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
Acting Director

September 2, 2021

VIA ELECTRONIC MAIL
Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3th Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: I/M/O the 2021/2022 Annual Compliance Filings For Changes in the Statewide Electric and Gas Permanent Universal Service Fund ("USF") and Lifeline Rates within the Societal Benefits Charge Rate BPU Docket No. ER21060939

Dear Secretary Camacho-Welch:

Please accept for filing the comments of the Division of Rate Counsel ("Rate Counsel") regarding the compliance filings submitted in this matter by the New Jersey electric and gas utilities. Consistent with the March 19, 2020 Order of the New Jersey Board of Public Utilities ("Board") in I/M/O the New Jersey Board of Public Utilities' Response to the COVID-19 Pandemic for a Temporary Waiver of Requirements for Certain Non-Essential Obligations, BPU Docket No. EO20030254, copies of this comment letter are being filed with the Secretary of the Board and provided electronically to each person on the service list by electronic mail only. No paper copies will follow. **Please acknowledge receipt of this comment letter.** Thank you for your consideration and attention in this matter.

BACKGROUND

The Electric Discount and Energy Competition Act of 1999 ("EDECA") provided for the establishment of a non-lapsing fund, known as the "Universal Service Fund" ("USF"), to make funds available to assist qualifying low-income utility customers in paying their energy bills. The Board's June 22, 2005 Order in Docket No. EX00020091 directed each utility to submit a compliance filing by July 1 of each year. On or about June 25, 2021, the State's seven electric and gas distribution utilities (collectively "Utilities") filed their 2021/2022 USF/Lifeline Annual Compliance Filings. On June 25, 2021, Public Service Electric and Gas Company submitted the rate calculations on behalf of the Utilities. Within these filings, the State's Utilities collectively seek Board approval for USF rates designed to recover $215.5 million on a statewide basis (up from $125.6 million last year), including $7,822,058 for the anticipated Department of Community Affairs ("DCA") program administrator budget (up from $6,620,000 last year) as well as an additional $102,961,041 for additional USF and Fresh Start estimated costs for anticipated program expansion. Of the total $215.5 million that is estimated to be collected under the revised USF rate, approximately $159.1 million is projected to be recovered from the electric utilities and approximately $56.4 million is projected to be recovered from the gas utilities. The proposed USF rates represent a $0.0074 per therm after-tax increase for the gas utilities and a $0.000975 per kWh after-tax increase for the electric utilities when compared with USF rates that are currently in effect.

In addition, the Annual Compliance Filings seek Board approval for the Utilities to collect $74.6 million, again on a statewide basis, for the State's Lifeline program. This is the same amount that the Utilities have requested for the last several years. Of this total, approximately $50.7 million is projected to be recovered from the State's electric utilities and

$23.9 million is projected to be recovered from the State's gas utilities. The proposed Lifeline rates represent no change for the gas utilities and a very small increase for the electric utilities when compared with rates that are currently in effect.

The USF rate and the Lifeline rate are both components of the Utilities' Societal Benefits Charge ("SBC"). The Utilities request an October 1, 2021 effective date for the revised USF and Lifeline rates.

The currently effective USF and Lifeline rates were established by the Board's September 23, 2020 Order in the Utilities' 2020/2021 USF/Lifeline Annual Compliance Filings, Docket No. ER20060392. Those rates, including the 6.625% Sales and Use Tax, are as follows:

	Electric	**Gas**
USF	$0.001493/kWh	$0.0059/therm
Lifeline	$0.000759/kWh	$0.0057/therm
Combined USF/Lifeline	$0.002252/kWh	$0.0116/therm

In their 2021/2022 Annual Compliance filings, the Utilities proposed the following USF and Lifeline rates (including the 6.625% Sales and Use Tax):

	Electric	**Gas**
USF	$0.002468/kWh	$0.0133/therm
Lifeline	$0.000787/kWh	$0.0057/therm
Combined USF/Lifeline	$0.003255/kWh	$0.0190/therm

The above proposed rates represent significant increases in the USF rates for both the gas and the electric utilities, a slight increase in the Lifeline rate for the electric utilities, and no change in the Lifeline rate for the gas utilities. The increases in the USF rates reflect the Board's expansion of the USF and Fresh Start programs in its July 24, 2021 Order in I/M/O New Jersey

Board of Public Utilities' Response to the COVID-19 Pandemic, BPU Docket No. AO20060471. The USF rates shown above are designed to recover $215.5 million on a statewide basis. The Lifeline rates are designed to recover $74.6 million for the Lifeline low-income program. These calculations were contained in the Utilities' June 2021 filings and were based on actual results for the period October 2020 through April 2021 and estimates for the period May 2021 through September 2021.

In response to a Board Staff Discovery request, PSE&G updated its original USF/Lifeline calculations by replacing estimated data for the months May and June 2021 with actual cost and revenue data for those two months. These updates had no impact on the Lifeline rates proposed for the gas and electric utilities. The updated gas USF rate, however, is 2.25 percent higher than the originally proposed rate. The updated electric USF rate is 3.5 percent higher than the originally proposed rate. The updates were not reflected in the Utilities' notices of the public hearings held in these matters, and the Utilities have not sought to recover the updated rates.

The Utilities' June 2021 filings also seek Board review and approval for recovery from the USF Trust Fund of certain incremental administrative costs incurred by the utilities under the USF program, as provided for in the Board's June 21, 2010 Order in Docket No. EO09090771. Only two utilities (South Jersey Gas and Rockland Electric) are currently seeking recovery of actual and projected administrative costs. South Jersey Gas seeks recovery through the USF of $2,451 for administrative expenses incurred between July 2020 and September 2021. Rockland seeks recovery of $2,925 for administrative expenses incurred during the same period of time.

Both utilities claim that their administrative expenses were in the form of printing and mailing costs for letters sent to USF and Fresh Start Initiative participants.[1]

Lastly, the Utilities request in this proceeding that the 2020/2021 current USF and Lifeline interim rates, approved in the September 2020 USF Order, also be made final.

RATE COUNSEL'S COMMENTS

The Division of Rate Counsel has carefully reviewed the Utilities' June 2021 USF and Lifeline Annual Compliance Filings. The Board Staff also requested additional information from the Utilities concerning the Utilities' filings. Rate Counsel has carefully reviewed the Utilities' responses thereto.

Rate Counsel examined (1) the Utilities' calculation of their under/over recovery position at October 1, 2020; (2) support provided for the administrative costs (both utility specific and DCA); (3) support provided for the estimated benefits for the 2021/2022 program year; and (4) support provided for the projected sales volumes for the 2021/2022 program year.

As of October 1, 2020, the gas utilities had a combined under-recovered USF balance of approximately $1.8 million. The gas utilities project that by September 30, 2021, the USF balance will be over-recovered by approximately $3.2 million.

For the electric utilities, the USF balance on October 1, 2020 was over-recovered by approximately $0.9 million. By the end of September 2021, the USF balance is projected to be under-recovered by $6.2 million.

The level and type of utility-incurred administrative costs, $5,376 in total, appears reasonable. As stated previously, most of the administrative costs incurred by the utilities are for

[1] See Utilities response to S-USF-0004, Attachment.

postage associated with mailing USF-related letters to ratepayers. The Board, in the past, has approved these types of costs in previous Annual Compliance Filings. Rate Counsel has no objection to their recovery in this proceeding.

As for the DCA administrative costs included in the Annual Compliance Filings, the amount, i.e., $7,822,058 is $1.2 million more than was budgeted by DCA last year. However, Rate Counsel takes no position on the reasonableness of that budget amount.

The most significant change in this year's Annual Compliance Filings is the additional approximately $103 million included this year to reflect the Board's expansion of the USF and Fresh Start Programs. This amount was estimated using the Utilities' actual net arrearages as of April 2021, net of New Jersey's allocation of LIHEP Supplemental Funds under the American Rescue Plan Act of 2021, P.L. 117-2 (Mar. 11, 2021). Based on input from the Board's Staff, the Utilities have estimated that approximately ten percent of New Jersey's $173 supplemental LIHEAP allocation, or approximately $17.3 million, will be used for administrative costs, leaving approximately $155.7 million available to offset customer arrearages. The Utilities have estimated Fresh Start benefits based at 25 percent of their total arrearages net of the $155.7 million. The Utilities also assume that 25 percent of customers with arrearages either are or will be enrolled in the USF program and will receive the minimum $60 benefit.[2]

These estimates are essentially uncharted territory for the Utilities, for Rate Counsel, and for the Board. That is, there is no way for anyone to accurately verify, beforehand, the reasonableness of the various estimates that go into the $103 million amount. Therefore, Rate Counsel takes no position on the reasonableness of the amount estimated by the Utilities for USF and Fresh Start expansion costs. These amounts and related expenditures, however, will

[2] See Utilities' response to S-USF-002 and Attachment.

continue to be tracked on a dollar-for-dollar basis and any over- or under-recovery will be recognized in the Utilities' next Annual Compliance Filing.

Rate Counsel does note, however, that the Board may wish to consider increasing the amount of LIHEAP funding the Utilities have reflected as an offset to their estimated costs of the Fresh Start program. Based on the calculations described above, only 25 percent of the LIHEAP funding available to offset arrearages would be used to offset the costs of the Fresh Start program. Essentially, the Utilities have assumed that the estimated 75 percent of customers with arrearages that do not enroll in the Fresh Start program will receive LIHEAP funding at the same rate as customers who do enroll in Fresh Start. The Board may wish to evaluate whether this is a reasonable assumption. In addition, under the rental and utility assistance legislation that was signed into law on August 4, 2021, $750 million in federal COVID relief funds have been appropriated for an Eviction Prevention Program, and out of these funds the Department of Community Affairs has been authorized to use $250 million for utility assistance. S-3621 First Reprint, Sec. 7 (to be codified as L. 2021. c. 188, Aug 4, 2021).[3] The Board may wish to evaluate whether some of this funding should be offset against the Utilities' estimated costs of the expanded USF and Fresh Start programs.

Rate Counsel did not identify any other discrepancies in the Utilities' 2021/2022 Annual Compliance Filings. However, actual USF and Lifeline costs and recoveries are likely to not precisely track the utilities' projections as reflected in the Compliance Filing. Any over or under-collections in USF that may result from the 2021/2022 program year will be reconciled and are subject to true-up in the next Annual Compliance Filings due in June 2022.

[3] The text of the legislation is available at: https://www.njleg.state.nj.us/2020/Bills/S4000/3691_R1.PDF

CONCLUSION

For the foregoing reasons, Rate Counsel (1) does not object to the utilities' request for recovery of their actual administrative costs incurred associated with the USF program (given that actual expenditures will replace the utilities' forecasts for the months of May through September 2021 in the reconciliation to be reflected in the utilities' 2022/2023 Annual Compliance Filing); (2) takes no position on the reasonableness of the DCA's proposed budget for the administration of the USF program; and (3) recommends that the Board evaluate whether the USF rates to be set in these proceedings should reflect the offset of higher levels of the federal supplemental LIHEAP funding and some of the COVID relief funding referenced above.

Respectfully submitted,

BRIAN O. LIPMAN, ESQ.
ACTING DIRECTOR, DIVISION OF RATE COUNSEL

By: *<u>/s/Sarah H. Steindel</u>*
Sarah H. Steindel, Esq.
Assistant Deputy Rate Counsel

cc: Service List