Legal Services of New Jersey
100 Metroplex Drive at Plainfield Avenue
Suite 101, P.O. Box 1357
Edison, New Jersey 08818-1357
Phone: (732) 572-9100
Fax: (732) 572-0066
**www.lsnj.org**
**www.lsnjlaw.org**




March 3, 2023

**Via Email (board.secretary@bpu.nj.gov) and the BPU Public Document Search Webpage**

Carmen D. Diaz
Acting Secretary of the Board
New Jersey Board of Public Utilities
44 South Clinton Ave.
PO Box 350
Trenton, New Jersey 08625-0350

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

Dear Acting Secretary Diaz:

On behalf of Legal Services of New Jersey's low-income clients, please accept this letter setting forth LSNJ's comments supplementing the testimony presented at the February 15, 2023 stakeholder meeting held pursuant to the Board's January 23. 2023 Notice of Stakeholder Meeting in the above-captioned matter. LSNJ coordinates New Jersey's Legal Services system, 6 non-profit corporations throughout the state providing free legal services to low-income people in civil legal matters. 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.

For nearly two decades, the Board's Universal Service Fund percentage-of-income based energy bill credit program and Fresh Start arrearage forgiveness program have allowed many of New Jersey's lowest-income households to maintain vital gas and electric service. In recent years, the Board's USF/Fresh Start expansion has been tremendously successful in helping New Jersey to meet the challenges arising from the economic effects of the COVID pandemic. Partial data included in the

Board's January 23 Notice show that total benefits were up about $88 million in the first expansion year – a 38% increase in USF credits, and a 1,247% increase in Fresh Start forgiveness (reducing total gas and electric arrearages by almost $50 million). The number of households served increased 97%, from 147,139 in the pre-expansion program year ending September 30, 2021, to 289,788 in the first expansion year. There have been no significant implementation problems, to LSNJ's knowledge.

LSNJ commends the Board and Staff for initiating this stakeholder input process for considering permanent program expansions and other changes as the end of the initial two-year expansion period approaches this fall. The data necessary to meaningfully address these important questions, however, are not yet available. Data reporting – including arrearages and service terminations by zip code and other key metrics – under P.L.2022, c. 107, has not yet begun (*See* LSNJ Comments on Draft Reporting Template dated January 6, 2023), and the most recent data reports under the old system, providing only aggregated arrearage amounts by utility, posted on the Board's website as of March 1, 2023, are from October 2022 – nearly six months old.

As many stakeholders urged at the February 15 stakeholder meeting, the Board should maintain the current USF and Fresh Start program expansions after September 30, 2023, in order to allow for the availability of crucial data on the extent of the continuing effects of the COVID pandemic, and analysis of robust data about the outcomes of program operation under the expanded program parameters. Though it would be premature to make decisions on permanent program changes in the absence of sufficient data, LSNJ offers these preliminary observations on several of the questions posed in the January 23 Notice:

**The USF/Fresh Start income cap should increase permanently to at least 300% of the FPL**. LSNJ's recent True Poverty study found that the overall average true poverty level – the income that nonelderly families without members with disabilities need in order to meet basic needs – is 300% of the federal poverty level. *True Poverty: What it Takes to Avoid Poverty and Deprivation in the Garden State* (July 2021) (https://proxy.lsnj.org/rcenter/GetPublicDocument/00b5ccde-9b51-48de-abe3-55dd767a685a). Permanent USF/Fresh Start income limits should not be any less than 300% of FPL, a position that Rate Counsel also adopted at the recent stakeholder meeting. For now, the economic effects of the pandemic have not fully dissipated, and the income limit should remain at the COVID expansion level of 400% of FPL until more current and complete data on arrearage levels and expanded USF/Fresh Start program usage by geographic location and income levels are available.

**The monthly USF benefit cap should remain at $180, or be eliminated entirely.** The monthly USF benefit cap means that the needs of some of the most vulnerable larger households, including those with the most substandard housing, are not being met. The Board may wish to consider steps to encourage access to weatherization (especially for tenants who would like to improve energy efficiency but need their landlord's approval), but should not exclude households with the greatest energy needs from full program benefits.

**The current policy of enrolling all USF recipients in Fresh Start (if they have at least $60 in arrears) should continue**. The Board should also eliminate the $60 arrearage threshold, at least for lower-income households, who are most likely to be unable to pay $60 toward arrears without foregoing other basic necessities, and thus face termination of service under N.J.A.C. 14:3-3A.2(a) after being in arrears for 3 months even if they maintain a perfect payment record once they are approved for USF credits.

**The suspension of the $100 monthly cap on Fresh Start arrearage forgiveness should be made permanent**. This cap was not part of the original Fresh Start Board Order, and is inconsistent with the statement in that Order that the Fresh Start program should provide "full forgiveness of any . . . pre-USF arrearages." The suspension of the cap should be made permanent.

**There to be no new "conditions" on Fresh Start enrollment**. The Board does not say what conditions may be under consideration, and it should not impose new conditions without stakeholder input after any proposed conditions have been described and access to more robust data is available.

**The $5 minimum USF monthly credit amount should be continued**. The $5 minimum monthly credit allows all households who meet program income limits to access Fresh Start. It should be continued at least until clear data are available showing that arrearage levels have returned to pre-pandemic levels.

**Fresh Start participation should be available to eligible customers at least once every 5 years in the future (rather than only once in a lifetime, when a customer first becomes eligible for USF).** Fresh Start ensures that USF credits can fulfill their purpose of allowing households to keep vital utility services in place while making affordable monthly payments. Reopening Fresh Start access as part of the program expansion has made a huge difference in addressing the consequences of COVID-related income shocks during the expansion period. Income shocks are a fact of life for low-income households even during the best to times, though, and can cause arrearages to recur even for the most prudent of households – for example when annually determined USF credit levels are no longer sufficient because of a substantial loss of income. Making re-enrollment into Fresh Start available will prevent income shocks from effectively excluding affected customers from ever having utilities in their name, and allow them to meaningfully participate in the USF credit program.

Thank you for your consideration of the foregoing comments.

Sincerely,
LEGAL SERVICES OF NEW JERSEY, INC.

By: *David McMillin*___________________________
David McMillin