BEFORE THE
STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

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

MARCH 1, 2021 SUPPLEMENTAL COMMENTS OF
NEW JERSEY-AMERICAN WATER COMPANY, INC.

TO: THE HONORABLE COMMISSIONERS OF THE BOARD OF PUBLIC UTILITIES

New Jersey-American Water Company, Inc. ("New Jersey-American," 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 Supplemental Comments in response to the Notice of Stakeholder Meeting and Opportunity to Comment ("February 1 Notice") issued by the Board of Public Utilities (the "Board" or "BPU") on February 1, 2021, directing the parties to file comments by March 1, 2021 to address the expanded scope of the above-captioned proceeding. In compliance therewith, the Company submits the following:

I. INTRODUCTION AND BRIEF HISTORY

In a series of voluntary agreements by NJAWC (and other utilities), subsequently ratified by 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 suspension of shut-offs of residential customers for non-payment and reconnection of residential customers who were previously disconnected for non-payment, suspension of late payment charges during the COVID-19 emergency and other billing and collection changes. Governor Murphy's EO 190 mandated these measures remain in effect until March 15, 2021. The Company also temporarily waived certain eligibility requirements for its H2O Help to Others Program ("H2O Program") to further help those customers who were economically impacted by COVID-19. These modifications will remain in effect until March 31, 2021.

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, making 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, and Board adopted programs. NJAWC duly filed its comments on that date.

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[1] *I/M/O 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).

Subsequently, the Board held a virtual Stakeholder Meeting on February 8, 2021 to allow for an informal discussion regarding the growing size and number of arrearages and potential rate impacts of the extended moratoria relative to Governor Murphy's EO 190, followed by two public hearings on February 25, 2021.

II. THE FEBRUARY 1 NOTICE

In its February 1 Notice, the Board found that "Due to the complexity of the issues, the Board has found it necessary to expand the scope of this docket as set out in its October 28, 2020 Order to allow interested parties the opportunity to present comments concerning these issues." The February 1 Notice went on to state that the "Areas of discussion will include the following:

- What data is needed to help determine the impact of the pandemic on customers' ability to pay outstanding utility bills?
- Are existing assistance programs sufficient to meet the needs of customers who are unable to pay their current utility bills?
- What steps are necessary to address the arrearages caused by the pandemic?
- What mechanisms and timelines are appropriate for the implementation of plans to address these issues?"

NJAWC's comments in response to these four areas of discussion are addressed below.

III. COMMENTS

A. What Data Is Needed to Help Determine the Impact of The Pandemic on Customers' Ability to Pay Outstanding Utility Bills?

Without conducting a survey of all customers' employment and financial situations, there is no definitive way to evaluate the impact of the pandemic on our customers' ability to pay outstanding utility bills. Indeed, a customer's ability to pay his or her utility bill may, in part, correlate to whether that person remained employed during the pandemic, remained employed at the same wage and salary level, or lost their job due to the pandemic's effect on businesses across the State. For a person who has lost his or her job, paying any expense no matter how big or how small may be a challenge. Allowing the moratorium on billing and collection activity, including terminations for non-payment, to expire by its terms on March 15, 2021 will help determine which customers are truly struggling to pay their bills versus those simply not paying because there is no consequence for failing to do so.

Moreover, as the effects of the pandemic begin to wane due to increased vaccination or other variables, the ability of customers to pay their utility bills should continue to improve. We have already started to see some abatement of the economic effect of the pandemic since the summer of 2020. By way of example, the New Jersey unemployment rate has fallen from a high of 16.8% in July 2020 to 7.6% in December 2020.[2] Placed in context, this is a lower unemployment rate than in each of the years 2009-2012.[3]

New Jersey-American has been filing the required quarterly reports with the BPU since the second quarter of 2020. These reports supply information regarding the financial impacts of the pandemic, including foregone late fees, reconnection charges and uncollectible expense. Although these numbers are significant, they are not unexpected in the context of a pandemic that caused New Jersey's unemployment rate to spike to over 16% in Summer 2020, but which has fallen to a range that is now consistent with the unemployment rate experienced in the recovery years following the last recession. Moreover, if the pandemic continues to wane as the unemployment numbers suggest, the economic recovery should continue on pace.

Complicating NJAWC's ability to assess the matter is the continuation of the moratorium on discontinuation of service for non-payment and cessation of collection activity. The

[2] https://ycharts.com/indicators/new_jersey_unemployment_rate

[3] https://www.thebalance.com/unemployment-rate-by-year-3305506

moratorium, as necessary as it was during the run up to and height of the pandemic, makes it impossible to discern which customers in arrears cannot pay their bills and which customers have the ability to pay, but choose not to do so.

B. Are Existing Assistance Programs Sufficient to Meet the Needs of Customers Who Are Unable to Pay Their Current Utility Bills?

With respect to water utilities, this question exists independent of the pandemic. This is because unlike gas and electric utility customers who have an array of federal and state programs that provide assistance, such as LIHEAP, Universal Service Fund, Lifeline, PAGE, TRUE, NJ SHARES, and Fresh Start, water and wastewater customers have no such programs available to them. Consequently, even though water and wastewater services are generally less costly than other utility services, those services are not without a strain on the budget of an economically vulnerable customer.

As noted above, as a water and wastewater utility, NJAWC is unable to participate in these energy assistance programs. New Jersey SHARES does administer the Company's H2O Program, which provides bill paying assistance to customers in need. NJAWC also follows a number of practices for helping customers afford its services. In addition to delivering its services in the most efficient and cost effective ways to benefit its customers generally, NJAWC 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 or wastewater service bill.

As noted above, 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. The H2O Program is composed of two main components: grants and a discount on the service charge.[4]

- The 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. Customers who qualify may receive grants of up to $500 toward their NJAWC bill.
- The service charge discount component, funded through rates, provides customers who qualify up to a 100% discount on their monthly fixed service charge for water and is also available for our wastewater customers. Eligible customers who also receive Social Security benefits or Medicare coverage are also eligible to receive a discount off the monthly Distribution System Improvement Charge, which is based on meter size.

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 New Jersey 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.

New Jersey-American has acted responsibly to make those funds more accessible and has increased contributions to the mostly shareholder-funded portion of these assistance programs, but the Company cannot do it alone. Water utilities should be afforded the opportunity to participate

[4] *See also* https://www.amwater.com/njaw/Customer-Service-Billing/Bill-Paying-Assistance/.

in programs like other utilities to further support customers who cannot pay their water bills without assistance. If the Company were provided access to more dollars (whether funded by federal or state grants or recovered in rates), NJAWC has the infrastructure in place through New Jersey SHARES to administer such a program. The Board could also consider an expansion of the group of customers eligible for assistance if the goal is to reach customers beyond those considered low income. These matters should be considered either as part of this proceeding or in a separate proceeding to consider extending funding sources and eligibility to water and wastewater customers.

C. What Steps Are Necessary to Address the Arrearages Caused by the Pandemic?

As noted, the moratorium on service terminations was voluntarily undertaken by New Jersey's utilities, including New Jersey-American, and then later required by Governor Murphy's EO 190. By its terms, EO 190 will end the moratorium on March 15, 2021. Simply because the moratorium is lifted does not mean that customers' services will be terminated on mass in the days to follow. This is inconsistent with facts and existing procedures. What termination of the moratorium will do is permit New Jersey-American (and other utilities) to identify customers who legitimately cannot pay their bills and arrears at this time and to extend to them all of the existing rights and benefits that the law, regulations and existing programs provide. Based on the experience of the Company's affiliates in other jurisdictions, the lifting of a ban on service terminations did not result in a greater than average number of shut-offs compared to pre-pandemic terminations. Rather, these affiliates saw a significant increase in the number of deferred payment arrangements ("DPAs") entered into with customers with past due balances.

The moratorium should be allowed to expire by its terms. It was an emergency measure that was, of necessity, not tailored to the different financial situations of customers. In addition to protecting the truly needy affected by the pandemic, the current moratorium also protects those who can pay but choose not to pay. Unfortunately, there is no way to differentiate those customers from customers who are truly in need. For example, in February 2020, before the pandemic began, New Jersey-American had 2,462 active installment plans with customers paying off arrears. With the cessation of service terminations for non-payment firmly in place, that number dropped to 1,381 in August 2020. Even with rising employment in New Jersey since that time and both the Company's and Board's efforts to encourage customers to enter into DPAs, the number of installment plans has only risen to 2,043 by December 2020; considerably lower than in February 2020, despite higher levels of uncollectible account expense.

Lifting the moratorium will not result in immediate, pervasive shut-offs. Rather, all customers will have due process and the benefits provided by New Jersey Administrative Code 14:3. Customers in arrears will be identified and contacted by the Company. DPAs will first be offered pursuant to *N.J.A.C.* 14:3-7.7. In fact, NJAWC announced last summer that it would expand the terms of DPAs from 12 to 24 months. The Company is willing to keep its expanded program in place in order to provide its financially troubled customers more time to pay off their past due balances. Moreover, any discontinuance of service for non-payment will be consistent with all applicable notice and other requirements of *N.J.A.C.* 14:3A. This will be an ordered process and it will take time; time to identify the customers in arrears, discuss DPAs, and provide notice of intent to discontinue service and notification of customers rights. The Company will continue to work with the Board to develop plans, such as expanded DPAs and other relief, going forward. But this will only be possible if the moratorium is lifted because there is simply no justification for continuation of this "one size fits all" approach that was imposed during the first, reactionary days of the pandemic.

Moreover, data from the Company's affiliates in other states demonstrates that a cessation of the moratorium on terminations will not result in blanket terminations, but will produce, instead, payments by those who are capable of paying their bills. For example, in the months following the moratorium being lifted, the Company's affiliates discontinued service to fewer customers for non-payment than during the same period in 2019.[5] In addition, the number of DPAs increased during the month the moratorium was lifted and nearly doubled the following month when compared to the number of DPAs in place during the same period in 2019.[6]

For all of the above reasons, the Board should not extend the moratorium beyond its expiration date of March 15, 2021. Indeed, the Board's regulations concerning the procedures for discontinuance of service are based on the notion that utilities are entitled to terminate service for non-payment. At this time, all utilities are bound by law to provide safe and adequate service to their customers. The moratorium on service terminations for non-payment, however, leaves utilities with an obligation to serve but without a remedy for non-payment. At the inception of the pandemic, utilities responded by voluntarily refraining from service terminations. The Board, for its part, appropriately granted the utilities the right to accrue for later recovery costs related to the pandemic, including uncollectible accounts costs related to pandemic-related increases in uncollectible accounts expense. Permitting utilities to accrue for the pandemic-related costs was an important first step, but an important next step is for the Board to address cost recovery mechanisms associated with the financial impacts utilities have incurred and continue to incur

[5] In the aggregate, our affiliates discontinued service for non-payment to over 1,000 fewer customers following the lifting of the moratorium when compared to the same period in 2019.

[6] In the aggregate, the Company's affiliates had over 9,000 more DPAs in place in the month following the moratorium being lifted than in the same period in 2019.

associated with the COVID-19 emergency. We discuss those mechanisms in the response to the next question.

D. What Mechanisms and Timelines are Appropriate for the Implementation of Plans to Address These Issues?

There are several steps that the Board can take to implement mechanisms to address the financial impacts of the pandemic.

As discussed above, putting water and wastewater utilities on even footing when it comes to the availability of low-income programs will go a long way in helping our payment troubled customers pay their bills and address the current arrearages. As such, the parties should discuss available funding sources for low-income assistance, both from governmental sources and from customer funds. As noted above, the gas and electric utilities have significant government programs to draw upon to help their troubled customers pay for essential services. Water and wastewater are essential services, even more vital in the midst of a pandemic, and yet there are no governmental assistance programs for water or wastewater customers. The Board should facilitate discussions with state and federal sources to attempt to secure such funding sources. The Company commends the Board for taking a good first step in that direction through the establishment of working groups in this proceeding and the Company looks forward to working collaboratively with key stakeholders to ensure that the water and wastewater sectors are considered if and when funds become available or are created. The Board should also consider a low-income assistance program, funded through rates, in addition to a more vibrant lifeline rate program for water and wastewater utilities. For example, the Board has noted that: "Pursuant to *N.J.S.A.* 48:3-60, the [Societal Benefits Charge ("SBC")] was established to recover the costs incurred by the electric and gas public utilities for expenditures related to social programs including Board approved energy efficiency and renewable energy programs, and the funding of two (2) statewide low income energy bill payment assistance programs, the Universal Service Fund ("USF") and Lifeline programs."[7] Notably, although water and wastewater are no less essential than electricity, no similar such programs exist for water or wastewater utilities. These programs, too, should be the subject of an expanded discussion.

In addition to recovery of prudently incurred costs associated with COVID-19, the Board should consider approving a mechanism to address water and wastewater utilities' uncollectible accounts expense. Rate Counsel has acknowledged that, unlike water utilities, "[r]egulated electric and gas public utilities in New Jersey recoup uncollectible amounts through the Societal Benefits Charge."[8] Water and wastewater utilities' customers also 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 and increases in uncollectible expenses adversely affect the Company's ability to fund necessary construction and infrastructure replacement work. 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. This protection should be in the form of a rider that permits recovery of such uncollectible accounts expense, as reflected in NARUC Account 904 in excess of that reflected in rates. This mechanism and how it will operate should be a subject of further discussion in this proceeding.

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[7] *I/M/O Petition of Rockland Electric Company's Annual Societal Benefits Charge Filing (2020) Filing*, 2020 WL 6131966, at *1 [Oct. 14, 2020].

[8] Rate Counsel's Petition in this Docket, p. 8.

IV. CONCLUSION

NJAWC respectfully thanks the Board for considering these Supplemental Comments and the actions taken since the governmental response to the COVID-19 emergency to assist the Company with respect to the proactive, beneficial programs that NJAWC has undertaken to assist its customers.

Respectfully submitted,

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