

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 17-172

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

**Order Nisi Approving Request for Proposals Competitive Solicitation
for Low-Moderate Income Project Funding in Fiscal Year 2021**

ORDER NO. 26,444

January 21, 2021

In this order, the Commission modifies Order No. 26,214 (January 25, 2019) to approve the use of a competitive solicitation in fiscal year 2021 to select projects to be funded by the Renewable Energy Fund Low and Moderate Income program. This order is being issued on a *nisi* basis to ensure that interested persons receive notice and have an opportunity to comment or request a hearing before the order becomes effective.

I. BACKGROUND

Under RSA 362-F:10, X, the Commission is required to allocate 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.

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 [five] 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.

On January 25, 2019, the Commission issued Order No. 26,214 approving the use of competitive solicitations to select low-moderate income (LMI) community solar projects to be

funded by the REF in fiscal year (FY) 2019 and FY 2020. The Commission also directed Commission Staff (Staff) to “consider issuing a second [Request for Proposals (RFP)] in FY 2019 and FY 2020, if at least \$300,000 remains in the REF LMI budget following the initial RFP process for the respective fiscal year.” Order No. 26,214 at 7. The Commission stated that “the RFP approach should permit review and evaluation of data from multiple project models, and potentially facilitate the implementation of an alternative program in future years.” *Id.*

On March 23, 2018, the Commission issued RFP #2018-003, seeking new ground-mounted or rooftop community solar projects that would provide direct benefits to a minimum of five residential electric customers where at least the majority of such participants must be LMI. On December 20, 2019, a similar RFP was issued for FY 2020. Only one proposal was received in response to the FY 2020 RFP, and the Commission therefore issued a second RFP to expend remaining FY 2020 funds on July 8, 2020. That RFP was later cancelled based on Staff’s recommendation included in a memorandum filed on November 25, 2020; that recommendation was approved by the Commission by secretarial letter dated December 4, 2020. The December 4, 2020, secretarial letter also directed that a new RFP to solicit LMI project proposals be issued in FY 2021 to use the budgeted amount of \$400,000.

II. STAFF’S RECOMMENDATION

On January 13, 2021, Staff filed a memorandum recommending that Order No. 26,214 be modified to continue to utilize an RFP process for FY 2021 as the means of funding community solar projects that provide direct benefits to LMI residential electric customers. According to Staff, issuance of an RFP during FY 2021 is consistent with the Commission’s approval of REF budget allocations, including the allocation of \$400,000 to the LMI program for FY21. *See* December 4, 2020, secretarial letter. Staff recommended that the new RFP set a minimum

request for funding of \$75,000 and a maximum request of \$200,000; other RFP criteria would remain the same as in prior fiscal years.

Staff supported its recommendation by noting potential timing issues with respect to any alternative approaches to meet the LMI statutory requirements. According to Staff, the amendment of RSA 362-F:10, I to remove “continually appropriated” language has the effect of requiring that REF monies be expended or encumbered within each distinct fiscal year. Staff noted that, with the delay in budget approval for FY 2021, limited time remains to expend or encumber funds during the current fiscal year and, in view of the significant time required for design, development, construction, and implementation, LMI projects cannot be completed and operational prior to the fiscal year end on June 30, 2021. Staff therefore concluded that issuance of an RFP, and the resulting encumbrance of grant funds upon contract approval by the Governor and Executive Council, would be the best approach for projects of sufficient scale to move forward and meet the LMI statutory requirements.

Staff recommended that, based on the limited time remaining in FY 2021 to expend or encumber REF monies consistent with RSA 362-F:10, X, the Commission modify Order No. 26,214 through an order *nisi* to authorize issuance of a new RFP in FY 2021 to fund LMI projects, pursuant to RSA 362-F:10, VIII. Given the timing concerns, Staff further recommended that the new LMI program RFP be issued while the *nisi* period is pending, with a proposal due date after the effective date of the order *nisi*.

III. COMMISSION ANALYSIS

We agree with Staff that a new RFP should be issued in FY 2021, pursuant to RSA 362-F:10, VIII and X, and that Order No. 26,214 should be modified to authorize the issuance of that new RFP. Order No. 26,214 was issued based on a Staff recommendation citing RSA 362-F:10,

VIII, which provides that the Commission “may, after notice and hearing, by order or rule, establish additional incentive or rebate programs and competitive grant opportunities for renewable thermal and electric energy projects sited in New Hampshire.” Under RSA 365:28, the Commission has the authority, “after notice and hearing, to alter, amend, suspend, annul, set aside, or otherwise modify any order made by it.”

In lieu of a hearing, we modify Order No. 26,214 to authorize the new RFP issuance in FY 2021 by issuing this order on a *nisi* basis to ensure that all interested persons receive notice of the decision and have the opportunity to submit comments or request a hearing before the order becomes effective. In view of the timing issues identified by Staff in its memorandum, we direct Staff to proceed with preparation of the new RFP to be issued while the *nisi* period is pending, with a proposal due date after the effective date of this order.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that a program using the Renewable Energy Fund to directly benefit low, moderate, or low and moderate, income residential electric customers, through funding of projects in fiscal year 2021, 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 new request for proposals in fiscal year 2021, consistent with the provisions of this order; and it is

FURTHER ORDERED, that Order No. 26,214 is modified to authorize issuance of the new request for proposals in fiscal year 2021; and it is

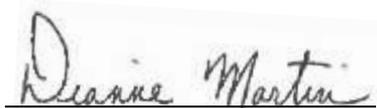
FURTHER ORDERED, that the Executive Director shall cause a copy of this order *nisi* to be published on the Commission’s website and sent by electronic mail to the service list for this docket within one business day; and it is

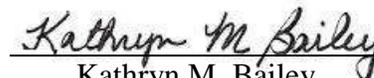
FURTHER ORDERED, that all persons interested in responding to this order be notified that they may submit written comments or file a written request for a hearing which states the reason and basis for a hearing no later than January 28, 2021, for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than February 2, 2021; and it is

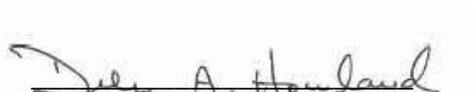
FURTHER ORDERED, that this order shall be effective on February 4, 2021, unless the publication and service obligations set forth above are not satisfied or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of January, 2021.


Dianne Martin
Chairwoman


Kathryn M. Bailey
Commissioner

Attested by:


Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 17-172

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