Agenda Date: 03/20/03
Agenda Item: 2C

State of New Jersey
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

IN THE MATTER OF THE ESTABLISHMENT OF A UNIVERSAL SERVICE FUND PURSUANT TO SECTION 12 OF THE ELECTRIC DISCOUNT AND ENERGY COMPETITION ACT OF 1999 ORDER	))))	ENERGY UNIVERSAL SERVICE FUND

DOCKET NO. EX00020091

(SERVICE LIST ATTACHED)

BY THE BOARD:

The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (EDECA or the Act), was signed into law on February 9, 1999. Among other things, the Act provides:

> There is established in the Board of Public Utilities a non-lapsing fund to be known as the "Universal Service Fund." The Board shall determine: the level of funding and the appropriate administration of the fund; the purposes and programs to be funded with monies from the fund; which social programs shall be provided by an electric public utility as part of the provision of its regulated services which provide a public benefit; whether the funds appropriated to fund the "Lifeline Credit Program" established pursuant to P.L. 1979, c. 197 (C.48:2-29-15 et seq.), the "Tenants' Lifeline Assistance Program" established pursuant to P.L.1981, c.210(C.48:2-29.31 et seq.), the funds received pursuant to the Low Income Home Energy Assistance Program established pursuant to 42 U.S.C.s. 8621 et seq. , and funds collected by electric and natural gas utilities, as authorized by the Board, to off-set uncollectible electricity and natural gas bills should be deposited in the fund; and whether new charges should be imposed to fund new or expanded programs.

Background

On November 21, 2001, the Board ordered an interim Universal Service Fund (USF) be established for NUI Elizabethtown Gas Company (E'town), New Jersey Natural Gas Company (NJNG), Public Service Electric and Gas Company (PSE&G), South Jersey Gas Company (SJG), Conectiv Power Delivery (Conectiv) and Rockland Electric Company (RECO). Jersey Central Power and Light Company (JCP&L) was not subject to this interim USF, since it was previously ordered by the Board, under the First Energy merger agreement, to implement a low-income pilot program, referred to as the Customer Assistance Program. However, JCP&L will be subject to the Universal Service Fund (USF) once the Board establishes it on a permanent basis.

On March 21, 2002, the Board approved a $15 million interim USF to assist low-income consumers with the payment of electric and natural gas heating bills. Based on a $15 million budget, the Board approved a one-time fixed credit of $200 (with customers being allowed to maintain a credit balance), using existing eligibility requirements for the federally funded Low Income Home Energy Assistance Program (LIHEAP). The balance of the budget was to be utilized for a $100 benefit for renters.

Staff Proposal

On November 20, 2002, staff presented the Board a Straw Proposal (a copy is attached as an addendum), for a USF program. The Straw Proposal was the result of several working group meetings exploring the issues related to establishing a permanent USF, and based largely on comments filed in this proceeding by numerous interested parties. The Straw Proposal recommended that, for the first year of the program, the level of funding should be set at $30 million, and that the USF would be operated, on a statewide basis, and funded through uniform statewide per kwh and per therm charges on a volumetric basis. Further, the $30 million budget would be subject to a cap on administrative expenses of 10%, with additional start up costs. The Straw Proposal recommended incorporation of a one-stop application process, with the USF benefit calculated within a percentage of income payment plan ("PIPP") and an automatic enrollment feature, to be administered by the New Jersey Department of Human Services. Eligibility would be calculated based on 175% of the Federal Poverty Level (FPL), which is the current standard for LIHEAP. Customers with electric bills in excess of $1,800 annually will be referred to New Jersey Clean Energy program to determine eligibility for its low-income programs. All costs related to the USF would be subject to further review and analysis by the Board's Staff, including the Division of Audits.

On December 18, 2002, the following parties filed initial comments in response to the Staff proposal: PSE&G, RECO, NJNG, E'town, JCP&L, SJG, Legal Services of New Jersey (LSNJ), and the Division of the Ratepayer Advocate (RPA), the Department of Human Services (DHS), New Jersey Citizen Action (NJCA), and AARP/New Jersey League of Municipalities (NJLM). Conectiv did not file initial comments. Commissioner Hughes submitted questions and issues related to the USF. Replies were filed by RPA, NJCA, RECO, PSE&G, AARP/NJLM, Conectiv, SJG, and DHS. The Department of Community Affairs (DCA) was a participant in the USF Working Group, but did not file any comments. All the comments were posted on the Board's website. All reply comments were also posted.

Discussion and Findings

After review of the Staff's Straw Proposal, the comments and replies filed in response to the Proposal, as well as the responses filed to Commissioner Hughes' questions, it is the Board's determination that the following actions for a USF should ensure that low-income customers have access to affordable energy under EDECA (N.J.S.A. 48:3-51). The Universal Service Fund will include a first-year funding level of $30 million plus administrative expenses capped at 10%. The USF will operate on a statewide basis and will be funded through uniform volumetric charges on all customers' electric and natural gas bills. Eligibility will be based on 175% of the FPL with automatic screening for eligibility from means-tested financial assistance programs.

Some parties advocated for a crisis component, however, at this time the USF program will not contain any crisis component. A working group will discuss the feasibility and inclusion of an arrearage forgiveness component. For the first year of the program, the USF will only cover electric and gas customers, as well as renters who have a utility account in their name. Customers' deliverable fuel expenses will not be eligible at this time, but they may be eligible for USF benefits toward their electric and/or gas expenses. These issues will be revisited at the end of the first year of implementation, when a definitive number of participants have been determined.

The USF will be an ongoing, evolving program, subject to review and amended as necessary. The working group will continue to meet during the first year of implementation, and as necessary thereafter. DHS will be the administrator of the USF, since that agency has the expertise in administering statewide social service programs, the technology, and community network infrastructure in place. An automatic enrollment feature is expected to be in place by July 1, 2003, and a process for accepting applications should be completed by November 1, 2003. A one-stop application process is the long-term goal for the USF, and other assistance programs.

The Board is approving a budget level for the USF, to be funded through a uniform statewide usage charge for electric and gas utilities. Eligibility will be determined based on one's income and their relative energy burden (under the PIPP). Participants will receive their USF benefit in the form of a credit on their electric or gas bills.[1] A per usage charge will be collected from ratepayers for the USF, which at this time operates as a program separate from the other energy assistance programs, such as LIHEAP and Lifeline. LIHEAP is a federally funded fuel assistance program, which operates under its own mandates and objectives and is jointly administered by DHS and DCA. Lifeline is a state funded utility assistance program administered by the Department of Health and Senior Services (DH&SS). During the first year of implementation of the USF, staff will closely monitor the program. After the first full year, the Board will have real data on the USF and will be better able to determine any necessary program modifications. Establishing universal access to affordable energy bills will require the dedication and support of all the parties, including the seven energy utilities, the consumer advocacy groups, and the other state agencies involved.

Staff has been working with the State's Office of Information Technology (OIT) and DHS to determine implementation strategies for the USF. DHS will be working with OIT to create an

[1] Renters, who are customers of record, will receive a credit on their utility bill.

Oracle-based system for LIHEAP, Lifeline and USF. Several meetings were held on the USF program and how the Board could best accomplish its objective for an automatic enrollment process. OIT, DHS and BPU staff agreed to utilitize existing infrastructure and databases as well as new technology that will provide the flexibility for phased in development and implementation, as resources permit. First year development costs are estimated by OIT at approximately $500,000. Implementation will begin in July with automatic enrollees from LIHEAP and Lifeline and new applicants by November 1, 2003.

As discussed above and after review of the information submitted in this proceeding through meetings and comments, the Board HEREBY ORDERS the USF be established as follows:

1. The USF program will be fully funded at $30 million for the first year plus administrative expenses capped at 10%. The one-time start-up costs will not be counted as administrative expenses and will not be subject to the cap. It is expected that administrative costs will level off after implementation.

2. The USF will operate on a statewide basis with uniform per therm/per kwh charges on a volumetric basis for all seven electric and gas utilities, to be collected from customers. However, some large industrial customers have special existing contracts limiting their rate exposure, and these will be honored until their expiration. This issue may be raised in future renegotiations pertaining to these particular contracts.

3. The USF will not cover deliverable fuel expenses for those who use deliverable fuel. Deliverable fuel customers can, however, still be eligible for USF benefits for their non-deliverable fuel energy utility expenses if they meet all other USF eligibility criteria. The Board may revisit this and other issues after the first year of this program. Renters who pay for their heat through their rent, and have a utility account, will also be covered.

4. Once a determination of eligibility is made, participants will receive the USF benefit in the form of a *credit* on their electric or gas bill. No actual monetary benefit will be given to ensure that the benefit is utilized specifically for utility expenses.

5. Eligibility shall be based on 175% of the FPL. LIHEAP and Lifeline recipients will be automatically screened for USF eligibility.

6. In the context of future working group meetings, members should discuss the necessary coordination among the various community assistance programs and the USF administrator in order to achieve the one-stop application progress. The one-stop concept is perceived as a long-term goal and staff will work with the other state agencies towards this objective.

7. At this time, the work group will develop a process whereby potential USF recipients would also be qualified for LIHEAP and Lifeline programs, if eligible, concurrently with their application for USF.

8. Automatic enrollment will be in place by July 1, 2003, and it is expected to include an opt-out feature for those individuals who do not wish to participate. Staff will continue to work with OIT and the other state agencies on implementation of the automatic

enrollment feature. In the interim, Board staff will consult with DHS to explore the possibility of implementing a manual enrollment process.

9. Board staff, DHS and DCA, modified the existing LIHEAP application to include an option to apply for USF. Language on the current application explains that an applicant's signature provides consent to release pertinent information to determine eligibility for various energy assistance programs including USF, as well as other energy assistance programs. However, this does not mean that an individual must receive LIHEAP or Lifeline to be eligible for USF. If USF requirements are met, they will be eligible. Low-income customers who are not eligible for LIHEAP or Lifeline may apply for USF assistance at agencies and organizations providing social services, all of which will be expected to eventually be a part of the one-stop concept.

10. The Percentage of Income Payment Plan (PIPP) will be designed to provide low-income customers with a credit based on assessments of income and consumption that reflect their ability to make affordable monthly payments to the utility. USF participants will earn a USF credit such that participants pay no more than 6% of their annual income toward their combined electric and gas bills, no more than of 3% of their annual income on electric bills alone (for customers who do not use electric heat), 3% of their annual income on gas bills alone, and 6% of their annual income on electric bills for those who have all electric heat. The PIPP will be structured on the premise that eligible customers with lower income and higher energy burdens would receive a higher credit than those with higher income and a lower energy burden.   Program participants, who receive natural gas from one utility and electric from another utility, will pay the customer portion at 3% for gas and 3% for electric; they will have their total LIHEAP benefit applied to the heating utility service, and the Lifeline credit would be applied in equal portions to each utility.

11. The total USF credit allowable is capped at $1800 per household. Utilities are expected to make every effort to include low-income customers with bills exceeding $1,800 in their weatherization programs.

12. Specific energy consumption data and account balance status will be included in an electronic data file transfer between the Utilities and the Administrator. The Utility will supply the annual energy burden and the state agencies will supply annual income to the Administrator. USF credit will be calculated by applying the customer's required affordable energy payment (for example, 6% of annual income on combined electric and gas utility expenses) to the annual electric or gas bill. This amount, in addition to the amount of LIHEAP or Lifeline benefit for which the customer receives, will be subtracted from the estimated annual bill. If the PIPP calculated percentage of annual income as well as LIHEAP and Lifeline benefits does not cover the net energy burden, the USF credit will be applied up to $1800. The amount of the credit will be applied evenly over a twelve-month period in equal installments. The customer is responsible for payment of the remainder of the bill after application of the credit in addition to the original 6% of income payments.

13. Other conditions of eligibility will include:

i. Applicants must reside at the service address provided under the utility account and will be limited to the customer of record. They or their spouse must be the customer of record. Without the customer of record or spouse being the USF beneficiary, the utility cannot release account information to include energy usage, account balance, etc. for USF calculation purposes.
ii. Both renters who pay their own electric and gas bills and renters who have some utility costs included in their rent but who are also utility customers of record for other electric or gas services, and who meet eligibility criteria, will be eligible to receive USF benefits.
iii. Participants will be expected to apply for all available LIHEAP and/or LIFELINE benefits. LIHEAP or LIFELINE grants may not be substituted for a participant's monthly payment.
iv. If there is a continuing credit balance on the account and the customer requests a refund check, no such check will be given. The credit will remain on the customer's account.
v. If a customer moves within the same company's service territory, the USF credit will be transferred to the new account.
vi. If the customer moves outside the service territory within the state, it is expected the benefit will be portable. The working group will further address this issue.

14. Currently, DHS utilizes social security numbers for matching purposes; however, the utilities use account numbers. The USF working group will address the protocols that need to be established for matching purposes, and will also discuss business requirements such as review of ratemaking treatment, monitoring of costs, and financial reporting requirements.

15. Eligible participants with an annual energy burden over $1,800 will be referred to the New Jersey Comfort Partners part of the New Jersey Clean Energy Program for free weatherization measures.

16. The working group will address the feasibility of including an arrearage forgiveness program in the USF, and the possibility of moving the arrearage forgiveness component currently under the New Jersey Comfort Partners Program to the USF.

17. DHS will be the administrator of the USF program. The program will be subject to review on a regular basis and adjusted as deemed necessary. The working group meetings will continue during the first year of implementation and periodically thereafter. The program Administrator will also monitor projected expenditures and determine if they are likely to exceed the budget in the given year. If that determination is made, it should be brought immediately to Staff's attention, so the Board may decide on the appropriate course of action. All costs related to USF will be subject to further review and adjustment by the Board's Division of Audits.

18. A working group will be established to determine reporting and review mechanisms that will provide useful data about USF participants, and all residential customers as a whole. Data should include, but not be limited to:

i. Numbers and percentage of customers who have service disconnections for nonpayment;
ii. Numbers and percentage of customers placed on deferred payment arrangements;
iii. Numbers and percentage of customers with unsuccessful deferred payment arrangements; and
iv. For residential customers, weighted average of arrears, determined by dividing the total arrears by the average monthly bill for households not in deferred payment arrangements.

19. The indicators above should be reported not only for USF participants but also for all residential customers as a whole, including the number of customers that receive benefits, and an allocation of how funds and dollars are spent on administrative expenses. At this time, the Board's Division of Audits will review all costs subject to the USF program. This directive may be subject to review in the future.

20. The issue of uncollectibles will be examined in the companies' base rate cases to determine the prudency and reasonableness of costs, appropriate level of recovery, and the effect on uncollectibles due to the inclusion in USF of an arrearage component that will be collected through the SBC.

21. Customer education programs will be utilized to encourage participation in existing utility assistance programs. These education programs will be modified, as necessary, to reflect current provisions of the USF. All energy assistance programs will be publicized through outreach efforts including: bill inserts, website information, information at customer service centers and community-based organizations.

22. The Board will segregate the USF revenues and benefits for gas and electric customers, such that the total USF recoveries from gas customers will be used to provide payment assistance to gas customers and the total revenue recoveries from electric customers will be used to provide payment assistance to electric customers. Any excess or deficient revenues for either sector based on the benefits paid out would be carried forward to the subsequent year's budget for the corresponding group of customers, which would more directly match payments made to gas customers with the associated recoveries from gas customers.

23. All issues dealing with natural gas uncollectibles will be addressed in the companies' base rate proceedings.

24. An Implementation Working Group will review the issue of portability, as well as multi-party billing, and the possibility of allocation of the credit between the third party supplier and the utility.

25. All existing Board regulations related to collection, meter reading, deferred payment arrangements, disputed bills and utility prohibition on meter tampering will continue to apply equally to all customers.

26. Staff will continue to work with OIT, the Utilities, and the other State agencies to develop business requirements and necessary protocols. Staff will convene a working group to discuss the above directives as soon as possible.

DATED: April 30, 2003

BOARD OF PUBLIC UTILITIES
BY:

(Signed)

JEANNE M. FOX
PRESIDENT

(Signed)

FREDERICK F. BUTLER
COMMISSIONER

(Signed)

CAROL J. MURPHY
COMMISSIONER

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CONNIE O. HUGHES
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ATTEST:

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KRISTI IZZO
SECRETARY