



## NEW HAMPSHIRE LEGAL ASSISTANCE

*Working for Equal Justice Since 1971*

[www.nhla.org](http://www.nhla.org)

March 7, 2018

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New Hampshire Public Utilities Commission  
21 South Fruit Street  
#10  
Concord, NH 03301

7 MAR '18 AM 10:21

RE: DE 1 7-1 72 Development of Renewable Energy Fund Programs for Low and Moderate Income Residential Customers Under SB 129 of 2017

To the PUC Staff and Commissioners,

Please find the following seven hard copies of New Hampshire Legal Assistance's written comments and supplemental comments submitted in DE 17-172 by email on Tuesday, March 6, 2018.

Sincerely,

**Stephen Tower, Esq.**  
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The State of New Hampshire  
Public Utilities Commission

DE 17-172

Development of Renewable Energy Programs for  
Low and Moderate Income Residential  
Customers Under SB 129 of 2017

Public Comment Hearing  
March 6, 2018

**Comments of New Hampshire Legal Assistance  
Regarding Staff Memorandum dated February 15, 2018  
Recommending Issuance of a  
Request for Proposals (RFP) for  
Community Solar Photovoltaic (PV)  
Projects Pursuant to SB 129, 2017**

Introduction

New Hampshire Legal Assistance (NHLA) represents low income households and organizations. NHLA is a participant in this docket and the companion net metering docket, DE 16-576.

NHLA supports the Staff's proposal for issuance of a RFP to accept competitive proposals for community solar photovoltaic (PV) projects that would provide direct benefits to low and moderate income (LMI) residential electric customers, in order to meet the statutory requirements of Senate Bill 129 of 2017 (SB 129). NHLA offers the following preliminary comments to the Staff Memorandum dated February 15, 2018 and Staff Attachment A, Low and Moderate Income (LMI) Community Solar Competitive RFP Program.

Comments

1. Program Purpose

NHLA agrees with Staff's proposal that RFP respondents "be required to present a comprehensive project plan clearly demonstrating and quantifying the direct benefits to be provided to LMI participants, while meeting other specified technical requirements." Recommendation Summary, February 15, 2018, page 1 (emphasis added). This "direct benefits" requirement is important to carrying out the intent of SB 129, 2017.

## 2. Ownership Model

NHLA agrees that it is important that the RFP respondent disclose whether the system will likely or foreseeably be sold if the system is not owned by the community. The respondent should clearly explain when, and to whom such a sale will occur.

## 3. Direct Benefits and Costs to LMI Participants

- a) It is important that the RFP respondent describe any initial joining/subscription fees and any ongoing subscription fees, and the amount of such fees, along with the frequency and terms of payment.
- b) All other costs to LMI participants should be listed and described by the RFP respondent.
- c) In describing how the benefits will be provided to LMI participants (e.g., through on-bill credits/virtual net metering, group net metering, rental payment reduction, association dues reduction, etc.) the RFP respondent should address the following two items:
  - i) Impact, if any, on any other government benefits received by the LMI participant (such as Section 8 rent subsidy, Supplemental Security Income (SSI), Temporary Assistance To Needy Families (TANF), Medicaid, Food Stamps (SNAP), etc.)
  - ii) Federal income taxes

## 4. Participant Communications

Management of “participant relationships” (such as the process for handling income verification, participant moves, new participants, etc.) should be clearly described by the RFP respondent.

## 5. Funding and Financing

- a) The RFP respondent should explain whether any funding would be expected to come from community solar participants and, if so, to what extent, in what amount, and the proposed financing mechanism.
- b) If any funding is expected to come from community solar participants, the RFP respondent should address related consumer protection issues, such as:
  - i) On-bill financing and risk of disconnection of electric service for non-payment;

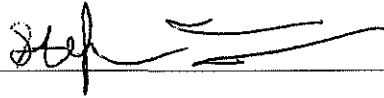
- ii) If residential PACE (Property Assessed Clean Energy) financing, the imposition of a property tax lien, and risk of default on tax bill, tax sale, and foreclosure;
- iii) Necessary disclosure requirements to LMI participants.

Conclusion

NHLA supports the Staff recommendation for a RFP for community solar to directly benefit low and moderate income (LMI) electric customers. NHLA appreciates the opportunity to offer these public comments to the Commission.

Respectfully submitted,

New Hampshire Legal Assistance

By:  \_\_\_\_\_

Stephen Tower, Esq.

March 6, 2018

The State of New Hampshire  
Public Utilities Commission

DE 17-172

Development of Renewable Energy Programs for  
Low and Moderate Income Residential  
Customers Under SB 129 of 2017

Public Comment Hearing  
March 6, 2018

**Supplemental Comments of New Hampshire Legal Assistance  
Regarding Staff Memorandum dated February 15, 2018  
Recommending Issuance of a  
Request for Proposals (RFP) for  
Community Solar Photovoltaic (PV)  
Projects Pursuant to SB 129, 2017**

Supplemental Comments

1. The public comments provided on March 2, 2018 to the Commission raised concerns regarding how the implementation of proposals for Community Solar Photovoltaic (PV) projects pursuant to SB 129, 2017 may affect the public benefits and housing assistance of participants.
2. New Hampshire Legal Assistance has substantial experience and institutional knowledge regarding public benefit and housing programs. NHLA would like to provide any assistance it can to the PUC Staff as Staff reviews and considers responses to the Request For Proposals.
3. NHLA offers to research how different forms of program participation may impact the various state and federal benefit and housing programs over the next 30 days and provide our research to the PUC Staff. Because eligibility for most public assistance programs is based on a consideration of income and resources available to the recipient, NHLA will focus its research towards identifying the distinctions in how the programs consider income and resources, with an eye towards Community Solar PV program models that have been discussed or considered in this docket.

Low Income Home Energy Assistance Program (LIHEAP) Considerations

4. To begin our research, NHLA is including comments relating to the interactions of the Low Income Home Energy Assistance Program (LIHEAP) with possible proposed Community

Solar PV projects, and has attached to these written comments excerpts from the LIHEAP Program Procedures Manual, pages 7-12, which includes sections on identification of eligibility requirements, standards for calculating and documenting income, and identification of income considered and excluded for Fuel Assistance eligibility.

5. Of the five requirements for Fuel Assistance eligibility, only two could be impacted by the proposed programs in responses to this Request For Proposals: household income level and the requirement that the household have annual fuel costs over \$100.

6. If the direct benefit to a program participant were to be considered income, it is possible that that participant's income could raise their income into the next income bracket for benefit eligibility. For example, a program participant, whose household income is 74% of federal poverty guidelines, receives a dividend check from their participation in the Community Solar PV project that raises their household income level to 77% of the federal poverty guidelines. They would now have household income between 75% and 100% of the federal poverty guidelines, and they would receive a lower Fuel Assistance benefit rate.

7. It is worth noting that the Fuel Assistance Programs Procedure Manual has not been updated to reflect that children's SSI is not longer considered countable income in determining Fuel Assistance eligibility. Excerpts from the 2017 Low Income Home Energy Assistance Program (LIHEAP) Model Plan are included to identify this change.

8. NHLA will provide further discussion of additional public assistance programs as we conclude our research.

Respectfully submitted,

New Hampshire Legal Assistance

By: 

Stephen Tower, Esq.

March 6, 2018

## ATTACHMENTS

1/11/18

**NH FUEL ASSISTANCE PROGRAM  
PROCEDURES MANUAL  
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## THE APPLICATION PROCESS

Eligibility for the New Hampshire Fuel Assistance Program (FAP) is based on the following requirements:

- The household's primary residence is in New Hampshire;
- The household occupies the primary residence at the time of application and during the heating season;
- Household size;
- Household income level; and
- Responsible for energy costs of \$100 or more.

The New Hampshire definition of "household" is drawn directly from the Federal Low Income Home Energy Assistance Act, as amended. This definition provides two criteria, which must be met to establish the presence of a "household."

1. Residential energy customarily purchased in common, or undesignated payments for energy in the form of rent.
2. An individual or group of individuals living together as one "economic unit."

Categorical eligibility, where a person or household qualifies for one program simply because they are a participant in another program, shall not be utilized for the FAP. Anyone wishing to participate in the program must complete an application and document eligibility based on *household income and home energy costs*.

The local CAA shall determine eligibility through the application and certification process. The CAA shall ensure that applicants have provided adequate and accurate documentation of gross income for the entire income determination period indicated on the application and attest to the truth of the information submitted. It is the responsibility of the applicant to provide all required documentation to the CAA as part of the application process. All applications must be complete, with all supporting documentation attached. Valid Social Security numbers are required for all household members listed on the FAP/WAP application.

The New Hampshire Fuel Assistance Program procedures are intended to ensure that low-income households have access to services in a timely manner. Applicants must have the opportunity to apply for FAP within thirty (30) days from the date of contact between the opening of the program each year on December 1 and the ending of the program on April 30.

## Completing the Application

All required information on the **Fuel Assistance/Weatherization Application (Attachment A-1)** and **Recertification Application (Attachment A-2)** must be recorded accurately, including the number of household members, household data, income information, vendor identification, dates, and signatures. It is the responsibility of the CAA to verify that this information is complete and correct.

## Calculating Income

At the time of application, the household size and income is needed to determine the appropriate income level under the **FAP Income Guidelines (Attachment B)**. Income eligibility is based on six levels of the Federal Poverty Income Guidelines (FPG): A-75%, B-100%, C-125%, D-150%, E-175%, and F-200%. Level F will be increased to 60% SMI if funds are available during the program year. The applicant must provide written documentation of all household income for the time period specified for program eligibility.

The intake process begins by assessing a household's eligibility for a 30 day time period. Income may also be calculated on other time periods, including an annual or year-to-date (YTD) basis if it would enable otherwise ineligible households to meet income eligibility. The income documentation would then cover a period of not more than the previous 365 days from the date of application.

Households with income from an irregular source such as self-employment, rental property, or commissions, as well as income from contracted educational employees (teachers, administrative staff, etc.) must have that income documented for a 365 day time period for purposes of the application process.

Income is calculated by adding all countable, non-exempt income from every source for each household member and listing it in the income information section of the FAP/WAP application. The income for all household members is then totaled for complete household income for the pre-determined income determination period. The same time period must be used for documenting the income for all household members. Exceptions to this rule include the calculation of self-employment income and contracted educational employee income (teachers, administrative staff, etc.), which must be documented for a 365-day period. The annual income is then pro-rated to the original income determination period.

## **Documenting Income**

Applicants must provide written documentation for all income reported on the application. Documentation must be provided for the entire income determination period as specified on the application. Written documentation may include payroll stubs, copies of checks, signed statements from the payment source, bank statements for direct deposits and interest, current eligibility letter, and other documentation as deemed appropriate by the CAA. It is the responsibility of the CAA to insure that all written income documentation is accurate, legible, and complete.

Applicants with no or very low income must provide written documentation of how the household has met the basic living expenses such as rent, energy costs and food. Documentation may include a statement from town or city welfare, friends or family, SNAP (food stamp) notification letter, or other assistance provided during the determination period.

## FAP Income

FAP Income refers to the total cash receipts before taxes within the documentation period from the following sources:

- Adoption subsidies
- Alimony
- Annuity payments
- Assistantships: an appointment awarded on an annual basis to a qualified graduate student, which carries a stipend and requires part-time teaching, research, or residence hall duties.
- Child support
- Commissions
- Dividends over \$50 a year
- Gambling winnings (net)
- Government employee pensions (including Military Retirement Pay)
- Grants (taxable grants used for education purposes)
- Interest over \$50 a year
- Lottery winnings (net)
- Military family allotments
- Other *regular* support from an absent member or someone not living in the household.
- Pensions
- Periodic receipts from estates
- Periodic receipts from trusts
- Railroad retirement (net, after Medicare deductions)
- Regular insurance payments
- Regular worker's compensation payments
- Rental income (net)
- Royalties (net)
- Salaries and money wages before any deductions
- Self-Employment (net non-farm)
- Senior Community Service Employment Program (SCSEP)
  - Sponsors: National Able Network; State of NH subcontracts to Belknap-Merrimack Community Action Program
- Social Security (net, after Medicare deductions)
- SSI
- State welfare payments (TANF, APTD, OAA, ANB)
- Tip income (may be self-declared if no other documentation is available)
- Training stipends
- Unemployment compensation
- Veteran's payments

## **Income Disregard**

Disregarded Income refers to payments made to, or support received by, household members that should not be added when establishing FAP eligibility or benefit levels.

- Aid and Attendance VA benefit for severely disabled veterans
- Assets drawn down as withdrawals from a bank
- Capital gains
- Childcare assistance payments
- Child support payments paid out during the income period
- Corporation for National Service payments, including: VISTA, Americorps, Senior Companions and Foster Grandparents
- Electric Assistance Program benefits
- Employee fringe benefits
- Employer-paid or union-paid portion of health insurance
- Earned Income Credit
- Earned income from full time high school students
- Foster Care Reimbursements
- Federal work-study for students
- Fellowships: a scholarship or grant awarded to a graduate student in a college or university
- Gifts
- Goods or housing received in lieu of wages
- Imputed value of rent from owner-occupied non-farm or farm housing (self-employed only is a non-cash tax shelter)
- Loans
- Lump-sum inheritances
- Medicare deductions from Social Security and Railroad Retirement benefits
- Money earned as part of a SSI PASS Plan
- Non-taxable grants
- One-time compensation for injury
- One-time insurance payments
- One-time or irregular payments from a welfare agency to a family or person who is in temporary financial difficulty
- Reimbursement or money paid to an employee to compensate them for money spent as a result of their employment
- Reverse mortgages
- Sale of a car, truck, tractor (non-business assets in general)
- Sale of house
- Scholarships or other educational financial assistance funded in whole or in part by federal funds and intended for attendance costs (tuition, fees, materials, supplies, books, transportation, room and board)
- Tax refunds
- The first fifty dollars (\$50) of interest earned annually

Value of food or fuel produced and consumed on farms  
**Calculating the Number of Rooms**

The total number of rooms in a residential dwelling is necessary to utilize the **Heating Cost Tables (Attachment C)** when calculating heating costs. Hallways, bathrooms, and closets are not counted in the total number of rooms.

The Heating Cost Tables are based on Design Heat Load Calculations (DHLC) and each type of unit assumes a standard room size.

The standard room sizes are as follows:

Single Family House:	144 square feet
Mobile Home:	100 square feet
Apartment:	120 square feet

When a room is larger than the standard room size, the square foot total may be relied upon to calculate the number of rooms for a residential dwelling.

**Examples:**

1. The kitchen/living rooms in a mobile home are located in one large room with no dividing wall. The approximate room dimensions (supplied by the applicant) are 14 feet by 10 feet or 140 square feet. This would count as TWO rooms, since it is more than the room size by the DHLC for mobile homes of 100 square feet.
2. The kitchen, living room and bedroom are all located in the one room of a single-family house. The approximate room dimension (supplied by the applicant) is 15 feet by 18 feet or 270 square feet. This would count as TWO rooms, since it is more than the room size used by the DHLC for a single-family house of 144 square feet. However, it is only two rooms, not three, since it is less than twice the DHLC amount of 288 square feet (144 x 2).
3. The dining room/living room combination is located in one room in an apartment. The approximate room dimensions (supplied by the applicant) are 10 feet by 11 feet or 110 square feet. This would count as ONE room, since it is less than the room size used by the DHLC for apartments of 120 square feet.

## DETAILED MODEL PLAN (LIHEAP)

### Mandatory Grant Application SF-424

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES

August 1987, revised 05/92,02/95,03/96,12/98,11/01  
OMB Clearance No.: 0970-0075  
Expiration Date: 06/30/2017

## LOW INCOME HOME ENERGY ASSISTANCE PROGRAM(LIHEAP) MODEL PLAN SF - 424 - MANDATORY

<b>* 1.a. Type of Submission:</b> <input checked="" type="radio"/> Plan	<b>* 1.b. Frequency:</b> <input checked="" type="radio"/> Annual	<b>* 1.c. Consolidated Application/Plan/Funding Request?</b>  Explanation:	<b>* 1.d. Version:</b> <input checked="" type="radio"/> Initial <input type="radio"/> Resubmission <input type="radio"/> Revision <input type="radio"/> Update
		<b>2. Date Received:</b>	<b>State Use Only:</b>
		<b>3. Applicant Identifier:</b>	
		<b>4a. Federal Entity Identifier:</b>	<b>5. Date Received By State:</b>
		<b>4b. Federal Award Identifier:</b>	<b>6. State Application Identifier:</b>

#### 7. APPLICANT INFORMATION

<b>* a. Legal Name:</b> State of New Hampshire			
<b>* b. Employer/Taxpayer Identification Number (EIN/TIN):</b> 026000618		<b>* c. Organizational DUNS:</b> 033099933	
<b>* d. Address:</b>			
<b>* Street 1:</b>	107 PLEASANT ST RM 2	<b>Street 2:</b>	
<b>* City:</b>	CONCORD	<b>County:</b>	Merrimack
<b>* State:</b>	NH	<b>Province:</b>	
<b>* Country:</b>	United States	<b>* Zip / Postal Code:</b>	03301 - 3834

**e. Organizational Unit:**

<b>Department Name:</b> Office of Energy and Planning	<b>Division Name:</b>
--	-----------------------

#### f. Name and contact information of person to be contacted on matters involving this application:

<b>Prefix:</b>	<b>* First Name:</b> Celeste	<b>Middle Name:</b> M	<b>* Last Name:</b> Lovett
<b>Suffix:</b>	<b>Title:</b> Fuel Assistance Program Administrat	<b>Organizational Affiliation:</b>	
<b>* Telephone Number:</b> 603-271-8317	<b>Fax Number:</b> 603-271-2615	<b>* Email:</b> celeste.lovett@nh.gov	

**\* 8a. TYPE OF APPLICANT:**  
A: State Government

**b. Additional Description:**

**\* 9. Name of Federal Agency:**

	<b>Catalog of Federal Domestic Assistance Number:</b>	<b>CFDA Title:</b>
<b>10. CFDA Numbers and Titles</b>	93568	Low-Income Home Energy Assistance

**11. Descriptive Title of Applicant's Project**  
NH Fuel Assistance Program

**12. Areas Affected by Funding:**  
Statewide

#### 13. CONGRESSIONAL DISTRICTS OF:

<b>* a. Applicant</b> 2	<b>b. Program/Project:</b> Statewide
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Attach an additional list of Program/Project Congressional Districts if needed.

Section 11 - Timely and Meaningful Public Participation, , 2605(b)(12) - Assurance 12, 2605(c)(2)

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
ADMINISTRATION FOR CHILDREN AND FAMILIES

August 1987, revised 05/92,02/95,03/96,12/98,11/01  
OMB Clearance No.: 0970-0075  
Expiration Date: 06/30/2017

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM(LIHEAP)  
MODEL PLAN  
SF - 424 - MANDATORY

Section 11: Timely and Meaningful Public Participation, 2605(b)(12), 2605(C)(2)

11.1 How did you obtain input from the public in the development of your LIHEAP plan?  
Select all that apply.

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other - Describe:

Monthly CAA FAP Director meetings.  
Comments are solicited during vendor and statewide staff meetings.  
Statewide staff training.  
Comments from applicants and clients are discussed throughout the program year.

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

SSI for disabled children ages 18 and under was changed from included household income to excluded household income when determining eligibility.

Public Hearings, 2605(a)(2) - For States and the Commonwealth of Puerto Rico Only

11.3 List the date and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

	Date	Event Description
1	08/24/2016	Advertised public hearing for review of the NH LIHEAP State Plan.

11.4. How many parties commented on your plan at the hearing(s)? 7

11.5 Summarize the comments you received at the hearing(s).

The public hearing consisted of a page by page review of the NH LIHEAP PY 17 State Plan. Most comments were general questions or requests for clarification including:

Section 1: 1.8 Supplemental Security Income (SSI) as countable income with a change in PY 17 for SSI for disabled children becoming an income disregard and the definition of cash gifts.

Section 2: 2.3 The definition of high energy burden. 2.5 The definition of climate/region.

Section 5: 5.8 Definition of high energy burden. 5.11 Including carbon monoxide and smoke detectors under "other".

Section 10: 10.2 A-133 is now the Single Audit under the Super Circular. Section 16: 1 A concern was raised regarding the use of the word capability to describe the current software.



11.6 What changes did you make to your LIHEAP plan as a result of the comments received at the public hearing(s)?

Section 5: 5.8 Energy burden was changed to energy usage.

Section 16: 1 "15 year old software system does not have the capability of measuring energy burden for households" was changed to 15 year old software system does not currently compute full energy burdens for households".

If any of the above questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.