State of New Jersey
DIVISION OF RATE COUNSEL
140 EAST FRONT STREET, 4TH FL.
P.O. BOX 003
TRENTON, NEW JERSEY 08625

PHIL MURPHY
Governor

SHEILA OLIVER
Lt. Governor

BRIAN O. LIPMAN
Director

March 3, 2023

<u>Via Electronic Mail</u> board.secretary@bpu.nj.gov
Carmen D. Diaz
Acting Secretary of the Board
44 South Clinton Avenue, 1ST Floor
P.O. Box 350
Trenton, NJ 08625-0350

Re: In the Matter of the New Jersey Board of Public Utilities' Response to the Covid-19 Pandemic, Universal Service Fund & Fresh Start Programs: Review & Proposed Changes
BPU Docket No. AO20060471

Dear Acting Board Secretary Diaz:

Please accept for filing these comments being submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in accordance with the Notice issued by the Board of Public Utilities ("Board") in this matter on January 23, 2023. In accordance with the Notice, these comments are being filed electronically with the Board's Secretary at board.secretary@bpu.nj.gov.

<u>Please acknowledge receipt of these comments</u>.

Thank you for your consideration and attention to this matter.

Respectfully submitted,

Brian O. Lipman, Esq.
Director, Division of Rate Counsel

By: /s/ Sarah Steindel
Sarah H. Steindel, Esq.
Assistant Deputy Rate Counsel

SHS
Enclosure
cc: Stacy Peterson, BPU
Julie Ford-Williams, BPU
Maureen Clerc, BPU
Mike Kammer, BPU

In the Matter of the New Jersey Board of Public Utilities' Response to the Covid-19 Pandemic, BPU Docket No. AO20060471

Universal Service Fund & Fresh Start Programs: Review & Proposed Changes

Comments of the Division of Rate Counsel

March 3, 2023

I. INTRODUCTION

The Division of Rate Counsel submits these comments in response to the January 23, 2023 Notice ("Notice") of the New Jersey Board of Public Utilities ("Board") and the February 15, 2023 virtual stakeholder meeting. These comments involve potential modifications to the Universal Service Fund ("USF") and Fresh Start programs, as set forth in the Board's Notice.

The USF Program was established in 2003 as a state-wide program to ensure that New Jersey's low-income electric and natural gas customers have more affordable access to energy.[1] The Fresh Start program was established in 2004 to provide a path to arrearage forgiveness for USF enrollees.[2] Due to the mounting level of utility arrearages resulting from the economic disruption of the Covid-19 pandemic, the Board acted in June of 2021 to temporarily expand the eligibility parameters and benefits associated with the USF and Fresh Start programs. Those expansions are in effect for a two-year period, from October 1, 2021 through September 30, 2023.[3] As stated in the Notice, unless the Board takes further action these temporary expansions will expire on October 1, 2023 and the more restrictive pre-COVID program parameters will

[1] In re the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, Docket No. EX00020091 (April 30, 2003).

[2] In re the Establishment of an Arrearage Payment Program for the Universal Service Fund, BPU Docket No. EX00020091 (March 4, 2004); and In re the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, Docket No. EX00020091 (Feb. 1, 2005).

[3] I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, Docket No. AO20060471 (June 24, 2021).

resume. Accordingly, Staff is seeking input on what program parameters should be implemented going forward.

The Notice includes some data comparing the impact of the USF Program before and after the expansion, including the number of enrollments, benefits paid, and rate impacts. Stakeholders were asked to provide their input "in light of [that] data, current arrearage data, available federal funding, and other economic factors." Staff further sought data on the estimated costs of the recommendations provided in stakeholders' comments. Additionally, Staff requested feedback from the electric and natural gas investor-owned utility companies regarding the impact USF and Fresh Start programs may have on utility arrearages, uncollectibles and disconnections of residential customers. In requesting the data from the utilities, Staff recognized that the data may have been affected by factors such as the COVID-19-related moratorium on utility disconnections and funding from the federal American Rescue Plan ("ARP").

Rate Counsel was an active participant in the development of the USF and Fresh Start programs and is a strong supporter of these programs. Rate Counsel appreciates the opportunity to provide input on the important issues raised in the Notice. These comments will first address general issues, and then provide responses to the specific questions contained in the Notice.

II. RATE COUNSEL COMMENTS

A. General Comments

Determining the parameters for the USF and Fresh Start programs necessarily involves a balancing of costs and benefits. The Board has long supported a policy of helping ratepayers pay their bills rather than for ratepayers to lose utility service due to an inability to pay. The Board Order establishing the USF stated that its purpose is "to ensure that low-income customers have access to affordable energy."[4] This policy is evidently based on the well-recognized public health problems caused or exacerbated by the loss of utility service. The benefits of these programs for the New Jersey residents who struggle to pay their energy bills, however, must be balanced against the burdens on other ratepayers who pay the costs associated with the program through the Societal Benefits Charge ("SBC").

Accordingly, the Board must also consider the financial effect of the USF and Fresh Start programs on the ratepayers who are still able to pay their bills. The Notice for these comments reports that the temporary expansions of the USF and Fresh Start programs resulted in substantial costs for the ratepayers who pay for these programs. The cost of USF benefits rose from approximately $106 million before the expansion to approximately $146 million during the first year of the expansion, an increase of approximately 38%. The cost of Fresh Start benefits increased more than twelvefold, from approximately $3.8 million to approximately $51 million. The rate impact on the average electric and natural gas customer has doubled between Oct. 1, 2020 and Oct. 1, 2022, rising from $.97 to $2.22 each month for electric, and from $.59 to $1.11 per month for gas. These increases are in addition to other rate increases that continued to take effect during the pandemic and currently, including base rate increases and increases implemented pursuant to the utilities' infrastructure and clean energy programs.

In order to make informed decisions about whether to continue some or all of the temporary expansions of the USF and Fresh Start programs, it is important to carefully evaluate whether the costs are justified. There needs to be an analysis of the effectiveness of the various elements of the expanded programs in making energy bills affordable, versus the costs of each of the expansions compared to the program as it existed prior to the pandemic.

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[4] I/M/O the Establishment of a Universal Service Fund Pursuant to Section 12 of the Electric Discount and Energy Competition Act of 1999, BPU Docket No. EX00020091, Universal Service Fund Order at 3 (Apr. 30, 2003).

The data provided with the Board's Notice is useful, but it is incomplete. Staff has provided some data including enrollments, benefits paid, and ratepayer impact for two one-year periods: the "Pre-Expansion" period from October 2020 through September 2021, and the "Expansion Year 1," from October 2021 through September 2022. With regard to costs, the Notice provides aggregate data on the total USF and Fresh Start benefits paid during the Pre-Expansion period and Expansion Year 1; and the USF/Fresh Start cost recovery rates and bill impacts for average residential electric and gas customers, that were in effect before the expansion, during Expansion Year 1, and the starting on October 1, 2022. However, Staff has not provided a breakdown of the costs of individual elements of the expansion, such as raising the income ceiling, lowering the USF affordability threshold, or removing the $100 monthly cap on Fresh Start arrearage forgiveness. Similarly, Staff has presented only a limited amount of aggregated data on benefits. The Notice includes data on the number of USF enrollees and average monthly benefits paid to each enrollee before and after the expansion, and numbers of additional participants, but no data on participants' success in staying current on their energy bills before and after the expansion.

Further, it is not clear whether there will be an opportunity for interested parties to comment on the specific program parameters that will ultimately be proposed by Staff for consideration by the Board. While the Board has broad discretion to select the procedures it follows in implementing its statutory mandates, those procedures must be in compliance with the New Jersey Administrative Procedure Act, ("APA"), N.J.S.A. 52.14B-1 to -15, and the requirements of due process.[5] The action to be taken by the Board in this proceeding have many features of a rule subject to the APA's rulemaking procedures: it will apply broadly to all USF

[5] In re Provision of Basic Generation Service for the Period Beginning June 1, 2008, 205 N.J. 339, 347 (2011) (cited hereinafter as "In re Basic Generation Service").

and Fresh Start applicants and participants and to all ratepayers subject to the SBC, it is intended to apply generally and uniformly to all similarly situated persons, it will operate prospectively and, if changes in the program parameters are adopted, it will result in significant changes to prior determinations by the Board.[6] Accordingly, even if the Board does not proceed with the issuance of a formal rule proposal, the Board must provide a process that is consistent with the rule-like nature of the Notice.[7]

The Notice issued in this proceeding is not sufficient to provide the required opportunity for comment. The Office of Administrative Law's ("OAL") rules on the rulemaking process provide useful guidance in this regard. A rule proposal must include a summary which "shall describe, in detail, and identify" matters including "[w]hat the rulemaking prescribes, proscribes, or otherwise mandates," and must also include the full text of the rule, specifically indicating additions to and deletions from the current provisions.[8] These OAL rulemaking standards contemplate an opportunity for public comment on the specific mandates proposed for adoption. The current Notice, however, does not provide sufficient detail of the specific program parameters the Board proposes to adopt. Instead, it is only an open-ended request for proposals from stakeholders.

In order to provide a proper basis for the Board's determinations, Staff should work with the utilities and others to obtain and analyze the necessary data and develop a straw proposal that includes specific proposed parameters for the USF and Fresh Start programs. Then, there should be an opportunity for public comment on the straw proposal. As noted above, the Notice includes requests for stakeholders to provide cost and other data as part of their comments to the

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[6] See, Metromedia, Inc. v. Director, Division of Taxation, 97 N.J. 313, 331-32 (1984).

[7] In re Basic Generation Service, 205 N.J. at 354.

[8] N.J.A.C. 1:30-5.1(c)(1)(iii) & (d).

Board. The recently-enacted reporting requirements in N.J.S.A. 48:2-29.59 may also be helpful. However, the Board's receipt of comments and data in response to the present request for comments will not provide sufficient notice to meet the requirements of due process. The Board may not rely on other parties to meet its obligation to provide notice and an opportunity for comment on the specific actions the Board is considering.[9] It is the Board's obligation to conduct the necessary analysis and develop a proposal for interested parties to consider and comment upon.

Rate Counsel recognizes that the Board may not be able to collect and analyze data, prepare a straw proposal, and provide for further public comment in sufficient time to issue a decision on the future parameters of the USF and Fresh Start programs before the temporary expansions expire on September 30, 2023. The Board may wish to consider a temporary extension of all or part of the expanded program in order to accommodate this process.

Rate Counsel urges the Board, as part of its analysis, to explore the availability of funding sources other than the SBC, which is funded entirely by ratepayers. As the Board is aware, New Jersey's electric and gas ratepayers have seen significant rate increases in recent years, and rates continue to increase. Ratepayers are being called upon to pay for implementing the State's ambitious clean energy goals through programs administered by both the Board's Division of Clean Energy and the electric and gas utilities. At the same time, there have been continuing rate increases sought by the utilities under the Board's Infrastructure Investment Program rules,[10] and in base rate and other proceedings. As a result, energy bills are becoming increasingly unaffordable. This results in a continuous spiral where rates go up, ratepayers

[9] See, In re Basic Generation Service, 205 N.J. at 358-60.

[10] N.J.A.C. 14:3-2A.1 to -2A.6.

cannot afford their bills so their bills are paid by the remaining ratepayers, whose bills go up causing more ratepayers to be unable to pay their bills and the cycle continues.

In order to mitigate the burden of funding energy assistance through the SBC, other sources of funding should be thoroughly evaluated. The evaluation should include an investigation of whether the utilities and the State have maximized the use of federal funds. During discussions in the Board's COVID-19 collections and assistance working group in this docket, concerns have been raised about burdensome and slow benefit program application, review, and payment processes. Concern has also been raised about whether such delays could result in the loss of federal funds that could benefit New Jersey utilities and their ratepayers. The Board should work with the utilities, other State agencies, and other stakeholders to identify measures to improve the application, approval and payment processes so that federal funds are not lost due to delays.

In addition, other sources of in-state funding should be evaluated. This is a particular concern with regard to the Fresh Start program. As the Board is aware, high levels of arrearages have accumulated as a result of the COVID pandemic. As the Board considers the possible extension of some or all of the temporary expansions to the Fresh Start program, Rate Counsel urges the Board to take steps to assure that ratepayers do not bear the entire burden of the COVID-related arrearages. In this regard, Rate Counsel notes that the New York Public Service Commission recently adopted a COVID arrearage reduction plan that included a sharing of costs between ratepayers and utility shareholders.[11]

[11] Proceeding on Motion of the Commission to Examine Programs to Address Energy Affordability for Low Income Utility Customers and Proceeding on Motion of the Commission Regarding the Effects of COVID-19 on Utility Service, Cases 14-M-0565 & 20-M-0266, Order Authorizing Phase I Arrears Reduction Program at 11-13, 30-31, 36 (June 16, 2022); Id., Order Authorizing Phase 2 Arrears Reduction Program at 12, 23-24 (Jan. 19, 2023). The New York PSC's Orders are available on the PSC's website at: https://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=20-M-0266&CaseSearch=Search.

To date, the Board has not yet resolved the ratemaking treatment of COVID-related arrearages for New Jersey's public utilities. Rate Counsel urges the Board to act expeditiously to resolve the ratemaking treatment of COVID-related arrearages, in a way that includes an element of sharing. This is necessary to assure that the full burden does not fall on ratepayers as a result of the Fresh Start program.

B. <u>Responses to Questions in Notice</u>

I. Program Parameters

A. USF

1) The USF income ceiling was temporarily set at 400 percent of the Federal Poverty Guidelines ("FPG"); 400% of the FPG is $111,000 for a family of four (4). Beginning October 1, 2023, should the USF income ceiling:

- ***Revert to the previous level of 185 percent of the FPG?[12]***
- ***Align with the federal Low Income Home Energy Assistance Program ("LIHEAP")?***
- ***Be limited to a different amount?***

Rate Counsel Response:

The Board should consider setting the USF income ceiling at a higher level than 185% of the Federal Poverty Guidelines.[13] According to research conducted by Legal Services of New Jersey ("LSNJ"), an average New Jersey family needs income of about 300% of the FPG to afford basic necessities.[14] As explained in LSNJ's report of its research, the FPG is based on a simple model that was developed by an employee of the Social Security Administration in 1963, in which a "thrifty food plan" budget developed by the United States Department of Agriculture

[12] This was the same as the Supplemental Nutritional Assistance Program, which sets its income limits at 185 percent of FPG.

[13] The guidelines are sometimes referred to informally as the "Federal Poverty Level" or "FPL." U.S. Dept. of Health and Human Services, "Poverty Guidelines" web page, available at: https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines .

[14] <u>True Poverty - What it Takes to Avoid Poverty and Deprivation in the Garden State</u> at 9(July 2021) ("<u>True Poverty</u>") (available at: https://proxy.lsnj.org/rcenter/GetPublicDocument/00b5ccde-9b51-48de-abe3-55dd767a685a).

was multiplied by three.[15] Except for updating for inflation, the methodology remains the same today. The FPG does not consider the costs of child care or transportation, and does not distinguish between costs in different parts of the country or the state. It does not account for the much higher cost of rent today, both absolutely and as a percentage of family income.[16]

LSNJ calculated the True Poverty level for over 700 family types, including combinations of different families for all 21 New Jersey counties, using a national Self-Sufficiency Standard that considers costs in seven basic need areas: housing, child care, food, health, transportation, taxes, and other essentials such as cleaning supplies and toiletries.[17] Based on this analysis, the report concluded that, on average, the True Poverty level for most New Jersey families was 300% of the FPG.[18] Under the FPG, 9.2% of NJ residents, or approximately 800,000 people, lived in poverty in 2019; while based on LSNJ's True Poverty level, about 33% of New Jersey residents, or approximately 3 million people, lived in poverty in 2019.[19]

Based on LSNJ's research, despite that it was conducted prior to the pandemic and may not fully incorporate today's standards for poverty in the state, 300% of the FPG appears to be a reasonable income ceiling for the USF and Fresh Start programs. The Board may also wish to consider using the LIHEAP income ceiling, currently 60% of the median State median income. As stated in the Notice, the LIHEAP income ceiling for the 2022-23 winter season was $79,942

[15] Id. at 13-14.

[16] Id. at 13-15.

[17] Id. at 16-21.

[18] Id. at 22.

[19] Id.

for a family of four. This is equivalent to about 288% of the FPG for 2022 or 266% of the FPG for 2023.[20] The percentages vary based on household size:

Household size	2022-23 LIHEAP Income Ceiling	2022 FPG	LIHEAP % of 2022 FPG	2023 FPG	LIHEAP % of 2023 FPG
1	$41,569	$13,590	306%	$14,580	285%
2	$54,360	$18,310	297%	$19,720	276%
3	$67,151	$23,030	292%	$24,860	270%
4	$79,942	$27,750	288%	$30,000	266%
5	$92,732	$32,470	286%	$35,140	264%
6	$105,523	$37,190	284%	$40,280	262%
7	$107,922	$41,910	258%	$45,420	238%
8	$110,320	$45,967	240%	$50,560	218%

While the LIHEAP income ceilings are generally lower than 300% of the FPG, they are a substantial change from the USF income ceiling of 185% of the FPG that was in effect prior to October of 2021. In addition, since LIHEAP benefits are an offset to the benefits paid for by ratepayers under the USF program, use of the same ceiling for both programs will maximize the use of federal funds to mitigate the costs of the USF program to other ratepayers. In addition, use of the same income ceiling may increase administrative efficiency.

2) ***Should the USF monthly benefit cap stay at $180 per month, or revert back to $150 per month? Would a different amount be more beneficial? Please consider both the impact to all ratepayers and the cost of gas and electric on low- and moderate-income households.***

Rate Counsel Response:

A recommendation on this question requires data on the effectiveness and costs of increasing the USF benefit cap by $30 each month during the program expansion. The Board should develop a proposal on this issue based on data obtained from the utilities including the

[20] The 2022023 LIHEAP income ceilings are available on the Board's website at: https://www.nj.gov/bpu/assistance/programs/. The FPG for 2022 were published at 87 Fed. Reg. 3315 (Jan. 21, 2022) (available at https://www.govinfo.gov/content/pkg/FR-2022-01-21/pdf/2022-01166.pdf), and the 2023 FPG were published at 88 Fed. Reg. 3424 (Jan. 19, 2023) (available at: https://www.govinfo.gov/content/pkg/FR-2023-01-19/pdf/2023-00885.pdf).

average amount of a residential gas and electric bill for USF-eligible customers, the number of customers for whom the increased benefit enabled them to pay their bills in full, the average amount of arrears of USF-eligible residential customers, the total cost attributable to the increased benefit cap, and the rate impact of the increased benefit cap.

3) ***Should the USF affordability threshold remain two percent (2%) of annual income for gas and non-heating electric costs, or revert to three percent (3%)? Please provide any estimated cost considerations. USF covers any electric and gas costs over the affordability threshold up to the benefit cap.***

4) ***Should the USF affordability threshold remain at four percent (4%) of annual income for electric heat or revert to six percent (6%)? Please provide any estimated cost considerations. USF covers any electric and gas costs over the affordability threshold up to the benefit cap.***

Rate Counsel Response:

A recommendation on these questions requires data from the utilities on the effectiveness and costs of permanently lowering the affordability threshold. With that data, stakeholders can adequately learn the costs and benefits of each outcome. The lower threshold would make bills more affordable for USF recipients. For example, for a household of four with an income at the LIHEAP income ceiling of $79,942, the household's share of its energy bills would be approximately $266 per month using the 4% combined threshold, compared to about $400 per month using the 6% threshold. The benefits, however, would come at an increased cost to other ratepayers, who would have to pay for the resulting increased USF benefits. The Board should develop a proposal on this issue based on data including the average amount paid by USF-eligible residential customers for natural gas and electricity, the number of customers who qualified for USF due to the increased income threshold, the number of customers for whom the increased income threshold enabled them to pay their bills in full, the average amount of arrears of USF-eligible residential customers, and the total costs and rate impacts attributable to the lower affordability threshold.

5) ***Should the temporary minimum $5.00 USF monthly benefit be made permanent for any applicant who is income eligible for the program? Or should income eligible applicants who do not spend more than the specified percentage of annual income on gas and electric (affordability threshold) be denied USF benefits? What are the pros and cons of each scenario?***

Rate Counsel Response:

The temporary minimum USF benefit was intended to increase the number of households qualifying for the Fresh Start program. As discussed above, Rate Counsel believes that the Board should take steps to assure that ratepayers do not bear the full cost of COVID-related arrearages through the Fresh Start program. Rate Counsel's comments on this question, and on questions I.B.1 through 3 below, are subject to Rate Counsel's recommendation above that the Board act expeditiously to resolve the ratemaking treatment of COVID-related arrearages.

Rate Counsel supports consideration of making the minimum USF benefit permanent, but a recommendation on this question requires data on the effectiveness and costs of the temporary minimum USF benefit.

B. Fresh Start

1) Enrollment:

- ***Should Fresh Start enrollment revert back to automatic enrollment for only first time USF customers?***
- ***Should Fresh Start enrollment to any USF enrollee be extended an additional year or longer, due to economic factors and current arrearages?***

Rate Counsel Response:

Rate Counsel supports consideration of a relaxation of the former limitation of the Fresh Start program to first-time USF enrollees only. For those living in poverty, any number of financial disruptions can cause difficulty paying bills. Many people living in poverty work in lower-paying jobs that are not permanent and offer limited, if any, benefits toward medical, child care and other costs. Thus, only minor changes in the financial situation of those persons or their employers can result in increased financial stress or unemployment. In addition, for people living in poverty, financial disruptions such as loss of a job, a large medical bill, or the cost to repair or replace a car can be catastrophic. Accordingly, customers should have a "second chance" for a Fresh Start, but not an unlimited number of opportunities. The Board should develop a proposal for comment based upon an analysis of data from the utilities including the number of USF customers who incur arrears, the amounts and frequencies of arrears incurred by USF customers, and the costs and rate impacts of allowing repeat enrollments at different intervals.

- ***Should Fresh Start enrollment be conditional? If so, what conditions should be placed on the customer to be enrolled and/or remain in the program?***

Rate Counsel Response:

Rate Counsel does not understand this question. Fresh Start benefits are already subject to conditions including the need to document the customer's qualifications, and the requirement to pay the customer's share of each month's current bill in order to receive credits toward the customer's arrearages. Establishing additional conditions may complicate and cause delays in the application process, and make it more burdensome for applicants and the utilities to determine if customers have met additional conditions. If the Board is considering any additional conditions, they should be published with an opportunity for public comment on the proposed conditions.

- ***Should enrollment in Fresh Start be made available to any USF enrollee once during a five or ten year period?***

Rate Counsel Response:

See the answer to the first two bulleted questions under II.B.1 above.

- ***Please provide suggestions for Fresh Start enrollment eligibility criteria and/or factors that should be considered when determining a way forward with the Fresh Start program.***

Rate Counsel Response:

Please see the responses to question I.A.5 above and the first two bulleted questions under I.B.1 above.

2) ***The $100 cap on monthly Fresh Start forgiveness was removed during the program expansion period so that each month a customer pays their current bill in full, 1/12 of their overdue balance is forgiven, or ¼ of the overdue balance is forgiven each quarter. Should the $100 monthly cap ($300 quarterly cap) on Fresh Start forgiveness be reinstated or removed permanently?***

Rate Counsel Response:

Rate Counsel supports consideration of eliminating or increasing the $100 monthly cap on Fresh Start benefits, as the $100 cap may be outdated given the significant increases in utility rates that have occurred since the cap was established. The Board should develop a proposal for comment based upon an analysis of data including the number USF customers affected by the $100 cap, and the costs and rate impacts of increasing or eliminating the cap. Additionally, data concerning the current status of customers who benefitted from Fresh Start forgiveness would be helpful in answering this question.

On a related issue, Rate Counsel does not recommend the Board consider the suggestion, made during the February 15, 2023 stakeholder meeting in this matter, that the Board consider modifying the Fresh Start program to provide for forgiveness of 100% of participants' arrearages as an up-front lump sum payment. In addition to increasing the costs of the program, this modification would undermine a key feature of the Fresh Start program, which is that participants earn forgiveness by payment of their share of their current bills.

3) The Board directed the gas and electric utilities to apply any available federal arrearage forgiveness to Fresh Start balances before current balances as the funds become available and in a manner consistent with the best interest of the customer in order to maximize federal American Rescue Plan ("ARP") funding during the program expansion period. Prior to this directive, the utilities applied federal funds, which only included LIHEAP funds, to current overdue balances. Should the utilities revert to the former practice of applying federal LIHEAP funds to current overdue balances? Please note that the application of LIHEAP funds to current balances helps customers comply with the Fresh Start program and earn forgiveness on Fresh Start balances.

Rate Counsel Response:

Rate Counsel supports maximizing the use of federal funds to benefit both USF participants and other ratepayers. However, it is not clear that the current practice of applying LIHEAP funds to arrearages accomplishes this purpose. In meetings of the Board's COVID-19 collections and assistance working group, some stakeholders have raised concerns that this practice makes it more difficult for recipients of LIHEAP and USF benefits to avoid disconnections. The former practice helped customers maintain service by enabling them to pay their current bills, while seeking deferred payment arrangements for any arrearages. In addition, as the Board itself recognizes, reverting to the prior practice would help customers enrolled in the Fresh Start program to earn arrearage forgiveness by paying toward their current balances.

In addition, it is unclear whether the current directive is the most beneficial to the ratepayers who pay for the USF and Fresh Start programs. The application of LIHEAP funds to retire arrearages may offset the costs of funding Fresh Start. However, the impact on the overall costs of the USF and Fresh Start programs is unclear without more information on how the funds are being applied, and how this affects the determination of USF and Fresh Start benefits.

A related question is whether the utilities are applying those federal funds to cancel arrearages in a lump sum when received, as opposed to applying the funds in installments each month in accordance with the usual practice of the Fresh Start program, i.e., a portion of the customer's arrears is forgiven each the customer pays a current bills. For the reasons discussed in Rate Counsel's response to question I.B.2 above, if arrearages are being retired in a lump sum, this may undermine an important feature of the Fresh Start program.

II. Other: Please indicate any cost or societal benefits Staff should consider before making any proposed changes to the USF and Fresh Start programs.

Rate Counsel Response:

See the Introduction section above.

III. Please provide any further data that would be useful to Staff in drafting a proposal regarding the USF and Fresh Start programs (e.g. USF and Fresh Start impact on arrearages, utility uncollectibles and residential disconnections).

Rate Counsel Response:

Rate Counsel is not in possession of any further data, but encourages the Board to proactively seek the data necessary for an informed decision, as discussed in the Introduction section above.