the DAS forum
Distributed Antenna Systems
www.thedasforum.org

August 8, 2008

Catrice C. Williams, Secretary
Department of Telecommunications & Cable
Commonwealth of Massachusetts
Two South Station, 4th Floor
Boston, MA 02110

Mary L. Cottrell, Secretary
Department of Public Utilities
Commonwealth of Massachusetts
One South Station, 2nd Floor
Boston, MD 02110

RE: Memorandum of Agreement on Jurisdiction Over Pole Attachment and Double Pole Disputes

Dear Ms. Williams and Ms. Cottrell,

On behalf of the members of The DAS Forum, we want to thank the Department for soliciting comments on the above-named Memorandum of Agreement (the "MOA"). The issue of wireless pole attachments is of critical importance in providing wireless telecommunications access to the state's residents and businesses. These attachments enable wireless carriers to improve access to underserved areas, and to improve coverage and network capacity everywhere. While we understand that the initial deadline for comments has passed, The DAS Forum only recently became aware of this proceeding. Due to its critical implications for wireless pole attachments, The DAS Forum respectfully requests these comments to be included in the above-named proceeding.

The DAS Forum, a membership section of PCIA/The Wireless Infrastructure Association, is a broad-based non-profit association dedicated to the development of distributed antenna systems ("DAS") as a component of our nation's wireless infrastructure. The DAS Forum membership includes virtually every outdoor DAS provider, as well as several commercial mobile radio service ("CMRS") carriers deploying DAS as part of their networks. PCIA members, in turn, include CMRS carriers and wireless infrastructure providers that construct, modify, own, operate, lease and manage over 120,000 wireless communications facilities

DAS networks use multi-nodal networks of many small antennas instead of a single large antenna to serve areas where traditional, larger wireless antennas are impractical. Traditional wireless towers might be impractical in some locations because of local zoning restrictions, environmental concerns, or technical factors; in such areas, DAS networks are often the only way that wireless voice and broadband coverage can be deployed. Thus, DAS networks are critical to the national goals of extending wireless voice and broadband coverage. The ability to attach antennas to utility poles is usually an integral part of DAS deployment.

Commonwealth policy supports nondiscriminatory access to utility poles, as well as just and reasonable rates for pole attachments. We feel that the Department of Telecommunications and Cable (the "DTC") is the appropriate authority for review of wireless pole attachments including DAS using the "primary purpose" analysis adopted in the MOA. The primary purpose of wireless pole attachments such as DAS is for the provision of wireless telecommunications services. As the subject-matter expert on telecommunications issues, and consistent with its other areas of authority, the DTC would effectively and expertly regulate wireless facilities on poles. As other parties have indicated, the DTC's familiarity with the "technical and policy issues associated with telecommunications attachments" makes the DTC the appropriate decision-maker with respect to this issue.[1]

The benefits of the "primary purpose" analysis should not be clouded by the proposed exception language in paragraph 5 of the MOA allowing for review by the Department of Public Utilities (the "DPU") for any attachment "that transmits electricity." The application of this exception would lead to confusing and administratively-burdensome divisions of responsibility between DTC and DPU, and would unnecessarily complicate the pole attachment dispute resolution process for pole owners, attachers and policy-makers. The exception should be eliminated, or substantially narrowed to apply to the provision of electricity itself.

We appreciate your willingness to entertain these comments on behalf of our membership. If there are any questions, or if we can be of any assistance in the development of this matter, please feel free to contact us at any time.

Cordially,

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[1] Written Comments of New England Cable and Telecommunications Association, Inc. at 5 (August 1, 2008).