

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 Unital; 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, dtc.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 eeadiversity@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.

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 220 CMR 45.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 5-10

- **Will small businesses have to create, file, or issue additional reports?**
Yes. Small businesses that attach their wires to utility poles will be required to participate in a joint use notification system utilized by telephone and electric utilities. This database tracks attachment activities, which allows attachers to shift their wires on utility poles on a more timely basis when necessary.
- **Will small businesses have to implement additional recordkeeping procedures?**
No. Small businesses will not have to implement additional recordkeeping procedures.
- **Will small businesses have to provide additional administrative oversight?**
Yes. Small businesses that attach their wires to utility poles will be required to participate in a joint use notification system utilized by telephone and electric utilities, which is a database that tracks attachment activities. Therefore, small businesses must closely track their attachment activities to appropriately participate in the database. Small businesses will also need to provide additional administrative oversight to ensure they shift their wires on utility poles, as needed, on a more timely basis.
- **Will small businesses have to hire additional employees in order to comply with the proposed regulation?**
No. The proposed regulations will likely not require the hiring of additional employees to comply with the proposed regulations. Any additional burden on small businesses should be minimal, and their current staff should be able to comply with the new regulations.
- **Does compliance with the regulation require small businesses to hire other professionals (e.g., a lawyer, accountant, engineer, etc.)?**
No. Despite the requirement that prospective attachers participate in the joint use notification system and to more timely shift their wires on utility poles, as

needed, these requirements constitute a minimal extra burden. Furthermore, these proposed regulations should not require small businesses to hire other professionals, such as lawyers, accountants, or engineers.

- **Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation?**

No. DTC and DPU do not foresee any reason a small business must purchase a product or make other capital improvements to comply with the regulations. Participation in the joint use notification system is free for businesses that attach their wires to utility poles.

- **Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective?** (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.)

Operational standards are more appropriate because they provide guidance for the utility pole owners and attachers as to how quickly the survey and make ready processes should occur. The goal of these regulations is to ensure that the attachment process occurs in a more timely and efficient manner.

- **Do any other regulations duplicate or conflict with the proposed regulation?**

No. To the knowledge of the DPU and DTC, no other regulations duplicate or conflict with the proposed regulations. Further, federal pole attachment regulations implemented by the FCC, set forth at 47 C.F.R. §§ 1.1401 through 1.1416, apply only if a state does not assert jurisdiction and does not have regulations in place. See 47 U.S.C. § 224(c).

- **Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities?**

Yes. Small businesses that attach their wires to utility poles will be required to participate in a joint use notification system utilized by telephone and electric utilities, which is a database that tracks attachment activities. Therefore, small businesses must closely track their attachment activities to appropriately participate in the database. Small businesses will also need to provide additional administrative oversight to ensure they shift their wires on utility poles, as needed, on a more timely basis. If a utility files a complaint about a small business attacher that has not complied with these requirements, the DPU and the DTC may investigate and order the small business to comply with the regulations.

- **Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?**

No. The proposed regulations do not require small businesses to provide educational services to keep up to date with regulatory requirements.

- **Is the regulation likely to deter the formation of small businesses in Massachusetts?**

No. The proposed regulations are not likely to deter the formation of small businesses in Massachusetts, as the proposed regulations will provide greater certainty and guidance for pole attachment timelines and processes.

- **Is the regulation likely to encourage the formation of small businesses in Massachusetts?**

Yes. The proposed regulations may encourage the formation of small businesses in Massachusetts, as the proposed regulations will provide greater certainty and guidance for pole attachment timelines and processes.

- **Does the regulation provide for less stringent compliance or reporting requirements for small businesses?**

No. All attachers must participate in a joint use notification system utilized by telephone and electric utilities and must shift their wires on utility poles, as needed, within a specific timeframe. The proposed regulations also permit deviations from make-ready timelines for all attachers for good cause.

- **Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses?**

No. All attachers must participate in a joint use notification system utilized by telephone and electric utilities and must shift their wires on utility poles, as needed, within a specific timeframe. The proposed regulations also permit deviations from make-ready timelines for all attachers for good cause.

- **Did the agency consolidate or simplify compliance or reporting requirements for small businesses?**

No. All attachers must participate in a joint use notification system utilized by telephone and electric utilities and must shift their wires on utility poles, as needed, within a specific timeframe. The proposed regulations also permit deviations from make-ready timelines for all attachers for good cause.

- **Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective?**

Operational standards are preferred to performance standards here for consistency. Effective regulation requires a predictable set of rules for applicants and pole owners to avoid delays and confusion stemming from different practices across pole owners and prospective attachers, which take both agency and business time to resolve absent operational standards.

Additionally, the operational and design standards proposed will likely have incidental, if any, effects on small businesses, being directed at pole owners. To

the agencies' knowledge, no pole owners in Massachusetts would be considered a small businesses.

- **Are there alternative regulatory methods that would minimize the adverse impact on small businesses?**

No. Pursuant to 47 U.S.C. § 224(c), states like Massachusetts that assert jurisdiction over pole attachments must have rules and regulations in place. See also 47 C.F.R. § 1.1404(b)-(c). There is no alternative regulatory method.