



CTIA appreciates the Departments' thorough consideration of pole attachment issues over the past year in Dockets D.P.U. 25-10/D.T.C. 25-1. As CTIA previously emphasized before the Departments, CTIA shares the Departments' goal of expanding broadband access throughout the Commonwealth, and removing barriers to deployment is one of the best ways to achieve this goal.<sup>3</sup> The Proposed Rules represent strong steps towards modernizing the Commonwealth's pole attachment regime and reducing delays. The institution of "shot clock" timelines for survey and make-ready as well as the incorporation of self-help remedies and one-touch make-ready ("OTMR") processes will help bring Massachusetts level with the FCC and surrounding jurisdictions when it comes to expediting the deployment of infrastructure supporting broadband.

Herein, CTIA proposes some targeted changes to the Proposed Rules to help ensure clarity for owners and attachers, and to better remove barriers to broadband deployment for the benefit of Massachusetts consumers. CTIA also supports the institution of a rapid dispute resolution process in the Proposed Rules and offers some models the Departments can base such a process on.

**I. THE PROPOSED RULES REPRESENT A STRONG STEP TOWARDS ACCELERATING INFRASTRUCTURE DEPLOYMENT IN MASSACHUSETTS.**

CTIA largely supports the Proposed Rules. By matching steps the FCC and surrounding reverse-preemption jurisdictions have taken to accelerate deployment, the Proposed Rules will incentivize investment in Massachusetts' infrastructure and help ensure that investment is rapidly turned into network improvements to benefit Massachusetts consumers.

Particularly, any revisions to the Proposed Rules should be sure to maintain the proposed system of "shot clock" timelines for application, survey, and make-ready, and permissible self-help remedies for when those timelines are not met, as well as the option for OTMR in simple

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<sup>3</sup> See Docket Nos. D.P.U. 25-10/D.T.C. 25-1, Comments of CTIA (March 18, 2025) at 1-2.

make-ready situations. Such standards have proven reasonable and effective in the many states where they have already been implemented, and should help to reduce deployment delays in the Commonwealth as well. The Proposed Rules should also maintain the requirement for owners and attachers to use the NJUNS system,<sup>4</sup> which will promote timely and efficient processes by standardizing information among stakeholders.

CTIA also supports the proposed deletion of the “for good cause shown” clause that permits utilities to deny pole access. Given that the Departments’ rules have and continue to maintain the customary standard that a utility can deny access for valid reasons of capacity, safety, reliability, or conflict with generally applicable engineering standards,<sup>5</sup> the “for good cause shown” clause is an unnecessary potential loophole.

## **II. THE DEPARTMENTS SHOULD MAKE TARGETED IMPROVEMENTS TO THE RULES TO HELP ENSURE CLARITY AND FURTHER SPEED DEPLOYMENT IN MASSACHUSETTS.**

CTIA offers the following suggestions to better ensure clarity in the Proposed Rules and help remove barriers to broadband deployment in Massachusetts.

The Departments should ensure that the shot clock timelines create accountability for utilities. Timelines need to be meaningful and enforceable in practice. While self-help remedies are an excellent backstop, the availability of qualified contractors remains a variable that may limit the ability of attachers to make use of these remedies. While the Proposed Rules place a number of fair requirements on owners to complete application review, survey, and make-ready within reasonable timelines, there is no accompanying enforcement mechanism to ensure such timelines are met. In the case of application review, the Departments should consider a “deemed

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<sup>4</sup> Or, in the future, a similar single, widely used pole information tracking system, should stakeholders come to an agreement that a different system makes more sense at a later date due to changed circumstances.

<sup>5</sup> See Proposed Rules at 45.05 (1).

granted” remedy for applications that do not receive a decision within the timeline mandated by Proposed Rule 45.08. The Departments should also continue to monitor utility timelines following the adoption of the Proposed Rules to ensure that there is no pattern of delay or repeated failure of pole owners to meet their required timelines and to determine if further action by the Departments is merited, similar to actions taken in neighboring Connecticut to address significant delays there.<sup>6</sup>

The Departments inquire whether owners should maintain a minimum number of authorized contractors on their lists. The availability of third-party contractors is largely beyond a utility’s ability to control, and so Proposed Rule 45.11 should be sufficient as written insofar as it contains guardrails to help ensure that a “reasonably sufficient” list of contractors exists and allows licensees to request the addition of qualified contractors. Proposed Rule 45.11 should be modified, however to a) ensure that approved contractor lists are made publicly available for the benefit of attachers, and b) attachers are given thirty days’ notice prior to a utility removing a contractor from its list, so they have ample time to make alternate arrangements.

Additionally, the Departments should also revise the meet and confer requirements in Proposed Rule 45.07 to clarify that attachers be held to a “good faith effort” standard to find an amenable time for all interested parties to meet. This will help prevent this requirement from becoming a potential avenue for delay.

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<sup>6</sup> See CT PURA Docket No. 20-03-014.

### **III. THE DEPARTMENTS SHOULD IMPLEMENT RAPID DISPUTE RESOLUTION PROCEDURES SIMILAR TO THOSE FOUND IN OTHER STATES AND AT THE FCC.**

In the Order, the Departments inquire about the possibility of implementing rapid dispute resolution provisions in Massachusetts.<sup>7</sup> The Proposed Rules should include such provisions. The following jurisdictions provide models for the Departments to follow:

- The FCC recently adopted a rule that establishes an intra-agency rapid response team (the Rapid Broadband Assessment Team (“RBAT”)) to review and assess pole attachment disputes to speed the resolution of conflicts delaying the deployment of broadband.<sup>8</sup> The RBAT process promotes broadband deployment by establishing a dedicated FCC team to assess and help resolve pole attachment disputes.
- The Maine Public Utilities Commission (“ME PUC”) has adopted an expedited pole attachment dispute resolution process (the “Rapid Response Process”) for certain types of disputes. The Rapid Response Process requires a complaining party to provide sufficient factual details and a very short timeline for a response. The ME PUC’s Rapid Response Process Team (“RRPT”) issues a decision within seven business days of the complaint being filed. Parties may appeal the RRPT’s decision to the full commission.<sup>9</sup>
- The Departments should also consider requirements such as those in California’s proposed General Order 178, which would require disputes to be escalated to the executive level within each company following denial of a request for access.<sup>10</sup>

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<sup>7</sup> See Order at 64-65.

<sup>8</sup> See WC Docket No. 17-84, FCC 23-109.

<sup>9</sup> See Maine Public Utilities Commission, Investigation into Practices and Acts Regarding Access to Utility Poles, Docket No. 2010-00371, Order (July 12, 2011).

<sup>10</sup> See California Public Utilities Commission, I.17-06-027.

The Departments ask “whether the ADR mechanism should apply to all informal pole attachment and conduit access disputes or be limited to particular types of disputes.”<sup>11</sup> To the extent the mechanism proves fruitful in accelerating disputes before the Departments, it should be applied as broadly as possible.

The Departments’ implementation of rapid dispute provisions also implicates the Departments’ question about “whether the regulation should permit utilities and licensees to negotiate alternative terms and conditions, and if so under what circumstances.”<sup>12</sup> As noted in the Order, “[t]he Departments observe that, like the FCC, we have long envisioned and preferred negotiated resolution of pole attachment terms and conditions.”<sup>13</sup> But in order for that negotiation to be fruitful, the Departments need to ensure that the “playing field” for negotiation between owners and attachers is level. Due to their control over access and the fact that the pressure of timely deployment is nearly always on attachers rather than owners, pole owners generally enter negotiations from an advantaged position relative to attachers. Without a guarantee that attachers will be able to quickly resolve disputes if an owner attempts to secure unfair terms or conditions, attachers may be stuck accepting those terms or face not being able to attach in a timely manner.

Accordingly, the Departments should maintain §220 CMR 45.13 in the Proposed Rules, which states that “A utility shall not establish rates, terms or conditions related to attachment applications or attachment agreements which conflict with applicable state laws or these regulations.”<sup>14</sup> This allows the Departments to establish a baseline for reasonable terms and conditions. To the extent parties wish to negotiate matters not dictated by the statute or regulation,

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<sup>11</sup> Order at 65.

<sup>12</sup> Order at 59.

<sup>13</sup> Order at 24.

<sup>14</sup> Order at 59.

the Departments should ensure there is a robust and rapid dispute resolution process in place to ensure that those matters do not add unnecessary delay to the attachment process.

#### **IV. CONCLUSION.**

CTIA appreciates the Departments' proactive work to modernize the Commonwealth's pole attachment rules and policies to accelerate infrastructure deployment. CTIA looks forward to continued engagement with the Departments as they continue to streamline infrastructure siting to the benefit of consumers in the Commonwealth.

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