



*Submitted via E-Mail*  
June 23, 2021

State of New Jersey, Board of Public Utilities  
44 S Clinton Ave, 3rd Floor, Suite 314  
P.O. Box 350  
Trenton, NJ  
08625-0350

**RE: NJ Board of Public Utilities Response to the COVID-19 Pandemic  
Docket No. AO20060471**

Secretary Camacho-Welch:

On behalf of the undersigned organizations, please accept submit these comments to the New Jersey Board of Public Utilities in the above referenced proceeding.

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: Service List

The above-signed organizations submit the following comments and recommendations concerning the Board's upcoming actions in this proceeding. Natural Resources Defense Council and NJ Citizen Action have been granted Participant status in this proceeding and have been participating actively in the stakeholder Work Group associated with this docket.

Our recommendations come against the backdrop of the Governor's decision to continue in place, until the end of the year, the statewide prohibition on utility shutoffs, in the form of a "grace period" for utility customers. We strongly support the Governor's decision. As stated in the Governor's Executive Order No. 246 ("EO 246"), which establishes the grace period through the end of 2021:

- "[D]espite the end of the Public Health Emergency, many New Jersey residents may continue to experience obstacles to their ability to make payments for gas, electric, water, or internet services, including, but not limited to, financial hardship stemming from the Public Health Emergency, lack of access to in-person consumer assistance services during the Public Health Emergency, and lack of awareness of available assistance programs"
- "[A]ccess to heat, power, and clean water remains essential to all New Jersey residents"
- "[I]t is critical that, when the utility disconnection moratorium ends, customers are given adequate time to access assistance, enroll in repayment plans, and marshal resources for repayment before being subject to disconnection"
- "[I]t is also critical that, when the moratorium ends, the State and its departments, agencies, authorities and entities, as well as the private and public utilities that serve New Jersey residents, identify and make available resources to assist customers facing financial hardship and make a concerted effort to connect customers with assistance programs"
- "[T]he State has recently received \$6.2 billion in federal funding under the American Rescue Plan Act of 2021 ("ARPA"), and under the interim final rule promulgated by the U.S. Department of the Treasury, assistance to households, including utility assistance, is an eligible use of this funding"
- "[T]he establishment of a grace period beyond June 30, 2021, will give the State the opportunity to distribute ARPA funding to help residents facing utility arrearages, should it choose to do so"

We also very much welcome the announcement on June 21, 2021, by state Senate leadership that a Fiscal Year 2022 budget agreement has been reached that directs \$250 million of the state's ARPA funds to utility customer assistance.

As discussed in the Work Group and based on data released by the Board, the full level of need far exceeds \$250 million. The state's previously committed or anticipated resources for utility

customer assistance, including federal grants specifically for utility assistance, left a funding gap many hundreds of millions of dollars larger, based on the most recent data available from the Board. New Jersey must fill that gap to support hundreds of thousands of households unable to pay the utility debt they have accumulated during the COVID-19 pandemic.

The Board's June 24, 2021 agenda indicates that "The Board will consider Staff's recommendations to temporarily expand the Board's Universal Service Fund and Fresh Start assistance programs to respond to the economic situation customers are facing due to the pandemic." As we understand it, Staff's recommendations reflect ideas that emerged out of the Work Group. Though Staff has not released a final version of its recommendations, we strongly support the main elements of the outline presented to the Work Group, which calls for raising the income eligibility and benefit levels under USF and Fresh Start, and expanding access to the Fresh Start arrearage forgiveness program to customers who have previously participated in the USF program.

Based on the foregoing, we make the following additional requests to the Board:

**First, the Board should issue orders, complementing EO 246, to provide a robust set of customer protections during the "grace period" that effectuate the purposes of the Executive Order.** Specifically, as the Board and its sister agencies develop and implement new and expanded assistance programs, during and beyond the grace period, we urge the Board now to issue binding orders including the following elements.<sup>1</sup> (This is not necessarily an exclusive list. We look forward to engaging further with the Board and Staff on these and other recommendations.)

- **Incorporate into a Board order the Governor's prohibition on sending notices of disconnection before the end of the grace period (EO 246, para. 14), making this prohibition directly enforceable by the Board.** It has become clear through the Work Group process that some utility companies have been sending notices of disconnection over the last several months, with fine print indicating that shutoff will not occur until after the moratorium ends. This creates significant confusion among customers and is likely to make many feel pressured to enter into deferred payment agreements (DPA) they cannot actually afford.
- **Incorporate into a Board order the Governor's prohibition on disconnections through the end of 2021, making this prohibition directly enforceable by the Board.** EO 246 prohibits disconnection of water service for non-payment to "residents, which includes all residential accounts and any accounts primarily serving residential customers." A Board order should include two clarifications concerning this prohibition.

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<sup>1</sup> Many of these recommendations were also included in the Nov. 31, 2020 comments of NRDC, NJ Citizen Action, at al., [https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document\\_id=1230443](https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document_id=1230443).

First, many residential households that rent their homes, however, are not “customers” of a utility; rather, the landlord is often the customer. The Board should state explicitly that disconnection of service to premises serving residential units are prohibited, regardless of whether the resident is a customer of the utility. Second, if there are any instances where Board-regulated water utilities are authorized to disconnect water service due to non-payment of a *wastewater* utility bill, the Board should clarify that such disconnections are prohibited on the same terms as disconnection for non-payment of a water bill.

- **Establish protections for customers of BPU-regulated water and wastewater utilities that match those afforded to electric and gas customers.** Discussions in the Work Group have highlighted that BPU-regulated water utilities are not required to, and do not in fact, provide some of the core protections that BPU requires of electric and gas utilities, such as certain pre-disconnection procedures (e.g., door-knocking) and the Winter Termination Program.
- **Require utilities to proactively communicate to their customers, using multiple methods, about the assistance that is and will soon become available to them.** A law recently signed by Gov. Murphy (A 54671, enacted as P.L.2021, c.97) requires all utilities to provide monthly notification, until the end of 2022, to residential customers of certain protections and financial assistance available to them. Additionally, EO 246 (para. 14) provides that these notices “shall include information concerning the grace period established by this Order.” The new law requires the Board to establish a standard form for these notices for BPU-regulated utilities. (It requires the Department of Community Affairs (DCA) to do so for other utilities.) The Board’s implementation of this law is critically important to customer outreach, but the Board should also provide further direction on clear and effective utility communications to customers.
- **Require that, when offering a deferred payment agreement (DPA) during the moratorium and grace period, utilities must offer a minimum 24-month payment term.** EO 246 (para. 9) requires an offer of at least 12-month DPAs, but only “after [a] required notice of discontinuance is sent.” The Board should require that DPA offers be at least at 24-months, and should ensure that utilities begin implementing this immediately, not only when they start sending shut off notices. Additionally the Board should direct utilities to offer customers an opportunity to renegotiate DPAs if they experience a change in financial situation during their DPA, and to obtain another DPA with the same terms or better if they default on their DPA. It is not in the best interests of customers, utilities, or the state for customers to have DPAs on terms that they cannot afford to pay.

- **Prohibit other collections practices that unnecessarily penalize customers for non-payment during the disconnection moratorium and grace period.** It is inconsistent with the rationale behind the moratorium and grace period to allow utilities to *financially penalize* customers who receive the benefit of disconnection protections. Therefore, in addition to the prohibition in EO 246 on “collect[ing] any fee or charge imposed for late or otherwise untimely payments or service reconnections,” the Board should also prohibit utilities from doing the following during the grace period: 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.

**Second, the Board’s order concerning expansion of USF and Fresh Start should include the following critical elements of program administration:**

- **Direct Staff to create program rules that minimize application burdens on customers.** Such provisions must include self-certification of program eligibility requirements; categorical eligibility for customers participating in other state or federal benefits programs; and automatic enrollment of customers meeting the categorical eligibility criteria.
- **Require the expanded Universal Service Fund, Fresh Start, and LIHEAP Programs to make the application process open to everyone.** Specifically, required these programs to accept and process applications without regard to whether a customer has an active utility account at the time of application, and require utilities, without requiring a new deposit or any other payment, to open a new customer account, or reactivate an inactive account, whenever necessary to permit the acceptance and processing of any application.

**Third, the Board should establish assistance programs for customers of BPU-regulated water and wastewater utilities that match those provided to electric and gas customers, and should facilitate stakeholder engagement in DCA’s development of the new federal Low Income Home Water Assistance Program (LIHWAP).** Staff’s proposal to expand USF and Fresh Start does not help water and wastewater customers, as those programs are limited to electric and gas. New water and wastewater assistance programs must be developed to address arrears (as well as ongoing water affordability challenges); the one-time \$24 million federal grant that New Jersey will receive for LIHWAP will not meet the full need. Additionally, the Board should use the Work Group, in coordination with DCA, to facilitate stakeholder engagement in development of the LIHWAP program. Standing up that new program will be a complex undertaking, especially given the hundreds of individual water and wastewater systems that must interface with the program and the critical issues of how to equitably prioritize the use of these limited funds.

**Fourth, the Board should order all regulated electric, gas, water, and wastewater utilities to submit monthly, in a consistent format, critical data related to customer arrears;<sup>2</sup> 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.<sup>3</sup>**

Staff's proposal to temporarily expand the Universal Service Fund (USF) and Fresh Start programs are important steps that will provide substantial assistance to many customers, but they must be combined with additional resources that have not yet been secured. Adequate data is needed to identify the full extent of the need, and to track the extent to which existing and new programs are meeting that need. To date, that information has not been forthcoming.

**Fifth, the Murphy Administration should gather comparable data from, and afford equivalent protections and financial assistance to customers of, non-BPU regulated utilities. The Board should lend its expertise to support that effort.** We recognize that the Board's regulatory jurisdiction does not generally apply to publicly-owned water and wastewater utilities, which serve the majority of the state's population. However, the Board has significant relevant expertise and capacity that it can and should offer to the Administration and sister state agencies to help extend protections and assistance to customers of those utilities. The Board should also direct Staff to use the Work Group to facilitate stakeholder engagement in that process. To date, the "water" sub-group of the Work Group under this docket have been given only a very limited opportunity to engage on the critical issues identified above, and other sub-groups have focused primarily on electric and gas utility issues.

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<sup>2</sup> For detailed data reporting recommendations, see the Nov. 31, 2020 comments of NRDC, at al., [https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document\\_id=1230443](https://publicaccess.bpu.state.nj.us/DocumentHandler.ashx?document_id=1230443).

<sup>3</sup> Program costs should not be borne solely, or even primarily, by ratepayers. Non-ratepayer sources of additional funding could include a portion of the state's billions of dollars of remaining, unallocated ARPA funds; coordination of state ARPA funds with county and municipal ARPA funding; and Board orders to require shareholder contributions to arrearage forgiveness programs.