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May 12, 2026

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

Shona D. Green, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 820
Boston, MA 02118

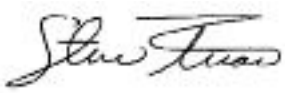
Re: D.P.U. 26-10/D.T.C. 26-1 and D.P.U. 25-10/D.T.C. 25-1,

Dear Mr. Ray and Ms. Green,

On behalf of Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, NSTAR Electric Company d/b/a Eversource Energy, and Fitchburg Gas and Electric Light Company d/b/a Unitil (together the "EDCs"), please find the EDCs' Initial Comments in this proceeding.

Please contact me with any questions.

Very truly yours,



Steven Frias

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Service Lists

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

Joint Investigation by the Department of Public Utilities and the Department of Telecommunications and, Cable on their own motion, instituting a rule making 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. 26-10/D.T.C. 26-1
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 poles, and related considerations applicable to utility work conducted on, public rights-of-way in the Commonwealth	D.P.U. 25-10/D.T.C. 25-01

INITIAL COMMENTS OF NSTAR ELECTRIC COMPANY D/B/A EVERSOURCE ENERGY, MASSCHUSETTS ELECTRIC COMPANY AND NANTUCKET ELECTRIC COMPANY EACH D/B/A NATIONAL GRID, AND FITCHBURG GAS AND ELECTRIC LIGHT COMPANY D/B/A UNITIL

I. INTRODUCTION

NSTAR Electric Company d/b/a Eversource Energy ("Eversource"), Massachusetts Electric Company and Nantucket Electric Company each d/b/a National Grid (" National Grid"), and Fitchburg Gas and Electric Light Company d/b/a Unitil ("Unitil") (collectively, "Companies," "Electric Distribution Companies," or "EDCs") hereby submit to the Department of Public Utilities (the "DPU") and the Department of Telecommunications and Cable (the "DTC") (acting jointly as the "Departments") their initial comments in the above-captioned proceedings.

On January 17, 2025, the Departments issued an Order Instituting Joint Notice of Inquiry pursuant to their own motions to explore utility pole attachment, conduit access, double poles, and related considerations applicable to utility work conducted on public rights of way in the Commonwealth. Joint Inquiry, D.P.U. 25-10/D.T.C. 25-1 at 1 (2025). After receiving initial comments and reply comments from various parties, and conducting technical sessions, on March 6, 2026, the Departments opened a joint rulemaking docketed as D.P.U. 26-10/D.T.C. 26-1, and sought comment on their proposed revisions to their shared regulations, 220 CMR 45.00: Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures. Joint Investigation, D.P.U. 26-10/D.T.C. 26-1 at 1 (2026). In addition, through their pending inquiry proceeding, D.P.U. 25-10/D.T.C. 25-1, the Departments sought further comment on: (1) a draft Amended and Restated Memorandum of Agreement to be entered into by the agencies; and (2) potential, non-binding alternative dispute resolution ("ADR") provisions that can be implemented by the Departments. The EDCs provide these joint initial comments on the proposed revised pole attachment regulations.

II. KEY ASPECTS OF THE PROPOSED REGULATIONS

The EDCs recognize the importance of facilitating broadband deployment. However, the need to facilitate broadband deployment cannot be allowed to trump the need to maintain the safety and reliability of the electric system. Under G.L. c. 166, §25A, the interest of consumers of electric utility services must be considered, and the safety and reliability of the electrical system preserved. Pole attachment regulations must balance the need for timely deployment of broadband and the need to ensure the safety and reliability of the electrical system. In fact, as shown in the EDC's reply comments in D.P.U. 25-10/D.T.C. 25-1, Massachusetts currently has a ubiquitous and robust deployment of broadband. Massachusetts is a leading state in the nation when it comes to

broadband, and has done so without negatively impacting the safety and reliability of the electric system.

In general, the Departments' proposed regulations properly balance the need for timely deployment of broadband and the need to ensure the safety and reliability of the electrical system. It does so in five fundamental ways. First, the proposed regulations correctly do not allow for self-help by attachers for make-ready work in the power space. As the EDCs explained in their reply comments in D.P.U. 25-10/D.T.C. 25-1, under state law, the EDCs "are responsible for providing … reliable service to customers," and have "public service obligations in terms of providing safe, reliable … service to customers." Massachusetts Electric Company, d/b/a National Grid, D.P.U. 18-150, at 53, 122 (2019). The EDCs "may not delegate [their] responsibility" for the safety and reliability of the electric system to others. See Commonwealth Electric Company, D.P.U. 92-3C-IA, at 6 (1995). If a pole attacher's self-help efforts result in reliability failures, the actions of the pole attacher could be imputed to the EDC, which could ultimately be held responsible. See Boston Edison Company, D.P.U. 87-1A-A, at 57 (1987). Therefore, allowing pole attachers to hire and direct contractors to work in the power space would be acting contrary to the state law.

Furthermore, most of the states neighboring Massachusetts recognize that self-help in the power space should not be permitted because of the need to maintain the safety and reliability of the electric system. The Connecticut Public Utilities Regulatory Authority ("PURA") determined that self-help "will only be permitted in the communications gain" because of the "extensive safety and operational concerns confronting workers in the electrical gain." PURA Investigation of Third-Party Pole Attachment Process, Docket No. 19-01-52RE01, at 32 (2022). In New York, the New York Public Service Commission ("NYPSC") rejected self-help in general and in particular in the power space because "self-help could potentially undermine system safety and reliability

and jeopardize the safety of workers on the utility poles." Proceeding to Review Certain Pole Attachment Rules, Case 22-M-0101, at 35 (2024). New Hampshire also does not allow self-help remedies in the power space. Therefore, the Departments correctly determined in their proposed regulations that there should not be self-help make-ready for attachers in the power space. See D.P.U. 25-10/D.T.C. 25-1, at 44, 55.

Second, the proposed regulations correctly do not require boxing or temporary attachments. As explained in the EDC's reply comments in D.P.U. 25-10/D.T.C. 25-1, boxing makes poles unclimbable for utility workers, complicates maintenance, prolongs restoration time for service restoration during outages, and increases costs for electric customers due to the need for additional bucket trucks, specialized equipment and personnel to service boxed poles. Also, a majority of states bordering Massachusetts do not require EDCs to permit boxing, and the Federal Communications Commission ("FCC") does not require EDCs to permit boxing.

Furthermore, as explained in the EDC's reply comments in D.P.U. 25-10/D.T.C. 25-1, temporary attachments are problematic for safety, and the structural integrity of poles. Temporary attachments may not adhere to NESC clearance requirements and could result in safety hazards for utility workers and the public. Also, temporary attachments can negatively impact the structural integrity of poles. Over time, these attachments may cause wear or damage to the pole, particularly if bolts are used to secure them. Such wear and damage can lead to pole failures that could cause outages. These attachments add extra weight to poles, and may exceed a pole's designed load capacity, and therefore could lead to bending, cracking, or even failure of a pole. In addition, a majority of states bordering Massachusetts do not require EDCs to allow temporary attachments. Therefore, the Departments correctly omitted from their proposed regulations mandates for boxing and temporary attachments.

Third, the proposed regulations appropriately allow for deviations in pole attachment timelines for actions and events beyond the control of the EDCs. The proposed regulations expressly recognize events and actions beyond the control of the EDCs as good cause for deviation from timelines such as: (a) repair work required to restore service; (b) major weather or emergency events; and (c) delays in the issuance of government permits. D.P.U. 25-10/D.T.C. 25-1, at 37, 52. Also, the Departments recognized that the timelines for EDCs are premised on the applicant meeting various deadlines such as payment of make-ready work. Id., at 44. To properly ensure that new pole attachments will not negatively impact the safety and reliability of the electric system, EDCs must have timelines which permit deviations in pole attachment timelines for actions and events beyond the control of the EDCs. Pole attachers' need for speed when it comes to broadband deployment cannot come at the expense of worker safety or electric reliability for the public. Therefore, the Departments appropriately recognized that the EDCs can deviate from pole attachment timelines for good cause. Id., at, 52.

Fourth, the proposed regulations rightly allow EDCs to recognize multiple applications for pole attachments submitted by a single licensee during a short period of time to be treated as single application for purposes of the pole attachment timelines. Treating multiple applications as a single application (i.e project) allows for better resource coordination and planning, and will help not only the EDCs but also applicants who are seeking to attach to a smaller number of poles. EDCs in Massachusetts are receiving multiple applications from a single applicant over a short period of time. If multiple applications over a short period of time from a single applicant are not recognized as a single application, the EDCs' resources would be overwhelmed. The EDCs need time and resources to ensure that new pole attachments will not negatively impact the safety and reliability of the electric system. Pole attachment timelines are only workable if they are not

gamed. Therefore, the Departments rightly allow EDCs to recognize multiple applications for pole attachments submitted by a single licensee during a short period of time to be one application. D.P.U. 25-10/D.T.C. 25-1, at 29-30.

Fifth, the proposed regulations properly require advance notice for mid-sized, large sized, and very large sized orders. There are limited number of engineers and contractors who are qualified to perform design work for the power space or perform make-ready work in the power space. Because of the importance of ensuring safety and reliability, there are rigorous minimum qualifications to operate in the power space. Without advance notice for larger applications, EDCs would not be able to organize and coordinate the significant amount of resources needed to process pole attachment applications in a timely manner. Instead, the EDCs' resources would be strained, and EDCs may have difficulty ensuring that new pole attachments will not negatively impact the safety and reliability of the electric system. By comparison, requiring advance notice for certain orders places only a minimal burden on attachers. Therefore, the Departments properly determined that advance notice should be required for mid-sized, large sized, and very large sized orders. D.P.U. 25-10/D.T.C. 25-1, at 33.

The current pole attachment regulations have not prevented Massachusetts from having a ubiquitous and robust deployment of broadband. This broadband deployment has occurred without negatively impacting the safety and reliability of the electric system. With that stated, the EDCs recognize that the current pole attachment process can be improved. However, any changes cannot put at risk the safety and reliability of the electric system. Accordingly, the EDCs strongly urge the Departments in their final pole attachment regulations continue to: (1) limit self-help in regards to make-ready work to the communications space only; (2) not to mandate boxing or temporary attachments; (3) recognize deviations from pole attachment timelines for actions and

events beyond the control of EDCs; (4) allow EDCs to aggregate multiple applications submitted by a single applicant and process them as a single application (i.e. project); and (5) require advance notice by attachers to the EDCs for various orders. The Departments need to continue to adhere to these five fundamental concepts so that broadband deployment can be facilitated without undermining the safety and reliability of the electric system.

III. PROPOSED REGULATIONS BY SECTION

A. Section 45.00

In this section, the title of the regulations is revised. The EDCs have no comments on the proposed changes to this section.

B. Section 45.01

In this section, the purposes of the proposed regulations are discussed. The revised regulations specifically reference ensuring utility services are safe, secure, reliable, and affordable, and that the interests of the consumers of utility services will be considered. The EDCs strongly support that the proposed regulations recognize the importance of keeping electric utility services safe, secure, reliable, and affordable, and the interests of electric customers.

The proposed regulations indicate that the revisions to the regulations would go into effect 90 days after final publication in the Massachusetts Register. The EDCs request that the proposed regulations go into effect 120 days after final publication but no earlier than January 1, 2027. Because the proposed regulations indicate they would go into effect 90 days after final publication in the Massachusetts Register, the effective date would likely be some time in the fall of 2026. However, the EDCs need additional time to update their internal software, procedures, and processes, to train employees, as well as to give time for vendors to update their processes. Also, EDCs will need time to draft new policies to support compliance with any new regulations and to

modernize the standard agreement with the attachers. Furthermore, the final regulations may differ, in some material ways, from the proposed regulations. As a result, 90 days may not be sufficient to address these proposed or further proposed changes, which may be adopted at the conclusion of this rulemaking. Accordingly, the EDCs request that the effective date be no earlier than 120 days after final publication, and no earlier than the start of the new year.

C. Section 45.02

In this section, the proposed regulations provide new definitions and revise certain definitions for various terms used in the proposed regulations. The EDCs request that the definition of simple make-ready be further clarified and expressly defined as excluding installation of communication risers, power supplies, and any energized communication equipment. Although the installation of communication risers, and work involving power supplies and any energized communication equipment involves equipment located in the communications space, it is more complex and potentially dangerous than typical simple make-ready work involving communications equipment. Accordingly, the EDCs request this kind of work should be expressly excluded from the definition of simple-make ready work to avoid any confusion and unnecessary litigation in the future.

In addition, the proposed regulations do not include a definition for self-help. Although self- help is described elsewhere in the proposed regulations, the EDCs suggest the Department may want to consider defining self-help in the definitions section as well.

Furthermore, under the proposed regulations, the revised definition of licensee now includes electric vehicle supply equipment ("EVSE"). Eversource opposes the inclusion of EVSE in the revised definition of licensee. Eversource recognizes EVSE attachments would not be subject to the same deadlines and requirements as attachments in the communications space under

these proposed regulations. However, any type of pole attachment regulations addressing EVSEs are problematic and premature. Although utility pole-mounted EVSEs may be viable in certain limited circumstances, ground-mounted ROW EVSEs are a much better option, and are certainly more scalable statewide. Utility pole-mounted EVSEs can negatively impact the operations of the electric system and its reliability. Due to their heavy weight, EVSEs can negatively impact the structural integrity of a utility pole. The placement of EVSEs on utility poles also make it more difficult for workers to climb the pole to perform maintenance or repairs. Also, the existence of EVSEs on utility poles complicates storm restoration. In addition, utility pole-mounted EVSEs complicate and slow down the current pole attachment process as well as increase the likelihood for double poles. Furthermore, there are liability issues surrounding EVSEs on utility poles.

In contrast, ground-mounted ROW EVSEs are overall a much better option than utility pole-mounted EVSEs. First, ground-mounted ROW EVSEs have lower long-term costs than utility pole-mounted EVSEs. Ground-mounted ROW EVSEs do not incur costs associated with third-party utility pole attachment requirements, such as insurance, attachment fees, and higher maintenance costs due to the necessity of specialized technicians who work on utility poles. Second, there are more locations available for the ground-mounted EVSEs than utility-pole EVSEs. Utility poles can have limited space for EVSEs or be located where parking for an automobile is not available.

In addition, it is premature to adopt pole attachment regulations pertaining to EVSEs. It is unclear if there are any significant interest in utility-pole EVSEs. Also, there are a number of issues that need to be examined before a pole attachment process could be implemented for utility-pole EVSEs. It is unclear if a uniform process could be adopted for utility-pole EVSEs. Instead, the issue of whether a pole owner should be required to allow EVSEs to be attached to their pole

owner should be examined and addressed in another proceeding. Accordingly, Eversource requests that EVSE not be included in the definition of licensee.

D. Section 45.03

In this section, periods of time are defined under the proposed regulations. The EDCs have no comments on the proposed changes to this section.

E. Section 45.04

In this section, the duties of licensees and attachment owners are provided. In general, the EDCs support these proposed revisions. However, the EDCs request some further clarifications. First, the proposed regulations indicate that unauthorized attachments may be subject to removal by a utility. It should be made explicit that the attachment owner is responsible for the cost of the removal. This additional wording will help to avoid confusion and litigation in the future. Second, it should be made explicit that unauthorized attachments may include police/camera equipment. This additional wording will likewise also help to avoid confusion and litigation in the future. Third, the proposed regulations indicate that an existing licensee must complete their work "within a reasonable time." This language is ambiguous. Instead of using the phrasing of "within a reasonable time," a licensee should be required to complete their work within 30 days. This change in wording will provide greater clarity and help to avoid any confusion and future litigation. Fourth, the proposed regulation requires owners of attachments to affix an identification tag on their attachment. However, the proposed regulations do not indicate by what date existing attachers must comply with this requirement. The EDCs request that the Departments make it clear that existing attachers have until 120 days after final publication of these regulations to have identification tags on their attachments. All participants in the pole attachment process must comply with these new regulations.

As drafted, the proposed language in 45.04(4) reads: "The identification tag shall be affixed on or near each pole where the attachment is installed and must be maintained in legible condition." Unitil believes the language should be revised to state: "The identification tag shall be affixed to the attachment on each pole where the attachment is installed and must be maintained in legible condition."

Furthermore, the Departments requested comment on the alternative proposed language set forth in D.P.U. 25-10/D.T.C 25-1-A, at 23. The EDCs do not support the adoption of the alternative proposed language. The alternative proposed language indicates that when an "existing licensee in the communications space fails to perform work on its attachments within a reasonable time for work other than make-ready work, the utility may perform the work on the existing licensee's attachments and charge the associated costs to that licensee." If the intention of this language is to obligate, in some way, an electric utility pole owner to remove communications equipment, the EDCs do not support it. EDCs and their contractors are not trained in the transfer of communications equipment. EDCs and their customers should not be put at risk of being exposed to any liability for the removal or transfer of communications equipment. Also, there will likely be challenges with the EDCs collecting the costs associated with the removal or transfer of communications equipment from pole attachers. If the EDCs are not able to collect these costs, the costs would end up being paid by the EDCs and their customers. Other than the attacher, the most appropriate party to remove communications equipment is the telephone pole owner. Therefore, the language should be modified so as to be limited to the telephone pole owner.

Lastly, in response to the requests for information from the EDCs, as set forth in D.P.U. 25-10/D.T.C 25-1-A, the EDCs do not have a list of the existing licensees and attachers that are known not to be registered or participating in NJUNS. Also, the cost over the last five years to

participate in NJUNS was: (a) approximately $7,000 per year for National Grid, (b) approximately $8,990 per year for Eversource, and (c) approximately $702 per year for Unitil. These costs are included in base rates.

F. Section 45.05

In this section, the duties of utilities are provided. The EDCs have no comments on the proposed changes to this section.

G. Section 45.06

In this section, the attachment application sizes are set forth. Under the proposed regulations, the applications are set essentially as follows: (a) small orders would be attachment requests of up to 50 poles; (b) regular orders would be attachment requests between 51 to 300 poles; (c) mid-sized orders would be attachment requests between 301 poles to 3,000 poles; (d) large orders would be attachment requests between 3,001 poles to 5,000 poles; and (e) very large orders would be attachment requests over 5,000 poles. Instead, the EDCs request that the proposed regulations for small, regular and mid-sized applications be changed as follows: (a) small orders would be attachment requests of up to 10 poles; (b) regular orders would be attachment requests between 11 poles to 125 poles; and (c) mid-sized orders would be attachment requests between 126 poles to 3,000 poles.

Under the proposed regulations, the size of small orders, up to 50 poles, and regular orders, up to 300, are too large. When a pole attachment involves work in the power space, make-ready takes longer to complete than make-ready in the communications space. Communications-space make-ready is typically limited to the rearrangement of existing attachments, while power make-ready involves energized facilities, electrically qualified linemen, and, where necessary, pole replacements. Therefore, the timelines in the proposed regulations would not be feasible for EDCs

for small or regular orders unless the number of poles in small or regular orders is reduced. Furthermore, reducing the number of poles for small and regular orders increases the likelihood that only simple make-ready work will be involved for the pole attachment application. If a pole attachment application in its entirety involves only simple make-ready, then one-touch make ready ("OTMR") can be used. For example, for National Grid, the applications which require no-make ready work are predominantly applications consisting of 5 poles or less. By lowering the number of poles in small or regular orders, the Departments would be able "to facilitate greater opportunity for the use of OTMR in Massachusetts." D.P.U. 26-10/D.T.C. 26-1 at 49. Accordingly, the EDCs recommend that the proposed regulations for small, regular and mid-sized applications be changed.

Second, the proposed regulations indicate that a pole owner may treat multiple applications from a single licensee within a 60-day period as a single request. The EDCs request that the proposed regulation be changed so that multiple applications from a single licensee within a 120-day period would constitute a single request by an applicant. The EDCs have received multiple large requests within a short time from the same licensee in various municipalities. For example, Eversource has received applications from about three to five attachers who have submitted many large applications which for each company totals about 40,000 poles over the course of a few months. As noted by regulators in a neighboring state, most pole attachment requests come in large batches all at once. Docket No. 19-01-52RE01, at 21. When this occurs, it requires significant resource allocation and coordination all at once, which can overwhelm an EDC's resources. As noted by PURA, "the reality is that attachments of the magnitude requested in recent years have resulted in substantial delays." Id., at 22. This concern is magnified when a licensee submits applications across multiple municipalities simultaneously, as permitting requirements vary by jurisdiction. The attacher may deliberately submit multiple applications across different

municipalities in a manner designed to secure procedural or timing advantages, rather than reflecting the true scope or readiness of the work, sometimes referred to as "gaming".

Furthermore, there are not enough experienced and qualified individuals, both overhead linemen and experienced engineers, to do work in the power space to work on tens of thousands of poles in a short time period. It is also challenging for overhead line crews to handle this volume of make-ready work in short time frames. Therefore, the EDCs recommend that the Departments treat multiple applications from a single licensee within a 120-day period as a single request by an applicant.

Lastly, on how to calculate the application size for municipal lighting plants, the EDCs do support the application being categorized based on the number of poles owned by the municipal lighting plant.

H. Section 45.07

In this section, advance notice requirements for new licensees are established. The proposed regulations require licensees to provide advance written notice to each pole owner, existing licensees in the communications space, and appropriate government authority at least 45 days in advance for mid-sized orders, and at least 90 days in advance for large and very large orders.

The EDCs request that the proposed regulations be changed so that the advance notice for large orders and very large orders be increased to 120 days from 90 days. Large orders and very large orders, which are applications of more than 3,000 poles require a substantial commitment of time, use of resources, and planning for the EDCs and its contractors. As noted by PURA, "large batches of applications place an inordinate burden on pole owners as well as electric ratepayers, and it may be unrealistic or cost-prohibitive to expect pole owners to obtain and organize the

resources necessary to process voluminous attachment requests." Docket No. 19-01-52RE01, at 21.

Furthermore, there should be advance notice of any broadband deployment funded by the government and requiring deployment by a certain deadline. Advance notice of 120 days for these types of deployments, regardless of the application's size, should be required. This will ensure that deployment can be completed to meet any deadlines. Therefore, the EDCs recommended that the Departments require advance notice of at least 120 days for applications with more than 3,000 poles or if the application requires deployment by a certain date due to government funding.

I. Section 45.08

In this section, various requirements are established for the non-one-touch make ready ("non-OTMR") option. The EDCs respect the Departments' determination that it is appropriate to establish baseline requirements for the utility pole attachment process. D.P.U. 26-10/D.T.C. 26-1 at 26. The EDCs strongly support the Departments' determination that pole attachers will not be allowed to perform self-help make-ready work in the power space consistent with the limitations imposed by other neighboring states. Id., at 55. However, the EDCs would request a few additional changes to the proposed regulations in this section.

First, the EDCs request that the proposed regulations be changed so that, whenever licensees are required to make a payment for an estimate for make-ready work, the timeline for make-ready work to be completed will not begin to toll if the licensee indicates when it makes its payment that it challenges the estimate. If a licensee disputes the make-ready estimate, then the licensee should be deemed to have rejected the estimate, and the payment will not be accepted by the pole owner. If licensees are allowed to pay make-ready estimates while simultaneously disputing the estimates, it slows down the entire pole attachment process by diverting EDC

resources from managing the pole attachment process to addressing a dispute. Also, it financially exposes EDCs and its customers. If a licensee disputes the make-ready work after the EDC completes the work, the EDC and its customers are required to refund the disputed make-ready work, essentially absorbing the cost. In Connecticut, certain pole attachers have utilized a tactic of accepting and paying the estimate of the make-ready work while simultaneously disputing it. Work should not be undertaken if the parties do not agree on the cost of the work. Instead, the dispute should first be resolved, and then the work should be performed. Therefore, the EDCs urge that Departments make clear in the proposed regulations that if a licensee disputes the make-ready estimate even if the licensee makes the payment, then the licensee should be deemed to have rejected the estimate.

Second, the proposed regulations require pole owners and the new licensee to negotiate the timelines for completing make-ready for very large orders. The EDCs request that the proposed regulation be changed so pole owners and the new licensee negotiate the timelines for completing make-ready for large orders as well. As a result, the timeline for all orders of 3,000 or more poles would be developed through negotiation. This approach has been followed in neighboring Connecticut. "For application batches of more than 3,000 … the Authority will direct the pole owners, following their good faith coordination with the requesting attacher, to develop a reasonable deadline and to track compliance with and progress toward achieving the mutually-agreed upon deadlines." Docket No. 19-01-52RE01, at 24. Applications involving more than 3,000 poles places a significant strain on the resources of the EDCs. For example, PURA has noted that "large batches of applications place an inordinate burden on pole owners as well as electric ratepayers, and it may be unrealistic or cost-prohibitive to expect pole owners to obtain and organize the resources necessary to process voluminous attachment requests." Id., at 23.

Massachusetts should likewise recognize the timelines for batches of more than 3,000 poles should be done through negotiation. Therefore, the EDCs recommend that the Departments establish that the timelines for all orders of 3,000 or more poles be developed through negotiation.

Third, in general, the EDCs suggest that the time periods set forth in the regulations increase with the size of the application. For example, a pole owner has 15 business days to review a resubmitted application for completeness regardless of the size of the application. This may make the timelines more feasible for larger applications.

Fourth, the EDCs suggest that, after a pole attacher has completed self-help make-ready work, the work be subject to a mandatory post-construction inspection paid for by the applicant and reported to the pole owners. Having a post-construction inspection would help ensure that self-help make-ready work was properly performed.

Fifth, the proposed regulations distinguish between an estimated invoice for survey work and a final invoice for survey work. National Grid notes that this distinction should not apply to it, as its estimate for survey work is identical to its final invoice for such work. This is because survey estimates are calculated based solely on the number of poles surveyed. Accordingly, National Grid requests that the Departments clarify that separate estimated and final invoices are not required for survey work when the two are the same.

Furthermore, the Departments requested comment on the feasibility of the utilities' streamlining their application processes to establish a single application process for joint pole owners. D.P.U. 26-10/D.T.C. 26-1 at 46. The EDCs will work with Verizon to explore a single application process. However, the immediate creation and adoption of the single application process would be problematic. This year the EDCs are focusing on changing their processes to adapt to the new requirements of the Departments' proposed regulations. To require the EDCs to

also simultaneously negotiate with Verizon to develop a mutually agreeable single application process would be challenging and distract the EDCs from the need to change their processes. Instead, the Departments should allow some time for their new pole attachment regulations to be in operation. Once this transition has been completed, the Departments could renew its efforts to have the joint pole owners to develop a single application process. The creation of a single application process between the joint pole owners can be done outside of this rulemaking.

Lastly, the Departments requested comment on proposed language allowing new municipal licensees to pay in full within 30 days of receipt of a final invoice, and requested comment from the pole owners as to how they have previously accommodated broadband-only municipal light plant payments for the completion of make-ready work. D.P.U. 25-10/D.T.C 25-1-A, at 51. At the outset, the EDCs would note that they have required municipal licensees to make full payment of their make-ready estimate prior to make-ready work being performed. The proposed regulations would require the EDCs to make changes to these pole attachment agreements and processes. If the Departments were to adopt this regulation, the EDCs would need to assurance from the municipal licensee that it does not in any way dispute the estimate provided by the pole owners. If a municipal licensee disputes the make-ready estimate, then the municipal licensee should be deemed to have rejected the estimate, and the make-ready work should not be performed. If the municipal license unequivocally accepts the make-ready estimate, the EDCs could alter their processes and accept that payment in full need not be made until after 30 days of receipt of a final invoice.

Also, 45.08(2)(f)(1) requires: "In any instance where a pre-existing violation is identified by the utility, it shall update NJUNS or any successor database on the details of the violation and notify the jointly-owning utility of the violation." Similarly, Unitil does not currently receive

notices of violations through NJUNS. Unitil does not currently report violations through NJUNS and expects that changing this practice may entail implementation requirements and costs that it has not yet been able to evaluate. With respect to 45.08(3)(b)(1), providing a copy of the required pole inspection report is, for Unitil, a manual process that in some cases may take longer than five business days. Unitil requests that the period of time be expanded to ten business days.

Unitil also recommends that 45.08(a) be revised to state: "A new licensee shall install its new and upgraded attachments identified in its application only after it has received authorization from the **pole owner and the** applicable authorized government authorities." (Emphasis added).

J. Section 45.09

In this section, various requirements are established for the OTMR option. The EDCs support the Departments' rejection of expanding the scope of OTMR to include complex make ready work. D.P.U. 25-10/D.T.C 25-1-A, at 50. The EDCs suggest that after a pole attacher has completed OTMR, the work be subject to a mandatory post-construction inspection paid for by the applicant and reported to the pole owners. Having a post-construction inspection would help ensure that the OTMR was properly performed.

Furthermore, the Departments requested comment as to any additional proposed regulations that may encourage OTMR including input on whether an order's size should factor into whether an application is eligible for OTMR. D.P.U. 25-10/D.T.C 25-1-A, at 49. As explained by the EDCs regarding Section 45:06, defining a small order as involving 10 poles or less would make the use of OTMR more prevalent. If a pole attachment application in its entirety involves only simple make-ready, then OTMR can be used. Lowering the number of poles increases the likelihood that OTMR will be used.

K. Section 45.10

In this section, the proposed regulations allow for deviations from the timelines of the non-OTMR option. The EDCs strongly support allowing pole owners to deviate from the time limits in the non-OTMR option for make-ready work when there is good cause. The proposed regulations set forth various examples of what constitutes good cause, and appropriately indicates that there may be other situations for which a pole owner has good cause to deviate from a timeline. The EDCs would indicate that there are other examples which could be expressly included, such as: (1) actions by the licensees which delay the pole owner such as requests for route changes or disputes over make-ready costs or failure to pay; (2) weather conditions which inhibit the ability to perform surveys or make-ready work; and (3) actions by third parties which are beyond the control of the EDC. In general, EDCs should not be responsible for meeting timelines when events or actions occur which are beyond the control of the EDC cause a delay.

L. Section 45.11

In this section, the proposed regulation requires the listing of contractors to be used to conduct surveys and perform make-ready. At the outset, the EDCs renew their objection to allowing pole attachers to engage in self-help in the form of having surveys performed in the power space. The EDCs do acknowledge that, under the proposed regulations, the self-help remedy in the power space is limited to only a survey being performed by an EDC-approved contractor. Nonetheless, as explained in D.P.U. 25-10/D.T.C. 25-1, self-help remedies should not be allowed in the power space.

Furthermore, the EDCs strongly oppose being required to have a minimum number of authorized contractors who can perform survey work in the power space. Working in the power space is inherently dangerous. To protect the workers and the public, the EDCs have established

rigorous requirements for those who perform survey work in the power space. There are only a limited number of engineers and contractors who are qualified to perform survey work in the power space. Specifically, extensive training, and knowledge of the EDCs' standards is required for an individual to be qualified to perform survey work in the power space. The standards for who is qualified to perform survey work in the power space should not be lowered. Establishing an arbitrary minimum number of authorized contractors who can perform survey work in the power space could have the effect of lowering these standards. Because of the importance of ensuring safety and reliability, maintaining rigorous minimum qualifications for contractors who perform survey work in the power space is much more important than maintaining an arbitrary minimum number of contractors who can perform survey work in the power space.

Lastly, the EDCs do not offer any comment on the contractor lists to be provided by Verizon and or the impact these proposed regulations would have Verizon collective bargaining employees.

M. Section 45.12

In this section, overlashing is discussed. The EDCs concur with the proposed changes to this section as it relates to identification tags for overlashing. As explained in Section 45.04, identification tags are necessary and should be required. Also, in their applications, all attachers should submit strand maps and pole loading results when overlashing. This would allow the EDCs to obtain information to ensure adherence to the NESC clearances of 12" spacing. The EDCs would also note a concern that overlashing may lead to pole overloading.

N. Section 45.13

In this section, the proposed regulations address the terms and conditions required by pole owners. The EDCs concur that pole owners can "not establish rates, terms or conditions related to attachment applications or attachment agreements which conflict with applicable state laws or

these regulations." However, there may be instances, which are in the public interest, where the Departments may want to grant the EDCs more flexibility or latitude to negotiate alternative terms and conditions. For example, for the approximately 11,000 individuals in unserved or underserved locations, the Departments could wish to give the EDCs flexibility to negotiate alternative terms and conditions in order to expedite broadband deployment for these targeted areas. Also, there could be situations where an EDC needs to give a municipality more flexibility in relation to its broadband deployment plans. Municipal entities are not as sophisticated as private sector broadband licensees.

Furthermore, because situations necessitating alternative terms and conditions may require expeditious action, the EDCs do not support the concept that pole owners cannot use different standards on proposed attachers by contract without prior approval by the Departments. The process by which the EDCs could obtain such approval is not spelled out in these regulations, nor is it likely to be speedy. Instead, the current situation where EDCs enter into pole attachment agreements with licensees without pre-approval of the Departments should continue. If at some future date, a licensee alleges that the terms in a pole attachment agreement conflict with state laws or the pole attachment regulations or are not in the public interest, the Departments can address the issue through the complaint process.

Lastly, because the Departments' proposed regulation in Section 45.13 prohibits pole owners from establishing rates and terms which conflict with state law or the Departments' regulations, the EDCs recommend that the Departments should retain in Section 45.08 the specific language regarding payments by municipal licensees being made after the make-ready work is completed so as to avoid any unnecessary confusion or litigation.

O. Section 45.14

In this section, the proposed regulations allow for non-binding alternative dispute resolution ("ADR"). The EDCs concur that prior to the filing of a formal dispute, non-binding ADR can be a means to resolve differences between various parties. In general, ADR could be applicable to any dispute encompassed by these proposed pole attachments and requested by any pole owner or licensee. The ADR process utilized for distributed generation in Section 9.0 of the Standards for Interconnection of Distributed Generation tariff ('DG Tariff') should serve as model. Under the DG Tariff, one party submits a request in writing to the other party for ADR, and the dispute is reviewed by senior management of the parties. If the dispute cannot be resolved after 8 days, then a party to the dispute can request ADR by submitting a written request to the Departments appointed mediators. One staff member from each Department would be assigned to mediate the ADR dispute. Consistent with Distributed Generation Interconnection, D.P.U. 11-75-E, the respondent would have 10 business days to respond in writing. The mediators would investigate claims within 20 business days. The investigation could include additional oral or written communications between the mediators and either or both parties. The mediators could also choose to request further information from either party or extend the period of investigation. At the end of the investigation, the mediators would advise the parties in writing of their proposed resolution, which would be non-binding. If the parties do not accept the recommendation of the Departments appointed mediators, then further meditation could be requested by either party. If the mediation is not successful, then a party could file a formal complaint. The D.P.U. has recognized that its DG ADR process "has received positive feedback from many stakeholders" and was "an unqualified success". Distributed Generation Interconnection, D.P.U. 11-75-F, at 11

(2014). Therefore, the EDCs recommended that the Departments use the DG ADR model for the pole attachment ADR process.

P. Section 45.15

In this section, there are changes to the formal complaint process. The EDCs have no objections to the proposed changes to this section. Furthermore, the EDCs do not have any suggested changes to the Draft Amended and Restated Memorandum of Agreement.

Q. Section 45:16

In this section, affiliates are discussed. The EDCs have no comments on the proposed changes to this section.

R. Section 45.17

In this section, reporting requirements and website postings are mandated. At the outset, the EDCs recognize the potential usefulness of the information the Departments have requested to be submitted annually in informational filings. However, the EDCs would note there are some issues with the information requested in the proposed regulations. First, the proposed Section 45.17(1)(a)(3)(2) would require the filing of data which could reveal competitively sensitive information for attachers involving their operational practices and broadband deployment plans. Second, it is challenging to fully track all the work performed during the pole attachment process because of its stop-and-go nature do events and actions beyond the control of the EDCs. These actions and events may make it difficult for existing systems to properly report. The information could also lead to unnecessary confusion and create a distorted impression of the performance of EDCs when aspects of the pole attachment process is affected by events and actions beyond the control of the EDCs. Third, in some instances, the EDCs could only provide estimates, such as expected competition dates, which would reduce the accuracy and usefulness of the information.

Fourth, compiling the requested information would be administratively burdensome and costly and require substantial manual effort.

Lastly, the EDCs request that these informational filings be required to start after the first year that the new pole attachments are in effect. Currently, the proposed regulations indicate that these informational filings would need to be filed starting on July 1st. Assuming these proposed regulations go into effect after July 1, 2026 but by January 1, 2027, the EDCs would need to submit these informational filings on July 1, 2027. However, the information provided in these July 1, 2027 reports would reflect data and information from 2026, a time period prior to these proposed regulations going into effect. The information provided on July 1, 2027 would not give a complete picture of the impact of the proposed regulations. For example, it would not show whether licensees elected OTMR and whether the utility approved the OTMR because OTMR would likely have gone into effect until late in 2026. Also, to more easily track the information the Departments requested, the EDCs need to make changes to their software. These changes will not be completed until sometime late in 2026. Therefore, to provide the information to the Departments requested in this section for 2026 would require the staff of the EDCs to manually compile this information. Therefore, it would be more efficient and the information provided more relevant if the informational filings required under this section began on July 1, 2028 rather than July 1, 2027.

S. Section 45:18

This section discusses severability. The EDCs have no comments on the proposed changes to this section.

IV. CONCLUSION

The EDCs appreciate the opportunity to provide the DPU and DTC with these Initial Comments and look forward to further engagement on these various topics.

Respectfully submitted by:

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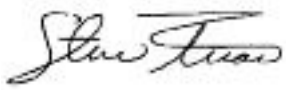

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Dated: May 12, 2026