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Matthew Carlin, Commissioner
Department of Public Safety
Commonwealth of Massachusetts
One Ashburton Place
Boston, MA 02108

Dear Commissioner Carlin:

Verizon New England, Inc. ("Verizon") joins National Grid and others in providing comments pursuant to the invitation on the Department of Public Safety ("DPS") website regarding the hoisting machinery regulations (520 CMR 6.00).

More specifically, Verizon believes the most recent modification of the regulations reaches beyond what the Massachusetts Legislature intended. Also, the most recent modification creates new costs and unnecessary burdens on companies that have proven track records of safely operating hoisting equipment. And finally, Verizon believes the modified regulations are in conflict with the Governor's Executive Order 562 which requires all departments and agencies in the Commonwealth to reduce unnecessary regulatory burdens.

Regarding the legislative intent of the statute upon which the modified regulations are founded, it must be noted that the previous regulations more closely adhered to such intent by providing a specific exemption for utility companies. The exemption allowed these companies, which have been successfully and safely using hoisting equipment for decades, to utilize their proven expertise in order to manage hoisting operations in a safe and efficient manner. And much of the safety and efficiency was gained by having the management role regarding hoisting operations at each utility concentrated in one state-licensed supervisor who had full knowledge and control of such operations.

This centralized structure worked well for many years. But DPS has suggested that the most recent modification to the regulations requires that every employee at each utility who may work with hoisting equipment must obtain a state-issued license. This seems contrary to the legislative

intent because the statue actually provides that each utility may establish an in-house training program that allows employees to obtain a utility-issued license, rather than a state-issued license.

Since the statute provides that each utility may issue utility-issued licenses, the legislative intent and the actually letter of the law argue in favor of DPS issuing a license to a supervisor at each utility, and then the utility training additional employees who may earn a utility-issued license. To require each employee at the utility to obtain a state-issued license would be contrary to the legislative intent, and would also be inefficient and very costly, and a complete reversal of successful, safe and long-standing industry practices. Indeed, the added costs would detract from the utilities' ability to invest in network upgrades and other new technologies that would increase the Commonwealth's competitiveness in this very challenging economy.

Furthermore, in times of emergency when new utility poles must be installed, whether because of vehicular accidents that compromise existing poles or severe weather that brings down multiple poles on a single street or across a wide geographic area, the utilities need to be able to field a large force in order to respond effectively. Restricting the availability of licensed employees to only those with a state-issued license will reduce the utilities' ability to respond to such emergencies.

The legislative intent of the statue and the interests of the Commonwealth will be furthered by acknowledging that each utility needs only one supervisor with a state-issued license, and that supervisor may oversee an in-house training program that provides employees with utility-issued licenses. The most recent modification of these regulations and DPS's interpretation of the modification, which tend to increase costs and administrative burdens that are potentially harmful to the Commonwealth, should be reconsidered.

Also of great importance is that the most recent regulations are in conflict with Section 3 of Executive Order 562 which requires an Agency to demonstrate that:

(a) there is a clearly identified need for governmental intervention that is best addressed by the Agency and not another Agency or governmental body;
(b) the costs of the regulation do not exceed the benefits that would result from the regulation;
(c) the regulation does not exceed federal requirements or duplicate local requirements;
(d) less restrictive and intrusive alternatives have been considered and found less desirable based on a sound evaluation of the alternatives;
(e) the regulation does not unduly and adversely affect Massachusetts citizens and customers of the Commonwealth or the competitive environment;
(f) the Agency has established a process and a schedule for measuring the effectiveness of the regulation; and
(g) the regulation is time limited and provides for regular review. [1]

While well intended, the most recent regulations in 520 CMR 6.00 do not meet the criteria above and therefore are not justified. For instance, regarding the criteria in sub-section (a), in this case

[1] Executive Order 562, March 31, 2015

there is no identified need for government intervention beyond that which already existed. Since the utility exemption was first adopted by the Legislature in 1991, utilities have successfully trained thousands of their own workers on the safe operation of diggers and derricks, so adding additional regulatory costs and burdens represents an unnecessary governmental intervention.

In fact, since 2001 utilities have removed approximately 100,000 poles in Massachusetts and placed similar numbers of new poles to accommodate local, state and federal highway projects and upgrades to the state's electric and communications networks. This work has been completed in both good weather conditions and in emergency restoration conditions following storms or other natural disasters, and in each case the utility industry has proven time and again its ability to complete its work in a safe and efficient manner. Based on this track record, the need for additional regulation has not been proven.

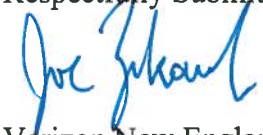
Regarding sub-section (b), the most recent regulations do not meet this criteria and therefore are inappropriate. More specifically, the most recent regulations have associated costs which greatly outweigh the benefits, as requiring a supervisor with a state-issued license at each individual hoisting site creates new and unnecessary costs while adding no discernable value given that the industry's safety record prior to the recent regulations already had been superb.

Regarding sub-section (c), these most recent regulations may be in conflict with OSHA rules and/or decisions concerning hoisting machinery. OSHA specifically considered whether to regulate the hoisting machinery which is the subject of these most recent Massachusetts regulations, and OSHA specifically decided there was no need to regulate hoisting in the context of the communications and electric industries. This federal decision should be observed and honored by DPS, which should adopt an approach for the communications and electric industries in the Commonwealth similar to the federal forbearance. .

Regarding sub-section (d), we are unaware of any effort to identify less restrictive alternatives to these new regulations. Similarly, regarding sub-sections (f) and (g), we are unaware of DPS establishing a process for measuring the effectiveness of these regulations, and unaware of any time limitation for them. Consequently, these regulations do not meet the requirements of the Executive Order.

In summary, Verizon appreciates DPS's efforts to insure the safety of those residing and working in the Commonwealth. However, Verizon joins National Grid and others in asking DPS to reconsider these most recent regulations so as to avoid unnecessary burdens and costs which ultimately will harm the Commonwealth.

Respectfully Submitted,



Verizon New England, Inc.