



Legal Services of New Jersey

100 Metroplex Drive at Plainfield Avenue
Suite 402, P.O. Box 1357
Edison, New Jersey 08818-1357
Phone: (732) 572-9100
Fax: (732) 572-0066
www.lsnj.org
www.lsnjlaw.org

Dawn K. Miller
President

Claudine M. Langrin
Executive Vice President

Akil Roper
Senior Vice President

Raquiba Huq
Senior Vice President

Maryann Flanigan
Vice President



Melville D. Miller, Jr.
President Emeritus

David McMillin

November 30, 2020

New Jersey Board of Public Utilities
Aida Comacho-Welch, Secretary
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 35
Trenton, New Jersey 08625-0350

VIA E-MAIL to Board.secretary@bpu.nj.gov

Re: In The Matter of the New Jersey Board Of Public Utilities' Response
to the COVID-19 Pandemic
BPU Docket No. A020060471

Dear Secretary Comacho-Welch:

On behalf of its low-income clients, Legal Services of New Jersey submits these comments on the scope of the Board's COVID-19 proceeding, in accordance with the Board's Order dated October 28, 2020. LSNJ coordinates New Jersey's Legal Services system, a network of six independent non-profit corporations providing free essential legal services in civil matters to low-income people through offices in all 21 counties. When appropriate, LSNJ makes available information and perspectives on matters of broad public importance in the lives of people in poverty based on its experience in representing tens of thousands of low-income people each year.

1. The Proceeding Should Address All Residential and Small Business Gas, Electric, Water, Wastewater, Telecommunications, and Internet Services

As the number of new COVID-19 cases continues to rise, it is clear that economic dislocations resulting from the current pandemic will be with us for some time to come. The resulting hardships are falling, and will continue to fall, disproportionately on low-income and minority households. Every aspect of life is affected, and access to essential utility services is more important than ever. A central focus of this proceeding should be ensuring that essential utility services remain affordable to as many customers

as possible as possible during the current state of emergency, and that no households face termination of essential services because of inability to pay.

The public health aspects of the pandemic only increase the importance of maintaining essential utility services. Housing stability is crucial in limiting the spread of COVID-19, and stay-at-home imperatives will continue to be a public health imperative for as long as the state of emergency lasts. Beyond energy-related needs such as heat, light, cooling, and food preparation, the current situation heightens the importance of frequent handwashing and other sanitation measures, and the need for communication systems to remain engaged with work, school, and ongoing contact with family and friends. This calls for a comprehensive approach that goes beyond the existing realm of energy assistance programs, and encompasses gas, electric, water, wastewater, telecommunications, and internet services.

While the concerns above relate most directly to residential services, small business users, including low-income customers, may also be affected in similar ways, and the Board should consider measures to protect access to utility services throughout the pandemic for small businesses, as well.

2. The Proceeding Should Prioritize the Creation of Financial Assistance and Arrearage Forgiveness Programs for Customers Who Are Unable to Enter Into Affordable Deferred Payment Agreements

In ordinary times, New Jersey's Universal Service Fund program, together with LIHEAP and other energy assistance programs, helps to ensure that customers of investor-owned gas and electric utilities have affordable energy bills. In addition, the Fresh Start component of the USF programs ensures that they have a chance, when they first become eligible, to discharge arrears by making their first 12 affordable payments. The USF program, however, is not designed to meet emergent needs like those created by the pandemic.

New programs will necessary to meet the imperative of keeping essential utility services available for the many vulnerable households facing unique challenges arising from the economic consequences of the pandemic. In addition to addressing substantial increases in the overall financial need, newly designed programs will need to expand beyond the traditional realm of energy assistance, and meet the needs of a unique cohort of customers with arrears resulting from temporary financial setbacks during the pandemic that cannot be addressed with affordable deferred payment agreements.

At the very least, assistance programs developed as part of this proceeding should

- extend to water, wastewater, internet, and telecommunication services,
- provide for substantial funding from utility shareholders, rather than simply relying on federal funding or shifting the burden to other ratepayers,
- extend beyond annual household income-based caps currently being used for USF and LIHEAP assistance, as many vulnerable households have faced substantial volatility, at an unprecedented level, since the sudden onset of the state of emergency,

- provide a new opportunity for each customer to qualify for arrearage forgiveness, even if they have previously received USF assistance, or entered into a deferred payment agreement that proved to be unaffordable,¹
- preclude the imposition of non-essential fees or other obligations beyond basic supply and distribution charges, including reconnection charges, deposits, down payments for deferred payment agreements, municipal liens, collection agency fees, and, where applicable, late fees, and
- ensure equal protections for customers of municipal water companies and other utilities not subject to BPU regulation, via coordination with other agencies, the governor’s office, and the legislature.

3. The Proceeding Should Result in Financial Assistance and Arrearage Forgiveness Programs That Are Fully Operational Before the End of the Shutoff Moratorium

The Board must act promptly in order to avoid a tidal wave of terminations of essential utility services. Current protections against utility terminations under EO 190 are fundamentally important, but they are scheduled to end on March 15, 2021 – only three and a half months from now.

To fulfill their purposes, new and enhanced assistance programs must be in place before shutoffs begin again. Although, as discussed above, New Jersey’s USF program and its Fresh Start component, together with other energy assistance programs, aren’t sufficient on their own to meet the current and anticipated level of need, they provide a road map for the design of enhanced assistance programs, as do COVID-related programs adopted in other states such as California, Illinois, and New York. This should help in the rapid roll-out of new COVID-specific programs in New Jersey. If additional time is needed, however, it will be crucial to extend the shutoff moratorium beyond March 15, 2021.

Thank you for the opportunity to submit comments at this stage in the proceeding.

Sincerely,
LEGAL SERVICES OF NEW JERSEY, INC.

By: s/David McMillin
David McMillin

cc: Service List

¹ In recent months, utilities have been aggressively seeking to convince customers with pandemic-related arrears to enter into deferred payment agreements. Some of these DPAs will be successful, as some households that faced pandemic-related financial hardships are able to recover fairly quickly. Other households, however, will experience an uneven recovery, and some may never fully recover. In addition, over the years, LSNJ has seen a persistent problem with utilities enrolling customers in unaffordable deferred payment agreements. Thus we anticipate that many customers who are enrolled in deferred payment agreements will not be able to complete them. In addition to ensuring that inability to complete a deferred payment agreement does not disqualify a customer from any other form of assistance, this proceeding should address the need for a requirement that utilities renegotiate deferred payment agreements that prove to be unaffordable, and provide repayment periods of longer than 24 months when appropriate.