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April 24, 2008

The Honorable Barbara Buono and Members of the Senate Budget & Appropriations Committee
c/o David J. Rosen, Legislative Budget and Finance Officer
State House Annex, P. O. Box 068
Trenton, NJ 08625-0068

Dear Chairwoman Buono and Members of the Committee:

I write in response to your correspondence of April 16, 2008 seeking a written response to questions posed by Senators O'Toole and Turner during the Department of Treasury's budget hearing on April 14, 2008. Set forth below are the responses of the New Jersey Board of Public Utilities (BPU or Board).

Question Presented by Senator Kevin J. O'Toole: Please forward to the committee copies of all past and future invoices submitted by law firms for the legal representation of the Board of Public Utilities and its officials who are named as defendants in the pending whistleblower lawsuit.

Response of the Board of Public Utilities: The litigation referenced above, Potena v. New Jersey Board of Public Utilities, et al., is being managed by the Department of Law & Public Safety. The Department retained outside counsel to represent the defendants in this litigation, and is overseeing the outside counsel. As such, the Department of Law & Public Safety would be the best source of information regarding fees for this lawsuit.

Question Presented by Senator Shirley K. Turner: Please provide a timeline for the making of decisions by the Board of Public Utilities on proposed changes to the Universal Service Fund and "Fresh Start" energy assistance programs.

Response of the Board of Public Utilities:

Background

The Universal Service Fund (USF) program is an energy assistance program that helps make energy bills more affordable for the low-income customers of New Jersey's regulated natural gas and electric companies. In 2003, the Board established the permanent USF program at a funding level of $30 million. For the 2007-2008 program years, the Board approved budget for USF is $174.4 million, representing an increase of 1,000 percent since the introduction of the interim program in 2002.

USF provides credits on low-income customers' electric and/or natural gas bills, in order to lower customers' energy costs to a target amount of three percent of income each for gas and electric service, or six percent of income if heating with electricity. An applicant must meet two requirements in order to confirm eligibility:

1. The applicant's income level must be at or below 175 percent of the Federal Poverty Level (see chart on page 6); and
2. The applicant's energy burden must be at least three percent of the total gross household income for electric or at least three percent for gas. Additionally, if they heat with electric, their electric costs must be more than six percent of their income. This percentage of income requirement is called the affordability threshold.

USF benefits cover the energy costs beyond the affordability threshold up to a cap of $1,800 per customer for the benefit year. This way, USF provides the highest benefits to those with the greatest need. Once the benefit is determined, it is divided into 12 equal payments for each month of the benefit year. USF beneficiaries must apply for USF annually. Additionally, USF has an arrearage forgiveness component called Fresh Start. The goal of Fresh Start is to help USF participants with significant bill arrearages pull themselves out of energy debt and establish consistent payment compliance with their utility companies.

The Board—as the agency with fiscal oversight over USF—has worked with the program administrator, the Department of Community Affairs (DCA), to make USF operate more efficiently. One of the reasons USF has been successful is because it is linked with the federal Low Income Home Energy Assistance Program (LIHEAP). Linkage with LIHEAP has facilitated easier enrollment and kept administrative costs down due to shared program infrastructure. A specific program and database, which was over a year and a half in the making at a cost to ratepayers of $500,000, was created by the Office of Information Technology to assist in the linkage of USF and LIHEAP and is a central tool in administering a program of such complexity. Because the USF benefit is based upon a percentage of income, it varies with each household. The result is the highest benefits going to those most in need, but this process adds significant administrative complexities when compared to a flat rate benefit program such as Lifeline.

When calculating a USF benefit, OIT performs a calculation based upon the information provided on the USF/LIHEAP application and the energy burden supplied by the utilities, taking into account LIHEAP and Lifeline energy grants. Lifeline is an energy assistance program primarily for seniors that is administered by the Department of Health and Senior Services (DHSS) and funded by utility ratepayer money.

Recent Programmatic Action 2006-Present

Fresh Start

USF is a continually evolving program, and the Board's staff and the other state agencies involved are regularly suggesting changes to improve the program. An evaluation of the USF program was conducted in 2006 by an outside consulting group named APPRISE. Shortly thereafter, the BPU published a number of straw recommendations concerning program changes based upon the findings of the APPRISE report. As the USF program continues to mature, some of these changes have been implemented and others are no longer under consideration.

Fresh Start became a component of USF in 2004. Its projected cost of $11 million for the current program year is a part of the overall program cost, projected at $174.4 million for the current program year.

Staff has examined the data related to Fresh Start to determine if the program is meeting the intended goal of changing payment habits. We have been working with the utilities to collect program data and payment statistics for those in the Fresh Start program to examine their payment habits a year and two years after completion of Fresh Start. After an initial staff analysis is done, a subset of the USF working group will be convened to review the results of the analysis and determine if the program should or could be revised in some manner, remain the same or be eliminated. This process will be initiated as staff resources permit. At present, the screening for senior citizens and the disabled has been staff's top priority. However, we anticipate staff being able to begin a more thorough examination of this issue in 2009 at the earliest and no later than 2010.

Administrative Enhancements

The Board has instituted some changes to the USF program in order to make it more responsive to the people it serves. In October 2007, the Board approved a recertification process in order to make the benefit renewal process easier for benefit recipients, reduce administrative costs and increase program efficiency. Additionally, DCA procured a state-of-the-art phone system for the USF Hotline. This new phone system—included in the USF budget and therefore paid by ratepayers—has enabled the call center to provide customer service in both English and Spanish. The new phone system also includes a reporting capability, which will help DCA continue to enhance services and productivity.

One-Stop Shopping

One area where there has been significant progress in the USF program is "one-stop shopping." One-stop shopping was seen as a long-term goal of the USF program when the permanent program was established in 2003. The Board hopes to soon achieve its implementation. The Board conducted a public hearing in December 2007 and sought comment on the best methods to more easily enroll individuals into USF from other assistance programs, such as Lifeline. Largely as a result of the information received through the public comment process, the Board was persuaded to pursue a more streamlined process for USF enrollment for those participating in the Lifeline program. Staff has since been directed to determine how best to accomplish this goal. Staff has worked closely with the Office of Information Technology (which administers the USF database), and DHSS has suggested a proposed enrollment process to the Board for those in the Lifeline program. The Board is now seeking public comments on this process (the notice is attached) and will review the comments. Also, the matter will be included on the Board's May 8, 2008 agenda.

Because the screening of Lifeline recipients will result in different enrollment criteria for this select group, the Board must change its existing policy concerning eligibility. Also, significant programming changes need to be made to the USF database in order to accurately determine Lifeline participants' eligibility for USF. It is anticipated that the screening process will be operational as the new heating season begins in the late fall of 2008. The end result will be a streamlined process for determining USF eligibility for income-eligible seniors and disabled individuals in the Lifeline program.

While this new process will result in easier enrollment for senior citizens and the disabled, the Board does have some reservations about establishing a different enrollment process based upon a partial self-certification. The information collected from the PAAD/Lifeline form will continue to be gathered and periodically checked against the State income tax database, but total household size and income (as opposed to the PAAD/Lifeline maximum household size of two) will be provided based upon a self-certification. Testimony was provided to the Board indicating few changes in household income from year-to-year for low-income seniors, and the staffs at PAAD and the Social Security Administration appear to share this view. Board staff will continue to explore all opportunities available to ensure USF benefits are provided to those who are eligible while, at the same time, streamlining enrollment for seniors and the disabled who require additional assistance in obtaining the appropriate USF benefits. Additionally, the Board feels it is appropriate to screen into USF those seniors and disabled persons who are on Lifeline and Medicare Part D Low Income Subsidy. This is because the federal government conducted a rigorous enrollment process for the latter program, and a sampling of applicants is regularly checked against the Internal Revenue Service and Social Security Administration databases for continuing income eligibility.

Program Audit

Another area of progress is in regard to the auditing of the USF program. In the last quarter of 2006, the Board directed Staff to contact the Office of the State Auditor, which is housed within the Office of Legislative Services, and request a close-out audit of all the administration expenses of the USF program while the Department of Human Services (DHS) was the program administrator. In a letter dated January 5, 2007, the Office indicated it did not have the resources to perform such an audit. Staff then worked with the Department of Treasury to procure the services of a term auditor and recently received bids for this service. DHS was the USF program administrator during SFY 2004, 2005, 2006 and first quarter of SFY 2007 and it is anticipated the audit will be finalized before the end of the year.

Changes and developments to the USF program are ongoing. As high priority development needs are addressed, other program modifications are prioritized as limited resources allow. BPU staff is available to discuss the USF program in more detail and is available to provide more information on request.

Please do not hesitate to contact me with any additional questions or concerns.

Sincerely,

Jeanne M. Fox

Jeanne M. Fox
President

cc: R. David Rousseau, *Treasury*
Charlene Holzbaur, *Office of Management and Budget*
Patrick O'Connor, *Treasury*
George LeBlanc, *Senate Democratic Office*
Rosemary Pramuk, *Senate Republican Office*
Thomas Koenig, *Office of Legislative Services*

ATTACHMENT

Universal Service Fund Income Requirement:
175 percent Federal Poverty Level (FPL) and below for total household income

MAXIMUM MONTHLY GROSS INCOME ELIGIBILITY LEVELS – FFY 2008

Household Size	Monthly Gross Income
1	$ 1,489
2	$ 1,997
3	$ 2,504
4	$ 3,012
5	$ 3,519
6	$ 4,027
7	$ 4,534
8	$ 5,042
9	$ 5,549
10	$ 6,057
11	$ 6,564
12	$ 6,770

Note: To determine eligibility for household sizes greater than 12, add $135 for each additional member.