

**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)

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

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I. A DEFINITIVE BOARD ORDER SHOULD BE ISSUED NOW, TO MEET THE INTENT OF EDECA, AND AS CONTEMPLATED BY THE BOARD’S JULY 7, 2000 PROCEDURAL ORDER.

It has now been over nineteen months since the New Jersey Legislature mandated the establishment of a Universal Service Fund as part of its enactment of the Electric Discount and Energy Competition Act of 1999 (“EDECA”). It can scarcely be subject to question that the provision of universal service was an integral part of the legislation. As EDECA co-sponsor Senator Peter Inverso testified at the public/legislative hearing:

With the urging of New Jersey AARP, the Ratepayer Advocate and other consumer advocates, and with their invaluable assistance, I saw to it that the creation of a Universal Service fund was stipulated as a provision in the Electric Discount and Energy Competition Act.

8/22/00 T5:L18-23.

In recognition of the need to act promptly to implement this Legislative directive, The Board Of Public Utilities (the “Board”), in its June 7, 2000 Order, established a schedule providing for consideration of both interim and permanent Universal Service Fund proposals on an expedited basis. Nevertheless, the utilities have advanced various arguments for the Board to delay a decision on the permanent program until after further proceedings.

Two utilities have gone so far as to suggest that the Board’s June 7, 2000 Order **prohibits** the Board from considering proposals for a permanent program at this time. Rockland states that such consideration would be “improper,” and GPU has refused to even respond to permanent proposals. To the contrary, the procedural schedule specifically provided that, on June 26, 2000 (later extended to July 7, 2000) the parties would:

file initial comments setting forth Universal Service Fund proposals, for both interim implementation prior to this year’s heating season (October, 2000) as well as for permanent implementation no later than next year’s heating season.

The June 7, 2000 Order further provided for discovery and public/legislative hearings as to both the interim and permanent plans. Thus, while contemplating a **phased implementation** of a Universal Service program, the Order clearly contemplated **consideration of both phases as part of a single proceeding**.

The Board's intent in establishing this schedule was made clear by the remarks of Acting Director of Energy George Riepe during the June 6, 2000, open public meeting when the procedural order was considered. Mr. Riepe stated that he believed it possible that this schedule could lead to an amicable resolution of issues related to the permanent plan before the 2000-01 winter heating season. 6/7/00 T7:L22-25. It is unfortunate for their ratepayers that the utilities have not come forward to attempt to reach the amicable resolution of the important issues involved in this proceeding, but even more regrettable that, having failed to do so, two of them are arguing that it would be improper for the Board to issue a decision. Both EDECA and the Board's June 7 Order contemplate a prompt decision on a permanent Universal Service program. If the plain and direct language of the Board Order is even to be given true credence and authority, the utilities' arguments to the contrary must be rejected.

In addition to the legal arguments advanced by Rockland and GPU, the utilities have presented a variety of other purported justifications for delay. These arguments run the gamut:

- C The proposed permanent programs are "too complex" to be considered now (*SJG Comments* at 7-8);
- C If the Board acts too quickly, the programs it adopts might not be "fully developed" (*GPU Comments* at 2);
- C It is "inappropriate" to consider new programs until the rate impacts are more certain, and programs under the CRA and unbundling have been implemented and their impacts evaluated (*ETG Comments* at 5);

C The energy industry is evolving, and any program adopted now would only have to be changed later (*PSE&G Comments* at 9);

C EDECA does not provide a specific deadline or funding requirement (*RECO Comments* at 2);

South Jersey's arguments that the complexity of the proposals before the Board somehow prevent the Board from crafting an equitable universal program, and GPU's arguments that any programs adopted now will not be "fully developed," grossly underestimate the Board and its expertise. This proceeding does indeed involve substantial issues, but these issues (including the long list of issues set forth in South Jersey's comments) have been fully addressed in the testimony submitted by the Ratepayer Advocate and other parties, and the Board should resolve them on the record of this case, as it so intended.

If anything is preventing this Board's from reaching the mandate of the legislation, it is the uncooperative attitude of the utilities. As noted in the Ratepayer Advocate's initial comments, since the enactment of EDECA some 19 month ago, the utilities have not performed a study to evaluate the need for a Universal Service Fund, or the cost effectiveness of arrearage forgiveness, PIPP, aggregation or other low income programs. *Ratepayer Advocate's Comments* at 25-28.

Claims of ignorance at this late date should be seen for what they are--tactics to delay Universal Service programs in the State. That is no reason to stop progress or to harm low income consumers by inaction.

PSE&G's and Elizabethtown's apprehension about future uncertainties is similarly without merit. So long as the energy industry remains competitive, there will be some uncertainties. However, the inability to see into the future with 100% accuracy should not deter the Board from making a well informed decision. Moreover, contrary to PSE&G's characterization (*PSE&G*

Comments at 9), the Ratepayer Advocate has taken into consideration the impending changes in the energy industry. For example, the Ratepayer Advocate has recommended that universal service benefits be portable for customers choosing a competitive third-party supplier, and has further recommended that all Universal Service programs be administered and funded on a statewide basis, rather than by the utilities. *See Ratepayer Advocate's Comments* at 31, 45-49, 52-55.

Finally, Rockland's assertion that the Board should delay implementation because: "the statute does not impose any deadline on the Board to render its USF determinations or impose any minimum funding requirements," suggests that the serious needs, and, at times, the desperate situations, experienced by low-income customers are not even something to be considered. *RECO Comments* at 2. It is absurd for Rockland to suggest that the Board has the discretion to make no determination or to provide no funds, because the Legislature did not provide for a specific deadline or funding amount in EDECA.

The Ratepayer Advocate has consistently argued that a plan to protect low-income consumers must be in place for the 2000-2001 winter heating season. Without question, the parties should focus on an interim plan in this proceeding to insure that low income consumers are protected for the upcoming heating season. However, it is of equal importance to begin work on a permanent program with no further delay. These objectives are not mutually exclusive and, in fact, they are interrelated.

The utilities' suggestions that the Board convene another round of hearings, or initiate working groups that will meet indefinitely without concrete direction from the Board, reveal their lack of consideration or concern for the critical needs of this States' low income residents. If the utilities feel the need for additional hearings or working groups to explore the proposals that have been submitted to the Board, this is due to their own failure to utilize the time since the introduction of EDECA to

investigate the issues and develop their own substantive Universal Service proposals. The claim that interim and permanent plans cannot be reviewed by the Board simultaneously in this proceeding is just another in a long line of objections and delay tactics used by the utilities to forestall the EDECA mandated program and must be rejected.

II. THE RECORD CLEARLY DEMONSTRATES THE NEED FOR A COMPREHENSIVE UNIVERSAL SERVICE PROGRAM.

As discussed in detail in the Ratepayer Advocate's initial post-hearing comments, the need for a comprehensive Universal Service program for New Jersey has been extensively documented in both written submissions to the Board and the testimony presented at the public/legislative hearings. The utilities' arguments to the contrary are unfounded.

Elizabethtown asserts that it has "demonstrated that no additional 'universal service' fund proposals are necessary at this time because there are already a considerable number of programs dedicated to low income customers in the Company's service territory ..." *ETG Comments* at 3. Elizabethtown has simply ignored the extensive record presented to the Board on this issue. Indeed, other utilities acknowledged in their post-hearing comments that unaffordable utility bills remain a serious problem for many New Jersey families. PSE&G, for example, acknowledges that "there is no question that despite the numerous government, private and community-based programs, including those described in our previous comments, that have been implemented to assist low income consumers and others in need there remain households in the State that face substantial hardships." *PSE&G Comments* at 3. ACE similarly acknowledges that many New Jerseyans find it "difficult or impossible" to pay for the necessities of life, including utility services. *ACE Comments* at 3. Elizabethtown, like the other New Jersey utilities, has acknowledged its failure to conduct any

studies, or even track, its low-income consumers. *See Ratepayer Advocate's Comments* at 27-28. Thus, Elizabethtown has no basis for denying the extensive evidence of need that has been placed before the Board in this proceeding.

Rockland likewise has no basis for its argument that unaffordable utility bills are a “non-existent” problem in its service territory. Rockland correctly points out that there are no readily identifiable communities in its service territory with high levels of need. However, this does not mean that the problem is “non-existent.” In the public/legislative hearings the Board heard the stories of many New Jersey residents who were self-sufficient until a serious illness or disability suddenly drained their financial resources. *See Ratepayer Advocate's Comments* at 14-15. Rockland, which has made no effort to study its low-income population, has no basis for arguing that its service territory has no need for a Universal Service program. More important, as discussed in detail in the Ratepayer Advocate's initial post-hearing comments and in Point V below, EDECA recognizes universal service as a **statewide** issue, which should be addressed through a **statewide** Universal Service Fund. Rockland and its customers should not be exempt from contributing to the fund merely because they are fortunate enough to be located in a relatively affluent area of the State.

Two utilities, PSE&G and Rockland, argue that the goal of affordability is already being served by the mandated rate discounts for the electric utilities. *PSE&G Comments* at 3-4; *RECO Comments* at 6. The mandated discounts provide important benefits for New Jersey, but they are not directed to the needs of low-income consumers. As was explained in detail in Mr. Colton's testimony, “straight” percentage discounts are not an effective means of providing universal service, as they do not target assistance to the households with the greatest needs. *Colton Testimony* at 27-28. Further, the Legislature clearly did not intend the mandated rate discounts to be a substitute for

a Universal Service program; if this had been the intent, then electric utilities would have been exempted from the Universal Service provisions of Section 12 of EDECA.

A Universal Service Fund is clearly needed to meet EDECA's mandate to provide access to affordable energy service to all New Jersey residents. The utilities' arguments to the contrary should be rejected.

III. UNIVERSAL SERVICE SHOULD BE FUNDED THROUGH A CHARGE IN UTILITY RATES.

PSE&G correctly describes the problem of unaffordable utility rates as only part of the overall problems of poverty facing so many New Jerseyans. *PSE&G Comments* at 3. However, the Ratepayer Advocate urges the Board to reject PSE&G's response to this problem, which consists of throwing up its hands and leaving the problem for others to help solve. PSE&G argues that poverty is not a problem that is "best or appropriately handled" by the Universal Service Fund. *PSE&G Comments* at 3. PSE&G argues that a Universal Service charge will amount to a "regressive tax" on ratepayers, and that the source of low income customer assistance should be funded via income tax rates rather than utility rates. *PSE&G Comments* at 4-5. PSE&G further suggests that the Board investigate a number of potential sources of government funds before it considers the establishment of a Universal Service Fund. *PSE&G Comments* at 9.

PSE&G's arguments ignore the fact that the Legislature has **directed** the Board in Section 12 (b) of EDECA to address the problem of unaffordable utility rates through a Universal Service Fund. The Legislature has defined a "social program" as:

a program implemented with board approval to provide assistance to a group of **disadvantaged customers**, to provide protection to consumers, or to accomplish a particular societal goal, and includes, but is not limited to, the winter moratorium

program, utility practices concerning "bad debt" customers, **low income assistance**, deferred payment plans, weatherization programs, and late payment and deposit policies, but does not include any demand side management program or any environmental requirements or controls;

N.J.S.A. 48:3-51 (emphasis supplied). It has also made it a policy of our State government to “[e]nsure universal access to affordable and reliable electric power and natural gas service,” and, has directed the Board to determine the programs and funding needed to provide universal service. *N.J.S.A.* 48:3-50(a)(4) and *N.J.S.A.* 48:3-60(b). These provisions reflect the Legislature’s determination that universal service should be addressed through utility rates. Presumably, the Legislature expects a more comprehensive response than a decision to maintain the *status quo*.

PSE&G’s asserted concern over the rate impacts of the Ratepayer Advocate’s proposals ignores the ratepayer and utility benefits that can result from a Universal Service program. These benefits, which are detailed in Mr. Colton’s testimony, include reduced credit and collection costs and bad-debt write-offs, and revenue enhancements which result when low-income customers avoid shutoffs and stay on the utilities’ systems as paying customers. *Colton Testimony* at 83-85. These types of benefits have received Legislative recognition in the related context of off-tariff rate agreements for some of the utilities’ largest customers.¹ Such discounts are permitted based on the recognition that they can benefit ratepayers by preventing the loss of a particular customer that would have left the utility’s system without a discounted rate. *N.J.S.A.* 48:2-21.27. PSE&G has shown

¹ Current statutes authorize the creation of off-tariff rate discounts between an electric public utility and individual customers. *N.J.S.A.* 48:2-21.24 *et seq.* An off-tariff rate is defined as:

a rate for utility service charged by a utility to a retail customer that is the result of a negotiation between the utility and the customer, rather than being based on a cost-of-service based tariff rate;
N.J.S.A. 48:2-21.25.

no hesitation in urging the Board to approve off-tariff rate increases for its large customers. The company's current arguments ignore the similar beneficial impacts of providing assistance to low-income customers.

Finally, the potential government funding sources identified by PSE&G cannot be relied upon to meet New Jersey's Universal Service needs. One such source mentioned in PSE&G's comments is recently passed legislation, A-1814, which, if signed into legislation by Governor Whitman, would make approximately \$1 million annually from unclaimed property available for energy assistance. *PSE&G Comments* at 10. This legislation is also mentioned in Rockland's comments. *RECO Comments* at 3. These funds represent only a small fraction of a reasonable Universal Service budget. Moreover, this legislation requires the funds to be released to a "statewide non-profit energy assistance organization representing the State's major electric and gas utilities and human service non-profit groups ..."-- in other words, New Jersey SHARES. A-1814, § 1, 2. The limited nature of the assistance provided by New Jersey SHARES has already been described in detail in the Ratepayer Advocate's initial post-hearing comments----it provides only one-time emergency assistance, and specifically excludes customers with chronic payment problems. *Ratepayer Advocate Comments* at 13.

Another potential funding source mentioned by PSE&G is a supplemental LIHEAP appropriation that is under consideration in Congress. *PSE&G Comments* at 11. Even assuming this supplemental appropriation is passed, PSE&G's own comments acknowledge that it is intended to "address potential heating fuel price spikes," again, not as a permanent measure. *Id.* Federal LIHEAP funding has been **decreasing** over the past several years. *Colton Testimony* at 10-11. The temporary measures under consideration to address this year's increase in natural gas and home

heating oil prices will not substitute for a permanent Universal Service program.

The final source of funds suggested by PSE&G is New Jersey's unspent Temporary Assistance for Needy Families ("TANF") funds. *PSE&G Comments* at 14-15. PSE&G has provided no support for its assertion that these funds can realistically be made available for energy assistance. Under the current "block grant" structure, states are responsible for making provision for increased needs that may occur during economic downturns, and States may choose to maintain a reserve of unspent TANF funds for this purpose. J.Tweedie, *Welfare Spending-- More for Less*, State Legislatures (March 1998) (**Attachment A**). Thus, PSE&G's suggestion that unspent TANF funds will be available for universal service is based on nothing more than speculation.

As described in detail in the Ratepayer Advocate's initial post-hearing comments, to date government programs have not been a complete source of funding for universal service. *Ratepayer Advocate Comments* at 12-13. The potential funding sources cited by PSE&G and Rockland are no different. If these or other funding sources materialize, they will reduce the costs of the Universal Service program. However, they cannot be counted upon to provide universal electric and gas service to New Jersey's low-income residents.

The Ratepayer Advocate does not claim that a Universal Service Fund will eliminate poverty in New Jersey, but that is not the purpose of the Ratepayer Advocate's proposal, or the intent of EDECA. The Board has a unique and important opportunity to create **affordable energy bills**, through a Universal Service program that will fill the gaps in existing energy affordability programs. The Board should accept this legislatively mandated responsibility by adopting the proposals of the Ratepayer Advocate.

IV. THE USF FUNDING PROPOSAL SET FORTH BY THE RATEPAYER ADVOCATE DOES NOT CONFLICT WITH THE RATE REDUCTIONS MANDATED BY EDECA.

Expressed concerns about the impact of universal service costs on the EDECA-mandated rate reductions and premature calls for rate relief should not act as “red herring” to detract attention from the need to implement comprehensive universal service programs. *ACE Comments* at 5, *RECO Comments* at 9, *SJG Comments* at 7. Estimates of the costs of universal service programs presented by Mr. Colton were shown to be reasonable, in relation to the cost of other universal service programs implemented by other States and by the telecommunications industry. *See Ratepayer Advocate Comments* at 17-22. Moreover, the costs identified by Mr. Colton need to be offset by savings resulting from the implementation of USF programs, such as reduced bad debt expenses and administration costs.

The concern expressed by several utility commentators that the additional universal service funding would conflict with the rate reductions mandated by the EDECA is misplaced. *ACE Comments* at 5, *RECO Comments* at 9. As set forth in the Ratepayer Advocate’s initial post-hearing comments, proper funding of a comprehensive universal service program need not conflict with the EDECA’s rate reductions. *Ratepayer Advocate’s Comments* at 53-54. The Ratepayer Advocate views universal service costs in the same manner as any other cost of providing utility service and, therefore, recommends that the costs of the Universal Service Fund be accommodated within the rate cap. Under the Ratepayer Advocate’s proposal, the costs of a universal service program would not be imposed as a surcharge, but collected as an undifferentiated component of base rates. Hence, the costs would fall below the “rate cap” created by the rate reductions mandated by the EDECA. Furthermore, insofar as the costs of a universal service fund are treated as undifferentiated

components of base rates, there is no need for the “rate relief” called for by Rockland. *RECO Comments* at 9.

Finally, the argument that an undifferentiated charge would mislead ratepayers should be rejected out of hand. *RECO Comments* at 11-12. Other costs incurred by the utility in providing services are similarly included in its base rates and not segregated as a special charge. For example, “costs” tied to reduced revenues attributable to special discounts for large customers are not listed separately, nor are utility executive salaries and perks or charitable contributions. Moreover, listing only the cost associated with universal service programs, without showing the corresponding savings would be misleading, as noted by Mr. Colton in testimony. *Colton Testimony* at 81.

V. RATE AFFORDABILITY IS A STATE-WIDE CONCERN AND UTILITY ARGUMENTS FOR UTILITY-BASED PROGRAMS SHOULD BE REJECTED IN FAVOR OF A STATEWIDE PROGRAM.

Certain utilities, namely Rockland, South Jersey Gas and Atlantic, have argued that Universal Service Fund collections from their service territories should be restricted to programs serving customers in their own service territories. *RECO Comments* at 10; *SJG Comments* at 7; *ACE Comments* at 5. Tying universal service programs to a particular utility's service territory is fundamentally at odds with the intent of ensuring that all customers in **all parts of the State** are adequately served, including the State's low-income residents and those with special needs.

Clearly the drafters of the EDECA did not envision a post-restructuring state of affairs where rate affordability is dependent upon where the utility customer lives and which utility serves that area. All of the State's utility customers -- wherever in the State they live -- deserve affordable rates and, in fact, the EDECA requires that "**all classes of customers in all regions of the State are properly and adequately served.**" *N.J.S.A.* 48:3-50(b)(8) (emphasis supplied). Rate affordability is a statewide concern and programs to address affordability should be implemented on a statewide basis; to do otherwise would be discriminatory.

Similarly, since rate affordability is a statewide concern, universal service cost recovery should not be tied to the customer base characteristics of any one particular utility, as argued by Rockland. *RECO Comments* at 6-7. The fact that the customer profile of one particular utility was not examined in great detail prior to setting forth universal service fund programs is not an impediment to progress towards statewide programs. A statewide program recognizes that although a particular utility's service territory might have less need, it should not be exempt from contributing to a statewide program so that customers in another service territory are not burdened with more than

their fair share of the cost needed to address a statewide concern. Customers of a utility that serves a large number of low-income customers should not have to contribute more than other customers of another utility with more affluent customers.

Along with the franchise to operate as a monopoly in the course of providing utility service to a particular geographic area pursuant to the authority conferred by State statute, utilities are also burdened by obligations to serve the State's residents, such as those set forth in the EDECA. *See N.J.S.A. 48:3-60(b)*. The cost of universal service programs should not be viewed as a "hidden tax", but a cost like many other costs of serving the State's utility customers. As recognized by EDECA, the affordability of energy bills is a statewide concern, demanding a statewide response. Proposals to address universal service on a utility-by-utility basis should be rejected.

VI. THE RATEPAYER ADVOCATE HAS PRESENTED A REASONABLE ESTIMATE OF THE COSTS OF ITS PROPOSED UNIVERSAL SERVICE PROGRAM.

Both PSE&G and RECO argue that the Ratepayer Advocate has understated the costs of its proposed Universal Service program; RECO goes so far as to suggest that the Ratepayer Advocate has engaged in a deliberate "attempt to camouflage" the actual costs. These criticisms are unfounded. Mr. Colton has presented a reasonable, well-supported budget for the Ratepayer Advocate's proposed program. Colton Testimony at 78, Schedule RDC-12.

First, PSE&G argues that "it is certainly likely that a participation rate in excess of 50% will result." *PSE&G Comments* at 5. A similar argument appears in Rockland's comments. *RECO Comments* at 5. These arguments ignore the fact that no other state has generated a participation rate in excess of 50%. As explained in Mr. Colton's testimony, his assumed 50% participation rate was based on **actual experience** in other states, including Pennsylvania, which has had low-income

programs in effect since 1992. PSE&G does not assert that the New Jersey outreach and education program is any more "aggressive and well-funded" than the outreach and education undertaken by other states.

PSE&G argues that the Ratepayer Advocate has understated the budget because it has not included a budget component to fund the provision of rate credits for households in the 151 - 200% of Poverty range. This is not true for several reasons. First, as PSE&G acknowledges, customers at these higher income levels do not generally need rate affordability assistance. Indeed, for home energy burdens to be above the percentage of income burdens which the Ratepayer Advocate has proposed for the universal service program, bills for these customers would need to be 150% to 300% or more than the average low-income natural gas or electric bill. The Ratepayer Advocate does not deny the possibility that bills at these levels may occur, but bills at those levels certainly will not be common, and the fixed credit levels are likely to be small. Moreover, it would seem to the Ratepayer Advocate that such households would be ideal candidates for energy efficiency measures. This is precisely why the Ratepayer Advocate witness Colton urged a close coordination between low-income energy efficiency programs and the rate affordability program.

PSE&G's suggestion that the Ratepayer Advocate's calculations include "negative credits" is also unfounded. Given Mr. Colton's over 20 years of experience in the design and implementation of energy affordability programs, it is difficult to imagine that PSE&G truly believes that Mr. Colton is not familiar with, and has not dealt with, the "negative credit" phenomenon. Had PSE&G examined the electronic spreadsheets provided in the Ratepayer Advocates' discovery responses, it would have seen that, for purposes of Mr. Colton's cost estimates, if an affordable bill exceeded the actual bill, the credit was deemed to be \$0, not a negative number. Thus, the "problem" identified

by PSE&G simply does not exist.

PSE&G cites a study of the Columbia Gas Customer Assistance Program (“CAP”) (copy provided by the Ratepayer Advocate in response to PSE&G’s discovery request PSE&G USF-RPA-26) as evidence that savings from the Universal Service program will be only a small portion of the costs. PSE&G asserts that the Columbia Gas program resulted in an “increase in revenue shortfall” for the utility. PSE&G goes on to state that the Columbia study identified savings of only \$23 per customer, which it compares to an “estimated program cost” of \$400 per participant for the Ratepayer Advocate’s recommended program. PSE&G has presented a misleading picture of the Columbia study through the selective citation of isolated findings.

First, with regard to “shortfalls,” PSE&G cites a finding that “customers who participated in the pilot program paid a smaller portion of each bill than they would have been required to pay under previous payment arrangements, producing an increase in revenue shortfall.” *PSE&G Comments* at 7. This “increased shortfall” urged by PSE&G is misleading. Under a payment arrangement (called Budget Plus in Pennsylvania), a low-income consumer is “required” to pay a certain portion of his or her arrears in addition to a levelized budget billing amount reflecting the current bill. While the low-income consumers may have been “required to pay,” they were not necessarily paying those amounts.

Second, the \$23 in savings found in the Columbia study represents only collection and customer service cost reductions--only a single element of the several types of savings and revenue enhancements that result from universal service programs. *Columbia Gas Study* at iii. As Mr. Colton explained both in his written testimony and at the legislative/public hearings, a substantial source of savings from universal service programs is the reductions in costs already embedded in

existing rates--such as the reductions in bad debt write-offs that result from making utility bills more affordable. *Colton Testimony* at 83-84; 8/21/00 T23:L21 to T24:l22. The Columbia study found convincing evidence of such savings, citing an average reduction in per-customer arrearages of nearly \$300. *Columbia Gas Study* at iii. Finally, perhaps the best indication of the cost effectiveness of the Columbia Gas program is that the company repeatedly has chosen to extend, and then expand the program. As recently as the fall of 1999, Columbia Gas agreed to expand its CAP program from 1,000 customers to 22,000 customers. One reason this occurs is because Columbia Gas realizes that the “offsets” to the program are not simply the credit and collection savings cited by PSE&G. PSE&G’s selective mention of a single, limited source of savings presents a distorted view of the benefits of this program.

PSE&G’s \$400 “estimated program cost” for the Ratepayer Advocate’s proposed program (which it compares to the \$23 “savings” amount) is also distorted. PSE&G’s calculation inappropriately takes the total cost of all program elements, including not only the rate affordability program but the aggregation program, the Chronicles program, and all other program components as well, and then spreads the cost over only the rate affordability participants. Moreover, even accepting the validity of this flawed approach, PSE&G’s comment that the cost of the Ratepayer Advocate program is “*on the order of* \$400 per customer per year” should be read with care. In fact, if the total cost of all universal service components, before offsets, is divided by 186,000 participants, the cost is \$363 per participant, not \$400.

PSE&G also cites studies of the Metropolitan Edison and Pennsylvania Electric Company Customer Assistance Plans, as evidence that universal service programs have a “substantial cost.” However, the consultant which produced both reports has been found by the Pennsylvania PUC Staff

to produce seriously flawed work. For example, attached is a July 17, 1999, letter from the Pennsylvania PUC's Bureau of Consumer Services concerning the Metropolitan Edison evaluation cited by PSE&G (**Attachment B**). The letter begins by stating "[t]he Bureau of Consumer Services (BCS) has several serious concerns with the completeness, methodology and findings of the evaluation." After discussing several specific concerns, the letter concludes by saying "... we emphasize that we believe that the evaluation is so seriously flawed that the Commission should discount the results and findings." *Id.* In a subsequent letter concerning another evaluation by the same firm, (**Attachment C**), PUC's Bureau of Consumer Services stated: "The Bureau of Consumer Services (BCS) has serious concerns with the completeness, methodology, and findings of the evaluation. Because we have had similar concerns with other evaluations from this firm, we do not believe that this evaluation reflects negatively on PG Energy or its Partners Program." The "seriously flawed" evaluations cited by PSE&G should not serve as a basis for decision making in New Jersey.

Further, whatever the statements made in the impact evaluations of these companies, the companies agreed to substantial expansions in their universal service programs in their electric restructuring proceedings. Indeed, Metropolitan Edison agreed to ramp up its universal service program to 7,000 participants by the year 2002, while Pennsylvania Electric Company has agreed to ramp up its universal service program to 9,400 customers by 2002. Presumably, these two companies recognized the benefits of these programs, even if their consultant did not.

Rockland has suggested that Mr. Colton's use of a 50% participation rate for his cost estimates, and his offsets for existing LIHEAP and Lifeline benefits, amount to a deliberate attempt to "camouflage [the Ratepayer Advocate's] initial funding level." RECO at 5. This inflammatory statement makes no sense. The Ratepayer Advocate has proposed specific total funding levels and

Universal Service Fund charges for both the interim and permanent Universal Service programs. These proposals, which were clearly stated in both Mr. Colton's testimony and the Ratepayer Advocate's initial post-hearing comments, were in no way "camouflaged." *Colton Testimony* at 77-78; *Ratepayer Advocate Comments* at 17.

Further, Rockland's criticisms of Mr. Colton's cost estimate are unfounded. Mr. Colton's assumed 50% participation rate is addressed above. The suggestion that Mr. Colton should not have offset existing LIHEAP and Lifeline benefits against his total estimated cost of providing affordable energy bills is simply baffling. As was explained in Mr. Colton's testimony, these amounts were offset because the Ratepayer Advocate's proposed rate affordability program was intended to "wrap around" existing programs. Customers who are already receiving basic rate affordability assistance from other sources should have these amounts taken into account in determining the amounts of the fixed bill credits to be funded through the USF. *Colton Testimony* at 29-30, 36. Unless Rockland is suggesting that these households should receive duplicate benefits, it is difficult to ascertain what basis Rockland has for suggesting this offset is improper. *RECO Comments* at 5.

Rockland also has attempted to exaggerate the rate impact of the Ratepayer Advocate's proposal by suggesting that this proposal "comes on top of the Advocate's recent proposal for substantial increases in funding for Energy Efficiency and Renewable Resources Program (including low income programs) in the CRA proceeding." *RECO Comments* at 5. To the contrary, the Ratepayer Advocate has presented evidence that its proposed CRA programs "will not lead to cost deferrals, but will mitigate the escalating cost of energy, by reducing energy consumption." *Joint Comments dated September 1, 2000 Submitted by Ratepayer Advocate, et al.* at 30 and Appendix A.

Finally, both PSE&G and Rockland have ignored the mechanism that the Ratepayer Advocate's program has built in to protect against uncontrolled program expenditures. First, the Ratepayer Advocate has recommended an annual budgeting process through which the Universal Service program budgets are translated into a Universal Service charge. If, indeed, the Ratepayer Advocate has underestimated costs, the Board can use the annual budgeting process to revisit its eligibility guidelines, the percentage of income payments underlying program expenditures, and other aspects of the program design. Second, one explicit reason the Ratepayer Advocate has proposed a "fixed credit" program is to facilitate control of program expenditures:

... a fixed credit program allows a program to work within a fixed operating budget. Once a low-income customer is enrolled in the universal service program, the maximum possible financial exposure for the time of the enrollment is established. *At no time, can the maximum financial exposure exceed the budgeted program revenues. Systems can be easily designed, as we have developed for the New Hampshire EAP, to track funds that are obligated, deobligated and expended to ensure that the budget is not exceeded.* (emphasis added).
Colton Testimony at 28.

Contrary to PSE&G's and Rockland's arguments, the Ratepayer Advocate has not recommended an open-ended program. Instead, the Ratepayer Advocate has recommended setting a program budget, based upon its best estimates of program participation and expense, and then *living within that program budget*. The cost overruns and ratepayer burdens predicted by these two companies simply will not occur.

VII. THE UTILITIES' INTERIM PROPOSALS WILL NOT PROMOTE THE GOAL OF UNIVERSAL SERVICE.

The interim measures identified in the utilities' initial post-hearing comments remain wholly inadequate to serve the needs of New Jersey's low-income consumers. As noted in the Ratepayer Advocate's initial post-hearing comments, the utilities initially proposed to do nothing more than continuing existing programs, and implementing efforts already agreed to in other stipulations. The current proposals do not represent any significant advance.

All of the utilities have responded to the interim measures proposed by Staff in its September 1, 2000 memorandum to the parties. All have expressed a willingness to at least consider some or all of Staff's recommendations, but **none have committed to implement any of these measures as part of a ramp-up of a permanent program.** Further, even these responses are subject to varying conditions and pre-requisites.

For example PSE&G states that it is ready to "work with the Board, Staff and other parties in this proceeding to examine the possibility of designing an interim program to reduce arrearages." *PSE&G Comments* at 13. However, any such program would have to be subject to guaranteed cost recovery through the SBC. *Id.* Rockland and South Jersey similarly are willing to consider arrearage forgiveness programs--but only if they receive cost recovery. *RECO Comments* at 14; *SJG Comments* at 4-5. Other utilities are willing to implement arrearage forgiveness programs only to the extent agreed to in settlements in the CRA proceedings. *GPU Initial Comments* at 8-9; *ETG Comments* at 7; *NJNG Comments* at 4. In the utilities' CRA settlement proposal for arrearage forgiveness, there is no uniform, statewide utility plan. *I/M/O The Filings of the Comprehensive Resource Analysis of Energy Programs Pursuant to Section 12 of the Electric Discount and Energy*

Competition Act of 1999, BPU Docket No. EX99050437, Stipulation and Agreement dated February 8, 2000, p.9 Attachment 2. Rather, the utilities propose to do so on a utility-by-utility basis without clearly defined eligibility standards, and without uniform objectives.

Some of the utilities have stated that they will consider expanding the Chronicles system. However, at least two utilities, PSE&G and South Jersey, have made it clear that they will agree only to PSE&G's initial proposal regarding the Chronicles system: transferring all responsibility for this system to a state agency and directing the state agency to expand and improve the system, with no Universal Service funding to support this effort. *PSE&G Comments* at 14; *SJG Comments* at 5. With regard to aggregation programs, the only party that has expressed a willingness to go beyond existing stipulations is Rockland--provided it receives guaranteed cost recovery. *RECO Comments* at 14.

Three other "interim measures" suggested in Public Service's comments are also woefully inadequate. Public Service lists among the "interim measures" it has identified: (1) the recent passage of A-1814, which, if signed would release unclaimed property deposits to New Jersey SHARES, and (2) the additional emergency LIHEAP appropriation presently under consideration by Congress. *PSE&G Comments* at 11-12. It further suggests as another interim measure a "Task Force" to identify other sources of government funding for universal service. *PSE&G Comments* at 14-15. As discussed above, these measures have nothing to do with the establishment of a Universal Service Fund as contemplated by EDECA.

In short, the utilities' interim "programs" are nothing more a than few impromptu suggestions, more in the manner of placeholders than real steps forward to meeting their customers' needs. The small steps that a few of them suggest are burdened by the demand that immediate cost recovery for their alleged incremental costs of administration be a mandatory condition before they will take even

these small steps. None of their proposals will move the process any closer to realizing a permanent USF that will truly confront the universal service issues that the Legislature has mandated the Board to address. The Ratepayer Advocate urges the Board to reject this approach and, instead, adopt an interim program that will pave the way to a full-fledged Universal Service program for the 2001-02 winter season.

VIII. THE UNIVERSAL SERVICE PROGRAM SHOULD NOT INCLUDE FUNDING FOR MAIN EXTENSIONS.

One additional issue requires comment. New Jersey Natural proposes to use the Universal Service Fund to pay for main extensions to add new customers who would be able to use natural gas for heating and other purposes rather than “higher cost electric or propane heating systems.” *NJNG Comments* at 2-3. Presumably this program would also be available for those who burn oil or other fuels for heat. While there is merit in the concept of encouraging main extensions to areas that need them, this is not an appropriate program for the Universal Service Fund. As explained at length in the Ratepayer Advocates’ testimony and initial post-hearing comments, a Universal Service program should be directed to the goal of affordability. The New Jersey Natural proposal, while it may assist some low-income consumers, is not designed to address affordability.

Moreover, main extensions are addressed in Section 55(f) of EDECA, which creates the New Jersey Senior and Alternate Vital Energy (NJSAVE) program. *N.J.S.A.* 48:2--21.28(f). NJSAVE would assist certain customers “funding capital improvements of natural gas distribution facilities, and for purchase and installation of natural gas heating equipment and appliances located on the premises of homeowners, where those homeowners reside in all-electric homes in age-restricted communities.” *Id.* NJSAVE calls for the New Jersey Economic Development Authority in conjunction with the

Board to issue bonds on behalf of gas public utilities, the proceeds of which would be used for low-interest customer loans “to pay home heating and appliance conversion costs and the customer's contribution, to the extent applicable, to gas distribution system extension costs required to serve those customers.” *Id.* Main extensions should be addressed through the NJSAVE program, rather than the Universal Service fund.

IX. CONCLUSION.

For the reasons stated in the Ratepayer Advocate’s initial and reply comments, we respectfully request that the Board reject the arguments set forth by the utilities and instead adopt the Ratepayer Advocate’s permanent and interim Universal Service proposals as follows:

- The Board should act now to establish a comprehensive, Universal Service program funded through a statewide USF.
- The Universal Service program should include a basic rate assistance program based on **affordability**.
- The Universal Service program should include the following additional components:
 - C Effective low-income energy efficiency programs;
 - C A statewide assistance in aggregation program; and
 - C A statewide low-income guarantee pool.
- C The USF should be a statewide fund, funded though a non-bypassable charge on all utility customers.
- C The USF charge should be set initially at \$.00061 per kWh and \$.0046 per therm, or \$00081 per kWh and \$.0057 per therm if energy efficiency programs are included.
- C 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 only after annual evidentiary proceedings before the Board.
- C 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/heating 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 be able to maintain reliable energy service at affordable rates as mandated by EDECA.

Respectfully submitted,

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RATEPAYER ADVOCATE