

BY THE BOARD:

BACKGROUND

On February 3, 1986, the New Jersey Board of Public Utilities (“Board”) established a Customer Bill of Rights (“Bill of Rights”), which set forth, in plain language, protections afforded to residential utility customers under the Board’s regulations.¹ Due to changes in the Board’s regulations and the COVID-19 pandemic, on September 14, 2021, the Board revised the Bill of Rights to reflect the new regulations and to include temporary consumer protections mandated by Governor Phil Murphy through various executive orders (“Revised BOR”).²

The Board later issued a clarifying order to the September 2021 Order that included additional language regarding notice to customers pursuant to legislation signed by Governor Murphy on May 12, 2021.³ The October 6, 2021 clarifying order also required each utility to report to the Board not only compliance with the notice provisions of the law, but also required the utilities to provide the Board with a copy of the Revised BOR that was sent to customers along with any applicable language translations made to the Revised BOR.⁴ In response to the notice requirements of the October 2021 Order, the Board received requests for waivers from various utility companies. Those requests were addressed individually at the Board’s December 15 agenda meeting.⁵ The Board will be specifically addressing herein the waiver request made by Shore Water Company (“Shore”).

SHORE’S REQUEST FOR A WAIVER

Between October 18, 2021 and November 9, 2021, the Board received waiver requests from Mount Olive Villages, Village, Butler, Montague, and Shore requesting changes to the method, means, and/or frequency of the delivery of the notice to customers required by the May 2021 Legislation.⁶ Shore sought a waiver on the grounds that its services about 1,265 unmetered

¹ In re Utility Customer Bill of Rights, BPU Docket No. CO8602155, Order dated February 3, 1986.

² In re the New Jersey Board of Public Utilities’ Utility Customer Bill of Rights, BPU Docket No. AX21091111, Order dated September 14, 2021 (“September 2021 Order”). Those temporary protections expired on December 31, 2021; however, in In re the New Jersey Board of Public Utilities’ Utility Customer Bill of Rights, BPU Docket No. AX21091111, Order dated January 12, 2022, certain protections were extended until March 15, 2022, in accordance with L. 2021, c.317.

³ L. 2021, c.97, https://www.njleg.state.nj.us/Bills/2020/PL21/97_.PDF (“May 2021 Legislation”)

⁴ In re the New Jersey Board of Public Utilities’ Utility Customer Bill of Rights, BPU Docket No. AX21091111, Order dated October 6, 2021 (“October 2021 Order”).

⁵ In re the New Jersey Board of Public Utilities’ Utility Customer Bill of Rights, BPU Docket No. AX21091111, Order dated December 15, 2021 (“December 2021 Order”). The Board updated the revised BOR and addressed the waiver requests submitted. The Board granted waiver requests from Mount Olive Villages Water Company and Mount Olive Villages Sewer Company (collectively referred to as “Mount Olive Villages”) and Village Utility, LLC (“Village”), denied in part and granted in part Butler Electric’s (“Butler”) requests, and granted Montague Water Company and Montague Sewer Company’s (collectively referred to as “Montague”) request.

⁶ Mount Olive Villages and Village do not have a website or customer service center, but continue to send monthly notices to customers. Butler sought to print the Bill of Rights on the back of the customer’s monthly bill. Butler also requested a reduction of the monthly mailing to a quarterly mailing, but the Board denied that request. Montague requested to include an internet link address on its monthly paper bills in lieu of providing a separate Bill of Rights in paper form. Each of the waiver requests that were granted maintained

residents who are billed annually at a flat rate for services from July 1st to June 30th of each year. Shore argued that because its customer base is primarily limited to a seasonal population, the posting of the Revised BOR on its website along with a link to the Board's Customer Bill of Rights webpage would be sufficient notice. Shore also indicated that it would be willing to do a mass mailing of the Revised BOR to its customers if preferred by the Board.

On December 15, 2021, the Board considered the arguments made by Shore for relief and determined, at that time, that Shore's request of merely posting the Revised BOR to its website was too passive of an approach to qualify as notification under the May 2021 Legislation. Additionally, the Board determined that the approach failed to meet the express language of the law requiring notice on a monthly basis. For these reasons, Shore's waiver request was denied.

SHORE'S MOTION FOR RECONSIDERATION

On December 23, 2021, Shore filed a motion for reconsideration requesting the Board revisit its waiver request ("Motion"). In support of its Motion, Shore argued that in denying its request for relief, the Board failed to take notice that it bills some of its customers on a quarterly or annual basis and that a large number of its flat-rate customers do not live in its service territory year-round. According to Shore, the cost to send monthly notices to all of its customers would be approximately \$25,000 or \$20 per customer. Shore argued that the relief sought in its waiver request should have been granted based on its current billing practices and the high cost it would incur if it were required to send notices monthly.

On January 6, 2022, Shore filed a letter relative to its Motion with the Board ("January Letter"). The January Letter reiterated that it only serves 1,251 seasonal residents and bills these customers once a year under a fixed rate, and that residential customers are not metered. In its January Letter, Shore proposed alternative methods of providing notice of the Revised BOR to its customers. Firstly, Shore proposed to include the Revised BOR with its annual bill to be sent out in the first quarter of 2022. Secondly, for residential customers who have an email address on record, Shore proposed to send those customers a monthly email with notice of the Revised BOR.⁷ Lastly, for residential customers who do not have an email address on record, Shore proposed to send to those customers a monthly postcard that contains a website link to the Revised BOR with an option to opt out of receiving future postcards. Shore estimated that the costs for the monthly postcards would be approximately \$1,600 a month, or \$19,200 on an annual basis, and that it would seek to recover these costs in its pending rate case currently in front of the Board.

DISCUSSION AND FINDINGS

The Board has issued several orders under this docket, updating and revising the Bill of Rights as necessary under the present circumstances caused by the COVID-19 pandemic. While the Bill of Rights has changed, the May 2021 Legislation and the Board's directive to all utilities under its jurisdiction to comply with the notice requirements of the law has not. The May 2021 Legislation is clear and unambiguous in its requirement that utilities provide monthly notice to its

a requirement that notice be provided to the customer on a monthly basis, whether in paper or electronic format.

⁷ Shore stated that it currently possesses email addresses for approximately thirty-five percent (35%) of the 1,251 residential customers it services.

customers “in a form and manner determined by the Board of Public Utilities” for a period of 18 months after the termination of EO 103.

Since the issuance of the October 2021 Order, the Board has reviewed filings by utilities seeking either clarification of the law or deviation from the notice requirement established therein. The Board has consistently granted those requests wherein the relief sought was a change in only the form and manner of the notice to customers; and the Board has consistently denied those requests wherein the relief sought was a change to the frequency in which the notices must be provided to customers. In all instances, the Board has relied on the express language of the law that reserves the determination of form and manner of the notice to the Board and requiring the utilities to send notices to customers monthly.

Shore requested a waiver from the monthly notice requirement and offered to post the requisite notice on its website. The Board understood the request to mean that the posting was not in addition to a monthly notice, but would instead be a substitution for the monthly notice. The Board considered Shore’s request and found that this approach, on its own, would be insufficient in meeting all the requirements of the law. To reach full compliance, the utility must send notice to the customer monthly and also post the notice on the company’s website and customer service center, if applicable. As such, the Board denied Shore’s request for relief.

Shore then filed its Motion and renewed its argument that its current billing practices do not align with the requirements of the law, and that because of its size and unique customer base, the cost of complying with the notice requirement would be prohibitive. In revisiting Shore’s waiver request and considering the arguments made in its Motion, the Board noted that Shore did not present any new arguments as to how a single posting of the notice to customers on its website complies with the legislation’s requirement that notice be provided to the customer on a monthly basis. Additionally, the Board noted that while Shore expressed concern over the cost of compliance, it demonstrated in its Motion that it is aware of at least one avenue within which to seek recovery of the costs associated with compliance - its current rate case. Moreover, the Board has provided an additional avenue through its regulatory asset proceeding to address concerns about cost incurred by the utilities as a result of the COVID-19 pandemic. Therefore, based on the reasons stated herein and previously in its December 15 Order, the Board **HEREBY DENIES** Shore’s Motion for Reconsideration of the Board’s December 15, 2021 denial of its request for a waiver of the monthly notice requirement of the May 2021 Legislation.

However, the Board has considered Shore’s proposed alternative methods for providing notice to customers consistent with the Board’s October 2021 Order and the May 2021 Legislation, and **FINDS** that:

1. Shore’s proposal to send the Revised BOR with its annual bill in the first quarter to be permissible provided that Shore also sends out the notice of the Revised BOR monthly. Under this condition, the Board **HEREBY GRANTS** Shore’s request to include the Revised BOR with its annual bill to be sent within the first quarter of 2022;
2. Shore’s proposal to send monthly emails containing the Revised BOR to customers who have an email address on record to be reasonable as the Board has the authority to determine the form and manner in which the monthly notices are sent to customers, and the Board has previously decided that email is an acceptable form of notification. Therefore, the Board **HEREBY GRANTS** this request;

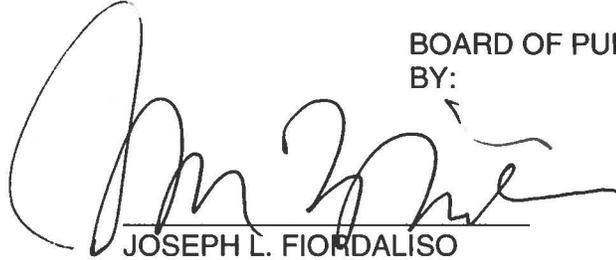
3. Shore's proposal to mail monthly postcards that contain the website link to the Revised BOR to customers who do not have an email address on record to be reasonable as it meets the monthly notice requirement, and the Board has previously decided that a website link on a monthly notice is an acceptable form of notification. Therefore, the Board **HEREBY GRANTS** this request; and
4. Shore's proposal to provide customers with an option to opt-out of receiving monthly notice to be unreasonable because customers cannot opt-out of legislation that requires a public utility to notify customers of their rights on a monthly basis and, therefore, providing an option to opt-out would be impermissible. For this reason, the Board **HEREBY DENIES** this request.

Notwithstanding the foregoing, any requirements set out in the Board's prior order with respect to compliance with the May 2021 Legislation that have not been specifically addressed in this Order shall remain in full force and effect.

This Order shall be effective January 26, 2022.

DATED: January 26, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER
DIANNE SOLOMON
COMMISSIONER
UPENDRA J. CHIVUKULA
COMMISSIONER
ROBERT M. GORDON
COMMISSIONER

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF THE NEW JERSEY BOARD OF PUBLIC UTILITIES' UTILITY
CUSTOMER BILL OF RIGHTS**

DOCKET NO. AX21091111

SERVICE LIST

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Municipal Water Utilities*

*The municipals listed are regulated only in terms of the customers served outside of the municipality's limits and only for service issues, if the rates are equalized. Currently, the NJBPU-regulated municipal water systems all have equalized rates.

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