44] This formula has been upheld as producing just, reasonable and fully compensatory rates and therefore complies with M.G.L. 166 § 25A.[45]

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[43] *See* NECTA 2018 Comments at 13 n.35 (citing Ajit Pai, Chairman, FCC, Address to CTIA Wireless Foundation Smart Cities Expo (Nov. 2, 2016) (stating that to ensure that broadband deployment is less costly and more affordable to consumers, the Commission "will need to take a fresh look at our pole attachment rates[,]" and that the Commission "should reduce those rates by excluding capital expenses from the pole attachment formula[.]")).

[44] *See* 47 C.F.R. § 1.1406(d)(2)(ii) ("Rate = Space Factor x Net Cost of a Bare Pole x [Maintenance and Administrative Carrying Charge Rate]").

[45] *See Ameren Corp. v. Federal Communications Commission*, 865 F.3d 1009, 1112-13 (8th Cir. 2017) (explaining that a rate is just and reasonable if it allows the pole owner to recover the "lower bound" of the range of incremental costs and fully allocated costs associated with an attachment).

C. Only Telecommunications Companies Owning More than 10,000 Poles or Conduit System Duct Totaling 10,000 Kilometers Should be Considered to Be Telco Pole Owners Subject to Annual Reporting and Record Keeping Requirements

Public reporting obligations should not be imposed on companies, such as NECTA members, that have acquired poles or conduit only occasionally, out of necessity. Every so often, a NECTA member must acquire a pole if a pole owner chooses to abandon a pole. Even less frequently, a NECTA member must install a pole or construct a duct where one does not exist or where an existing pole lacks capacity to accommodate another attacher and cannot be replaced with a taller pole. NECTA members do not, however, own entire pole lines or contiguous ducts. As such, their poles are not essential to a third party seeking to deploy cable, telecommunications, or broadband services.

In contrast, Verizon has an ownership interest in approximately one million poles across the state.[46] It also owns conduit system of ducts totaling 63,067 kilometers. As such, its rates, terms, and conditions have the potential to significantly impact broadband deployment. The Department should limit its reporting and record keeping requirements to only those telecommunications companies owning more than 10,000 poles or 10,000 Kilometers of conduit. Doing otherwise would unnecessarily burden companies without any corresponding public policy benefit. This would contradict Massachusetts Executive Order No. 562, directing government entities to reduce unnecessary regulatory burden, and the Department's very recent efforts to streamline its pole attachment regulations accordingly.[47]

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[46] While Verizon's 2022 FCC Form 43-01 reported 692,920 pole equivalents, this number reflects joint ownership of a significantly larger number of poles which are then reduced for purposes of matching pole equivalents to related investment.

[47] *See* Executive Order No. 562: To Reduce Unnecessary Regulatory Burden (Mar. 31, 2015) ("the citizens and customers of the Commonwealth will be better served by reducing the number, length, and

III. CONCLUSION

NECTA thanks the Department for the opportunity to provide responsive comments on these critically important issues. As set forth above, NECTA fully supports the Department's proposed rule requiring Telco Pole Owners to file publicly available annual reports and to maintain certain financial records necessary to ensure that pole attachment and conduit rental rates are just, reasonable, and non-discriminatory, in accordance with M.G.L. 166 § 25A and 220 C.M.R. 45.00. NECTA respectfully urges the Department to require Telco Pole Owners to file specific additional information in the annual reports to facilitate more effective evaluation of the rates. NECTA also urges the Department to require Verizon, at a minimum, to continue applying the IRD through 2034 or, alternatively to prohibit Verizon from earning a return on its significantly stepped-up pole plant investment related solely to its transition to GAAP's different accounting standards. As set forth herein, the Department could do so by modifying the Massachusetts formula consistent with the FCC's lower-bound formula set forth in 47 C.F.R. § 1.1404(d)(2). These steps are necessary to ensure that companies, such as NECTA's members, making substantial investments to upgrade and expand their broadband networks, including to rural areas of the Commonwealth, continue to pay just, reasonable, and non-discriminatory pole attachment and conduit rental rates in Massachusetts.

complexity of regulations, leaving only those that are essential to the public good"); *see also* 2021 Joint Investigation, 2021 Mass. PUC LEXIS 400.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2022, I caused a copy of the foregoing document to be served via electronic mail, in accordance with the requirements of 220 CMR § 1.05(1) on the following:

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___/s/ Maria T. Browne_____
Maria T. Browne

EXHIBIT 1

Exhibit 1 - Proposed Pole Owner Report

POLE OWNER REPORT

Reporting Entity: _____ Year Ending: December 31, __
Filing Date: _____

Investment in Poles

Gross Investment in Poles $_____

Gross Pole Investment
Not Attributed to Pole Unit(s) $_____

Credits for Attacher or Other Reimbursements to
Gross Investment in Poles $_____

Accumulated Depreciation (Poles) $_____

Accumulated Deferred Taxes (Poles) $_____

Net Investment in Appurtenance $_____

Number of Joint Owned Poles _____

Number of Solely Owned Poles _____

Number of Pole Equivalents _____

Ratio used to Derive Pole Equivalents _____

Pole Carrying Charges

Administrative

Administrative Expense $_____

Credits for Attacher Reimbursement to
Administrative Expense (Poles) $_____

Total Plant in Service $_____

Depreciation Reserve for Total Plant in Service $_____

Accumulated Deferred Taxes $_____

Tax (Poles)

Normalized Tax Expense $_____

Maintenance (Poles)

Maintenance Expense $_____

Credits for Attacher Reimbursement to Maintenance Expense (Poles) $_____

Depreciation

Annual Depreciation for Poles _____%

Allocation of Usable Space (Poles)

Average Pole Height* _____
*Identify source

Cable Attachment Space* _____
*Explain any value other than one foot

Unusable Space* _____
*Explain any value other than 24 feet.

Usable Space _____

Investment in Conduit

Total Gross Investment in Conduit $_____

Credits for Attacher or Other Reimbursements to Gross Investment in Conduit $_____

Accumulated Depreciation (Conduit) $_____

Accumulated Deferred Taxes (Conduit) $_____

Net Investment in Appurtenance $_____

# of km of Conduit Duct _____

Average # Ducts per Conduit $_____

Conduit Carrying Charges

Administrative

Administrative Expense $_____

Credits for Attacher Reimbursement to Administrative Expense (Conduit) $_____

Total Plant in Service $_____

Depreciation Reserve for Total Plant in Service $_____

Accumulated Deferred Taxes $_____

Tax (Conduit)

Normalized Tax Expense $_____

Maintenance (Conduit)

Maintenance Expense $_____

Credits for Attacher Reimbursement to Maintenance Expense (Conduit) $_____

Depreciation

Annual Depreciation for Conduit _____%

Allocation of Usable Space (Conduit)

Total Conduit Capacity _____

Non-Usable Conduit Space _____

Is the data reported herein taken from a GAAP-compliant accounting system?

Yes ☐ No ☐

If not, please explain, specifying in what ways the filer's accounting system is not GAAP-compliant.

Explain the allocators and methodology used to allocate total plant costs to poles and conduit for each of the cost and expense categories listed herein.

Has the company's equivalent pole count increased or decreased in the last year? If so, please explain the basis for the change in pole count.

Please explain the basis for any decrease in accumulated depreciation, including the GAAP accounting instruction pursuant to which the decrease is allowed and the extent to which the decrease is associated with pole retirements.

List the number of poles removed, added and replaced.

Provide the total and itemized direct reimbursements from attachers for surveys, engineering, and make-ready, including pole replacements, and an explanation of how those reimbursements

were accounted for in the company's financial records, including for the cost categories identified above.

Please attach the company's plant and/or financial records detailing: (1) pole heights in the typical 5-foot increment categories, or the most granular level tracked; (2) pole investment and corresponding units; (3) the breakdown of said investment and units by sole or joint ownership classification; and (4) the breakdown of investment as between pole and non-pole (appurtenances) investment.

EXHIBIT 2

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2016 To: December 2016
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	12,335,981
101	Gross Investment – Poles	528,494
102	Gross Investment – Conduit	859,937
200	Accumulated Depreciation – Total Plant-in-Service	12,144,620
201	Accumulated Depreciation – Poles	520,686
202	Accumulated Depreciation – Conduit	504,493
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	(46,875)
405	Net Non-current Deferred Operating Income Taxes – Conduit	(76,272)
406	Net Non-current Deferred Operating Income Taxes – Total	(1,094,137)
501.1	Pole Maintenance Expense	4,991
501.2	Pole Rental Expense	214
501	Pole Expense	5,205
502.1	Conduit Maintenance Expense	2,815
502.2	Conduit Rental Expense	1
502	Conduit Expense	2,817
503	General & Administrative Expense	415,825
504	Operating Taxes	(58,310)
Operational Data (Actual)		
601	Equivalent Number of Poles	753,211
602	Conduit System Trench Kilometers	13,431
603	Conduit System Duct Kilometers	64,632
700	Additional Rental Calculation Information	-

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2017 To: December 2017
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	12,571,900
101	Gross Investment – Poles	546,536
102	Gross Investment – Conduit	864,731
200	Accumulated Depreciation – Total Plant-in-Service	12,686,006
201	Accumulated Depreciation – Poles	557,761
202	Accumulated Depreciation – Conduit	523,722
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	(37,040)
405	Net Non-current Deferred Operating Income Taxes – Conduit	(58,605)
406	Net Non-current Deferred Operating Income Taxes – Total	(852,033)
501.1	Pole Maintenance Expense	5,995
501.2	Pole Rental Expense	564
501	Pole Expense	6,559
502.1	Conduit Maintenance Expense	9,246
502.2	Conduit Rental Expense	-
502	Conduit Expense	9,246
503	General & Administrative Expense	1,170,973
504	Operating Taxes	(111,762)
Operational Data (Actual)		
601	Equivalent Number of Poles	742,456
602	Conduit System Trench Kilometers	13,133
603	Conduit System Duct Kilometers	63,067
700	Additional Rental Calculation Information	-

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2018 To: December 2018
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	11,292,483
101	Gross Investment – Poles	655,632
102	Gross Investment – Conduit	870,148
200	Accumulated Depreciation – Total Plant-in-Service	8,137,083
201	Accumulated Depreciation – Poles	372,560
202	Accumulated Depreciation – Conduit	523,179
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	9,470
405	Net Non-current Deferred Operating Income Taxes – Conduit	12,569
406	Net Non-current Deferred Operating Income Taxes – Total	163,111
501.1	Pole Maintenance Expense	12,595
501.2	Pole Rental Expense	560
501	Pole Expense	13,154
502.1	Conduit Maintenance Expense	7,773
502.2	Conduit Rental Expense	0
502	Conduit Expense	7,773
503	General & Administrative Expense	210,538
504	Operating Taxes	125,238
Operational Data (Actual)		
601	Equivalent Number of Poles	745,216
602	Conduit System Trench Kilometers	13,133
603	Conduit System Duct Kilometers	63,067
700	Additional Rental Calculation Information	-

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2019 To: December 2019
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	11,582,171
101	Gross Investment – Poles	702,781
102	Gross Investment – Conduit	871,962
200	Accumulated Depreciation – Total Plant-in-Service	8,350,956
201	Accumulated Depreciation – Poles	398,504
202	Accumulated Depreciation – Conduit	540,774
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	10,366
405	Net Non-current Deferred Operating Income Taxes – Conduit	12,862
406	Net Non-current Deferred Operating Income Taxes – Total	170,841
501.1	Pole Maintenance Expense	11,454
501.2	Pole Rental Expense	556
501	Pole Expense	12,009
502.1	Conduit Maintenance Expense	8,132
502.2	Conduit Rental Expense	-
502	Conduit Expense	8,132
503	General & Administrative Expense	243,742
504	Operating Taxes	31,595
Operational Data (Actual)		
601	Equivalent Number of Poles	736,398
602	Conduit System Trench Kilometers	13,133
603	Conduit System Duct Kilometers	63,067
700	Additional Rental Calculation Information	-

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2020 To: December 2020
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	11,831,204
101	Gross Investment – Poles	756,177
102	Gross Investment – Conduit	871,962
200	Accumulated Depreciation – Total Plant-in-Service	8,534,082
201	Accumulated Depreciation – Poles	406,531
202	Accumulated Depreciation – Conduit	558,390
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	12,264
405	Net Non-current Deferred Operating Income Taxes – Conduit	14,142
406	Net Non-current Deferred Operating Income Taxes – Total	191,888
501.1	Pole Maintenance Expense	10,948
501.2	Pole Rental Expense	556
501	Pole Expense	11,503
502.1	Conduit Maintenance Expense	6,524
502.2	Conduit Rental Expense	-
502	Conduit Expense	6,524
503	General & Administrative Expense	422,513
504	Operating Taxes	14,215
Operational Data (Actual)		
601	Equivalent Number of Poles	692,920
602	Conduit System Trench Kilometers	13,133
603	Conduit System Duct Kilometers	63,067
700	Additional Rental Calculation Information	-

FCC Report 43-01
ARMIS Annual Summary Report

Company: VERIZON NEW ENGLAND INC.
Study Area: MASSACHUSETTS Submission: 01
Period: From: January 2021 To: December 2021
COSA: NEMA

Table III - Pole and Conduit Rental Calculation Information
(Dollars in thousands; Operating data in actual units)

Row	Row Title (a)	Amount (b)
Financial Information ($000)		
100	Telecommunications Plant-in-Service	11,970,289
101	Gross Investment – Poles	771,724
102	Gross Investment – Conduit	871,962
200	Accumulated Depreciation – Total Plant-in-Service	8,699,219
201	Accumulated Depreciation – Poles	414,639
202	Accumulated Depreciation – Conduit	576,006
301	Depreciation Rate – Poles	7.30
302	Depreciation Rate – Conduit	2.20
401	Net Current Deferred Operating Income Taxes – Poles	-
402	Net Current Deferred Operating Income Taxes – Conduit	-
403	Net Current Deferred Operating Income Taxes – Total	-
404	Net Non-current Deferred Operating Income Taxes – Poles	17,328
405	Net Non-current Deferred Operating Income Taxes – Conduit	19,579
406	Net Non-current Deferred Operating Income Taxes – Total	268,777
501.1	Pole Maintenance Expense	11,536
501.2	Pole Rental Expense	526
501	Pole Expense	12,062
502.1	Conduit Maintenance Expense	5,030
502.2	Conduit Rental Expense	-
502	Conduit Expense	5,030
503	General & Administrative Expense	320,847
504	Operating Taxes	89,584
Operational Data (Actual)		
601	Equivalent Number of Poles	699,804
602	Conduit System Trench Kilometers	13,317
603	Conduit System Duct Kilometers	64,282
700	Additional Rental Calculation Information	-

EXHIBIT 3

Verizon - New England - Massachusetts
JURISDICTION = MA

Pole Attachment Formulas (Poles) for Local Exchange Carrier (LEC) Pole Owners Using FCC ARMIS Part 32 Accounts

Telecommunications Maximum Rate	=	Unusable Space Factor	+	Usable Space Factor										
Unusable Space Factor - Urban Service Areas	=	2/3	X	Unusable Space Pole Height		Less 5% for Appurtenances	X	Net Cost of a Bare Pole Number of Attachers(5)	X	Carrying Charge Rate				
		0.67	X	0.64		0.95	X	$79.82	X	40.60%	=	$13.20		
Unusable Space Factor - Non-Urban Service Areas	=	2/3	X	Unusable Space Pole Height		Less 5% for Appurtenances	X	Net Cost of a Bare Pole Number of Attachers(3)	X	Carrying Charge Rate				
		0.67	X	0.64		0.95	X	$133.04	X	40.60%	=	$22.00		
Usable Space Factor	=	Space Occupied(1) Usable Space	X	Usable Space Pole Height		Less 5% for Appurtenances	X	Net Cost of a Bare Pole	X	Carrying Charge Rate				
		0.07	X	0.36		0.95	X	$399.12	X	40.60%	=	$4.10		
						Less 5% for Appurtenances								
CATV Maximum Rate per Pole	=	Space Occupied Usable Space	X	Net Pole Investment Total Number of Poles			X	0.95	X	Carrying Charge Rate		CATV Rate		
		0.0741	X	$399.12			X	0.95	X	40.60%	=	$11.40		
Verizon Corrected		0.0732	0	$399.12			X	0.95	X	40.60%	=	$11.26		

Where:

			Verizon Corrected	Calculated Use Parameters:
Space Occupied	=	1 foot (presumed, but rebuttable)	1.00	Space Occupied
		13.5 feet (presumed, but rebuttable)	13.67	Available Usable Space
Usable Space	=		18	Ground clearance
			6.00	Buried
Unusable Space	=	24.0 feet (presumed, but rebuttable)	24.00	UnUsable Space
			0.0732	Usable Space Factor
Total Space	=	37.5 assumed	37.670	Avg Pole Ht

		BASE RATES	USOA GAAP Adjustment	Adjusted Rate	Verizon Corrected Base Rate	Verizon Corrected USOA GAAP Adj.	Verizon Corrected Adjusted Rate
1) CATV RATE		$11.40	-$4.52	$6.89	$11.26	-$4.82	$6.45
2) PRE 2011 TELCOM URBANIZED		$17.31	-$6.90	$10.41			
3) PRE TELCOM NON-URBANIZED		$26.11	-$10.41	$15.70			
4) NEW TELCOM URBANIZED		$11.42	-$4.55	$6.87			
5) NEW TELCOM NON-URBANIZED		$11.49	-$4.58	$6.91			

Net Pole Investment	=	Gross Pole Investment (Account 2411)	-	Accumulated Depreciation (Account 3100)(Poles)			-	Accumulated Deferred Income Taxes (Account 4100 + 4340)(Poles)	=	$293,910,584	
Carrying Charge Rate	=	Administrative + Maintenance + Depreciation + Taxes + Return							=	40.60%	11.86%
Administrative Element	=	Total General and Administrative (Accounts 6710 & 6720) / Gross Plant Investment - Accumulated Depreciation - Accumulated Deferred Taxes (Plant)							=	7.96%	
		(Account 2001)		(Account 3100)				(Accounts 4100 + 4340)			
Maintenance Element	=	Account 6411 - Rental Expense (Poles) / Net Pole Investment							=	3.90%	
Depreciation Element	=	Gross Pole Investment (Account 2411) / Net Pole Investment					X	Depreciation Rate for Gross Pole Investment	=	17.46%	
Taxes Element	=	Operating Taxes (Account 7200) / Gross Plant Investment - Accumulated Depreciation - Accumulated Deferred Taxes (Plant)							=	1.03%	
		(Account 2001)		(Account 3100)				(Accounts 4100 + 4340)			
Return Element	=	Applicable Rate of Return							=	10.25%	

Verizon - New England - Massachusetts

ARMIS Report Data	**ye2019**	**Source**
1. Gross Pole Investment	$ 702,780,776	ARMIS Report 43-01 Table III Row 101 Col (b)
2. Gross Plant Investment	$ 11,582,171,012	ARMIS Report 43-01 Table III Row 100 Col (b)
3. Total State Accumulated Depreciation	$ 8,350,956,406	ARMIS Report 43-01 Table III Row 200 Col (b)
4. State Pole Accumulated Depreciation	$ 398,503,940	ARMIS Report 43-01 Table III Row 201 Col (b)
5. Total Accumulated Deferred Income Taxes	$ 170,840,916	ARMIS Report 43-01 Table III Rows 403 + 406 Col (b)
6. Pole Accumulated Deferred Income Taxes	$ 10,366,253	ARMIS Report 43-01 Table III Rows 401 + 404 Col (b)
7. Total General and Administrative	$ 243,741,699	ARMIS Report 43-01 Table III Row 503 Col (b)
8. Expense (Poles)	$ 12,009,207	ARMIS Report 43-01 Table III Row 501 Col (b)
9. Rents (Poles)	$ 555,634	ARMIS Report 43-01 Table III Row 501.2 Col (b)
10. Operating Taxes	$ 31,595,313	ARMIS Report 43-01 Table III Row 504 Col (b)
11. Total Number of Poles	736398	ARMIS Report 43-01 Table III Row 601 Col (b)
12. Depreciation Rate for Poles	7.3%	ARMIS Report 43-01 Table III Row 301 Col (b)

EXHIBIT 4

Davis Wright Tremaine LLP

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March 26, 2021

Terrence Toland
Principal Engineer - Network Eng & OPS
Verizon New England, Inc.
Joint Use Agreements NY/NJ
Terrence.Toland@Verizon.com

Re: Massachusetts Pole Attachment Rates

Dear Mr. Toland:

I write on behalf of the New England Cable & Telecommunications Association, Inc. ("NECTA") to memorialize its agreement with Verizon New England, Inc. ("Verizon") concerning Verizon's 2021 pole attachment rate change in Massachusetts.

Verizon first provided notice of its proposed pole attachment rate change in a letter to licensees dated October 31, 2020. There Verizon noticed its intent to increase its prior annual solely-owned pole attachment rate, $6.32, to $6.89, commencing January 1, 2021. In subsequent correspondence between the parties, Verizon explained that it had calculated the $6.89 rate by applying the Massachusetts pole rental formula, including the formula's presumptions, to its GAAP cost data, and then adjusting that derived rate using the Federal Communications Commission ("FCC") "implementation rate differential" ("IRD"), consistent with Verizon's comments filed in Massachusetts DTC Docket 18-3.

In email correspondence dated December 15, 2020, NECTA Director of Public Policy and Regulatory Affairs, Dave Soutter, expressed NECTA's belief that reliance upon GAAP cost data to calculate rates was premature in light of the DTC's ongoing inquiry into the accounting practices and recordkeeping of telecommunications carriers in Docket 18-3, in which NECTA filed comments addressing inadequacies of GAAP cost data for use in the pole rent calculation, requesting additional protections related to its use, and questioning the methodology used by Verizon to calculate its IRD. NECTA also asked Verizon to provide documentation in support of its use of a presumptive 37.5 foot average pole height in its rate calculation.

Verizon did not agree with NECTA's GAAP related concerns, but did reduce the attachment rate to $6.59, based upon its discovery of an error in the costs included in line 501.1

of its 2017 GAAP data used to calculate the IRD. Verizon also agreed to consider information that its average pole height exceeded the formula's presumptive height.

After an exchange of additional information, including pole height information captured by Davey Resource Group for Verizon in a 2014-15 statewide distribution pole audit, Verizon agreed that the average pole height in Massachusetts is greater than the FCC presumptive pole height. For purposes of the current rate change, the parties agreed upon a pole height of 37.67, resulting in an annual solely-owned pole attachment rate of $6.45. Verizon also committed to applying the FCC's IRD to any such increases through 2032, unless otherwise ordered by the DTC. Verizon also indicated it would issue revised invoices for any invoice already issued at a rate above $6.45.

NECTA members are amenable to this result and its members agree to pay the $6.45 rate upon Verizon's issuance of invoices. In reaching this resolution concerning the rate change, neither party agreed to concede or waive any arguments either may have concerning the issues raised in Massachusetts DTC Docket 18-3.

To ensure that the parties are in agreement concerning resolution of the attachment rate change, we ask that Verizon countersign this letter below. NECTA appreciates Verizon's willingness to engage in these discussions and looks forward to a continued positive working relationship between the parties.

Sincerely

DAVIS WRIGHT TREMAINE LLP

Maria Browne

NEW ENGLAND CABLE & TELECOMMUNICATIONS ASSOCIATION, INC.

David Soutter

David Soutter

VERIZON

_____

Officer, Verizon New England Inc.

EXHIBIT 5

verizon

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April 2, 2021

Maria Browne, Esq.
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1301 K Street NW
Washington, D.C. 20005-3317
mariabrowne@dwt.com

Re: Massachusetts Pole Attachment Rates

Dear Ms. Browne:

I write on behalf of Verizon New England Inc. ("Verizon") in response to your letter to Terrence Toland dated March 26, 2021, to confirm the agreement between Verizon and NECTA and its members on pole attachment rates.

We agree that your letter accurately states key terms of the agreement, that Verizon will reduce the CATV pole attachment in Massachusetts from $6.89 to $6.45 for solely owned poles (and $3.45 to $3.23 for jointly owned poles), effective retroactively to January 1, 2021, and that NECTA members agree to pay the new rates going forward. Those rates were calculated using an average pole height in the state of 37.67 feet. Verizon will re-issue bills that were sent to CATV companies using the higher rates and will issue credits to any such companies that paid bills at those rates.

I write separately, rather than counter-sign your letter, to clarify a couple of points regarding the Implementation Rate Difference ("IRD"). Verizon did calculate and apply an IRD for Massachusetts in determining the new rates, and as Terrence Toland confirmed in his email to Dave Soutter dated February 22, 2021, Verizon intends to follow the IRD approach unless the MA DTC rejects it. That intention, however, predates our rate agreement with NECTA and is not a part of that agreement. Second, we intend to apply the IRD to any rate changes only until 2030, not 2032. Under the federal approach, the IRD runs for twelve years from the time the carrier initially opts out of Section 32 USOA accounting. S*ee Accounting Order*, ¶ 36. Verizon did that in 2018. *See* Comments of Verizon New England Inc. dated July 25, 2018, in DTC 18-3.

We intend that this letter and your March 26 letter, taken together, memorialize the agreement of the parties.

Sincerely,

Alex Moore

Alexander W. Moore

cc: Mr. Terrence Toland
Mr. David Soutter

EXHIBIT 6

Verizon MA Pole Attachment Rates

ARMIS ROW	Description	MA (2016)	MA (2017) USOA	MA (2017) GAAP	MA (2018) USOA	MA (2018) GAAP	MA (2019) GAAP	MA (2020) GAAP	MA (2021) GAAP	NECTA Comments
100	Telecommunications Plant in Service - Account 2001	$ 12,335,981	$ 12,571,900	$ 10,952,101	$ 12,906,883	$ 11,292,483	$ 11,582,171	$ 11,831,204	$ 11,970,289	
101	Gross Investment - Poles - Account 2411	$ 528,494	$ 546,536	$ 551,436	$ 650,731	$ 655,632	$ 702,781	$ 756,177	$ 771,724	Increase in gross pole investment from USOA to GAAP far above actual costs (about $40,000 per pole) for shift from 2017-2018, using either USOA or GAAP. Bare pole costs less than $1000.
102	Gross Investment - Conduit - Account 2441	$ 859,937	$ 864,731	$ 870,136		$ 870,148	$ 871,962	$ 871,962	$ 871,962	
200	Accumulated Depreciation - Total Plant in Service - Account 3100	$ 12,144,620	$ 12,686,006	$ 7,910,312	$ 13,162,925	$ 8,137,083	$ 8,350,956	$ 8,534,082	$ 8,699,219	Note $4.5 billion decline in Accumulated Depreciation due to USOA-GAAP conversion. This is obviously material and huge.
201	Accumulated Depreciation - Poles - Account 3100 (2411)	$ 520,686	$ 557,761	$ 330,186	$ 590,892	$ 372,560	$ 398,504	$ 406,531	$ 414,639	
202	Accumulated Depreciation - Conduit - Account 3100 (2441)	$ 504,493	$ 523,722	$ 505,598		$ 523,179	$ 540,774	$ 558,390	$ 576,006	
301	Depreciation Rate - Poles (Eg. If rate is 5.1% Enter as 5.10)	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%	
302	Depreciation Rate - Conduit (Eg. If rate is 3.2% Enter as 3.20)	2.20%	2.20%	2.20%		2.20%	2.20%	2.20%	2.20%	
401	Net Current Deferred Operating Income Taxes Poles - Account 4100 (2411)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
402	Net Current Deferred Operating Income Taxes Conduit - Account 4100 (2441)	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
403	Net Current Deferred Operating Income Taxes - Total - Account 4100	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
404	Net Non - Current Deferred Operating Income Taxes - Poles - Account 4340 (2411)	$ (46,875)	$ (37,040)	$ 1,606	$ (41,626)	$ 9,470	$ 10,366	$ 12,264	$ 17,328	This is a substantial shift from USOA to GAAP
405	Net Non - Current Deferred Operating Income Taxes - Conduit - Account 4340 (2441)	$ (76,272)	$ (58,605)	$ 2,534		$ 12,569	$ 12,862	$ 14,142	$ 19,579	
406	Net Non - Current Deferred Operating Income Taxes - Total - Account 4340	$ (1,094,137)	$ (852,033)	$ 31,900	$ (825,646)	$ 163,111	$ 170,841	$ 191,888	$ 268,777	
501.1	Pole Maintenance Expense - Account 6411 (Excl. Pole Rental Expense)	$ 4,991	$ 5,995	$ 5,994	$ 4,298	**$ 12,595**	**$ 11,454**	**$ 10,948**	**$ 11,536**	Maintenance expense more than doubles in GAAP. Verizon appears to be charging things like removal cost to maintenance (rather than putting an allowance in depreciation, per USOA). GAAP agreggates expenses at higher level and then allocates back to poles in some manner not explained by Verizon. Use of the USOA number instead reduces rate signficantly.
501.2	Pole Rental Expense - Account 6411 (Excl. Pole Maintenance Expense)	$ 214	$ 564	$ 564		$ 560	$ 556	$ 556	$ 526	
501	Pole Expense - Account 6411 (Rows 501.1 + 501.2)	$ 5,205	$ 6,559	$ 6,559	$ 4,298	$ 13,154	$ 12,009	$ 11,503	$ 12,062	
502.1	Conduit Maintenance Expense - Account 6441 (Excl. Conduit Rental Expense)	$ 2,815	$ 9,246	$ 9,244	$ -	$ 7,773	$ 8,132	$ 6,524	$ 5,030	
502.2	Conduit Rental Expense - Account 6441 (Excl. Conduit Maintenance Expense)	$ 1	$ -	$ -	$ -	$ -	$ -	$ -	$ -	
502	Conduit Expense - Account 6441 (Rows 502.1 + 502.2)	$ 2,817	$ 9,246	$ 9,244		$ 7,773	$ 8,132	$ 6,524	$ 5,030	
503	General & Administrative Expense - Accounts 6710 and 6720	$ 415,825	$ 1,170,973	$ 1,202,792	$ 179,088	$ 210,538	$ 243,742	$ 422,513	$ 320,847	
504	Operating Taxes - Sum of Accounts 7210 thru 7250	$ (58,310)	$ (111,762)	$ (332,534)	$ 24,837	$ 125,238	$ 31,595	$ 14,215	$ 89,584	
601	Equivelent Number of Poles	753,211	742,456	742,456	745,216	745,216	736,398	692,920	699,804	The number of poles decreased from 2016 to 2020, desipte huge jump in investment
602	Conduit System Trench Kilometers	13,431	13,133	13,133		13,133	13,133	13,133	13,317	
603	Conduit System Duct Kilometers (Number of Ducts times the Trench Kilometers)	64,632	63,067	63,067		63,067	63,067	63,067	64,282	

Maximum Pole Attachment Rate Calculation - FCC Formula

	Net Calc	Net Calc	Net Calc	Net Calc	Net Calc	Net Calc	Net Calc	Net Calc
Investment Per Bare Pole								
Gross Investment in Pole Plant	$ 528,494,000	$ 546,536,000	$ 551,436,000	$ 650,731,000	$ 655,632,000	$ 702,781,000	$ 756,177,000	$ 771,724,000
- Accumulated Depreciation for Poles	$ 520,686,000	$ 557,761,000	$ 330,186,000	$ 590,892,000	$ 372,560,000	$ 398,504,000	$ 406,531,000	$ 414,639,000
- Accumulated Deferred Taxes	$ (46,875,000)	$ (37,040,000)	$ 1,606,000	$ (41,626,000)	$ 9,470,000	$ 10,366,000	$ 12,264,000	$ 17,328,000
Net Investment in Pole Plant	$ 54,683,000	$ 25,815,000	$ 219,644,000	$ 101,465,000	$ 273,602,000	$ 293,911,000	$ 337,382,000	$ 339,757,000
- Gross Investment in Appurtenances (5%)	$ 2,734,150	$ 1,290,750	$ 10,982,200	$ 5,073,250	$ 13,680,100	$ 14,695,550	$ 16,869,100	$ 16,987,850
= Gross Investment in Bare Pole Plant	$ 51,948,850	$ 24,524,250	$ 208,661,800	$ 96,391,750	$ 259,921,900	$ 279,215,450	$ 320,512,900	$ 322,769,150
/ Number of Poles	753,211	742,456	742,456	745,216	745,216	736,398	692,920	699,804
Gross Investment per Bare Pole	$ 68.97	$ 33.03	$ 281.04	$ 129.35	$ 348.79	$ 379.16	$ 462.55	$ 461.23
Carrying Charges								
Maintenance								
Chargeable Maintenance Expenses	$ 4,991,000	$ 5,995,000	$ 5,994,000	$ 4,298,000	$ 12,595,000	$ 11,454,000	$ 10,948,000	$ 11,536,000
/ Net Investment in Pole Plant	$ 54,683,000	$ 25,815,000	$ 219,644,000	$ 101,465,000	$ 273,602,000	$ 293,911,000	$ 337,382,000	$ 339,757,000
= Maintenance Carrying Charge	9.13%	23.22%	2.73%	4.24%	4.60%	3.90%	3.24%	3.40%
Depreciation								
Annual Depreciation Rate for Poles	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%	7.30%
Gross Investment in Pole Plant	$ 528,494,000	$ 546,536,000	$ 551,436,000	$ 650,731,000	$ 655,632,000	$ 702,781,000	$ 756,177,000	$ 771,724,000
/ Net Investment in Pole Plant	$ 54,683,000	$ 25,815,000	$ 219,644,000	$ 101,465,000	$ 273,602,000	$ 293,911,000	$ 337,382,000	$ 339,757,000
= Gross/Net Adjustment	966.47%	2117.13%	251.06%	641.34%	239.63%	239.11%	224.13%	227.14%
Depr Rate Applied to Net Pole Plant	70.55%	154.55%	18.33%	46.82%	17.49%	17.46%	16.36%	16.58%
Administrative								
Administrative Expenses	$ 415,825,000	$ 1,170,973,000	**$ 1,202,792,000**	$ 179,088,000	$ 210,538,000	$ 243,742,000	$ 422,513,000	$ 320,847,000
Total Plant In Service	$ 12,335,981,000	$ 12,571,900,000	$ 10,952,101,000	$ 12,906,883,000	$ 11,292,483,000	$ 11,582,171,000	$ 11,831,204,000	$ 11,970,289,000
- Depr. Reserve for TPIS	$ 12,144,620,000	$ 12,686,006,000	$ 7,910,312,000	$ 13,162,925,000	$ 8,137,083,000	$ 8,350,956,000	$ 8,534,082,000	$ 8,699,219,000
- ADT for TPIS	$ (1,094,137,000)	$ (852,033,000)	$ 31,900,000	$ (825,646,000)	$ 163,111,000	$ 170,841,000	$ 191,888,000	$ 268,777,000
= Net Plant In Service	$ 1,285,498,000	$ 737,927,000	$ 3,009,889,000	$ 569,604,000	$ 2,992,289,000	$ 3,060,374,000	$ 3,105,234,000	$ 3,002,293,000
Administrative Carrying Charge	32.35%	158.68%	39.96%	31.44%	7.04%	7.96%	13.61%	10.69%
Taxes								
Normalized Tax Expense	$ (58,310,000)	$ (111,762,000)	$ (332,534,000)	$ 24,837,000	$ 125,238,000	$ 31,595,000	$ 14,215,000	$ 89,584,000
Total Plant In Service	$ 12,335,981,000	$ 12,571,900,000	$ 10,952,101,000	$ 12,906,883,000	$ 11,292,483,000	$ 11,582,171,000	$ 11,831,204,000	$ 11,970,289,000
- Depr. Reserve for TPIS	$ 12,144,620,000	$ 12,686,006,000	$ 7,910,312,000	$ 13,162,925,000	$ 8,137,083,000	$ 8,350,956,000	$ 8,534,082,000	$ 8,699,219,000
- ADT for TPIS	$ (1,094,137,000)	$ (852,033,000)	$ 31,900,000	$ (825,646,000)	$ 163,111,000	$ 170,841,000	$ 191,888,000	$ 268,777,000
= Net Plant In Service	$ 1,285,498,000	$ 737,927,000	$ 3,009,889,000	$ 569,604,000	$ 2,992,289,000	$ 3,060,374,000	$ 3,105,234,000	$ 3,002,293,000
Tax Carrying Charge	-4.54%	-15.15%	-11.05%	4.36%	4.19%	1.03%	0.46%	2.98%
Return								
Gross Investment in Pole Plant	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
- Depreciation Reserve for Pole Plant	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
- Accumulated Deferred Taxes	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
= Net Investment in Pole Plant	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Return Element	11.00%	10.75%	10.75%	10.50%	10.50%	10.25%	10.00%	9.75%

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Verizon MA Pole Attachment Rates

Total Carrying Charges	118.49%	332.06%	60.72%	97.35%	43.82%	40.60%	43.67%	43.40%
Space Factors								
Space Occupied	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Usable Space	13.5	13.5	13.5	13.5	13.5	13.67	13.67	13.67
Unusable Space	24.0	24.0	24.0	24.0	24.0	24.0	24.0	24.0
Pole Height	37.5	37.5	37.5	37.5	37.5	37.67	37.67	37.67
Cable TV	7.41%	7.41%	7.41%	7.41%	7.41%	7.32%	7.32%	7.32%
Telecom - 5 AE's (Urban Presumption)	11.20%	11.20%	11.20%	11.20%	11.20%	11.15%	11.15%	11.15%
Telecom - 4 AE's	13.33%	13.33%	13.33%	13.33%	13.33%	13.27%	13.27%	13.27%
Telecom - 3 AE's (Rural Presumption)	16.89%	16.89%	16.89%	16.89%	16.89%	16.81%	16.81%	16.81%
Telecom - 2 AE's	24.00%	24.00%	24.00%	24.00%	24.00%	23.89%	23.89%	23.89%
Maximum Rates								
Cable TV Solely Owned	**$ 6.05**	**$ 8.12**	**$ 12.64**	**$ 9.33**	**$ 11.32**	**$ 11.26**	**$ 14.78**	**$ 14.64**
IRD Calculations		**$ 4.52**		**$4.52**	**$4.52**	**$ 4.82**	**$ 4.82**	**$ 4.82**
Adjusted Rate			**$**	**4.81**	**$ 6.80**	**$ 6.45**	**$ 9.96**	**$ 9.83**

$	3.38
$	0.52

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