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## NOTICE

### In the Matter of the New Jersey Board of Public Utilities' Response to the Covid-19 Pandemic

#### Universal Service Fund & Fresh Start Programs

#### REQUEST FOR INFORMATION

#### [Docket No. AO20060471](#)

Staff of the New Jersey Board of Public Utilities (“NJBP” or “Board”) hereby invites all interested parties and members of the public to provide written responses to the Request for Information (“RFI”) contained in this Notice regarding the Straw Proposal concerning proposed changes to the Board’s permanent Universal Service Fund (“USF”) and Fresh Start programs.

#### **BACKGROUND AND PROCEDURAL HISTORY**

On April 30, 2003, the Board established the USF program in Docket No. EX00020091 (“April 2003 Order”) to ensure that low-income electric and natural gas customers have access to more affordable energy. The April 2003 Order stated that the USF would be “an on-going, evolving program, subject to review, and amended as necessary.”<sup>1</sup> The Board ordered that the program be operated on a statewide basis and funded through uniform charges on customers' electric and natural gas bills (“USF rate”) through the Societal Benefits Charge collected pursuant to N.J.S.A. 48:3-60(a).

On March 4, 2004, the Board established the Fresh Start program in Docket No. EX00020091 (“March 2004 Order”) to provide a path to arrearage forgiveness for USF enrollees.<sup>2</sup>

In order to respond to the high level of utility arrearages caused by the economic situation customers faced during the COVID-19 pandemic, the Board took [action](#) in June 2021 (“June 2021 Order”) to temporarily expand the USF and Fresh Start programs to help customers pay down their arrearages and reestablish payment compliance with their utility companies.<sup>3</sup> These expansions are in effect for a two (2) year period from October 1, 2021 through September 30, 2023.

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<sup>1</sup> 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).

<sup>2</sup> In re the Matter of the Establishment of an Arrearage Payment Program for the Universal Service Fund, BPU Docket No. EX00020091 (March 4, 2004); and In re the Matter of 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 (February 1, 2005).

<sup>3</sup> In re the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic, Docket No. AO20060471 (June 24, 2021).

In the June 2021 Order, the Board:

1. Raised the income eligibility limit for USF from 185 percent of the Federal Poverty Guidelines (“FPG”)<sup>4</sup> to 400 percent FPG;<sup>5</sup>
2. Increased the USF monthly benefit cap from \$150 per month to \$180 per month;
3. Increased the USF “affordability threshold.” USF covers energy costs over an “affordability threshold” up to the benefit cap:
  - a. The USF affordability threshold was adjusted from three percent (3%) of annual income for gas and non-heating electric costs to two percent (2%) of income.
  - b. The USF affordability threshold for electric heat was adjusted from six percent (6%) of annual income to four percent (4%) of income.
4. Created a minimum \$5.00 USF monthly benefit for any applicant who met the income requirement, but did not incur energy costs over the affordability threshold. Prior to this change, if customers did not spend more than the specified percentage of annual income on gas or electric costs, the household was deemed ineligible for USF;
5. Expanded enrollment into the Fresh Start program so that any USF enrollee with \$60 or more in overdue balances would be automatically enrolled into Fresh Start. Prior to this expansion, only first time USF enrollees with \$60 or more in overdue balances were eligible for Fresh Start forgiveness; and
6. Removed the \$100 cap on monthly Fresh Start forgiveness so that 1/12 of the overdue balance is forgiven each month the customer pays their monthly charges in full. Prior to this expansion, when a customer paid their current monthly charge in full, 1/12 of the overdue balance was forgiven up to a cap of \$100 per month, or \$300 per quarter, and any remaining balance forgiven at the conclusion of the 12-month program, or at the end of the three-month grace period.
7. 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 funding. Prior to this directive, the utilities applied federal funds to current balances.

These temporary changes will expire on September 30, 2023.

On January 23, 2023 Board Staff issued a [Public Notice](#) (“Notice”) requesting comment regarding the future of the Board’s Universal Service Fund (“USF”) and Fresh Start programs. In accordance with the Notice, a [Stakeholder Meeting](#) took place on February 15, 2023, during which Board Staff provided a [presentation](#) to the public, which laid out the program parameters listed in the Notice. Board Staff described the programs in detail prior to the pandemic; the program expansions put into place by the Board in response to the pandemic; and the enrollment and cost impacts during these time periods. The

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<sup>4</sup> In the June 2021 Order, “Federal Poverty Level” (“FPL”) was used instead of FPG. The FPG are issued each year in the Federal Register by the Department of Health and Human Services (HHS). According to HSS, the guidelines are sometimes referred to as “FPL” but its use should be avoided, especially in situations (e.g., legislative or administrative) where precision is important. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>

<sup>5</sup> For a family of four, 185 percent of FPG is currently \$51,338 and 400 percent FPG is \$111,000

Notice gave the public an opportunity to provide comment regarding if and how these programs should be modified when the USF and Fresh Start program expansion period ends on September 30, 2023.

Members of the public commented at the stakeholder meeting and written comments were also received by the deadline of March 3, 2023. Board Staff reviewed the comments received and is now providing the public with the following Straw Proposal and requests further public input regarding the outlined permanent changes to the USF and Fresh Start programs.

**A. USF**

- 1) Align the USF income ceiling with the federal Low Income Home Energy Assistance Program (“LIHEAP”) beginning October 1, 2023.<sup>6</sup>
  - The USF program is linked to and subsidized by the federal LIHEAP program to take advantage of economies of scale and provide one stop shopping for applicants seeking utility assistance. Aligning the two programs’ income limits will reduce the burden on ratepayers.
  - Using the same income ceiling for both programs will provide a consistent income eligibility criterion for applicants so the same Low-and Moderate Income (“LMI”) utility customers qualify for both federal and state programs’ benefits.
  - While the USF income ceiling was set at 185 percent (185%) (“FPG) before the Covid-19 Pandemic, using the LIHEAP income ceiling at its current level will enable more households still recovering from the effects of the pandemic and inflation to access USF monthly assistance and Fresh Start forgiveness.

Sample Income Limits:

Household Size	1	2	3	4	5
100% Federal Poverty Level (2022)	\$13,590	\$18,310	\$23,030	\$27,750	\$32,470
<b>185% FPL (Pre-pandemic USF Income Limit)</b>					
Annual Income Limit	\$25,142	\$33,874	\$42,606	\$51,338	\$60,070
Monthly Income Limit	\$2,095	\$2,823	\$3,550	\$4,278	\$5,006
<b>200% FPL *</b>					
Annual Income Limit	\$27,180	\$36,620	\$46,060	\$55,500	\$64,940
Monthly Income Limit	\$2,265	\$3,052	\$3,838	\$4,625	\$5,412
<b>LIHEAP (60% State Median Income)</b>					
Annual Income Limit	\$41,569	\$54,360	\$67,151	\$79,942	\$92,732
Monthly Income Limit	\$3,464	\$4,530	\$5,596	\$6,662	\$7,728
<b>400% FPL (Current USF Income Limit)</b>					
Annual Income Limit	\$54,360	\$73,240	\$92,120	\$111,000	\$129,880
Monthly Income Limit	\$4,530	\$6,103	\$7,677	\$9,250	\$10,823

<sup>6</sup> The New Jersey LIHEAP income ceiling is currently set at its income cap of 60 percent of the State Median Income. For a family of four, the New Jersey LIHEAP income ceiling is currently \$79,942.

- 2) Maintain the USF affordability threshold at two percent (2%) of annual income for gas and non-heating electric costs, and at four percent (4%) of annual income for electric heating costs. USF covers any electric and gas costs over the affordability threshold up to the benefit cap.
  - *American Council for an Energy Efficient Economy* reports<sup>7</sup> that while median energy burden is 3.4 percent (3.4%) of household income in the Mid-Atlantic Region (New Jersey, New York and Pennsylvania), median energy burden for households at or below 200 percent (200%) FPG is as high as 9.4 percent (9.4%).
  - Many LMI customers in New Jersey have invested in energy efficiency or Community Solar, which lowers their energy burden and carbon footprint, but they are still reliant on some assistance to keep their bills affordable.
- 3) Maintain the USF monthly benefit cap at \$180 per month for gas and electric combined.
  - This 20 percent (20%) benefit cap increase in October 2021 from \$150 per month to \$180 per month was the first benefit increase to the USF program since 2003.
  - Average annual residential electric prices in New Jersey are \$1,420.<sup>8</sup>
  - Average annual residential gas prices in New Jersey are \$1,413.<sup>9</sup>
  - Maintaining the increase in monthly benefits will help customers stay current on their monthly bills and earn Fresh Start arrearage forgiveness.
- 4) Maintain the minimum \$5.00 USF monthly benefit so that those income eligible for the program but with energy costs not exceeding the affordability threshold continue to access monthly benefits and Fresh Start. Prior to October 1, 2021 these customers were denied USF.
  - LMI customers often conserve their energy and invest in energy efficiency measures like the Board's Comfort Partner's program or the federal Weatherization Assistance Program to keep utility bills more affordable, however income eligible households seeking assistance should not be denied.
  - USF is a protected category under the Board's Winter Termination Program ("WTP").<sup>10</sup> Therefore customers receiving USF on both gas and electric accounts will be automatically protected from service disruptions on both accounts during the winter months.

## **B. Fresh Start**

- 1) Enrollment:

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<sup>7</sup> <https://www.aceee.org/sites/default/files/pdfs/u2006.pdf>

<sup>8</sup> Based upon annual usage of 7,800 kilowatt hours for rates effective in March 2023.

<sup>9</sup> Based upon annual usage of 1,000 therms for rates effective in March 2023.

<sup>10</sup> The Winter Termination Program protects specific categories of customers from disconnection during the winter months of November 15<sup>th</sup> – March 15<sup>th</sup>.

The gas and electric utility companies which administer the Fresh Start program with oversight by the Board, shall enroll any USF participant with \$60 or more in arrearages into the Fresh Start program regardless of the customer's past participation in the USF or Fresh Start program at the time of the customer's enrollment or re-enrollment in USF<sup>11</sup> from October 1, 2023 through September 30, 2024. Prior to October 1, 2021, only first time USF enrollees with \$60 or more in overdue balances were eligible for Fresh Start enrollment.

Starting October 1, 2024 USF customers will be able to participate in Fresh Start once in a five (5) year period. Therefore, beginning October 1, 2024 the utility companies, will screen USF enrollees upon entry into the USF program to determine if the account has received Fresh Start during the prior five (5) years. If the account: 1) has not received Fresh Start during the prior five years; and 2) has an overdue balance of \$60 or more, the utility company will automatically enroll the customer into the Fresh Start program.

- This Fresh Start enrollment policy will give customers one final opportunity to earn forgiveness on any remaining Covid-related arrearages.<sup>12</sup>
  - Providing Fresh Start once every five years will allow customers who fall on hard times an opportunity to earn forgiveness on their arrearages, reestablish payment compliance with their utility companies and maintain service.
- 2) Forgiveness: The \$100 cap on monthly Fresh Start forgiveness will be permanently removed so that each month a customer pays their current bill in full, 1/12 of their overdue balance will be forgiven by the utility company. For customers with quarterly Fresh Start forgiveness, the \$300 cap on quarterly forgiveness will be permanently removed so that up to ¼ of the overdue balance will be forgiven each quarter for the months the customer paid their bill in full.
- Seeing bill forgiveness without the cap will incentivize high arrearage customers to stay current on their bill and continue to earn forgiveness.
- 3) Utility companies will cease application of federal funds to Fresh Start balances before current balances beginning October 1, 2023.
- This practice was a temporary practice during the Covid-19 expansion period to enable the utilities to apply Covid relief funds to customer's Fresh Start balances in order to maximize federal funds and reduce the burden on ratepayers. Going forward the utility companies will apply federal LIHEAP benefits to current balances, which will help customers comply with the requirement to pay current monthly charges in order to earn forgiveness on Fresh Start balances. The utilities will recognize any LIHEAP benefit received as a "payment" toward the customer's current monthly bill in regards to earning forgiveness of Fresh Start balances. This will also help provide shut off protections to vulnerable customers outside the WTP winter months.

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<sup>11</sup> When the utility company receives a USF benefit record from the State.

<sup>12</sup> In February 2023, residential Gas and Electric arrearages over 30 days old were [reported](#) by the utility companies at approximately \$461 million, compared to approximately \$685 million in February 2022.

## **COMMENTS**

All public comments should be filed under Docket No. **AO20060471**.

**The deadline for comments on this matter is 5:00 p.m. EST on Wednesday, May 24, 2023.**

Comments may be submitted directly to the specific docket listed above using the “Post Comments” button on the Board’s [Public Document Search](#). Comments are considered public documents for purposes of the State’s Open Public Records Act. Only public documents should be submitted using the “Post Comments” button on the Board’s Public Document Search tool. Any confidential information should be submitted in accordance with the procedures set forth in N.J.A.C. 14:1-12.3. In addition to hard copy submissions, confidential information may also be filed electronically via the Board’s e-filing system or by email to the Secretary of the Board. Please include “Confidential Information” in the subject line of any email. Instructions for confidential e-filing are found on the Board’s webpage <https://www.nj.gov/bpu/agenda/efiling/>.

E-mailed and/or written comments may also be submitted to:

**Sherri Golden**

Secretary of the Board  
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Please direct all questions on this matter to Maureen Clerc at [maureen.clerc@bpu.nj.gov](mailto:maureen.clerc@bpu.nj.gov) with the subject “In the Matter of the New Jersey Board of Public Utilities’ Response to the Covid-19 Pandemic, USF and Fresh Start, Docket No. AO20060471.”

Board Staff looks forward to receiving and reviewing your responses.

*Sherri Golden*

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Sherri Golden  
Board Secretary

Dated: May 3, 2023