BROOKLINE
DEPARTMENT OF PUBLIC WORKS

Erin Chute, Commissioner
Town Hall, 4th Floor
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Memorandum

To: Department of Public Utilities and the Department of Telecommunications and Cable:
From: Erin Chute, Commissioner of Public Works
Date: May 11, 2026
Re: D.P.U. 26-10 / D.T.C. 26-1
Comments from the Town of Brookline Regarding Proposed Revisions to 220 CMR 45.00
Cc: Chas Carey, Town Administrator
Mark Mansfield, Permit Inspector

The Town of Brookline submits these comments on the proposed revisions to 220 CMR 45.00 from the perspective of a municipality that actively manages a complex, high-density public right-of-way with significant transportation, utility, pedestrian, accessibility, streetscape, tree, and public safety demands.

Brookline appreciates the Departments' effort to modernize these regulations. The Order makes clear that the proposed amendments would be the most substantial revision to these rules in more than 40 years and would broaden the regulations from a largely complaint-based framework to one that establishes statewide access terms, duties of utilities and attachers, improved coordination with government authorities, and annual reporting requirements.

Brookline strongly supports modernization of the regulations only if the final rules clearly preserve and strengthen municipal protection of the public right-of-way. In a municipality like Brookline, utility pole and attachment activity affects not only telecommunications deployment, but also pavement management, sidewalk accessibility, drainage, traffic operations, street lighting, tree protection, emergency response, business district access, public notice, and long-range capital planning. The Order itself recognizes that the proposed rules are intended to ensure "greater collaboration and coordination" among utilities, municipal attachers, requesting attachers, and the government authorities that oversee or authorize work in the public right-of-way.

Brookline also notes that municipal concerns in this docket are not isolated. The Order confirms that comments were submitted not only by the Massachusetts Municipal Association, but also by individual municipalities and municipal departments, including Cambridge, Nantucket, Bernardston Highway Department, Billerica DPW, Falmouth DPW, and Medford DPW, as well as the Cape Light Compact on behalf of multiple member communities. That record demonstrates a broad municipal concern across the Commonwealth: local governments need stronger tools, clearer notice, better data, and enforceable accountability from pole owners and attachers.

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Brookline respectfully urges the Departments to adopt the following principles and requirements in the final regulations.

1. Municipal notice must be mandatory, early, and specific.
Brookline strongly supports the proposal to improve communications and coordination with "appropriate government authorities." The final regulations should require advance written notice to the municipality before any pole attachment work, make-ready work, transfer work, pole replacement, or related occupancy of the public right-of-way begins. That notice should identify the location, purpose, affected poles, expected construction dates, traffic impacts, expected restoration, and the responsible utility and contractor. In particular, the Town requests that the final regulations expressly require:

- advance notice of any planned pole replacement;
- advance notice of any expected traffic disruption or lane/sidewalk occupation;
- advance notice of any work affecting municipal attachments, streetlights, signs, signals, cameras, or other municipal infrastructure; and
- advance notice of any work requiring municipal permits, police details, or municipal coordination.

This is fully consistent with the Departments' stated intent to require coordination with state and local officials who manage, authorize, and license work in the ROW.

2. The regulations should expressly require notice of every double pole installation.
Brookline believes the final regulations should go further and require specific notice to the municipality whenever a double pole is created. That notice should include:

- the pole number and exact location;
- the date the double pole was installed;
- the reason for installation;
- the utility and all attachers with work remaining;
- the expected transfer schedule;
- the statutory deadline for removal; and
- the projected removal date for the original pole.

For municipalities, the creation of a double pole is not a minor internal utility event. It is the beginning of a public safety, accessibility, and streetscape issue in the public way. If municipalities are expected to manage resident complaints, school route impacts, sidewalk obstructions, and conflicts with paving or capital work, they must be informed when the double pole is created, not months later when removal has stalled.

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The Order repeatedly recognizes that timely double-pole removal is a key municipal concern and discusses possible reforms, such as greater NJUNS participation and a single-visit transfer process. Brookline urges the Departments to add a double-pole creation notice as an explicit requirement in the final rules.

3. Full municipal control over public right-of-way permitting and sequencing must be preserved.
The Town supports broadband expansion and efficient attachment access, but the final regulations must make clear that state attachment timelines do not override municipal permitting, traffic management, police detail requirements, moratoria, restoration standards, or sequencing of work in the public right-of-way.

The Order acknowledges that the proposed rules are intended to work alongside authorizations from "appropriate government authority" and notes the Departments' effort to balance make-ready timelines with advance notice and governmental authorizations. Brookline strongly supports that concept and asks the Departments to state expressly that nothing in the regulations diminishes municipal authority over the public right-of-way.

4. Utilities and attachers must be responsible for full restoration to municipal standards.
Brookline urges the Departments to make clear that any utility or attacher disturbing pavement, sidewalks, curbing, tree roots, landscaped areas, markings, drainage structures, or other municipal assets must restore the affected area to full municipal standards. In a built-out municipality, repeated narrow patching and incomplete restoration materially damage public assets and increase long-term municipal costs.

The public right-of-way is a local capital asset. Utilities using it should not be permitted to externalize the costs of degraded pavement, shortened roadway life, ADA issues, or repeated excavation impacts onto municipalities.

5. Double poles must be tracked publicly and removed promptly.
Brookline strongly supports stronger obligations that lead to faster double-pole removal. The proposed duties for licensees and attachment owners, including participation in NJUNS and timely completion of work after notice, are important steps. But the final regulations should go further and require:

- public utility reporting of newly created double poles;
- reporting of outstanding double poles by municipality;
- identification of the party responsible for the remaining transfer;

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- removal of aging categories; and
- escalation procedures when deadlines are missed.

The Order itself notes that municipalities have identified ongoing delays in double-pole removal, which are a significant concern. Brookline urges the Departments to use this rulemaking to create a real accountability structure.

6. Annual reporting should include municipality-specific data.
Brookline strongly supports the proposed annual informational filings and website postings. Those filings should include, at a minimum:

- number of pending applications by municipality;
- average application review times;
- make-ready completion times;
- number of pole replacements by municipality;
- number of newly installed double poles by municipality;
- number of outstanding double poles by municipality and age;
- number of attachments lacking proper tags or owner identification; and
- complaint and dispute metrics.

The Departments note that these reporting concepts are similar to requirements used by the New York PSC. New York, in fact, moved in 2024 to strengthen its pole attachment rules and reporting framework, which supports Massachusetts doing the same.

7. NJUNS participation should be meaningful, not merely nominal.
Brookline supports required participation in NJUNS or any successor system, provided the system produces accurate and actionable information for municipalities. The Order notes that the Departments expect NJUNS participation to facilitate more timely and efficient attachment processes and more timely double-pole removals. The final regulations should require complete, up-to-date, municipality-accessible records sufficient to identify ownership, responsibility, and status for poles and attachments affecting local ROW management.

8. The final rules should include strong ADR and complaint mechanisms for municipalities.
Brookline supports a practical ADR path only if it is fast, transparent, and does not delay relief. The Order explains that the Departments are considering ADR to allow stakeholders to resolve disputes before formal complaints. Municipalities need an efficient avenue to escalate issues involving unsafe poles, lingering double poles, unauthorized work, inadequate notice, deficient restoration, failure to coordinate, and unresolved disputes affecting local operations.

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9. Brookline urges the Departments to learn from other jurisdictions, but to preserve Massachusetts municipal protections.

The Order states that the Departments considered approaches from other reverse-preemption states, including New York, Maine, Vermont, and Connecticut. Brookline agrees that Massachusetts should learn from those examples. Connecticut's PURA has pursued a single-visit transfer process for double poles, and New York has adopted stronger reporting and oversight of pole attachments. But Massachusetts should not import streamlined utility access at the expense of municipal authority over the public way.

10. State enforcement must be strong because municipalities cannot be left without protection.

Brookline respectfully notes an important legal reality. In *Boston Edison Co. v. Town of Bedford*, the Supreme Judicial Court held that local penalties for failure to remove double poles were preempted and that statewide enforcement under G.L. c. 164, § 34B rests with the state absent contrary legislation. The Order itself cites *Boston Edison Co. v. Town of Bedford*, 444 Mass. 775 (2005), in discussing double poles. Because municipalities cannot simply fine their way out of this problem, the Departments should use this rulemaking to impose clear, enforceable notice, reporting, and removal obligations.

For all of these reasons, Brookline respectfully requests that the final regulations:

1. require advance notice to municipalities for pole work, make-ready work, pole replacement, and work affecting municipal infrastructure;
2. require explicit notice of double pole installation and projected removal date;
3. preserve full municipal authority over the public right-of-way, including permitting, traffic management, restoration, and sequencing;
4. require full restoration to municipal standards;
5. establish stronger accountability and transparency for double-pole removal;
6. require meaningful annual reporting with municipality-specific data; and
7. provide prompt ADR and complaint procedures that municipalities can realistically use.
8. Institute penalties that are high enough to ensure compliance. We're concerned that a $100 initial fine and $100 per thirty day delay thereafter may not be strong enough incentive to ensure all removals are timely. The means for enforcement and penalties should be clear.
9. We support the idea of a single crew for all transfers allowing all transfers to happen in a single mobilization.

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The Town of Brookline supports efficient and fair access to utility poles, but not at the expense of local public safety, infrastructure integrity, accessibility, or municipal governance of the public right-of-way. The public right-of-way is a municipal asset held in trust for the public. Utilities and attachers using that space must do so under rules that are transparent, enforceable, and fully respectful of municipal authority and community impact.

Thank you for the opportunity to comment.