



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### NOTICE OF FILING AND REQUEST FOR COMMENTS

D.P.U. 20-TD-01

January 27, 2021

Petition of the Massachusetts Department of Transportation to the Department of Public Utilities, pursuant to G.L. c. 160, § 98, for an exemption from the vertical height requirements for certain bridges in connection with the planned development of buildings on Massachusetts Turnpike Air Rights Parcel 7, Phase II.

On December 23, 2020, the Department of Public Utilities ("Department") received a petition from the Massachusetts Department of Transportation ("MassDOT"), pursuant to G.L. c. 160, § 98 ("§ 98"), seeking an exemption from the vertical height requirements for several bridges in connection with the planned development of buildings by IQHQ Fenway Center Tenant, LLC on Massachusetts Turnpike Air Rights Parcel 7, Phase II, located between Beacon Street and Brookline Avenue over the Massachusetts Turnpike (the "Parcel"). The Department has docketed this petition as D.P.U. 20-TD-01.

In its petition, MassDOT states that the Parcel includes air rights over railways owned by MassDOT and used by Amtrak, the Massachusetts Bay Transportation Authority ("MBTA"), and CSX. MassDOT states that the development will consist of 720,000 gross square feet of mixed-used space, which will include office, laboratory, retail, restaurant, and accessory parking. MassDOT describes the proposed development's effect on existing railroad tracks as follows: (1) for approximately 345 linear feet from Beacon Street to the east end of Lansdowne Station the proposed project will cover the remaining portion of the track corridor that was left uncovered by the Fenway Center Phase 1 and Lansdowne Station projects; (2) for approximately 255 linear feet from the east end of Lansdowne Station east toward Brookline Avenue the proposed project will cover the north track and platform; and (3) for the remainder of the length to Brookline Avenue, approximately 95 linear feet, the proposed development will cover the full width of the track corridor.

In its petition, MassDOT states that the deck over the tracks is proposed to be galvanized structural steel framing with a composite concrete slab on galvanized steel deck with a minimum vertical clearance over the rail of 16 feet, 9 inches. MassDOT states that it established the minimum clearance for the project in collaboration with the MassDOT Rail and Transit Division. MassDOT states that clearances up to 18 feet, 10 inches are achieved to the east as the track elevation drops and where the deck structure depth is at a minimum. MassDOT states that the minimum clearance matches the clearance provided at the existing edge girder of the Beacon Street Bridge, and exceeds the clearances provided at both the

interior girders of the Beacon Street Bridge and at all conditions below the Brookline Avenue Bridge. MassDOT states that the minimum clearances will not interfere with rail operations and will otherwise provide sufficient clearance for existing and anticipated passenger and freight rail car traffic.

Pursuant to § 98, no bridge shall be constructed over a railroad track at a height of less than 22 feet, six inches without the Department's approval. Accordingly, the Department will review and determine the propriety of MassDOT's petition, including whether an exemption from the vertical height clearance requirement will affect existing and anticipated rail car access and is consistent with public safety.

Any person interested in commenting on MassDOT's filing may submit written comments to the Department no later than the close of business (5:00 p.m.) on **Wednesday, February 10, 2021**. At this time, all filings will be submitted only in electronic format in recognition of the difficulty that parties and the Department may have filing and receiving original copies due to the state of emergency and ongoing limitations related to the COVID-19 pandemic. Ordinarily, all parties would follow Sections B.1 and B.4 of the Department's Standard Ground Rules (D.P.U. 15-184-A, App. 1 (March 4, 2020)); however, until further notice, parties must retain the original paper version and the Department will later determine when the paper version must be filed with the Department Secretary.

Any person who desires to participate otherwise in the evidentiary phase of this proceeding shall file a petition for leave to intervene no later than 5:00 p.m. on **Wednesday, February 10, 2021**. A petition for leave to intervene must satisfy the timing and substantive requirements of 220 CMR 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 CMR 1.01(4). To be allowed, a petition under 220 CMR 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10. All responses to petitions to intervene must be filed by the close of business (5:00 p.m.) on the fifth business day after the petition to intervene is filed.

All documents must be submitted to the Department in **.pdf format** by e-mail attachment to [dpu.efiling@mass.gov](mailto:dpu.efiling@mass.gov) and [jennifer.cargill@mass.gov](mailto:jennifer.cargill@mass.gov). The text of the e-mail must specify: (1) the docket number of the proceeding (D.P.U. 20-TD-01); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic file name should identify the document but should not exceed 50 characters in length. Importantly, all large files submitted must be broken down into electronic files that do not exceed 20 MB. All documents submitted in electronic format will be posted on the Department's website through our online File Room as soon as practicable (enter "20-TD-01") at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber>. In addition, one copy of all written comments and petitions to intervene should be emailed to MassDOT's attorney, Hildy Feuerbach, Esq., [hildy.feuerbach@dot.state.ma.us](mailto:hildy.feuerbach@dot.state.ma.us). To the extent a member

of the public is unable to send written comments by e-mail, a paper copy may be sent to Mark D. Marini, Secretary, Department of Public Utilities, One South Station, 5th Floor, Boston, Massachusetts, 02110.

At this time, a paper copy of the filing will not be available for public viewing at MassDOT's offices or the Department due to the state of emergency. The filing and all subsequent related documents, pleadings and/or filings submitted to the Department and/or issued by the Department will be available on the Department's website as referenced above as soon as is practicable. To the extent a person or entity wishes to submit comments or intervene in accordance with this Notice, electronic submission, as detailed above, is sufficient. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact the Department's ADA coordinator at [DPUADACoordinator@mass.gov](mailto:DPUADACoordinator@mass.gov).

For further information regarding MassDOT's filing, please contact MassDOT's counsel, Hildy Feuerbach, Esq., at (857) 368-9564 or [hildy.feuerbach@dot.state.ma.us](mailto:hildy.feuerbach@dot.state.ma.us). For further information regarding this notice, please contact Jennifer Cargill, Hearing Officer, Department of Public Utilities, at [jennifer.cargill@mass.gov](mailto:jennifer.cargill@mass.gov).