



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ALL UTILITIES

IN THE MATTER OF THE NEW JERSEY BOARD OF )  
PUBLIC UTILITIES' RESPONSE TO THE COVID-19 ) ORDER  
PANDEMIC )  
) DOCKET NO. AO20060471

**Parties of Record:**

**Phillip J. Passanante, Esq.**, Atlantic City Electric Company  
**Deborah Franco, Esq.**, Elizabethtown Gas Company and South Jersey Gas Company  
**Joshua Eckert, Esq.**, Jersey Central Power and Light Company  
**Andrew Dembia, Esq.**, New Jersey Natural Gas Company  
**Matthew Weissman, Esq.**, Public Service Electric and Gas Company  
**John L. Carley, Esq.**, Rockland Electric Company  
**Debbie Albrecht**, New Jersey American Water Company  
**Rodolphe Bouichou**, Suez Water NJ, Inc.  
**Dennis W. Doll**, Middlesex Water Company  
**Adam Burger**, AQUA New Jersey, Inc.  
**David G. Ern**, Gordon's Corner Water Company  
**John J. Brunetti**, Midtown Water Company  
**David B. Simmons, Jr.**, Simmons Water Company  
**Samuel Faiello**, Shore Water Company  
**John Cannie**, Fayson Lakes Water Company  
**Wendy Stewart**, Atlantic City Sewer Company  
**J. Bryce Mendenhall**, Montague Water Company  
**Jeffrey Fuller**, Lake Lenape Water Company  
**Henryk Schwarz**, Mt. Olive Villages Water Company  
**Robert H. Oostdyk, Jr., Esq. of Murphy McKeon P.C.**, on behalf of the Borough of Butler  
**Evelyn Liebman**, AARP New Jersey State Office  
**David McMillan, Esq.**, Legal Services of New Jersey  
**Eric Miller, Esq.**, National Resources Defense Council  
**Renee Steinhagen, Esq.**, New Jersey Citizen Action  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

BY THE BOARD:

## **BACKGROUND**

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the coronavirus disease of 2019 (“COVID-19”) a “public health emergency of international concern,” which means “an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response.”

On March 9, 2020, Governor Phil Murphy signed Executive Order No. 103 (“EO 103”),<sup>1</sup> declaring a State of Emergency and a Public Health Emergency in response to the COVID-19 pandemic, in order to ensure the continuity of government services and protect the public.

On March 13, 2020, the New Jersey Board of Public Utilities (“Board” or “BPU”) announced that the State’s public electric and gas utilities had universally agreed to suspend service shutoffs given the statewide public health emergency and the effort currently underway in response to the COVID-19 pandemic.

Additionally, on March 20, 2020, New Jersey Lieutenant Governor and Department of Community Affairs Commissioner Sheila Y. Oliver, New Jersey Department of Environmental Protection Commissioner Catherine R. McCabe, and Board President Joseph L. Fiordaliso issued a joint statement which asked, among other things, “that every water system, private or public, including those operated by our municipal governments, commit to a suspension of any water shut offs for reasons of non-payment, safe reconnection of anyone previously shut off, and a suspension of the use of liens as a collection practice until the outbreak of COVID-19 has subsided.”<sup>2</sup> The moratoria were voluntarily extended by the utilities until October 15, 2020.

On July 2, 2020, the Board issued an Order authorizing each of the State’s utilities to create a COVID-19 regulatory asset by deferring on their books and records the prudently incurred incremental costs related to COVID-19 beginning on March 9, 2020 through September 30, 2021, or 60 days after Governor Murphy issues an order, declaration, proclamation, or similar announcement that the Public Health Emergency is no longer in effect or, in the absence of such an order, declaration, proclamation or similar announcement, 60 days from the time the Public Health Emergency automatically terminates pursuant to N.J.S.A. 26:13-3(b), whichever is later (“Regulatory Asset Period”) (“July 2020 Order”).<sup>3</sup> The Board found that deferral of such costs is appropriate because the current catastrophic health emergency is outside the control of the utilities and is a non-recurring event. The Board ordered all deferred incremental COVID-19 related costs be offset by any federal or state assistance that the utility may receive as a direct result of the COVID-19 pandemic. The Board further ordered that all affected utilities maintain

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<sup>1</sup> Exec. Order No. 103 (March 9, 2020), 52 N.J.R. 549(a) (April 6, 2020). EO 103 and all other executive orders referenced in this Order are published in the New Jersey Register and are also available online at: <https://nj.gov/infobank/eo/056murphy/>.

<sup>2</sup> The joint statement referenced in this Order is available online at: <https://www.state.nj.us/dep/watersupply/pdf/dep-dca-bpu-ask-water-suppliers.pdf>

<sup>3</sup> In re The New Jersey Board of Public Utilities’ Response to the Covid-19 Pandemic, BPU Docket No. AO20060471, Order dated July 2, 2020.

detailed records of the incremental COVID-19 related costs and savings during the COVID-19 pandemic and to file quarterly reports.

Additionally, the July 2020 Order required that all affected utilities file a petition with the Board by December 31, 2021, or within 60 days of the close of the Regulatory Asset Period, whichever is later. Any potential rate recovery, including any prudency determinations and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings, is to be addressed in this COVID-19 regulatory asset filing, or, in the alternative, a utility may request that the Board defer consideration of rate recovery to a future rate case. All costs remain subject to audit by the Board.

On October 2, 2020, the New Jersey Division of Rate Counsel (“Rate Counsel”) filed a petition seeking relief asking the Board to order a formal investigation into the scope of the COVID-19 public health emergency’s impact on ratepayers’ making of timely payments, a moratorium on the discontinuance of service for non-payment, and the development of appropriate arrearage and bill payment assistance plans (“Rate Counsel Petition”). The Rate Counsel Petition raised a number of other issues relating to COVID-19, including: its impacts on rate setting, rate design, and utility financial strength; low income and other utility bill assistance programs; regulatory compliance; collections and termination of service; and ensuring the continued provision of safe and adequate service at just and reasonable rates. This Order addresses, in part, issues raised in the Rate Counsel Petition including consideration of expansion of the Universal Service Fund (“USF”) program and a debt forgiveness program for utility customers facing financial hardship.

On October 14, 2020, the BPU received a letter signed by AARP New Jersey, Anti-Poverty Network of New Jersey, Food & Water Action, Natural Resources Defense Council (“NRDC”) and New Jersey Citizen Action (“NJCA”) expressing their collective support for the Rate Counsel Petition.

The moratorium period was extended on October 15, 2020 through Executive Order 190 (“EO 190”) to March 15, 2021, which prohibited the gas, electric, and water utilities from discontinuing any gas, electric, or water service to New Jersey residents due to nonpayment or from collecting any fee or charge imposed for late or otherwise untimely payments or service reconnections that have accrued, and will continue to accrue, during the public health emergency.<sup>4</sup> EO 190 also required that any gas, electric, or water service that was discontinued due to nonpayment after the social distancing measures went into effect, including where the disconnection was for unpaid bills incurred prior to the current public health emergency, be reconnected at any occupied residence at no cost to the customer.

On October 21, 2020, a Secretary’s Letter was issued to Rate Counsel extending the time period for comments to November 30, 2020 pursuant to the Board’s authority under N.J.A.C. 14:1-6.2(c). On October 28, 2020, the Board issued an Order expanding the scope of this docket to examine all pandemic related issues by way of a generic proceeding, which allowed for a public comment period through November 30, 2020 (“October 2020 Order”).<sup>5</sup> The October 2020 Order also designated President Fiordaliso or his designee as the presiding commissioner over this matter, who is authorized to rule on all motions that arise during the proceedings and modify any

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<sup>4</sup> Exec. Order No. 190 (October 15, 2020), 52 N.J.R. 2032(a) (November 16, 2020).

<sup>5</sup> In re The New Jersey Board of Public Utilities’ Response to the Covid-19 Pandemic, BPU Docket No. AO20060471, Order dated October 28, 2020.

schedules that may be set as necessary to secure just and expeditious determination of the issues.

On January 11, 2021, a motion to intervene in this matter was received from AARP. No opposition was filed against AARP's motion. After reviewing the motion against the standard set out for intervention, AARP's motion for intervention was granted by Order dated January 28, 2021 by President Fiordaliso under the authority granted to him under the October 2020 Order.

On February 5, 2021, Legal Services of New Jersey ("LSNJ"), NRDC, and NJCA each submitted Motions to Participate. No opposition was filed against these Motions to Participate. After reviewing the motions against the standard set out for participation and intervention, the motions were granted by Order dated March 16, 2021 by President Fiordaliso under the authority granted to him under the October 2020 Order.

On March 3, 2021, Governor Murphy further extended the moratorium period from March 15, 2021 to June 30, 2021 through Executive Order 229 ("EO 229").<sup>6</sup> EO 229 incorporated prohibitions for shut-offs and related fees from EO 190 as to gas, electric, and water utilities, and further directed cable and telecommunications companies to offer to customers who are delinquent on paying their bills options to resolve the outstanding balances prior to shut-off. EO 229 supersedes EO 190 to the extent there are any inconsistencies.

On June 4, 2021, Governor Murphy signed Assembly Bill No. 5820 as L. 2021, c.103, and issued Executive Order 244, which terminated the Public Health Emergency declared in Executive Order No. 103 but maintained the State of Emergency declared in that same Order. Law c.103 indicated that certain Executive Orders, including Executive Order No. 229, shall remain in effect until January 1, 2022, but also provided that the Governor may revoke or modify Executive Order No. 229 prior to January 1, 2022.

On June 14, 2021, Governor Murphy issued Executive Order 246 that stated, among other things:

1. The utility shutoff moratorium established in Executive Order No. 229 is ended effective July 1, 2021 while allowing a reasonable time period during which individuals can address arrearages and apply for utility assistance;
2. All New Jersey residents who were protected from the discontinuance of gas, electric, water, or internet service pursuant to Executive Order No. 229 will enter a "grace period" that will be in effect from July 1, 2021 through December 31, 2021 to give customers an opportunity to apply for all available assistance programs, make arrangements for overdue balances with their utility companies, and to give the State the opportunity to distribute funding from the American Rescue Plan Act of 2021 to customers in arrears;
3. During the grace period, no gas or electric public or municipal utility or privately or publicly owned water system shall discontinue any gas, electric, or water service to New Jersey residents, which includes all residential accounts and any accounts primarily serving residential customers, due to nonpayment unless the disconnection is to prevent or ameliorate a risk to public health or safety; and
4. In no event shall a service provider inform a customer who is protected by this Order that the customer is subject to termination of service for nonpayment prior to the end of the grace period.

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<sup>6</sup> Exec. Order No. 229 (March 13, 2021), 53 N.J.R. 574(a) (April 19, 2021).

Earlier this year, the Board, recognizing the urgency in which customers and the utilities need to arrive at solutions to address the mounting arrearages, established working groups wherein discussions took place with respect to expanding the existing utility assistance programs offered to delinquent customers. The working group participants, which included State agencies, Rate Counsel, the utility companies, advocacy groups and non-profits,<sup>7</sup> were each invited to actively participate in working group discussions by providing input and ideas regarding various potential Staff proposals and offering suggestions for changes to existing programs while balancing the needs of the customer and interests of the utilities. As a result of the working groups' discussions, Staff recommends specific modifications to the following Board programs which incorporates suggestions made through the working group participants:

### ***Universal Service Fund***

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA" or "the Act"), was signed into law on February 9, 1999. Among other things, the Act provides:

There is established in the Board of Public Utilities a non-lapsing fund to be known as the "Universal Service Fund." The Board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to L. 1979, c. 197 (C.48:2-29-15 et seq.), the "Tenants' Lifeline Assistant Program" established pursuant to L. 1981, c. 210 (C.48:2-29.31 et seq.), the funds received pursuant to the Low-Income Home Energy Assistance Program established pursuant to 42 U.S.C.s. 8621 et seq., and funds collected by electric and natural gas utilities, as authorized by the Board, to off-set uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded programs.

On April 30, 2003, the Board established the Universal Service Fund ("USF") program in Docket No. EX10020091 ("April 2003 Order") to ensure that low-income electric and natural gas customers have access to more affordable energy. The April 2003 Order stated that USF would be "an on-going, evolving program, subject, to review, and amended as necessary."<sup>8</sup> The Board ordered that the program be operated on a state-wide basis and funded through uniform charges on customers' electric and natural gas bills ("USF rate") through the Societal Benefits Charge collected pursuant to N.J.S.A. 48:3-60(a).

To qualify for the Board's Universal Service Fund ("USF") program currently, an applicant must: 1) meet the income eligibility criteria of household income at or below 185 percent of the Federal Poverty Level (FPL); and 2) spend more than three percent of household income on gas or non-heating electric, or spend more than six percent of household income on electric heat. This

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<sup>7</sup> Working group members included: electric, gas, water and wastewater utility companies, Public Power Authority of New Jersey, New Jersey Utilities Association, AARP, NRDC, LSNJ, Anti-Poverty Network of NJ/Citizen Action, Affordable Housing Alliance, NJ SHARES and Staff of the DCA, BPU, Department of Human Services and Rate Counsel.

<sup>8</sup> In re the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999 Order, Docket No. EX00020091 (April 30, 2003).

percentage of income is what is known as the “affordability threshold”. USF covers energy costs over the affordability threshold, up to a cap of \$150.00 per month (\$1,800.00 per year). The USF program year is aligned with the federal Low Income Home Energy Assistance Program (“LIHEAP”) year and therefore runs from October 1<sup>st</sup> through September 30<sup>th</sup>. USF and LIHEAP share program infrastructure to take advantage of economies of scale and so that customers can apply for both programs at the same time. Participants of the Lifeline Utility Assistance Program and the Supplemental Nutritional Assistance Program are automatically screened for eligibility into both USF and LIHEAP. The New Jersey Department of Community Affairs (“DCA”) administers USF on the Board’s behalf.

Staff recommends that for a two-year period beginning October 1, 2021, the following temporary modifications be made to the USF program to address the needs created by the pandemic:

1. Income limits be set at 400 percent FPL;<sup>9</sup>
2. The USF benefit calculation be set to provide a minimum \$5.00 USF monthly benefit to any applicant who meets the income requirement, but not the affordability threshold requirement;
3. The USF benefit cap be set at \$180 per month or \$2,160 per year; and
4. The USF affordability threshold be adjusted from three percent of annual income for gas and non-heating electric costs to two percent of income; and the USF affordability threshold for electric heat be adjusted from six percent of annual income to four percent of income.

The reasoning for recommendations numbered 1) and 2) above is to offer the following benefits to higher income earners impacted by the pandemic:

- a. Monthly USF benefits to help customers with their monthly gas and electric expenses; and
- b. An opportunity for customers to earn arrearage forgiveness through the USF Fresh Start program.

The reasoning for recommendations numbered 3) and 4) above is to:

- a. Accommodate for the increase in residential electric and gas bills during the pandemic due to many New Jersey families’ energy usage increasing while they were required to work and attend school from home;
- b. Inject additional funds into utility accounts to bring down overdue balances that have accrued during the pandemic; and
- c. Assist customers in complying with the Fresh Start program requirement of making timely monthly bill payments.

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<sup>9</sup> Household income for a family of four at 400 percent FPL is currently \$104,800. However, households in need who are up to the state median income of New Jersey can apply for the Board’s Payment Assistance for Gas and Electric (“PAGE”) program and receive a grant of up to \$700. The PAGE income ceiling for a family of four is \$123,430.

Board Staff additionally recommends that any disconnected customer who demonstrates he or she applied for USF, LIHEAP or PAGE during the period of October 1, 2021 through September 30, 2023 be reconnected by their gas or electric company upon request so that they may obtain the available benefits.<sup>10</sup>

On October 1, 2023, pre-pandemic USF program eligibility guidelines will resume, unless otherwise determined by the Board.

Staff believes the above temporary changes to the USF program will assist low and moderate income customers who were significantly impacted by the pandemic to get the help they need and open a pathway to arrearage forgiveness for those with potentially insurmountable utility balances.

### ***Fresh Start Program***

The Board's Fresh Start program is an arrearage forgiveness component of the USF program. Currently, to qualify for Fresh Start enrollment, an electric or gas customer must be:

1. a first time USF participant; and
2. have an arrearage of \$60.00 or more.<sup>11</sup>

The Fresh Start program is an automatic enrollment program by the utility company of a customer who meets the two Fresh Start criteria shown above. Customers cannot apply for the Fresh Start program independently.

To earn forgiveness through the Fresh Start Program, a customer must pay their current monthly bill in full each month for 12 months. For every month a customer accomplishes this, the customer earns forgiveness on 1/12 of their Fresh Start balance up to a cap of \$100 per month or \$300 per quarter.<sup>12</sup> If the customer has not fully satisfied the requirements of Fresh Start by the end of the 12-month period, the customer enters a three month grace period whereby any payment the customer makes is put toward the first 12 months of bills to help the customer earn forgiveness of the Fresh Start balance.<sup>13</sup> At the end of the 15-month Fresh Start period there is no cap on forgiveness. Any unearned forgiveness is restored to the account as due at the end of the 15-month Fresh Start program period. The Fresh Start program is administered by the gas and electric companies with oversight by the Board.

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<sup>10</sup> An applicant for utility assistance needs an active residential account to which a benefit can be applied.

<sup>11</sup> In re the Matter of the Establishment of an Arrearage Payment Program for the Universal Service Fund, BPU Docket No. EX00020091, Order dated March 4, 2004.

<sup>12</sup> Some utilities provide Fresh Start forgiveness monthly, others quarterly.

<sup>13</sup> In re the Matter of the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, BPU Docket No. EX00020091, Order dated February 1, 2005.

In order to further address the high utility balances of residential gas and electric customers accrued during the pandemic, Staff recommends the following modifications to the USF Fresh Start program (“modified Fresh Start program”) for a two-year period beginning October 1, 2021:

1. The utilities shall enroll any USF participant with \$60 or more in arrearages into the Fresh Start program regardless of the customer’s past participation in the USF program at the time of the customer’s enrollment or re-enrollment in USF;<sup>14</sup>
2. The utilities shall remove the \$100 monthly cap on Fresh Start forgiveness so that 1/12 of the overdue balance can be forgiven each month the customer pays their bill in full;
3. The utilities shall timely apply any available federal arrearage forgiveness to Fresh Start balances before current balances as the funds become available and in a manner consistent with the best interest of the customer in order to maximize federal funding;
4. If a customer is participating in the unmodified Fresh Start program when the customer re-enrolls in USF after October 1, 2021, the utility company shall remove the customer from the unmodified Fresh Start program, apply any earned forgiveness and enroll the customer into the modified Fresh Start program (according to 1, 2 and 3 above) for any remaining Fresh Start balance as well as any new overdue balances. Otherwise, the unmodified Fresh Start program customer will complete their Fresh Start year according to the program guidelines in place when the customer initially enrolled in the unmodified Fresh Start program;
5. Customers shall be removed from any Deferred Payment Arrangement (“DPA”) upon enrollment into Fresh Start as it is in the best interest of the customer;
6. The Fresh Start customer shall be found in compliance with Fresh Start by their utility company in regards to payment for supply and delivery charges only;
7. Other than the above modifications, the utility companies shall comply with all remaining program policies set forth in the original Board Orders and addendums related to the Fresh Start program; and
8. Beginning October 1, 2023, all Fresh Start program policies applicable prior to the issuance of this Order will resume, unless otherwise directed by the Board.

Staff believes the above temporary modifications to the Fresh Start program will significantly increase customers’ ability to qualify for the Fresh Start program, and earn forgiveness on overdue utility balances, while also helping the customer establish better payment compliance with the respective utility companies.

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<sup>14</sup> When the utility receives a USF benefit record from the State.

## **DISCUSSION AND FINDINGS**

The Board has considered Staff's recommendations, the comments and recommendations summarized by Staff on behalf of the working groups, and Rate Counsel's petition with regard to a temporary expansion of the USF and Fresh Start programs in order to address the mounting utility payment arrearages incurred by the residents of New Jersey as a direct result of the Covid-19 pandemic. The Board **FINDS** that Staff's recommendations directly benefit not only the low to moderate income residents of the State but also those who have been significantly impacted by this public health emergency. Staff's recommendations allow more participants into the programs and provides additional flexibility within the programs as the State continues its economic recovery. The Board believes Staff's recommendations provide customers who are unable to pay their utility bills in full due to the economic hardships experienced as a result of the Covid-19 pandemic a pathway to clearing their utility bill delinquency, while simultaneously encouraging consistent payment compliance with the respective utility companies. The Board recognizes that Staff's recommendations also maximize federal funds for reducing customer arrearages, which effectively removes some of the burden from ratepayers.

Therefore, the Board adopts Staff's recommendations above and **HEREBY DIRECTS** expansion of the USF and Fresh Start programs on a temporary basis for a two-year period beginning October 1, 2021 with an expiration of September 30, 2023, unless further extended by future Board Order, as necessary and appropriate. The Board **FURTHER DIRECTS** the DCA to make the applicable changes to the USF program as necessary, practicable, and reasonably possible to reflect the temporary expansion to the USF program as reflected in this Order. The Board **FURTHER DIRECTS** the utility companies to make the applicable changes to the Fresh Start program as necessary, practicable, and reasonably possible to reflect the temporary expansion to the Fresh Start program as reflected in this Order. All actions and system changes necessary to effectuate the directives of this Order should be taken in time for the October 1, 2021 program expansion date.

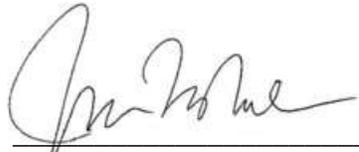
Additionally, the Board **DIRECTS** any recovery for USF and the Fresh Start program be reviewed during the annual USF compliance filing.

Lastly, in compliance with the Board's Order in Docket No. EO20030254, all parties are **HEREBY DIRECTED** to serve all documents electronically.

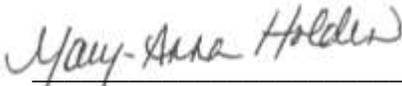
This Order shall be effective on July 4, 2021.

DATED: June 24, 2021

BOARD OF PUBLIC UTILITIES  
BY:



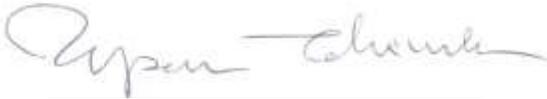
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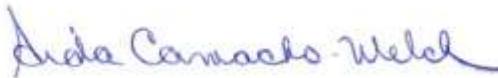


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**IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES'  
RESPONSE TO THE COVID-19 PANDEMIC  
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