



Submitted via E-Mail
September 13, 2021

State of New Jersey, Board of Public Utilities
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P.O. Box 350
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08625-0350

**RE: Docket No. AX21091111 – In the Matter of the New Jersey Board of Public Utilities’
Utility Customer Bill of Rights**

**Docket No. AO20060471 – In the Matter of the New Jersey Board of Public Utilities’
Response to the COVID-19 Pandemic**

Secretary Camacho-Welch:

On behalf of the undersigned organizations, please accept these comments to the New Jersey Board of Public Utilities in the two above-referenced proceedings. (Natural Resources Defense Council and New Jersey Citizen Action have been granted Participant status in Docket No. AO20060471.)

These comments specifically concern Agenda Item 9.B for the Board’s September 14, 2021 meeting

As the online docket for No. AX21091111 does not include a list of parties or a service list, I am copying this filing only to the service list for No. AO20060471. Please advise whether this filing should be copied to anyone else.

Respectfully Submitted,

Lawrence Levine
Director, Urban Water Infrastructure
Natural Resources Defense Council

Beverly Brown Ruggia
Financial Justice Program Director
New Jersey Citizen Action

Matthew Smith,
NJ Director
Food & Water Watch

cc (via email): Service List for Docket No. AO20060471

The above-signed organizations submit the following comments and recommendations concerning **Agenda Item 9.B for the Board’s September 14, 2021 meeting**.¹ The agenda identifies this item as associated with Docket No. AX21091111 and provides the following description:

“The Board will revisit the Customer Bill of Rights established by Board Order on February 3, 1986 in light of the COVID-19 pandemic and expand the Bill of Rights to include certain temporary protections provided through Governor Murphy’s Executive Orders in response to the pandemic.”

In the comments below, we urge the Board to take immediate action, beyond the proposed revisions to the Customer Bill of Rights, to ensure that utilities inform customers monthly of the protections and bill payment assistance available to them, as required by with P.L.2021, c.97.

We also renew our previous requests that the Board establish a robust set of customer protections, programs, and oversight to effectuate the purposes of EO 246 and the Board’s June 24, 2021 order.

On June 23, 2021, NRDC, New Jersey Citizen Action, and Food & Water Watch filed comments in Docket No. AO20060471, which, among other things, urged the Board to take certain actions to effectuate the provisions of Executive Order No. 246 (“EO 246”).² On June 24, 2021, the Board adopted an Order expanding the Universal Service Fund and Fresh Start programs help address skyrocketing residential customer arrears that have accumulated during the COVID-19 pandemic.³ The Board’s Order did not address implementation of EO 246.

On September 3, 2021, BPU Staff emailed to the stakeholder work group in Docket No. AO20060471 a document described as a “revised Utility Customer Bill of Rights.” Board Staff had previously discussed this document at an online stakeholder meeting on September 1, 2021. The document was titled “Residential Utility Customer Protections (Effective September 21, 2021), Established by the New Jersey Board of Public Utilities.”

The above-referenced document was not labeled as a “draft” and BPU Staff did not respond to an email asking whether the document was a draft for comment. However, we assume that the Board will consider adopting it at the Board’s September 14, 2021 meeting (Agenda Item 9.B) and that the document was not yet effective when it was shared with the stakeholder group.

First, the Board must take immediate action, beyond the proposed revisions to the Bill of Rights, to ensure compliance with P.L.2021, c.97. That law requires public utilities to inform customers monthly of specified rights and bill payment assistance available to them and requires the Board to prescribe the “form and manner” of such notification.

¹ We submit these comments not only in Docket No. AX21091111, to which Agenda Item 9.B is assigned, but also in Docket No. AO20060471, in which customer protection matters concerning the response to the COVID-19 pandemic have otherwise been addressed.

² https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document_id=1243335

³ https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document_id=1243465

P.L. 2021, c.97 took effect immediately when it was signed on May 12, 2021. Yet, to our knowledge, the Board has not provided standard notification language or any other instruction regarding the law's requirements. It is unknown whether utilities have been sending monthly notices or, if so, what the content of those notices has been.

The law provides that the monthly notifications must include "information and resources available to residential customers concerning public utility and local utility service and bill payment assistance," including, but not limited to, any:

- “(1) moratorium in effect on the disconnection, discontinuance, or termination of public utility or local utility service;
- (2) deferred bill payment agreement program;
- (3) bill payment assistance program;
- (4) arrearage forgiveness program; and
- (5) moratorium in effect on rate increases or on the imposition of late fees, interest, or liens for late payments.”

EO 246, in turn, created new rights and/or enhanced existing rights of the sort addressed by P.L. 2021, c.97, for a limited duration of time, to mitigate the impacts of COVID-19 on customers' ability to afford and maintain essential utility services. Specifically, EO 246 establishes through Dec. 31, 2021 a "grace period" on shutoffs for non-payment (which is, legally, indistinguishable from a moratorium⁴) and a prohibition on notices of disconnection for non-payment; guarantees a right to a deferred payment agreement (DPA) with a minimum 12-month repayment period and no down payment or deposit; prohibits late fees, interest, or liens for non-payment; prohibits reconnection fees.

The revised Bill of Rights does not incorporate all of these rights and does not effectively communicate those that are included. Specifically, the revised Bill of Rights:

- Does not mention that customers have the right to a DPA of at least 12 months with no down payment or deposit (which exist only by virtue of EO 246), but rather references only the general right to a DPA (which exists under NJAC 14:3-7.7);
- Does not mention of the prohibition on reconnection fees;
- Only addresses the prohibition on shutoffs and shutoff notices until December 31, 2021 near the end of a 2-page list of 19 rights, where it is extremely unlikely to be noticed, and does so only indirectly, by stating that utilities are allowed to send shutoff notices and perform shutoffs after December 31, 2021).

⁴ EO 246 (para. 14) specifically provides that "[t]he notices to residential customers required pursuant to P.L.2021, c.97 shall include information concerning the grace period established by this Order."

- Only mentions the prohibition on late fees, interest, or liens for non-payment, but only near the end of a 2-page list of 19 rights, where it is extremely unlikely to be noticed.

Additionally, it is not clear whether or when the Board intends this revised Bill of Rights to be delivered to customers. Under existing regulations, Utilities are required to provide a copy of the Bill of Rights only once to each customer, within 30 days of the initiation of service to that customer. NJAC 14:3-3.3(b).

The Board should immediately issue a standard monthly customer notification form for utilities to use. The form must clearly, prominently, and fully advise customers of their rights and must meet all requirements of P.L. 2021, c.97. To ensure that the contents of the form will do this, the Board should direct Staff to work expeditiously with the stakeholder work group in Docket No. AO20060471—which includes organizations that work directly with vulnerable populations—to develop the form.

Second, we renew the requests from our June 23, 2021 comments that the Board establish a robust set of customer protections, programs, and oversight to effectuate the purposes of EO 246 and the Board’s June 24, 2021 order. These include, but are not limited to:

- Protections and assistance for households receiving water and wastewater service:
 - Establish on an emergency basis, prior to re-adoption and amendment of NJAC 14:3, protections for customers of BPU-regulated water and wastewater utilities that match those afforded to electric and gas customers, such as certain pre-disconnection procedures (e.g., door-knocking) and the Winter Termination Program.
 - Establish assistance programs for customers of BPU-regulated water and wastewater utilities that match those provided to electric and gas customers
- Punitive billing and collections practices:
 - During the grace period, prohibit certain billing and collections practices that unnecessarily penalize customers who have limited ability to pay for utility services, such as requiring customers to pay a deposit or to pay in full any existing utility debt as a pre-requisite to establishing new service; reporting unpaid bills to consumer reporting agencies; and selling unpaid receivables to private collection agencies.
- Maximize participation in new or expanded assistance programs:
 - Ensure that program rules for the expanded USF and Fresh Start, and for any other new or expanded customer assistance and arrearage forgiveness programs, effectuate the maximum participation by eligible households.
- Reporting by utilities:
 - Require all regulated electric, gas, water, and wastewater utilities to submit monthly, in a consistent format, critical data related to customer arrears; publish that data monthly, along with data tracking the implementation of assistance programs; and

ensure that sufficient additional funding is secured to meet the full extent of the need.

- Non-BPU regulated water and wastewater utilities:
 - Commit the Board to ongoing support of the Murphy Administration's efforts to gather and publish comparable data from non-BPU regulated utilities and provide equivalent protections and financial assistance to customers of those utilities.