



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

NOTICE OF PUBLIC HEARING AND REQUEST FOR COMMENTS

D.P.U. 26-10/D.T.C. 26-1

March 6, 2026

Joint Investigation by the Department of Public Utilities and the Department of Telecommunications and Cable on their own motion instituting a rulemaking pursuant to G.L. c. 30A, § 2, 220 CMR 2.00, and 207 CMR 2.00, to amend 220 CMR 45.00: Pole Attachment, Duct, Conduit, and Right-of-Way Complaint and Enforcement Procedures.

D.P.U. 25-10/D.T.C. 25-1

Joint Notice of Inquiry by the Department of Public Utilities and the Department of Telecommunications and Cable on their own Motion to explore utility pole attachment, conduit access, double pole, and related considerations applicable to utility work conducted on public rights-of-way in the Commonwealth.

On March 6, 2026, through the joint issuance of an Order, the Department of Public Utilities (“DPU”) and the Department of Telecommunications and Cable (“DTC”) (together, “Departments” or “agencies”) jointly opened a rulemaking, docketed as D.P.U. 26-10/D.T.C. 26-1, seeking comment on proposed revisions to our shared regulations, 220 CMR 45.00: Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures. The Departments open the rulemaking on our own motion pursuant to 47 U.S.C. § 224(c); G.L. c. 164, § 34B; G.L. c. 166, § 25A; 207 CMR 2.00; 220 CMR 2.02; and the current Memorandum of Agreement (“MOA”) originally entered into by the agencies in 2008 to facilitate our shared jurisdiction over double poles, as well as over utility pole and conduit access and enforcement matters. Through the Order and our pending joint inquiry proceeding opened last year, D.P.U. 25-10/D.T.C. 25-1, the agencies also seek further comment in on: (1) a draft Amended and Restated MOA to be entered into by the agencies; and (2) potential, non-binding alternative dispute resolution (“ADR”) provisions that can be implemented by the Departments.

The Departments will conduct a virtual public hearing on our proposals on **Wednesday, May 27, 2026**. The Departments will also accept written comments on our proposals, establishing a **Tuesday, May 12, 2026**, deadline for initial comments, and a **Thursday, June 11, 2026**, deadline for reply comments. Additional details about the public hearing and for submitting comments are provided as part of this Notice further below.

For the rulemaking, the Departments seek comment on our proposed revisions to 220 CMR 45.00 et seq., as well as, in limited instances, on potential alternative language for use

in the final regulations. The Departments' proposed amendments would constitute the most substantive revision to these regulations in more than 40 years, which at this time consist primarily of the agencies' procedural rules applicable to resolving complaints by both telecommunications and cable television ("CATV") providers seeking access to utility poles, conduit, and ducts on public rights-of-way ("ROWs") in the Commonwealth of Massachusetts. In implementing and enforcing these regulations, federal and state law requires the Departments to consider both the interests of telecommunications and CATV service subscribers and of utility service customers. 47 U.S.C. § 224(c)(2)(B); G.L. c. 166, § 25A.

The proposed revisions would broaden the scope of 220 CMR 45.00 et seq. to:

- (1) implement comprehensive state-wide terms and conditions for telecommunications, advanced telecommunications, broadband, and CATV providers, to apply for and access utility poles;
- (2) establish additional requirements and obligations for all utility pole owners, including, among others: (a) municipal lighting plants ("MLPs"); (b) the Commonwealth's investor-owned electric distribution companies, NSTAR Electric Company d/b/a Eversource Energy, Massachusetts Electric Company and Nantucket Electric Company d/b/a National Grid, and Fitchburg Gas and Electric Light Company d/b/a Unitil; and (c) telephone companies, including Verizon New England, Inc. d/b/a Verizon Massachusetts;
- (3) establish express requirements and obligations for all utility pole attachers, including existing attachment licensees, such as municipalities and other municipal entities, MLPs, and all telecommunications, advanced telecommunications, broadband, and CATV providers;
- (4) streamline and clarify the existing procedural requirements applicable to utility poles and conduit and duct access disputes, including in relation to joint adjudications to be conducted by the agencies; and
- (5) expand the procedural requirements to expressly allow utility pole owners to file complaints against attachers.

Of the proposed revisions listed above, the most substantive ones involve the addition of requirements for utility pole attachment applications and new processes for licensees to access utility poles, including: (1) timelines and make-ready requirements that vary based on an application's size, *i.e.*, the number of poles identified in a pole attachment application submitted to a utility pole owner; (2) permissible deviations from make-ready timelines by utility pole owners and licensees in specific circumstances; (3) provisions to allow utility pole licensees to engage in self-help and one-touch make-ready ("OTMR") work in specific circumstances and to mandate the creation of approved contractor lists by utility poles owners for (a) surveys; and (b) make-ready work conducted in the communications space of utility poles; (4) improved communications and coordination with appropriate government authorities, *i.e.*, state and local government authorities and officials that manage, authorize, and/or license work conducted on public ROWs, as well as with existing attachers on utility poles; and (5) annual reporting requirements by utility pole owners.

The agencies' proposed revisions to 220 CMR 45.00 et seq. are informed by Massachusetts-specific considerations coupled with utility pole attachment regulations and recent activities applicable in other states, including regulations implemented by the Federal Communications Commission, 47 C.F.R. §§ 1.1401 through 1.1416, to facilitate additional

broadband and advanced telecommunications deployment. The agencies' proposals are also informed by the extensive comments, data, and input received by the Departments from a broad array of interested stakeholders during our joint inquiry proceeding. See generally Joint Inquiry by the Department of Public Utilities and the Department of Telecommunications and Cable on their own Motion to explore utility pole attachment, conduit access, double pole, and related considerations applicable to utility work conducted on public rights-of-way in the Commonwealth, D.P.U. 25-10/D.T.C. 25-1. These comments and information are posted on the DPU's website at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets> (enter "25-10") and on the DTC's website at <https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx> (enter "25-1").

For the pending inquiry proceeding, building from comments and input received by the agencies in that matter, the Departments seek comment on a draft Amended and Restated MOA. The draft Amended and Restated MOA identifies new instructions and agency action in relation to the joint adjudication of any future formal attachment or access complaints to be filed by entities pursuant to 220 CMR 45.00. The Departments also seek further comment on potential informal and non-binding ADR provisions that may be incorporated into a future revised MOA between the agencies. The agencies' goal is to implement an ADR mechanism that would allow interested stakeholders the opportunity to resolve disputes with non-binding agency guidance before any formal complaint would be filed under 220 CMR 45.00. The Departments envision that any ADR mechanism adopted by the agencies would supplement parties' due process rights applicable under G.L. c. 30A.

Additional details and questions for comment relating to these matters are explained in the Order issued on March 6, 2026, in these matters. A copy of the Order, proposed regulations, and draft Amended and Restated MOA, will be posted to the DPU's website at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets> (enter "26-10") and to the DTC's website at <https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx> (enter "26-1").

To provide an opportunity for comment on the proposed regulations, the Departments will jointly conduct a public hearing pursuant to G.L. c. 30A, § 2, 220 CMR 2.05, and 207 CMR 2.01. The Departments will conduct the hearing using the Zoom videoconferencing platform on **Wednesday, May 27, 2026, at 2:00 p.m.** Attendees may join by entering this link, <https://us06web.zoom.us/j/81418706323>, from a computer, tablet, or smart device. For audio-only participation, attendees can dial-in at **(646) 931-3860** (not a toll-free number) and then enter the **Webinar ID: 814 1870 6323**. Due to the interplay of certain of the proposed regulations and the agencies' MOA in relation to joint adjudications to be conducted by the Departments going forward, the Departments will also accept public comments at the hearing on the terms of our proposed draft Amended and Restated MOA provided as Attachment E to the Order issued on March 6, 2026, these matters.

The Departments will also accept written comments on the proposed regulations, Draft Amended and Restated MOA, and possible ADR mechanisms. Interested stakeholders and other members of the public should submit initial written comments by no later than close of business

(5:00 p.m.) on **Tuesday, May 12, 2026**, to be most useful. Following the public hearing, written reply comments will be welcome by no later than close of business (5:00 p.m.) on **Thursday, June 11, 2026**. All written comments should be submitted in electronic format by e-mail attachment to the Departments through the following distribution list: dpu.efiling@mass.gov, dte.efiling@mass.gov, kerri.phillips@mass.gov, scott.seigal@mass.gov, william.bendetson@mass.gov, and kevin.roberts@mass.gov. The text of the e-mail must specify: (1) the docket numbers of the proceeding (D.P.U. 26-10/D.T.C. 26-1, D.P.U. 25-10/D.T.C. 25-1); (2) the name of the person, entity, or company submitting the filing; and (3) a brief descriptive title of the document. The e-mail must also include the name, title, e-mail, and telephone number of a person to contact in the event of questions about the filing. The electronic attachment file name should identify the document but should not exceed 50 characters in length.

All documents submitted in electronic format will be posted on each agency's website as soon as practicable. The DPU will post docket materials on its website at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dockets> (enter "26-10"), and the DTC will post docket materials on its website at <https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx> (enter "26-1"). Please note that in the interest of transparency, any comments will be posted to each agency's website as received and without redacting personal information, such as addresses, telephone numbers, or e-mail addresses. As such, consider the extent of information you wish to share when submitting comments. The Department strongly encourages comments from members of the public to be submitted by e-mail. If, however, a member of the public is unable to send written comments by e-mail, a paper copy may be sent to Peter A. Ray, Secretary, DPU, One South Station, 3rd Floor, Boston, Massachusetts, 02110, and to Ursula Estremera, Secretary, DTC, 1 Federal Street, Suite 0740, Boston, Massachusetts, 02110.

Reasonable accommodations for people with disabilities (e.g., Braille, large print, electronic files, audio format) are available upon request. To request an accommodation, please contact the DPU's ADA coordinator at eadiversity@mass.gov or (617) 626-1282. In your communication, state the accommodation you need and why you need the accommodation. Provide contact information in case the coordinator needs more information. Provide your request as soon as possible. The coordinator will consider but may not be able to fulfill late requests.

For further information regarding this Notice, please contact Kerri DeYoung Phillips and Scott Seigal, Hearing Officers, DPU, via e-mail at kerri.phillips@mass.gov and scott.seigal@mass.gov, as well as William Bendetson and Kevin Roberts, Hearing Officers, DTC, via e-mail at william.bendetson@mass.gov and kevin.roberts@mass.gov.



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March 6, 2026

VIA ELECTRONIC MAIL ONLY

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RE: Joint Rulemaking of the Department of Public Utilities and the Department of Telecommunications and Cable, D.P.U. 26-10/D.T.C. 26-1

Dear Undersecretary Kluchman and Mr. Koffman:

In accordance with Executive Order No. 145, we hereby submit notice to the Local Government Advisory Committee ("LGAC") that the Department of Public Utilities ("DPU") and the Department of Telecommunications and Cable ("DTC") (together, "Departments" or "agencies") have initiated a joint rulemaking proceeding to amend 220 CMR 45.00: Pole Attachment, Duct, Conduit and Right-of-Way Complaint and Enforcement Procedures.¹ The Departments have docketed this rulemaking as D.P.U. 26-10/D.T.C. 26-1 and will publish public notice of the joint proceeding in the Boston Globe or the Herald, as well as in the Massachusetts Register, on **Friday, March 27, 2026**. Notice of the joint proceeding, copies of the proposed amendments to 220 CMR 45.00, the Order Opening Rulemaking, and other documents in this proceeding will be posted to each agency's website.² Several of these documents are included as attachments to the e-mail through which this letter is being provided to you.

¹ The Departments share jurisdiction over the administration and enforcement of 220 CMR 45.00 et seq. as informed by an MOA between the agencies.

² These materials will be posted to the DPU's online File Room at <https://eeaonline.eea.state.ma.us/dpu/fileroom/#/dashboard> (enter "26-10") and to the DTC's online File Room at <https://services.oca.mass.gov/dtc/frmReleasedCalendar.aspx> (enter "26-1").

The Departments will conduct a virtual public hearing at **2:00 p.m. on Wednesday, May 27, 2026**, to receive comment on the proposed amendments to 220 CMR 45.00. The Departments will conduct the public hearing using the Zoom videoconferencing platform. Participants may join by using this link, <https://us06web.zoom.us/j/81418706323>, from a computer, tablet, or smart device. For audio-only participation, attendees can dial-in at **(646) 931-3860** (not a toll-free number) and then enter the **Webinar ID: 814 1870 6323**.

In addition, written initial comments on the proposed amendments may be submitted to the Departments on or before **Tuesday, May 12, 2026**, and written reply comments may be submitted on or before **Thursday, June 11, 2026**. Such comments must be e-mailed to dpu.efiling@mass.gov, dtc.efiling@mass.gov, and to each agency's assigned Hearing Officers to the matter, Kerri DeYoung Phillips (kerri.phillips@mass.gov) and Scott Seigal (scott.seigal@mass.gov) for the DPU, and William Bendetson (william.bendetson@mass.gov) and Kevin Roberts (kevin.roberts@mass.gov) for the DTC.

The current version of 220 CMR 45.00 provides complaint and enforcement procedures to ensure that telecommunications carriers and cable television providers have nondiscriminatory access to poles, ducts, conduits, and rights-of-ways that are owned or controlled, in whole or in part, by one or more utilities, with rates, terms and conditions for access that are just and reasonable. Over 90 percent of utility poles located on public rights-of-way in the Commonwealth, at least 1.25 million, are jointly owned by an electric provider (*i.e.*, electric distribution companies such as Eversource, National Grid, and Unitil, as well as municipal lighting plants ("MLPs") that provide electricity) and a telephone provider (*i.e.*, Verizon).

In consideration of increased broadband, telecommunications, and clean energy deployment activities in the Commonwealth and recent revisions to pole attachment requirements nationwide, the proposed amendments to 220 CMR 45.00 would expand the requirements of the regulations to provide specific guidance on attachment timelines and practices and procedures applicable to utility pole owners and to telecommunications, broadband, and cable television ("CATV") attachers, as well as to identify limited obligations applicable to all attachers to a utility's poles. The proposed changes are informed by similar requirements familiar to affected parties and otherwise implemented at the federal level and in other states.

The new regulations are intended to provide telecommunications, broadband, and CATV attachers and utility pole owners more consistent, predictable construction timelines and estimated costs yet ensure the continued safety and engineering control of services provided by utility pole owners. The proposed changes also would identify baseline requirements applicable to all attachers, including municipalities, that would facilitate the removal of double poles throughout the state, and would facilitate and require additional communications with municipal authorities in specific circumstances. Finally, the proposed changes would streamline the procedural requirements of existing complaint procedures under the regulations.

The proposed amendments to 220 CMR 45.00 should have limited impact on local governments. MLPs may be impacted to the extent they own and control utility poles, in that they will need to refine and update their internal processes to respond to pole attachment requests by telecommunications, broadband, and cable television providers. At the same time, municipalities and MLPs will benefit from improved coordination and communications from these providers and other utility pole owners.

Should you have any questions or concerns, please do not hesitate to contact us.

Sincerely,

/s/ William Bendetson

/s/ Kevin Roberts

William Bendetson, Esq.

Kevin Roberts, Esq.

Hearing Officers

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/s/ Kerri DeYoung Phillips

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Enclosures (by e-mail)

cc (by e-mail): Peter Ray, Secretary, DPU (dpu.efiling@mass.gov)

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D.P.U. 26-10/D.T.C. 26-1, Distribution List

