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Kathleen Theoharides  
Secretary of Energy and Environmental Affairs  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

**RE: Comments on Interim Clean Energy and Climate Plan for 2030**

Dear Secretary Theoharides:

The Massachusetts Attorney General's Office (AGO) appreciates the efforts of the Executive Office of Energy and Environmental Affairs (EEA) to address climate change and decarbonize the Commonwealth. The AGO recognizes the many challenges involved in meeting Massachusetts's nation-leading climate targets and supports EEA's goal of achieving these limits equitably and affordably across all sectors. As EEA finalizes its 2030 planning effort, the AGO offers the following comments on EEA's Interim Clean Energy and Climate Plan for 2030 (Interim CECP or Plan) to help ensure the Commonwealth's decarbonization planning achieves Massachusetts's ambitious emissions-reduction goals while expressly promoting climate justice and redressing past harms to environmental justice (EJ) communities.<sup>1</sup>

As EEA appreciates, we are facing a rapidly accelerating climate crisis, and the dire consequences of climate change will disproportionately impact EJ communities that already bear a disproportionate burden of environmental and public health hazards here in Massachusetts and beyond.<sup>2</sup> The last seven years have been the warmest years on record, with 2020 tied for the

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<sup>1</sup> These Comments use the terms "climate justice" and "environmental justice" as defined in the Climate Justice Working Group's Recommendations to the Global Warming Solutions Act Implementation Advisory Committee. See Climate Justice Working Group, *Recommendations to Improve the Master Policy List to Address Climate Justice* (Aug. 7., 2020) ("CJWG Recommendations"), <https://www.mass.gov/doc/climate-justice-working-group-policy-recommendations/download>.

<sup>2</sup> See U.S. Env'tl. Prot. Agency, *Climate Change, Health, & Environmental Justice* (May 2016), <https://www.cmu.edu/steinbrenner/EPA%20Factsheets/ej-health-climate-change.pdf>; USGCRP, *The Impacts of Climate Change on Human Health in the United States: A Scientific Assessment*, Ch. 9: Populations of Concern (Crimmins, A., et al., eds., 2016) ("Climate Health Impacts"), <https://health2016.globalchange.gov/>; Off. of Mass. Attorney Gen. Maura Healey, *COVID-19's Unequal Effects in Massachusetts* 3, 7 (2020), <https://www.mass.gov/doc/covid-19s-unequal-effects-in-massachusetts/download>; Exec. Office of Energy and

lead.<sup>3</sup> In 2020, the nation endured a record hurricane season, and we suffered prolonged significant or critical drought conditions in every corner of the Commonwealth.<sup>4</sup> Massachusetts will continue to experience an increasing number of days of extreme heat, particularly in urban areas with low tree cover.<sup>5</sup> And sea level rise is predicted to be higher on the East Coast than the global average,<sup>6</sup> with Massachusetts projected to experience an increase of between 4.0 and 10.2 feet between 2000 and 2100.<sup>7</sup>

The Intergovernmental Panel on Climate Change (IPCC) has warned that, to have a roughly 50 percent chance of limiting warming to 1.5-2.0 degrees Centigrade, global emissions must be reduced *by nearly half* in the next ten years, at least 80 percent by 2050, and then decline to zero or become net negative.<sup>8</sup> We must act swiftly to turn the tide.

### **AGO Comments on the Interim CECP<sup>9</sup>**

The AGO appreciates EEA's pursuit of our shared commitment to address the climate crisis. The finalization of a bold, aggressive CECP is an essential step toward making those changes a reality. As EEA aptly recognizes, however, the transition to a new low-carbon economy must not "exacerbate but instead assist in closing the health and economic disparities experienced in Environmental Justice communities and communities of color."<sup>10</sup> The AGO offers the following brief comments on the Interim CECP to help ensure that the final plan directs an equitable and affordable transition that secures and maximizes emissions reductions, promotes climate justice, and redresses past harms to the Commonwealth's EJ communities.<sup>11</sup>

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Envtl. Affairs, Environmental Justice Policy (Jan. 31, 2017),  
[https://www.mass.gov/files/documents/2017/11/29/2017-environmental-justice-policy\\_0.pdf](https://www.mass.gov/files/documents/2017/11/29/2017-environmental-justice-policy_0.pdf).

<sup>3</sup> NASA, *2020 Tied for Warmest Year on Record, NASA Analysis Shows* (Jan. 14, 2021),  
<https://www.nasa.gov/press-release/2020-tied-for-warmest-year-on-record-nasa-analysis-shows>.

<sup>4</sup> See NOAA, *2020 Atlantic Hurricane Season takes infamous top spot for busiest on record* (Nov. 10, 2020),  
<https://www.noaa.gov/news/2020-atlantic-hurricane-season-takes-infamous-top-spot-for-busiest-on-record>;  
Massachusetts September 2020 Drought Status (Oct. 9, 2020), <https://www.mass.gov/doc/september-2020/download>.

<sup>5</sup> See Northeast Climate Adaptation Science Ctr., *Massachusetts Climate Change Projections-Statewide and for Major Drainage Basins* 4-5, 7 (Mar. 2018) ("MA Climate Projections"), [https://eea-nescaum-dataservices-assets-prd.s3.us-east-1.amazonaws.com/resources/production/MA%20Statewide%20and%20MajorBasins%20Climate%20Projections\\_Guidebook%20Supplement\\_March2018.pdf](https://eea-nescaum-dataservices-assets-prd.s3.us-east-1.amazonaws.com/resources/production/MA%20Statewide%20and%20MajorBasins%20Climate%20Projections_Guidebook%20Supplement_March2018.pdf).

<sup>6</sup> See USGCRP, *Climate Science Special Report: Fourth National Climate Assessment*, Vol. I, at 10 (D.J. Wuebbles et al. eds., 2017), <https://science2017.globalchange.gov/>. The Fourth National Climate Assessment is a two-volume peer-reviewed assessment released by the U.S. Global Change Research Program coordinated by 13 federal agencies and representing the work of over 200 governmental and nongovernmental experts.

<sup>7</sup> See MA Climate Projections at 15.

<sup>8</sup> Intergovernmental Panel on Climate Change, *Global Warming of 1.5° C – Summary for Policy Makers*, SPM-14, 16 (Oct. 6, 2018), [http://report.ipcc.ch/sr15/pdf/sr15\\_spm\\_final.pdf](http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf); see also Interim CECP at 4.

<sup>9</sup> These comments are limited in scope and not intended to respond to every aspect of the Plan. Silence by the AGO in regard to any particular part of the Plan should not be interpreted as support or opposition.

<sup>10</sup> Interim CECP at 10.

<sup>11</sup> The AGO further urges EEA to meaningfully incorporate into the Plan the recommendations of its Climate Justice Working Group. See *infra* n.1.

**Transforming Our Transportation Systems:** The transportation sector provides a unique opportunity to at once reduce greenhouse gas emissions and improve quality of life and public health in EJ communities. While electrifying passenger cars and trucks is indeed critical to reducing transportation-sector emissions of greenhouse gases and other harmful pollutants,<sup>12</sup> expansion and electrification of Massachusetts public transit systems and school transportation operations and robust ridesharing programs are needed to ensure that the benefits of clean transportation are equitably shared across the Commonwealth. Such changes would, among other benefits, expand low-cost transportation options, encourage mode shifts, reduce reliance on passenger vehicles, and mitigate emissions of harmful pollutants along transportation corridors that disproportionately harm EJ communities.<sup>13</sup> Further, the AGO emphasizes that low- and moderate-income consumer programs for electric vehicles must do far more than current incentive programs to make such vehicles and charging infrastructure available and affordable for all. Improvements to such programs must be specific, concrete, and actionable.

**Transforming our Buildings:** As EEA acknowledges, increasing building energy efficiency and electrifying end uses, especially heating, represent a significant opportunity to decrease emissions from the Commonwealth's building sector.<sup>14</sup> The AGO is supportive of EEA's plans to limit fossil fuel heating system incentives in the 2022-2024 Three-Year Energy Efficiency Plans, to end all fossil fuel heating system incentives by 2024, and to increase electrification through Mass Save® programs via air source and ground source heat pump incentives and consumer education.<sup>15</sup> The Plan's Strategy Actions, however, must include concrete and ambitious steps to equitably expand heat pump access to EJ communities as well as low- and moderate-income renters and homeowners. For example, the Plan must address the barriers presented by potential near-term increased operational costs associated with heat pump installation by offering additional incentives, policy measures, and specific funding sources designed to mitigate or eliminate such costs.<sup>16</sup>

**Transforming Our Energy Supply:** Electricity demand is projected to more than double by 2050 due to the widespread electrification of building and transportation services.<sup>17</sup> It is thus critical that EEA fully evaluate and address important equity and affordability issues—particularly for EJ communities—as the total number of gas customers declines across the Commonwealth. For example, the Plan must include measures to ensure that those least able to pay for home heating electrification do not bear the burden of rate increases and are provided opportunities to switch from fossil fuel heating systems to carbon-neutral alternatives.<sup>18</sup>

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<sup>12</sup> For example, the Low Emissions Vehicle program, including requirements for Zero Emissions Vehicles, has been and continues to be a crucial piece of Massachusetts's efforts to attain and maintain the National Ambient Air Quality Standards for ozone by reducing emissions of VOCs and NOx.

<sup>13</sup> See Boehmer et al., *Residential Proximity to Major Highways — United States CDC Report* (2010), <https://www.cdc.gov/mmwr/preview/mmwrhtml/su6203a8.htm#Fig>.

<sup>14</sup> Interim CECP at 27.

<sup>15</sup> *Id.* at 31-32.

<sup>16</sup> *Id.* at 28; *Investigation by the Dep't of Pub. Utils. on its own Motion into the Role of Gas Local Distribution Cos. as the Commonwealth Achieves its Target 2050 Climate Goals*, AGO Petition at 11-12, D.P.U. 20-80 (June 4, 2020) ("D.P.U. 20-80 Petition").

<sup>17</sup> Interim CECP at 36.

<sup>18</sup> D.P.U. 20-80 Petition at 11-12.

The AGO also supports EEA's commitment to a clean energy future. But the Plan fails to ensure that the benefits of clean distributed energy resources (DER) like solar, which are essential to meeting the Commonwealth's 2050 goals,<sup>19</sup> are available to the Commonwealth's low-income utility customers. Current incentives—including the Solar Massachusetts Renewable Target (SMART) program<sup>20</sup>—have not spurred needed investments or program directives that fairly benefit low- or moderate-income customers.<sup>21</sup> Further, the AGO strongly encourages EEA to ensure that the Plan prioritizes comprehensive short- and long-term DER integration planning for a resilient grid<sup>22</sup> to avoid a cycle of costly and unnecessary utility investments.<sup>23</sup>

Of course, the Plan's reliance on clean energy policies and programs will only achieve the required emissions reductions if those policies and programs incentivize truly low- or no-emitting generation. The AGO remains concerned, however, that the Department of Energy Resources' recent effort to expand eligibility criteria for biomass generation units under the Commonwealth's Renewable Energy Portfolio Standards (RPS) would *increase*—not decrease—greenhouse gas emissions and incentivize polluting generation in an EJ community in Springfield,<sup>24</sup> the asthma capital of the nation.<sup>25</sup>

Finally, the AGO emphasizes the need to consider and avoid the impacts of energy infrastructure siting decisions on EJ communities,<sup>26</sup> which have historically been targeted for the siting of controversial energy infrastructure, but left out of conversations that affect the health of their neighborhoods.<sup>27</sup> With expanded transmission infrastructure needed for a decarbonized electric grid, the Plan must ensure both that EJ populations have meaningful opportunities to contribute to siting decisions and that siting decisions do not unfairly impact those communities.

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<sup>19</sup> See Interim CECP at 37.

<sup>20</sup> Solar Mass. Renewable Target Program Guideline Regarding Low Income Generation Units, <https://www.mass.gov/doc/low-income-generation-units-guideline-october-2020/download>.

<sup>21</sup> See, e.g., *Joint Petition of Elec. Distribution Cos. for Approval of Model Solar Mass. Renewable Target Tariff*, NSTAR Elec. Co. d/b/a Eversource Energy SMART Participation Q. Rep., D.P.U. 17-140 (Jan. 29, 2021).

<sup>22</sup> See Interim CECP at 41.

<sup>23</sup> The AGO has proposed near- and long-term solutions to address current DER interconnection issues based on an initial straw proposal developed by the Department of Public Utilities. See *Investigation by the Dep't of Pub. Utils. on its own Motion into Elec. Distribution Cos.' (1) Distributed Energy Resource Planning and (2) Assignment and Recovery of Costs for the Interconnection of Distributed Generation*, AGO Initial Comments, D.P.U. 20-75 (Dec. 23, 2020).

<sup>24</sup> See Off. of Mass. Attorney Gen. Maura Healey, Comments to the Dep't of Energy Res. on Draft Regs. Amending the Renewable Portfolio Standard Class I and II Regs., 225 C.M.R. §§ 14.00 *et seq.* and 15.00 *et seq.* (H.5169) (Dec. 23, 2020) ("AGO RPS Comments"), <https://www.mass.gov/doc/biomass-comments/download>.

<sup>25</sup> Asthma and Allergy Found. Am., *Asthma Capitals 2019: The Most Challenging Places to Live with Asthma*, 33 (2019), <https://www.aafa.org/media/2426/aafa-2019-asthma-capitals-report.pdf>.

<sup>26</sup> See, e.g., Interim CECP at 10, 42.

<sup>27</sup> See, e.g., *Project Change Request by NSTAR Elec. Co. d/b/a Eversource Energy*, Letter from Members of the Cong. Delegation, the State Delegation, and the Boston City Council Regarding the Proposed Eversource Substation in East Boston, EFSB 14-04/D.P.U.14-153/154 (Dec. 7, 2020).

**Protecting Our Natural and Working Lands:** The AGO commends EEA’s aim to achieve “no net loss” of Massachusetts farm and forest land through 2030 and to account for the critical carbon sequestration role of Massachusetts forests in reducing our carbon footprint.<sup>28</sup> The AGO urges EEA, however, to ensure that its Resilient Lands Initiative and other policies and programs designed to implement those goals follow a transparent, inclusive public stakeholder process, with ample outreach to and input from EJ communities. Such policies must also reflect a science-based approach to forest conservation, including accurate assessment of the full lifecycle emissions impact of any anticipated forest “management” activities.<sup>29</sup> Additionally, as noted above, Massachusetts energy policy should not incentivize forest harvest for biomass combustion that not only immediately “releases all of the stored carbon back into the atmosphere,” but also eliminates an important carbon sink going forward.<sup>30</sup> Finally, the AGO urges EEA to prioritize forest and wetlands protection in and near EJ areas to mitigate the impacts of climate change—including the “heat island” effect of low tree cover<sup>31</sup>—and to secure for those communities the many, well-documented public health and environmental benefits of greenspace.<sup>32</sup> Commonwealth land use policy accordingly should reflect due focus on, among other things, protecting existing mature trees and greenspace, restoring and protecting wetlands, and expanding tree planting programs throughout EJ communities.<sup>33</sup>

### Conclusion

The AGO appreciates the opportunity to comment on the Interim CECP and looks forward to continued collaboration as we seek to equitably address the climate crisis.

Sincerely,

/s/ Rebecca Tepper

Rebecca Tepper

Chief, Energy and Environment Bureau

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<sup>28</sup> See Interim CECP at 48-49. Indeed, Massachusetts forests have a “particularly high untapped capacity for carbon storage and sequestration” because of “high growth,” “low decay rates,” and no significant harvest in the last 75-150 years. See William Moomaw et al., *Intact Forests in the United States: Proforestation Mitigates Climate Change and Serves the Greatest Good*, 2 FRONT. FOR. GLOB. CHANGE 27, 4-5 (June 11, 2019), <https://www.frontiersin.org/articles/10.3389/ffgc.2019.00027/full>.

<sup>29</sup> See Exec. Office of Energy and Env'tl. Affairs, *Draft Resilient Lands Initiative Vision and Strategy Executive Summary* (July 29, 2020).

<sup>30</sup> Interim CECP at 51; see generally AGO RPS Comments.

<sup>31</sup> Climate Health Impacts at 252.

<sup>32</sup> See, e.g., Maas, J., et al., *Morbidity is related to a green living environment*, 63 J. EPIDEMIOLOGY & CMTY. HEALTH 12, 967-73 (Oct. 15, 2009); Jennings, V., et al., *Advancing sustainability through urban green space: cultural ecosystem services, equity, and social determinants of health*, 13 INT. J. ENVTL. RES. PUB. HEALTH 2, 3-7 (Feb. 5, 2016); Roe, J., et al., *Green Space and Stress: Evidence from Cortisol Measures in Deprived Urban Communities*, 10 INT. J. ENVTL. RES. PUB. HEALTH 4086-4103 (Sept. 2, 2013).

<sup>33</sup> CJWG Recommendations at 10-16.