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Tanya Wayland
New Hampshire Department of Energy
21 S. Fruit Street
Concord, NH 03301

Re: Comments on the Department's Implementation of RSA 362-F:10,X to Benefit Low-Moderate Income Residential Customers by Issuing Renewable Energy Fund Grants Through a Request for Proposals Process.

Dear Ms. Wayland:

Thank you for the opportunity to respond to the New Hampshire Department of Energy's (the "Department") request for comments concerning the Department's implementation of RSA 362-F:10, X. RSA 362-F:10, X requires the Department to annually allocate no less than 15 percent of the Renewable Energy Fund ("REF") to benefit LMI residential customers, including, but not limited to, the financing or leveraging of financing for LMI Community Solar Projects in manufactured housing communities or in multi-family rental housing. In past years, the Department has issued a request for proposals ("RFP") to fund LMI Community Solar Projects and now seeks stakeholder input to determine the Department's future implementation of RSA 362-F:10, X. Specifically, the Department seeks input on the following:

1. Should the Department continue to use the RFP process to allocate REF funds to benefit LMI residential customers.

2. If the Department uses the RFP process, comment on the following:
    a. RFP release timeframe and time open for responses.
    b. Grant approval/project implementation period.
    c. Appropriate funding levels per project.
    d. Opportunities to decrease RFP complexity.

3. Comment on project eligibility for REF grant funding:
    a. Current eligibility for grants aligns with LMI Adder eligibility.
    b. Should SB 270 projects be eligible?
    c. Should technologies other than solar (e.g. biomass) be eligible?

4. Is there a need for seed funding and, if so, what is the appropriate funding level?

5. Any other suggestions or comments regarding program improvement.

The Vermont Law and Graduate School Energy Clinic ("Energy Clinic") provides pro-bono law, policy, and technical assistance to LMI communities seeking to adopt renewable energy projects to reduce their community's energy burden and carbon footprint. The Energy Clinic offers the following comments based on its experience working with Resident Owned Communities ("ROCs") to implement four LMI community Solar Projects funded by the Department's REF grants.[1]

1. Should the Department Continue to Use the RFP Process to Allocate REF Funds to Benefit LMI Residential Customers?

Yes. The continuation of the REF grant program is essential to ensuring equitable access to renewable energy by New Hampshire's most economically vulnerable households who bear a disproportionate energy burden and may experience energy poverty. The REF grant program is an important tool for LMI communities to overcome financial barriers to renewable energy adoption, and, by helping to steer developer attention toward serving this traditionally underserved category of customers, the program and each successful project it funds helps to reduce informational barriers and inspire other LMI communities to pursue renewable energy opportunities.[2] The four ROC projects funded by the REF grant and supported by the Energy Clinic would not have been possible without the REF grant funds each of those communities was awarded through the Department's RFP process.

The Department notes a recent decline in applications for REF grants through the RFP process. The Energy Clinic does not believe that this is due to a lack of need or interest. To the contrary, the Energy Clinic receives multiple inquiries from interested ROCs each year, but the Energy Clinic does not have sufficient resources to assist multiple communities in any given year. Each project requires significant technical and legal assistance at all stages of the development process including:

- Work with stakeholders such as ROC-NH, Clean Energy NH, and solar installers to identify a strong ROC candidate and viable project site. A strong ROC candidate is a ROC with a board enthusiastic about a potential solar project with at least one community champion to inspire community engagement. During this stage of the development process, the Energy Clinic meets with the ROC's board to inform them about community solar, desk-top site due diligence and physical site walk-through, and a review of the local municipality's permitting requirements.

[1] The Energy Clinic assisted the following ROCs to secure REF grants for LMI Community Solar Projects and provided pro-bono legal assistance with the permitting and contracting for each project: Mascoma Meadows Cooperative Inc., White Rock Cooperative Inc., Aberdeen West Cooperative, Inc., Pine Hill Homeowners Cooperative, Inc.

[2] Financial barriers hindering LMI adoption of renewable energy include factors such as lack of savings/capital, insufficient income to service loans, poor or no credit history making it difficult to obtain loans or be eligible to participate as an off taker of a developer owned solar project, etc. Perhaps as a result of such financial barriers, LMI communities often lack information about renewable energy opportunities because solar installers have not typically marketed to such communities. In addition, LMI communities tend to experience greater siting barriers to LMI solar than their non-LMI counterparts due to a lower-percentage of home ownership or suitability of housing stock for rooftop solar.

- Issue a request for proposals to solar installers for an appropriately sized solar array serving the identified ROC community. Review proposals and present options to the ROC board.
- Seek ROC members' vote to proceed with selected project and apply for REF grant funds. Complete initial income surveys.
- Apply for REF grant and other financing necessary to implement the project.
- Apply for municipal permits and submit utility interconnection application.
- Confirm project costs (after receiving utility quote) and complete necessary contracts (Engineering Procurement and Construction Agreement or Power Purchase Agreement; Group Net Metering Agreement). Present agreements to ROC board and community.
- Install project.
- Ongoing regulatory reporting, administration.

During 2021 and 2022, the Energy Clinic's available resources were further limited by litigation brought by an adjoining property owner seeking to prevent a ROC community solar project from being installed. LMI solar projects also experienced utility delays and supply chain constraints as well as significant cost volatility in the industry. These factors have frustrated the Energy Clinic's ability to assist LMI communities to apply for REF grants while simultaneously increasing the need for these grants.

2. RFP Process

The Department seeks input on certain aspects of the RFP Process, including when to issue the RFP and how long the RFP should remain open, time period for project implementation, appropriate funding levels for eligible project, and other opportunities for decreasing complexity in responding to the RFP.

a. <u>RFP Timing</u>

The Energy Clinic agrees with comments made at the stakeholder meeting on October 12, 2022, concerning the timing of future RFPs including:

- ✓ Department should issue the REF RFPs at the same time each year to help stakeholders plan for the process.
- ✓ The RFP should be open for 2-3 months to allow stakeholders to complete initial steps necessary to prepare a response.
- ✓ The RFP open period should avoid the Thanksgiving, Christmas, New Year holiday period.

With respect to the last point, the Energy Clinic notes that it has significant difficulty completing the steps necessary to prepare a response to REF RFPs when the RFP period falls during the Thanksgiving, Christmas, New Year holiday period. During this period, it is difficult to engage with necessary stakeholders including solar installers, community members, and town planners. Additionally, the Energy Clinic does not operate during the month of December. Therefore, we recommend that RFPs be issued in September or October each year with projects selected by the Department by the end of January the following year to provide sufficient time for completing paperwork and Governor and Executive Council approval ahead of the spring project installation season.

b. Project Implementation Period

The Energy Clinic recommends increasing the project implementation period from 18 months to 30-36 months to accommodate recent supply chain issues, utility delays, and other unexpected delays that may arise during the permitting process. The industry is experiencing particularly volatile market conditions at present with delays widely reported. One cause is the ongoing effect of the global COVID-19 pandemic, which sent ripple effects through the global economy including factory shutdowns, worker shortages, component shortages, and steeply increased shipping and material costs.[3] The Department may consider reducing the implementation period in the future when the industry shows signs of recovering from its current volatility.

c. Appropriate Funding Levels

The appropriate level of funding will depend on the total amount of funds available for LMI projects in any given year. Generally, however, the Energy Clinic recommends that the maximum grant amount reflect the cost of fully funding a 1 MW LMI Community Solar Project using the Department's best estimate of the industry average installed cost per watt at the time of issuing the RFP. This will allow larger projects, potentially serving multiple LMI communities, to compete in the process. We do not believe that it is necessary to set a minimum grant amount. Where possible, we recommend allocating funds to support a diversity of projects in each RFP round.

d. Opportunities to Decrease RFP/Program Complexity

The Energy Clinic first wishes to acknowledge the excellent work the Department has done in designing and implementing past REF RFPs for LMI Community Solar Projects. The program is innovative and, we believe, a national leader in extending the benefits of renewable energy to LMI communities to achieve important energy justice goals. Department staff have been supportive and helpful throughout the process.

Based on its experience helping ROC communities to respond to the REF RFPs and comply with the terms of the grants awarded, the Energy Clinic makes the following suggestions for RFP and program design:

- ✓ Consider an e-filing platform for submitting RFP responses, contract documents, and ongoing grant and project related filings. The relevant files would be accessible by Department staff and project owners and their authorized representatives. Currently all documents are submitted by email and sometimes files are too large, and they do not successfully send. Consider eliminating need to send hard copies by mail, to reduce waste.
- ✓ Allow for de minimis changes to project capacity in contract documents to reflect standard industry practice. It is common practice for solar installers to procure equipment only after permits are obtained and project costs have been finalized after receiving interconnection costs from the utility. Sometimes this means that the project components originally planned for are not available at the time or procurement and alternative equipment needs to be purchased, resulting in small changes to project capacity.

[3] Ryan Kennedy, *Solar industry was held back in the first half of 2022, but now the floodgates are opened*, PV Magazine, (August 25th, 2022) https://pv-magazine-usa.com/2022/08/25/solar-industry-was-held-back-in-the-first-half-of-2022-but-now-the-floodgates-are-opened/#:~:text=Module%20supply%20shortages%20hampered%20solar,installations%20in%20the%20coming%20months.

- ✓ To reduce administrative costs and burdens, consider requiring income surveys every 5 years instead of annually. New members would need to submit income surveys at the time of joining. Where possible, allow for an anonymous income verification process.

3. Project Eligibility

RSA 362-F:10, X requires the Department to annually allocate no less than 15 percent of the Renewable Energy Fund ("REF") to benefit LMI residential customers, including, but not limited to, the financing or leveraging of financing for LMI Community Solar Projects in manufactured housing communities or in multi-family rental housing. In past years, including prior to the enactment of the LMI Adder and corresponding definition and eligibility criteria for "Low-Moderate Income Community Solar Project," the Department has used the RFP process to solicit proposals for community solar projects that show direct benefits to LMI participants. The Department noted in its stakeholder meeting on October 12, however, that eligibility for REF funds pursuant to RSA 362-F:10, X is not limited to LMI Community Solar Projects and seeks stakeholder input on whether to expand eligibility for the REF RFP.

a. <u>Expand Eligibility to Include Affordable Housing Projects</u>
The Energy Clinic strongly encourages the Department to explore ways to ensure Affordable Housing Developments are eligible to participate in REF RFPs benefiting LMI households. The statutory mandate expressly anticipates funding projects that benefit multi-family rental housing as does the language in Puc 900 as it pertains to the LMI Adder. We understand that Affordable Housing Developments have been prevented from both the REF funding because the Department has taken a narrow interpretation of the word "residential customers" in RSA 362-F:10, X to mean an "end-use customer" as defined in RSA 362-F:2. The definition of "low-moderate income community solar project" requires at least 5 "residential end-user customers," where at least a majority of the "residential end-user customers" are low-moderate income. Affordable Housing Developments act as the collective utility customer for its residential end-users and pass utility costs on through monthly rents; individual households do not have separate customer accounts with the utility. We believe that it was a legislative oversight that has resulted in this outcome and that the intention was to provide the benefits of both the REF funds and the LMI Adder to Affordable Housing Developments. Such organizations, just like ROCs, are ideally placed to manage an LMI Community Solar Project. They are accustomed to administering income surveys, complete grant reporting, and provide direct benefits to its residents.

As previously stated in the Energy Clinic's comments to the Department of October 17 concerning SB 270, we recommend allowing Affordable Housing Developments to participate as group members in SB 270 projects, thus overcoming the obstacle of needing a "residential customer" for the REF funding and at least "5 residential end-user customers" for the LMI Adder. Such projects should score higher in the RFP for SB 270 projects and we believe they will also prove competitive in the RFP for REF funding.

b. <u>Allow SB 270 Projects to Participate in the REF RFP</u>
Upon consideration of the discussion at the Stakeholder meetings for both SB 270 and the REF grant program, the Energy Clinic recommends the Department allow SB 270 EAP community solar projects to qualify for REF LMI community solar grants. Projects would compete primarily

on the quantifiable direct benefits that will be provided to LMI households. However, the Department should ensure that project proposals that are not eligible for the SB 270 EAP program receive a higher score, all things being equal, to acknowledge the significantly higher administrative costs and that such projects will be serving customers who are not eligible for alternative incentive programs. In particular, the Energy Clinic is very concerned about moderate income customers who are not receiving energy assistance through EAP and are not eligible for the SB 270 EAP program as these customers are bearing a disproportionate burden of rising energy costs today.

There are of course practical obstacles to having projects that need to go through two separate RFPs where the proposed timing that the REF RFP process occurs in the fall, and the SB 270 designation process starts early (the following) year. If possible, the Department might consider aligning the timing of the two RFPs. Alternatively, in a situation where a project applies for an REF LMI community solar grant prior to a receiving SB 270 designation, we recommend that the Department provide automatic SB 270 designation for Affordable Housing Projects using the EAP Program structure that have successfully obtained an REF LMI community solar grant, excluding such projects for having to also submit an RFP proposal under the EAP Program.

c. Technologies Other Than Solar

The Energy Clinic believes that community solar projects likely continue to be the most financially and technologically viable option for directly expanding the reach of renewable energy to LMI communities. In many cases, the REF grant funds have enabled LMI communities, such as ROCs, to maximize financial and environmental benefits from renewable energy through direct ownership structures. The Department should strive to use the REF RFP process to provide the most direct benefits to LMI communities. However, to the extent that other renewable energy technologies are proven to be cost competitive with LMI Community Solar Project proposals and can be feasibly completed in a similar timeframe, the Energy Clinic does not see any reason to exclude such technologies.

In addition to other technologies, the Energy Clinic also recommends allowing projects that provide technical assistance and seed funding to potential LMI Community Solar Projects to participate in the REF RFP process where it can be shown that such programs meet the statutory requirement that no less than 15 percent of the REF fund "shall annually benefit low-moderate income residential customers." As stated in section 1 of this comment letter, it takes considerable resources to assist LMI communities to overcome the barriers to renewable energy adoption and this area of work is currently underfunded and under-staffed. This is a significant roadblock to fully realizing the potential of the REF grant funding to benefit LMI households.

4. Is there a need for seed funding and, if so, what is the appropriate funding level?

The Energy Clinic sees significant benefit to establishing a seed fund to cover some of the initial soft costs associated with an LMI Community Solar Project prior to the project applying for REF funding. We support a seed fund sufficient to cover the cost of an interconnection application and municipal permit applications. Receiving interconnection costs from the utility and permitting certainty early in the process will help provide certainty that REF funded projects will be completed and will be completed on time.

The Energy Clinic has experiencing working with a seed fund of this type in Vermont. The Energy Clinic, together with the non-profit organization "Building a Local Economy" (BALE) obtained a $15,000 grant from the Vermont State Employees Credit Union. This amount is sufficient to cover the cost of obtaining environmental experts to provide the necessary testimony and evidence for a certificate of public good ("CPG") under Vermont's state permitting process for energy projects. The Energy Clinic provides pro-bono legal services to complete the CPG application. Once a project receives its CPG community members pay the solar installer for each member's share of the community solar project, which includes the $15,000 permitting cost. The solar installer then returns that $15,000 to the see fund to be used for another project. In this way, the seed fund protects the solar installer, which is often a small local business, and the future owners of the community solar project from permitting risk. We believe a similar model could work for LMI Community Solar Projects in New Hampshire.

5. Conclusion

Thank you for initiating this stakeholder process and considering the VLGS Energy Clinic's comments relating to the implementation of RSA 362-F:10, X. We look forward to participating in further stakeholder sessions and discussing our comments with you. Please do not hesitate to contact us should you have any questions.

Sincerely,

The VLGS Energy Clinic Team: Jeannie Oliver (Professor and Staff Attorney) and Student Clinicians David Cressy, Adam Fane, Susan Murphy, Yifei Zhou.