

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) BPU Docket No. AO20060471

LSNJ’S MOTION TO PARTICIPATE

Legal Services of New Jersey (“LSNJ”) hereby moves for an Order granting it status as a Participant in the above referenced matter pursuant to N.J.A.C. 1:1-16.6. In support of its motion, LSNJ states as follows:

1. LSNJ coordinates New Jersey’s Legal Services system, a network of six independent non-profit corporations providing free essential legal services and direct representation in civil matters to low-income people through offices serving 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.

2. All communications and correspondence in this matter should be directed to:

David McMillin, Esq.
Legal Services of New Jersey
100 Metroplex Drive, Suite 402
Edison, New Jersey 08818
Phone: (732) 529-8265
Fax: (732) 572-0066
E-mail: dcmillin@lsnj.org

3. On March 9, 2020, New Jersey Governor Phil Murphy signed Executive Order No. 103, declaring a State of Emergency and Public Health Emergency in response to the COVID-19 pandemic.

4. On March 13, 2020, the Board of Public Utilities (the “Board”) announced that all gas and electric utilities in the State had agreed to suspend service shutoffs in light of the COVID-19 public health emergency.

5. On March 20, 2020, 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 requesting that every water system, private or public, in New Jersey “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.”

6. New Jersey’s electric, gas, and water utilities voluntarily agreed to extend the shutoff moratoria described in Paragraphs 4 and 5 above until October 15, 2020.

7. On July 2, 2020, the BPU issued an Order authorizing each of the State’s utilities to create a COVID-19 regulatory asset by deferring on their books and records prudently incurred incremental costs related to the COVID-19 pandemic, and, among other things, that such costs be offset by any federal or state assistance that a utility may receive as a direct result of the COVID-19 pandemic.

6. On October 2, 2020, Rate Counsel filed a Petition for Relief initiating the matter entitled “In the Matter of COVID-19 Related Arrearages,” which was assigned Docket No. EO20100629U (the “Rate Counsel Petition”).

7. On October 15, 2020, Governor Murphy issued Executive Order No. 190, extending the moratorium on water, electric, and gas service shutoffs through March 15, 2021.

8. On October 28, 2020, the Board agreed that it was necessary to expand the scope of the regulatory asset proceeding to examine all pandemic-related issues by way of a generic proceeding, incorporating the Rate Counsel Petition, to address issues including, but not 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. *See* Docket No. AO200060471.

9. The Board further directed any interested party to submit comments by November 30, 2020, to address the scope of this proceeding, issues to be addressed, and timing for addressing the issues identified.

10. On November 30, 2020, LSNJ timely filed comments with the Board with recommendations concerning the scope and timing of the proceeding, and issues to be addressed.

11. This motion by LSNJ to participate is timely filed pursuant to N.J.A.C. 1:1-16.6(b).

LSNJ and Its Clients Have a Significant Interest in the Outcome of the Case

12. LSNJ and its clients have a significant interest in the outcome of this proceeding in accordance with N.J.A.C. 1:1-16.6(a).

13. Since the outset of the COVID-19 public health emergency, LSNJ has worked to address the effects of the pandemic on low-income New Jerseyans across a wide range of areas, including but not limited to tenant/landlord, homeownership and foreclosure, public benefits, domestic violence, and consumer issues, all of which intersect with issues relating to the continuation and affordability of utility services.

14. LSNJ's clients have been particularly hard-hit by the health and economic effects of the COVID-19 pandemic. Food insecurity has increased markedly throughout the state, demonstrating that many low-income households are facing competing demands on limited financial resources to meet basic needs. More broadly, a study by the Pew Research Center found that low-income households are disproportionately more likely have had trouble paying their bills, dipped into savings or retirement accounts to make ends meet, borrowed money from friends or family, or gotten food from a food bank, since the COVID-19 pandemic began. Pew Research Center, [Economic Fallout From COVID-19 Continues To Hit Lower-Income Americans-the Hardest](#).

15. Minority communities in New Jersey also face disproportionate impacts. African-American and Latinx communities, disproportionately made up of low-income households, face higher incidence of COVID-19, and drastically higher hospitalization and death rates as a result of COVID-19, than white communities, according to the Centers for Disease Control. *See also* New Jersey Policy Perspectives, [Unprecedented and Unequal: Racial Inequities in the COVID-19 Pandemic](#).

LSNJ Will Add Constructively to the Case

16. LSNJ will measurably and constructively advance this proceeding in accordance with N.J.A.C. 1:1-16.6(b).

17. LSNJ has represented the interests of low-income consumers in utility policy issues for many decades, advocating strong and effective statutes and regulations protecting access to vital utility services through legislative advocacy, participation in Board proceedings, comments on proposed regulations, testimony at public hearings, active involvement in the

establishment of New Jersey’s Universal Service Fund (“USF”) program, and as a member of the Board’s USF Working Group.

18. Through client representation and advocate training, LSNJ also has extensive expertise on utility law and regulation in New Jersey from the perspective of low-income customers seeking to maintain vital utility services.

LSNJ’s Participation Will Not Cause Undue Delay or Confusion

19. LSNJ will work cooperatively with other with other parties in the interests of efficiency and economy, and will abide by the schedule and other procedural rulings made herein. The granting of this Motion will not cause undue delay or confusion.

Conclusion

20. For all of the foregoing reasons, LSNJ respectfully requests that the Board find that LSNJ had met the requirements for participation pursuant to N.J.A.C. 1:1-16.6, and grant LSNJ’s motion to participate, with full procedural and substantive rights, for all of the purposes set forth in N.J.A.C. 1:1-16.6(c).

Respectfully submitted,
LEGAL SERVICES OF NEW JERSEY, INC.

By: s/David McMillin
David McMillin

Dated: February 5, 2021

CERTIFICATION OF SERVICE

I hereby certify that I have this day served by electronic mail a copy of the foregoing Motion for Participation on all parties who have entered an appearance or are otherwise entitled to service in this proceeding.

Dated this 5th day of February 2021.

Respectfully submitted,
LEGAL SERVICES OF NEW JERSEY, INC.

By: s/David McMillin
David McMillin