

To: Governor Phil Murphy
Lt. Governor and Dept. of Community Affairs Commissioner Sheila Y. Oliver
NJ Board of Public Utilities President Joseph L. Fiordaliso
Cc: NJ Dept. of Environmental Protection Commissioner Shawn M. LaTourette
From: Jersey Water Works Asset Management & Finance Committee
Date: August 3, 2021

Re: New Jersey's Implementation of the New "Low Income Household Water Assistance Program" (LIHWAP); and

Related Uses of American Rescue Plan Act (ARPA) Funds to Support Low-Income Households and Water and Wastewater Utilities

The purpose of this letter is to identify opportunities for the State of New Jersey that can help to ensure affordable water services.

During the COVID-19 pandemic, New Jerseyans have accumulated hundreds of millions of dollars in arrears on essential utility services, such as drinking water and wastewater. When the grace period established by Executive Order 246 (EO 246) expires at the end of the year, hundreds of thousands of families will face the threat of losing access to safe water and sanitation, if they are unable to afford their bills. As Gov. Murphy recognized on June 14, 2021, when signing EO 246, the State and utilities must "identify and make available resources to assist customers facing financial hardship and make a concerted effort to connect customers with assistance programs."

The Jersey Water Works Asset Management and Finance Committee—which includes representatives of water and sewer utilities, governments, non-profit organizations, businesses, consultants, academics, and others—writes to highlight best practices around the state's development of a Low Income Household Water Assistance Program (LIHWAP). The Department of Community Affairs (DCA) must submit a proposed program plan to the federal government by August 9, 2021 to claim \$24 million in federal funds for this program.

Critically, however, the LIHWAP funding almost certainly will be insufficient to meet the full need for assistance. Therefore, we also offer ideas to achieve our shared goals below concerning other American Rescue Plan funds that the State and its local governments can use to help low-income households afford their water and wastewater arrears and ongoing bills, support water and wastewater utilities in severe financial distress due to the COVID-19 state of emergency, and increase investment in water infrastructure (which would also help offset utilities' lost revenues while creating thousands of jobs). These funds can not only address the current effects of the COVID-19 emergency, but can also lay the groundwork for lasting solutions, including creation of a permanent, statewide low-income water affordability program.

Low Income Home Water Assistance Program (LIHWAP)

New Jersey has several long-standing low-income energy assistance programs, which it is expanding to help address unprecedented levels of need among residential electric and gas customers. Yet, there has never been a statewide low-income assistance program dedicated to water and wastewater. Using a one-time \$24 million grant from the U.S. Department of Health and Human Services specifically for that purpose, DCA is now beginning to create a Low Income Home Water Assistance Program (LIHWAP).

As noted above, DCA must submit a plan by August 9, 2021, to HHS for review and approval. Under federal rules, DCA is required to invite and consider public comment on a proposed plan. Establishing an entirely new program for a utility sector that is structured very differently than the energy utility sector—with hundreds of individual water and sewer utilities, most of which are small—is no small challenge. And the clock is ticking towards the end of the EO 246 grace period. The urgency makes immediate stakeholder engagement essential.

In developing and implementing new water assistance programs such as LIHWAP, we offer the following opportunities and best practices for consideration:

1. **Engaging stakeholders early and often in the development and implementation of the program.** Key stakeholders include other state agencies (e.g., BPU, DEP), water and sewer utilities (both privately- and publicly-owned), organizations involved in delivering or helping customers access existing utility assistance programs, organizations that serve low- and moderate-income communities, and other water advocacy groups. The Affordability Subcommittee of our committee stands ready to support this effort.
2. **Designing LIHWAP to prioritize the avoidance of disconnection and the reconnection of anyone previously disconnected,** as well as avoidance of tax lien sales, redemption of existing tax liens, or foreclosures on residential properties for unpaid water and wastewater bills.
3. **Ensure that LIHWAP is launched well before the end of EO 246 grace period.** **Water assistance program** could then be accessible to low-income households during the grace period, before anyone faces the imminent threat of water shutoff.
4. **Making any new water assistance programs available and accessible on equal terms to all eligible low-income customers,** regardless of which water or sewer system serves them or where in the state they live.
5. **Undertaking robust and well-targeted outreach efforts** to potentially eligible households.

6. **Minimizing application burdens** for eligible households, such as by allowing “categorical eligibility” for households enrolled in other low-income assistance programs.
7. **Coordinating outreach, application processes, and other aspects of program administration, to the greatest extent possible, with other existing low-income assistance programs**, including utility and housing assistance programs and others that serve low-income households.
8. **Tracking and reporting publicly on implementation of LIHWAP**, in order to learn what is and is not working well and inform policymakers about the need for additional support.
9. **Leveraging LIHWAP to generate data on underlying water affordability issues.**
10. **Laying the groundwork to adapt LIHWAP into a permanent, statewide water affordability program.**

American Rescue Plan Act (ARPA) Funding

As noted above, New Jersey’s allocation of federal LIHWAP funding (\$24 million) almost certainly will be insufficient to meet the full need for low-income water and wastewater arrearage forgiveness, much less to meet the ongoing need to address water affordability challenges faced by low-income households across the state.¹ Further, the eligible uses of LIHWAP funds are limited; for example, although landlords are the water account-holders for most rental housing, and such housing is protected from shutoffs during the EO 246 grace period, it appears that federal rules do not allow LIHWAP to make payments towards arrears on a landlord’s account.

In EO 246, Governor Murphy highlighted that New Jersey has “the opportunity to distribute ARPA funding to help residents facing utility arrearages,” drawing on the state’s \$6.2 billion share of the **Coronavirus State Fiscal Recovery Funds (SFRF)**. Similarly, local governments in New Jersey will receive approximately \$3 billion in **Coronavirus Local Fiscal Recovery Funds (LFRF)** under the ARPA, which are also eligible to be used for that purpose.

If the state and **local governments take advantage of other funds under the American Rescue Plan Act (ARPA) to supplement LIHWAP funds**, those funds could be directed through the LIHWAP program and/or through existing local water assistance programs (such as NJ Shares) or other programs that assist low-income households with housing expenses.

¹ Van Abs, et al., *A New Jersey Affordability Methodology and Assessment for Drinking Water and Sewer Utility Costs, A Project of New Jersey Future for Jersey Water Works* (June 2021), <https://www.jerseywaterworks.org/resource/a-new-jersey-affordability-methodology-and-assessment-for-drinking-water-and-sewer-utility-costs/>.

The State's FY 2022 budget, adopted last month, includes \$250 million of ARPA funds for utility assistance. It is not yet clear how much of that amount, if any, will be made available for water and wastewater assistance. **We note that some state and local jurisdictions outside of New Jersey have already been committing a portion of their ARPA funds (and, before that, federal CARES Act funds) to water and wastewater assistance.**²

We also note that **legislation was recently introduced in New Jersey (S4018) to dedicate \$75 million of ARPA funds specifically to launch a permanent low-income water and wastewater assistance program**, which would include both arrearage forgiveness and help towards future bills, similar to the state's existing energy assistance programs. If such a program were created, it could build upon the new short-term LIHWAP program.

Other ARPA funds flowing to New Jersey and its local governments can also be used to help low-income households pay water and other utility arrears. Most notably, this includes approximately \$1 billion for the **Emergency Rental Assistance** program and \$329 million for the **Homeowners Assistance Fund** program. Because access to water services is essential to securing access to safe housing, federal law allows these housing relief funds to be made available to eligible households to cover not only rent and mortgage payments, but also water and wastewater costs.³

We also note that opportunities exist for the state to **identify any utilities that may need financial assistance to maintain fiscal stability and provide essential services, and to direct SFRF and LFRF funding as appropriate to provide such assistance**. Some water and sewer systems, especially smaller ones, may be experiencing more severe financial impacts from the COVID-19 emergency, for reasons including but not limited to increased non-payment by customers and reduced non-residential demand.⁴ We are not aware of any systematic effort by the state to identify any such circumstances, but the state should do so as it determines how best to use available ARPA funds in the coming months.

Finally, opportunities exist for the state and local governments to **use SFRF and LFRF funds for water infrastructure improvements**. Even where a utility does not face a threat to its overall fiscal stability, reduced revenues due to the COVID-19 emergency may cause many utilities to cancel or defer necessary capital projects. ARPA and U.S. Treasury Department rules specifically allow use of SFRF and LSR for water and wastewater infrastructure projects because it would not only help to offset lost utility revenues but would also create thousands of

² <https://www.socalgrantmakers.org/news/california-comeback-plan-breaking-down-governor-newsoms-may-2021-revised-budget-proposal> (California); <https://www.wbfo.org/local/2021-07-02/city-to-use-arp-money-to-offer-water-bill-debt-relief-to-qualified-households> (Buffalo).

³ https://www.nrdc.org/sites/default/files/media-uploads/fs_nrdc_covid_water_sewer.pdf

⁴ <https://pacinst.org/the-impacts-of-the-pandemic-remain-for-small-water-systems-and-customers-in-debt/>

jobs that help spur economic recovery.⁵ We are aware of some instances in which local governments in New Jersey have already begun to use ARPA funds for this purpose.⁶

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The power of collective impact is to work in collaboration to address complex problems. We believe that by working together we can transform New Jersey's water infrastructure. For more information or to discuss them further, please contact Jersey Water Works backbone staff person Lauren Belsky (lbelsky@njfuture.org). Larry Levine, JWW Asset Management & Finance Committee Co-Chair (llevine@nrdc.org), can be contacted after August 9.

These recommendations advance best practices and were developed by the Jersey Water Works Asset Management and Finance Committee. Neither the Committee nor the Jersey Water Works collaborative as a whole takes positions on any proposed regulations or other formal executive or legislative action.

Jersey Water Works is a collaborative effort of over 600 diverse organizations and individuals who embrace the common purpose of transforming New Jersey's inadequate water infrastructure by investing in sustainable, cost-effective solutions that provide communities with clean water and waterways; healthier, safer neighborhoods; local jobs; flood and climate resilience; and economic growth. The Jersey Water Works Asset Management and Finance Committee advances policies and practices to ensure that communities maintain and improve drinking water, wastewater and stormwater infrastructure systems to deliver quality water services that meet community needs; and that utility operating budgets and capital investment are adequate and affordable, resulting in systems that operate efficiently and in a state of good repair. Further information is available at: www.jerseywaterworks.org.

⁵ <https://www.nlc.org/article/2021/06/01/using-american-rescue-plan-act-funds-for-water-wastewater-and-stormwater-infrastructure-projects/>

⁶ <https://patch.com/new-jersey/bloomfield/bloomfield-announces-plans-26m-covid-recovery-funds>