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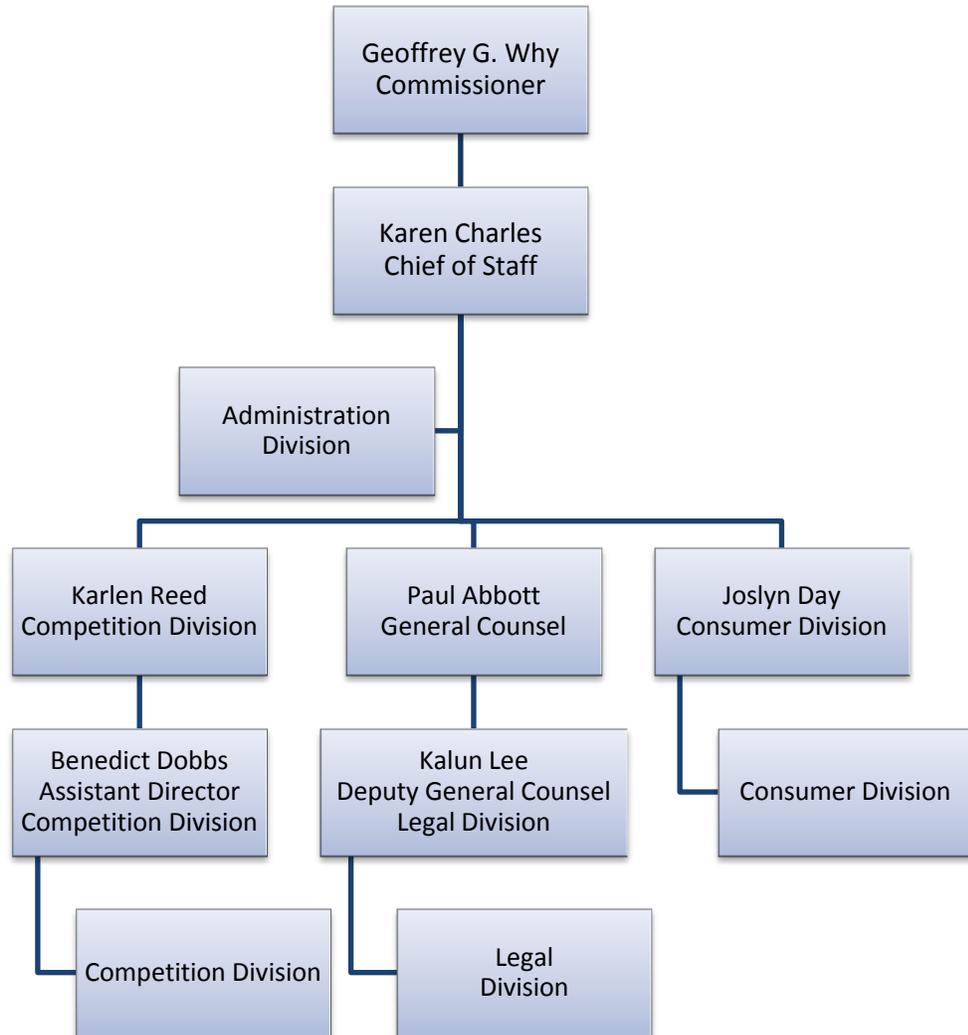
Massachusetts Department of Telecommunications & Cable
Fiscal Year 2013 Annual Report
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Organizational Chart

Fiscal Year 2013 Department of Telecommunications and Cable



Background

The Department of Telecommunications and Cable (“Department”) is funded through an annual assessment by telecommunications and cable companies as authorized by the annual General Appropriations Act, line item 7006-0071 and pursuant to Chapter 25C, section 7 of the Massachusetts General Laws (“G. L.”) and Article 87 of the Acts of 2007. The Department’s operating budget for Fiscal Year¹ (“FY”) 2013 was \$2.68 million. Any unexpended balances are credited to the following year’s industry assessment.

The telecommunications industry over which the Department has jurisdiction is made up of common carriers, including local exchange carriers, interexchange carriers, operator service providers, and pay-telephone companies. The cable industry in Massachusetts is comprised of 10 cable television providers serving over 2.17 million cable video subscribers in 308 of the Commonwealth’s 351 cities and towns. Those cable providers are: Comcast, Charter Communications, Time Warner Cable, Cox Communications, Verizon, RCN, Russell Cable Television, Braintree Electric Light Department, Norwood Light Department, and Shrewsbury Electric and Cable Operations.

The Department’s mission is to: (1) regulate the telecommunications and cable industries in accordance with the statutory obligations imposed by the Commonwealth of Massachusetts and the federal government; (2) ensure that consumers receive high quality communications at just and reasonable rates; (3) promote sustainable competition which will increase consumer welfare for all Massachusetts residents; (4) maintain and enforce consumer protections, consistent with the public interest, particularly where market forces alone are not sufficient to do so, including investigating and responding to inquiries and complaints from consumers and carriers; and (5) provide expert input into the development of telecommunications and cable related policies for the Commonwealth.

The Department’s general responsibilities are:

1) Protect Consumers

- Establish, educate, and enforce basic consumer protections (e.g., the Department’s billing and termination requirements, including elderly disconnect rules);
- Mediate consumer complaints, including “cramming,” “slamming,” service quality and other complaints between residential, business, and municipal customers and their service providers;
- Coordinate with the State 911 Department to ensure access to quality telecommunications services for all Massachusetts consumers;

¹ The Commonwealth’s Fiscal Year runs from July 1 to June 30.

- Monitor and implement the federal Universal Service Fund (“USF”) programs, including the Lifeline low-income discount, high-cost Connect America Fund, E-rate and rural health care programs; and
- Review and, where appropriate, approve applications for “eligible telecommunications carrier” (“ETC”) status (ETCs must meet certain service obligations to be eligible to receive federal universal service funds).

2) Promote Competition

- Revise existing policies and develop new policies in response to new technologies and market conditions;
- Collect and compile data on the status of competition in the communications industries in Massachusetts;
- Develop and implement policies that promote competition in areas of the state where it lags;
- Develop and enforce policies to promote wholesale and retail competition; and
- Implement competition-related rule changes consistent with state and federal law.

3) Inform and Advocate

- Analyze major federal legislative and regulatory decisions to evaluate their impact on state regulation of the telecommunications and cable industries, and when appropriate, advocate on behalf of Massachusetts consumers before the Federal Communications Commission (“FCC”) and Congress;
- Explain Department regulations and policies; and provide other information as requested by consumers, carriers, public officials, the Legislature, the Administration, and others;
- Monitor and evaluate proposed state legislation, and provide recommendations to the Administration;
- Participate in regional and national regulatory associations to ensure that Massachusetts interests are represented; and
- Comply with periodic FCC reporting requirements.

Telecommunications Regulation

Regulatory Framework

The federal Telecommunications Act of 1996 (“Telecom Act”) led to major changes in the telecommunications industry and how it is regulated. The increase in competition, spurred in large part by technological innovation, required that the Department adjust its regulations to reflect changes in market conditions and relax its regulations where market forces are sufficient to protect consumer interests, thereby ensuring that the Department continues to promote competition. However, where market forces are not sufficient to safeguard consumer interests, the Department has continued to enforce necessary protections.

The Department has jurisdiction over telecommunications services that originate and terminate within or between Massachusetts’ two federally-designated “Local Access and Transport Areas” (“LATAs”).² The FCC generally regulates interstate and international services.

Department Responsibilities

The Department’s primary telecommunications-related responsibilities are:

1) Enforcing Service Quality Standards

The Department adopted a Retail Service Quality Plan for Verizon New England d/b/a Verizon MA (Verizon) retail customers, consisting of twelve service measures in the categories of Installation Service, Maintenance Service, and Service Response. Verizon reports its performance on each of the measures to the Department on a monthly basis. If Verizon’s performance falls below the Department’s threshold, Verizon pays a penalty in the form of a refund to all residential and business customers. Verizon’s service quality is also evaluated at the local level when the Department receives a formal complaint from city or town officials or customers. In 2009, after receiving several complaints from towns in Western Massachusetts, the Department opened a proceeding to investigate Verizon’s service quality in Western Massachusetts municipalities throughout Berkshire, Franklin, Hampden, and Hampshire counties. During 2010, the Department conducted six evidentiary hearings in connection with this investigation. In February 2011, the Department approved a settlement agreement submitted by Verizon and other parties to the case. As part of the settlement agreement, Verizon is assessing deficiencies of its wireline infrastructure and performing related repair work in most rural communities in Western Massachusetts to improve landline telephone service quality. The settlement agreement also subjects Verizon to additional reporting obligations and monitoring by the Department. During 2011 and 2012, Verizon submitted several monitoring reports, which the Department reviewed. Verizon concluded the work required by the settlement agreement in early 2012 and throughout 2012 and 2013 Verizon submitted service quality metrics to the

² The Western Massachusetts LATA consists of the 413 area code; all other area codes in the State fall under the Eastern Massachusetts LATA.

Department. By continuing to monitor Verizon's quality of service, the Department ensures that Verizon, as the primary incumbent local exchange carrier in Massachusetts, allocates sufficient resources for the maintenance of quality service to all customers, regardless of the level of competition the company faces in a particular market.

2) Retail Regulation

In addition to maintaining retail service quality, the Department also develops and enforces policies to promote retail competition, including policies that relax regulation where market forces are sufficient to protect consumer interests. The Department regulates basic Verizon retail services. The Department also regulates rates, services, and practices of four small rural incumbent local phone companies that are considered to have market power in their service territories. The Department also sets rates and monitors service quality for inmate calling services, and ensures that reasonable service quality is provided by all carriers.

3) Public Safety/Network Reliability Regulation

The Department helps to ensure adequate funding of the E-911 network (i.e., oversee the cost of the network and establish the retail surcharge to fund the network) and to provide oversight of the State 911 Department's expenditures, pursuant to Chapter 223 of the Acts of 2008. Additionally, the Department:

- Facilitates quick resolution of wholesale and retail service outages by working closely with carriers;
- Enforces Verizon's major extended service outage rules, which are intended to address prolonged outages affecting 200 or more customers;
- Periodically reviews the adequacy of carrier network reliability plans; and
- Enforces Verizon's central office collocations security rules.

4) Wholesale Regulation

Apart from building their own facilities to serve customers, carriers that wish to compete in the retail telecommunications market have two modes of entry available to them. One of these is to lease unbundled network elements from the “incumbent” local exchange carrier (“ILEC”)³ or another carrier and provide service over this leased network. Verizon is the ILEC for all but four towns in Massachusetts. The Department has authority over Verizon’s wholesale provision of unbundled network elements to ensure that they are provided in a non-discriminatory manner, and regulates the rates at which they are leased. The other way a carrier can enter the market is to purchase a service from another carrier (usually Verizon) at a predetermined wholesale discount rate, then brand the service with its own name and resell it. The Department develops the wholesale discount rate for Verizon pursuant to FCC methodology.

The Department plays a key role in setting the wholesale and resale rates at which carriers can lease parts of each other’s networks - this applies in particular to incumbent local exchange carriers’ networks.⁴ Consistent with the Department’s oversight of the wholesale telecommunications market, the Department will:

- Establish the terms and conditions under which facilities-based carriers interconnect their networks, exchange traffic and generally conduct their business relationships;
- Resolve disputes between competing carriers over wholesale rates and service issues;
- Establish and enforce wholesale service quality standards for Verizon through the Performance Assurance Plan so that Verizon does not discriminate against competing carriers in providing wholesale services;
- Set rates at which competitors can resell Verizon’s retail services;
- Ensure that competing carriers do not create barriers to consumer choice (e.g., enforce number porting requirements).
- Enforce phone number allocation rules (i.e., monitor use of telephone numbers by carriers and promote number conservation to ensure an adequate supply of telephone numbers for the industry and to prevent the need for new area codes); and
- Coordinate with the Department of Public Utilities to ensure access to rights-of-ways for all carriers by establishing and enforcing rules concerning the rates and access to utility poles and conduits.

5) Market Entry and Exit Regulation

³ The ILEC is the entity that owned the network prior to the introduction of competition.

⁴ In Massachusetts, the State’s primary incumbent local exchange carrier is Verizon Massachusetts.

To reduce barriers to market entry and encourage competition for telecommunications service in Massachusetts, the Department has streamlined the registration process for companies wishing to do business as carriers within the Commonwealth. Previously, the Department conducted an investigation into the financial, managerial, and technical abilities of a carrier to offer service. The Department now permits carriers to offer service based simply on the submission of a Statement of Business Operations and a Department-approved tariff. The streamlined entry process permits the Department and carriers to devote greater resources and staff time to other responsibilities. Reviewing the new registrations from companies seeking to provide telecommunications services in Massachusetts and ensuring compliance with Department registration rules ensures quality service offerings. Monitoring market entry and exit includes:

- Reviewing individual tariff filings that would implement new service offerings or change the rates, terms or conditions of existing service offerings;
- Enforcing entry requirements to ensure that no carriers are operating illegally in Massachusetts; and
- Facilitating a smooth, orderly process when carriers discontinue services or exit the market entirely to prevent disruption of service to customers.

6) Payphone Providers

In addition to Verizon, some companies own and operate payphones in Massachusetts. In a 1986 Order, the Department held that all payphones must have labels clearly identifying the owner/operator of the phone, and must provide free access to 911 and directory assistance. The Department ensures that Verizon provides the lines necessary to provide payphone service on a non-discriminatory basis to all companies seeking to offer the service. During FY 2013, the Department registered no new payphone providers. Payphone providers are not required to file tariffs but are required to file annual returns with the Department.

FY 2013 Telecommunications-Related Accomplishments

During FY 2013, the Department conducted the 2012 New England Wireless Conference, held December 5, 2012 at Suffolk Law School, and hosted by the Office of Consumer Affairs and Business Regulation, the Boston Bar Association, the Federal Communications Bar Association, and the New England Conference of Public Utilities Commissioners. This conference focused on the wireless consumer's perspective; the New England wireless ecosystem, and other wireless issues. An audience of over 150 listened to former leaders of the Federal Communications Commission, renowned authors, venture capitalists, members of industry, academia, and state authorities. Additionally, the Department provided continued support to the development of Governor Patrick's Broadband Initiative. This support included assistance to the Massachusetts Broadband Institute ("MBI") and its work to develop a "middle-mile" infrastructure in Western Massachusetts based on its successful federal Broadband Technology Opportunities Program grant and the \$40 million Massachusetts Broadband Incentive Fund. Moreover, the Department provided support and guidance to MBI on

various state and federal regulatory matters, and the Commissioner sits on the MBI's Board of Directors. In FY 2013, the Department submitted 16 filings to the Federal Communications Commission.

Cable Regulation

Regulatory Framework

Cable television is regulated at the local, state, and federal level. The Department regulates cable services principally pursuant to its enabling legislation, G. L. c. 166A, and implementing regulations at 207 C.M.R. § 1.00 et seq. In recent years, new entrants have emerged in the marketplace, such as competitive overbuilders and municipally-owned companies. Principal among these competitive providers are telephone companies that have begun offering video service, as well as high-speed internet service, in competition with incumbent cable operators. The cable industry is now a \$2.27 billion industry in Massachusetts providing service in 308 of the Commonwealth's cities and towns.

Department Responsibilities

The Department's primary cable-related responsibilities are:

- Oversight of cable television franchising, franchise renewal, and the transfer of cable franchises within the Commonwealth;
- Establish basic service tier programming, equipment, and installation rates for communities in Massachusetts that have requested rate regulation;
- Enforce consumer protection standards; and
- Collect, compile, and maintain statistical data from cable providers on, among other things, consumer complaints, rates, terms and conditions, market share, and financial performance.

Oversight of Municipal Cable Franchising

In Massachusetts, local municipalities act as the issuing authorities and negotiate and grant cable licenses, while the Department retains oversight authority in licensing matters. The Department conducts an extensive educational program for communities involved in the licensing process, regarding the applicable substantive and procedural requirements at the local, state, and federal levels. When licensing disputes arise at the local level, the Department can facilitate discussions between cable operators and municipalities, and provide appellate review of final local level decisions.

Rate Regulation

The Department regulates subscribers' rates for basic service tier programming, equipment, and installation in those Massachusetts communities that: (1) have

requested rate regulation; and (2) do not have effective competition, as determined by the FCC. The Department reviews the proposed basic service tier rates to determine whether such rates are just and reasonable and in compliance with applicable federal law. Pursuant to federal law, the Department does not regulate rates for expanded cable or premium services.

In FY 2013, the Department reviewed basic service tier programming, equipment, and installation rates in the 159 rate-regulated communities of Massachusetts served by four cable providers. On September 30, 2013 the FCC issued an order deregulating 28 Charter rate regulated communities. This order was retroactive to the date the petitions were filed, December 2011. The Department issued several rate orders, with respect to basic service tier programming, installation, and equipment rates applicable in these municipalities.

Consumer Protection and Education

The Department investigates and resolves individual consumer complaints, either by informal negotiation between the consumer and the cable operator or by formal adjudicatory proceedings. The Department also tracks patterns of complaints in order to identify and resolve more widespread problems.

The Department has regulations designed to afford consumer protections to cable subscribers, particularly with respect to billing and termination of service. The Department requires each cable operator to make annual filings to ensure compliance with these consumer protection regulations. Through dedicated telephone lines, published consumer information, fact sheets, and a consumer-friendly website, the Department serves as a source of information for consumers seeking to understand the options available to them, particularly as competition among cable operators increases across the Commonwealth.

FY 2013 Cable-Related Accomplishments

Cable-related accomplishments in FY 2013 include:

- Basic Tier Programming and Equipment Rates

As part of its regular review, the Department reviewed basic service tier programming and equipment rates for 159 rate-regulated Massachusetts communities in FY 2013.

- Initial Licensing by Competitive Cable Provider

In FY 2013, no Massachusetts communities granted an initial license to a Competitive Cable Provider. As of the close of FY 2013, 117 communities are being served by an incumbent cable provider and at least one competitive cable provider.

- The Department ordered \$82,000 in cable rate-related refunds in FY 2013.

Administration Division

Overview

The Administration Division provides administrative support to the Department.

Division Responsibilities

Finance

The Division handles budget preparation and controls, purchasing, accounts receivable and accounts payable, payroll, and other administrative financial services. The Department's budget for FY 2013 was \$2.68 million. Revenue collected during that same period was \$4.97 million of which \$1.75 million was returned to the General Fund from revenue sources that include telecommunications and cable filing fees.

Human Resources

In conjunction with the Office of Consumer Affairs and Business Regulation, the Division is responsible for payroll actions and human resource management.

Legal Support

The Division is responsible for publishing notices of all Department public hearings. In FY 2013, the Department conducted eight (8) evidentiary and/or public hearings. The Division also processes all docket filings and Orders issued by the Department including management of record retention. Staff issued Twenty-nine (29) decisions which included: Seventeen (17) final orders; Eleven (11) hearing officer rulings and 1 Order on Reconsideration in the Department's dockets in FY 2013. Additionally, staff responded to hundreds of requests for information regarding docketed matters.

Information Technology

Division staff oversees the operation of the information technology ("IT") systems, the telephone system, and the website. In FY 2013, IT staff completed infrastructure upgrades to the website and developed databases that facilitate management and tracking of tariffs and annual returns.

Competition Division

Overview

The Competition Division provides technical and analytical support to the Commissioner of the Department, as well as to the Department's Legal, Administration, and Consumer Divisions and other Administration officials, in the regulation of the telecommunications and cable industries in Massachusetts.⁵ Through its various responsibilities, the Competition Division supports the Department's missions.

Division Responsibilities

Development of Policies that Promote Sustainable Competition and Conform the Level and Type of Regulation to Market Conditions

In conjunction with the Legal Division, Competition Division staff conducts formal and informal policy investigations to ensure that consumers of telecommunications and cable services continue to reap the benefits of competition and that such competition accrues to all residents of Massachusetts. In addition, Competition Division staff safeguards consumers by implementing new regulatory policies to ensure that the rates, terms, and conditions of telecommunications and cable services are just and reasonable, where market forces alone cannot do so. Competition staff drafted discovery questions to and reviewed discovery responses from companies involved in Departmental investigations throughout FY 2013. The Competition Division assisted the Legal Division staff in preparing and finalizing orders relating to on-going investigations. In FY 2013, Competition Division staff conducted technical analyses in Department compliance proceedings, both formal and informal. A developing body of regulatory actions which has absorbed much of the Competition Division's energies is the burgeoning list of ETC applicants by prepaid wireless providers for federal USF Lifeline.

Analysis and Implementation of Major Federal Regulatory Changes

Decisions of the FCC, Congress, and state and federal courts affect the structure of the telecommunications and cable industries and the Department's authority to regulate those services. Competition Division staff monitors large volumes of relevant case law and actions from other agencies and jurisdictions, both federal and state, to keep

⁵ In 1971, the Legislature established the Massachusetts Community Antenna Television Commission ("Cable Commission"). In 1997, the Cable Commission was merged into the Department of Telecommunications and Energy as the Cable Television Division. Pursuant to Chapter 19 of the Acts of 2007, the Department's predecessor agency, the Department of Telecommunications and Energy, ceased to exist. Jurisdiction over telecommunications and cable matters was placed in the newly-established Department. All telecommunications and cable authority and cases were initially transferred to the Department's Telecommunications and Cable Television Divisions, respectively. Shortly thereafter, the Department merged the separate Cable and Telecommunications Divisions to form the Competition Division, in order to increase efficiencies by taking advantage of synergies created by convergence in these industries.

abreast of major issues that may influence the provision of telecommunications and cable services within Massachusetts. Competition Division staff also monitors broadband-related activities, since it is increasingly becoming the pipeline by which telecommunications and cable services are being provided to Massachusetts consumers and is a major focus of many FCC reform proceedings.

In FY 2013, Competition Division Director devoted substantial time assisting the Commissioner and other Department staff in developing and executing a day-long conference on wireless issues. The 2012 New England Wireless Conference, held December 5, 2012 at Suffolk Law School, was co-hosted by the Office of Consumer Affairs and Business Regulation, the Boston Bar Association, the Federal Communications Bar Association, and the New England Conference of Public Utilities Commission. This conference focused on the wireless consumer's perspective, the New England wireless ecosystem, and other wireless issues. An audience of over 150 listened to former leaders of the Federal Communications Commission, renowned authors, venture capitalists, members of industry, academia, and state authorities. Competition Division staff also devoted substantial time towards reviewing and advocating before the FCC regarding the Connect America Fund and contributions to the Universal Service Fund. In addition, Competition Division staff filed advocacy pieces with the FCC regarding the federal Lifeline low-income program and the Eligible Telecommunications Carrier (ETC) dockets, privacy, broadband adoption, non-dominance, copper retirement, rural call completion, and effective competition. The Competition Division, together with the State 911 Department, successfully renewed the State's certification to administer the Telecommunications Relay Service program, supporting disability access to telecommunications and enhanced 911 services. In FY 2013, the Competition Division, with assistance from Legal Division and Consumer Division staff as needed, submitted 16 sets of comments and ex parte filings in several proceedings of particular importance to Massachusetts. A list of these filings and their summaries are provided as Appendix C to this Report.

Review of New Registrations and of Original and Amended Tariff Filings

Companies wishing to do business and provide telecommunications services in Massachusetts must file a Statement of Business Operations and a tariff with the Department. The statement includes a general description of the services to be offered by the carrier; contact information for customers who need to reach the carrier with questions or complaints; and a statement that the company has made all appropriate federal and state income tax filings and paid all income taxes. During FY 2013, the Competition Division handled filings from 18 new carriers and 2 new payphone providers.

The Competition Division reviews competitive carriers' tariffs to make sure that they do not contain any terms or provisions that are in violation of Department policy (e.g., a carrier cannot offer service on the condition that a customer agrees not to contest any charges). Some tariffs are relatively short, but others are lengthy and complex. Competitive carriers are free to determine prices and service offerings based on what the market will bear ("market-based pricing"). In FY 2013, the Competition Division reviewed and approved over 300 tariffs and 16 interconnection agreements between carriers.

Market Monitoring and Reporting Function:

The evolution of the telecommunications and cable industries in Massachusetts has resulted in many new telecommunications service providers, new technologies, such as fixed Voice over Internet Protocol ("VoIP") telephone service, and a plethora of new service offerings. In addition, the competitive landscape is constantly changing, with new types of competitors and individual companies taking on a greater or lesser role in the marketplace each year. Because of the changing nature of the telecommunications and cable industries, the Competition Division analyzes new technologies and market developments in order to determine their impact on consumers and the competitive marketplace.

Consumer Education and Public Information

The Competition Division devotes substantial staff time explaining the Department's regulations and policies to potential and existing providers of telecommunications and cable services, local and state officials, state and federal legislators, other Massachusetts agencies, the FCC and other state public utility commissions, and various other constituencies. Staff also devotes significant time to consumer inquiries and refers consumers to the Consumer Division for additional assistance. From time to time, the Department requires telecommunications carriers to develop customer education materials explaining major changes in the provision of services. The Competition Division reviews these education materials for technical accuracy. As needed, staff develops educational materials in response to industry changes, Consumer Division requests, or Department Orders. In FY 2013, Competition Division staff assisted in the Department's ongoing investigation into consumer protection rules for Lifeline (low-income) services.

Legal Division

Overview

The Legal Division staff serves as the chief legal and policy advisor to the Commissioner and provides legal support to all Divisions of the Department. Legal Division staff members serve as hearing officers presiding over most of the Department's adjudicatory hearings.

Division Responsibilities

Formal Adjudication

Pursuant to G. L. c. 25C, § 4, which permits the Commissioner to designate employees of the Department to preside over Department hearings, Legal Division staff attorneys serve as hearing officers at Department adjudicatory proceedings conducted under the Massachusetts Administrative Procedures Act (G. L. c. 30A) and the Department's procedural regulations (220 C.M.R. § 1.00 et seq.). During FY 2013, the Legal Division participated in the issuance of 9 Final Orders. A list of the Orders issued is attached as Appendix A. Adjudications are the formal determination of parties' rights through an administrative hearing process. All parties –the party(ies) filing the action and any respondents or intervenors – are entitled to due process safeguards, meaning that the parties are entitled to adequate notice and the opportunity to be heard. Parties to the action have the right to present evidence, cross-examine witnesses, and receive a written decision from the Department.

Adjudicatory proceedings vary in complexity, including the following types of proceedings:

- Service quality issues;
- Ratemaking, including cable rate and telecommunications tariff orders;
- “Slamming” (unauthorized switch of a consumer’s telecommunications service);
- Interconnection disputes between telecommunications carriers;
- Certification of telecommunications carriers to do business within the Commonwealth;
- Certification of telecommunications carriers as “eligible telecommunications carriers” entitled to receive Universal Service Funds from the federal government; and
- Formal Consumer Adjudications.

In conducting a formal adjudicatory proceeding, the Department generally holds two types of hearings: (1) a public hearing, and (2) an evidentiary hearing. Public hearings are publicized throughout the provider's service territory. In certain types of cases, public hearings are conducted in a provider's service territory. Public hearings are transcribed by a stenographer. If conducted in a provider's service territory, public hearings are typically conducted during the evening in an easily accessible public building such as the Town Hall, and are overseen by a Presiding Officer. Otherwise, public hearings are typically conducted at the Department's Boston office, or another convenient downtown Boston location. The public hearings afford local consumers the opportunity to learn more about a rate request, offer their input about the pending case,

and comment on the practices of the provider. Residential and business customers, as well as Municipalities are a valuable source of information to the Department in developing a case record.

Evidentiary hearings are conducted in a courtroom setting in the Department's Boston office. These proceedings are also transcribed by a stenographer. The Commissioner or a hearing officer presides over evidentiary hearings, with the active participation of the Department's technical and legal staffs. Staff members question witnesses to ensure that the record is accurate and complete, while the Commissioner or hearing officer controls the conduct of the proceeding.

While the adjudicatory process does not require adherence to all formal rules of evidence, the evidentiary hearing process follows rules that mirror many of the civil procedure rules used by Massachusetts courts, and parties are typically represented by counsel.

Evidentiary hearings afford all parties, including intervenors, the opportunity to question witnesses. In many cases, the Attorney General of the Commonwealth is an intervenor. Other intervenors may include public interest organizations and local consumer, business, or neighborhood groups. Sometimes intervenors put on a direct case with witnesses of their own. Based on the evidence in the record, the Department issues a Final Order at the conclusion of each adjudicatory proceeding. Pursuant to G. L. c. 25, § 5 and G. L. c. 166A, § 2, the Department's Final Orders are reviewed directly by the Massachusetts Supreme Judicial Court. In certain circumstances, Department Orders may also be appealed to the Federal District Court or the FCC.

Other Types of Adjudication

Requests for Advisory Ruling

The Department is sometimes called upon to issue advisory rulings with respect to the applicability of any statute or regulation enforced or administered by the Department. The Department has discretion to decline a request for an advisory ruling. See G. L. c. 30A, § 8; 220 C.M.R. § 2.08.44.

Rulemaking

The Department conducts rulemaking pursuant to G. L. c. 30A, §§ 4-10 and 220 C.M.R. § 2.00, to adopt, amend or repeal regulations pertaining to the activities of all industries the Department is charged by statute with regulating. A rulemaking proceeding may involve simple procedural regulations or may address complex regulatory issues. The Department is required to provide public notice of a proposed rulemaking and to allow an opportunity for public comment. After consideration of the public comment, the Department may issue final regulations. Any final regulation must be published in the Code of Massachusetts Regulations.

Compliance - General

The Legal Division, in cooperation with the rest of the Department, ensures compliance with a wide variety of laws, regulations, and policies. More specifically, the Department continued to ensure that telecommunications and cable providers were complying with state statutes, rules, Department orders, and all other regulatory requirements. For example, the Department continued its 2005-09 annual returns investigation and compliance actions against carriers operating without Department approval. The Department's methods for ensuring compliance can include mass mailings notifying the industry of Department rules and regulations; issuing Notices of Probable Violation ("NOPVs"); opening investigations; issuing Orders to cease and desist; assessing forfeitures for non-compliance, and referring violators to the Attorney General's Office for prosecution.

Consumer Division

Overview

The Consumer Division's primary responsibilities include enforcing and monitoring compliance with Massachusetts laws and Department regulations and policies to protect consumers of telecommunications and cable services. Hundreds of companies fall within the scope of the Consumer Division's regulatory authority, with the largest number in the telecommunications industry.

The Consumer Division primarily handled issues involving telecommunications and cable services. Additionally, a trend in issues relating to unregulated services such as internet/broadband and wireless were received in the Division from consumers requiring assistance with their providers.⁶ See Attachment B for the breakdown of Consumer Division statistics for companies related to telecommunications, cable and other industries.

Division Responsibilities

Enforce Residential Consumer Protections Rules:

- Inform consumers of their rights
- Ensure Company's compliance with billing and termination rules
- Assures consumers have a place to go to dispute their bills
- Intervenes to resolve poor quality service issues and/or service interruptions

⁶ Also, due to its former role handling energy-related issues on behalf of the Department of Public Utilities ("DPU"), the Consumer Division handled a residual number of calls from consumers seeking to contact the DPU by referring or transferring them directly to their energy provider using Nuance, our automated telephone system as a courtesy and minimize inconvenience for the consumer.

Respond to Consumer Inquiries

The Consumer Division conducts informal complaint investigations, responds to inquiries, and participates in the critical role of informing and educating consumers about various technological changes affecting their telecommunications and cable services. The Consumer Division's most important duty is to respond to the roughly 70 telephone contacts it receives daily. Consumers may contact the Division by telephone, mail, email, and fax or by visiting the office, although the vast majority of consumer contacts are made by telephone. Contacts to the Consumer Division are further categorized as either inquiries or referrals, for which we provide information, or complaints which we investigate as cases that require direct involvement with consumers' service provider.

The Consumer Division operates a call management telephone system allowing consumers to receive personal and prompt attention by staff to answer inquiries and complaints, while also permitting for the option of automated voice response assistance to those consumers who initially wish to speak directly with their service provider. The call management system assists with making Consumer Division Specialists more readily available to those callers requiring Consumer Division expertise. It also provides a menu option for Spanish speaking callers that wish to speak to a representative in their native language.

The Consumer Division receives a number of contacts that the Division classifies as "unregulated matters." These contacts typically consist of miscellaneous issues that are either unassociated with a particular company or involve non-regulated issues or entities outside of the Department's jurisdiction. Examples of such "unregulated matters" include contacts relating to wireless, satellite, internet/broadband, VoIP, telemarketing, and collection agency practices.

Investigate and Resolve Consumer Complaints

The two main complaint types received in the Consumer Division concern billing disputes and quality of service problems. In cases where the company is found to be at fault, the Consumer Division will order the company to provide an explanation addressing the problem, make the corrective action, and/or make any warranted refunds or credits to consumer bills.

Every complaint opened by the Consumer Division must be resolved before it can be closed. If the residential telephone consumer or the service provider is not satisfied with the investigator's resolution of a complaint, a request for additional mediation via an informal hearing is scheduled within the Consumer Division. Parties dissatisfied with the informal written decision issued on the complaint may request a formal adjudicatory hearing conducted by a hearing officer in the Department's Legal Division.

The unauthorized switching of a consumer's telephone service provider is known as "slamming" and is a violation of state law G. L. ch. 93 §§108 to 113. Companies that engage in slamming may be subject to a fine. The Consumer Division enforces both federal and state laws prohibiting "slamming." If the Department determines that an

unauthorized switch has occurred, consumers will receive a refund of any unauthorized charges that they paid. Under Massachusetts law, consumers must bring telephone service slamming complaints to the Division within 90 days.

Advise the Department

The Consumer Division alerts the Department to important consumer issues including significant complaint trends, billing errors and new company practices which may impact consumers. A continuing complaint trend regarding deceptive marketing and advertising practices of promotional offers have caused the Department to examine more closely the full disclosure and notice requirements. Also, the Division evaluates its existing billing and termination rules for residential telephone consumers to better assist with customer service standards for telecommunications, cable, and emerging technologies.

Review Bills and Notices

The Consumer Division reviews certain telecommunication and cable company billing material and customer notices to ensure that they provide consumers with clear and accurate information.

Provide Consumer Education

The Department's website is regularly updated to provide consumers with information about significant complaint trends, (examples include Cramming, Slamming, and Lifeline), to educate the public and protect consumers against scams, unauthorized charges or unfair billing practices. Also, the Consumer Division fields many calls from consumers requesting information or applications about Lifeline program to obtain a discount on their landline or wireless telephone service. The Consumer Division actively participates in outreach events to promote awareness and increase consumer participation in Lifeline as well as to be informed of their consumer protections. The Consumer Division along with Administration Division regularly provides targeted communities with mass mailings of its brochures.

Statistics

The Consumer Division provides statistical information to the Department, industry-related companies, government representatives and the media. The statistical complaint data compiled by the Consumer Division provides an important basis for determining whether fines should be levied against a company for failure to meet required service quality benchmarks. Statistical complaint data may also provide evidence of fraud or unfair trade practices, and if so this information would be shared with the Commonwealth's Attorney General's Office.

FY 2013 Telecommunications and Cable Accomplishments

- Responded to inquiries;

- Investigated 2,705 telecommunication and cable complaints along with 339 unregulated industries complaints;
- Authorized \$100,979.41 consumer refunds;
- Monitored complaint trends and advised the Department on important consumer issues;
- Approved various bill notices and billing inserts;
- Provided consumer education to the general public, and training to staff at organizations geared to assisting low income clients obtain services on the FCC's reforms of Lifeline and eligibility requirements in MA to qualify for Lifeline discounted telephone program. Prepared informational packages containing Lifeline brochures for mass distribution;
- Distributed the Cable Service Buying Guide to assist consumers to understand making purchases for cable service;
- Compiled statistics for reporting and informational purposes; and
- Conducted 28 consumer outreach initiatives throughout the Commonwealth, including a national effort to increase awareness of Lifeline by hosting outreach events in September 2012 in Chelsea, Fall River, Worcester, and Holyoke.

The Consumer Division assisted consumers with energy-related matters by referring them to the DPU or directly to the appropriate utility company.

- Responded to 294 energy related contacts for the year.

Additionally, the Consumer Division assisted consumers with issues that are outside of the Department's jurisdiction (e.g., wireless, satellite television, internet, VoIP, etc.) by contacting their company to inform and/or resolve the issue.

- Responded to 398 contacts for the year;
- Investigated 302 complaints for the year; and
- Authorized \$14,656.85 consumer refunds for the year.

Note: The Consumer Division's contact numbers for the year include calls received that were transferred directly to companies through the Department's automated telephone software. Through this software, callers are directly transferred to a utility company or a telecommunications or cable provider of their choice simply by speaking the name of the company they wish to contact. In 2013, approximately 15,712 consumers were re-directed to the appropriate company for assistance.

Appendix A FY 2013 Department Orders Issued

Docket No.	Caption	Date Order Issued	Date Closed
12-4	T-Mobile Northeast LLC Petition for Limited Designation as an Eligible Telecommunications Carrier for Purposes of Low Income Support Only.	8/30/2012	9/19/2012
11-13	Petition of Charter Communications to establish and adjust the basic service tier programming, equipment and installation rates for the communities served by Charter that are currently subject to rate regulation.	9/27/2012	10/17/2012
11-19	Verizon MA 2011 recertification of Lifeline customers in Massachusetts.	10/3/2012	10/23/2012
06-61	Investigation by the Department on its own motion as to the propriety of the rates and charges set forth in the following tariff: M.D.T.E. No. 14, filed with the Department on June 16, 2006, to become effective July 16, 2006, by Verizon New England, Inc.	10/17/2012	11/6/2012
11-19	Verizon MA 2011 recertification of Lifeline customers in Massachusetts.	10/31/2012	11/19/2012
12-8	Petition of State 911 Department for approval of Request for Response to Procure Telecommunications Relay Service and Captioned Telephone Relay Service.	12/20/2012	1/10/2013
12-1	Petition of CoxCom, Inc. d/b/a Cox Communications to establish and adjust the basic service tier programming, equipment, and installation rates for the Town of Holland.	1/25/2013	2/17/2013
12-2	Petition of Comcast Cable Communications, Inc. to establish and adjust the basic service tier programming, equipment, and installation rates for the communities in Massachusetts served by Comcast Cable Communications, Inc. that are currently subject to rate regulation.	1/30/2013	2/19/2013
11-11	Petition of Global Connection Inc., D/b/a STAND UP WIRELESS for Designation as an Eligible Telecommunications Provider.	3/5/2013	3/25/2013

Docket No.	Caption	Date Order Issued	Date Closed
11-12	Petition of Budget PrePay Inc. for Designation as an Eligible Telecommunications Carrier.	3/5/2013	3/25/2013
10-3	Investigation by the Department to Establish Lifeline Certification and Verification Procedures.	4/1/2013	4/23/2013
13-2	CLEC Petition to Require Filing and Review of FiOS Digital Voice Interconnection Agreement.	5/13/2013	5/13/2013
10-2	Petition of Choice One Communications of Massachusetts Inc., Conversent Communications of Massachusetts Inc., CTC Communications Corp. and Lightship Telecom LLC for Exemption from Price Cap on Intrastate Switched Access Rates as Established in D.T.C. 07-9.	5/13/2013	5/23/2013
11-AR-A	Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G. L. c. 159, §§ 12, 32, and 39, and G. L. c. 166, §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file annual returns for calendar years 2005, 2006, 2007, 2008, and/or 2009.	6/10/2013	6/30/2013
11-AR-B	Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G. L. c. 159, §§ 12, 32, and 39, and G. L. c. 166, §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file annual returns for calendar years 2005, 2006, 2007, 2008, and/or 2009.	6/10/2013	6/30/2013
11-AR-C	Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to G. L. c. 159, §§ 12, 32, and 39, and G. L. c. 166, §§ 11 and 12, regarding the failure by individually-named common carriers of telecommunications services to file annual returns for calendar years 2005, 2006, 2007, 2008, and/or 2009.	6/10/2013	6/30/2013
12-9	Petition of YMax Communications Corp. for Limited Designation as a Lifeline-Only Eligible Telecommunications Carrier.	6/14/2013	7/3/2013

Appendix B

FY 2013 Consumer Division Telecommunications & Cable Statistics

Industry	Company	Cases	Referrals	Nuance	Adjustments
Cable	CHARTER CABLE	81	78	245	\$933.98
	COMCAST CORP.	1,080	1,064	6,750	\$36,696.45
	COX Communications	0	1	4	0
	Other Cable	0	0	2	\$0.00
	RCN Cable	52	286	1354	\$767.33
	RUSSELL CABLE	0	0	4	\$0.00
	SHREWSBURY CABLE	0	0	25	\$0.00
	TIME WARNER CABLE	34	33	174	\$163.35
	Tufts University Cable	0	0	5	\$0.00
	Total	1,247	1,462	8,559	\$38,561.11
Not Applicable	AT&T WIRELESS	8	4	0	\$278.17
	Cellular service	2	3	0	\$0.00
	Department of Public Utilities	3	299	699	\$0.00
	DirectTV	11	21	0	\$0.00
	DISH NETWORK -SATELLITE TV	3	1	0	\$0.00
	DO NOT CALL LIST	5	12	0	\$0.00
	OTHER	3	3	0	\$0.00
	MetroPCS	3	0	0	\$35.00
	SPRINT WIRELESS	18		0	\$851.32
	T-Mobile	41	8	0	\$3,970.86
	VERIZON DSL	63	9	0	\$2,036.05
	VERIZON FIOS	81	12	0	\$2,440.34
	VERIZON WIRELESS	62	16	0	\$5,045.11
	VONAGE -VOIP SERVICES	1	1	0	\$0.00
	Total	302	377	699	\$14,656.85
Telecommunications	01 Communications of Massachusetts, LLC	0	1	0	\$0.00
	ACN	1	5	0	\$499.00
	Advantage Telecom	0	1	0	\$0.00
	Assurance Wireless by Sprint/Lifeline	85	408	250	\$0.00
	AT&T	49	42	193	\$2,565.86
	Birch Communications Inc	1	1	0	\$0.00
	BROADVIEW NETWORKS	3	1	0	\$975.88
	BroadWing Telecom	1		0	\$0.00
	Budget PrePay	7	22	0	\$0.00
	CHARTEL (Charter Fiberlink Telecom)	7	3	0	\$20.59
	Clear Rate Communications	1	0	0	\$0.00
	Comcast Phone, LLC	31	6	26	\$970.20

Industry	Company	Cases	Referrals	Nuance	Adjustments
	Cornerstone	4		2	\$3,221.91
	Evercom Systems, Inc.	1	0	0	\$0.00
	FCC	1	26	0	\$0.00
	First Communications	1	0	0	\$7.90
	GLOBAL Tel*Link Corporation (GTL)	367	0	0	\$12.61
	Granby Telephone Company	6	4	6	\$298.93
	Granite Telecommunications, LLC	1	0	0	\$0.00
	IDT Corporation	3	5	0	\$0.00
	ILD - Evercom - Talton - Invision	2	1	0	\$378.00
	IMR Telecom	1	1	0	\$0.00
	InReach /TMobile Lifeline	3	1	0	\$0.00
	Legacy Long Distance International Inc	1	0	0	\$26.03
	Legent Communications Corp. dba/Long Distance America	1	0	0	\$0.00
	Lifeline Applications and Issues	24	13	0	\$0.00
	Massachusetts Local Telephone Company, Inc.	1	0	0	\$0.00
	Matrix Telecom, Inc.	1	0	0	\$46.52
	MCI-Agency Relations	0	0	18	\$0.00
	Metropolitan Telecommunications	2	0	0	\$331.61
	NOS Communications, Inc.	1	0	0	\$1.00
	One Touch Communications dba Spectrotel	1	0	0	\$0.00
	One Link Communications	2	0	0	\$187.63
	One Communications dba Earthlink	14	11	0	\$3,243.59
	OPERATOR ASSISTANCE NETWK	1	0	0	\$98.26
	OTHER COCOTS	1	4	0	\$0.00
	OTHER TELEPHONE CO.	8	2	0	\$93.46
	PaeTec Communications, Inc.	1	0	0	\$0.00
	Primus Telecommunications, Inc.	1	0	0	\$7.50
	Qwest Communications	1	0	0	\$181.00
	RCN Telephone	2	1	0	\$35.00
	SafeLink by TracFone/Lifeline	33	43	16	\$0.00
	Silv Communications Inc.	1	0	0	\$0.00
	SPRINT	5	1	27	\$32.47
	StandUp/Lifeline	1	0	0	\$0.00
	Startec Global Communications	1	0	0	\$7.85
	Trans National Comm	2	1	0	\$6,751.00
	Taconic	0	0	2	\$0.00
	USBI	1	1	0	581.58
	VERIZON	773	1,242	5,370	26,628.42

Industry	Company	Cases	Referrals	Nuance	Adjustments
	Wil Tel	0	1	0	\$0.00
	XO Communications, Inc.	2	0	0	\$462.12
	Total	1,458	1,848	5,914	\$47,665.92
Unknown	UNKNOWN	30	0	0	\$0.00
	Unregulated Industry	5	5	0	\$95.53
	Excel Total	35	5	0	\$95.53
	Total	35	5	0	\$95.53
	Grand Total	3,044	3,704	15,172	\$100,979.41

Appendix C

FY 2013 Department FCC Filings

Note: All Department filings are available through the Department, as well as through the FCC's publicly-accessible Electronic Comment Filing System, which is available online at: <http://apps.fcc.gov/ecfs/>.

Date Filed	Filed As	FCC Docket	Filing Type	Filing Description
6/28/13	MDTC	CG 03-123	Compliance	The MDTC filed its TRS consumer complaint log summary.
6/14/13	MDTC	WC 10-90, 07-135, 05-337, 03-109, GN 09-51, CC 01-92, 96-45	Ex Parte Letter	The MDTC filed an ex parte letter explaining the impact on bills that consumers will face due to changes to the subscriber line charge and access recovery charge. The MDTC encouraged the FCC to stop further bill increases and require broadband obligations.
6/5/13	MDTC	WC 11-42	Compliance	The MDTC filed its certification that the MDTC is not recertifying Lifeline subscribers but will defer to efforts by the Universal Service Administration Company.
5/28/13	MDTC	WC 13-39	Reply Comments	The MDTC filed reply comments encouraging the FCC to do more than just collect data on rural call completion problems, which affect urban and suburban areas, as well.
4/29/13	MDTC	MB 13-92, 12-1, CSR 8778-E	Opposition	The MDTC filed an opposition to Time Warner Cable's petition for special relief from cable regulation for three Massachusetts communities.
3/29/13	MDTC	CG 03-123	Compliance	The MDTC filed a second supplement to its October 4 TRS recertification application.
3/5/13	MDTC	GN 12-353, RM 11358	Comments	The MDTC filed comments suggesting that the FCC's review of copper retirement should occur in coordination with the IP transition and should involve streamlined requirements.
2/25/13	MDTC	WC 13-3	Comments	The MDTC filed comments on a petition concerning non-dominance status.
2/11/13	MDTC	MB 13-20	Opposition	The MDTC filed an opposition to Charter's petition for special relief from cable regulation in five Massachusetts communities.
1/28/13	MDTC	WC 10-90, 07-135, GN 09-51, CC 01-92	Comments	The MDTC filed comments reminding the FCC that public safety, consumer protection, and competition are top priorities in the IP transition from the existing regulatory and infrastructure framework.

Date Filed	Filed As	FCC Docket	Filing Type	Filing Description
1/28/13	MDTC	WC 10-90	Comments	The MDTC filed comments encouraging the FCC to create broadband pilot program using Connect America Fund moneys. The Department also encouraged the FCC to define an “unserved” area as one lacking 4 Mbps upstream and 1 Mbps downstream broadband access.
1/7/13	MDTC	CG 03-123	Compliance	The MDTC filed a supplement to its October 4, 2012 TRS application for recertification.
10/4, 25/12	MDTC	CC 96-45, WC 10-90	Compliance	The MDTC filed a revised annual state certification for Eligible Telecommunications Carriers (ETCs)’ high-cost support from the Universal Service Fund.
7/30/12	MDTC	CC 96-115	Reply Comments	The MDTC filed reply comments noting state law requires mobile wireless privacy rules and encouraging the FCC to give wireless customers more control over their personal information.
7/17/12	MDTC	CG 11-116, 09-158, CC 98-170, WC 06-122, GN 09-51, WC 11-42, 03-109, CC 96-45, WC 12-13	Ex Parte	The MDTC filed an ex parte notice describing a meeting between Department personnel and members of the FCC staff concerning cramming, the Department’s recommendation for a “Do-Not-Cram” registry, USF contribution methodology, the Lifeline broadband pilot program, and 911 services.
7/9/12	MDTC	WC 06-122, GN 09-51	Comments	The MDTC filed comments encouraging the FCC to reform its data collection framework before implementing major contributions reform measures to the Universal Service Fund. MDTC also said the FCC should work closely with state commissions and should exempt Lifeline consumers from USF contributions requirements.