

December 9, 2015

VIA ELECTRONIC FILING AND FEDERAL EXPRESS

Sara Clark
Secretary
Department of Telecommunications and Cable
1000 Washington Street
Suite 820
Boston, MA 02118-6500

Re: **Department Reg Review
220 C.M.R. 5.00**

Dear Ms. Clark:

We are writing this letter in lieu of Reply Comments on behalf of the New England Cable & Telecommunications Association, Inc. ("NECTA")¹ in connection with the Department of Telecommunication and Cable's ("Department" or "DTC") November 7, 2015 Notice Seeking Comment On Hearing Officer Recommendation (the "Notice") regarding the above-referenced regulation.

The Notice sought comment on several issues, including the following:

- (1) Whether the Department should implement baseline requirements for M.G.L. c. 159, § 19F filings; and if the Department adopts Section 19F regulations?
- (2) What, if anything, should be included in electronic notices to the Department pursuant to Section 19F?
- (3) What format should the online postings take?
- (4) How should the Department account for contract service arrangements?²

NECTA concurs with the initial Comments filed by AT&T Corp. ("AT&T") and Verizon New England Inc., d/b/a Verizon Massachusetts ("Verizon") regarding the questions relating to Section 19F. Section 19F allows common carriers to post rates, terms and conditions on their

¹ NECTA is a nonprofit organization and trade association that represents the interests of most cable television and cable-based telecommunications providers in the New England region in legislative and regulatory proceedings.

² Notice at 1-2.

AM 56390779.1

websites as an alternative to filing tariffs. By its express terms, Section 19F is intended to rid carriers of the historical regulatory obligations imposed by Section 19.³ To impose Section 19-type tariff filing requirements would not only be contrary to the express provisions of Section 19F, but also the objectives underlying the reason for the Department's current review.

The Department's review of the regulations was mandated and must be guided by Executive Order 562 *To Reduce Unnecessary Regulatory Review* (the "Order").⁴ The overarching purpose of the Order was for each state agency to undertake a review of its regulations in order to reduce their number, length, and complexity. The Order was intended to remove unnecessary regulatory burdens, not to serve as a vehicle for the adoption of new requirements.

There is no evidence that carriers are failing to comply with the website-posting requirement set forth in Section 19F. As stated by Verizon, "[t]here is no demonstrable need to regulate the precise manner in which a service provider may post the terms of its retail service on the website under M.G.L. c. 159, § 19F, and thereby free[ing] those services from the old tariffing requirement of § 19."⁵ The Department should not seek to adopt a regulatory solution to a problem that doesn't exist. To do so would be in direct conflict with the objectives of the Order.

NECTA also agrees with AT&T and Verizon that there is no need to adopt formal rules regarding contract service agreements ("CSAs").⁶ CSAs were originally regulated pursuant to the Department's 2004 notice on the subject.⁷ Section 19F then supplemented the Department's requirements by eliminating the need for carriers to account for all rates, terms and conditions once posted on the carrier's website. Indeed, Section 19F expressly allowed a common carrier to withdraw any CSAs previously filed with the Department upon notice of posting. The imposition of rules reversing these express statutory provisions would be at odds with the statute, contrary to the purpose of the Order, and represent a regulatory step backwards.

Accordingly, NECTA joins AT&T and Verizon in their requests that the Department maintain the current provisions of 220 C.M.R.5.00 discussed herein for the above-stated reasons.

³ See, M.G.L. c. 159, § 19F ('a telecommunications carrier may post on its website the rates, terms and conditions upon which it offers service *notwithstanding the requirements of Section 19.*'). (Emphasis added).

⁴ See, NECTA Comments, October 20, 2015.

⁵ See, Verizon Comments at 1; See also, AT&T Comments at 3.

⁶ See, AT&T Comments at 3-4; Verizon Comments at 5-6.

⁷ See, Letter to Massachusetts Telecommunications Carriers from Michael Isenberg, Director – Telecommunications Division re: Use of Contract Service Arrangements *(April 6, 2004)

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Please do not hesitate to contact either of us should you have any questions regarding this submission.

Very truly yours,



David W. Bogan

Paul R. Cianelli
President
New England Cable & Telecommunications
Association, Inc.
Ten Forbes Road, Suite 440 W
Braintree, MA 02184
Tel: 781-843-3418
pcianelli@necta.info

DWB/dw

cc: Kerri DeYoung Phillips (Kerri.DeYoung@state.ma.us)