

November 30, 2020

VIA E-MAIL

Hon. Aida Camacho
Secretary of the Board
Board of Public Utilities
44 South Clinton Ave., 9th Fl.
P.O. Box 350
Trenton, NJ 08625-0350

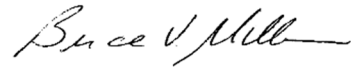
Re: NJBPU's Response to the COVID-19 Pandemic
BPU Docket No. AO20060471

Dear Secretary Camacho:

Attached, please find comments submitted on behalf of New Jersey-American Water Company, Inc., in accordance with the Board of Public Utilities' October 28, 2020 Order in the above-referenced matter.

Thank you for your consideration.

Respectfully,



Bruce V. Miller
NJ Bar ID: 244242017

BVM:dlc
Attachment

c: Service list (via email, w/att.)

**BEFORE THE
STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' RESPONSE TO THE COVID-19 PANDEMIC	: : : : :	COMMENTS OF NEW JERSEY- AMERICAN WATER COMPANY, INC. BPU DOCKET NO.: A020060471
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TO: THE HONORABLE COMMISSIONS OF THE BOARD OF PUBLIC UTILITIES

New Jersey-American Water Company, Inc. (the “Company” or “NJAWC”), a public utility corporation of the State of New Jersey, with its principal office at 1 Water Street, Camden, New Jersey 08102, hereby submits these Comments in response to the October 28, 2020 Order of the Board of Public Utilities (the “Board” or “BPU”) directing the utilities, *inter alia*, to file comments by November 30, 2020 to address the scope of the proceeding, issues to be addressed, and the timing for addressing the issues identified. In compliance therewith, the Company submits the following:

The New Jersey Utilities Association (“NJUA”), of which NJAWC is a member, is also filing comments in response to the October 28, 2020 Order. NJUA is the statewide trade association for New Jersey’s investor-owned utilities that provide essential electric, natural gas, telecommunications, water, and wastewater services to customers throughout the state. NJUA’s comments represent the consensus views of its member companies, including NJAWC.

I. INTRODUCTION

In a series of voluntary agreements by NJAWC (and other utilities), Board actions and Executive Orders (“EOs”) issued by Governor Murphy, the Company took action to protect all customers, including its most vulnerable customers during the COVID-19 emergency. The

culmination of these actions resulted in the cessation of shut-offs of residential customers for non-payment and reconnection of residential customers who were previously disconnected for non-payment through March 15, 2021, cessation of late payment charges during the COVID-19 emergency and other billing, collection and customer service changes. The Company additionally incurred costs to accommodate operational changes and additional safety measures necessitated by the COVID-19 emergency. On July 2, 2020, the Board issued an order (the “July 2 Order”) establishing this proceeding to permit deferral accounting for COVID-19 financial impacts and related reporting requirements.

On October 28, 2020, in response to an October 2, 2020 Petition (“Petition”) by the New Jersey Division of Rate Counsel (“Rate Counsel”), the Board issued an order (the “October 28 Order”) finding that “it is necessary to expand the scope of the regulatory asset proceeding to examine all pandemic issues by way of a generic proceeding initiated through this Order to include submission of public comments.” The Board explicitly incorporated Rate Counsel’s Petition, made it part of the proceeding, which the Board then expanded to include, “but not be limited to: 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, while recognizing the ramifications from the Covid-19 pandemic”.¹

The October 28 Order invited utilities and other interested parties to provide comments by November 30, 2020 on any issues related to the ramifications of COVID-19 on Board-adopted tariffs, regulations, policies and programs, as well as on Board regulated entities, utility ratepayers,

¹ IMO the New Jersey Board of Public Utilities’ Response to the Covid-19 Pandemic, Docket No. AO2006047 (Procedural Order and Order Designating Commissioner, October 28, 2020).

and Board adopted programs. Such comments are to address the scope of the proceeding, issues to be addressed, and the timing for addressing the issues identified.

The remedies sought by Rate Counsel are largely duplicative of the relief granted by NJAWC and other utilities and provided in Governor Murphy's EOs; the financial impacts of COVID-19 accumulated to date do not justify the remedies sought by Rate Counsel; and, in many cases, the relief sought by Rate Counsel is also neither lawful nor warranted. For these reasons, NJAWC has limited these Comments to its specific reactions to the Petition, including the request for additional reporting. NJAWC's more specific comments are set forth below in Section III.

II. PROCEDURAL AND FACTUAL HISTORY

A. The Company's Actions with Respect to the COVID-19 Emergency

Since the COVID-19 public health emergency began, NJAWC promptly and voluntarily implemented the following temporary measures to provide additional protection to its customers:

- March 12: Suspended service disconnections for non-payment
- March 12: Suspended notices of disconnection
- March 13: Began reconnecting all customers who were previously disconnected for non-payment
- March 13: Began waiving reconnection fees
- March 16: Stopped applying late fees and interest penalties to past-due accounts
- March 18: Began sending courtesy letters, and making courtesy phone calls to customers with past-due balances to inform them of the amount of their past due balances, but making no mention of disconnection or late fees and interest penalties

The Company also temporarily waived certain eligibility requirements for its H2O Help to Others Program ("H2O Program") to help those customers who were economically impacted by COVID-19. These modifications will remain in effect until March 31, 2021. Finally, NJAWC began tracking its COVID-19 related financial impacts.

B. The Board's Action to Permit Deferral Accounting for COVID-19

1. The Deferral of COVID-19 Financial Impacts

The October 28 Order acknowledged the regulated utilities' response to the COVID-19 emergency, including but not limited to, utility initiatives, working with the Board on voluntary customer protection initiatives, and complying with the Governor's COVID-19-related EOs, to protect customers. The July 2 Order recognized that actions to address the pandemic could cause the utilities to incur significant and extraordinary COVID-19-related expenditures that could have a negative financial impact on them. Consequently, as further referenced in the October 28 Order:

The July 2 Order authorizes each of the State's utilities to create a COVID-19 related 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 declaring that the Public Health Emergency is no longer in effect...

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 detailed records of the incremental COVID-19 related costs and savings during the COVID-19 pandemic.

Each utility that establishes a COVID-19 regulatory asset account pursuant to the July 2 Order is required to file quarterly reports of the COVID-19 related costs incurred and offsets, together with a verification by an authorized representative... The July 2 Order did 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, the July 2 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 prudence determinations and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings, is to be addressed in that 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.

2. The Company's COVID-19 Reporting and Financial Impacts Accrued to Date

Consistent with the terms of the July 2 Order, NJAWC has been deferring the incremental financial impacts of the COVID-19 emergency and filing the requisite reports with the BPU. In its second quarterly report, filed on November 2, 2020, NJAWC reported that it has incurred and recorded as a regulatory asset, a total of \$2,601,445 as of September 30, 2020 associated with the COVID-19 emergency.

C. Rate Counsel's Petition

Rate Counsel's Petition, filed October 2, 2020, requested relief in the following four broad areas: (1) specific issues regarding billing and collection activities, including terminations and shut offs; (2) data collection and reporting; (3) restrictions on rate case and infrastructure filings and recoveries; and (4) the establishment of enhanced low-income funding.

Rate Counsel's Petition seeks relief, which redundantly, would mandate that utilities continue what they are already doing on a voluntarily basis. It also seeks significant other relief such as expanded deferred payment agreements ("DPAs"), data collection requirements and goes even further to seek enhanced universal service funding and expanded debt forgiveness. The Petition also seeks restrictions on rate case and infrastructure filings.

Rate Counsel argues that:

The Board is tasked with several overarching obligations: ensuring the continued safe provision of utility service to New Jersey residents and businesses, ensuring rates for service remain reasonable and affordable, and ensuring utility providers have adequate resources to continue the provision of safe and adequate service to their customers. The economic circumstances stemming from the Covid-19 pandemic threaten this rubric. Board leadership and action is now imperative to lessen the resulting harm to the public."

Other than anecdotal evidence and broad, sweeping statements, Rate Counsel has adduced no evidence to support its claims; nor has it produced evidence to support the specific recommendations it offers in the Petition.

Moreover, Rate Counsel seeks a “one size fits all” solution to a problem that is affecting utilities differently. Water and wastewater utilities tend to have lower monthly bills than other utilities. Customers of gas and electric utilities have access to utility assistance programs, such as LIHEAP, that are not available for water and wastewater utility customers. Moreover, as Rate Counsel acknowledges, “[r]egulated electric and [some] gas public utilities in New Jersey recoup uncollectible amounts through the Societal Benefits Charge.”² The water and wastewater utilities, like NJAWC, however, do not have such protection. Clearly, therefore, a uniform program such as sought by Rate Counsel is neither warranted nor appropriate. It is important, however, that each utility have a program that provides similar protections, but that is tailored to each utility’s experiences, customers and systems.

D. Issuance of Governor Murphy’s EO 190

Subsequent to the filing of Rate Counsel’s Petition, Governor Murphy issued EO 190 on October 15, 2020. Specifically, EO 190 ordered the following provisions to remain in effect until March 15, 2021:

1. 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.
2. No gas or electric public or municipal utility or privately or publicly owned water system shall collect 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.

² Rate Counsel’s Petition, p. 8.

3. Any gas or electric public or municipal utility or privately or publicly owned water system that serves New Jersey residents shall, at no cost to the customer, reconnect any gas, electric, or water service at any occupied residence, which includes all residential accounts and any accounts primarily serving residential customers, that was discontinued due to nonpayment after the social distancing measures went into effect pursuant to Executive Order No. 104 on March 16, 2020, including where the disconnection was for unpaid bills incurred prior to the current Public Health Emergency, so long as maintaining the disconnection is not necessary to prevent a risk to public health and safety.

Paragraph 18 of EO 190 further prohibits any municipality, county, or any other agency or political subdivision of the State from enacting or enforcing “any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.”

E. The October 28 Order

As noted, the October 28 Order expanded the scope of the COVID-19 regulatory asset proceeding to examine all pandemic issues and explicitly incorporated Rate Counsel’s Petition and made it part of the proceeding. The Board incorporated Rate Counsel’s Petition but also noted that the proceeding would “not be limited to: 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, while recognizing the ramifications from the Covid-19 pandemic.” The October 28 Order, however, did not specify how the above matters should be addressed and requested the commenting parties address the scope of the proceeding, issues to be addressed, and the timing for addressing the issues identified. As demonstrated below, at least with respect to itself, NJAWC does not believe that relief beyond the extraordinary levels already voluntarily undertaken by the utilities is warranted or required under the circumstances now extant. The Company does, however, support NJUA’s identified areas of focus for this proceeding.

F. The Relief Sought by Rate Counsel is Unnecessary, Extreme and Unlawful

Although the Company understands the Board's concerns in issuing the October 28 Order, Rate Counsel's Petition is largely superfluous and duplicative of both the utilities' voluntary actions and the EOs. EO 190, issued on October 15, 2020, continued the moratorium on shut-offs, collection of late payment charges and the reconnection of customers until March 15, 2021, effectively rendering much of Rate Counsel's Petition moot.

Moreover, Rate Counsel's rhetoric regarding the need for relief as sought in the Petition, at least with respect to NJAWC, is inconsistent with the facts. NJAWC has incurred and recorded as a regulatory asset a total of \$2,601,445 as of September 30, 2020, associated with the COVID-19 emergency. Although this amount is not inconsequential, it hardly "threatens the rubric" of affordable, safe and adequate service, as Rate Counsel contends. In fact, the July 2 Order provided a mechanism for addressing any rate effects resulting from the deferrals. Under that order, the Board retains full jurisdiction to consider the prudence of the deferred amounts and the type, duration and means of any recovery of the deferred amounts; either in the utility's next base rate case filing or in a separate proceeding to recover the deferred amounts. Absent compelling circumstances – and none have been adduced by Rate Counsel's Petition or the October 28 Order – there is no reason to preemptively limit utilities' ability to seek relief from the Board to address COVID-19 related financial impacts.

Finally, not only has Rate Counsel failed to demonstrate any reason to take drastic action at this time, but some of the actions proposed violate established legal and Constitutional norms. Further, nothing adduced warrants the drastic and redundant relief sought in Rate Counsel's Petition with respect to the Company.

III. COMMENTS

A. Rate Counsel's Proposed Restrictions on Billing and Collection Activity Are Inconsistent with Voluntary Protections Provided by the Utilities and EOs by the Governor

Rate Counsel's requests for billing and collecting moratoria and other restrictions are largely redundant of protections provided to residential customers; both of voluntary actions by utilities, supplemented by Board orders and the Governor's EOs, including the most recent EO 190, and should be rejected. This is the case for each of the specific billing and collection restrictions requested in Rate Counsel's Petition.

1. "Extend the voluntary moratorium on utility service shutoffs through April 1, 2021 for both residential and non-residential customers."³

This proposal is redundant. NJAWC has voluntarily committed to a moratorium on shut-offs throughout the COVID-19 emergency. EO 190 likewise extends the moratorium, however, it is effective until March 15, 2021. In addition to extending the moratorium on shut-offs, the EO provides additional protections by prohibiting action inconsistent therewith for residential customers and businesses primarily serving residential customers.⁴ These residential protections were instituted in order to protect people sheltering at home due to the COVID-19 emergency. Rate Counsel has failed to demonstrate a need for an overall business shut-off moratorium.

2. "Reconnect all utility customers disconnected for non-payment since March 15, 2020."⁵

This, too, is redundant. NJAWC has voluntarily reconnected all utility customers that were previously disconnected for non-payment since March 13, 2020. Paragraph 3 of EO 190 also

³ Petition, p. 15.

⁴ The term in EO 190 applying the moratorium to "any accounts primarily serving residential customers," although somewhat unspecific, is best interpreted in the context of that order to apply to commercial accounts such as residential apartment buildings and other facilities that primarily serve residential customers as dwellings.

⁵ Petition, p. 15.

requires reconnections for residential customers. Again, Rate Counsel has not justified any need for such protection for non-residential customers.

3. “Order the utilities to waive any fees or interest on late payments.”⁶

NJAWC has been waiving late fees since March 16, 2020. Moreover, Paragraph 2 of EO 190 requires such late payment fee and interest waivers for all customers. Thus, this request is again superfluous.

4. “Order the utilities to waive fees and deposits to establish or reconnect service for residential and small business customers experiencing financial hardship.”⁷

NJAWC does not require customer deposits to establish service and has waived reconnection fees since March 13, 2020. EO 190 also requires such waiver or reconnection fees for residential customers and businesses primarily serving such customers. Rate Counsel has not justified any such protection for non-residential customers.

5. “Facilitate customers’ showing of financial hardship by minimizing or waiving required documentation.”⁸

Given the protections provided above, this request is superfluous. The restrictions in EO 190 also do not require a showing of hardship.

6. “New Jersey regulated utilities have agreed to offer DPAs of at least 12 months and up to 24 months with no down payment. Continue those extended DPA terms with no down payment for 180 days after the shutoff moratorium”⁹

As Rate Counsel concedes, the utilities have been offering relaxed DPAs since the start of the COVID-19 emergency. There is no basis to extend this policy for six months beyond the expiration of the public emergency and Rate Counsel has not indicated any basis to the contrary.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

NJAWC has been and will continue to work with its customers to facilitate payment of past due bills.

B. Rate Counsel's Data Collection and Reporting Requirements are Unnecessary

Rate Counsel secondly seeks an investigation and more data regarding COVID-19 related arrearages. They include:

1. “Open an investigation to determine the number of customers in arrears, the amount owed, and the scope of the COVID-19-related uncollectibles issue.”¹⁰

No such investigation is required. As noted, NJAWC has been filing quarterly reports with the Board pursuant to the July 2 Order since August 2020.

While NJAWC may be able to provide the number of customers and amount owed in arrears if the Board requires that information, the Company cannot determine whether arrearages were caused by customers financially impacted due to job loss or businesses that have closed.

2. “Require utilities to record and publicly report the aggregate level of late payments, payment arrearages and shutoffs by utility, customer service class and zip code for at least the last two full calendar years (i.e., calendar years 2018 and 2019) to present, and continuing after the moratorium ends.”¹¹

NJAWC and other utilities have been filing quarterly reports pursuant to the July 2 Order. Nevertheless, Rate Counsel requests that the data should include number of customers in arrears, number facing disconnection, total amount of arrears, distribution of arrearage amounts among customers in arrears, and distribution of customers in arrears by zip code. Rate Counsel also wants the utilities to record and publicly report the level of service disconnections and collections activity by utility and zip code for at least the last two full calendar years (i.e., calendar years 2018 and

¹⁰ Id.

¹¹ Petition, p. 16.

2019) through present, and continuing after the moratorium ends. Finally, Rate Counsel asks that data include the number of customers disconnected, and distribution of disconnections by zip code.

Rate Counsel has failed to demonstrate that the information sought is pertinent or necessary. If the Board so requires, the Company would endeavor to provide this data in a reasonable manner that takes into account the potential sensitivity of certain data. The Company's ability to provide data by customer class or zip code, however, is limited to the period beginning March 2020.

3. “Require utilities to report data on DPAs, including: total number of customers enrolled in a DPA, number of new customers with a DPA, dollar amounts subject to a DPA, number of customers who successfully completed the DPA and number of unsuccessful DPAs.”¹²

While the Company may be able to provide the total number of customers enrolled in a DPA at a period in time and the dollars subject to those DPAs, NJAWC does not maintain records of the requested information in the manner sought by Rate Counsel.

4. “Require utilities to report data on the number of their customers who participate in payment assistance programs such as LIHEAP, Universal Service Fund, Lifeline, PAGE, TRUE, NJ Shares, and Fresh Start, as well as the amount of money that the utility receives from each of these programs, for at least the last two full calendar years (i.e., calendar years 2018 and 2019) through present, and continuing after the shutoff moratorium ends.”¹³

As noted above, as a water and wastewater utility, NJAWC does not participate in these energy assistance programs, but NJ Shares does administer its H2O Program. The H2O Program is composed of two main components: grants and a discount on the service charge. The H2O Program's grant component is an emergency bill-paying assistance program funded by NJAWC's shareholders and donations from customers who want to help other customers in need. Under the service charge discount component, customers who qualify may receive up to a 100 percent

¹² Id.

¹³ Id.

discount on their monthly fixed service charge for water and the service charge discounts are also available for our wastewater customers. It is worth noting that, here again, water and wastewater utilities are not afforded the same tools as their gas and electric counterparts to help address the needs of their most vulnerable customers.

5. “Report the specific measures the utility is taking to help all customers, including non-English speaking customers, avoid disconnection for non-payment.”¹⁴

On March 18, 2020, NJAWC began sending courtesy letters and making courtesy phone calls to customers with past-due balances to inform them of the amount of their past due balances, but making no mention of disconnection or late fees and interest penalties. In addition, as demonstrated below, NJAWC has several bill payment programs to assist customers in need.

NJAWC also works to educate customers about bill payment assistance programs that are available to them through its website, press releases, bill inserts, customer emails, video and social and digital media, as well as emails to municipal and other elected officials. Prior to the COVID-19 emergency, representatives from the Company also provided information about the programs at community events and specific customer assistance events conducted with NJ Shares. This year, the Company also hosted a live, virtual information session with NJ Shares to provide information, demonstrate the application process and answer questions from customers. Additionally, the Company’s Customer Service Representatives (“CSRs”) offer information about these programs to customers when interacting with them.

C. Rate Counsel’s Requested Restrictions on Rate Increase and Infrastructure Filings are Unlawful and Unproductive.

In addition to its recommendations concerning COVID-19 related billing and collection matters and reporting, Rate Counsel, without any justification or legal authority, asks the Board to

¹⁴ Id.

“[s]uspend the filing of new base rate cases and infrastructure programs during the current public health emergency and until further order of the Board.”¹⁵ Clearly, the incremental financial impacts of COVID-19 related to the amounts deferred to date by NJAWC (\$2,601,445 as of September 30, 2020) do not begin to support such drastic action. Neither has Rate Counsel explained how the Board is empowered to enact such a suspension of rate filings. Nothing in N.J.S.A. 48:2 authorizes such a remedy. Moreover, to do so would deprive a utility of its right to due process and just compensation under the United States Constitution.¹⁶ If the pandemic has wrought an economic change, then the remedy lies in individual rate cases where the Board retains full jurisdiction to consider the prudence and reasonableness of the utility’s requested rate relief and not an unlawful restriction on filings.¹⁷

With respect to a limit on infrastructure program filings, such as distribution system improve charge (“DSIC”) filings, Rate Counsel’s recommendation is counterproductive and inconsistent with Board and state action. The Board has repeatedly found that infrastructure improvement programs such as those supported by DSIC filings’ infrastructure work create and sustain needed jobs while enhancing the provision of safe, adequate and proper service.¹⁸ As the NJUA’s comments indicate, an investment of \$1 million by a water or wastewater utility produces up to 15 jobs for New Jersey’s economy. Clearly in the midst of a pandemic that has caused lock downs of citizens and significant job destruction, any diminution of, or restrictions on, infrastructure programs that generate new jobs for New Jersey citizens – in addition to necessary

¹⁵ Petition, p. 17.

¹⁶ See, Fed. Power Comm’n. v Hope Nat. Gas Co., 320 U.S. 591 (1944).

¹⁷ See, In re New Jersey Power & Light Co., 9 NJ 498, 516, 89 A2d 26, 35 (1952).

¹⁸ See, e.g., IMO New Jersey Nat. Gas Co. for Approval of the Safety Acceleration and Facility Enhancement Program Pursuant to N.J.S.A. 48:2-23, and for Approval of the Associated Recovery Mechanism Pursuant to N.J.S.A. 48:2-21 and N.J.S.A. 2-21.1, 301 PUR4th 519 (Oct. 23, 2012).

infrastructure additions – is, at best, counter-productive. Rate Counsel’s proposal to restrict rate and infrastructure filings is unlawful and unwarranted.

Rate Counsel further seeks an analysis of the impacts of any proposed rate increase on disconnection rates when a utility applies to increase any rate.¹⁹ Rate Counsel, however, does not explain how such an analysis would be undertaken. Nevertheless, in the case of NJAWC, the Company’s COVID-19 deferral can be addressed in a future filing or rate case. Even if the COVID-19 deferral should continue to increase, the July 2 Order has provided the Board with the necessary latitude to address the matter when recovery is sought by the utility, in the form of prudence reviews of the costs accrued, tests for reasonableness and adjusting any amortization periods that might arise.

D. Rate Counsel’s Proposal to Address Resources for Repayment Assistance Is Not Warranted

Finally, Rate Counsel seeks expanded funding for payment by financially impacted customers in the following ways.

First, Rate Counsel asks for an Order that requires utilities to apply LIHEAP funding to participants’ current monthly bills first, and not to retire arrearages first.²⁰ LIHEAP is a federal grant program available to states to assist low-income households, particularly those with the lowest incomes that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs. Water and wastewater customers, however, are not eligible for LIHEAP.

Next, Rate Counsel seeks to “establish a debt forgiveness program for utility customers facing financial hardship and a source of funding to cover the arrearages outside of the SBC or

¹⁹ Petition, p. 17.

²⁰ Petition, p. 16

other ratepayer funded programs.”²¹ Absent government programs, there is only one source “outside of ratepayer funded programs” and that raises the issue of a forced contribution by investors. This remedy lies outside of the BPU’s statutory authority. Identification and development of a potential government program to fund a debt forgiveness program appears to be beyond the scope of this proceeding, but NJAWC agrees with NJUA that the state should consider putting additional dollars into customer assistance programs. This type of program could be evaluated by a working group comprised of representatives from the Board, Rate Counsel, utility industry and other relevant stakeholders and should make dollars available for use by customers of all utilities.

Rate Counsel next seeks to require the utilities to “identify the best practices for helping ratepayers afford their utility bills, including a financial relief program, and direct implementation of those practices.”²² Identifying “best practices” is one thing. Establishing financial relief programs is another matter entirely. NJAWC already follows a number of practices for helping customers to afford their services. In addition to delivering its services in the most efficient, cost effective ways to benefit its customers generally, NJAWC also offers several targeted customer assistance programs to help its most vulnerable customers. Specifically, NJAWC’s residential customers have the option of paying bills under the Company’s budget billing plan, whereby the total service for the succeeding 12-month period is estimated in advance, and bills are rendered monthly on the basis of one-twelfth (1/12) of the 12-month estimate. In addition, the Company offers its customers flexible payment arrangements through installment agreements if they are financially unable to pay a past due water service bill.

²¹ Petition, p. 17.

²² Petition, p. 15.

NJAWC also assists customers who are experiencing financial hardship through the Company's H2O Program. The H2O Program, administered by New Jersey SHARES, was created by the Company in 2004 and has been improved over time. In 2017, NJAWC expanded the income limits from 200% to 300% of the poverty level, and in 2019, NJAWC increased the length of time applicants are given to provide documentation to NJ SHARES, from three days to 10 days. Most recently, the Company temporarily waived certain eligibility requirements to further enhance access to the program, including requiring a customer contribution and the restriction of receiving a grant only once every three years. Customers who qualify may receive grants of up to \$500 toward their NJAWC bill, as well as a 100 percent discount on their monthly fixed service charge for water and sewer. Additionally, customers who receive Social Security benefits or Medicare coverage and who qualify for the service charge discount, are also eligible to receive a discount off the monthly DSIC charge, which is based on meter size.

Finally, Rate Counsel asks that utilities consider expanding eligibility for the Universal Service Fund and other programs for low-income and fixed-income customers, which cap the customer's utility bills at a percentage of their income, and establishing funding sources for the expanded program beyond charging other ratepayers via the Societal Benefits Charge ("SBC").²³ NJAWC's rates do not include the SBC, which is specific to the energy companies.

E. Scope of the October 28 Order

The October 28 Order explicitly acknowledges EO 190 as follows:

Board Staff has continued to study the impact of the pandemic on customers, employees, vendors and utility operations, including the impact of the pandemic on the utilities' storm response. The BPU and Department of Consumer Affairs ("DCA") have been very closely monitoring the number of customers who have fallen behind on their utility bills and the amount of the arrearages in all sectors. As the data through August 2020 came in and the end of the voluntarily extended moratorium period approached, Board Staff commenced discussions with all the

²³ Petition, p. 15.

utility sectors about extending the moratorium period. The moratorium period was ultimately 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. 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.

Absent findings and good cause, the Board should not entertain requests that vary both the terms and requirements of EO 190 or impact what NJAWC (and other utilities) have been doing voluntarily since the inception of the COVID-19 emergency to provide assistance to its customers.

The Order further states: “Due to the complexity of the issues, the growing size and number of arrearages, and the necessity of formally addressing the potential rate impacts of the extended moratoria, Board Staff believes it will be necessary to expand the scope of this docket to address these issues.” The October 28 Order, however, is silent with regard to these data. The amount deferred by NJAWC so far counsels vigilance but not any sense of deep alarm. Query, therefore, why this matter cannot be addressed in the manner described in the July 2 Order; that is:

Any potential rate recovery, including any prudence determinations and the appropriate period of recovery for any approved amount of the regulatory asset and any associated savings, is to be addressed in that regulatory asset filing or, in the alternative, and a utility may request that the Board defer consideration of rate recovery in a future rate case.

It is not clear that anything has changed to negate that procedure. In either a separate recovery filing by the Company or a rate case review, all of the COVID-19 related costs would be subject to a full analysis and prudence review by the Board and Rate Counsel.

As noted previously, Rate Counsel acknowledges that, unlike water utilities, “[r]egulated electric and gas public utilities in New Jersey recoup uncollectible amounts through the Societal

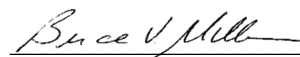
Benefits Charge.”²⁴ As the Company further noted, water and wastewater utilities’ customers do not have government funded programs such as LIHEAP upon which to rely, and, although an equally or greater essential service, water and wastewater utilities’ monthly bills tend to be lower than electric and gas bills. Water and wastewater utilities, however, are no less deserving of such revenue protection as they are the most capital intensive of all utilities.

For this reason, the Board should extend to the state’s water and wastewater utilities the uncollectible accounts recovery mechanism currently in use by the gas and electric utilities in the form of a rider that permits recovery of such accounts.

IV. CONCLUSION

NJAWC respectfully thanks the Board for considering these Comments and the actions taken by NJAWC since the governmental response to the COVID-19 emergency, including the proactive, customer beneficial programs that NJAWC has undertaken to assist its customers. The drastic remedies proposed by Rate Counsel are not necessary, especially given the voluntarily and proactive response that NJAWC has followed.

Respectfully submitted,



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²⁴ Petition, p. 8.

**IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' RESPONSE TO
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DOCKET NO. AO20060471

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