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VIA E-FILE

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Department of Telecommunications and Cable
One Federal Street, Suite 0740
Boston, MA 02110-2012

Massachusetts Department of Public Utilities
One South Station, 3rd Floor
Boston, MA 02110

Re: D.P.U. 26-10/D.T.C. 26-1; D.P.U. 25-10-A/D.T.C. 25-1-A
Reply Comments of Gateway Infrastructure, LLC d/b/a Gateway Fiber

Dear Hearing Officers:

Enclosed please find Reply Comments of Gateway Infrastructure, LLC d/b/a Gateway Fiber on Proposed Rulemaking.

Questions regarding this filing may be directed to undersigned counsel for the Company.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert J. Munnely, Jr.' with a stylized flourish at the end.

Robert J. Munnely, Jr.

RJM/ew
Encl.

Cc: Kerri Phillips, MA DPU (kerri.phillips@mass.gov - via email w/encl.)
Scott Seigal, MA DPU (scott.seigal@mass.gov - via email w/encl.)
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**DEPARTMENT OF PUBLIC UTILITIES
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

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-A/D.T.C. 25-1-A

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.

**REPLY COMMENTS OF GATEWAY INFRASTRUCTURE, LLC
D/B/A GATEWAY FIBER ON PROPOSED RULEMAKING**

Introduction

Gateway Infrastructure, LLC d/b/a Gateway Fiber (“Gateway Fiber” or “Company”) is a provider of competitive fiber optic Internet and telecommunications services to residential and business customers in many states, including Massachusetts. Gateway Fiber submitted Initial Comments on May 12, 2026 (“Gateway Comments”) regarding the issues raised in the predecessor Notice of Inquiry in Dockets DPU 25-10 and DTC 25-1 and the instant rulemaking proceeding in Dockets DPU 26-10 and DTC 26-1 (“Proceedings”), each initiated by the Department of Telecommunications and Cable (“DTC”) and the Department of Public Utilities (“DPU”) (collectively “Departments”). Gateway Fiber also has reviewed initial comments filed by other stakeholders on issues raised in the Proceedings, including the specific proposed revisions to the longstanding 220 CMR 45.00 regulations governing processes and complaint procedures for pole attachments, ducts, conduit, and rights of way in the Commonwealth

(“Proposed Rules”). Gateway Fiber has also reviewed the transcript of the May 27, 2026 Public Hearing held in this proceeding. Based on its review, Gateway Fiber offers the following reply comments on issues raised by stakeholders in the above-captioned inquiry and rulemaking proceedings.

Reply Comments of Gateway Fiber

I. THE DEPARTMENTS SHOULD SHORTEN AND CLARIFY TIMELINES FOR COMPLETING SURVEYS, MAKEREADY AND SERVICE INSTALLATIONS.

As noted in the Gateway Comments (at p. 2), Gateway Fiber supports the Departments’ efforts in these proceedings to shorten time periods required to install or modify communications and other facilities on or under Massachusetts poles, underground conduit and/or rights-of-way as a way to strengthen competition for communications services that benefit Massachusetts residents and businesses. Based on review of stakeholder comments on the Proposed Rules, Gateway Fiber supports a close review by the Departments of the Proposed Rules to shorten and clarify the timelines for processing and completing work on applications for installation of new communications services installations.

Many stakeholder initial comments, especially those submitted by the New England Connectivity and Telecommunications Association (“NECTA Comments”), CRC Communications, LLC, d/b/a GoNetspeed (“GNS Comments”), Zayo Group and CrownCastle (“Zayo/CC Comments”) and The Advanced Communications Law & Policy Institute at New York Law School (“ACLP Comments”), argue that the Proposed Rules will extend deployment timelines in Massachusetts well in excess of those permitted under frameworks adopted in all neighboring state-certified jurisdictions in the Northeast and under the Federal Communications

Commission (“FCC”) pole attachment rules applicable to more than 25 other states nationally.¹ Additionally, the commenting parties mentioned above raise additional issues that are likely to lead to even more delays beyond the already excessively generous timelines in the Proposed Rules.² These additional issues include, but are not limited to:

- The Proposed Rules’ use of a proposed 60-day filing window for combining applications for purposes of calculating application quantity based timelines, rather than the 30-day standard established by the FCC rules and guidelines of other states, would add an automatic minimum one-month delay to applications requiring access to more than 5,000 poles and add ambiguity and confusion to the determination of which pole applications fell within which size categories for purpose of determining deployment timelines;³
- the current problematic provisions in the Proposed Rules that would allow pole owners to pause attachment timelines while attempting to recover costs from existing licensees for correcting pre-existing non-compliant conditions - which can add weeks or months to deployment timelines;⁴ and

¹ See, e.g., GNS Comments at pp. 6-14; NECTA Comments at pp. 10-14; Zayo/CC Comments at pp. 2-5; ACLP Comments at pp. 4-10 & attachments. See also Public Hearing Testimony of witnesses from GNS, NECTA, Open Cape and Ripple Fiber (arguing for shorter and better-defined deployment timelines) & NECTA Public Hearing attachments (Executive Summary of NECTA principal arguments and analysis of timeline issues).

² See NECTA Comments at pp. 3-5 (stating “[t]he Proposed Rules introduce numerous procedural steps, ambiguous timelines, and expansive provisions allowing timeline deviations that, taken together, would result in deployment periods that are significantly longer than those under the [FCC’s] rules or the rules of neighboring states where many of the same utilities and contractors already operate” and providing illustrative timelines for possible delays).

³ See, e.g., GNS Comments at pp. 7-8; NECTA Comments at pp. 6-10.

⁴ See, e.g., GNS Comments at p. 9.

- the “good cause” exception for utilities to self-elect timeline extensions is too vague and could easily be overused or abused to extend the already long proposed timelines.⁵

Based on all of these concerns, Gateway Fiber recommends that the Department closely review the timeline recommendations and related issues in the Proposed Rules and strive to develop shorter and less ambiguous timeline standards with fewer opportunities for extension of the already overly generous deadlines.

II. THE DEPARTMENTS SHOULD RECONSIDER OR SUBSTANTIALLY REVISE THE ADVANCE NOTICE AND MEET AND CONFER REQUIREMENTS.

As noted in the Gateway Comments (at pp. 3-4), Gateway Fiber opposes the flawed provisions in the Proposed Rules to require a mandatory 90-day advance pre-application notice, plus meet and confer requirements, applicable to all new license applicants, utilities, existing attachers and local or state government agencies potentially involved in large facilities builds. The Gateway Comments noted that both types of procedural provisions – i.e., advance notice to all potentially relevant parties and mandatory meet and confer requirements - lengthen already long deadlines, are likely to involve excessive additional financial and human costs to the new licensees, and are subject to potential abuse by competitors of the applicant.⁶ Gateway Fiber requests that these provisions be reconsidered in full or substantively changed.

These advance notice and broad meet and confer obligation provisions were objected to on similar grounds by other commenting parties as being unprecedented in nearby states, unjustified, excessive and competitively harmful. Gateway Fiber concurs. For all of these reasons, the Department should reconsider or substantially revise advance notice and multiple

⁵ See, e.g., NECTA Comments at pp. 30-32.

⁶ See *id.*

requirements for meet and confer communications involving all entities potentially affected by proposed installations of new communications facilities.⁷ To the extent the Departments seek to retain these rules in at least some capacity, Gateway Fiber would request to limit any advance notice only to the affected utilities and expressly omit attachers or municipalities who may be planning competitive builds of their own. Alternatively, or additionally, the Departments can, at minimum, adopt strict confidentiality provisions similar to those in place in California and Maine to limit opportunities for misuse by competitors of sensitive licensee information.⁸

III. OTHER ISSUES.

Stakeholders offered certain other comments that Gateway Fiber recommends for consideration in this proceeding by the Departments, including the following:

- **Makeready Process Cleanup.** The NECTA Comments include a detailed explanation of issues and possible delays caused by the confusing aspects revised makeready process established in the Proposed Rules at 220 CMR 45.08(4) that does not start contemporaneously with makeready payments.⁹ NECTA's points are well taken and Gateway Fiber requests that the Department address the issues raised in the final regulations.
- **Complaint Process Reform.** Gateway Fiber agrees with the comments of several parties that the proposed complaint process is both too lengthy and lacks

⁷ See, e.g., GNS Comments, pp. 30-31 (highlighting the importance of ensuring confidentiality of sensitive information submitted by licensees during the application process in order to protect against "misuse[] for competitive intelligence or marketing purposes by entities that compete directly with the requesting attacher"); NECA Comments, pp. 15-20 (highlighting likely delays caused by unworkable mandatory meet and confer and advance notice requirements and competitive concerns associated with existing attachers gaining "inappropriate insight into the applicant's deployment plans, route priorities, and buildout schedule" through these processes).

⁸ See, e.g., GNS Comments, at pp. 30-32.

⁹ NECTA Comments at pp. 23-25.

an expedited or “rapid response” process for resolving time sensitive disputes that have been adopted in both FCC and other states’ proceedings.¹⁰

- **Incorporation into the Rules of Alternative Construction Techniques.** The Proposed Rules do not include or codify the DTC’s heavily litigated findings in Docket DTC 22-4 that attachers should be able to use specified alternative construction techniques that meet National Electrical Safety Code standards on a limited basis subject to specified safety conditions as stated in the DTC 22-4 Decision.¹¹ These techniques were found to be used by pole owners in the field and should not be denied to attachers that meet the specified preconditions for use as a matter of nondiscriminatory access. They should be codified in the final Rules.

¹⁰ GNS Comments, pp. 34-35, 38; *see* NECTA Comments at pp. 35-40 (requesting accelerated response process similar to those adopted at FCC and in Maine); *see also* CTIA Public Hearing Testimony (emphasizing importance of implementing a rapid response process for resolving disputes).

¹¹ GNS Comments, at pp. 27-29.

Conclusion

Gateway Fiber appreciates the Departments' efforts at seeking to improve and streamline the longstanding Massachusetts pole attachment rules jointly administered by the Departments. As noted in the Gateway Comments and herein, Gateway Fiber asks that the Departments reconsider many of the provisions in the Proposed Rules and seek to achieve instead a set of regulations with clear, enforceable deadlines that move applications efficiently from submission to survey, make-ready, and installation. Gateway Fiber also requests changes to avoid potential competitive misuse associated with information required to be disclosed under the Proposed Rules.

Respectfully submitted,

**GATEWAY INFRASTRUCTURE, LLC
D/B/A GATEWAY FIBER**

By its attorney,



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