

**Oral Testimony of Massachusetts Department of Public Utilities
Chair Matthew Nelson Before the Senate Committee on Banking, Housing,
and Urban Affairs, Subcommittee on Economic Policy**

Public Hearing on “Economic Impacts of Inadequate Transit Maintenance and Oversight: Examining Management Failures at the Massachusetts Bay Transportation Authority and the Massachusetts Department of Public Utilities”

October 14, 2022

11:00 a.m.

As prepared for delivery

Good morning, Chair Warren and Senator Markey. Thank you for the opportunity to testify regarding the Department of Public Utilities’ (“Department” or “DPU”) oversight of safety management practices at the Massachusetts Bay Transportation Authority (“MBTA”).

The Department of Public Utilities is responsible for oversight of investor-owned electric power, natural gas, and water utilities in the Commonwealth, and the agency is also charged with developing alternatives to traditional regulation, monitoring service quality, regulating safety in the transportation, steam distribution and gas pipeline areas, and the siting of energy facilities. The DPU is comprised of numerous Divisions, such as the Consumer Division, Pipeline Safety Division, Electric Power Division, Transportation Network Companies Division, Gas Division, and Transportation Oversight Division.

The Transportation Oversight Division serves both consumer protection and public safety functions. It primarily regulates safety practices of common carriers used to transport passengers and property including trucks, railways, buses, household moving companies, and towing companies. The Division also licenses Massachusetts-based intrastate motor bus companies and investigates consumer complaints regarding a driving violation or an accident involving a Department-licensed common carrier.

Additionally, and most pertinent to the subject of today's hearing, within the Transportation Oversight Division, the Rail Transit Division serves as the Commonwealth of Massachusetts' State Safety Oversight Agency ("SSOA") for the rail fixed guideway public transportation system. The only such system in Massachusetts is the MBTA. Federal regulations (49 CFR §674) outline a SSOA's responsibility for overseeing the safety of the system and assessing the effectiveness of the Public Transportation Agency Safety Plan (ASP) in ensuring safety.

The chief activities of the Rail Transit Division can be divided into three general areas: (1) accident investigations; (2) ongoing monitoring of safety practices; and (3) monitoring of large capital delivery projects. Our Rail Transit Division has staff on-call—24 hours per day, seven days per week—to respond to accidents and incidents. While on scene, staff take notes, photos, and meet with MBTA personnel to get an initial sense of what has happened. Division staff observe the MBTA's investigation of an incident from beginning to end for the purpose of ensuring that the MBTA's investigation into the cause and circumstances of the incident are "sufficient and thorough."

In addition to responding to incidents, the Rail Transit staff observes the MBTA's day-to-day safety practices and compliance with its own Agency Safety Plan. Last year, the Rail Transit staff conducted 472 oversight activities, including: (1) document reviews, rules reviews, and record reviews; (2) field observations conducted on-site at MBTA properties to observe implementation of processes and procedures referred to in the Agency Safety Plan, including site visits to yards, car houses, and stations; (3) interviews with MBTA employees after the DPU has made a field observation; and (4) inspections, meaning that DPU observes an MBTA official conducting a safety activity or inspection and then the DPU evaluates MBTA's compliance with procedure and standards.

The Department also oversees the certification of large capital delivery projects, like Green Line Extension (GLX) and Green Line Train Protection System (GLTPS). The MBTA has its own Safety Certification process for capital projects, and the DPU must observe and verify that the MBTA follows its own Safety Certification process of new construction.

In carrying out these functions, the Division operates under a set of generally applicable principles. The MBTA is responsible for the development of safety

procedures and protocols for its rail system. The DPU is responsible for safety oversight to ensure fulfillment of the MBTA's safety functions.

The DPU takes its responsibility to ensure the safety of riders of the MBTA's transit system very seriously, and we have been working closely with the FTA and the MBTA to implement the FTA's recommendations as outlined in the final Safety Management Inspection report issued on August 31, 2022. DPU agrees that the actions directed by the FTA are necessary for enhancing public transportation system safety, and the DPU is working diligently to implement those actions. DPU has already expanded its field work, including by conducting more in-person observations, and is working to increase its resources to be able to conduct even more field work and additional auditing of the MBTA. The DPU is also working to hire additional staff with transit safety experience in our Rail Transit Division, and we are actively recruiting and continually posting jobs.

The Department is dedicated to our efforts in these areas, and we look forward to ongoing work with the FTA and the MBTA to ensure riders receive a safe and reliable transportation system. Thank you for the opportunity to testify. I look forward to answering your questions.