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Kristin L. Clouser, Secretary

TO: Senate Committee on Natural Resources and Energy
FROM: Xusana Davis, Executive Director of Racial Equity
Jay Greene, Racial Equity Policy and Research Analyst
DATE: February 24, 2023
RE: Summary of Testimony on S.5, Affordable Heat Act, Friday, February 17, 2023

Dear Chair Bray,

Thank you for the opportunity to testify on the equity considerations for S.5, known as the “Affordable Heat Act.” The Office of Racial Equity leads with race in all of our policy analysis. The proportion of people of color in Vermont who are affected by climate change are a high proportion of the total number of people of color living here based on their location of residence. Race, ethnicity, socioeconomic status, and region of residence are inextricably linked due to a history of systemic racism in housing policy decisions across America, including in Vermont.

The following list includes language that the Office of Racial Equity *supports* in S.5, the Affordable Heat Act.

Page 9, line 10: the Office of Racial Equity supports respecting people’s privacy by redacting any personally identifiable information from documents shared by the Department of Taxes to the Public Utilities Commission.

Page 19, line 16-18: the Office of Racial Equity agrees with the language requiring payments from non-compliance with credit retirements to be used to create clean heat credits for low- and moderate-income households.

Public Outreach: the Office of Racial Equity supports the Affordable Heat Act containing explicit references to public outreach in order to meet people where they are. The Public Utility Commission should not rely on the Clean Heat Standard Equity Advisory Group alone to determine the needs of the public, especially with regard to policy that may influence the up-front costs of clean heat credit generating measures.

The following is a list of *suggested changes* to Draft 4.1 of S.5, the Affordable Heat Act.

Firstly, the Office of Racial Equity wishes to raise the concerns that Draft 4.1 of S.5 does not contain any language that refers to how the Public Utilities Commission will address the up-front costs of upgrading to clean heat measures outlined in the bill. Low- and middle-income households may need financial support to afford costly upgrades like heat pumps or weatherization services. A recent study by the US Federal Reserve in November 2020 found that, “less than two-thirds of Black and Hispanic adults were doing at least okay financially, compared with 80 percent of White adults and 84 percent of Asian adults. The gap in financial

well-being between White adults and Black and Hispanic adults grew by 4 percentage points since 2017.”¹ In addition, 36% of adults in the 11,000 households surveyed reported they would be unable to afford a \$400 emergency expenditure without borrowing money, skipping paying their monthly bills, or carrying a balance forward on their credit cards.² Without adequate consideration for the financial realities of low- and middle-income households, the “Affordable Heat Act” is likely to be unaffordable and racially inequitable.

Page 5, lines 9-15: the Office of Racial Equity recommends that the Legislature keep in mind that the definitions of low or moderate income based on area median income published by the US Department of Housing and Urban Development may not adequately describe a household’s total socioeconomic picture. The Legislature should be open to refining the definitions of low and moderate income in order to best meet the needs of Vermont’s population. The Office of Racial Equity recommends using an Area Median Income (AMI) measurement that accurately address the income disparities between demographic groups that have low vs. high socioeconomic status. That may mean using a Statewide AMI or a locally relevant AMI, depending on what local income data shows.

Page 7, lines 14-15: the Office of Racial Equity supports the language related to the Public Utilities Commission conducting outreach using documents written “in plain terms.” However, the Office of Racial Equity is concerned that the timelines for public outreach in Draft 4.1 do not factor in the time needed to translate outreach materials related to rule changes into languages other than English. The Public Utilities Commission must be given adequate time and monetary resources to translate their outreach materials to include Vermonters who use languages other than English in the public outreach process. The Office of Racial Equity recommends including specific language to require the Public Utilities Commission to conduct outreach with considerations for language assistance services such as translation of documents and the presence of interpreters at meetings.

Page 11, lines 15-16: the language of the bill requiring obligated parties to retire carbon credits specifically from low- or moderate-income customers will force companies to collect income data from customers to measure their progress. The Office of Racial Equity recommends that the Legislature consider how companies will collect said income data. Will income disclosure be required from all customers, or just low- and middle-income customers? Income disclosure requirements for only low- and middle-income customers would place a higher burden of disclosing private information on people of color. If the Legislature chooses to continue to continue with language that will require income data collection, the Office of Racial Equity recommends that the Legislature add specific details about:

- how income data will be collected/stored and by whom,
- the security measures required to safeguard customer income data, and

¹ Board of Governors of the Federal Reserve System. (24 May, 2022.) Economic Well-Being of U.S. Households in 2020-May 2021: Executive Summary. <https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-executive-summary.htm>

² Board of Governors of the Federal Reserve System. (13 June, 2022.) Economic Well-Being of U.S. Households in 2020-May 2021: Dealing with Unexpected Expenses. <https://www.federalreserve.gov/publications/2021-economic-well-being-of-us-households-in-2020-dealing-with-unexpected-expenses.htm>

- making income collection required for all customers, no matter their income level, to ensure low- and middle-income customers are not disproportionately burdened by information disclosure requirements.

Page 13, lines 18-21: the Office of Racial Equity recommends that the Legislature ensure that the amount of the penalty for non-compliance be high enough that obligated parties do not treat the penalty as a reasonable cost of doing business. The penalty must be costly enough to ensure that obligated parties comply with the requirements. The Legislature should consider whether three times the cost of a clean heat credit is sufficiently high to ensure compliance.

Page 21, §8127, Tradeable Clean Heat Credits: the Office of Racial Equity has been clear in the past about carbon credit trading being a solution that elevates the potential for lack of process equity in State policies. However, the language of §8127 could be modified to ensure that obligated parties are not allowed to trade or sell heat credits to each other, only to purchase clean heat credits from designated delivery agents and/or companies that provide services that create clean heat credits. Such a vertical trading system would ensure that the obligated parties buy clean heating credits that offset carbon emissions from the weatherization businesses that are generating the carbon reductions via the default delivery agents. The Office of Racial Equity is concerned that without guidance, obligated parties with greater levels of capital will simply purchase/trade clean heat credits to each other to meet their obligations rather than using their capital to fund the creation of new clean heat credits by local Vermont businesses. Vertically integrating the clean heat credit trading protocol would ensure that funding from obligated parties always goes to the local Vermont businesses that actually provide weatherization or other emissions-saving services. The Office of Racial Equity acknowledges that this idea was not raised in our original testimony on February 17, and wishes to raise this idea as a possibility that could be researched further rather than a firm recommendation.

Page 22, lines 12-13: the Office of Racial Equity recommends making the language regarding eligible clean heat measures more permissive to allow the Clean Heat Standard Technical Advisory Group to find pathways towards carbon retirement that work for Vermont. The Office of Racial Equity would like the Technical Advisory Group to be empowered to recommend against using the listed technologies if they have unintended negative consequences that the Legislature is not currently aware of. The suggested language to replace lines 12-13 to ensure that there is flexibility to select technologies that do not have negative unintended consequences could be:

- “(d) List of eligible measures. Eligible clean heat measures delivered to or installed in Vermont to be investigated by the Clean Heat Standard Technical Advisory Group shall include:”
- “(d) List of eligible measures. Eligible clean heat measures delivered to or installed in Vermont may include:”

Page 32, lines 4-13: regarding the composition of Clean Heat Standard Equity Standard Advisory Group. The Office of Racial Equity has touchpoints with many equity-related working groups across the state. Many of our colleagues in the working groups have said that the standard per-diem rate of \$50 per meeting is too low for the amount of work required of them. The Office of Racial Equity recommends increasing their compensation level to above the standard per-diem rate of \$50 specified under 32 V.S.A. §1010.

Other comments related to the Clean Heat Standard Equity Advisory Group: There may be other existing equity-related environmental justice working groups that could take on the work described in S.5. If other existing equity-related environmental working groups take on the work described in S.5, their compensation level should be increased accordingly. Additionally, the Office of Racial Equity recommends that the Legislature determine whether to set up the Equity Advisory Group as a task-and-finish group or whether it will exist in perpetuity. The Office of Racial Equity's preference is to set an optional sunset date to clarify the length of time members are expected to be committed to the Equity Advisory Group. Setting an optional sunset date will allow for re-evaluation of whether the Equity Advisory Group still needs to exist.

The list of members includes appointees from different State entities as well as individuals who do not work for the State. Some of the listed categories are not mutually exclusive, and some categories are fluid. For example, renter status is a fluid category that can change over a person's lifetime. The Public Utilities Commission must take care when nominating members of the Equity Advisory Group to ensure that all of the listed categories are well represented.

Page 35, line 17-19 and similar language throughout §8129, Clean Heat Standard Equity Advisory Group: the Office of Racial Equity recommends replacing the language of the Public Utility Commission "seeking input" from the Equity Advisory Group with stronger language that elevates equity as a key consideration in the Public Utility Commission's rulemaking processes. The Public Utility Commission must be required to follow the guidance of the Equity Advisory Group, not just to "seek input" from the Equity Advisory Group. Empowering the members of the Equity Advisory Group will ensure that they are actually part of the rulemaking process and not tokenized.

Funding and timeline for rule development: the Office of Racial Equity recommends that the Legislature increase the funding to the Public Utilities Commission over the current amount of \$800,000 listed in Draft 4.1. The current amount does not include the potential costs of language access services, such as interpretation services at public meetings or translation of outreach materials. The current amount also does not include any potential costs related to compensating participants in public outreach events for their time and effort. There could be additional costs to providing alternatives to direct compensation, such as childcare and meals for attendees of public outreach meetings. The Legislature should consider whether the 16 month timeline of the rulemaking process is enough for the Public Utilities Commission to conduct comprehensive, inclusive outreach, especially when considering the needs of people who use languages other than English. Additional information about calculating the cost of document translation is addressed in Appendix G of the [2023 Office of Racial Equity Language Access Report](#).³

Thank you for the opportunity to provide comment on this landmark bill to address climate change.

Sincerely,

Executive Director of Racial Equity Xusana R. Davis, Esq.
Racial Equity Policy and Research Analyst Jay Greene, MPH

³ Full link text: <https://raciaequity.vermont.gov/document/2023-language-access-report>