



1337 Massachusetts Ave
Box 301
Arlington, MA 02476
617-644-7681
www.kolawpc.com

ATTORNEYS AT LAW

The Firm has attorneys also admitted to practice in
District of Columbia and New Hampshire.

May 12, 2026

VIA ELECTRONIC MAIL ONLY (dpu.efiling@mass.gov)

Secretary Peter A. Ray
Department of Public Utilities
One South Station, 3rd Floor
Boston, MA 02110

*Re: D.P.U. 26-10/D.T.C. 26-1
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/D.T.C. 25-1
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*

Dear Secretary Ray:

Pursuant to the Notice of Public Hearing and Request for Comments dated March 6, 2026,
attached for filing please find the Cape Light Compact JPE's (the "Compact") Comments in the
above-referenced proceeding.

Thank you for your attention to this matter. If you require further information or have any
questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads 'Rebecca F. Zachas'.

Rebecca F. Zachas

RFZ/drb
Enclosure

cc: Kerri Phillips, Esq., DPU Hearing Officer (w/enc.) (via email only)
Scott Seigal, Esq., DPU Hearing Officer (w/enc.) (via email only)
William Bendetson, Esq., DTC Hearing Officer (w/enc.) (via email only)
Kevin Roberts, Esq., DTC Hearing Officer (w/enc.) (via email only)
DTC E-Filing (w/enc.) (via email only)
Jennifer Foley, Esq., AGO (w/enc.) (via email only)
Kayla Burns, Esq., AGO (e/enc.) (via email)
Julian Aris, Esq., AGO (w/enc.) (via email only)
Margaret Song, Compact Chief Administrative Officer (w/enc.) (via email only)

approved in D.P.U. 14-69-B on February 2, 2023, which provides electric power supply on an opt-out basis to customers across all customer classes located on Cape Cod and Martha's Vineyard. The Compact maintains a business office at 261 Whites Path, Unit 4, South Yarmouth, Massachusetts 02664.

The purposes of the Compact include, among other things, to negotiate the best terms and conditions for electricity supply and transparent pricing for consumers, to utilize and encourage renewable energy development to the extent practicable through contract provisions and demonstration projects, and to advance consumer protection and interests for the residents of Cape Cod and Martha's Vineyard. Third Amended and Restated Joint Powers Agreement of the Cape Light Compact JPE at Article II.¹

The Compact also provides comprehensive energy efficiency services to Cape Cod and Martha's Vineyard as a Program Administrator of the Massachusetts Joint Statewide Three-Year Electric and Gas Energy Efficiency Plans, most recently approved on February 28, 2025, in D.P.U. 24-140 through D.P.U. 24-149. The Compact's energy efficiency programs target the residential, income eligible, and commercial & industrial customer sectors.

II. PROCEDURAL BACKGROUND

On March 6, 2026, the Departments jointly issued their Order Instituting Joint Rulemaking and Further Inquiry on Memorandum of Agreement ("Order") and sought comment on their proposed revisions to 220 CMR 45.00 Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures.² The rulemaking follows the Departments' related

¹ The Compact's Joint Powers Agreement is available online at <https://www.capelightcompact.org/wp-content/uploads/2025/01/Third-Amended-and-Restated-JPA-Final-4-10-24.pdf>.

² The Departments opened the rulemaking 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 Memorandum of Agreement ("MOA").

joint inquiry in D.P.U. 25-10/D.T.C. 25-1, where parties, including the Compact, have submitted comments and participated in technical sessions.

In its rulemaking, the Departments recognized that municipalities and other parties 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.” Order at 24. The Departments expect the proposed revisions in their rulemaking to benefit double pole removals in the Commonwealth. *Id.* at 22, 24, 58. The Departments declined to consider the implementation of regulations involving municipal enforcement of double pole violations in this rulemaking, finding that it would be beyond their jurisdictional authority and legislative intent. *Id.* at 22, n.16.

III. COMMENTS

The Compact appreciates and generally supports the Departments’ proposed revisions to 220 CMR 45.00 *et seq.* in its rulemaking in this proceeding (“Proposed Revisions”). Order at Attachments A and B. These efforts come at a time when the utilities are ramping up investments related to grid modernization, broadband deployment, and meeting the Commonwealth’s decarbonization goals. The construction underlying those investments may result in significant work on municipalities’ streets across the Commonwealth and the need for taller poles with additional clearances, potentially leading to a rise in double pole numbers. See D.P.U. 25-10, Compact Comments at 2 (August 8, 2025) (“D.P.U. 25-10 Compact Comments”).

The Compact has long had concerns related to double poles raised by its Member Towns. *Id.* at 2. On August 8, 2025, in its D.P.U. 25-10 Comments, the Compact recommended that the Departments should investigate whether the following actions could help to reduce the double pole count: (1) greater involvement of municipalities on the National Joint Utilities Notification System (“NJUNS”) database; (2) implementing single visit transfer; (3) standardizing utility pole

work; (4) fully auditing the double pole data on the NJUNS database; (5) requiring pole owners and attachers to participate on the NJUNS database; and (6) penalizing entities that do not complete timely removal of attachments. The Departments' Proposed Revisions would take action on some of those by requiring licensees to register with NJUNS, implementing one touch make ready ("OTMR") and single visit transfer in the communications space under certain circumstances, and creating an authorized contractor list for work in the communications space. The Compact supports the Proposed Revisions regarding those actions.

Below, the Compact raises issues related to street lights and double pole reporting in the Proposed Revisions and discusses other issues from the Compact's Comments related to double pole removals that were not addressed here by the Departments.

A. The Departments Should Consider Clarifying the Treatment of Municipally-Owned Street Lights under the Proposed Revisions.

The Departments should consider clarifying how municipally-owned street-light facilities are treated under the Proposed Revisions to 220 CMR 45.00 *et seq.* Massachusetts utility poles host municipally-owned street lights that are attached in or near the electric space. Order at 49, n.23; see D.P.U. 25-10, Electric Distribution Companies Presentation, Topic 1 (Technical, Safety and Engineering Consideration for Pole Attachments) at 4 (June 6, 2025). Street lighting tariffs, practices and protocols have long been in place. As the Compact noted in its Comments and technical session presentation in D.P.U. 25-10, all Compact Member Towns who own their roadway street lights have pole attachment License Agreements with Eversource. D.P.U. 25-10 Compact Comments at 9. They also have a purchase and sale agreement with Eversource, as well as an existing agreement with a qualified licensed contractor to conduct the operations and maintenance ("O&M") related to those street lights. *Id.*

Generally, street lights have not been the primary focus of the pole attachment regulations under 220 CMR 45.00 *et seq.*, which are mainly directed more towards telecommunications and cable attachments. However, the definitions of “Attachment” and “Licensee” in the Proposed Revisions appear broad enough to encompass municipally-owned street lights and the municipalities that own them. To avoid uncertainty, it would be helpful for the Departments to expressly clarify whether and to what extent provisions, if any, in the Proposed Revisions (e.g., NJUNS requirements, make-ready work, OTMR, and utility-approved contractors) are intended to apply to municipally-owned street-light attachments, particularly where such facilities are located outside the communications space but may nevertheless be affected by work performed under the proposed framework.

Clarification regarding the application of the Proposed Revisions to municipally-owned street lights would also help ensure that the Proposed Revisions do not create conflicts with existing contracts and street-light tariff³ provisions. Municipalities currently operate pursuant to existing tariff and contractual arrangements governing street-light attachments, including municipal access to the utility pole. Municipalities also have already retained a qualified, licensed contractor to perform street light O&M work. To the extent that a conflict may arise, the Departments should consider clarifying that municipally-owned street-light attachments are outside the intended scope of specific provisions of the Proposed Revisions, or otherwise that the Proposed Revisions are not intended to disturb existing municipal agreements governing such street-light attachments.

³ See Street and Security Lighting Tariff – Customer Owned, M.D.P.U. No. 45H (Rate S-2).

B. The Departments Should Clarify the Reporting Required for the Annual Informational Filing Related to Double Poles.

The Departments' Proposed Revisions in its rulemaking may, if implemented, address some of the actions identified during D.P.U. 25-10 as possible solutions for the removal of double poles. However, there are aspects of the Proposed Revisions that may limit how effective they may be at decreasing the double pole count (e.g., the timelines not applying to larger projects that will be negotiated instead). With the Departments also not able to address enforcement of double pole timelines in this proceeding, the proposed annual informational filings and website postings become critical. Robust and transparent reporting is necessary to evaluate whether and how the Proposed Revisions, once implemented, improve the pace of double pole removals (or not).

The Compact strongly supports the addition of Section 45.17 (Annual Informational Filings and Website Postings) to add transparency to pole attachments. However, the Compact asks the Departments to clarify and expand on the double pole reporting required by Section 45.17. Currently, Section 45.17 reads that the informational filing, "for the preceding calendar year through December 31," will include a spreadsheet that identifies:

a summary breakdown of each application received, categorized by application size, that identifies:

(h) the number of poles requiring replacement and replaced as a result of the request, and the number of double poles remaining;

At a minimum, this information should also include the number of double poles created, if any.

However, with the number of double poles potentially rising,⁴ the informational filing should include greater transparency around double pole reporting than that currently provided

⁴ On December 3, 2025, Eversource filed its double pole report in D.P.U. 03-87 that showed a rise in double poles in 2025 – 5,329 (October 31, 2025) – versus 3,995 (October 31, 2024) and 3,834 (October 31, 2023).

pursuant to D.P.U. 03-87. The reporting proposed in this proceeding should allow the Departments and stakeholders to easily gauge whether the Proposed Revisions contribute to decreasing double pole counts. In particular, the Departments should direct the utilities to include a chart breaking out the number of double poles based on the year of installation of the double pole (i.e., the chart should begin with the year of the earliest installation of a double pole that is awaiting action up to the current year), while also identifying the location of the pole (i.e., municipality) and pole owner. The chart should also include the date of the last pole inspection and identify the entity who is “Next To Go” (and when that entity was notified through NJUNS).

The utilities should also report on:

- Whether and how many complaints or incident reports they have had in the last three years related to double poles.
- The average length of time from installation to removal of the double poles in its service territory.
- Whether there are triple poles (or more) in their service territory. If yes, report on how many, location, and why that occurs.

C. Other Issues Affecting Double Pole Removal.

While the Departments addressed some of the issues raised by the Compact in its D.P.U. 25-10 Comments, other actions are not raised by the Proposed Revisions in their rulemaking. To the extent this process may allow, the Compact asks the Departments to include the directives below in this proceeding.

First, in D.P.U. 25-10, the Compact argued for greater participation by municipalities regarding double pole enforcement in terms of being able to lodge a complaint and/or having visibility on the NJUNS database. At minimum, a municipality should be able to view this double pole information for its town through the utility’s informational filing to confirm the

town's double pole reality.⁵ Municipal officials are in perhaps the best position to view and monitor the status of double poles in their communities, but also to prioritize those double poles that urgently need replacing. The Departments should direct the utilities to provide municipal officials with more insight into and ability to provide feedback on the NJUNS database.⁶ See D.P.U. 25-10 Compact Comments at 3-4.

Second, in addition to the Proposed Revisions consideration of attachments in the communications space, the utilities' approaches to double poles should be scrutinized for how they can be improved to speed up transfers in the utility space. As pointed out during the technical session, the utilities have different processes in place for poles. National Grid sets all jointly-owned poles in coordination with Verizon in all of National Grid's service territory. In Eversource's service territory, there is a different arrangement where Verizon sets poles in certain towns and Eversource sets poles in other towns. The Departments should explore whether standardization of utility pole work could speed up or otherwise create efficiencies for double pole removals in the utility space. D.P.U. 25-10 Compact Comments at 5-6.

⁵ During the course of D.P.U. 25-10, municipalities commented that the street reality and NJUNS data do not always match. See D.P.U. 25-10 Compact Comments at 3-4.

⁶ In D.P.U. 25-10, the Compact advocated for the Departments to investigate providing municipalities (e.g., Departments of Public Works) with a log-in to and dashboard view of the NJUNS database to view certain information not in conflict with the proprietary issues of attachers (i.e., pole location). D.P.U. 25-10 Compact Comments at 3-4.

IV. CONCLUSION

The Compact appreciates the opportunity to provide these comments and looks forward to participating in this proceeding.

Respectfully submitted,

CAPE LIGHT COMPACT JPE

By its attorneys,



Audrey Eidelman Kiernan, Esq.

(akiernan@kolawpc.com)

Rebecca F. Zachas, Esq.

(rzachas@kolawpc.com)

KO LAW, P.C.

1337 Massachusetts Avenue, Box 301

Arlington, MA 02476

617-644-7681 (voice)

Dated: May 12, 2026