Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Public Notice Regarding Reverse Preemption	WC Docket No. 17-84
States that Have Certified That They Regulate Pole Attachments	WC Docket No. 10-101

REPLY COMMENTS OF THE MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE AND THE MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

COMMONWEALTH OF MASSACHUSETTS

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I. INTRODUCTION

As the agencies sharing jurisdiction over pole attachment and conduit access matters in the Commonwealth of Massachusetts,[1] the Massachusetts Department of Telecommunications and Cable ("MDTC") and the Massachusetts Department of Public Utilities ("MDPU") (jointly, the "Departments")[2] appreciate the opportunity to jointly comment on the Public Notice released by the Federal Communications Commission ("FCC" or "Commission") in the above-referenced

[1] Massachusetts has been a reverse-preemption state since 1978. 47 U.S.C. § 224(c); M.G.L. c. 164, § 32; M.G.L. c. 166, § 25A; 220 CMR 45.00; Letter from Kajal Chattopadhyay, General Counsel, MDTC, to Marlene Dortch, Secretary, FCC, WC Docket No. 10-101 (August 25, 2010) ("MA 2010 Letter to FCC"), *available at* https://www.fcc.gov/ecfs/search/search-filings/filing/6015952782; Letter from Paul F. Levy, Chair, Department of Public Utilities, to James M. Talens, General Attorney, FCC, WC Docket No. 10-101 (September 1, 1978), *available at* https://www.fcc.gov/ecfs/document/6015603014/1.

[2] Pursuant to each agency's delegated authority in Massachusetts: (1) the MDTC has general supervision and jurisdictional authority over telecommunications and cable television companies operating within the state, and is tasked with the development of statewide policy with, and informing the work of, the Massachusetts Broadband Institute; and (2) the MDPU has general supervision and jurisdictional authority over gas, water, and electric utilities, pipelines, and transportation industries, among other duties, and is tasked with prioritizing for itself and the entities it regulates safety, security, reliability, affordability, equity, and reductions in greenhouse gas emissions. See generally M.G.L. Chapters 25, 25C, 159, 164 through 166, 166A.

dockets on June 11, 2026.[3] Our comments are consistent with and informed by the initial comments submitted by other reverse-preemption states, among others.[4]

The FCC requests comment on "the current status of reverse-preemption state regulation and jurisdiction over pole attachments, as well as the Commission's jurisdiction in the face of incomplete or inadequate state regulation."[5] It notes that "reverse-preemption states play a key role in access to poles for the deployment of communications equipment" while also stating that "[i]t is imperative" that these states "follow the requirements laid out in the [Communications] Act [of 1934, section 224, as amended] and in the Commission's rules to (1) issue and make effective rules and regulations implementing the state's regulatory authority over pole attachments; (2) regulate the rates, terms, and conditions of the pole attachments; and (3) establish procedures for resolving pole access complaints."[6] The FCC inquires whether and, if so, how it may review whether the pole attachment regulatory requirements in reverse-preemption states are "effective" and ensure that attachers in these states are not subject to

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[3] *Wireline Competition Bureau Reminds Reverse-Preemption States of Obligation to Effectively Regulate Pole Attachments and Seeks Comment on Need for Changes to the Commission's Certification Rules to Ensure Effective State Pole Attachment Regulation,* WC Docket Nos. 17-84, 10-101, Public Notice, DA 26-579 (June 11, 2026) ("Public Notice").

[4] See generally, e.g., WC Docket Nos. 17-84, 10-101, Arkansas Public Service Commission Comments, California Public Utilities Communication Comments, Connecticut Public Utilities Regulatory Authority Comments, Maine Connectivity Authority Comments ("Maine Comments"), New York Public Service Commission Comments, Ohio Public Utilities Commission Comments, and Washington Utilities and Transportation Commission Comments (each addressing Congressional intent and the FCC's jurisdictional authority under 47 U.S.C. § 224, as well as providing information on state-specific pole attachment activities and/or requirements); see also National Rural Electric Cooperative Association Comments and Edison Electric Institute Comments (both addressing Congressional intent and the FCC's jurisdictional authority).

[5] Public Notice at 2.

[6] Public Notice at 3.

unnecessary costs and delay for broadband infrastructure projects due to "incomplete or inadequate" state regulation.[7]

The Departments support the FCC's commitment to ensuring that attachers are not subject to unnecessary costs and delay for their broadband infrastructure projects, as discussed in further detail below. Reverse-preemption states such as Massachusetts are best positioned to understand local conditions, and state utility commissions, like the Departments, are uniquely equipped to evaluate and weigh the interests of telecommunications and cable television subscribers, as well as electric utility service customers in their states.[8] For that reason, the FCC should avoid modifying more than 40 years of practice and interpretation of legislative intent regarding Congressional usage of the term "made effective" currently in 47 U.S.C. § 224(c)(3)(A) and the Commission's adoption of the same language in 47 CFR § 1.1405(b)(3).

The Departments also are writing to inform the FCC that the Departments are currently engaged in a rulemaking process to substantively update the pole attachment regulations in Massachusetts. Like the Commission, the Departments and the Commonwealth fully recognize and support the benefits of robust, universal, and effective access to broadband and advanced telecommunications services.[9] In this, the Commission and state public utility commissions and

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[7] Public Notice at 5.

[8] See 47 U.S.C. 224(c)(2)(B).

[9] See, e.g., *In re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion,* GN Docket No. 22-270, 2024 Section 706 Report, at 131 (March 18, 2024). In Massachusetts, 98.7% of residents had access to fixed 100/20 Mbps including fixed wireless. This is the second-best statewide deployment in the country.

other governmental authorities have historically been and should continue to be collaborative partners.[10] Our ongoing rulemaking is intended to advance this shared policy goal.

II. CONGRESS HAS EXPRESSLY LIMITED THE COMMISSION'S JURISDICTION OVER POLE ATTACHMENT MATTERS

In 1978, Congress enacted the Pole Attachment Act, which established section 224 of the Communications Act of 1934 ("section 224").[11] Since its enactment, section 224, *inter alia*, granted the FCC jurisdiction over pole attachment rates, terms, and conditions for cable television systems, including the authority to hear and resolve related complaints. At the same time, Congress made clear that "[n]othing in this section shall be construed to apply to, or give the Commission jurisdiction" over pole attachments "where such matters are regulated by a [s]tate" and the state certified such to the Commission. As a result, a version of the reverse-preemption provision of section 224 has been in place for nearly 50 years.

In 1984, Congress enacted the Cable Communications Policy Act ("1984 Act").[12] The 1984 Act, in part, expanded upon the parameters of the reverse-preemption requirements by specifying that a state was not considered to be regulating pole attachments "unless the [s]tate has issued and *made effective* rules and regulations implementing the State's regulatory authority over pole attachments" (emphasis added). In discussing the proposed amendment, the House Energy and Commerce Committee explained that, under this language, "in order for a state to be

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[10] See, e.g., 47 U.S.C. § 254 (universal service requirements); 47 U.S.C. § 410(a) ("the Commission may refer any matter arising in the administration of this chapter to a joint board"); *In re: Federal-State Joint Conference on Advanced Telecommunications Services*, CC Docket No. 99-294, Order, FCC 99-293 (October 8, 1999) (establishing the Federal-State Joint Conference on Advanced Telecommunications Services); FCC Advisory Committees webpage, *available at* https://www.fcc.gov/about-fcc/advisory-committees-fcc; see also WC Docket Nos. 17-84, 10-101, Maine Comments at 4.

[11] Pole Attachment Act of 1978, Pub. L. No. 95-234, 92 Stat. 33.

[12] Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779.

considered and regulating pole attachments, the state must actually establish and implement rules governing the regulation of pole attachments . . ."[13] In other words, in order for reverse-preemption states to retain and/or certify their jurisdictional authority, Congress intended the "made effective" provision of section 224 to require that states have pole attachment regulations *in effect*.

The 1996 Telecommunications Act ("1996 Act") modified section 224 by expanding (1) the FCC's authority to regulate non-discriminatory access to utility poles, (2) the application of this section to telecommunications providers, and (3) "the preemptive authority of states to match the expanded scope of the Commission's jurisdiction."[14] The FCC explained that, while Congress expanded section 224 to access issues, "*Congress' clear grant of authority to the states to preempt federal regulation in these cases undercuts the suggestion that Congress sought to establish federal access regulations of universal applicability*" (emphasis added).[15] The FCC further conveyed that "state and local requirements affecting attachments are entitled to deference even if a state has not sought to preempt federal regulations under section 224(c)" unless a local requirement directly conflicts with an FCC rule.[16]

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[13] Cable Franchise Policy and Communications Act of 1984, *Report of the Committee on Energy and Commerce together with Additional and Separate Views on H.R. 4103*, 98th Congress, 2d Session, Report 98-934, at 96 (August 1, 1984).

[14] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, § 703; *In re: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket Nos. 96-98 and 95-185, First Report and Order, FCC 96-325, ¶¶ 815, 1232 (August 8, 1996) ("Local Competition Order").

[15] Local Competition Order, ¶¶ 818, 1238.

[16] Local Competition Order, ¶ 1154.

Until the issuance of the Public Notice, at no time did the FCC suggest that it contemplated an alternative interpretation of the "made effective" provision of section 224(c). Congress clearly intended for a state's regulation of pole attachment rates, terms, and conditions to reverse-preempt FCC jurisdiction, requiring a state to take only three actions to assert jurisdiction: (1) certify with the Commission that it regulates pole attachment rates, terms, and conditions and considers the interests of subscribers of the services offered by the attachments as well as those of the consumers of utility services; (2) ensure that it has rules and regulations *in effect* implementing the state's regulatory authority over pole attachments; and (3) take final action on any complaint within 180 days or, if prescribed, within 360 days. In this scenario, the FCC's only role is to receive certification from a state.[17] The FCC has no express statutory authority to approve, deny, or otherwise scrutinize such certifications. Where a state has executed the steps above, section 224 neither explicitly mandates nor implicitly authorizes the FCC to evaluate or preempt state rules. To determine otherwise would be contrary to decades of practice and precedent.

Further, to date, the FCC has implemented numerous revisions to its pole attachment regulations applicable only to states where the FCC's rules apply. At no time, to date, would the reverse-preemption states have been on notice or obligated to invest resources and time to respond to these actions. As a result, the FCC's current regulations are currently informed, primarily, by utilities and attachers in federal-default states and, thus, do not appropriately reflect considerations applicable to reverse-preemption states and relevant local conditions.

[17] See 47 U.S.C. § 224(b)(1), (c).

Finally, in response to the FCC's statement that a state's pole attachment regulation can "become a roadblock to . . . deployment if a state adopts a pole attachment regime that is incomplete or unclear or fails to adopt pole attachment regulations in the first instance,"[18] the Departments urge the FCC to not limit its review to pole attachment regulations per se. A state's rules may exist in administrative orders and case law, for instance, rather than through specific regulations.[19] Moreover, many state commissions have processes in place enabling stakeholders to pursue changes to pole attachment requirements. For instance, the Departments review petitions for rulemaking.[20] As such, particular regulations should not be viewed in isolation.

III. REVERSE-PREEMPTION BENEFITS CONSUMERS BECAUSE EACH STATE BEST UNDERSTANDS LOCAL CONDITIONS

Congress enacted the reverse-preemption provision of section 224 because it understood that each state best understands its own needs, resources, and local conditions. The Departments recognize and appreciate the Commission's dedication to accelerating the buildout of next-generation infrastructure, particularly through the Broadband Equity, Access, and Deployment ("BEAD") Program. For this and other programs to be successful, attachers must be able to access utility poles in an efficient timeframe, avoiding significant delays. In addition to potential regulatory guidance, this requires sufficient pre-planning, collaboration, and coordination, not

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[18] Public Notice at 3.

[19] See, e.g., *In re: Joint Inquiry and Rulemaking on Pole Attachments and Related Considerations*, D.P.U. 26-10/ D.T.C. 26-1/D.P.U. 25-10-A/D.TC. 25-1-A, Order Instituting Joint Rulemaking and Further Inquiry on Memorandum of Agreement ("MDPU/MDTC Order Opening Rulemaking") at 34-35 (citing to pole attachment requirements, with links, implemented by Connecticut, Maine, New Hampshire, New York, and Vermont), *available at* https://d3i1pf1zzeh4ol.cloudfront.net/82d8b9a8-8fd7-460c-9793-800f2a4fb0a9.pdf.

[20] 207 CMR 2.00 *et seq.*; 220 CMR 2.00 *et seq.*; see also *Petition of CRC Communications, LLC d/b/a GoNetSpeed for a Rulemaking Proceeding to Amend 220 CMR 45.00: Pole attachment, duct, conduit, and right-of-way complaint and enforcement procedures*, D.P.U. 24-188/D.T.C. 24-5, Closing Memorandum (March 11, 2025), *available at* https://d3i1pf1zzeh4ol.cloudfront.net/89f35447-6093-4f74-b6dd-f21d30e5e2ab.pdf.

only between utilities and attachers, which the Commission has recognized,[21] but also any government authorities that own or control public rights-of-way, to enable all affected entities to appropriately plan their own projects and delegate resources.

The Departments agree that pole attachment rules should facilitate broadband deployment and ensure access to poles for deploying communications equipment.[22] However, a one-size-fits-all set of rules would not serve the best interests of residents and businesses in reverse-preemption states, which span all regions of the country–from densely populated northeastern states like Massachusetts and New York to more rural states in the south like Louisiana or Alaska in the west. Each state is unique in its size, population density, resources, technological capabilities and availability, traffic and weather patterns, the number of existing attachments and attachers on poles, its ability to attract competition and lower prices for consumers, and the extent to which its residents already have access to high-quality broadband, among other considerations. A one-size-fits-all pole attachment framework ignores these differences; and these unique characteristics reinforce the need for innovation at the state level that leverages the expertise of state regulators.

Massachusetts differs from many states in that approximately 90 percent of the more than 1.3 million utility poles in the Commonwealth are jointly owned by electric utilities and a single telephone utility.[23] Moreover, pole attachment requirements and regulations in Massachusetts

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[21] *In re: Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84, Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking, and Orders and Reconsideration, FCC 25-38, ¶¶ 14, 16 (July 25, 2025).

[22] Public Notice at 3.

[23] See MDPU/MDTC Order Opening Rulemaking at 7 (citations omitted); contrast with *In re: Accelerating Wireline and Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket Nos. 17-84

apply to poles owned by municipal lighting plants ("MLPs"), in addition to investor-owned electric utilities and the telephone utility, and the state's pole attachment statute applies to a broader range of attachments.[24] Approximately 40 MLPs provide electric service to more than 50 municipalities in the state.[25] In total, Massachusetts has 351 cities and towns, many of which are much more densely populated than most areas of the country. As such, often due to traffic considerations, many municipalities understandably require traffic mitigation plans for pole work conducted on or along public rights-of-way. Many municipalities also require coordination and planning in relation to planned roadway and paving projects.

Utility poles and conduit in more urban areas often have eight or more attachments and attachers that must be accounted for in the attachment process, including streetlights, municipal fire wire, meters for devices, cameras, smart city devices, street signs, and risers, in addition to electric and communications attachments.[26] Risers, in particular, are often used on Massachusetts utility poles. Risers are best described as a conduit or pipe attached to utility poles that safely route and conceal cables – such as fiber optics, cable television, or electrical lines – as they transition from underground installations up the pole to the overhead aerial lines. Pole

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and 17-79, Third Report and Order and Declaratory Ruling, FCC 18-111, ¶¶ 124-126 (August 3, 2018) ("[t]he record clearly demonstrates that incumbent [local exchange carrier] pole ownership continues to decline").

[24] See M.G.L. c. 166, § 25A; MDPU/MDTC Order Opening Rulemaking at 6 (citations omitted).

[25] See MDPU webpage, *Find My Electric, Gas, and Water Company*, *available at* https://www.mass.gov/info-details/find-my-electric-gas-and-water-company.

[26] See D.P.U. 25-10/D.T.C. 25-1, *Technical Session Topic 1: Technical, Safety, and Engineering Considerations for Pole Attachments*, Electric Distribution Company presentation slides, with visuals, at 4-7, *available at* https://d3i1pf1zzeh4ol.cloudfront.net/a862aed4-f41b-47cf-ace6-00452dc67c7b.pdf; and Verizon presentation slides, with visuals, at 4, *available at* https://d3i1pf1zzeh4ol.cloudfront.net/8ad0c5b3-7033-48a0-9888-66db88e63468.pdf. Additional presentation materials are available through the docket file, *available at* https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets/docket/12913, with additional technical session agenda items, *available at* https://www.mass.gov/event/utility-pole-row-infrastructure-tech-sessions-dpu-25-10-06-23-2025.

replacement with an existing riser requires trenching and digging up pavement along or through existing rights-of-way. These more urban areas as well as elsewhere in the Commonwealth also often intersect with or include railroad rights-of-way, areas over which the Commission has no jurisdiction.[27] These more urban rights-of-way also often include dedicated public transit lanes, bus stops, dedicated bicycle lanes, and sidewalks for pedestrian traffic.[28] Pole attachment rules must take account of these kinds of local conditions to ensure public safety and minimize disruption to transportation corridors.

The Commonwealth recognizes that broadband has become an essential infrastructure in almost every facet of daily life, and the need for access is critical.[29] This need became amplified during the COVID-19 pandemic, exposing physical and monetary barriers to broadband access and adoption.[30] Such infrastructure is also essential to facilitate and realize the full benefits of electric grid modernization efforts taking place in the Commonwealth.[31] Since 2008, the Commonwealth has dedicated substantial time, energy, and funding towards high-speed broadband deployment in unserved and underserved areas throughout the state, as well as to facilitate new competitive overbuilds.[32] Additionally, the Commonwealth, through the

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[27] See 47 U.S.C. § 224(a)(1); D.P.U. 25-10/D.T.C. 25-1, Massachusetts Bay Transportation Authority Comments at 1 (May 8, 2025), *available at* https://d3i1pf1zzeh4ol.cloudfront.net/f732ef73-74cc-45fb-884b-79b0b690cb31.pdf.

[28] See, e.g., D.P.U. 26-10/D.T.C. 26-1, City of Brookline Department of Public Works Comments at 1 (May 11, 2026), *available at* https://d3i1pf1zzeh4ol.cloudfront.net/cf1e2490-c757-4ced-8a4b-d5ab4bd4d0d0.pdf.

[29] MDPU/MDTC Order Opening Rulemaking at 10-11.

[30] MDPU/MDTC Order Opening Rulemaking at 11.

[31] MDPU/MDTC Order Opening Rulemaking at 11, 37.

[32] As of 2025, approximately 11,000 individual locations remained unserved or underserved in Massachusetts. In contrast, several areas of the state have at least two broadband providers, including Verizon and cable television

Massachusetts Broadband Institute, remains engaged and active in deploying federal funding to bridge the digital divide within the state. To facilitate this work, the Departments are updating pole attachment regulations as described below.

IV. MASSACHUSETTS RULEMAKING UPDATE

In response to the FCC's inquiries, and consistent with other reverse-preemption state comments and past practice,[33] the Departments provide the following update relating to the Commonwealth's regulation of pole attachments. As a preliminary matter, as conveyed through the state's 2010 letter, the MDPU and MDTC share jurisdictional authority over pole attachment matters.[34] Our shared pole attachment regulations are codified at Title 220 of the Code of Massachusetts Regulations, Sections 45.00 *et seq*.

On January 17, 2025, the Departments opened an inquiry requesting comments and input on an extensive array of topics and questions related to utility pole attachment, conduit access, double pole, and related considerations applicable to utility work conducted on public rights-of-way in the Commonwealth.[35] We expressed our intent to open a separate rulemaking to update the agencies' shared regulations based on the comments and data received in response to that

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competitors, as well as municipal-owned networks. Additional municipalities are exploring deployment of their own municipal-owned broadband networks. See MDPU/MDTC Order Opening Rulemaking at 39, 50.

[33] See, e.g., MA 2010 Letter to FCC; Letter from Margaret Caezza, Telecommunications Specialist, Department of Public Utilities, to Margaret Wood, Esq., FCC, WC Docket No. 10-101 (May 21, 1985), *available at* https://www.fcc.gov/ecfs/document/6015603027/1 (responding to FCC inquiry regarding determinations on the reasonableness of pole attachment rates); Letter from John F. Nestor, III, Director, Telecommunications Division, Department of Public Utilities, to Margaret Wood, Esq., FCC, WC Docket No. 10-101 (January 10, 1985), *available at* https://www.fcc.gov/ecfs/document/6015603022/1 (responding to FCC letter requesting that Massachusetts certify that it has issued pole attachment rules and regulations). For a more comprehensive discussion of our jurisdictional history and delegations of authority, refer to the MDPU/MDTC Order Opening Rulemaking at 5-10.

[34] *Supra* n.1.

[35] See generally D.P.U. 25-10/D.T.C. 25-1, Order Opening Inquiry (January 17, 2025), *available at* https://d3i1pf1zzeh4ol.cloudfront.net/82daefa4-de9d-4e75-ae0a-884b2e45369a.pdf.

inquiry. On June 18, 2025, after initial comments were filed, the Departments released for comment a redlined version of 220 CMR 45.00 et seq. prepared by the Department of Telecommunications and Cable.[36]

The Departments received comments and data from numerous stakeholders, including: (1) from several state entities; (2) the Massachusetts Municipal Association ("MMA"), on behalf of its 351 municipal members; (3) individually from 20 MLPs that provide electric services or electric and telecommunications or broadband services[37] and four broadband-only MLPs that provide broadband service; (4) individually from six municipalities and/or municipal officials; (5) the Cape Light Compact JPE (the "Compact") on behalf of its member communities; (6) the Commonwealth's three investor-owned electric distribution companies ("EDCs"), NSTAR Electric, National Grid, and Unitil; (7) Verizon, as the Commonwealth's primary utility pole owner and traditional telephone utility that serves all but a handful of municipalities in Massachusetts; (8) AT&T, as a conduit owner; (9) industry associations, including (a) the New England Connectivity and Telecommunications Association ("NECTA") on behalf of its cable television and broadband provider members, including Comcast, Charter Communications, Cox Communications, and Breezeline, and (b) CTIA – The Wireless Association ("CTIA") on behalf of its wireless communications industry and mobile ecosystem members; (10) multiple competitive telecommunications broadband providers, including GoNetSpeed; and (11) entities

[36] D.P.U. 25-10/D.T.C. 25-1, Memorandum at 1, 3 (June 18, 2025).

[37] The Departments define these types of MLPs as those that provide electric service and generally own utility poles and conduit in their service territories. Certain of these MLPs also offer telecommunications, broadband, or other services. MDPU/MDTC Order Opening Rulemaking at 13 n.8.

that addressed targeted inquiries from the Department relating to pole-mounted and right-of-way EVSE.

As part of the inquiry, the Departments conducted four days of technical sessions from June 23 through June 26, 2025, covering many topics.[38] The Departments and interested stakeholders and members of the public, received topic-specific presentations from Verizon and jointly from the EDCs, NECTA, GoNetspeed, CTIA, and the Compact. Each of these entities, the MMA, and the Departments participated in in-depth, technical discussions. Additionally, on August 13, 2025, staff from both Departments participated in a focus group session generously facilitated by MMA to discuss utility pole matters and related municipal concerns. Staff from the MDPU provided a background presentation on the issue, which was followed by discussions with attendees. More than 40 municipal officials in roles ranging from public works and MLP employees to select board and finance committee members participated.

Between July 2025 and March 2026, staff from both MDTC and MDPU met regularly to discuss takeaways from the technical sessions and MMA session, written stakeholder comments, actions by the FCC and other states to streamline pole attachment processes, and to contemplate a draft set of revisions to 220 CMR 45.00 et seq.

On March 6, 2026, through the joint issuance of an Order, the Departments jointly opened a rulemaking, docketed as D.P.U. 26-10/D.T.C. 26-1, seeking comment on jointly-proposed revisions to the shared regulations. The agencies also sought further comment on: (1) a

[38] The technical sessions addressed the following topics: (1) technical, safety, and engineering considerations for pole attachments; (2) right-of-way planning and coordination with municipalities, MassDOT, and public safety; (3) attachment applications, survey, and make-ready work and associated costs; (4) the National Joint Utilities Notification System; (5) double poles; (6) the Massachusetts Formula and inputs; (7) MOA and dispute resolution; and (8) EVSE. D.P.U. 25-10/D.T.C. 25-1, Memorandum on the Technical Session Agenda and Guidelines for Participation (May 8, 2025).

draft Amended and Restated Memorandum of Agreement ("MOA") to be entered into by the agencies; and (2) potential, non-binding alternative dispute resolution provisions that could be implemented by the Departments. The Departments' proposed revisions to 220 CMR 45.00 *et seq.* were informed by Massachusetts-specific considerations regarding pole attachments. Massachusetts also considered recent activities applicable in other states, including regulations implemented by the FCC, to facilitate additional broadband and advanced telecommunications deployment. The agencies' proposals were also informed by the extensive comments, data, and input received by the Departments during our joint inquiry proceeding. Since the inception of the rulemaking, the Departments received valuable feedback from numerous stakeholders with an initial comment deadline (May 12, 2026), a public hearing (May 27, 2026), and a reply comment deadline (June 11, 2026).[39] Additionally, numerous municipalities, some of which operate MLPs, commented and participated in the public hearing. The rulemaking remains pending, as the Departments consider how to incorporate public comment into the final regulations. Once the regulations are finalized, the Departments plan to submit notice of the updated regulations to the FCC via docket WC Docket No. 10-101. The Departments anticipate sending notice of the final regulations before the end of 2026.

V. CONCLUSION

In sum, the FCC does not have express authority to evaluate the "adequacy" or "effectiveness" of pole attachment regulations of reverse-preemption states. To do so would be counter to more than 40 years of practice and interpretation of legislative intent. Additionally, the

[39] The stakeholders that commented included electric distribution company pole owners like National Grid and Eversource, telecommunications pole owners like Verizon, attachers (primarily represented through NECTA) and other fiber providers such as GoNetspeed and Ripple Fiber.

FCC's current regulations are informed, primarily, by the experience and needs of utilities and attachers in federal-default states and, thus, do not appropriately reflect considerations applicable to reverse-preemption states and relevant local conditions. Given the myriad ways that states effect pole attachment policy beyond promulgated regulations, the FCC should not limit its lens or review to pole attachment regulations that a reverse-preemption state may have in place.

Lastly, reverse-preemption states like Massachusetts understand local conditions and requirements and are therefore best equipped to address the pole attachment needs of their residents. Massachusetts is currently engaged in a rulemaking process to update the manner in which it regulates pole attachments, taking into account extensive feedback received from local stakeholders.

The Departments thank the Commission for the opportunity to comment.

Respectfully submitted,

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