



COMMONWEALTH OF MASSACHUSETTS

Department of Telecommunications and Cable

1000 Washington Street, Suite 820, Boston, MA 02118

(617) 305-3580

www.mass.gov/dtc

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

JAY ASH
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

JOHN C. CHAPMAN
UNDERSECRETARY

KAREN CHARLES PETERSON
COMMISSIONER

October 06, 2015

Department of Telecommunications and Cable Regulation Review Pursuant to Executive Order
No. 562 To Reduce Unnecessary Regulatory Burden

NOTICE SEEKING COMMENT
HEARING OFFICER RECOMMENDATION
220 C.M.R. 77.00 VOTING TRUST CERTIFICATES OF PUBLIC UTILITIES

By Executive Order No. 562, dated March 31, 2015, the Governor's Office directed each Executive Agency, including the Department of Telecommunications and Cable ("Department"), to undertake an immediate review of its regulations.¹ These reviews must be generally concluded by March 31, 2016, and may result in rescission or revision of certain regulations.² As Title 220 has been assigned to the current Department of Public Utilities ("DPU"), the Department intends to promulgate its own version of the regulations and any revision thereto under Title 207, as appropriate.³ If the Department finds a Title 220 regulation unnecessary to the exercise of its jurisdiction it will not seek to promulgate its own version of the regulation in Title 207.

The Hearing Officer having reviewed the regulatory history of 220 C.M.R. 77.00, Voting Trust Certificates of Public Utilities recommends that the Department not promulgate its own version of the regulation in Title 207. 220 C.M.R. 77.00 was adopted in 1944 to clarify the then Department of Public Utilities' construction of the Sale of Securities Act, Chapter 110A of the General Laws in the Tercentenary Edition of the General Laws, with regards to the sale of voting trust certificates by corporations owning or operating a railroad or other public service utility.⁴ The regulation was adopted pursuant to the Department of Public Utilities authority under the

¹ See Office of the Governor, Commonwealth of Massachusetts, Executive Order No. 562 (Mar. 31, 2015) ("Executive Order").

² *Id.*, § 2.

³ See Request for Comment and Notice of Listening Session at 2; n.5. The Department is reviewing each regulation individually and does not preclude the possibility it may be appropriate to retain joint jurisdiction over a regulation under Title 220 and not promulgate its own version under Title 207.

⁴ See Department of Public Utilities, D.P.U. 7239, Order of the Department relating to voting trust certificates of public utilities at 1-2 (Nov. 22, 1944).

Sale of Securities Act.⁵ The General Court replaced the Sales and Securities Act with the Uniform Securities Act in 1972.⁶ Responsibility for administration of the new chapter was transferred from the Department of Public Utilities to the Secretary of the Commonwealth.⁷ While the enacting legislation contained a saving clause to retain administrative orders affecting registration still effective under the Sale of Securities Act,⁸ the regulation is not mandated by current law or necessary to the fulfillment of the Department's duties. Accordingly, the Department seeks comment on the Hearing Officer's recommendation to not promulgate its own version of 220 C.M.R. 77.00, Voting Trust Certificates of Public Utilities, in Title 207.

The Department seeks comment on these preliminary hearing officer recommendations so that it may address any stakeholder concerns before the Department adopts a formal proposal. Comments should be submitted to the Department on or before **October 20, 2015**. In the interest of efficiency, the Department strongly encourages electronic filing. Interested stakeholders may submit written concerns or recommendations to the assigned Hearing Officer's email address Michael.Scott@state.ma.us and to dtc.efiling@state.ma.us. Comments may also be mailed in hard copy to the Department at:

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

Submittals should include the name, title, and telephone number of a person to contact in the event of questions about the filing. **Please be sure to reference "Department Reg Review" and 220 C.M.R. 77.00 in the subject line of all submissions.** Note that all filings submitted to the Department are subject to disclosure pursuant to G. L. c. 66, § 10, unless protected by statutory exemption. All comments will be posted to the Department's website.

For questions about this Notice, contact Hearing Officer Michael Scott at (617) 368-1114 or Michael.Scott@state.ma.us.

⁵ *Id.* at 1
⁶ *See* Acts and Resolves of 1972 c. 694.
⁷ *Id.* § 2-5.
⁸ *Id.* § 7.