



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### NOTICE OF FILING, PUBLIC HEARING, AND PROCEDURAL CONFERENCE

D.P.U. 16-11

April 7, 2017

Petition of the Massachusetts Department of Transportation to the Department of Public Utilities, pursuant to G.L. c. 160, § 98, for an exemption from minimum bridge clearance requirements in connection with planned development of buildings on Massachusetts Turnpike Air Rights Parcel 12 and Parcel 15.

On January 13, 2016, the Massachusetts Department of Transportation ("MassDOT") filed a petition with the Department of Public Utilities ("Department") for an exemption to vertical height clearance requirement G.L. c. 160, § 98, for construction of a planned development of buildings by ADG Scotia II LLC on Massachusetts Turnpike Air Rights Parcel 12 and Parcel 15 ("Petition"). The Department has docketed this petition as D.P.U. 16-11.

Parcel 12 of the development is located at the northwest corner of Boylston Street and Massachusetts Avenue. According to MassDOT, the proposed project will cover the full width of the turnpike and rail corridor for approximately 210 linear feet over two railroad tracks west of Massachusetts Avenue. In this area, the lowest clearance will be 18 feet, 7.5 inches (18'7 ½") between the top of the rail and the underside of the deck for 65 feet immediately adjacent to Massachusetts Avenue to allow the building to meet the elevation of the bridge and sidewalk. Accordingly, MassDOT requests the Department approve a vertical clearance height of 18 feet, 7.5 inches (18'7 ½") for Parcel 12. For the remaining 125 linear feet of coverage on Parcel 12, MassDOT states that the clearance will range from an approximate minimum of 20 feet, 2 (20'2") inches to a maximum of 20 feet, 5 inches (20'5").

Parcel 15 of the development will cover the turnpike and rail corridor in its entirety between Boylston, St. Cecilia, Cambria, and Dalton streets, a liner distance of approximately 275 linear feet over two railroad tracks. According to MassDOT, the lowest elevation in this section will cover approximately 40 linear feet of track near the existing St. Cecilia Street bridge. Clearance in this area will be 17 feet, 5 inches (17'5") in order to accommodate building elevator pits, greater than the clearance of the adjacent St. Cecilia Street bridge. Accordingly, MassDOT requests the Department approve a vertical clearance height of 17 feet, 5 inches (17'5") for Parcel 15. For the remaining 235 linear feet of rail to be covered on Parcel 15, the clearance will be 19 feet, 5 inches (19'5").

Pursuant to G.L. c. 160, § 98, no bridge shall be constructed over a railroad track at a height of less than 22 feet, six inches (22'6) without the Department's approval. Accordingly, the Department will review MassDOT's petition to determine: (1) whether an exemption from the vertical height clearance requirement will affect existing and anticipated rail car access; and (2) whether an exemption is consistent with public safety. Massachusetts Highway Department, D.P.U. 95-130, at 4 (1996).

The Department will conduct a public hearing to receive comments on MassDOT's Petition. The hearing will take place on **Monday, May 15, 2017, at 2:00 p.m.** at the Department's offices, One South Station, 5th Floor, Boston, Massachusetts 02110. A procedural conference will follow immediately thereafter. Any person who desires to comment may do so at the time and place noted above or submit written comments to the Department not later than the close of business (5:00 p.m.) on **Monday, May 15, 2017, at 2:00 p.m.**

A copy of the petition and accompanying exhibits are available for inspection during regular business hours at the Department's offices. In addition, the filing is also available on the Department's website at <http://web1.env.state.ma.us/DPU/FileRoom/dockets/bynumber> (enter "16-11"). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), contact Theresa Kelly at [Theresa.Kelly@state.ma.us](mailto:Theresa.Kelly@state.ma.us) or (617) 305-3642.

Any person who desires to participate in this proceeding shall file an original and two (2) copies of such petition for leave to intervene in the proceeding with Mark D. Marini, Secretary, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110, no later than 5:00 p.m. on **Wednesday, May 10, 2017**. All responses to petitions to intervene must be filed by the close of business on the second business day after the petition to intervene was filed. Petitions to intervene and responses to petitions to intervene shall be served on counsel for MassDOT, Lauren D. Armstrong, Esq., Deputy General Counsel, MassDOT and MBTA, Ten Park Plaza, Suite 3510, Boston, Massachusetts 02116.

A petition for leave to intervene must satisfy the timing and substantive requirements of 220 C.M.R. § 1.03. Receipt by the Department, not mailing, constitutes filing and determines whether a petition has been timely filed. A petition filed late may be disallowed as untimely, unless good cause is shown for waiver under 220 C.M.R. § 1.01(4). To be allowed, a petition under 220 C.M.R. § 1.03(1) must satisfy the standing requirements of G.L. c. 30A, § 10.

All documents should be submitted to the Department in electronic format using one of the following methods: (1) by e-mail attachment to [dpu.efiling@state.ma.us](mailto:dpu.efiling@state.ma.us) and the hearing officer [jennifer.cargill@state.ma.us](mailto:jennifer.cargill@state.ma.us); or (2) on a CD-ROM. The text of the e-mail or CD-ROM must specify: (1) the docket number of the proceeding (D.P.U. 16-11); (2) the name of the person or company submitting the filing; and (3) a brief descriptive title of the document. The electronic filing should also include the name, title, and telephone number of a person to contact in the event of questions about the filing. All documents submitted in electronic format will be posted on the Department's website.

For further information regarding the petition, please contact counsel for MassDOT, Lauren D. Armstrong, Esq., Deputy General Counsel, MassDOT and MBTA, Ten Park Plaza, Suite 3510, Boston, Massachusetts 02116, 857-368-8669. For further information regarding this notice, please contact Jennifer Cargill, Hearing Officer, Department of Public Utilities, One South Station, Boston, Massachusetts, 02110, 617-305-3500.

Reasonable accommodations at public or evidentiary hearings for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way the Department can contact you if we need more information. Please provide as much advance notice as possible. Last minute requests will be accepted, but may not be able to be accommodated. Contact Theresa Kelly at [Theresa.Kelly@state.ma.us](mailto:Theresa.Kelly@state.ma.us) or (617) 305-3642.

---