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ALL UTILITIES

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

**Parties of Record:**

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- 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, Esq.**, New Jersey American Water Company
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- 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 McMillen, Esq.**, Legal Services of New Jersey
- Eric Miller, Esq.**, National Resources Defense Council
- Renee Steinhagen, Esq.**, New Jersey Citizen Action

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.

Based on a joint statement by New Jersey Lieutenant Governor, Department of Community Affairs Commissioner, New Jersey Department of Environmental Protection Commissioner, and the Board’s President on March 20, 2020, 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”).<sup>2</sup> 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 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 in 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”).

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

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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> In re the New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated July 2, 2020 (“July 2020 Order”).

New Jersey Citizen Action (“NJCA”) expressing their collective support for the Rate Counsel Petition.

On October 15, 2020, the moratorium period was extended by 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>3</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 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>4</sup> The 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 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 and 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. 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>5</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 legislation ending the COVID-19 public health emergency within the State, but continued the restrictions on utility shut-off until January 2022.<sup>6</sup>

Through Executive Order 246, on June 14, 2021 Governor Murphy ended the moratorium as of June 30, 2021, but provided customers with a grace period on utility collection activity or shut-offs until December 31, 2021 (“EO 246”).<sup>7</sup> For those eligible for the Winter Termination Program, EO 246 effectively extended the moratorium until March 2022, which is the end of the winter termination period.

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<sup>3</sup> Exec. Order No. 190 (October 15, 2020), 52 N.J.R. 2032(a) (November 16, 2020).

<sup>4</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.

<sup>5</sup> Exec. Order No. 229 (March 13, 2021), 53 N.J.R. 574(a) (April 19, 2021).

<sup>6</sup> L. 2021, c.103, [https://www.njleg.state.nj.us/2020/Bills/PL21/103\\_.HTM](https://www.njleg.state.nj.us/2020/Bills/PL21/103_.HTM)

<sup>7</sup> Exec. Order No. 246 (June 14, 2021), 53 N.J.R. 1185(a) (July 19, 2021).

On June 24, 2021, based upon recommendations made by Board Staff, the Board issued an Order in this matter expanding the Universal Service Fund and Fresh Start programs as a result of discussions that took place during working group session among State agencies, utility companies, advocacy groups, and non-profit organizations.<sup>8</sup>

Motion of Public Service Electric and Gas Company et al to Amend July 2020 Order

On July 6, 2021, Public Service Electric and Gas Company (“PSE&G”), South Jersey Gas Company (“SJG”), and Elizabethtown Gas Company (“ETG”) (hereinafter collectively referred to as the “Companies”) filed a letter motion with the Board seeking amendment of the Board’s July 2020 Order to extend the deferral period from September 30, 2021 to the end of 2023 and to adjust the deadline for the filing of petitions for recovery to a date within 60 days of the corresponding extended regulatory asset period (“Motion”).

In their Motion, the Companies submitted that the current September 30, 2021 date would go against the purpose and spirit of the intent of the Board in issuing its July 2020 Order, wherein the Board acknowledged that “the regulated utilities’ response to the COVID-19 pandemic including...complying with the Governor’s COVID-19 EOs, could cause the...utilities to incur significant and extraordinary COVID-19 related expenditures that could have a negative financial impact on the State’s regulated utilities.” The Companies pointed out that at the July 2, 2020 Board meeting, it was noted that bad debt is a significant component of the incremental COVID-19 related costs.

The Companies provided data which they claim demonstrate a correlation between the extension of the moratorium and increased bad debt and carrying costs impacting the utilities. Additionally, the Companies claim a similar correlation between the moratorium and a lack of engagement by customers who are in arrears to clear the unpaid balances. The Companies submit that the moratorium not only negatively affects customer engagement regarding assistance programs, but it also severely restricts the Companies’ ability to recover payment through collection activity. It is the Companies’ position that the prohibition on field collection activity has caused long term delays in addressing these account receivable balances, which has resulted in customers accumulating larger arrearages that increases the likelihood of higher future write-offs.

By this Motion, the Companies seek additional time to calculate write off exposure until the conclusion of the USF and Fresh Start program expansion in the latter part of 2023.

Letters of Support of Companies’ Motion

On July 19, 2021, July 21, 2021, and July 23, 2021, respectively, SUEZ Water New Jersey, Inc. (“SUEZ”), New Jersey-American Water Company, Inc. (“NJAWC”), Atlantic City Electric Company (“ACE”), and Aqua New Jersey, Inc. (“Aqua”) (collectively referred herein as “Supporting Companies”) each filed a letter in support of the Companies’ Motion. ACE sought an extension shorter than requested by the Companies.

On September 10, 2021, Jersey Central Power & Light Company (“JCP&L”) filed a letter motion in support of the Companies’ request for an extension, and requested an open ended extension until such time as it resumes normal operations.

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<sup>8</sup> In re The New Jersey Board of Public Utilities’ Response to the COVID-19 Pandemic, BPU Docket No. AO20060471, Order dated June 24, 2021.

### Rate Counsel Response to the Companies' July 6 Letter Motion

On August 4, 2021, Rate Counsel filed a response to the Motion ("Rate Counsel Response"). In its response, Rate Counsel did not disagree with the Companies that an extension may be a reasonable solution to the concerns raised by the Companies subject to certain conditions. While Rate Counsel does not object to an extension, it expressed concern that the length of time requested by the Companies was excessive. Rate Counsel recommended that the Board fashion an extension date consistent with the following considerations: a) receipt of federal funds; b) when enhanced relief programs will be fully operational; and c) when customers will have had an opportunity to earn arrearage forgiveness through the USF Fresh Start Program.

Rate Counsel recommended that should the Board grant an extension, that the Board impose reasonable conditions on the extension, including but not limited to, the formal filing of a plan on how the additional time will be used by the Companies, along with additional data and periodic filings.

### Companies' Reply to Rate Counsel Response

On August 11, 2021, the Companies filed a reply to the Rate Counsel Response. The Companies stated that the "formula" that Rate Counsel suggested in calculating an end date for the extension was the impetus for the December 2023 date sought in its July 6 Letter Motion. The Companies argued that the end of the Fresh Start Program is the key in determining the full extent of the write off exposure, and ample time should be afforded to the Companies to properly credit assistance received to customer accounts and fully assess the bad debt created by COVID-19. The Companies further stated that the pandemic has entered a new phase and, therefore, it is not in a position to relax its safety measures which adds to the costs that should be captured in the recovery petition.

In response to RC's recommendation to the Board for the imposition of reasonable conditions for an extension, the Companies represented that they are able and willing to provide any actual data as part of their quarterly filings regarding participation in arrearage payment plans, number of Fresh Start recipients, funds received through existing state and federal programs, new hires relative to addressing COVID-19 arrearages, and numbers of field collection visits and disconnections and reconnections by zip code and city.

### DISCUSSION AND FINDINGS

The Board has reviewed the filings by the Companies, along with the letters of support filed by the Supporting Companies, and Rate Counsel's response and the Companies' reply. The Board did not consider the letter motion filed by JCP&L as it was untimely and failed to provide interested parties adequate time to respond. The Board recognizes that these are extraordinary times and the financial impact on the utilities, and the ratepayers, has been tremendous. Taking the totality of the circumstances under consideration, the Board **HEREBY DENIES** the Companies' motion requesting an extension of the September 30, 2021 to December 2023. The Board is unpersuaded that a prolonged delay such as the one requested would actually produce a significantly different result than the date already established by the Board in its July 2020 Order. The Companies requested in their motion a 27-month extension of the Regulatory Asset Period, but the Board is unpersuaded that this protracted period is reasonable and necessary. However, the Board recognizes the reasonableness of the Companies' arguments for an extension, and, therefore, the Board **FINDS** good cause to extend the regulatory asset period from September 30, 2021 to December 31, 2022. The Board also recognizes that there are other mechanisms by

which the Companies can use to recover their costs after the expiration of said period. Now, **THEREFORE**, the Board **HEREBY ORDERS** the Regulatory Asset Period be extended from September 30, 2021 to December 31, 2022, and the filing of a petition for recovery of these assets be within 60 days of this new date.

The Board has further considered Rate Counsel's recommendation for a formal filing of a plan by the respective Companies and Water Companies setting out how the extension will be used and to require additional data and periodic filings. The Board **FINDS** that Rate Counsel's recommendations are reasonable to ensure transparency, and a formal plan will serve as a guide for the parties to timely complete the steps necessary to meet the extended Regulatory Asset Period deadline. Now, **THEREFORE**, the Board **HEREBY ORDERS** the utility companies regulated by the Board to file a formal plan within 10 days from the effective date of this Order outlining how the additional time afforded by this Order will be used in meeting the Regulatory Asset Period deadline. The Board **FURTHER ORDERS** that the utility companies regulated by the Board file as part of their quarterly reports data regarding the number of Deferred Payment Arrangements created each month, Fresh Start recipients, funds received through existing state and federal programs (i.e. LiHEAP and USF), new hires related to addressing COVID-19 arrearages, number of field collection visits, and number of disconnections and reconnections by zip code or city.

This Order shall not affect or in any way limit the exercise of the authority of the Board or the State of New Jersey in any future petition or in any proceeding regarding rates, costs of service, franchises, service, financing, accounting, capitalization, depreciation, or any other matters affecting the utilities.

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 September 21, 2021.

DATED: September 14, 2021

BOARD OF PUBLIC UTILITIES  
BY:



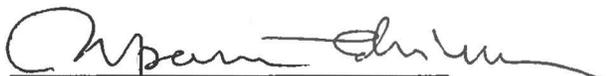
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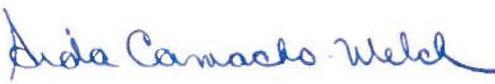
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AIDA CAMACHO-WELCH  
SECRETARY

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

**DOCKET NO. AO20060471**

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\*The municipals listed are regulated only in terms of the customers served outside of the municipality's limits and only for service issues, if the rates are equalized. Currently, the NJBPU-regulated municipal water systems all have equalized rates.

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