



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY
ATTORNEY GENERAL

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

June 14, 2021

Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: *Inquiry by the Department of Public Utilities of its own Motion into Procedures for Enhancing Public Awareness of and Participation in its Proceedings*, D.P.U. 21-50

Dear Secretary Marini:

The Office of the Attorney General (“AGO”) submits these initial comments in response to the Notice of Inquiry and Request for Comments filed by the Department of Public Utilities (“Department”) on April 16, 2021, in D.P.U. 21-50.

The AGO applauds the Department’s efforts to examine procedural enhancements to its public notice requirements, explore avenues to increase public and stakeholder involvement in its proceedings, and solicit input on best practices for promoting public involvement in Department proceedings. *See* Vote and Order Opening Inquiry, at 1, 3 (April 16, 2021). The AGO agrees with the Department that new strategies for enhancing public outreach and involvement in the Department’s proceedings need to be considered (*see* Vote and Order Opening Inquiry, at 3), and looks forward to actively participating in this proceeding and supporting the Department’s endeavor. The AGO offers the following initial comments to encourage the Department to consider a broad range of barriers to participation and to actively seek out robust input from diverse stakeholders in this proceeding. Additionally, the AGO encourages the Department to expand stakeholder engagement beyond the initial comments sought here.

This docket, which is focused on public notice requirements, language access, and other ways to increase public and stakeholder involvement in Department proceedings, is part of a larger conversation about public participation in government decision-making taking place within Massachusetts, as well as nationally. This conversation is occurring amidst the backdrop of increased awareness of racial and economic inequities, a global pandemic, and evolving technologies that have opened up remote access to government services and decision-making.

The Department appropriately situates D.P.U. 21-50 within its broader efforts to develop an agency-specific environmental justice strategy consistent with the Executive Office of Energy and Environmental Affairs’ (“EEA”) 2017 Environmental Justice Policy and Chapter 8 of the Acts of 2021, *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*

(the “Climate Bill”). In Massachusetts, the new Climate Bill requires the Department to prioritize, among other things, equity in discharging its responsibilities with respect to the Department itself and the entities it regulates. *See* Climate Bill, Section 15 (amending M.G.L. Chapter 25 to insert section 1A). The Climate Bill also requires the Secretary of EEA to “direct its agencies, including the departments, divisions, boards and offices under the [S]ecretary’s control and authority, to consider the environmental justice principles in making any policy, determination, or taking any other action related to a project review, or in undertaking any project pursuant to said sections 61 through 62J, inclusive, and related regulations that is likely to affect environmental justice populations.” *See* Climate Bill, Section 60 (amending M.G.L. Chapter 30 to insert section 62K). Thus, the Department is “developing an agency-specific environmental justice strategy to enhance meaningful involvement of all people and communities with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies, including climate change policies, and the equitable distribution of energy and environmental benefits and burdens[,]” and explains that it “is evaluating methods to promote further public and stakeholder involvement in [its] proceedings” as part of this process. *Vote and Order Opening Inquiry*, at 1.

The National Association of Regulatory Utility Commissioners (“NARUC”) also has recognized the importance of engaging stakeholders in regulatory proceedings, stating that “[e]merging stakeholder engagement processes are a key tool for informed decision-making in this landscape and can help achieve win-win outcomes in the public interest.”¹ NARUC identifies the challenges faced by commissions across the country, stating that public utility commissions “are making decisions that are increasingly complex, broad in impact, and intersectional across an array of issues[,]” and that “evolving consumer needs, emerging technologies, and new policy goals are redefining utility regulation in the public interest beyond just the objectives of ensuring affordable, safe, and reliable services to consumers.”²

In its initial request for comments, the Department asks a number of specific and targeted questions related to the publication of public notices, language translation and interpretation, and the format and logistics of public hearings, as well as a broad question seeking comments or suggestions on methods to increase stakeholder and public awareness of and participation in the Department’s proceedings. *Vote and Order Opening Inquiry*, at 3-5. These are pertinent questions that should be addressed in this docket. It is important to the AGO to reach out and learn from affected communities prior to providing detailed responses on process questions that directly impact communities and for which they have specialized knowledge. As discussed further below, the AGO is in the process of doing so through a Stakeholder Working Group. The AGO anticipates that the Stakeholder Working Group process will result in well-thought out and community focused recommendations. The AGO recommends that the Department similarly expand its outreach by employing new, affirmative outreach tools that will allow for more diverse community input on a broad array of issues.

¹ Public Utility Commission Stakeholder Engagement: A Decision-Making Framework, NARUC (January 2021), available at <https://pubs.naruc.org/pub/7A519871-155D-0A36-3117-96A8D0ECB5DA>, at 3.

² Public Utility Commission Stakeholder Engagement: A Decision-Making Framework, at 7.

The Department's goals for this proceeding are fittingly ambitious; "increase[ing] public awareness of and participation in Department proceedings[,]" and "explor[ing] avenues to increase both the visibility of [the Department's] public notices and public and stakeholder involvement in [the Department's] proceedings." Vote and Order Opening Inquiry, at 1. Thus, the process the Department utilizes *in this docket* to determine how best to achieve these stated goals should exemplify the Department's commitment to inclusivity and accessibility in its decision-making. Recognizing that our current energy system imposes disproportionate economic, environmental, and health-related burdens on communities of color, low-income communities, and immigrants, the AGO urges the Department to consider conducting active, on-the-ground outreach in communities that have historically been under-represented in government decision-making. Such targeted outreach may assist the Department to better understand how to best solicit meaningful input from under-represented and disproportionately burdened communities, beyond the traditional publication of public notices in newspapers.³

Thus, the AGO recommends that as part of the process in this proceeding that the Department conduct extensive outreach to targeted and diverse stakeholder and community groups, expand the scope of its questions, enable broad participation by the public (*i.e.*, non-experts), and provide opportunities for stakeholders to provide meaningful input to the Department. In addition, the AGO recommends that the Department provide the broader group of stakeholders with sufficient time and resources to comment on and identify barriers to participation to the Department's proceedings, as well as to propose specific solutions to overcome the barriers.

In addition to and separate from this proceeding, the AGO is convening a Stakeholder Working Group that includes representatives from community organizations, as well as people with expertise in Department and Energy Facilities Siting Board proceedings. The AGO anticipates that over the course of approximately nine months, the Stakeholder Working Group will work with a facilitator to develop recommendations for how the Department's proceedings can be accessible to a broader range of participants, and how the Department can provide meaningful opportunities for stakeholders to provide input. The AGO also expects the Stakeholder Working Group will be soliciting additional input from community members to better understand their barriers to access to Department proceedings, and to gather community input on ways to overcome these barriers. The AGO looks forward to sharing more information about the Stakeholder Working Group after it begins meeting in the coming weeks, and plans to share the Stakeholder Working Group's recommendations with the Department and the broader community in the future.

³ For example, the Department of Energy Resources ("DOER") and the AGO are consulting with a wide range of stakeholders in administering the expenditure of the Merrimack Valley Renewal Fund ("MVRF"). First, DOER and the AGO established a MVRF Advisory Committee, consisting of local leaders and community group representatives. See MOU Explanatory Statement, at 3; MOU, at 15-16. Then, after stakeholder outreach revealed that there are gaps in reaching certain residents within the MVRF communities, the AGO and DOER conducted a survey for residents in February 2021. This survey – provided in Spanish and English – included a question about effective means of community outreach. See Survey for Merrimack Valley Residents and Landlords on Columbia Gas Settlement Energy Efficiency Programs, Question 6a, available at <https://www.mass.gov/forms/survey-for-merrimack-valley-residents-and-landlords-on-columbia-gas-settlement-energy>. DOER and the AGO also partnered with local organizations and community representatives and used local Spanish radio to reach a broader population.

The AGO appreciates the opportunity to participate in this important Department proceeding.

Sincerely,

/s/ Shannon Beale

/s/ Jessica R. Freedman

Shannon Beale

Jessica R. Freedman

Assistant Attorneys General

cc: Scott Seigal, Hearing Officer
Service List

**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES**

**Inquiry by the Department of Public Utilities
of its own Motion into Procedures for
Enhancing Public Awareness of and
Participation in its Proceedings**

D.P.U. 21-50

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 220 C.M.R. 1.05(1) (Department's Rules of Practice and Procedure). Dated at Boston this 14th day of June, 2021.

/s/ Jessica R. Freedman
Jessica R. Freedman
Assistant Attorney General
Massachusetts Attorney General
Office of Ratepayer Advocacy
One Ashburton Place
Boston, MA 02108
(617) 727-2200