BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE ESTABLISHMENT	**)**	**BPU Docket No. EX00020091**
OF A UNIVERSAL SERVICE FUND	**)**	
PURSUANT TO SECTION 12 OF THE	**)**	
ELECTRIC DISCOUNT AND ENERGY	**)**	
COMPETITION ACT OF 1999	**)**	

COMMENTS OF THE NEW JERSEY DIVISION OF THE RATEPAYER ADVOCATE IN SUPPORT OF A COMPREHENSIVE, STATEWIDE UNIVERSAL SERVICE PROGRAM

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Comments of the New Jersey Division of the Ratepayer Advocate
in Support of a Comprehensive, Statewide Universal Service Program
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

TABLE OF CONTENTS

THE RATEPAYER ADVOCATE'S PLAN

The Board now has before it the vital task of assuring universal energy service for all of New Jersey's residents. The Ratepayer Advocate is proposing a program which has three fundamental components:

> **<u>A</u>ffordable bills.** Low-income residents must receive affordable bills, through credits which will reduce their energy bills to an affordable percentage of their household income.
>
> **<u>A</u>rrearage forgiveness and crisis assistance.** In order for the bill credits to work, there must be an arrearage forgiveness program to keep bills affordable, and crisis assistance to deal with financial emergencies.
>
> **<u>A</u>ggregation.** Aggregation will allow low-income consumers to gain the market power to realize all of the benefits of competition, including lower rates. better service, and more choices.

Ratepayers throughout New Jersey now pay for the many costly activities engaged in by the utilities to collect from customers who lack the resources to pay--including shut-offs, visits to customers' homes, mailed notices, and bad debt write-offs. There funds should instead be invested in a comprehensive Universal Service fund, which will provide all New Jersey residents with reliable energy service at affordable rates.

PRELIMINARY STATEMENT

Imagine living on a seventh floor apartment in the heat of the summer with no electricity to run a fan or keep your refrigerator cool. Now imagine a cold winter's night with no lights and no heat to warm your children, or being left homeless because someone relied on candles for light or dangerous kerosene heaters for heat. Imagine doing without food or medicine in order to avoid a shut-off of electric or gas service. Unfortunately, these scenarios are a reality for all too many New Jersey families. Over 100,000 families suffer a loss of essential energy service each year, and many more live with the constant threat of a shut-off.

That is why the New Jersey Legislature, as part of the Electric Discount and Energy Competition Act of 1999 ("EDECA" or "Act"), created a non-lapsing Universal Service Fund ("USF"), and charged the Board of Public Utilities ("BPU" or "Board") with the responsibility to determine the programs and funding levels needed to provide universal service for New Jersey's residential energy consumers. As EDECA co-sponsor Senator Peter Inverso testified at the public/legislative hearings, the legislative intent is clear--to "ensure affordable and reliable electric and gas service to all New Jersey residents." 8/22/00 T5:L23-25. This legislative mandate is in accord with developments across the country. Almost every state that has restructured its electric and gas industries has adopted a Universal Service program for its low-income residential consumers. Examples of other successful programs can be found in many states, including Ohio, Pennsylvania, New York, Maine and Massachusetts.

The proposals presented in this proceeding reflect two sharply divergent approaches. The Division of the Ratepayer Advocate ("Ratepayer Advocate"), through the testimony of Roger Colton, a nationally recognized expert on Universal Service issues, has presented a detailed proposal for a comprehensive, state-wide Universal Service fund, based on the key concept of **affordability**. This program will provide much needed assistance to New Jersey's low-income residents, while generating substantial savings in the costs currently incurred by the utilities to collect from customers who are simply unable to pay their bills. Other participants in this proceeding who have filed proposals or given testimony supporting comprehensive Universal Service programs include the American Association of Retired Persons ("AARP"), New Jersey Citizen Action ("Citizen Action"), the Association for Children of New Jersey, O.C.E.A.N., Inc., the New Jersey Community Action Association, the Americans for Democratic Action, the New Jersey Departments of Human Services and Community Affairs, and several members of the New Jersey legislature.

The utilities, on the other hand, assert that existing energy assistance programs are working well. The utilities either oppose any new programs altogether, or assert that any decision as to new programs should await further review or "working group" discussions. As detailed below, the Ratepayer Advocate and other parties have presented ample documentation of the need for Universal Service programs, and the "gaps" in existing energy assistance programs. Further, a comprehensive program can be implemented at a very modest cost, and even this cost will be offset by the substantial savings that will be experienced as the program is implemented.

The utilities have presented nothing to the contrary. In fact, their discovery responses candidly acknowledge that now, nineteen months since the enactment of EDECA, they have not performed a single study to evaluate the need for a Universal Service Fund, or whether proposals such as the Ratepayer Advocate's might prove more cost-effective than the millions of dollars they spend annually in attempts to collect from customers who simply cannot afford to pay. Indeed, none of them even tracks its low-income consumers. If the utilities are unable to evaluate the need for, or the costs of, a comprehensive program, this is due to their own failure to investigate this issue in the nineteen months since our legislature mandated a Universal Service fund. Based on the abundant evidence presented by the Ratepayer Advocate and other parties, there is no reason to delay a decision on whether a comprehensive program is needed.

The means to achieve an effective Universal Service program for New Jersey are within the control of the Board. Implementing a comprehensive program will require intensive effort and cooperation among state agencies, social service agencies, and utilities. Fortunately, New Jersey's public utilities have a good record of cooperation with State agencies and social service organizations, and many of the necessary lines of communication are already in place. 8/21/00 T147:L2-6. However, in order to implement a full-scale program by next winter, a commitment is needed **now**. The key to this process is a Board Order stating decisively that a comprehensive program will be implemented, and defining the elements of the plan. The differing views of the utilities and other parties which currently prevail are an impediment to any effective discussions about implementation. As Joseph Walsh, the Director of New Jersey's LIHEAP program, stated in the public/legislative hearings, such discussions can go forward only after "the broad parameters of a plan are made clear in a mandate of some form ...." 8/21/00 T147:L8-11. If the Board acts now, some elements of the program could be in place during the coming winter, and a full-scale program could be implemented by next year. 8/9/00 T60:L15 to T61:L9 and T91:L2 to T94:L20.

Further, the Board should **not** delay a decision on these important policy issues pending further hearings, as is being suggested by the Board's Staff. In its September 1, 2000 memorandum to the parties, Staff states that it "anticipates that before finalizing the permanent USF program additional hearings will be needed to address the rate impacts of the various proposals." The Ratepayer Advocate respectfully disagrees. The testimony of Roger Colton sets forth a detailed Universal Service proposal, including cost estimates and rate impacts. The utilities chose not to do so, despite the Board's June 7, 2000 directive requiring the submission of detailed Universal Service proposals. Their discovery responses assert that they have no data as to the current costs of serving low-income customers, or the relative costs of their current practices and a Universal Service program such as that recommended by the Ratepayer Advocate. There is no point in scheduling further hearings in hopes of reviewing additional data which the utilities are unable to produce.

As Assemblyman Gary Guear observed at the public/legislative hearings before the Board, "thoughtful consideration" of a Universal Service program is important, but "we must also consider how with each passing day people struggle to pay their bills." 8/22/00 T11:L25 to T12:L4. The Ratepayer Advocate has submitted a proposal which can begin to be implemented **now**. There is no reason to schedule further hearings, in hopes of reviewing cost data which the utilities claim is unavailable.

In this day and age, when New Jersey is enjoying unprecedented economic growth and prosperity, there is no reason why some families should suffer the hardships, and the tragedies, that result from shutoffs of essential energy services. Affordable energy bills for all New Jersey residents is a goal we can attain in the not-so-distant future, if we do it right. The Ratepayer Advocate urges the Board to act now to create a Universal Service fund, so that the benefits for low-income residents, and the State as a whole, can be realized with no further delay.

SUMMARY OF RECOMMENDATIONS

The Ratepayer Advocate's recommendations in this matter are summarized as follows:

- The Board should act now to establish a comprehensive, Universal Service program funded through a statewide Universal Service Fund.

- The Universal Service program should include a basic rate assistance program based on **affordability**, structured as follows:

  - Assistance should be available to households with incomes at or below 150% of the federal Poverty Level, with a reasonable amount of rate affordability assistance should be reserved for households with incomes up to 200% of Poverty having special needs.

  - Benefits should be portable, *i.e.* they should be available to low-income consumers who buy their commodity service either from a utility or a competitive third-party supplier ("TPS").

  - Benefits should include: (1) fixed bill credits designed to bring energy bills to affordable levels; (2) an arrearage forgiveness program, subject to affordable consumer co-payments; (3) a crisis intervention program; and (4) effective education and outreach, and an automatic enrollment process.

  - The rate affordability program should be administered as a state-wide program by the States' LIHEAP office.

- The Universal Service program should include the following additional components:

  - Effective low-income energy efficiency programs, to the extent not funded through the utilities' Societal Benefits Charges in accordance with the Ratepayer Advocate's recommendation in the Board's Comprehensive Resource Analysis proceeding.

  - A statewide Assistance in Aggregation Program, to help low-income consumers realize the benefits of competition through aggregation.

  - A statewide low-income guarantee pool, to encourage competitive suppliers to serve low-income consumers, by providing them with the ability to transfer some of their risks of non-collection to a guarantee pool.

- The USF should be a statewide fund, funded though a non-bypassable charge on all utility customers.

- The USF charge should be set initially at $.00061 per kWh and $.0046 per therm, or $00081 per kWh and $.0057 per them in energy efficiency programs are included.

- The utilities' recovery of costs through the USF should be limited to incremental costs, net of saving realized as a result of the program. Savings, and costs already reflected in rates, should be quantified and passed through to ratepayers through annual evidentiary proceedings before the Board.

- The utilities should be required to submit reports tracking both the performance of the USF and the impact of competition on low-income consumers. The utilities should be subject to penalties for failure to submit reports on a timely basis.

- The interim program to be implemented for the upcoming winter/renting season should be operated as a geographically discrete ramp-up to a statewide program; there should be no pilot program.

- The Board should issue a definitive Universal Service Order with no further delay, so that the parties can begin immediately the process of implementing the interim program during the upcoming heating season, and the full program, for the 2001-02 winter heating season.

COMMENTS OF THE RATEPAYER ADVOCATE

I. THE BOARD SHOULD ESTABLISH A COMPREHENSIVE UNIVERSAL SERVICE PROGRAM FOR NEW JERSEY'S LOW-INCOME ELECTRICITY AND NATURAL GAS CONSUMERS.

A. A Comprehensive Universal Service Fund is Mandated by EDECA.

In EDECA, the New Jersey legislature has established a clear mandate that New Jersey have a Universal Service Fund to provide affordable energy for the State's residents. Section 2(a)(4) of EDECA declares that "it is the policy of this State to ... [e]nsure universal access to affordable and reliable electric power and natural gas service ...." *N.J.S.A.* 48:3-50(b)(3). This policy is implemented in Section 12(b) of EDECA, which provides that "[t]here *is established,* in the Board of Public Utilities a nonlapsing fund to be known as the Universal Service Fund. *N.J.S.A.* 48:3-60(b) (emphasis supplied). This provision, by providing that a USF *is established,* leaves the Board no discretion as to whether or not there should be a USF. Instead, the Legislature directed the Board to determine the funding levels and appropriate administration for the fund, the programs to be funded, and whether not funds authorized for certain existing programs should be included in the USF. *Id*.

With this mandate, New Jersey has joined the growing list of states which have established some form of universal service program for low-income customers. Thus far, over 20 states and the District of Columbia have established some form of universal service program for low-income customers. The programs in effect in these other states are summarized in Attachment A. Most state legislatures that have confronted these policy choices have supported the creation or continuation of programs and policies that assure that energy is affordable for low-income customers and others with special needs. Many of these states already had specific support programs in place prior to the passage of legislation, such as the percentage of income programs already adopted in Ohio, Pennsylvania, New Hampshire and Maine. Georgia which was the first state to adopt legislation restructuring its entire gas industry recognized the critical importance of universal service by establishing a Universal Service Fund effective simultaneously with the initiation of competition. *Georgia Natural Gas Competition and Deregulation Act -SB 215 (1997); Notice of Inquiries Docket No. 7604-U Universal Service Fund* .

As shown in Attachment A, **many states have programs designed to create affordable bills based on a percentage of household income** (known as “percentage income payment plans” or “PIPPs”), as the Ratepayer Advocate is recommending for New Jersey. These states include California, Maryland, Maine, New Hampshire, Ohio, Pennsylvania, Rhode Island, and Texas. Most Universal Service programs, including those in California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Mexico, Ohio, Oklahoma, Rhode Island, and Texas are funded by non-bypassable charges on distribution rates for all customers. PECO’s CAP Program has automatic enrollment based on income, as do the telephone lifeline programs of New York and Ohio. *Colton Testimony* at 54-55. Other Pennsylvania gas utilities have agreed in settlements to implement automatic enrollment. *See* Attachment A.

A number of states have also promoted **low-income aggregation programs**. The low-income customers of Ohio’s Columbia Gas Company were pooled and bid out to competitive suppliers. *Colton Testimony* at 68. The utility purchased the gas for these customers and retained meter reading and billing functions, as well as continuing to provide transportation for the gas and retaining any arrearages. Over the first eight months of the pilot the pooled customers saved an actual 7.1% off their expected bills. Ohio LIHEAP officials stated that this program worked "seamlessly" with LIHEAP and PIPP. *Id*. While PIPP customers paid their required percentage of income, the lower gas prices meant that LIHEAP benefits went further and more households could be served. *Id*. Another method for low-income aggregation is a state purchasing pool such as that developed in Connecticut. *Colton Testimony* at. 70. In the Connecticut program, when the state buys electricity for state facilities, any household with at least one member receiving a means-tested public assistance benefit is allowed to buy electricity at that same price. This method allows for the dilution of credit risks, a mix of load factors, greater bargaining power due to size, and the spreading of fixed administrative costs over a larger number of customers. *Id*.

The above examples illustrate just some of the new and innovative approaches implemented in other states to create affordable energy bills for their residents.

In enacting Section 12 of EDECA, the New Jersey Legislature clearly intended to establish for New Jersey a Universal Service program such as those in effect in many other states, that is, a program funded through utility rates, which is specifically directed to making energy affordable. Clearly, the Legislature did not intend a mere continuation of existing programs, it intended to create a comprehensive program that would achieve the Legislative policy of affordable energy for this State's low-income residents.

B. The Record Clearly Demonstrates the Need for a Comprehensive Universal Service Fund.

In present-day society, no one would deny that electricity and natural gas are lifeline services. Unlike many other goods and services, there is no reasonable substitute for electricity and gas. The record before the Board is replete with evidence of the hardships endured by New Jersey residents who attempt to do without electricity and natural gas, and the tragedies that can occur when people rely on dangerous alternatives such as candles and kerosene heaters. *See, e.g. Colton Testimony* at 7; Citizen Action Proposal dated 7/7/00 at 2; 8/9/00 T74:L2-10; NJ Shares "Backgrounder" information sheet at 2; 8/21/00 T61:L14-23 and T36:L2-20. As former Governor Jim Florio observed in his testimony before the Board, "Electricity is something that is just so essential that no one would sign on the proposition that if you can't afford it you just can't have it." 8/9/00 T13:L7 to T13:L9. In a State such as New Jersey which relies heavily on natural gas for home heating, this statement applies equally well to natural gas service.

It is also not subject to reasonable dispute that many New Jerseyans cannot afford essential electricity and natural gas service. Based on 1990 census data, nearly 950,000 New Jersey residents, representing 12.5% of New Jersey's 2.8 million households, had annual incomes below 150% of the federal Poverty Level, and a total of 1.4 million, representing 18.6% of households had incomes below 200% of the Poverty Level. Of these, a substantial number subsisted **below** 100% of Poverty level. Nearly 290,000, representing 3.8% of households, lived at incomes between 50% and 100% of Poverty, while another 290,000, representing 3.8% of households, subsisted at incomes below 50% of Poverty. *Colton Testimony* at 4 and Schedule RDC-3. The Association for Children of New Jersey has calculated more recently that 19.2% of all New Jersey families have total incomes below 150% of Poverty, with fully 11% below 100% of federal poverty guidelines. *See Barbara Alexander Testimony on behalf of AARP* at 9 ("*Alexander Testimony*").

Even at the higher levels of poverty, New Jersey families have difficulty affording the basic necessities of life. A fall 1999 study entitled "The Real Cost of Living: The Self-Sufficiency Standard for New Jersey," concluded that a three-person household living in Monmouth County must earn three times the federal Poverty Level in order to be self-sufficient. *Colton Testimony* at 20. Even in lower-cost areas of the State, incomes above 200% of Poverty are necessary for a family to be self-sufficient. *Id.*; 8/21/00 T94:L12-22.

The generally accepted measure of a household's ability to pay energy bills involves its "energy burden," that is, the percentage of household income used to pay for energy. Based on guidelines issued by the United States Department of Housing and Urban Development ("HUD") and the Federal National Mortgage Association ("Fannie Mae"), a household's energy burdens should not exceed 6% to 8% of household income. Low-income households routinely exceed these figures. *Colton Testimony* at 5. To give one example, Mr. Colton estimates that a two-person household living at 75% of the Poverty Level in New Jersey would pay 19% of its household income for energy. To put this figure into context, the 1999 median family income in New Jersey was $67,355; 19 % of this amount is $12,800. *Colton Public/Legislative Hearing Statement* at 4.

Many of the households with energy affordability problems are working households. The growing phenomenon of working poor families in New Jersey was documented in a fall 1999 report, which was submitted for the record by the Association for Children of New Jersey. According to this report, over half of all families with incomes below 100% of the federal Poverty Level have at least one working family member. *Working - But Still Poor in New Jerse*y at 2-4 (Sept. 1999); *ACNJ Public/Legislative Hearing Statement* at 1-2. The State's welfare-to-work initiatives have been successful in moving many families from welfare to work--but many of these families remain in poverty. *Working - But Still Poor in New Jerse*y at 2-4; *LSNJ Public/Legislative Hearing Statement* at 10-11.

While a number of energy assistance programs are available to New Jersey residents, these programs are not designed to address the basic affordability problem. The federally funded LIHEAP program is limited in several important ways. LIHEAP is almost exclusively a home heating program. Applications are taken only during November through February, and benefits are based on home heating costs, which represent only about 35% to 40% of a low-income consumer's total energy bill. Furthermore, due to continuing decreases in federal funding levels, LIHEAP serves only a fraction of the eligible electric and gas heating customers in New Jersey. In 1999 only 50,000 of the approximately 400,000 eligible electric and gas customer received LIHEAP benefits. *Colton Testimony* at 9. The State Lifeline program provides valuable assistance for the elderly and disabled, but this program too is limited. Its benefits are reserved for a small portion of the State's low-income population, and the lump-sum benefit of $225 is not designed to address the basic problems of affordability. *Colton Testimony* at 8-9.

Finally, there are two programs which represent the primary sources of assistance for low-income consumers crisis assistance for energy consumers facing an imminent loss of energy service. The LIHEAP program includes funds for crisis assistance, but in 1999 this program served only 9,500 households--a small fraction of the over 100,000 households who had their electric or natural gas service disconnected in 1999. New Jersey SHARES, a non-profit organization funded by the utilities, provides **one-time** grants of up to $250 to households temporarily unable to pay their utility bills. Moreover, this program requires recipients to have history of good-faith payments (a condition which cannot be met by many low-income households), and it specifically excludes welfare recipients. Thus, this program, which assisted 4,771 households in 1999, provides a valuable social service but was never intended to address the problems of the very poor who are consistently unable to pay their energy bills. *Colton Testimony* at 12; *NJ SHARES "Backgrounder* at 3; 8/21/00 T52:L17 to T54:L21.

The record before the Board includes ample evidence of the severe hardships and, at times, tragedies, that can result from unaffordable energy bills. In a recent study of low-income consumers' inability to pay energy bills, Mr. Colton found that low-income consumers are forced to make unreasonable budget decisions between household necessities, and to engage in a variety of dangerous and/or unhealthy activities. The measures taken by these households included turning down thermostats to dangerously low temperatures; using unsafe alternative heating sources such as ovens, burners, and charcoal grills; burning "alternative fuels" such as furniture, clothing, siding, used tire, doors and woodwork; turning off water heaters; abandoning homes and "doubling up" with other families; doing without food, medical care, dental care and medicine; not paying other bills such as rent and water; and incurring high-cost credit card debt to pay household expenses. *Colton Testimony* at 6-7.

The many ordinary citizens who testified in the public hearings in this proceedings, or permitted their statements to be included in written submissions, put a human face on Mr. Colton's study. The following are just a few examples:

C Donna McHalesco used to work long hours to support herself and her four children. She is now disabled and living on a pension and Social Security. She keeps her heat at 58 degrees all winter, and has stopped getting medication because she needs the money to feed her children. Her $12,000 annual income is too high for her to qualify for assistance with her energy bill. 8/9/00 T95:L13 to T97:L21.

C Shauna Seymour is a working parent with four children. Her husband is disabled with cancer. She us unable to afford her husband's medical bills and feed the children, pay the rent and utilities. Last winter she was without heat for two weeks because she had to buy medicine for her husband. 8/22/00 T18:L12 to T19:10.

C Johnny Fernandez is a single parent with two daughters, ages 8 and 6. He was left with unpaid electric bills when his wife abandoned him. He could not pay the bills because he had to make a choice between paying the utility and providing food and shelter for his children. His electric service was disconnected in May of 1999. He found a source of assistance and was able to have his service reconnected after three days, but in the meantime he and his daughters had to live in the dark and without refrigeration for their food. *Statement of Johnny Fernandez* (attached to *LSNJ Testimony* at appendix page A-57).

- C Kristian Gonzalez had her electric service shut off in June of 2000 because she had been sick and was unable to pay her bills on time. By the time she applied for emergency assistance, it was too late and her service was shut off on a Friday morning. She received a commitment for assistance that day, and had her service restored on Saturday, but, unfortunately, the food in her refrigerator had already spoiled due to the hot weather. *Statement of Kristian Gonzalez* (attached to *LSNG Testimony* at appendix page A-58).

- C A.P. and her husband are both 61 years old. The husband, a former U.S. postal worker, was disabled by a heart attach in November 1996. He is also diabetic. Due to repair bills on their two-family house they were unable to pay their electric bill the first three months of this year; their service was disconnected despite a doctor's letter that air conditioning is medically necessary for A.P.'s husband. Their electric service was restored only after Legal Services got involved. They now have a payment plan, but they cannot afford the payment despite the fact they are already scrimping on food or medicine. Certification of A.P. (attached to *LSNJ Testimony* at appendix pages A-47 to A-5).

Shutoffs of electric and gas service sometimes lead to tragedy. The "Backgrounder" information sheet for New Jersey SHARES cites unsafe alternative heating methods as a leading cause of civilian fire deaths. NJ SHARES "Backgrounder" at 2. The risk of candle fires resulting from shutoffs of electric service is also very real. AARP witness James Dieterle was employed by Public Service Electric and Gas Company ("PSE&G") for more than 30 years before becoming State Director of AARP for New Jersey. He recalls "many instances over the years when I worked for PSE&G where families who had lost their electric service from non-payment had experienced tragedy from a fire started by a candle being used to provide light." 8/21/00 T61:L14 to T62:L17. James Wash of the State Department of Human Services, formerly a social worker with the Division of Youth and Family Services, recalled many families forced to use candles to light their homes because they had lost electric service. 8/21/00 T136:L2-20.

As testified by AARP's New Jersey State Legislative Representative Steve Jennings, who was an active participant in the passage of EDECA, the prevention of these and other tragic consequences of unaffordable energy bills was a primary purpose behind the creation of a Universal Service fund:

> The legislative purpose was clear, reduce the risk of candle fires, heat stroke or hypothermia resulting from the thousands of low-income utility non-payment shut-offs now occurring.
>
> 8/22/00 T44:L11-14.

It is now the Board's responsibility to carry out this legislative purpose.

Based on both expert testimony and the testimony of the many social service professionals and ordinary citizens who appeared before the Board, it is clear that existing assistance programs leave many without the resources to pay for essential electric and gas service. A comprehensive Universal Service Fund is needed to meet the mandate of EDECA to provide affordable energy service for all New Jersey residents.

C. A Comprehensive Universal Service Program Can be Implemented at a Very Modest Cost.

The cost of the Universal Service program proposed by the Ratepayer Advocate is very reasonable, whether considered in cents per unit of energy or on a percentage of revenue basis. The projected costs compare favorably to energy-related universal service costs recovered in other States, as well as the current universal service charge recovered from telecommunications customers. Furthermore, these projected cost **will be offset by savings** in the form of lower write-offs and collection costs, lower customer service costs, and greater revenues. While it is not possible to determine precisely what savings will occur in New Jersey, experience in other states indicates that they will be substantial. In evaluating the costs of a Universal Service program, the expected savings from the program should be considered in tandem with the projected program costs.

Ratepayer Advocate witness Roger Colton projected the total costs of the recommended Universal Service programs without an offset for the corresponding savings and translated them into per unit and percentage measurements. These costs are detailed in Point II below for each of the Ratepayer Advocate's recommended programs, and summarized in Attachment B. Mr. Colton found that the total cost of the various recommended electric universal service programs amounted to $62.3 million. *Colton Testimony* at 78, Schedule RDC-12. For gas universal service programs, Mr. Colton estimated that the total cost would amount to $36.9 million. *Id*. The Ratepayer Advocate does not recommend placing LIHEAP and Lifeline funds in the universal service fund at this time. Therefore, offset for existing LIHEAP and Lifeline revenues, the net cost for the electric and gas programs proposed by the Ratepayer Advocate would be $41.3 million and $26.2 million, respectfully. *Colton Testimony* at 78. As explained by Mr. Colton, these estimates, which represent projected annual expenditures, should be sufficient to include start-up costs, as not all eligible customers are likely to sign up during the first year. *Id*. More likely, not all eligible customer will sign-up for assistance on "day one", or during the first year of operation for that matter. *Id*. Hence, the unexpended budgeted amounts could be utilized to fund start-up activities. *Id*.

Mr. Colton's estimates of the cost of universal service programs comport with the cost projections made by Ms. Barbara Alexander, who testified on behalf of the AARP. Ms. Alexander estimated that the cost of electric universal service programs would total between $34 and $68 million, while the cost of gas universal service programs would total between $16 and $32 million. *Alexander Testimony* at 26.

While the total costs estimated by Mr. Colton might appear large, they are, in fact, very small in relation to electric and gas utility revenues. Expressed as a percentage of total utility revenues, the projected universal service costs are quite small. For example, the total electric universal service program costs amount to less than one percent (0.6%) of the total electric revenues of $6.9 billion. *Colton Testimony,* Schedule RDC-13. Gas universal service costs are similarly only a small fraction of total gas utility revenues. Total gas universal service costs amount to only one percent of the total gas utility revenues of $3.8 billion. *Colton Testimony,* Schedule RDC-13.

Furthermore, on a percentage of utility revenue basis, the projected costs developed by Mr. Colton comport with the percentages recommended by the AARP's witness. Ms. Alexander recommended that the total cost of universal service programs for electric and gas utilities would amount to between 0.5% and 1%. *Alexander Testimony* at 26. Additionally, on a percentage of utility revenue basis, Mr. Colton's projected program costs compare favorably to the relative cost of programs adopted by other States. Ms. Alexander testified that Ohio's percentage of income payment programs range from "less than .5% of revenues for electric companies to generally about 1% of revenues for natural gas utilities." *Alexander Testimony* at 27. Ms. Alexander also testified that Maine's low income payment assistance program is .5% of revenues and the programs for Massachusetts' utilities are "generally between .5% and 1% of revenue." *Id*.

When computed on a per unit of energy basis, the projected cost figures translate into very small per unit charges. Based on total utility sales of 68.161 billion kWh, electric universal service programs would only amount to $0.00061 per kWh. *Colton Testimony*, Schedule RDC-13. Likewise, gas per unit charges are also very small. On a per therm basis, gas universal service programs amount to only $.0046 per therm. *Colton Testimony,* Schedule RDC-13.

The projected per unit figures compare favorably to other universal service charges implemented in other States. For example, New Mexico's restructuring law authorizes a charge of $0.0003 per kWh, and Texas' restructuring law authorizes a charge not to exceed an initial amount $0.65 per MWh ($0.00065 per kWh). *Electric Utility Restructuring Act of 1999*, § 15(A) (NM Senate Bill 428, eff. March 1999); Texas Bill No. SB7, Subchapter Z, § 39.903 (eff. September 1, 1999)

Implementation of the universal service programs advocated by the Ratepayer Advocate will not place an undue burden on New Jersey ratepayers. For a residential electric customer using an average of 500 kWh per month, the monthly charge for universal service programs would amount to only about 31 cents. The monthly cost for a gas heating residential customer would also be very small. Assuming an average monthly usage of 80 therms, the monthly charge for a residential gas heating customer would be approximately 37 cents. For a combined gas and electric customers, the total monthly charge would be about 68 cents.

The monthly cost for residential utility customers compares favorably to other estimates and charges. The figure comports with the estimate offered by the Legal Services of New Jersey. Legal Services projected a monthly cost of approximately 88 cents. *LSNG Testimony* at 11. Furthermore, the estimated monthly figure comports with the monthly customer charge mandated for gas and electric residential customers in Illinois (40 cents) as part of that State's restructuring legislation. *Electric Service Customer Choice and Rate Relief Law of 1997*, § 13 (b) (Ill. HB 0362, eff. December 16, 1997). The projected monthly cost for energy programs set forth by the Ratepayer Advocate also compares favorably to the universal service charge applicable to telephone customers. For example, pursuant to FCC rules, AT&T assesses a charge of 8.6% of state-to-state and international long distance charges.

Mr. Colton is recommending an even more modest charge for his recommended interim program. Mr. Colton estimates costs of $9.1 million for the electric interim program and $6.1 million for the gas interim program, yielding interim USF charges of $0.000133 per kWh and $0.001062 per therm for gas. The monthly charge would be less than 7 cents for an electric customer using 500 kWh per month, and less than 9 cents per month for a gas heating customer using 80 therms per month.

Most importantly, these costs will be even less as the Universal Service program begins to generate savings. As Mr. Colton explained, there are two types of savings that will occur. The first is outright savings, *i.e.* money that the utilities are spending now that will no longer be spent. Examples of this type of savings include reduced levels of collection activities and working capital cost which occur as arrearages are reduced for low-income consumers. 8/21/00 T23:L6-20; *Colton Testimony* at 83-84. The second type of savings are cost which are already embedded in existing rates. An example is the cost of arrearage forgiveness, which includes payment for amounts already recovered by the utilities as part of the uncollectibles allowances embedded in their rates. 8/11/00 T23:L21 to T24:L17; *Colton Testimony* at 83-84. Finally, utilities revenues are enhanced as customers who would otherwise would have had their service terminated for nonpayment, or would have "doubled up" with other families, remain on the utilities' systems. *Colton Testimony* at 84-85.

Although the amount of these savings cannot now be determined for the New Jersey utilities, there is little doubt that they will occur. In his written statement presented at the August 9 and August 21 public/legislative hearings before the Board, Mr. Colton gave several concrete examples of savings actually realized as a result of universal service programs in other states:

- In Pennsylvania, the Columbia Gas universal service program -- called the Customer Assistance Program, or "CAP"--generated 61% fewer disputes, 53% fewer new payment agreements, 69% fewer canceled payment plans, and 48% fewer termination notices.

- In Pennsylvania, customers who stayed in the Equitable Gas Energy Assistance Program for one full year generated net positive benefits to the company of $262. Those who remained in EAP for a second year generated an additional $206.

- In Pennsylvania, National Fuel Gas Distribution Company's Low-Income Rate Assistance ("LIRA") program generated an improvement in collections of $1.5 million (nearly a 40% improvement over five years.

- The Clark County (Washington State) Public Utility District's Guarantee of Service Program ("GOSP") reduced delinquencies for program participants from 74% to 18%; reduced disconnections for program participants by 64%; and increased average customer payments from $22 per month prior to program entry to $55 per month during the program.

- Finally, in New York, Niagara-Mohawk Power Company's rate discount program almost doubled the total number of payments to the utility during the post-treatment period compared to the pre-treatment period and, for its two groups of customers receiving discounts, actually, on the average, increased payments from $883 to $1174 (for one discount group) and from $968 to $1188 (for the other).

The existence of these types of savings, and the importance of capturing them to offset the costs of universal service programs, was recognized by the Pennsylvania Public Utility Commission (“PUC”) in a recent policy statement concerning the Customer Assistance Programs (“CAPs”) implemented by Pennsylvania utilities:

> **§ 69.266. Cost recovery**. In evaluating utility CAPs for ratemaking purposes, the Commission will consider both revenue and expense impacts. Revenue impact considerations include a comparison between the amount of revenue collected from CAP participants prior to and during their enrollment in the CAP. CAP expense impacts include both the expenses associated with operating the CAPs as well as the potential decrease of customer utility operating expenses. Operating expenses include the return requirement on cash working capital for carrying arrearages, the cost of credit and collection activities for dealing with low-income negative ability to pay customers and uncollectible accounts expense for writing off bad debt for these customers.
>
> *Re: Revisions to the Customer Assistance Program Policy Statement Made Pursuant to 52 Pa. Code Chapter 69, at Section 69.266*, Pa. PUC Docket No. M-00991232 (Pa. PUC, March 31, 1999).

For this reason, the Pennsylvania PUC provided that "program funding" should be derived from sources including “(iii) operations and maintenance expense reductions." *Id.,* § 69.265(1)).

Based on experience in other states, similar savings should result from New Jersey’s Universal Service program. These savings will offset the already modest costs of providing affordable electric and gas service for all New Jersey residents.

D. The Board Should Reject the Utilities' Arguments that a Universal Service Program is Unnecessary.

In its June 7, 2000 Order in this matter, the Board specifically directed the utilities and other parties to file "concrete and specific" proposals for a USF in compliance with Section 12(b) of EDECA. Contrary to this directive, and contrary to the clear intent of the Legislature, the utilities are arguing that there is no proof that additional programs or funding are necessary for the upcoming winter heating season, and that any consideration of a permanent plan should be either rejected altogether or tabled pending unnecessarily protracted procedure to "study" the needs further.

Elizabethtown Gas Company, for example states in its testimony that "there is no need or basis to increase the level of funds or change the administration of any fund or funds beyond that which already exists." *Elizabethtown Initial Comments* at 3-4. Similarly, Atlantic City Electric Company's testimony states that "[t]he Company believes that these programs meet the intent of the Electric Discount and Energy Competition Act of 1999 requirements regarding the provision of social programs as part [of] its regulated services to provide a public benefit. ... The Company will review the proposals which may be made in the filings of the other parties to this proceeding, and reserves the right to assess and comment on such proposals in light of the Company's current activities." *ACE Initial Comments* at 1-2. The statements made by Elizabethtown and Atlantic are representative of all of the utilities filings. *See also, GPU Initial Comments* at 8-11, *RECO Initial Comments* at 14-15, *PSE&G Initial Comments* at 15 and 21-22, *NJNG Initial Comments* at 4, and *SJG Initial Comments* at 4-5.

At the August 21 public/legislative hearing in this proceeding, several of the utilities confirmed that they did not propose a universal service plan. For example, John Gagliardi, Director of State

Issues Management for PSE&G made the following statement when questioned by AARP's attorney at the August 21 public/legislative hearing:

> Q. Has PSE&G come forth with a Universal Service Fund proposal of its own?
>
> A. We have answered the questions that the Board asked and we provided some ideas and we have identified specific issues that should be considered in the long-term.
>
> Q. So the answer is "no"?
>
> A. We did not provide a long-term proposal. The Board did not require that. The Board said we were allowed to submit it if we wanted to.
>
> 8/21/00 T197:L11-20.

Similarly, during the cross examination of Gary Damler representing GPU Energy, the witness admitted that what it submitted was a description of existing programs but not a comprehensive Universal Service program as Ordered by the Board:

> Q. Let's tale a look at your comments here. Have you made any recommendations to GPU regarding what social programs it should provide as part of this regulated services pursuant to the Deregulation Act?
>
> A. Well. Mr. Siebens and I have discussed what programs would be developed.
>
> Q. Could you provide us with what those programs are?
>
> A. Basically it is New Jersey SHARES and the second program was a continuation of the weathering program and the augmentation of that program with the debt forgiveness program.
>
> Q. What about additional programs, are you recommending or looking into any additional programs?
>
> A. No.
>
> Q. You are not?
>
> A. No.

8/21/00 T233:L15 to T234:L9.

Again, these witnesses were representative of the positions asserted by the utilities. *ACE Initial Comments* at 1-2, *GPU Initial Comments* at 8-11, *Rockland Initial Comments* at 14-15, *PSE&G Initial Comments* at 15 and 21-22, *NJNG Initial Comments* at 4, *Elizabethtown Initial Comments* at 3-4 and *South Jersey Initial Comments* at 4-5.

The utilities' justifications for their failure to submit Universal Service programs appear to be that: 1) existing low income assistance programs are effective; and 2) there is insufficient data to support the conclusion that additional programs are necessary or prudent. Although some of the utilities acknowledged that there may be room for additional programs to provide needed assistance, none of them have studied or compiled meaningful information to support or disprove of the need for a Universal Service Fund. Instead, they left the analysis of the need squarely on the shoulders of the proponents of Universal Service. For example, Thomas Kaufman, manager of Rates for NUI Elizabethtown Gas Company stated that, "Elizabethtown is of the view that no additional universal service fund proposals are necessary at this time because there is a full range of programs dedicated to low income customers which already exist." T152:L1-5. Christopher Siebens, Manager of Regulatory Programs for GPU Energy also stated that "[t]he number of residential service terminations in and of itself is not sufficient justification for moving quickly without adequate and appropriate investigation of the facts. Obviously, there are significant unknown factors within these proceedings on the part of both the utility companies and the interested parties." T224:L19-225:L1. The need of further study of the issue was cited time and again to forestall full implementation of a meaningful universal service program. The cross examination of Neil Winter, Manager of Corporate Programs of Rockland Electric by AARP is a good example of all the utilities' position on this issue:

Q. If a program were implemented where the Department of Human Services, the Department of Health and Senior Services, the Department of Health and Senior Services for Lifeline, were able to provide you with income level information for those of your accounts that where behind in payment their bills or with the threat of being shut off and the incomes were shown to be very low and you were experiencing significant costs such as collection letters, broken deferred payment agreements, shut-off's, likely bad debt, would you object to a program that took those costs and instead transferred them to a fixed credit program, assuming you had some assurances that the bills were going to be paid then?

A. I would say the answer to that questions [sic] is that would be considered after we had done some analysis, and that provided that indicated that result truly is the case.

Q. Again that problem is, it is hard to say yes to something when you don't know the specifics and you can't get the specifics unless the Board orders the program that provides the benefits to get the information.

Does Rockland Electric have any general objection to a Universal Service fund program that is cost neutral?

A. I would say we would have to take a look at the data.

Q. If it is cost neutral.

A. Fundamentally we would have to -- I would say yes, we would say yes, provided that information can be provided.

8/21/00 T256:L19 to T257:L25.

The utilities' position flies in the face of the clear evidence of need which has been presented to the Board. As fully documented by Ratepayer Advocate, AARP, Citizen Action, LSNJ and the number of state agencies, social service organizations and consumers who took the time and the effort to testify at the various public/legislative hearings throughout the state or submit written statements, the need is quite real. Indeed, the utilities' own discovery responses show in excess of 100,000 payment-related shutoffs of residential service annually, a clear indication that there are many New

Jersey have difficulty paying their energy bills. 8/9/00 T81:L13 to T82:L2; 8/22/00 T33:L22 to T34:L2 and T45:L16-20.[1]

If the utilities lack information about the precise scope of their customers' affordability problems, this is due to their own admitted failure to conduct even the most rudimentary investigations of this issue. Based on their discovery responses in this proceeding, only one of New Jersey's seven energy utilities has even attempted to estimate the number of their low-income customers--and none of them has even attempted to determine the scope of these customers' payment problems. *See* Utilities' responses to Ratepayer Advocate discovery request nos. 11(b) and (d), 12, 15,16(c), 17(c), 29(b) and (c).

Further, not a single utility has undertaken a study of the cost, or the cost-effectiveness, of a Universal Service program. Each year, the utilities write-off millions of dollars in uncollectible accounts, and spend millions of dollars on collection activities such as shut-offs and visits to customers. These costly activities, however, may ineffective in producing additional payments when the customers cannot even pay for food. Thus, as has been documented in other states, Universal Service programs may prove more cost-effective than traditional collection methods. *See Colton Testimony* at 84-85; *Certification of H. Gil Peach, submitted by LSNJ*. Nevertheless, not one of the utilities has attempted to quantify the collection expenses associated with it low-income customers,

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\1\ For example in its discovery responses, Atlantic Electric's total number of residential disconnect in 1999: 12,875 (RAR-ACE-9 (AARP-ACE-22)), GPU's Total number of residential disconnect in 1999 was 2,424 (RAR-GPU-9), PSE&G provided the following residential termination numbers for the year 2000: January 2,894, February 4,708, March 9,458, April 12,219, May 11,396, June 10,696 = Total 50,371, Elizabeth-town disconnected a total of 2,543 in the first six months of 2000 (RAR-ETOWN-9), New Jersey Natural disconnected 3,980 in the first six months of 2000(RAR-NJNG-9), South Jersey disconnected 3,212 in the first six months of 2000. (RAR-SJG-9) Rockland did not provide information by class. Rockland supplied disconnect numbers for all customers year to date 6/2000 as 468. (RAR-RECO-11) nor has any of them conducted any study of the cost-effectiveness of their present collection methods. *See* Utility responses to Ratepayer Advocate discovery requests nos. 11, 24 and 25.

The need for a comprehensive Universal Service program for New Jersey has been thoroughly documented by the Ratepayer Advocate and other parties. The utilities, which have made little or no effort to study this issue, in the 19 months since EDECA was enacted, have no basis for contending otherwise. A comprehensive program is required to provide universal access to affordable energy service, as mandated by EDECA.

II. THE BOARD SHOULD ADOPT THE RATEPAYER ADVOCATE'S PROPOSED UNIVERSAL SERVICE PROGRAM.

A. The Universal Service Program Should Include a Comprehensive Rate Assistance Program Based on Affordability.

As stated in EDECA, the fundamental purpose of the USF is to "[e]nsure universal access to *affordable and reliable* electric power and natural gas service ...." *N.J.S.A.* 48:3-50(b)(3) (emphasis supplied). Thus, New Jersey's Universal Service Fund should have as it objective "providing low-income consumers with the opportunity to obtain and maintain quality utility service at affordable prices." *Colton Testimony* at 13. The cornerstone of the Ratepayer Advocate's Universal Service program is a rate affordability program, designed to make energy bills affordable for New Jersey residents living at poverty levels. This program would "wrap around" existing assistance programs so that an effective, uniformly applied assistance plan would be available to low-income consumers throughout the state. This program would be a available to residential consumers with household incomes up to 150% of the federal Poverty Level, and up to 200% of the federal Poverty Level with a demonstration of special needs. It would consist of the following components:

1. Basic rate affordability assistance, designed to bring energy bills to an affordable percentage of household income;
2. Arrearage forgiveness, subject to affordable customer co-payments;
3. Crisis assistance, for the inevitable emergencies; and
4. Outreach and intake initiatives, to make the program more accessible to eligible households.

In order to provide fair and uniform benefits statewide as efficiently as possible, the program would be administered on a statewide basis. The rate affordability program components are described below.

1. **Eligibility**.

The rate affordability program should be available to all residential customers with household incomes up to 150% of the federal Poverty Level, and to customers with household incomes of up to 200% of Poverty demonstrating special needs. *Colton Testimony* at 18. As noted in Point I.B. above, New Jersey is a high-cost state in which to live, with a recent study showing that, in some counties, incomes of up to 300% of the Poverty Level are barely enough for a family to be self-sufficient. Further, as noted by Ciro Scalera of the Association for Children of New Jersey the number of families living at the higher poverty levels will increase as more families move from welfare to work. 8/11/00 T126:L14-20.

Various social programs recognize the need for assistance at higher levels of poverty. States are permitted to use welfare funds to provide child care or transportation subsidies to working families with incomes up to 200% of Poverty. *Colton Testimony* at 20. Governor Whitman recently signed into law legislation (A-49) to extend the Family Care Health Coverage Program to families with incomes up to 200% of Poverty. Colton *Testimony* at 21; *ACNJ Public/Legislative Hearing Statement* at 3. The NJ Kid Care program provides health insurance coverage for children in families with incomes up to 350% of Poverty. *ACNJ Public/Legislative Hearing Statement* at 3. As noted by Mr. Scalera, these enactments "encompass what I believe to be recognition by the Governor and our State Legislature of this working poor phenomena." 8/21/00 T128:L15-25. New Jersey's Universal Service program should also recognize this growing need, and provide a reasonable level of assistance for families with incomes up to 200% of Poverty.

2. **Portability.**

The affordability program should be portable--eligible households should have access to all benefits for which they qualify whether they buy their electric or gas commodity service from the incumbent utility or a competitive third-party supplier ("TPS"). *Colton Testimony* at 16. In this way, rate affordability benefits will be provided in a competitively neutral manner. *MAPSA Initial Comments* at 1; *Shell Energy Services Initial Comments* at 1. As was explained by Shell Energy Services witness Mike Renier at the public/legislative hearings:

> the Universal Service fund should be administered with an eye toward encouraging the competitive marketplace to provide a choice to low-income or hard-to-serve customers, and affording them an opportunity to share in the benefits of competition.
>
> 8/21/00 T207:L20 to T208:L3.

Consumers eligible for the Universal Service program should have the same opportunity as other consumers to benefit from the competitive marketplace. They should be able to switch energy suppliers without losing the benefits to which they are entitled.

3. Components of rate affordability program.

a. Basic affordability assistance, based on percentage of income.

The key component of the rate affordability program is basic rate affordability assistance, based on a percentage of household income. As explained in Mr. Colton's testimony, the eligible customers would receive a fixed monthly bill credit, designed to bring the household's energy bills down to an affordable percentage of household income. As detailed in Schedule RDC-6 to Mr. Colton's testimony, the affordable percentages for a family's total energy bills (combined electric and gas) should be from 7% to 13% depending on income level.

A household's monthly bill credit would be calculated as follows:

1. The first step is to calculate an affordable payment, based on a percentage of income. As explained in Mr. Colton, the percentage is based on a sliding scale, with families at higher Poverty levels expected to pay a higher percentage of income.

2. The next step is to calculate the household's expected energy bill, using the same method the utility used for purposes of placing residential customer on a levelized billing plan.

3. The next step is to subtract from the expected bill the amount of basic affordability assistance the customer is receiving from other sources, such as the LIHEAP or Lifeline program.

4. The final step is to determine the amount of the credit needed to bring the customer's total expected energy bills, net of assistance from other sources, to the affordable level determined in step 1 above.

The credit is delivered to the customer as part of a levelized billing plan. Each month the customer receives a levelized bill, reflecting the credit determined as explained above. *Colton Testimony* at 25-27. For customers who purchase their electric or gas supply from a third party supplier, the program's administrator should designate the split between the distribution and supply portions of the bill. *Colton Testimony* at 32.

Under the above approach, some eligible household will not receive a fixed monthly credit, because their home energy bills will be less than the affordable percentage. However, the household may be eligible to receive some or all of the other benefits described below. *Colton Testimony* at 30-31.

Customers participating in the program should be subject to the utility's traditional credit and collection procedures. As Mr. Colton explained, this provides a more effective means of gaining full and timely payment than dropping the customer from the program. This approach also has the advantage of administrative simplicity--a special process for dropping and then reinstating customers into the program would involve a more complicated procedure, with higher administrative costs. *Colton Testimony* at 32-33.

The type of program described above, known as “percentage of income payment program” or “PIPP,” has a number of advantages. Since the credits are based on a percentage of income, they are specifically geared to the objective of **affordability**. By way of comparison, across-the-board percentage discounts to all eligible customers are not as effective in targeting benefits where they are most needed. *Colton Testimony* at 24. In across-the-board discount programs participants may be “dropped” for nonpayment of bills because the straight discount did not result in affordable bills. This results in higher administrative costs per participant, compared to PIPP programs where participants are more likely to remain in the program. *Colton Testimony* at 25.

The recommended program is a “fixed credit” program, with bill credits determined annually based on **expected** bills, as opposed to a “straight” percentage of income approach in which the credit varies monthly with the customer’s **actual** bill. The “fixed credit” approach provides households with the incentive to conserve energy. This approach also allows the program to operate within a fixed budget for each year, and simplifies the determination of benefits, by requiring a calculation of the credit only once annually instead of every month. *Colton Testimony* at 27-28.

PIPP programs have proven their effectiveness in other states. Natural gas utilities in Ohio began to implement PIPP programs for their low-income customers starting in the mid-1980s, followed by gas utilities in Pennsylvania in the early 1990s. *See Attachment A.* PIPP plans are now also required for Ohio and Pennsylvania electric utilities. *Ohio Rev. Code Ann.* §4928.51 *et seq.;* Re: Guideline for Universal Service and Energy Conservation Programs, Docket No. M-00960890

(Pa. PUC 6/10/97) 178 PUR 4th 508. Other states adopting this approach include California, Maryland, Maine, New Hampshire, Rhode Island and Texas. *See* Attachment A.

The cost-effectiveness of PIPP programs has been documented in a number of studies. The savings generated by Equitable, Columbia Gas and Clark County (Washington State) PIPP programs are summarized in Point I.C. above, and in Mr. Colton's public/legislative hearing statement. *Colton Public/Legislative Hearing Statement* at 8-9.

The concept of credits is gaining increasing recognition as an effective means of helping low-income families pay their bills. As noted by Ciro Scalera of the Association for Children of New Jersey:

> The concept of credits has existed for a long time but a week ago ... Governor Whitman signed the State Earned Income Tax Credit bill which helped to promote the idea and the need for that. That is essentially a credit for low income working families in New Jersey.
>
> 8/21/00 T129:L2-9.

New Jersey LIHEAP Director James Walsh noted that the New Jersey EITC is one of a number of "building blocks" put in place "to support low-income workers who have left welfare in order to reduce their need to return to welfare for assistance." 8/21/00 T141:L7-14. An energy bill credit based on **affordability** will establish "another piece of the foundation that will allow low income workers to have a decent life." 8/21/00 T141:L20-22.

Mr. Colton has estimated the total cost of the Ratepayer Advocate's proposed basic rate affordability assistance program at $79.2 million ($29.9 million for natural gas customers and $49.3 million for electric customers), plus administrative cost to be capped at 10% of this amount or $7.9

million. These amounts would be offset by $31.7 million for existing Lifeline and LIHEAP benefits. *Colton Testimony* at 33-37.

The Board should adopt the Ratepayer Advocate's proposed PIPP program as the cornerstone of New Jersey's rate affordability program. This program will meets EDECA's fundamental policy of **affordability** in an efficient and cost-effective manner.

b. Arrearage forgiveness.

The bill credits provided under a PIPP program will not create affordable energy bills if the household is also facing a large arrearage at the time it enters the program. For this reason, a arrearage forgiveness program is a necessary part of a rate affordability program. Other states which have recognized this need and included arrearage forgiveness programs in their universal service programs include New Hampshire, Maine Pennsylvania, Maryland and Ohio. *See* Attachment A. As explained in Mr. Colton's testimony, the Ratepayer Advocate is recommending a program in which arrearages existing at the time the customer enters the program are forgiven over a period not exceeding two years, subject to a customer co-payment not exceeding one percent of household income. *Colton Testimony* at 38-39. The arrearage forgiveness program could be implemented with an initial funding level of $3.413 million for electric customers and $1.422 million for natural gas customers. *Colton Testimony* at 40-42.

This program will allow customers to contribute toward the payment of arrearages, while maintaining affordability. It should be adopted as part of New Jersey's rate affordability program.

c. Crisis intervention.

As was convincingly shown by the testimony and written statements of the many ordinary citizens who participated in the public/legislative hearings, low-income families are in a constant struggle to stay financially afloat. This means that any unexpected expense, whether due to illness, a car or appliance repair, or an energy bill which is higher than usual due to extreme weather, can suddenly result in an inability to pay. As explained in Point I.B. above, existing crisis benefits are inadequate to meet the needs of New Jersey's low-income households. *Colton Testimony* at 42.

The Ratepayer Advocate therefore is proposing to set aside six percent of the total funding for the rate affordability program for crisis assistance. This is the same percentage set aside for crisis assistance as part of the New Jersey LIHEAP program. *Colton Testimony* at 42-43. Based on this recommendation, the total crisis assistance funding should be $4.8 million.

The crisis assistance program will assure that low-income families will not face unaffordable bills due to unexpected financial emergencies. It too is an essential part of a rate affordability program.

d. Outreach and intake initiatives.

As explained in Mr. Colton's testimony, a variety of barriers prevent eligible persons from participating in universal service programs. One of the primary barriers is lack of information about available programs. *Colton Testimony* at 56. This is not, however, the only barrier. Eligible persons may not participate because they have no way to get to the appropriate office to file an application, because the application form is too confusing, or because the application process is too complicated. *Id.* In examining the problem of nonparticipation in connection with the Food Stamp program, the General Accounting Office found that, "since more than three fifths of the eligible households gave these reasons for nonparticipation --36.8 percent gave a lack of information, and 25.0 gave program or access problems [*i.e.* complicated and cumbersome enrollment and application procedures] as reasons for nonparticipation-- it is clearly important to address those problems." General Accounting

Office, *Food Stamp Program: A Demographic Analysis of Participation and Nonparticipation*, at 22 (January 1990). Outreach initiatives to encourage participation are thus essential components of any Universal Service program.

The Ratepayer Advocate proposes an outreach program consisting of four "tracks." The first track should consist of the automatic enrollment of all LIHEAP participants in the universal service program. The second track involves targeting payment-troubled customers which should be handled by the utilities. The third track should be assigned to community-based organizations ("CBOs"), which can target their outreach to particular population groups such as the elderly or disabled, or households with children. In addition, New Jersey can promote program outreach by expanding its Chronicles system (formerly called Benefits Outreach and Screening Software ("BOSS")), which should be available to CBOs and all utilities. The fourth track proposed by the Ratepayer Advocate is an expansion of the Utility Education Program on both the statewide and grassroots levels to include education of qualified low-income consumers on the availability of these funds. The fourth track is essential if all eligible New Jersey energy users are to receive the benefits of the Universal Service Fund.

In addition to these outreach initiatives, intake and enrollment should be automated to the extent possible. Customers who are already receiving other benefits, or who are referred to the program's administrator by the utilities or the CBOs, should be screened for eligibility using information already available in State agency databases, rather than being required to fill out and submit a separate application form.

Outreach track 1: Enrollment of LIHEAP participants

LIHEAP eligible households should be among the first priorities to benefit from a universal service program: households with the lowest incomes and highest energy bills, as well as households with handicapped, elderly, and children under the age of six. Given the eligibility overlap between LIHEAP (up to 150% of Poverty) and the Universal Service program, and the common objectives of these programs, all households which receive home heating benefits (or home cooling benefits) through LIHEAP should automatically be enrolled in the universal service program. *Colton Testimony* at 45. However, many income-eligible households never enter the LIHEAP program due to limited outreach and education resources; thus enrollment of LIHEAP customers as the only method of enrollment in the Universal Service program is not sufficient.

Outreach track 2: Utility targeting of payment troubled customers

The second outreach track should target customers with payment problems. This track should be handled by the utilities, which have the best information on their customers' payment problems. The utilities' outreach to customers for the program should be targeted based on the following order of priority:

- Customers disconnected for nonpayment one or more times in the immediately preceding 12 months;
- Customers who have defaulted on at least one deferred payment arrangement in the immediately preceding 12 months;
- Customers who have failed to make full and timely payment in six or more of the immediately preceding 12 months;
- Customers who have failed to make full and timely payment in from three to five of the immediately preceding 12 months;

- Customers with current arrears of more than 90-days in age.

Colton Testimony at 45.

Outreach track 3: Community based organizations

As noted in Point I.B. above, many low-income households take extreme measures to pay unaffordable energy bills. Thus, a third outreach track is needed to identify customers who are paying their bills but still need assistance. *Colton Testimony* at 46. The Universal Service program should identify those organizations that can target outreach to particular population groups (*e.g.*, disabled, elderly, school age children, non-school age children) because of the involvement of such organizations with providing different program benefits to those populations.

A good example is the statewide network of agencies that currently serves New Jersey's disability community. The New Jersey Department of Human Resources, Office of Disability Services, provides a variety of services directly to disabled New Jersey residents, and also works with a statewide network serving the disability community. These agencies routinely receive inquiries from disabled customers who either cannot afford their current bills or who have accrued arrearages that threaten continued service. Another example is the network of agencies that is being developed to serve New Jersey families moving from welfare to work--these agencies could provide information and an opportunity to enroll in the Universal Service program. Other similar networks, outside the traditional fuel assistance delivery network, operate for older persons as well as for children. These include organizations delivering benefits such as free school lunches, SSI, food stamps, Medicaid, supplemental nutrition assistance, and a variety of benefits funded through the Community Service Block Grant program. *Colton Testimony* at 46-48.

To assist community-based organizations in making energy assistance available to qualified persons, the Universal Service program should include expansion of the State's existing "Chronicles" system. Chronicles is a computer software screening tool that reduces the complexity and time required to identify assistance programs for which utility customers may be eligible. Nationwide, Chronicles has the following capabilities:

- Screening low-income households for potential eligibility for a wide array of community resources, volunteer services, employment and job training opportunities, and utility assistance programs;
- Printing a resource eligibility report for each person that lists the programs for which that person is eligible, telephone numbers of the contact person, addresses, times to apply, and required documentation; and
- Using scanning technology to store brochures and other agency forms so that information about any agency is available at any site.

In some places, Chronicles can generate completed application forms and electronically transfer the application data to the appropriate agency for processing. In some places, also, Chronicles can scan client documents (such as birth certificates) and transfer the scanned image along with the completed application to the appropriate agency. *Colton Testimony* at 48-49.

Chronicles has been implemented in New Jersey to date through the New Jersey SHARES program. As of July 5, 2000, New Jersey SHARES operates Chronicles at 60 intake locations through 39 community-based organizations. The Ratepayer Advocate proposes an expansion of Chronicles throughout New Jersey to 75 additional sites. The 75 organizations should include the 21 Area Agencies on Aging in New Jersey (operating through the 21 county offices on aging), the 17 County Offices on Disabilities, and the 12 "independent living facilities" that work with the state. Chronicles capability should also be available through a utility's customer call center. As a customer service representative takes income information in negotiating a deferred payment plan, for example, that representative should provide referrals to a range of public assistance. The implementation of an in-house Chronicles system should be paid through base rates as one element of sound customer service, not as a universal service program funded through the USF.

In addition, according to New Jersey SHARES, the New Jersey Chronicles system can produce only New Jersey SHARES application forms. In other states, other benefit application forms can be produced as well. The expanded Chronicles system should provide access to all appropriate benefits programs. *Colton Testimony* at 48-51.

One utility has asserted in a discovery request to the Ratepayer Advocate that New Jersey SHARES possesses a software license for Chronicles that would prohibit the expansion recommended by the Ratepayer Advocate. *Discovery Request GPUE-RPA-13.* However, as noted in the Ratepayer Advocate's response to this request, according to the owner of the Chronicles software, the license is not exclusive, and, moreover, the New Jersey SHARES license permits it to allocate up to 150 sites to use Chronicles.

The first-year costs for each Chronicles site would be approximately $3,000 for hardware, plus $2,500 per site, in initial set-up costs and $500 in annual maintenance costs, totaling $450,000 for 75 sites. With a 10% provision for administrative costs, the Chronicles installation would cost approximately $500,000 during the initial year of the Universal Service program. *Colton Testimony* at 51.

<u>Outreach track 4: Consumer education program</u>

New Jersey is presently conducting a comprehensive Utility Education Program, consisting of both a statewide mass media campaign and "grassroots" education conducted by the individual utilities, to educate consumers about energy restructuring. *Colton Testimony* at 52. The current year's budget for this campaign is $13.4 million. A portion of this budget should be devoted to educating all residential consumers, as well as targeted populations, about the existence and qualifications for universal service benefits, and how and where low-income customers can apply for these benefits. Education on this issue is an important activity for the Utility Education Council, as is education on other aspects of customer choice. **The inclusion of a Universal Service Fund in EDECA is a clear indication of the Legislature's concern about providing a safety net for consumers who might otherwise have unaffordable bills in the unfolding competitive marketplace.** Consumer awareness of universal service programs--and how to apply for them--is essential to assure that all of New Jersey's residents will benefit from energy competition. A campaign which includes universal service education is a necessary and appropriate part of the Utility Education Campaign.

<u>Automatic Enrollment</u>

To minimize the barriers to participation caused by lack of access to agency offices, and by complicated and cumbersome application processes, intake and enrollment for the Universal Service Program should be automated to the extent possible.

Enrollment should be automatic to the extent possible. In other words, there should be a process for qualifying and enrolling consumers in the USF program without the necessity for the consumer to initiate the application process. The process should operate as follows:

1. All consumers who enroll in LIHEAP, or who are referred by the utilities or CBOs through the outreach mechanisms described above, should be notified that they may be eligible for Universal Service benefits, and that, unless they give notice that they do not wish to participate, they will be automatically enrolled if found to be qualified.

2. The names of all such consumers who do not "opt out" should be referred to the State Department of Community Affairs (or other appropriate agencies such as the State Treasurer) to certify their income levels. Consumers whose income levels cannot be certified in this way (*e.g.* because they are not enrolled in other programs), or who do not wish to have their names submitted through the automatic enrollment process, should be given the opportunity to certify their incomes by other means, such as by providing documentation of their qualification for Social Security or Supplemental Security Income.

3. The names of consumers whose income levels qualify them from the program should then be referred to the utility for determination of their expected energy bills, which are then provided to the program administrator.

4. The program administrator should then determine the amount of consumer's fixed credit based on the household's income level, historical billing amount, as well as the amount and payment terms of any arrearage forgiveness for which the consumer is eligible. Appropriate notices should be provided to the consumer, the utility, and, if applicable, the consumer's TPS. Customers who meet the income standard but are not eligible for a fixed monthly credit or arrearage forgiveness should be notified that they may be eligible for other Universal Service benefits, such as crisis intervention assistance, energy efficiency assistance, or participation in a low-income aggregation pool.

Colton Testimony at 53-54.

Customers who are not automatically enrolled should have two additional options. First, applications should be accepted by mail. Mail-in (rather than in-person) applications are increasingly being found to eliminate barriers to program participation. *Colton Testimony* at 53. Consumers should also be given the opportunity to complete an in-person application through a community-based site. This last source of intake, however, is likely be a relatively minor source of program participation. *Id.*

Automatic enrollment programs are in effect in other states. *Colton Testimony* at 54. PECO Energy's gas and electric Customer Assistance Program ("CAP") relies largely on income verification through the Pennsylvania Department of Public Welfare and the Pennsylvania Department of Revenue. The Pennsylvania Department of Public Welfare provides such income verification without cost to the utility, while the Pennsylvania Department of Revenue charges a nominal fee. In addition, customers can verify the fact that their income levels qualify them for the CAP benefits by providing federal Social Security letters (regarding Social Security or Supplemental Security Income). As a result, the company does not need to devote substantial staff time to enrollment or income verification. *Colton Testimony* at 55. The Pennsylvania PUC has endorsed such approaches. The Pennsylvania PUC has specifically said that "we have found that automatic referrals to CAP when a customer calls to make a payment arrangement and intake certification by government agencies are simple to administer and cost-effective." *Colton Testimony* at 55.

In addition, utility regulators for both New York and Ohio have adopted automatic enrollment processes for their telephone lifeline programs. *Colton Testimony* at 55. Through these processes, customers participating in designated programs are automatically enrolled in the telephone lifeline program. In directing expansion of this approach to all telephone companies in 1996, the New York Public Service Commission stated that:

> we support the automatic enrollment/removal programs for Lifeline service being implemented by New York Telephone Company and Rochester Telephone, and we will direct staff to pursue their expansion to other companies. This program provides assistance to eligible consumers in an efficient manner and ensures that only those who are eligible continue to receive assistance.
>
> *I/M/O Issues Related to Continuing Provision of Universal Service and to Develop a Framework for the Transition to Competition in the Local Exchange Market,* Docket No. 96-13, Opinion and Order 96-13 at 11 (NY PSC May 22, 1996).

New Jersey utilities, also, should rely primarily on a process that obtains customer income certification from the Department of Human Services, the State Treasurer, or other appropriate agencies. Upon receipt of a verification that such a payment-troubled customer is low-income, the customer should be automatically enrolled in the Universal Service program.

4. Administration of rate affordability program.

The rate affordability components outlined above should be available to all New Jersey residents on a uniform basis. Eligibility standards should be the same, as should intake procedures, and consumer education should be coordinated effectively and efficiently throughout the State. These objectives are best served if the rate affordability program is administered by a single state administrator. *Colton Testimony* at 58. As new universal service programs are developed in other states, the clear trend is toward statewide programs. As Mr. Colton noted in his statement at the public/legislative hearings, New Hampshire, Maryland, and California all have statewide programs. Even Pennsylvania's programs, which developed over the years on a utility-specific basis, are now implemented pursuant to explicit statewide policy direction promulgated by the Pennsylvania PUC. *Colton Public/Legislative Hearing Statement* at 7-8. New Jersey should also have a statewide program.

The State LIHEAP office should be the administrator for New Jersey's rate affordability program. This office already works with a network of community-based agencies to deliver energy assistance benefits through the LIHEAP program, as well as federally funded weatherization benefits. *Written Testimony of Richard N. Binetsky on Behalf of DCA dated Aug. 23, 2000* (*DCA Testimony)* at 1; *DCA March 20, 2000 Memorandum to Service List (DCA Memo)* at 1, 3. It has access to the data bases that will be used to evaluate eligibility for the Universal Service programs, as has developed lines of communications with the utilities. *DCA Memo* at 2; 8/21/00 T143:L19 to T145:L7. Thus, the LIHEAP office already has in place many of the of the administrative structures and lines of communication that will be needed to implement the Universal Service program.

This recommendation is supported by Mr. Colton's experience at symposium he chaired in 1999 for the United States Department of Health and Human Services on integrating state LIHEAP programs with state universal service programs. The participants in the symposium, which included utility regulators, technical consultants, fuel assistance providers, and industry representatives, identified a number of factors which suggested state LIHEAP offices as the appropriate administrators for state programs. These factors included the LIHEAP offices' existing delivery networks and linkages with other agencies, the natural synergies that would occur in both the delivery of benefits and the targeting of households in need of assistance, the avoidance of program conflicts, and the common objectives of the state and federal programs. *Colton Testimony* at 58-59.

Finally, as a practical matter, statewide administration of the Universal Service program will ensure that local needs are addressed. Increasingly, merger and acquisition activity has changed the face of utilities in New Jersey and across the country. In some cases, State-based utilities have been subsumed in national and international firms, leaving only a minor management presence in the State. Furthermore, New Jersey's lucrative utility market makes local companies prime targets for acquisitions and mergers by or with out-of-state companies. Thus, the focus on helping disadvantaged New Jersey residents through universal service programs might be lost among other competing interests. This concern is particularly important where funds are collected from New Jersey ratepayers to fund universal service programs in the State. These factors support placing the administration of New Jersey's Universal Service program under the aegis of State government.

For the above reasons, the New Jersey rate affordability program should be administered on a statewide basis by the State LIHEAP office.

B. The Universal Service Program Should Also Include Energy Efficiency, Aggregation Assistance, and a Uncollectibles Guarantee Pool.

Three additional components should be included in New Jersey's Universal Service program: an energy efficiency program to help low-income households reduce their energy bills, an Assistance in Aggregation Project to help low-income consumers realize the benefits of competition by buying in aggregated groups, and an uncollectibles guarantee pool, to encourage competitive suppliers to serve low-income customers, by providing a way for suppliers to pool the risks of uncollectibles.

1. Energy efficiency.

Energy efficiency programs can help make energy bills more affordable to low-income consumers, while also reducing the costs of the rate affordability program. As part of the Board's Comprehensive Resource Analysis ("CRA") proceedings, the Ratepayer Advocate has recommended specific low-income energy efficiency initiatives to be funded through the utilities' Societal Benefits Clauses ("SBCs"). To the extent these low-income energy efficiency initiatives are not funded through the SBC at the levels recommended by the Ratepayer Advocate in the CRA proceedings, they should be funded through the USF.

As explained in Mr. Colton's testimony, low-income households stand to benefit substantially from energy efficiency programs. The U.S. Department of Energy ("DOE") has found that the rate of energy consumption in low income households is much higher than that in higher income households, even though low income customers use less energy in their homes overall. Low income households use 14% more energy per square foot than the average household, while spending 11% more per square foot on energy than higher income households. *Colton Testimony* at 61 and Schedule RDC-10. In the public/legislative hearings, John Howat of the National Consumer Law

Center noted that energy efficiency programs throughout the country have proven to be cost-effective investments. 8/21/00 T80:L9 to 81:L23.

Consistent with the Ratepayer Advocate's recommendation in the CRA proceedings, New Jersey's low-income energy efficiency program should fund any measure that may be installed pursuant to DOE regulations for its low-income Weatherization Assistance Program, and should be funded at a level representing, at a minimum, 0.2% of the utilities' jurisdictional revenues in the 12 months preceding retail choice. This funding level should increase to reflect increases in end-use natural gas consumption. *Colton Testimony* at 61- 63. As recommended by the Ratepayer Advocate in the CRA proceedings, an Independent State Administrator should administer the various utility programs. This would provide statewide uniformity in programs, as well as the ability to establish uniform standards for programs, such as low-income energy efficiency funding, including any necessary increases due to unavoidable consumption increases.

Whatever the source of funding, the low-income energy efficiency program should be coordinated with the rate affordability program. Customers eligible for energy efficiency assistance may be eligible for rate affordability assistance, and therefore should be screened for eligibility for this program. Conversely, customers with unaffordable bills may well benefit from energy efficiency assistance, and therefore should be screened for usage levels that would qualify them for the energy efficiency program. As participants in the rate affordability program reduce their consumption of energy as the result of energy efficiency measures, this should reduce the amount of rate affordability assistance they need, thereby improving the affordability of that program component to all ratepayers. *Colton Testimony* at 63-64.

The benefits of an energy efficiency program as part of the USF program are evident. This program should be adequately funded, and coordinated with the other components of the Universal Service program.

2. Assistance in Aggregation Project.

As the Board is aware, the Ratepayer Advocate has consistently encouraged aggregation as a means to help smaller customers, including low-income customers, realize the benefits of competition by buying energy in groups. As another component of the USF programs, an Assistance in Aggregation Project would help low income customers form large purchasing groups to reduce their energy rates and improve services, thus making their energy bills more affordable while maintaining or improving the level of service they currently have.

Individual low income consumers do not have the market power to attract sufficient competitive attention to bring the benefits of competition to them. They need assistance in grouping together to create more buying power in the market and reduce their individual costs and efforts in shopping for alternative suppliers. An aggregation assistance project would provide the benefits mentioned above and also help customers pool their resources to pay for search costs and other fixed administrative expenses. By spreading the costs of aggregation (and the competitive supplier's cost of customer acquisition) over a larger group, the individual customer's costs (for gathering and analyzing information about alternative suppliers' offers) are lower and the individual customer is a more attractive target for the competitive supplier. Aggregation can also spread the risks from high cost or hard-to-serve groups of customers over a broader customer base. In this way, the high costs of some consumers can be diluted by including them in much larger pools. *Colton Testimony* at 65-67.

Low-income aggregation is not just a theory but has been implemented with good results. The State of Ohio has been active in promoting low income natural gas aggregation. The percentage of income payment plan (“PIPP”) customers of Columbia Gas Company were pooled together and bid out to competing suppliers. Columbia purchased the gas for these customers, retained the meter reading and billing functions and continued to provide and charge for transportation services. Arrearages went on Columbia's books, not the supplier's. The winning bid for the PIPP customers was 12 percent lower than Columbia's Expected Gas Cost. After the first eight months of the pilot, Columbia found that PIPP customers saved an average of 7.1 percent off their total bills (including the non-commodity portion). The state LIHEAP officials found the aggregation project worked "seamlessly" with LIHEAP and PIPP. While PIPP customers still pay their required percentage of income, the lower gas price means the LIHEAP benefit goes further and more households can be served. *Colton Testimony* at 67-68.

There are also other means of facilitating low-income aggregation. One is creating a state purchasing pool. An example is found in the Connecticut restructuring legislation, which provides that, when the state buys electricity for a state facilities, qualified low-income households will be allowed to buy electricity at that same price. The Connecticut electric purchasing pool is akin to state health care purchasing pools, where small businesses are allowed to purchase health care benefits as part of contracts that provide benefits to state employees. *Colton Testimony* at 70-71. Another option is requiring utilities to operate programs to aggregate low-income households. Such programs could be implemented through partnerships with a variety of organizations, such as local housing authorities, community action agencies and other organizations delivering a variety of public benefits, affordable housing developers, and county and municipal governments. *Colton Testimony* at 71-72.

Aggregation can reduce energy costs for low-income consumers, but it will not just happen. The Ratepayer Advocate therefore urges the Board create an Assistance in Aggregation Project, to provide legal and technical assistance to enable and promote low-income aggregation. The initial budget for this program should be $2 million for this project, based on Mr. Colton's assessment of the proposed budget for a state housing advocacy project in the DCA which would provide very similar types of legal and technical assistance to make housing more affordable. *Colton Testimony* at 73-74.

3. Uncollectibles guarantee pool

Another method used to promote competition for low income and payment troubled customers is, in effect, to guarantee the payment of third party supplier ("TPS") bills by allowing a TPS to charge its uncollectible accounts to the local distribution utilities. This mechanism gives the TPS an incentive to serve residential customers that it would otherwise avoid because of credit risks. Georgia (in its natural gas retail choice legislation) and Massachusetts (in its electric retail choice legislation) have adopted this treatment of TPS uncollectibles. *Colton Testimony* at 75.

The Georgia and Massachusetts programs are flawed, because they do not give TPSs incentives to manage and control their uncollectible accounts. However, as explained in Mr. Colton's testimony a mechanism can be created to allow TPSs to cede their risks of non-collection to a guarantee pool. The fees for use of the pool can be structured so as to encourage TPS to use, but not over-use, the pool. *Colton Testimony* at 75-76. Although the general outlines of a guarantee pool are described in Mr. Colton's testimony, the details will require development. The Board should initiate a proceeding to specify the structure and operation of the universal service guarantee pool within sixty days of its final order in this proceeding. *Colton Testimony* at 76.

C. The Universal Service Fund Should be a Statewide Fund, Funded Though a Uniform, Non-Bypassable Charge in Distribution Rates.

As set forth in the testimony of Mr. Colton, the Ratepayer Advocate recommends the establishment of a state-wide Universal Service Fund under the jurisdiction of the State Department of the Treasury, which would make disbursements in accordance with annual budgets adopted by the Board. *Colton Testimony* at 80. A state-wide universal service fund facilitates the achievement of several key goals compared to utility-specific funds. First, it is important that universal service benefits be available on a uniform and non-discriminatory basis to all of New Jersey's low-income consumers. In addition, the cost of the Universal Service Fund should be shared on an equitable manner by ratepayers throughout the State. These goals could not be reached without considerable difficulty if a separate fund were established for each of New Jersey's seven electric and gas utilities, with different eligibility requirements, different procedures and different levels of per unit cost recovery. Thus, the legislative goal of bringing benefits to **all** New Jersey Ratepayers is best met through a single state-wide fund. *N.J.S.A.* 48:3-49(b)(8). Indeed, section 12 (b) of EDECA, by mandating the establishment of "a nonlapsing fund," appears to specifically contemplate a single fund, rather than separate funds operated in piecemeal fashion by each of the State's seven energy utilities. *N.J.S.A.* 48:3-60(b).

Further, the prospect and reality of mergers and acquisitions of local utilities with and by out-of-state firms raises issues regarding the control of fund collections and disbursements. State control over these functions will help ensure that the funds contributed by New Jersey ratepayers will ultimately benefits New Jersey residents.

The structure proposed by the Ratepayer Advocate would draw on the special expertise of both the Department of the Treasury and the Board. The Department of the Treasury has expertise in collecting and disbursing funds, subject to appropriate fiscal controls, and is a neutral party in the competitive arena. Thus, the Department of the Treasury is the appropriate entity to actually collect and disburse funds. The Board would translate the budgets of the program administrators each year into a Universal Service charge, and would conduct the annual proceeding through which the utilities' savings are quantified and reflected in the charge. This role draws on the Board's expertise in utility cost and rate issues.

The costs of the universal service fund should be collected not as a stand-alone surcharge, but as an undifferentiated component of base rates, much like the utilities' current cost of collections and other operating costs. AARP's expert witness, Ms. Barbara Alexander, also recommends that the cost of universal service programs should not appear as a separate line item on utility customers' bills. *Alexander Testimony* at 30. There are a number of reasons for this recommendation. First, there is no reason for singling out universal service costs for special scrutiny on customers' bills. The utilities do not now include a separate line item for the considerable costs they incur under their current credit and collection practices; there is no more reason to single out universal service cost. *Colton Testimony* at 81. Moreover, as explained in detail in Point I.C. above, **universal service programs generate considerable savings**. A line item on a bill which reflects only the costs of universal service programs would be misleading to consumers.

Once a total level of funding for the various universal service programs is established, the resulting costs should be allocated among utility customers statewide on a volumetric basis. Only certain on-site power customers should be exempt from contributing to universal service programs, in accordance with the relevant provisions of the EDECA. *N.J.S.A.* 48:3-77. All other utility customers should be required to contribute to universal service programs.

The timing for the implementation of a universal service cost recovery mechanism is also important, considering the need for a working capital buffer to compensate for the lag between collections and disbursements. Thus, the Board should establish the funding mechanism so that New Jersey's utilities can begin their collection before the universal service programs are to begin operation. Mr. Colton recommended a time lag of at least one month before disbursements begin. *Colton Testimony* at 82. For example, assuming a program implementation date of November 1, 2001, cost recovery should be reflected in customer bills no later than October 1, 2001. *Id.* Similar time frames should apply to the implementation of the charge for the interim program. *Colton Testimony on Interim Program* at 13.

Contrary to the assertions of several electric utility commentators, the proposed funding mechanism for universal service programs would not impact the electric rate discount provisions of EDECA. The Board should follow the statutory mandate of EDECA and provide for appropriate universal service programs, while simultaneously requiring adherence to the EDECA-mandated electric rate reductions. Universal service expenditures should be undifferentiated from other utility operating costs, and should be viewed as no more cause to breach the rate reduction mandates than other utility operating costs. Pennsylvania adopted this approach, placing universal service expenditures under its rate cap:

> Funding for universal service and energy conservation programs should not be determined after all other funding requirements are met. The total amount of dollars available under the rate cap should be adjusted to meet all the requirements of the Act including universal service and energy conservation."

> *Re: Guidelines for Universal Service and Energy Conservation Programs*, Docket No. M-00960890 (June 11, 1997), 178 *PUR 4th* 508 (Pa. PUC), 531.

However, Pennsylvania also clearly and strongly stated that the existence of rate caps should not result in inadequate universal service programs:

> Within the rate caps, universal service program funding must be appropriate to ensure the availability of meaningful and strong programs in each service territory.
>
> *Id*. at 534.

The electric rate reduction targets set forth by the Board and the EDECA may be viewed as akin to rate caps. The Ratepayer Advocate respectfully submits that the Board should follow Pennsylvania's approach to funding under a rate cap, which places universal service funding under the cap while simultaneously ensuring that universal service programs are "meaningful and strong." Furthermore, the universal service programs advocated by the Ratepayer Advocate are likely to result in cost savings, which should be applied to offset any additional costs attributable to the programs. In sum, EDECA does not present an impediment to additional universal service funding. Clearly, it was the intent of the Legislature to see that **all** utility customers are properly and adequately served, including the State's low-income residents.

D. The Board Should Establish a Cost Recovery Mechanism Which Returns to Ratepayers the Full Amount of the Utilities' Savings Resulting from the Universal Service Fund.

The Ratepayer Advocate recommends the use of two methods for disbursing and reimbursing providers for universal service programs. State agencies, such as those currently providing LIHEAP assistance, as well as the proposed administrator of the Assistance in Aggregation Project and other independent providers, would recover their costs through an annual budgeting process. *Colton Testimony* at 82-82. Each entity would submit an annual budget to the Board. The budgeted amount would be included in the Board's determination of the Universal Service Fund charge for the following year. The State Treasurer would then disburse the funds to each administrator in accordance with its budget and existing State procedures.

For the utilities, the cost recovery process should assure that the savings which will result from the implementation of a Universal Service program will be returned in full to ratepayers. As discussed in Point I.C. above, these savings are expected to be substantial. New Jersey should follow the example of our neighboring state of Pennsylvania which, as noted above, requires that "program funding" should be derived from sources including ".(iii) operations and maintenance expense reductions." *CAP Policy Statement*, § 69.265(1).

The Ratepayer Advocate recommends the adoption of a two-phase process for the recovery of universal service costs by utilities, as proposed by Mr. Colton. *Colton Testimony* at 86-87. The first phase is recovery of the fixed rate affordability credits and arrearage forgiveness credits provided to low-income consumers. These amounts should be billed on a monthly basis to the state LIHEAP office and approved, as appropriate. The State should then reimburse the utility for approved amounts within a time certain.

The second phase is an adjudicatory proceeding before the Board to determine each utility's savings and revenue enhancements resulting from the universal service program. On an annual basis, each utility would be required to submit its estimate of its universal service related savings and revenue enhancements, relative to a base period (the year before the implementation of the Universal Service program). The actual savings and revenue enhancements should determined by the BPU following an adjudicatory hearing, with participation by the Ratepayer Advocate and other interested parties, and the savings would be reflected in the Universal Service charge.

As explained in Point I.C. above, the utilities' savings will come from a number of sources. In order to accurately capture **all** of these savings, New Jersey should adopt the model for determining savings that was recently adopted in Pennsylvania. *Re: Guidelines for Universal Service and Energy Conservation Programs*, Docket No. M-00960890 , 178 *PUR 4th* 508, 540-47 (Pa. PUC 1997). Mr. Colton identified this approach as a "top down" approach, in contrast to the traditional "bottom up" approach followed in utility ratemaking. Under the "bottom up" approach savings are calculated based on specifically identified cost elements. In contrast, the "top down" approach is based on the evaluation of changes in a utility's total departmental budgets. Therefore, unlike the "bottom up" approach, the "top down" approach more accurately captures all of the administrative costs (and savings) of traditional credit and collection activities. *Colton Testimony* at 85-86. According to the Pennsylvania PUC's evaluation of the Equitable Gas program, the "bottom up" approach captures only about one-fourth of these costs. 178 PUR 4th at 542-43. The "top down" approach is described in detail in Pennsylvania's universal service program reporting regulations. This approach, which should be adopted in New Jersey, so that the full amount of the utilities' savings will be returned to ratepayers.

E. The Utilities Should Be Required to Report on the Effectiveness of the Universal Service Fund, and the Impact of Competition on Low-Income Consumers.

An integral part of the implementation of a Universal Service Fund in New Jersey is effectively monitoring the performance of the Universal Service program. If the program is perfoming well, the low-income population will be faring no worse than the general population. It is also imperative to track the impact of competition on low-income consumers. *Colton Testimony* at 88.

Furthermore, with deregulation/restructuring of the gas and electric industry we have seen, through mergers/acquisitions, the loss of three of New Jersey's "only" electric utilities. In New Jersey we have seen our fair share of mergers and acquisitions, for example, Atlantic Electric is now part of Conectiv, JCP&L is for the time being a part of GPU, soon to change with a reported merger between GPU and First Energy, and Rockland Electric formerly a part of Orange and Rockland is now submerged in Con Ed. It is safe to assume that there could be more mergers/acquisitions in the future. Therefore, given what has already occurred and the possibility of more to come, it is even more important for the Board to adopt the Ratepayer Advocate's reporting requirements to ensure that no matter which corporate entity is doing business in the State, we will be able to monitor the effectiveness of New Jersey's Universal Service Fund program for New Jersey ratepayers.

The Ratepayer Advocate recommends a reporting mechanism consisting of three components:

1. At present, none of the New Jersey utilities has a mechanism for identifying and tracking low-income consumers. In order to evaluate the impact of the Universal Service program and competition on low-income consumers, it is necessary to establish a process of for identifying and tracking these consumers.

2. The objective of the Universal Service program should be that low-income consumers will have customer service outcomes, such as disconnections for non-payment, negotiated deferred payment arrangement, and successful deferred payment

arrangements, which are comparable to the population of residential consumers as a whole. New Jersey's utilities should be required to report on four outcome-based measures that measure the program's achievement of this objective.

3. In a study he conducted in 1999 under contract with the U.S. Department of Health and Human Services ("HHS"), Administration for Children and Families, Division of Energy Assistance, Mr. Colton concluded that low-income consumers seek, on a non-degraded basis, access to reasonable adequate service at prices reflecting least cost, both on a per unit and total bill basis. The Board should use the HHS report as a guide in developing reporting requirements to track the impact of competition on low-income ratepayers.

Colton Testimony at 88.

1. Tracking Low-Income Customers.

In order to measure the impact of the Universal Service program and competition on low-income customers, it is necessary to identify and track them. None of the utilities, however, are able to do this. In their discovery responses, the utilities asserted that they do not separately track low-income customers, are unable to determine the number of low-income disconnects, the number of low-income deferred payment plans, the number of low-income customers whose accounts were in arrears, just to name a few examples. *See* Point I.D. above. The Ratepayer Advocate's cross-examination of GPUE's witness, Mr. Siebens, is illustrative:

Q. Do you recollect that the company has stated in discovery responses that it doesn't separately track low income customers, including the number of them who are on deferred payment plans, the number of disconnections of low income customers or how much of the company's business is in arrearage due to low income customers, is that correct?

A. Correct.

8/21/00 T227:L19 to 228:L2

As was discussed by AARP's expert witness, Ms. Barbara Alexander, this failure is due in part to "...the inability of many of New Jersey's utilities to properly analyze, identify and understand the implications of their credit and collection programs...." 8/9/00 T47:L20-24.

Identification and tracking are the foundation for any effort to monitor universal service programs. For example, one of the purposes of establishing a universal service fund is to ensure that customers needing assistance receive it, but how can we determine the needs of a utility's customer base if the utility keeps that information to itself? As Commissioner Armenti pointed out, "how do we design any program if we don't know who the clients are?" 8/9/00 T56:L19-21.

Unfortunately, not only have the New Jersey utilities acknowledged that they have failed to track or keep a record of important low-income customer service issues, but they have also failed to propose a methodology on how to capture this information. While the utilities claim to be concerned with low-income or payment troubled consumers, not one proposed a methodology to make sure that those customers could be readily and easily identified--or, for that matter, any other way in which the Board could track or monitor the performance of New Jersey's universal service program.

New Jersey should establish an affirmative, proactive process that provides for all utilities to uniformly identify and track low-income consumers. To remedy this deficiency, the Board should require that within ninety (90) days, each utility submit a proposed plan setting forth a process through which low-income consumers can be identified and tracked. *Colton Testimony* at 89.

2. Indicators of Universal Service Program Performance.

In order to ensure the effectiveness of any universal service program the Board must require that all utilities report on four key outcome-based performance indicators. An outcome-based performance reporting system ("OPRS") for customer service issues relative to low-income payment troubles will help protect the integrity of the Universal Service Fund program and ensure that the program participants will be properly served and enjoy the benefits they rightly deserve.

The data needed for establishing the baseline residential performance of each of the recommended indicators can be ascertained from the company's existing computer system. *Colton Testimony* at 91. The source of data for establishing the low-income residential performance can be collected for all customers. Those customers are identified on a company's customer information system as recipients of assistance through LIHEAP or any other assistance program enabling the company to identify and track a customer as low-income.

The DNP Rate

The first performance indicator measures the rate of disconnection for nonpayment ("DNP Rate") for low-income consumers, compared to the general population. *Colton Testimony* at 90. A disconnection of service represents not only a social problem for the disconnected household but also a business cost for the utility. If a company is performing well with respect to any of the following: identifying its low-income customers in arrears, negotiating reasonable deferred payment plans, providing effective outreach for participation in LIHEAP, and other related activities, the disconnection rate for low-income customer should be no higher than that of the general residential population. *Colton Testimony* at 92-93.

The DPA Rate

The second performance indicator that must be established is the number of low-income customers' accounts placed on deferred payment arrangements, compared to the rate for the general population ("DPA Rate"). A universal service program that is performing well will ensure that the incumbent utilities are identifying low-income consumers and placing them in the universal service program, thus decreasing the need to place low-income customers on deferred payment arrangements. *Colton Testimony* at 90. In a satisfactorily performing universal service program the DPA Rate for low-income customers to should be no different from the residential class as a whole. *Colton Testimony* at 92-93.

The DPA Failure Rate

The third performance indicator measures the rate of unsuccessful deferred payment plan arrangements for low-income customers compared to the general residential population ("DPA Failure Rate"). *Colton Testimony* at 90. If the universal service fund program is effectively working there should be no reason why a utility's low-income population deferred payment plan would differ from the deferred payment rate for the utility's general residential population. *Colton Testimony* at 93.

The "Bills Behind" Statistic

The fourth performance indicator is the "bills behind" statistic for accounts in arrears, again for low-income consumers compared to residential customers as a whole. This statistic represents a weighted average of arrears for households not participating in a deferred payment plan. The "bills behind" statistic should be calculated by dividing the total monthly arrears not subject to deferred payment arrangements by the average monthly bill. For example if a customer has an arrears of $400 and average monthly bill of $200, that customer is 2.0 "bills behind." *Colton Testimony* at 90-91.

The "bills behind" indicator will measure the practice of allowing customer arrears to accumulate without placing the customer in the account collection cycle. The adoption of a "bills behind" performance indicator will show the effectiveness of a utility in locating households, especially low-income customers, that should but have not been given the opportunity to participate in a deferred payment plan. If a utility is reaching its low-income population and offering the same type and quality of customer service as it offers to its total customer population, then the "bills behind" statistic for the low-income population should not differ from the "bills behind" statistic for the general residential customer class. *Colton Testimony* at 93-94.

The four outcome-based performance reporting system standards cannot be viewed or relied upon independently. If the Board chooses to adopt one but not another measurement tool, this would create unintended incentives. For example, if one were to look only at whether a company minimizes service terminations, the company would have an incentive to reduce terminations while not improving its collections. If one were to look only at whether a company minimizes arrearages, the company would have an incentive to disconnect customers rather than to place them on deferred payment arrangements. If one were to look only at DPAs without looking also at DPA success, the company would have an incentive to place delinquent customers on DPAs without regard for the affordability of such plans. The four-part structure is necessary for New Jersey utilities to address *each* aspect of the OPRS. *Colton Testimony* at 95.

It is important to note that the Ratepayer Advocate is not recommending that the outcome-based performance reporting system be used to judge whether a New Jersey utility is doing a "good" or "bad" job relative to universal service for low-income customers. The purpose of establishing the outcome-based performance reporting system is to ensure that low-income customers will have the same customer service results, such as disconnections for nonpayment, negotiated deferred payment arrangements, successful deferred payment arrangements and arrearage levels, that are equivalent to the utility's general residential population. The outcome-based performance reporting system should be used to capture a divergence in the outcomes for low-income customers versus the entire residential customer class. *Colton Testimony* at 95.

The Ratepayer Advocate proposes to use the reporting mechanisms to track the customer service outcomes for low-income customers. Even though the outcome-based performance reporting system is being put forth as a tracking tool, its results must be strictly scrutinized to make sure that the customer service outcomes do not degrade over time. The reports that the utilities will file are extremely important and necessary to measure low-income customer service outcomes.

Therefore, to alert the utilities to the seriousness of the its intentions to monitor the implementation of the Universal Service Fund program, the Board must set forth a penalty schedule for failing to file the reports. Pursuant to *N.J.S.A. 48:2-42,* the Board has the authority to establish daily penalties for noncompliance with orders. At the present time, the Ratepayer Advocate is not recommending penalties or rewards based upon the information that will be contained in the reports. However, this should not preclude the Ratepayer Advocate or the Board from being able to file a complaint or initiating an investigation based upon the report.

3. Monitoring the Impact of Competition on Universal Service.

In 1999, the Federal Government through the U.S. Department of Health and Human Services ("HHS"), Administration for Children and Families, Division of Energy Assistance, developed a report regarding the impact of retail competition on low-income consumers. *Monitoring the Impact of Electric Restructuring on Low-Income Consumers: The What, How and Why of Data Collection* (June 1994) (the "*HHS Report*") (*Colton Testimony*, Appendix A). There were four stated purposes of the HHS project: (1) to identify, define and explain a set of quantifiable indicators to use in tracking how restructuring the electric industry affects low-income consumers; (2) to propose a set of specific data through which these indicators can be measured (currently and at periodic intervals); (3) to suggest a methodology for collecting the proposed data; and (4) to explain the use to which the performance measures can be put. *HHS Report* at 1. The HHS Report can serve as a foundation in developing the appropriate indicators for New Jersey.

Mr. Colton concluded that there essential issues for low-income energy consumers. These issues, and the related reporting measures recommended by Mr. Colton in his report, are:

- C **<u>Access</u>:** "Access" to service involves the universal opportunity to connect to and take advantage of the competitive electric system. Mr. Colton's report proposed tracking the involuntary disconnection of service, the service (or lack thereof) entering the winter heating season, and the types of service taken by low-income consumers, among others.

- C **<u>Reasonably adequate service</u>:** "Reasonably adequate service" encompasses a broad range of requirements involving the supply of kWh and the provision of supplemental customer services. To track this component, Mr. Colton recommended reporting measures including, but not limited to, tracking contributions to hardship funds, the availability of affordable rate programs, the availability of low-income energy efficiency programs, the extent of extreme weather protections, the extent of customer service contacts, among others.

- C **<u>Least-cost service pricing</u>:** Least-cost service pricing involves the dollars paid, not only on a per unit basis, but on a total bill basis as well. Mr. Colton recommended proposed reporting measures including, but not limited to, tracking per unit prices, fixed monthly charges, supplemental customer fees, and provider of last resort participation, service loss, and bills, among others.

Colton Testimony at 97-98.

The HHS report developed fourteen performance indicators to measure these three essential components of service to low-income consumers. The recommendations contained within the HHS report provide the Board with the building blocks to develop an aggressive and reliable tool to measure the impact of retail competition on low-income customers.

Reporting mechanisms such as those recommended in the HHS report are essential for the Board to assure that low-income consumers are not "excluded from the market or limited in their participation by means of exclusionary credit policies or limitations on the nature and the extent of the service available to them." *HHS Report* at 1. The reporting mechanism for the impact of retail competition on low-income customers will help determine whether or not low-income customers are continuing to receive high quality utility service at reasonable prices, and whether there is a need for additional funding for low-income affordability assistance, whether there is a need for special assistance to help low-income consumers effectively participate in the competitive marketplace through aggregation, and whether there is a need for special low-income price protections. *HHS Report* at 1. The importance of each one these issues needs to be addressed and can only be done through reporting mechanisms to track the impact of competition on low-income consumers. These reporting mechanisms will provide the Board, the utilities and other community based organizations with a picture of the impacts of retail competition and the need for a universal service program to assist the low-income consumer.

4. Cost Recovery.

The Universal Service Fund is an inappropriate mechanism to recover the costs associated with the reporting mechanism. It is a common practice of regulatory agencies to impose reporting requirements on the companies they oversee. *Colton Testimony* at 100. The Board has recently proposed for adoption, the Interim Electric Distribution Service Reliability and Quality Standards which contain two detailed and specific reporting requirement for filing. In these standards the Board is proposing to require the four electric utilities to file a comprehensive annual system performance report and a major event report, a report which is to be filed within 15 business days of the occurrence.[2] The costs associated with the universal service fund reporting are recoverable like other costs associated with the reports that utilities file --through a base rate proceeding. Additionally, the report addressing the impacts of retail competition should not be recovered through

\2\ The Interim Electric Distribution Service Reliability and Quality Standards were published for comments in the New Jersey Register on August 21, 2000. *N.J.A.C.* 14:5-7.1 *et.* seq.

the Universal Service Fund. The reports to be filed with the Board should be considered filed in the normal course of business pursuant to New Jersey's move to retail competition.

5. Reporting Requirements in Other Jurisdictions.

The Ratepayer Advocate's proposal to adopt reporting requirements has support from other jurisdictions. Other jurisdictions have adopted both of the types of reporting requirements recommended by the Ratepayer Advocate: (1) to measure the performance of universal service programs; and (2) to measure the impacts of competition on low-income consumers.

One example of the first type of reporting requirement is found in Pennsylvania. On June 22, 2000, the Pennsylvania Public Utility Commission adopted *Reporting Requirements for Universal Service And Energy Conservation Program 52 Pa. Code Chapter 62*, Docket No. L-00000146 (PA. PUC June 22, 2000). Under this decision, the utilities are required to report information including: the total number of payment arrangements, annual collection operating expenses, the total dollar amount of residential write-offs, total number of residential customers, residential revenues, total amount of residential arrears on payment arrangements and not on payment arrangements, total number of residential customers who are payment troubled, the number of disconnections and reconnections, and the total number of low-income households. In supporting its decision, the Pennsylvania PUC determined that "in our view, a universal service plan that includes a projected needs assessment and projected enrollment levels coupled with the collection reporting data, should provide the Commission with the tools to determine if these programs are available to low-income customers." *Id.* at 11. Moreover, two years earlier, the Pennsylvania PUC had largely adopted the recommendations advanced by Roger Colton's firm of Fisher, Sheehan & Colton, Public Finance and General Economics ("FSC") with respect to data reporting for electric utilities. The

Pennsylvania PUC specifically adopted a **performance-based** approach, as opposed to an approach measuring activities and output. *Reporting Requirements for Universal Service and Energy Conservation Programs*, 28 Pa. Bull. 3791, 3793 (Pa. PUC Aug 8, 1998).

New Hampshire, also, has adopted the performance-based reporting system developed by FSC. In February, 2000, the New Hampshire Governor's Office of Energy and Community Services ("ECS"), which is responsible for implementing that state's Electric Assistance Program, presented the "periodic reports" for the program which will be supported by mandatory data collection from the state's utilities. The data will answer five questions:

- Does the program result in complete payments by participants?
- Does the program result in timely payments by participants?
- Does the program result in regular payments by participants?
- Does the program result in reduced arrears by participants?
- Does the program result in cost savings to utilities?

The ECS reporting requirements are largely based on FSC's Pennsylvania model. Governor's Office of Energy and Community Services, *Monitoring and Evaluation of New Hampshire EAP: Periodic Data Reports* (Feb. 2000).

Finally, the Ratepayer Advocate is proposing the same reporting approach that the New York PSC staff has advanced. The New York PSC staff stated: "it appears that the use of an *array of collection tools* targeted to *various types of collection situations* is most productive in reducing collection rates." (emphasis added). The Staff concluded that the utilities' collection operations should:

- C Identify payment-troubled customer problem types in order to mold effective collection programs;
- C Develop comprehensive collection information systems;
- C Implement collection programs designed to resolve customer payment problems and characterized by personalized attention; and
- C Design mechanisms, where possible, to evaluate various collection practices.

Proceeding on Motion of Commission to Examine Collection Practices of the Major Gas and Electric Utilities in New York State to Identify Ways to Reduce Losses Due to Uncollectibles While Maintaining a High Level of Customer Services, NYPSC No. 91-M-0744 (Dec. 27, 1995).

Additional examples of reporting requirements can be found in Oklahoma. The Oklahoma Corporation Commission has adopted reporting requirements for universal service funds provided by telecommunication carriers. Each contributor is to the Oklahoma Universal Service Fund program is to provide an annual report to the Administrator of the fund. *Okla. Admin. Code* § 165:59-9-17. The report is to provide information requested by the Administrator to satisfy the Administrator's general duties and obligations, which include among other things: funding levels, contribution/payment compliance, audits of the fund and requests for funding. *Okla. Admin. Code* § 165:59-9-11.

The Ratepayer Advocate's proposal that the Board monitor the **impact of retail choice on low-income consumers** is modeled on Connecticut's retail choice statute. That law provides that "the Department of Public Utility Control shall, in consultation with the Office of Consumer Counsel, monitor on an on-going basis the state of competition, as it exists and as it is likely to evolve, and the average total rates of each customer class." *Conn. Pub. Acts* 98-28, §75

Massachusetts, also, adopted similar provisions. Among the reporting requirements created in Massachusetts are:

- That the division of energy resources was directed to develop information on the "average of all rates charged for default, low-income and standard offer service to each customer class and for each sub-class within the residential class, respectively";

- That the division was directed to "develop and issue. . .a report which shall detail the status in the previous calendar year of pricing disparities between customer classes and separately within the residential class, regions of the commonwealth, and distribution companies and suppliers serving ratepayers";

- That the division was directed to issue an annual report looking at, among other things: (1) "a determination of whether or not all customer classes are being adequately served by competitive markets"; and (2) a determination of the competitiveness of energy markets, including a determination of whether or not the electric industry is providing consumers with the lowest prices possible within a restructured competitive retail marketplace"; and (3) an identification of "any substantial fluctuation or pricing differences in the cost of electricity available to consumers, especially with respect to geographic regions and low and moderate income customers."

Mass. Gen. Laws, ch. 25A, §11E.

The need for reporting requirements to monitor the progress of: 1) the universal service program and 2) the impact retail competition has on low-income consumers is well-grounded in established policy and should be adopted in New Jersey as well. With support from other jurisdictions, the Ratepayer Advocate's request to establish reporting requirements must be granted and implemented.

III. THE INTERIM PROGRAM TO BE IMPLEMENTED FOR THE UPCOMING HEATING SEASON SHOULD BE A GEOGRAPHICALLY DISCRETE RAMP-UP OF THE PERMANENT PROGRAM.

A. The Ratepayer Advocate's Proposed Interim Program Will Allow Benefits to Flow During the Upcoming Heating Season, While Paving the Way to Full Implementation of the Full-Fledged Program Next Year.

The design of the interim program to be implemented for the upcoming heating season is of the utmost importance if New Jersey is to have a full-fledged program in effect for the 2001-02 winter heating season. Both the Ratepayer Advocate and AARP have proposed that the interim program take the form of a ramp-up of the final program in discrete communities throughout the State. *Colton Testimony on Interim Plan* at 2; *Alexander Testimony* at 38-39.

In the public/legislative hearings, Mr. Colton explained the importance of the "ramp up" approach:

> The second thing that we have learned ... is that on an interim basis you don't want to implement an interim program that is substantively different from what you are going to do on a permanent basis. The interim program should be a step toward implementation of a permanent program.
>
> 8/9/00 T92:L8-14.

As Mr. Colton explained further, this recommendation is based on:

> bitter experience-- you don't want to do what we did in New Hampshire where we developed a stand-alone interim program and then after we got into that we worked on the permanent program and realized that all of this work here on the interim program was wasted because we were only going to do it for a year or year and-a-half.
>
> 8/21/00 T25:L23 to T26:L6.

Mr. Colton explained further that using this approach, benefits can be delivered under an interim program even if all of the details of the permanent plan have not been resolved by that time. 8/9/00 T91:L19-23. Thus, the approach recommended by the Ratepayer Advocate and AARP will serve two purposes: (1) it will deliver benefits for this winter, and (2) will enhance the final program's development.

Other witnesses at the hearings echoed Mr. Colton's observations on the design of the interim program. Jim Dieterle, State Director of AARP for New Jersey, explained AARP's support of its similar proposal as follows:

> We are very much opposed to the institution of pilot programs. I have been involved with them when I worked for the utility: We will look at it in a year and see how it works out. Meanwhile over one hundred thousand shut-off's every year, thousands of them coming in situations where families simply don't have the money....
>
> 8/22/00 T33:19-25.

Ciro Scalera, Executive Director of the Association for Children of New Jersey, noted that the "ramp up" approach is consistent with the approach being taken in many new programs being established by the New Jersey Legislature. Most such programs:

> are getting away from the pilot type approach. They are looking at designing a more comprehensive program and in some cases the need might be to ramp it up in certain geographic areas, you know, an approach that makes sense and is doable, they are looking at putting in program in a comprehensive way rather than trying to do a piece here or a pilot there.
>
> 8/21/00 T130:L20 to 131:L4.

Finally, the importance of structuring the interim program as part of a comprehensive approach was recognized by Commissioner Butler at the August 21, 2000 public/legislative hearing, when he said:

> I wanted to highlight it because I think it is important to the overall approach, and that is an interim program for the upcoming heating [season] with an ongoing comprehensive program to be put in place as soon as we can.
>
> But certainly we want to have an interim program in place for this heating season by, I guess October.

8/21/00 T7:L5-12.

As explained in Mr. Colton's testimony, the Ratepayer Advocate's proposed interim plan should operate as follows:

- The program should operate in discrete communities throughout the state. The Board should consider establishing interim programs in Newark and Camden (PSE&G), Atlantic City (South Jersey Gas/Conectiv), Asbury Park/Long Branch (NJNG/GPU) and Elizabeth (Elizabethtown Gas/PSE&G). *Colton Testimony on Interim Program* at 2.

- The interim program for each utility should target 1% of its customer base. *Id.* at 5.

- The program should include the basic rate assistance and arrearage forgiveness components of the full-scale program. *Id.* at 3.

- Eligibility should be the same as in the full-scale plan--150% of the federal Poverty Level, with a reasonable amount of funding set aside for households with incomes up to 200% of Poverty. *Id.*

- Intake and enrollment should take place in the same manner as the full-scale plan. *Id.* at 3-5.

- Fixed bill credits under the basic rate affordability assistance component should be calculated and delivered in the same manner as under the full-scale plan, designed to create affordable energy bills based on an affordable percentage of household income. *Id.* at 5-8.

- For the arrearage forgiveness component of the interim plan, a customer contribution of 1% of household income should first be subtracted from the customer's total arrearages. The utility should then provide a $10 arrearage credit each month, up to the amount of the arrearage remaining after the customer's contribution. *Id.* at 8-9.

Based upon the target participation level of 1% of the utilities' customer base, the interim program can be implemented for $9.1 million for the electric program and $6.1 million for the natural gas program *Id.* at 12 and Schedule RDC-I-1. These costs should be funded through Universal Service charges of $0.000133 per kWh for the electric program and $0.001062 per therm for the for the natural gas program. *Id.* at 12.

The Ratepayer Advocate's proposed interim program will allow the development of the administrative structures and communications protocols that will be needed for the full-scale program, while allowing benefits to flow to low-income residents in several of the New Jersey communities that are most in need of assistance. The Ratepayer Advocate urges the Board to adopt this plan and to order the parties to work toward its implementation as soon as possible, so that benefits can flow during the upcoming heating season.

In contrast to Mr. Colton's approach, the utilities have proposed to continue existing social and company-implemented programs. This proposal is clearly unacceptable. The purpose of the interim program should be not only to reach the neediest customers this winter heating season, but also to lay the foundation for the permanent program. It is important to note that while they had the opportunity none of the utilities questioned Mr. Colton when he testified about the importance of following this approach. The utilities' proposals to continue the "band aid" measures currently in effect would restrict the development of a final Universal Service program and fail to provide benefits to those customers that so desperately need them. This is clearly a step in the wrong direction. The Ratepayer Advocate's approach provides both immediate benefits and a positive step toward implementation of a permanent Universal Service Fund program. The Board should adopt this approach, rather than the utilities' suggestions to continue the *status quo*

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B. The Ratepayer Advocate Supports Staff's Recommended Components of the Interim Program with Certain Modifications, as Long as They are Part of the Implementation of the Permanent Program.

In its September 1, 2000 memorandum to the parties, the Board's Staff suggested a number of components for inclusion in the interim program. The Ratepayer Advocate generally supports the

Staff recommendations, with certain modifications, **so long as the interim measures are part of the comprehensive program recommended by the Ratepayer Advocate**. The Ratepayer Advocate offers the following comments regarding the Staff proposals.

Staff has suggested that the following components be considered for inclusion in the interim program:

1. Expanding the Winter Termination Program;
2. Developing a uniform arrearage forgiveness methodology and funding;
3. Expanding the use of the Chronicles software; and
4. Expanding low-income aggregation initiatives.

<u>Arrearage forgiveness</u>.

An arrearage forgiveness program should be part of the interim program. A uniform methodology should be implemented, as described above. However, as with all of the proposed interim components proposed by Staff, the arrearage forgiveness component should be **part of the implementation of a comprehensive program**. A one-time arrearage forgiveness program, while helpful to many low-income households, would not solve the underlying problem of **affordability**.

<u>Expanded use of Chronicles software</u>

The Ratepayer Advocate has recommended expanding the use of the Chronicles software, and would support the initiation of this effort as soon as possible. The expansion of the Chronicles system is an important part of the ramp-up of the full-scale Universal Service program.

Expanded aggregation initiatives

As discussed above, aggregation can bring important benefits to low-income consumers, while improving the cost effectiveness of the Universal Service programs. The Ratepayer Advocate would support initiatives to implement aggregation programs as soon as possible.

Expansion of Winter Termination Program

Staff has suggested that the Winter Termination Program be expanded by increasing the number of eligible customers, or by extending the winter non-disconnection period. The Ratepayer Advocate believes that these specific measures would not offer meaningful additional assistance to New Jersey's low-income customers. Since the current Board-approved Winter Termination Program already includes a broad "catchall" category for "customers who are unable to pay due to circumstances beyond their control," expanding the other categories of eligible customers likely would not increase the number of persons eligible for protection from shutoffs. *N.J.A.C.* 14:3-7.12A. In any event, as shown in Attachment C, which depicts data on winter terminations provided by the utilities, winter terminations are relatively uncommon even under the existing program. Extending the winter termination period also would not provide meaningful protection, as it would provide only a few additional days of protection from shutoffs, while doing nothing to address the underlying problem of **affordability**.

The discovery and hearings in this proceeding did, however, highlight two areas that could be addressed as part of the interim program. First, as noted above, the public/legislative hearing testimony and written submissions to the Board included statements from several citizens showing the substantial hardships that can result from a shutoff of electric service during the heat of summer. Therefore, the Board should consider implementing a prohibition on shutoffs during hot weather.

The customer safeguards enacted as part of the Texas electric restructuring legislation include a provision prohibiting disconnections of service whenever "the National Weather Service issues a heat advisory for any county in the relevant service territory, or when such an advisory has been issued on any one of the previous two calendar days." *Tex. Code Ann.* § 39.101(h)(2). A similar provision could be implemented for New Jersey.

Second, as shown in Attachment D, based on the utilities' discovery responses, they continue to issue numerous termination **notices** while the Winter Termination Program is in effect. Thus, even though the utilities do not often terminate service during the winter, they continue to issue **threats** of termination. As discussed in Point I.B. above, consumers facing a threat of disconnection may take extreme measures to avoid a shutoff, such as cutting back on purchases of food or medicine. The Board should consider restrictions on the issuance of termination notices during the winter months.

IV. A PROMPT BOARD ORDER IS ESSENTIAL TO IMPLEMENT THE INTERIM PROGRAM DURING THE UPCOMING HEATING SEASON, AND THE PERMANENT PROGRAM FOR NEXT YEAR'S HEATING SEASON.

The Board should act promptly to issue an Order clearly defining the elements of New Jersey's Universal Service program. A prompt, definitive Board Order is essential if New Jersey is to implement an effective program on a timely basis. The importance of a timely Board Order was addressed by several witnesses during the public/legislative hearings in this matter.

Both Roger Colton and AARP witness Barbara Alexander explained that a full-fledged Universal Service program could be in place by the 2001-02 winter heating season--if work is begun **now** to put the necessary administrative structures in place. 8/9/00 T58:L3-L12 and 91:L24 to 92:L5. In addition, as explained by Mr. Colton, the interim program could be in effect, and funds could begin flowing to some low-income consumers, during the upcoming heating season. 8/9/00 T91:L8 to 93:L11; 8/21/00 T25:L10-21. In order to accomplish this, a definitive Board Order defining the elements of the Universal Service Program must be issued promptly.

The crucial importance of a prompt Board Order was explained by AARP witness Barbara Alexander in response to a question by Board Staff about when a Universal Service program could be implemented. As Ms. Alexander remarked, "the key thing to starting this program is the Board's Order ... and to get the cooperation of the State agencies, which, as I understand it, have already come forward and filed letters ... indicating a desire to cooperate ...." 8/9/00 T58:L4-12. Mr. Colton expressed his agreement that "the only limiting factor is the Order that says 'Go do it.'" 8/9/00 T92:L2-5.

Joseph Walsh, the Director of New Jersey's LIHEAP program, explained that effective discussions on implementation cannot take place until there is a Board Order resolving the parties' differing views on policy issues, and defining the elements of the Universal Service program:

> ... certainly I would not want to suggest that we have not had cooperation from the utility companies in anything we have ever done.
>
> I do believe that once a plan, the broad parameters of a plan are made clear in a mandate of some form that discussion about implementation can then go forward, but I think it is very hard until it is clear what the plan is going to look like for folks to have a dialogue. Decisions need to be made about what the elements are going to be, and then I think people can begin to deal with what has been ordered.
>
> I think at the current time people are still looking at this from different perspectives.
>
> 8/21/00 T147:L5-18.

The sooner the Board issues an Order defining New Jersey's Universal Service program, the sooner all parties can begin to work together to begin providing benefits on an interim basis during the upcoming heating season, and have a full-fledged program in effect for next year.

Both the utilities and the Board's Staff have suggested that the Board initially issue a decision on an interim Universal Service program, and defer any decision on a permanent program. Those utilities that do not entirely oppose a permanent program have suggested that any decision on a permanent program be delayed pending "working group" discussions or other "Phase 2" proceedings. *ACE Initial Comments* at 2 (no additional programs until company given "due process" rights)*; GPU Initial Comments* at 12-13, 22 (working group); *NJNG Initial Comments* at 1 (exploration on a collective basis before comprehensive program developed); *RECO Initial Comments* at 13 ("separate Phase 2 process"); *SJG Initial Comments* at 6 (working group). More recently, the Board's Staff has issued a memorandum date September 1, 2000 which states that "Staff anticipates that before finalizing the permanent USF program, additional hearings will be needed to address the rate impacts of the various proposals."

With regard to the utilities' proposal, there is simply no reason to initiate a "working group" before the Board issues an Order defining New Jersey's Universal Service program. The "working group" process recommended by the utilities is unlikely to be a productive use of time in the absence of a Board Order. The Board has now had considerable experience with the "working group" process. It has become clear from this experience that "working groups" are best suited to dealing with issues of implementation--they do not work well as a means of resolving policy issues. Thus, as State LIHEAP Director James Walsh urged at August 21 public/legislative hearing, the parties should be directed to work cooperatively on implementation **after a definitive policy decision is issued**. 8/21/00 T147:L5-18

The additional hearings suggested by Staff to consider "rate impacts" also are unwarranted. Under the Board's June 7, 2000 procedural Order, permanent USF proposals, including cost estimates and proposed funding levels, were to have been submitted by all parties as part of the current proceedings. As the Board is aware, since the time these proceedings were initiated as informal discussions the Ratepayer Advocate has argued in favor of a full evidentiary proceeding. The Board, however, decided to follow a "less formal approach, yet one that still provides for the filing of initial and reply comments, the issuance of discovery and the holding of Public/Legislative hearings at which testimony can be filed ...." June 7 Order at 1. As part of this process, the parties were directed to file proposals which included "concrete and specific details of any proposed USF, as well as a reasonable estimate of its administrative and other costs." June 7 Order at 1-2. The parties were further directed to include both interim and permanent proposals in their filing. Order at 2 and attached "Procedural Schedule."

The Ratepayer Advocate, while disagreeing with the procedure adopted by the Board, has fully complied with the Board Order. The testimony of Roger Colton filed on behalf of the Ratepayer Advocate includes detailed descriptions of the Ratepayer Advocate's proposals, both interim and permanent, as well as detailed cost estimates, recommended funding levels and rate impacts. This testimony was subjected to numerous discovery requests, all of which were answered fully and on a timely basis. AARP and other parties also have submitted detailed proposals, including recommendations regarding funding, and their proposals too have been subject to extensive discovery.

In addition to these materials, the Ratepayer Advocate issued discovery requesting the utilities to provide information on their current costs of serving low-income customers, as well as the cost-effectiveness of their current credit and collection processes. As noted in Point I.D. above, the utilities produced only minimal information in response to these questions. The information requested from the utilities would be useful in estimating the savings that will result from a Universal Service program. However, based on the utilities' discovery responses, this data is simply unavailable.

The proponents of a Universal Service program have presented detailed proposals, including cost and rate impact data, and have attempted, with limited success to obtain additional data from the utilities. Thus, it is unclear what additional information would be forthcoming if the Board were to order additional hearings.

The need for a Board Order with no further delay was perhaps best stated by Assemblyman Guear in his August 22, 2000 testimony before the Board:

> Thoughtful consideration must be given to how to best implement this fund, but we must also consider how with each passing day people continue to struggle to pay their bills.
>
> 8/22/00 T11:L25 to 12:L14.

The Board's Order should not be delayed for further proceedings, at the expense of the many New Jerseyans who must continue to contend with unaffordable energy bills.

CONCLUSION

For the reasons set forth above, the Board should adopt the Ratepayer Advocate's permanent and interim Universal Service proposals, in accordance with the following recommendations:

- The Board should act now to establish a comprehensive, Universal Service program funded through a statewide Universal Service Fund.
- The Universal Service program should include a basic rate assistance program based on **affordability**, structured as follows:
    - Assistance should be available to households with incomes at or below 150% of the federal Poverty Level, with a reasonable amount of rate affordability assistance should be reserved for households with incomes up to 200% of Poverty having special needs.
    - Benefits should be portable, *i.e.* they should be available to low-income consumers who buy their commodity service either from a utility or a competitive third-party supplier ("TPS").
    - Benefits should include: (1) fixed bill credits designed to bring energy bills to affordable levels; (2) an arrearage forgiveness program, subject to affordable consumer co-payments; (3) a crisis intervention program; and (4) effective education and outreach, and an automatic enrollment process.
    - The rate affordability program should be administered as a state-wide program by the States' LIHEAP office.
- The Universal Service program should include the following additional components:
    - Effective low-income energy efficiency programs, to the extent not funded through the utilities' Societal Benefits Charges in accordance with the Ratepayer Advocate's recommendation in the Board's Comprehensive Resource Analysis proceeding.
    - A statewide Assistance in Aggregation Program, to help low-income consumers realize the benefits of competition through aggregation.

- A statewide low-income guarantee pool, to encourage competitive suppliers to serve low-income consumers, by providing them with the ability to transfer some of their risks of non-collection to a guarantee pool.

- The USF should be a statewide fund, funded though a non-bypassable charge on all utility customers.

- The USF charge should be set initially at $.00061 per kWh and $.0046 per therm, or $00081 per kWh and $.0057 per them in energy efficiency programs are included.

- The utilities' recovery of costs through the USF should be limited to incremental costs, net of saving realized as a result of the program. Savings, and costs already reflected in rates, should be quantified and passed through to ratepayers through annual evidentiary proceedings before the Board.

- The utilities should be required to submit reports tracking both the performance of the USF and the impact of competition on low-income consumers. The utilities should be subject to penalties for failure to submit reports on a timely basis.

- The interim program to be implemented for the upcoming winter/renting season should be operated as a geographically discrete ramp-up to a statewide program; there should be no pilot program.

- The Board should issue a definitive Universal Service Order with no further delay, so that the parties can begin immediately the process of implementing the interim program during the upcoming heating season, and the full program, for the 2001-02 winter heating season.

The Ratepayer Advocate urges the Board to adopt these recommendations, so that all New Jersey residents will have the opportunity to obtain and maintain reliable energy service at affordable rates.

Respectfully submitted,

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RATEPAYER ADVOCATE