



Comments of the Environmental Defense Fund

May 11, 2021

Environmental Defense Fund (“EDF”) appreciates the opportunity to submit comments regarding the discussion that took place at the New England Energy Vision equity and environmental justice technical forum. While the discussion at the technical forum covered several issues, including how to better address issues of equity within ISO New England and New England Power Pool processes, EDF’s comments focus on the specific issue of how state commissions can ensure procedural equity and equitable outcomes in individual state public utility commission proceedings. Although individual states may have particular clean air mandates and clean energy goals, equity and environmental justice issues transcend state borders, and the recommendations provided below could be implemented in any of the six New England states. Further, while it is vitally important to talk about equity, it is equally important for State Commissions to take the necessary measures to ensure equitable outcomes.

In general, the existing regulatory construct does not provide for adequate consideration of equity in processes or decisions. While there is increased understanding of the importance of equitable outcomes, that has, to date, rarely resulted in meaningful changes to the process. Disproportionately impacted communities face greater energy burdens (spending a higher proportion of their income on energy bills), environmental burdens (experiencing greater exposure to pollution from energy infrastructure) and infrastructure burdens (living in areas with older housing stock). It is imperative to invite, encourage and enable participation in the regulatory process from disproportionately impacted communities, and to consider equity in all regulatory decisions. There is no one-size-fits-all approach for enabling equitable participation and ensuring equitable decisions in every jurisdiction. Disproportionately impacted communities are integral to the conversation and their perspectives must be included at the outset. Right now, in this nascent stage of transforming the regulatory construct, it is imperative to embed equity in the process of developing regulatory reforms. The considerations below are not exhaustive and local environmental justice and equity organizations must be consulted in developing any reforms.

As an initial matter, regulators and stakeholders should consider barriers to participation from stakeholders not historically represented at Commission proceedings. These include, but

are not limited to, requiring in-state counsel for participation; requiring live, in-person participation; and addressing economic barriers to participation. Some options for addressing these barriers include providing compensation to organizations for whom participation creates an economic hardship; reforming requirements of retaining in-state counsel when doing so presents a hardship; gathering stakeholder feedback through workshop processes with a lower barrier to participation; and enabling virtual participation. Commissions should ease limitations on intervenor participation in formal proceedings and consider new structures and approaches to stakeholder involvement in order to invite a broader swath of input, such as community public participation hearings, and should ensure that these approaches facilitate stakeholder participation in all decision making.

In addition to increased equity in regulatory procedures, environmental, energy and climate justice must be high-priority considerations in regulatory decisions. Tools such as the Initiative for Energy Justice’s Equity Scorecard could be deployed to help assist Commissions in evaluating the equity implications of various proposals.¹ Once completed, the Scorecard will give “policymakers and advocates a general sense for how the policy scores in comparison to a ‘perfect’ energy just policy.”² This tool is currently available; it just has to be put in use by the Commissions.³ Further, equity experts should be invited to present on how issues of environmental and energy justice should be considered by Commissions and stakeholders.⁴ For example, in California, prominent equity groups authored “Equitable Building Electrification: A Framework for Providing Resilient Communities” which presents a five-step framework for how the current goals of building electrification can be aligned with producing healthy homes, creating high quality, local jobs, and establishing stronger connections between everyday Californians and California’s climate change policies and goals.⁵

In the energy transition in New England, one area of particular concern should be rate impacts on disproportionately impacted communities. Households that can least afford increases should be explicitly considered, along with alternative rate options, where appropriate, for those

¹ Initiative for Energy Justice, Energy Justice Scorecard, iejusa.org/wp-content/uploads/2019/12/Energy-Justice-Scorecard.pdf.

² Id.

³ The Initiative for Energy Justice has also developed a workbook addressing topics such as defining energy justice and energy justice in practice <https://iejusa.org/workbook/>

⁴ Intervenor compensation is one model. Another innovative model is represented in a Memorandum of Understanding between the New York Power Authority (NYPA) and a coalition of community organizations, wherein NYPA agreed to secure and fund a consultant to provide technical and analytical services to the coalition members to facilitate incorporation of their perspectives. See www.documentcloud.org/documents/7230919-NYPA-PEAK-MOU.html.

⁵ Greenlining, Equitable Building Electrification (2019), https://greenlining.org/wpcontent/uploads/2019/10/Greenlining_EquitableElectrification_Report_2019_WEB.pdf

households.⁶ Households of all income levels should be able to participate in demand response and energy efficiency programs and renters should have the same opportunities as homeowners.⁷ Additionally, as we transition away from dependence on natural gas, low-income households face unique challenges that must be considered. They may be unable to afford to electrify their homes or lack the site control to make these capital improvements because they are renters. That means that as wealthier customers depart the natural gas system to electrify and become early actors to meet the state’s decarbonization goals, these same disproportionately impacted communities will be left “holding the bag” on the existing infrastructure costs. Absent policy intervention, spreading the same costs out over fewer customers will lead to a rate increase that will be unaffordable, with disproportionate impact on these communities. These are just a few examples of what can result if equity and environmental justice are not foundational to the energy transition.

EDF appreciates the opportunity to comment on the equity and environmental justice

⁶ Approximately one in three U.S. households faces a challenge in paying their energy bills, according to the Energy Information Administration, and about one in five households report reducing or forgoing necessities such as food and medicine to pay an energy bill. U.S. Energy Information Administration, Today in Energy: One in three U.S. households faces a challenge in meeting energy needs (Sept. 19, 2018), www.eia.gov/todayinenergy/detail.php?id=37072. The COVID-19 pandemic is further exacerbating energy burdens for disadvantaged communities and is expected to result in increasing utility bill debt. Vote Solar, Report: COVID-19 and the Utility Bill Debt Crisis, votesolar.org/policy/policy-guides/low-income-solaraccess/covid-19-and-utility-debt-crisis/. As low-income gas utility customers struggle to cover their basic needs, it is essential that utilities provide equitable access to programs that can help relieve energy burdens, and that can ensure all customers have access to clean energy.

⁷ The 100% Network, Comprehensive Building Blocks for a Regenerative and Just 100% Policy (Jan. 2020), www.100percentnetwork.org. It is not enough for a utility to make a program available to any interested customer. “Incentive programs, even those that offer more generous payments to applicants that meet low-income requirements, are consistently under-utilized by lower-income and minority cohorts due to financial barriers, limited awareness of such programs, and lower rates of property ownership.” Fournier, ED, Cudd, R, Federico, F, & Pincetl, S., On energy sufficiency and the need for new policies to combat growing inequities in the residential energy sector, *Elem. Sci. Anth.*, 8:24 (2020), doi.org/10.1525/elementa.419 (citing Bird & Hernández, 2012; Scavo et al., 2016; Parsons et al., 2018).

technical forum and to provide perspectives on important policy and regulatory matters. EDF looks forward to working with the States and other stakeholders on these issues going forward.

Respectfully submitted,

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