STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 17-172

DEVELOPMENT OF RENEWABLE ENERGY FUND PROGRAMS FOR LOW AND MODERATE INCOME RESIDENTIAL CUSTOMERS

Order Approving Request for Proposals for Low-Moderate Income Project Funding

O R D E R N O. 26,113

March 19, 2018

In this Order, the Commission approves implementation of a program supported with funding from the Renewable Energy Fund to directly benefit low and moderate income residential electric customers. As explained below, the program is required by a new state law enacted in 2017.

I. PROCEDURAL HISTORY

Pursuant to Senate Bill 129, enacted as 2017 N.H. Laws Chapter 226 (SB 129), the Commission is required to use not less than 15 percent of the Renewable Energy Fund (REF) annually to

> benefit low-moderate income residential customers, including, but not limited to, the financing or leveraging of financing for low-moderate income community solar projects in manufactured housing communities or in multi-family rental housing.

RSA 362-F:10, X. The phrase "low-moderate income community solar project" is defined as "ground-mounted or rooftop solar arrays that directly benefit a group of at least 5 residential end-user customers, where at least a majority of the residential end-user customers are at or below 300 percent of the federal poverty guidelines." RSA 362-F:2, X-a.

By secretarial letter issued on November 3, 2017, the Commission commenced a non-adjudicative proceeding to develop, review, and approve programs and procedures designed to meet the statutory requirements of SB 129. The Commission said that initial efforts to develop such programs should be undertaken concurrently with working group sessions scheduled to develop low and moderate income (LMI) pilot programs in the alternative net metering tariff development proceeding, as directed in Commission Order No. 26,029 at 63 (June 23, 2017).

Following three stakeholder working group sessions, Commission Staff (Staff) filed a memorandum recommending that a request for proposals (RFP) process be used to meet the SB 129 requirements for fiscal year 2018. On March 2, 2018, the Commission held a public comment hearing to receive input regarding Staff's recommendations and provided opportunity after the hearing for interested parties to submit written comments regarding the RFP proposal.

This Order and prior docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at http://www.puc.nh.gov/Regulatory/Docketbk/2017/17-172.html.

II. STAFF'S RECOMMENDATION

Staff recommended that an RFP process be utilized to accept competitive proposals for solar photovoltaic (PV) projects that would provide direct benefits to low and moderate income residential electric customers, as the means of meeting the statutory requirements of SB 129. RFP respondents would be required to present a comprehensive project plan demonstrating and quantifying the direct benefits to be provided to LMI participants, while also meeting other specified technical requirements.

The RFP would be open to LMI customer- and third party-owned community solar photovoltaic projects that provide direct benefits to a minimum of five LMI participants within the same electric distribution utility service territory. If the proposed project also provides benefits to non-LMI participants, the majority of the participants served must meet LMI eligibility criteria. Residents with household income at or below 300 percent of the federal poverty guidelines (FPG) are eligible. Proposed projects may utilize group net metering.

Staff said at least one project in each regulated distribution utility service territory may be eligible for on-bill "virtual net metering."

Commission evaluation of the proposals would heavily weight the quantified direct benefits to LMI participants, while also considering project readiness, project replicability, and short-term and long-term administrative costs, as well as other relevant criteria. Based on SB 129, proposals that include the financing or leveraging of financing for "low-moderate income community solar projects" located in or otherwise serving resident-owned manufactured housing communities or affordable multi-family rental housing would receive a scoring preference.

Staff indicated that the fiscal year 2018 LMI program budget is $405,000, and recommended that the RFP require a minimum grant request of $50,000 and set a maximum grant request of $200,000. Staff's memorandum included detailed recommendations regarding specific RFP criteria, scoring, and timing.

III. PUBLIC COMMENTS

The Commission received comments from a number of interested stakeholders, including low income advocates and potential LMI community solar project developers. Counsel for Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) asserted that, under SB 129, each electric utility is required to provide on-bill customer bill credits for only one new "low moderate income community solar project" in its service territory by December 31, 2019. RSA 362-A:9 XIV.(c). He indicated that Eversource would have to use a manual billing process to provide on-bill credits, and expressed a concern that projects selected through the proposed RFP process might impose additional obligations and related costs on the electric distribution utilities. He also suggested that RFP respondents should be required to describe the utility's role in implementing their proposed projects.

New Hampshire Legal Assistance (NHLA) raised a number of issues related to consumer protection of LMI residential electric customers. NHLA recommended that project proponents be required to provide specific details regarding all initial and ongoing subscription fees and other costs and fees to be borne by participating LMI customers, as well as the potential effects on those customers of project financing or funding, including any related security interests or tax liens. Any plans to sell a proposed project should also be disclosed to customers, including information regarding the proposed timing of the sale and the anticipated purchaser. According to NHLA, project proponents should be required to describe how the direct benefits to be provided to LMI customers would affect their eligibility for other governmental benefits, such as Section 8 rental subsidies, Supplemental Security Income, Temporary Assistance to Needy Families, Medicaid, and Food Stamps. NHLA provided specific information regarding potential effects on participating LMI customer eligibility for one such program, the Low Income Home Energy Assistance Program. NHLA offered to perform research regarding public assistance programs and provide additional information based on that research. NHLA further recommended that project proponents be required to clearly describe how LMI "participant relationships" and communications would be managed, including income verification, participant relocation, and admission of new participants.

Keene Housing expressed concerns regarding the means by which benefits would be provided directly to participating LMI customers, and the potential effects of those direct benefits on other government programs available to LMI customers. According to Keene Housing, "an LMI household residing in U.S. Department of Housing and Urban Development (HUD) Multifamily or Project Based Voucher housing pays rent equal to 30 percent of its adjusted income. So any time a household receives new income, their rent goes up." Keene Housing Comments at 2 (March 6, 2018). In most HUD programs, a recurring cash benefit, such as a solar rebate, would be treated as income and result in a rent increase. *Id.* Keene Housing also recommended that the Commission take a broader view of "direct benefits" provided to LMI customers, and include benefits such as the use of energy savings to fund additional affordable housing acquisitions or development, or to fund capital improvements in affected LMI residents' apartment complexes or individual units, potentially including energy conservation, efficiency, or generation projects. According to Keene Housing, a broadened scope of "direct benefits" might include the use of energy savings to fund job training programs and other initiatives designed to increase participating LMI customers' self-sufficiency and provide them longer-term opportunities for greater economic security.

A representative of the Tuftonboro Community Solar Project explained that community solar projects are not necessarily resident-owned but may be developed by non-profit organizations in collaboration with municipalities. He suggested that there should be coordination between the LMI REF program and the Electric Assistance Program in terms of eligibility and benefits determinations. He questioned the proposed RFP scoring preference for low-moderate income community solar projects located in or otherwise serving resident-owned manufactured housing communities or affordable multi-family rental housing. With respect to scoring projects, he said that there should be an "equal playing field" for all eligible community solar projects, including those developed by non-profit organizations.

IV. COMMISSION ANALYSIS

The LMI program or programs to be developed pursuant to SB 129 are supported by the REF created under RSA 362-F:10. Pursuant to RSA 362-F:3, providers of electric service must serve a certain percentage of their load with renewable energy, which is represented by renewable energy certificates (RECs), assigning one REC for each megawatt-hour or megawatt-hour equivalent of renewable power generated. If the electric service provider is unable to acquire a sufficient number of RECs to meet its compliance obligation, then the provider must make an alternative compliance payment (ACP) into the REF pursuant to RSA 362-F:10, II. The ACP monies collected are to be used to support thermal and electric renewable energy initiatives. RSA 362-F:10. Under RSA 362-F:10, X, the Commission must, over each biennium, reasonably balance the overall amounts expended, allocated, or obligated from the REF between the residential and nonresidential sectors, with reference to the amount of retail electricity sales made to customers in each sector. Under SB 129, at least 15 percent of the funds must annually benefit low and moderate income residential customers, including, but not limited to, the financing or leveraging of financing for low-moderate income community solar projects in manufactured housing communities or in multi-family rental housing. RSA 362-F:10, X.

We have reviewed Staff's recommendations for an RFP process, as well as the comments received from interested stakeholders. We find that, for fiscal year 2018, implementation of a program using REF funds to directly benefit LMI residential electric customers through the issuance of an RFP represents a reasonable and appropriate means of meeting the statutory requirements of SB 129. In addition to providing an efficient vehicle for implementing a program for the current fiscal year, we agree with Staff that the RFP approach should permit review and evaluation of multiple project models and potentially facilitate the implementation of a non-RFP LMI program in future years. We will, however, direct Staff to reduce the minimum threshold of LMI customers from five to three, consistent with the statute which requires inclusion of projects that have at least five residential end-user customers, the majority of whom are LMI. *See* RSA 362-F:2, X-a.

With respect to Eversource's comments, we acknowledge that RSA 362-A:9, XIV(c), as amended by SB 129, requires each electric utility to provide on-bill customer bill credits for only one new low-moderate income community solar project in its service territory by December 31,

2019. We therefore direct Staff to ensure language in the RFP is not inconsistent with the statute. We also agree with Eversource that the RFP should require respondents to provide a description of the utility's role in implementing the proposed projects.

With respect to the potential effects of direct benefits provided to participating LMI customers on their eligibility for public assistance programs, we share the concerns expressed by NHLA and Keene Housing that projects should be structured to minimize unintended consequences (e.g., by attempting to provide benefits to LMI customers other than through cash payments). We also agree that any identified potential impacts on public benefits program eligibility should be described by project proponents in their RFP responses. We direct Staff to address those matters in the specifications included in the RFP.

Keene Housing urges us to adopt a broader view of what may constitute "direct benefits" provided to LMI customers through the program. We disagree. We believe there should be more than a tenuous nexus between energy cost savings and the benefits afforded to individual LMI customers participating in the project. For example, we are not persuaded that the use of project energy savings to fund additional affordable housing development or support job training programs, would provide the "direct benefits" contemplated by SB 129. We therefore will not direct that the scope of the RFP be broadened to expressly include those types of benefits.

The Tuftonboro Community Solar Project representative recommended that the RFP not include an express scoring preference for low-moderate income community solar projects located in or otherwise serving resident-owned manufactured housing communities or affordable multi-family rental housing, as recommended by Staff. We agree that it is appropriate to create a level playing field by foregoing such a scoring preference in the RFP. To the extent that those types of projects may be better positioned to mitigate potential project challenges such as administrative costs to the utilities, initial and ongoing income verification, and customer subscription management, those advantages may be credited through the scoring criteria applicable generally to all proposed projects. We therefore direct Staff not to include the express scoring preference proposed for those types of projects.

Based upon the foregoing, it is hereby

ORDERED, that a program using the Renewable Energy Fund to directly benefit low and moderate income residential electric customers, selected through the issuance of a request for proposals, as described in the body of this Order, is approved; and it is

FURTHER ORDERED, that Staff is directed to implement that program by issuing a request for proposals consistent with the provisions of this Order.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of March, 2018.

Martin P. Honigberg Chairman	Kathryn M. Bailey Commissioner	Michael S. Giaimo Commissioner

Attested by:

Debra A. Howland
Executive Director

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

a) **Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

b) **Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

c) **Serve a written copy on each person on the service list not able to receive electronic mail.**