



Agenda Date: 10/07/09
Agenda Item: 2B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE 2009/2010 ANNUAL COMPLIANCE FILINGS FOR THE UNIVERSAL SERVICE FUND ("USF") PROGRAM FACTOR WITHIN THE SOCIETAL BENEFITS CHARGE RATE PURSUANT TO SECTION 12 OF THE 1999 ELECTRIC DISCOUNT AND ENERGY COMPETITION ACT)	UNIVERSAL SERVICE FUND
)	ORDER APPROVING INTERIM USF RATES AND LIFELINE RATES
)	DOCKET NO. EO09060506

Mally Becker, Esq., PSE&G, Newark, New Jersey for Petitioner

Deborah M. Franco, Esq., Cullen and Dykman LLP, Garden City, New York for Petitioner

Philip J. Passanante, Esq., Atlantic City Electric, Wilmington, Delaware for Petitioner

Michael J. Connolly, Esq., Morgan, Lewis & Bockius LLP, Morristown, New Jersey for Petitioner

Tracey Thayer, Esq., New Jersey Natural Gas Company, Wall, New Jersey for Petitioner

John L. Carley, Esq., Consolidated Edison Co. of NY, New York, New York for Petitioner

Ira Megdal, Esq., Cozen O'Connor, Cherry Hill, New Jersey for Petitioner

(SERVICE LIST AND EXHIBIT A ATTACHED)

BY THE BOARD:

BACKGROUND

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. provided that the New Jersey Board of Public Utilities ("Board") establish a non-lapsing Universal Service Fund ("USF") to assist low income consumers with the payment of electric and gas bills. This fund was to be established by the Board, pursuant to N.J.S.A. 48:3-60 (b), wherein the Board was to determine the level of funding, the appropriate administration, and the purposes of the programs to be funded with monies from the fund. In its July 16, 2003 Order in Docket No. EX00020091,

the Board established a permanent statewide program through which funds for the USF program are collected from customers of electric and natural gas public Utilities operating in the State on a uniform basis. That Order established that Lifeline funding was to be generated in the same fashion as USF.

For the first year of the USF program, administrative expenses for USF were in addition to the \$30 million budget and were capped at 10% of the \$30 million for the year. If the program exceeded the \$30 million, any administrative expenses above \$3 million (10% of the initial year's budget) require advance approval by the Board. One-time start-up costs were not to be counted as administrative expenses and were not to be subject to the 10% cap. Those USF rates were approved by the Board by Order dated July 16, 2003 and rates became effective on August 1, 2003. Lifeline rates based upon a \$72 million budget also became effective August 1, 2003. The Board directed the electric and gas Utilities to make annual Societal Benefits Charge ("SBC") rate compliance filings for USF and Lifeline by April 1st each year, including notice and public hearings, with any new tariffs to be effective July 1st each year.

In its June 22, 2005 Order in Docket No. EX00020091, the Board ordered that the annual USF compliance filing date and effective date be changed from April 1st and July 1st, respectively, to July 1st and October 1st, respectively.

By Order dated October 21, 2008, the Board approved the proposed rates set forth in the 2008/2009 USF compliance filing in Docket No. ER07060503. The proposed rates were established to recover a \$248 million USF budget and a \$76.8 million Lifeline budget. Accordingly, the current rates, including Sales and Use Tax ("SUT"), are:

	Electric	Gas
USF	\$0.002030/kWh	\$0.021700/therm
Lifeline	\$0.000681/kWh	\$0.005900/therm
Combined USF/Lifeline	\$0.002711/kWh	\$0.027600/therm

PROCEDURAL HISTORY

On June 30, 2009, Public Service Electric and Gas Company ("PSE&G"), on behalf of itself and the other gas and electric Utilities, made a filing for the 2009/2010 program year with actual recovery data from October 2008 to April 2009 and five months of estimated data. The parties in this filing included the four Electric Distribution Companies ("EDCs") and the four Gas Distribution Companies ("GDCs") (collectively, the "Utilities")¹, Staff of the Board of Public Utilities ("Staff") and the Department of the Public Advocate, Division of the Rate Counsel ("Rate Counsel") (collectively, "the Parties"). No parties intervened in this rate proceeding. Pursuant to the Board's October 21, 2008 Order, the Utilities included their deferred USF-related administrative costs in this compliance filing on the final page of Attachment A. Although these administrative costs were not included in the USF rate calculation within the filing, the Utilities requested that the deferred administrative costs be fully recovered and included in the Utilities'

¹ The four GDCs include PSE&G, Elizabethtown Gas Company ("ETG"), New Jersey Natural Gas Company ("NJNG"), and South Jersey Gas Company ("SJG"). The four EDCs include PSE&G, Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L") and Rockland Electric Company ("RECO").

recovery balances effective upon Board approval. In the June 30, 2009 filing, the Utilities proposed that the statewide USF rates be set to recover approximately \$182.3 million, representing a decrease of \$65.7 million over the existing amount being recovered under the current USF rates. In addition, the Utilities asserted that the calculations of the program supported the recovery of \$76.8 million for the State's Lifeline program, representing no increase over the existing amount being recovered under the current rates.² The requested rates, including SUT, are as follows:

	Electric	
USF	\$0.001751/kWh	\$0.0125/therm
Lifeline	\$0.000713/kWh	\$0.0057/therm
Combined USF/Lifeline	\$0.002464/kWh	\$0.0182/therm

The Utilities note that these calculations are subject to uncertainties due to a number of factors, such as program changes, participation rates, jurisdictional volumes, and the estimated enrollment of additional USF recipients via the Lifeline program. The June 30, 2009 proposed rates are also predicated upon an estimated \$8.8 million electric under-recovery balance and an estimated \$17.8 million gas over-recovery balance as of September 30, 2009.

On August 26, 2009, the Utilities provided the Parties with actual information, and supporting documentation through July 31, 2009. This new information reflected a higher USF budget of approximately \$195.6 million, a gas over-recovery balance of approximately \$14.3 million, and an electric under-recovery balance of approximately \$16.7 million.

The revised requested 2009/2010 USF rates, including SUT and reflective of ten months of actual data and two months of estimated data, are as follows:

	Electric	
USF	\$0.001876/kWh	\$0.0135/therm
Lifeline	\$0.000713/kWh	\$0.0057/therm
Combined USF/Lifeline	\$0.002589/kWh	\$0.0192/therm

These proposed rates would result in an overall revenue decrease of approximately \$52 million representing a decrease of \$0.84 per month for an average residential gas customer utilizing 100 therms per month and a decrease of \$0.08 per month for an average residential electric customer utilizing 650 kWh per month. The combined USF/Lifeline annual bill would be \$43.23 per year for an average residential customer who uses both gas and electricity, a decrease of 20.33 % or \$11.03 from the current level of \$54.26 per year.

² While there is no increase in the proposed total Lifeline budget from last year's budget, there is a negligible increase in the proposed Lifeline rates.

In accordance with N.J.S.A. 48:2-32.4 to 32.6, two public hearings were held in each geographic region served by each of the electric Utilities.³ Members of the public, including members of the USF Working Group, were afforded the opportunity to participate in the public hearings with respect to both the program policies and the rates, as well as submit written comments about these matters. A legal specialist on the Board's Staff presided at each of the public hearings.

The public hearing schedule was as follows:

August 25, 2009 - PSE&G - 3:30 pm and 5:30 pm – New Brunswick

August 26, 2009 – PSE&G – 3:30 pm and 5:30 pm – Hackensack

August 27, 2009 – PSE&G– 3:30 pm and 5:30 pm – Mt. Holly

August 31, 2009 – JCP&L - 3:30 pm and 5:30 pm – Morristown

August 31, 2009 – RECO - 3:30 pm and 5:30 pm – Mahwah

September 1, 2009 – JCP&L – 3:30 pm and 5:30 pm - Freehold

September 14, 2009 – ACE – 3:30 pm and 5:30 pm – Mays Landing

A New Jersey resident submitted written comments which generally opposed the Societal Benefits Charge on her utility bill. Specifically, the commenter pondered “when will the hard working taxpayer stop having to support the ones who thrive on living off of others?”

The Parties agreed to a procedural schedule whereby a discovery/settlement conference was convened on August 6, 2009. In accordance with the procedural schedule, Rate Counsel filed comments on September 3, 2009. Reply comments were filed by the utilities on September 14, 2009.

POSITIONS OF THE PARTIES

Division of Rate Counsel

Rate Counsel does not oppose the proposed USF and Lifeline rates to become effective on October 1, 2009. However, Rate Counsel stated that additional time is needed to review the administrative costs being claimed by the Utilities. The additional time will allow Rate Counsel to conduct discovery and review the materials being provided in response to Rate Counsel's discovery requests. Further, an evidentiary hearing may be required if the parties are not able to resolve the Utilities' claim for administrative costs. Although the Utilities have been deferring these administrative costs since 2002, the Utilities have not provided detailed documentation of these costs in previous USF costs recovery proceedings.

Rate Counsel raised these issues at the discovery conference held on August 6, 2009. The Parties agreed to defer consideration of the Utilities claims for administrative costs. For that

³ Since there is a proposed decrease in the combined gas USF/Lifeline rate, no public hearings were held in the geographic regions served by the gas Utilities. However, the proposed overall decrease in electric USF/Lifeline rate which incorporates an increase in the electric Lifeline charge requires a public hearing.

reason, Rate Counsel does not object to the implementation of the filed USF and Lifeline rates, but respectfully requests that the Board defer consideration of the Utilities' requests to recover their deferred administrative costs to allow time for discovery, settlement discussions, and, if necessary, an evidentiary hearing and briefing concerning the claimed costs.

Electric and Gas Utilities

In their September 14, 2009 filing, the Utilities indicated that they will not be submitting reply comments because Rate Counsel's September 3, 2009 comments indicates that it does not oppose the implementation of the USF/Lifeline rates that the Utilities have proposed. Moreover, the Utilities agree to defer consideration of their deferred USF administrative expenses pending a separate proceeding to consider these costs.

DISCUSSION AND FINDINGS

After review of the compliance filings and the various submissions with reference thereto, the Board **HEREBY APPROVES** the following rates, with detailed calculations in Exhibit A, effective on an interim basis, October 12, 2009, unless Staff notifies the utilities that the appropriate tariff pages are not in compliance with the requirements of this Order:

	USF	Lifeline	Total
Gas/therm - including SUT	\$0.013500	\$0.005700	\$0.019200
Electric/kWh - including SUT	\$0.001876	\$0.000713	\$0.002589

These rates are based on ten months of actual information and two months of estimated data. These represent a more accurate projection of the upcoming USF program year's budget requirements than the rates that the Utilities filed on June 30, 2009, which has seven months of actual and five months of estimated data.

With regard to the Utilities requested recovery of deferred administrative costs, the Board concurs with the Parties position that consideration of this issue requires additional time and analysis. Therefore, the Board deems it appropriate at this time, on its own motion, to open a separate proceeding and conduct a full investigation and review of and hearing on the appropriate recovery of deferred administrative costs. Since the permanent USF program was established in 2003, the USF-related administrative cost recovery has been deferred.

In order to provide a full record and to allow for an inclusive and transparent process, the Board proposes to conduct this proceeding with the input of any and all interested parties. All parties to this compliance filing shall be parties to the proceeding. The Board understands that through this compliance filing, the Parties have established an informal discovery schedule and have begun to exchange documents. Therefore, the Board **HEREBY ORDERS** that any schedule set forth and discovery exchanged to date shall be made part of the administrative cost recovery proceeding as if exchanged therein. Going forward the docket number assigned to the administrative cost recovery proceeding, Docket No. EO09090771, shall be included on all documents and pleadings.

At the conclusion of the administrative cost recovery proceeding, any recovery deemed appropriate shall be included in the next filed compliance proceeding.

Finally, the Board HEREBY ORDERS the Utilities to file the appropriate tariff pages, in conformance with the requirements of this Order, within one (1) day of the date the Order is signed.

CONCLUSION

In summary, the Board HEREBY APPROVES the following

New USF/Lifeline rates will become effective, on an interim basis, on October 12, 2009, unless Staff notifies the utilities that the appropriate tariff pages are not in compliance with the requirements of this Order;

USF rates will remain interim rates subject to audit and refund;

Utilities shall file the appropriate tariff pages within one (1) day of the date the order is signed; and

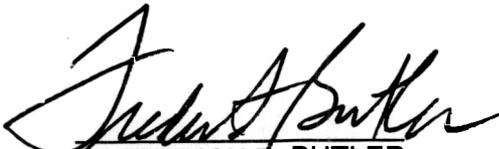
Deferred utility administrative expenses shall be addressed in Docket No. EO09090771

DATED: 10/8/09

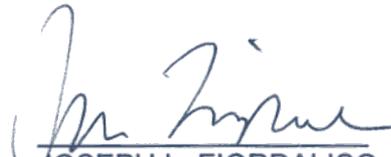
BOARD OF PUBLIC UTILITIES
BY:



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PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
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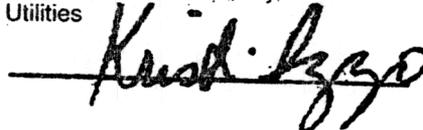
ELIZABETH RANDALL
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



KRISTI IZZO

**2009/2010 Annual Compliance Filing For Changes in the Statewide
Electric and Gas Permanent USF Fund Program Within SBC Rates
Docket Nos. EX00020091 and EO09060506**

USF RATE CALCULATION

	<u>TOTAL</u>	<u>GAS</u>	<u>ELECTRIC</u>
<u>PERMANENT PROGRAM PROJECTIONS FOR 2009/2010</u>			
Administrative Costs - DCA (allocated based on benefits percentage)	\$7,298,602	\$2,760,680	\$4,537,922
Admin. Costs - Utility Postage and Handling	\$168,094	\$120,785	\$47,309
Estimate of Benefits for Program Year	\$172,497,170	\$65,246,664	\$107,250,506
Fresh Start Program Cost Estimates	<u>\$13,268,724</u>	<u>\$6,258,756</u>	<u>\$7,009,968</u>
TOTAL	\$193,232,590	\$74,386,885	\$118,845,705
Estimate of Under/(Over) Recovery at 9/30/09	\$2,396,974	(\$14,274,421)	\$16,671,395
TOTAL PERMANENT PROGRAM PROJECTIONS	<u>\$195,629,564</u>	<u>\$60,112,464</u>	<u>\$135,517,100</u>
ESTIMATES OF BENEFITS PERCENTAGES	100%	<u>37.82%</u>	<u>62.18%</u>
PROJECTED VOLUMES (normalized at 10/01/09)		<u>4,764,193,801</u>	<u>77,283,936,857</u>
PROPOSED PRE-TAX RATE		\$0.0126	\$0.001753
CURRENT PRE-TAX RATE		<u>\$0.0203</u>	<u>\$0.001897</u>
PRE-TAX INCREASE/(DECREASE)		(\$0.0077)	(\$0.000144)
PROPOSED USF RATE INCLUDING TAX (@7%)		<u>\$0.0135</u>	<u>\$0.001875</u>
CURRENT USF RATE INCLUDING TAX (@7%)		<u>\$0.0217</u>	<u>\$0.002030</u>
USF RATE INCREASE/(DECREASE) INCLUDING TAX (@7%)		(\$0.0082)	(\$0.000154)

LIFELINE RATE CALCULATION

	<u>TOTAL</u>	<u>GAS</u>	<u>ELECTRIC</u>
2008 JURISDICTIONAL REVENUE PERCENTAGES	100%	<u>33%</u>	<u>67%</u>
LIFELINE BUDGET	\$76,800,000	\$25,344,000	\$51,456,000
PROJECTED VOLUMES		4,764,193,801	77,283,936,857
PROPOSED PRE-TAX RATE		\$0.0053	\$0.000666
CURRENT PRE-TAX RATE		<u>\$0.0055</u>	<u>\$0.000636</u>
PRE-TAX INCREASE/(DECREASE)		(\$0.0002)	\$0.000030
PROPOSED LIFELINE RATE INCLUDING TAX (@7%)		<u>\$0.0057</u>	<u>\$0.000713</u>
CURRENT LIFELINE RATE INCLUDING TAX (@7%)		<u>\$0.0059</u>	<u>\$0.000681</u>
LIFELINE RATE INCREASE/(DECREASE) INCLUDING TAX (@7%)		(\$0.0002)	\$0.000032

COMBINED USF/LIFELINE RATES

	<u>GAS</u>	<u>ELECTRIC</u>
PROPOSED PRE-TAX USF/LIFELINE RATE	\$0.0179	\$0.002419
CURRENT PRE-TAX USF/LIFELINE RATE	<u>\$0.0258</u>	<u>\$0.002533</u>
PRE-TAX INCREASE/(DECREASE)	(\$0.0079)	(\$0.000114)
PROPOSED USF/LIFELINE RATE INCLUDING TAX (@7%)	<u>\$0.0192</u>	<u>\$0.002589</u>
CURRENT USF/LIFELINE RATE INCLUDING TAX (@7%)	<u>\$0.0276</u>	<u>\$0.002711</u>
USF/LIFELINE RATE INCREASE/(DECREASE) INCLUDING TAX (@7%)	(\$0.0084)	(\$0.000122)

In the Matter of the 2009/2010 Annual Compliance Filings for the Universal Service Fund (USF)
Program Factor within the Societal Benefits Charge (SBC) Rate – Interim USF Rates and
Lifeline Rates - Docket No. EO09060506

SERVICE LIST

Mally Becker, Esq.
PSE&G
80 Park Plaza, T-5
Newark, New Jersey 07101

Deborah M. Franco, Esq.
Cullen and Dykman LLP
Garden City Center
100 Quentin Roosevelt Blvd.
Garden City, New York 11530

Philip J. Passanante, Esq.
Atlantic City Electric
800 King Street, 5th Floor
PO Box 231
Wilmington, Delaware 19899

Michael J. Connolly, Esq.
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North
Suite 1435
Morristown, New Jersey 07960

Tracey Thayer, Esq.
New Jersey Natural Gas Company
1415 Wyckoff Road
PO Box 1464
Wall, New Jersey 07719

John L. Carley, Esq.
Consolidated Edison Co. of NY
Law Department, Room 1815-S
4 Irving Place
New York, New York 10003

Ira Megdal, Esq.
Cozen O'Connor
457 Haddonfield Road, Suite 300
Cherry Hill, New Jersey 08002

Jerry May, Director
Division of Energy
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Dennis Moran, Director
Division of Audits
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Peter Hilerio
Administrative Analyst 1
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Eloisa Flores
Administrative Analyst 1
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Albert Weierman
Administrative Analyst 1
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

Sarah Steindel, Esq.
Department of the Public Advocate
Division of Rate Counsel
31 Clinton Street, 11th Floor
PO Box 46005
Newark, New Jersey 07101

Geoffrey Gersten, DAG
Deputy Attorney General
Division of Law
Department of Law & Public Safety
124 Halsey Street, 5th Floor
Newark, NJ 07102