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VIA ELECTRONIC FILING

Office of Legal Affairs
New Jersey Department of Environmental Protection
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Re: Protecting Against Climate Threats, Resilient Environments and Landscape Rules; DEP Docket No. 05-24-05

To the Department of Environmental Protection:

We submit these comments on behalf of the North American Submarine Cable Association (“NASCA”) in connection with the above-referenced proposal of the New Jersey Department of Environment Protection (“NJDEP”) to amend New Jersey’s Coastal Zone Management Plan rules with the goal of “ensuring the use of reliable climate science to aid New Jersey communities in better preparing themselves to confront the critical environmental and public safety threats presented by climate change.”¹ While NASCA supports the NJDEP’s goals, it believes that the proposed rule amendments should be revised both for clarity and to ensure that, consistent with the Coastal Zone Management Act,² the Proposed Amendments do not significantly interfere with activities that serve key federal interests, in particular the installation and maintenance of submarine telecommunications cables. As proposed, the amendments discourage such infrastructure, effectively routing them into corridors, thereby undermining their security and resiliency.

NASCA is the leading association of submarine cable operators, submarine cable maintenance authorities, and prime contractors for submarine cable systems operating in North

¹ New Jersey’s Protecting Against Climate Threats (NJPACT) Rules, 56 N.J.R. 1282(a) (“Proposed Amendments”).

² Coastal Zone Management Act, 16 U.S.C. § 1451 *et seq.* (“CZMA”).

America.³ The submarine cable industry is a key stakeholder in this proceeding, with members owning and operating existing submarine telecommunications cables that link New Jersey and the Eastern seaboard with Europe, the Caribbean, and Latin America, including:

- **Havfrue**, connecting New Jersey with Denmark, Ireland, and Norway
- **TGN-Atlantic South**, connecting New Jersey and the United Kingdom
- **Seabras-1**, connecting New Jersey with Brazil
- **Apollo South**, connecting New Jersey with France
- **GlobeNet**, connecting New Jersey with Florida, Bermuda, Brazil, Colombia, and Venezuela

These submarine telecommunications cables serve vital U.S. interests, which are also interests shared by New Jersey. Submarine telecommunications cables form the backbone of our modern digital infrastructure: submarine cables—not satellites—continue to carry approximately 99 percent of the world’s Internet, voice, and data traffic.⁴ Activities that rely upon submarine cables span the full range of economic and social activities: submarine telecommunications cables enable Internet connectivity and electronic commerce, global payment networks, mobile wireless backhaul, government and military communications, telemedicine, research, remote work and video conferencing, and communications with friends and family.⁵ The global nature of the Internet and the networks that operate over it mean that even communications within a domestic or local area (such as communications up and down the Eastern seaboard), rely on submarine cable infrastructure to deliver communications and services. This reliance is growing—with more cables planned—as our cultural, social, economic, and national security

³ NASCA’s members include Alaska Communications System; Alaska United Fiber System Partnership; Alcatel Submarine Networks; AquaComms; AT&T Corp.; C&W Networks; Edge Network Services; EXA Infrastructure; Global Cloud Xchange; Global Marine Systems Ltd.; GlobeNet; Lumen Technologies UK, Ltd; OPT French Polynesia; PC Landing Corporation; Rogers Communications; Seaborn Networks; Southern Caribbean Fiber; Southern Cross Cable Network; Tampnet Group; Tata Communications (Americas); SubCom; Verizon; Vodafone; and Zayo Group Ltd. See Member Companies, North American Submarine Cable Association, <https://www.n-a-s-c-a.org/member-companies/>.

⁴ Doug Brake, *Submarine Cables: Critical Infrastructure for Global Communications*, Info. Tech. & Innovation Found., at 1 (Apr. 2019), <https://www2.itif.org/2019-submarine-cables.pdf>.

⁵ See International Cable Protection Committee, *ICPC Calls on Governments and Industry to Facilitate and Expedite Submarine Cable Installation and Repair During the COVID-19 Pandemic in Order to Protect Internet Connectivity and Critical Communications*, at 1 (Apr. 3, 2020), <https://www.iscpc.org/documents/?id=3299>.

institutions and activities increasingly depend on digital, cloud-based platforms. The critical role that submarine telecommunications infrastructure plays was underscored by the National Security Memorandum on Critical Infrastructure Security and Resilience (“NSM-22”), which prioritizes national efforts to strengthen and maintain secure, functioning, and resilient critical infrastructure, to include fiber-optic telecommunication networks.⁶ It is thus imperative the NJDEP factor submarine cable security and resiliency into its revised rules.

NASCA notes at the outset that the Proposed Amendments, if adopted, will substantively change New Jersey’s Coastal Zone Management Plan, adopted pursuant to the Coastal Zone Management Act,⁷ and must be approved by the Secretary of Commerce.⁸ The Proposed Amendments, however, do not meet the statutory standard set forth in the CZMA, as they do not reflect “adequate consideration of the national interest involved in planning for, and managing the coastal zone.”⁹ Indeed, by effectively deterring submarine telecommunications cable activities, the Proposed Amendments undermine a key federal priority—that of critical infrastructure security and resiliency, as stated in NSM-22.

One of NASCA’s key concerns is the proposal to amend N.J.A.C. 7:7-12.21(c)1iii to state that submerged cables, or portions thereof, which are sited in the Atlantic Ocean are discouraged unless a “feasibility analysis including evaluation of the potential for cable co-location within existing cable corridors *demonstrates that no practicable alternate route exists . . .*” (emphasis added).¹⁰ The effect of this amendment will be to discourage any cable from landing outside designated corridors, resulting in the clustering of cables. Clustering significantly reduces the security and resiliency of the infrastructure by creating a single point of failure: an event that harms one submarine telecommunications cable, whether intentional or accidental, is much more likely to harm other nearby submarine telecommunications cables. This significantly decreases the ability of submarine telecommunications cable operators to re-route traffic along a different cable to maintain connectivity in the event of a traffic-affecting incident. While NASCA understands the needs to avoid any harm to fishing habitats—and the submarine telecommunications cable industry has a long track record of doing so—at the same

⁶ National Security Memorandum on Critical Infrastructure Security and Resilience (Apr. 30, 2024).

⁷ Coastal Zone Management Act, 16 U.S.C. § 1451 *et seq.*

⁸ *Id.* at § 1455(e).

⁹ *Id.* at § 1455(d)(8).

¹⁰ Proposed Rules at 124-126 & 656.

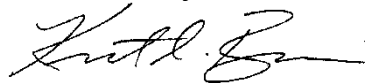
time, the NJDEP's regulations needs to account for the safe and secure deployment of vital infrastructure.

NASCA also urges the NJDEP to revise certain Proposed Amendments to clarify that they do not apply to existing and planned infrastructure, only to future deployments. In particular, the NJDEP proposes, in an amended N.J.A.C. 7:7-12.21(c)10, to require a minimum burial depth of 0.6 meters for telecommunications cables, with related compensation of \$100.00 per meter of cable that does not achieve that depth.¹¹ The NJDEP should clarify that this Proposed Amendment does not apply retroactively. The Proposed Amendment should also not apply in circumstances where cable crossings are necessary.

Finally, NASCA urges the NJDEP to adopt a more streamlined requirement for industry consultation with fishing interest groups. The NJDEP proposes, in revising N.J.A.C. 7:7-24.3(f), that the owner of a planned submarine telecommunications cable submit planned cable routes to six different fishing industry groups,¹² each of which may have different priorities and interests. The substantial time and expense in engaging in consultation and negotiations with six different interest groups could be extensive. NASCA suggests that the NJDEP provide a framework for such negotiations that stresses the goal of accommodating multiple ocean uses and should further recommend a timeline for resolving any open issues.

In short, NASCA urges the NJDEP to revise its Proposed Amendments, consistent with the CZMA, to ensure that the resiliency and security of submarine telecommunications cable infrastructure is considered a priority consistent with federal goals, and further to clarify and revise the Proposed Amendments to foster deployment without undue expense as well as facilitate negotiations with multiple interest groups.

Yours sincerely,



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¹¹ Proposed Rules at 125 & 655.

¹² Proposed Rules at 126-127.