



**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

1000 Washington Street, Suite 820
Boston, MA 02118-6500
(617) 305-3580
www.mass.gov/dtc

DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

GREGORY BIALECKI
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

BARBARA ANTHONY
UNDERSECRETARY
OFFICE OF CONSUMER AFFAIRS AND
BUSINESS REGULATIONS

GEOFFREY G. WHY
COMMISSIONER

By ECFS and First-Class Mail

August 25, 2010

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: WC Docket No. 10-101,
*States That Have Certified That They Regulate Pole Attachments***

Dear Secretary Dortch:

Federal law reserves to each state exclusive authority to regulate pole attachments if the state certifies to the Federal Communications Commission (“Commission”) that it satisfies certain conditions.¹ By this letter, the Massachusetts Department of Telecommunications and Cable (“MDTC”) respectfully updates the pole attachment certification currently on file with the Commission for the Commonwealth of Massachusetts.² In particular, the MDTC hereby notifies the Commission that it shares pole attachment jurisdiction with the existing Massachusetts Department of Public Utilities (“MDPU”).

¹ See 47 U.S.C. § 224(c); 47 C.F.R. § 1.1414.

² See *States That Have Certified That They Regulate Pole Attachments*, WC Docket No. 10-101, Public Notice, DA 10-893, at 2 (rel. May 19, 2010) (listing Massachusetts as a state that has certified that it regulates pole attachments pursuant to federal requirements). See also Letter from Paul F. Levy, Chairman, Massachusetts Department of Public Utilities, to James M. Talens, General Attorney, Federal Communications Commission, at 1 (dated Sept. 1, 1978), available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7020457794> (certifying the agency’s authority to regulate pole attachments); Letter from John F. Nestor, III, Director, Telecommunications Division, Massachusetts Department of Public Utilities, to Margaret Wood, Esq., Federal Communications Commission (filed Jan. 10, 1985), available at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7020457804> (certifying that the agency had issued rules and regulations for pole attachments).

On April 11, 2007, pursuant to Chapter 19 of the Acts of 2007, known as the “Governor’s Reorganization Plan,” the Massachusetts Department of Telecommunications and Energy (“MDTE”) ceased to exist.³ In its place, the Plan established the MDTC and the MDPU.⁴ Pursuant to each agency’s delegated authority, the MDTC handles telecommunications and cable issues and the MDPU handles electric, gas, siting, pipeline, water and transportation issues.⁵ Further, pursuant to statutory authority and a Memorandum of Agreement executed by both agencies, the MDTC and MDPU share jurisdiction over pole attachments and retain the pole attachment regulations in effect at the time of the creation of both agencies.⁶

Should the Commission require any additional information concerning this matter, kindly contact me at (617) 305-3580.

Respectfully submitted,

/s/ Kajal K. Chattopadhyay
Kajal K. Chattopadhyay
General Counsel, MDTC

cc: Jonathan Reel, Competition Policy Division, Wireline Competition Bureau, FCC, by email (jonathan.reel@fcc.gov).
Laura Olton, General Counsel, MDPU

³ See 2007 Mass. Acts c. 19, §§ 1-54, available at <http://www.mass.gov/legis/laws/seslaw07/sl070019.htm>. The MDTE had superseded the previous MDPU.

⁴ *Id.*

⁵ *Id.*

⁶ See M.G.L. c. 166, § 25A and M.G.L. c. 164, § 34B; 207 C.M.R. §§ 45.00 *et. seq.* See also *Memorandum of Agreement between Department of Public Utilities and Department of Telecommunications and Cable regarding the regulation of attachments to utility poles, ducts, and conduits pursuant to G.L. c. 166, § 25A and double poles pursuant to G.L. c. 164, § 34B* (executed Oct. 14, 2008) (provided as Attachment 1).