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May 11, 2026

Kerri DeYoung Phillips and Scott Seigal, Hearing Officers  
Department of Public Utilities  
One South Station, 3rd Floor  
Boston, MA 02110

William Bendetson and Kevin Roberts, Hearing Officers  
Department of Telecommunications and Cable  
1000 Washington Street, Suite 600  
Boston, MA 02118

Re: Submission of written comments by OpenCape Corporation  
D.P.U. 26-10/D.T.C. 26-1, D.P.U. 25-10/D.T.C. 25-1

Dear Officers DeYoung Phillips, Seigal, Bendetson and Roberts,

OpenCape Corporation is a Massachusetts nonprofit corporation that operates an ultra-fast fiber optic network connecting Cape Cod, southeastern Massachusetts, and Rhode Island to Boston, Providence, and beyond. Spanning 500+ route miles at 400-800 Gbps capacity with a 99.999% SLA, we serve key institutions in the region such as Southcoast Health, Cape Cod 5 Bank, Joint Base Cape Cod, Massachusetts Maritime Academy, Woods Hole Oceanographic Institution, essential public safety services in 15 municipalities on Cape Cod, and hundreds of other businesses in over 50 municipalities that depend on us as critical infrastructure. We are a registered federal vendor and defense contractor. OpenCape will be a key partner in Broadband Equity Access and Deployment (BEAD) funded deployments as well as other municipal broadband initiatives that enable affordable, high-speed internet in underserved communities across the region.

OpenCape is a competitive, regionally focused attacher that regularly seeks pole attachments from publicly owned utilities and telecom companies. We have experienced firsthand the challenges that these proposed regulations seek to address. OpenCape also operates under federally mandated open-access obligations as a condition of grant funding received under the Broadband Technology Opportunities Program (BTOP), administered by the National Telecommunications and Information Administration (NTIA), requiring OpenCape to provide nondiscriminatory wholesale access to our backbone infrastructure. We therefore understand



access obligations from both sides: as an attacher seeking timely, fair access to pole infrastructure, and as an open-access operator required to extend that same principle to others. This dual perspective gives us a direct and substantial interest in this joint rulemaking, and we strongly support the Departments' efforts to update and modernize 220 CMR 45.00.

OpenCape strongly supports the proposed revisions to 220 CMR 45.00. The scaled application-size categories, One-Touch Make-Ready (OTMR) option, self-help remedies, contractor-list requirements, and enhanced transparency and annual reporting provisions will materially accelerate broadband deployment while preserving safety and reliability. These changes align with best practices from the Federal Communications Commission and peer New England states and will particularly benefit nonprofit and municipal-partnered projects like ours that advance the Commonwealth's goals. We also support the Draft Amended and Restated Memorandum of Agreement and encourage the Departments to adopt optional, non-binding alternative dispute resolution (ADR) mechanisms prior to formal complaints.

### **Specific Provisions OpenCape Strongly Supports**

*Application-Size Categories and Scaled Timelines (220 CMR 45.06, 220 CMR 45.08, and Appendix C)*

We endorse the new definitions as proposed.

The 60-day "combine multiple applications" rule and the shorter clocks for small and regular orders perfectly match OpenCape's typical projects. No advance notice or meet-and-confer is required for small and regular orders, which eliminates unnecessary pre-filing burdens.

*One-Touch Make-Ready (OTMR) Option (220 CMR 45.09)*

Expanding OTMR eligibility to small, regular, and mid-sized orders, which are simple make-ready applications (with the new licensee performing communications space work after utility approval) is a material improvement in speed and cost control. The 30-day completion window provides clear accountability while protecting utility oversight.

*Self-Help Remedies (220 CMR 45.08)*

The ability for new licensees (including municipalities and nonprofits) to use the utility's approved contractors when timelines are missed is essential. We appreciate that this remedy applies to survey and communications space make-ready work.

*Annual Informational Filings and Website Postings (220 CMR 45.17)*

Requiring utilities to post contractor lists, rates, templates, and detailed application data publicly will reduce information asymmetries and support evidence-based complaints, creating transparency for all.

*Municipal and Government-Funded Accommodations (220 CMR 45.08)*



We support the proposed notice-in-lieu-of-upfront-payment language for qualifying municipal and municipal light projects and urge the Departments to finalize it without weakening.

### **Requested Modifications and Additional Recommendations**

While the proposal is overwhelmingly pro-deployment, we respectfully request the following targeted clarifications and enhancements to ensure the rules do not inadvertently favor larger, better-resourced players:

#### *Approved Contractor Lists (220 CMR 45.11)*

Utility control over contractor qualification could create barriers for smaller attachers.

We request:

- Clear, objective criteria for approval (insurance, licensed in Massachusetts, safety compliance, experience).
- A mandatory minimum of 3–5 qualified contractors per utility (or a statewide pre-qualified list).
- A 10-business-day timeline for utilities to act on contractor addition requests, with expedited DPU/DTC appeal for denials.
- Explicit allowance for municipal or nonprofit self-performance (or use of trusted long-term partners) where safety standards are met.

These changes would implement the Departments' request for comment on "a sufficient amount of eligible contractors" and "whether the electric and telephone utilities should include a minimum number."

#### *Advance Notice and Meet-and-Confer (220 CMR 45.07)*

The 45- and 90-day pre-filing requirements for midsize, large, and very-large orders are reasonable for major builds. However, for government-funded or BEAD projects (even mid-sized), we ask for a streamlined safe-harbor template and optional (not mandatory) meet-and-confer when no conflicts are anticipated. This would prevent unnecessary delays in time-sensitive, publicly funded deployments.

#### *Pole Replacements and Double Poles*

The proposed regulations do not address pole replacements. We recommend the Departments extend the framework to include scaled timelines for pole-replacement estimates and completion (or penalties/temporary boxing options) and stronger coordination with existing double-pole removal requirements under G.L. c. 164, § 34B.

#### *Overlapping (220 CMR 45.12)*

We support the safety guardrails but request that existing licensees' own overlapping be deemed approved if no response is received within 15 days, further streamlining the process.



### *Very Large Orders*

We support negotiated timelines but request default fallback to Large-Order clocks if negotiations stall in good faith.

### *Small Cell, Wireless Densification, and Neutral Host Attachments*

OpenCape requests that the Departments confirm that the revised framework, including the scaled timelines, One-Touch Make-Ready (OTMR), and self-help remedies, applies equally to small cell and Distributed Antenna System (DAS) attachments. As pole infrastructure becomes increasingly critical for wireless densification alongside fiber deployment, neutral host arrangements (in which a single attacher serves multiple wireless carriers) are particularly well-suited to underserved rural and coastal communities and to OpenCape's open-access nonprofit model. We ask the Departments to clarify that: (1) neutral host attachers qualify as eligible licensees under the regulations; (2) shared infrastructure arrangements do not require separate applications for each end-carrier; and (3) utilities may not impose additional burdens or requirements solely because an attachment serves multiple wireless providers.

### **Conclusion**

OpenCape applauds the Departments for this comprehensive and forward-looking proposal. With the modest modifications outlined above, the final regulations will significantly reduce pole-access delays, lower costs, and accelerate broadband deployment across the Commonwealth, particularly in rural and coastal areas served by nonprofits and municipal partners.

We appreciate the opportunity to comment and are happy to participate in the virtual public hearing on May 27, 2026, or provide additional information. Please contact the undersigned with any questions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Pete Saladino', with a long horizontal flourish extending to the right.

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