

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF DUKE ENERGY)
INDIANA, LLC, INDIANA GAS COMPANY D/B/A)
VECTREN ENERGY DELIVERY OF INDIANA, INC.,)
INDIANA MICHIGAN POWER COMPANY, INDIANA)
NATURAL GAS CORPORATION, INDIANAPOLIS POWER)
& LIGHT COMPANY, MIDWEST NATURAL GAS)
CORPORATION, NORTHERN INDIANA PUBLIC)
SERVICE COMPANY, LLC, OHIO VALLEY GAS CORP.)
AND OHIO VALLEY GAS, INC., SOUTHERN INDIANA)
GAS & ELECTRIC COMPANY D/B/A VECTREN ENERGY)
DELIVERY OF INDIANA, INC., AND SYCAMORE GAS)
COMPANYFOR (1) AUTHORITY FOR ALL JOINT)
PETITIONERS TO DEFER AS A REGULATORY ASSET)
CERTAIN INCREMENTAL EXPENSE INCREASES AND)
REVENUE REDUCTIONS OF THE UTILITY)
ATTRIBUTABLE TO COVID-19; AND (2) THE)
ESTABLISHMENT OF SUBDOCKETS FOR EACH JOINT)
PETITIONER IN WHICH EACH JOINT PETITIONER MAY)
ADDRESS REPAYMENT PROGRAMS FOR PAST DUE)
CUSTOMER ACCOUNTS, APPROVAL OF NEW BAD)
DEBT TRACKERS, AND/OR DETAILS CONCERNING)
THE FUTURE RECOVERY OF THE COVID-19)
REGULATORY ASSET)

CAUSE NO. 45377

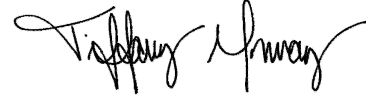
PETITION OF INDIANA OFFICE OF UTILITY)
CONSUMER COUNSELOR FOR GENERIC)
INVESTIGATION INTO COVID-19 IMPACTS TO BE)
CONDUCTED OVER TWO PHASES; EMERGENCY)
RELIEF PURSUANT TO IND. CODE § 8-1-2-113 TO)
RELIEVE INDIANA RATEPAYERS OF THE THREAT OF)
UTILITY SERVICE DISCONNECTION AND PAYMENT)
ARREARAGES DURING GLOBAL HEALTH AND)
ECONOMIC CRISIS)

CAUSE NO. 45380

INDIANA UTILITY CONSUMER COUNSELOR'S SUBMISSION
OF PROPOSED ORDER

The Indiana Office of Utility Consumer Counselor, by counsel, hereby submits the attached proposed order.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tiffany Murray". The signature is fluid and cursive, with the first name "Tiffany" being more prominent and the last name "Murray" following in a similar style.

Tiffany Murray
Attorney No. 28916-49
Deputy Consumer Counselor

CERTIFICATE OF SERVICE

This is to certify that a copy of the *Utility Consumer Counselor's Proposed Order* has been served upon the following parties of record in the captioned proceeding by electronic service on May 22, 2020.

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GAS & ELECTRIC COMPANY D/B/A VECTREN)
ENERGY DELIVERY OF INDIANA, INC., AND)
SYCAMORE GAS COMPANY FOR (1) AUTHORITY FOR)
ALL JOINT PETITIONERS TO DEFER AS A)
REGULATORY ASSET CERTAIN INCREMENTAL)
EXPENSE INCREASES AND REVENUE REDUCTIONS)
OF THE UTILITY ATTRIBUTABLE TO COVID-19; AND)
(2) THE ESTABLISHMENT OF SUBDOCKETS FOR)
EACH JOINT PETITIONER IN WHICH EACH JOINT)
PETITIONER MAY ADDRESS REPAYMENT)
PROGRAMS FOR PAST DUE CUSTOMER ACCOUNTS,)
APPROVAL OF NEW BAD DEBT TRACKERS, AND/OR)
DETAILS CONCERNING THE FUTURE RECOVERY OF)
THE COVID-19 REGULATORY ASSET)

CAUSE NO. 45377

ORDER OF THE COMMISSION

Presiding Officers:

James F. Huston, Chair

Lorraine Seyfried, Chief Administrative Law Judge

On May 8, 2020, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its Verified Petition for Generic Investigation into COVID-19 Impacts (“Petition”) with the Indiana Utility Regulatory Commission (“Commission”) requesting approval of a two-phase investigation into the effect of the COVID-19 public health pandemic and economic crisis on Indiana utility ratepayers, including emergency relief under Ind. Code § 8-1-2-113 to stay all utility service disconnections that will be pending or imminent when Governor Holcomb’s Executive Order 20-25, which prohibits the disconnection of utility service during the pending public health emergency, expires on June 4, 2020.¹

On May 13, 2020, Citizens Action Coalition of Indiana (“CAC”) filed a petition to intervene. On May 14, 2020, Northern Indiana Public Service Company LLC (“NIPSCO”) filed a petition to intervene.²

On May 18, 2020, the Presiding Officers consolidated Cause No. 45377 with this Cause via docket entry. On May 20, 2020, the Indiana Industrial Group (“Industrial Group”) filed a petition to intervene in the consolidated proceeding.

Based upon applicable law and the evidence of record, the Commission now finds as follows:

1. Commission Jurisdiction. The Commission is authorized to take emergency action when necessary to prevent injury to the business or interests of the people or any public utility of this state, including suspending any existing rates, services, practices, schedules, and order relating to or affecting any public utility or party of any public utility in this state. Ind. Code § 8-1-2-113. In addition, the Commission is authorized under Ind. Code § 8-1-2-42 to approve changes in the schedule of rates, tolls, and charges of Indiana public utilities. Such charges must be reasonable and just. Ind. Code § 8-1-2-4. The Commission also has authority to initiate an investigation into all matters relating to any public utility pursuant to Ind. Code § 8-1-2-58. In addition, Ind. Code § 8-1-2-72 authorizes the Commission to alter or amend any order made by the Commission, upon notice and after opportunity to be heard. In addition to the foregoing statutory authority, the Indiana Court of Appeals has specifically found that inherent in this grant of power to the Commission is the implicit power and authority for the Commission to “do that which is necessary to effectuate the regulatory scheme.” *South Eastern Indiana Natural Gas v. Ingram*, 617 N.E.2d 943, 948 (Ind. Ct. App. 1993).

2. OUCC Verified Petition. The Indiana Utility Consumer Counselor, William I. Fine, sponsored the OUCC’s Verified Petition for Generic Investigation into COVID-19 Impacts. The OUCC’s Petition noted and recited Governor Holcomb’s Executive Orders related to the COVID-19 pandemic, including the Governor’s “Stay at Home” Order and his Order prohibiting the disconnection of utility service as these services are essential to Hoosiers and Hoosier business particularly during this state of public health emergency. Governor Holcomb’s Executive Order 20-25 and the prohibition on utility service disconnections is scheduled to expire on June 4, 2020.³

¹ On May 21, 2020, Governor Holcomb issued Executive Order 20-28 extending the utility service disconnection moratorium through July 1, 2020.

² As of the date of this filing, these petitions to intervene have not yet been granted.

³ On May 21, 2020, Governor Holcomb issued Executive Order 20-28 extending the utility service disconnection moratorium through July 1, 2020.

The OUCC's Petition also described the global health and economic crisis caused by the COVID-19 pandemic and its impacts on the United States and the State of Indiana. Millions of Americans, including thousands of Hoosiers, have been diagnosed with COVID-19, and many thousands of Americans have died as a result of the disease. Because of "stay at home" orders implemented to slow the spread the COVID-19, many Americans are working remotely while others have faced imposed and indefinite unemployment. Most of Indiana is following Governor Holcomb's five-stage plan to provide for a phased reopening of Indiana's economy by July 4, 2020. The OUCC's Petition highlighted the immense impact of the COVID-19 pandemic on the American economy. As of April 2020, the US unemployment rate was 14.7% as compared to unemployment in February 2020 of 3.5%. Millions of Americans and thousands of Hoosiers are applying for unemployment benefits for the first time. The OUCC's Petition noted that the widespread shuttering of businesses and unexpected shift to remote work for many Hoosiers has undoubtedly had an effect on demand for essential utility service within the State, and on customers' ability to pay for such services during this time of tremendous financial strain.

The OUCC's Petition stated that absent action to abate looming utility service disconnections for many customers and sizeable accumulated payment obligations, ratepayers in Indiana will experience serious challenges when this expires. To address the consequences of the COVID-19 pandemic, the OUCC requested the Commission conduct a two-phase investigation. The first phase of the OUCC's requested investigation, to be conducted in expedited fashion, seeks to protect the immediate needs of Indiana ratepayers by requiring all jurisdictional Indiana utilities to (a) stay all utility service disconnections that will be pending or imminent when the State's disconnection moratorium is lifted, (b) prohibit utilities from imposing or collecting certain, specific, utility fees, including late fees, convenience fees, deposits, and reconnection fees, and require utilities to expand the use of payment arrangements to aid customers, and (c) immediately begin using regulatory accounting, such as the use of regulatory assets and liabilities for the impacts attributable to (a) and (b) until such time as it is determined how to appropriately address the delivery of utility service during and for a period after the ongoing public health and global economic emergency.

The OUCC's Petition notes that authorizing utilities to make use of regulatory accounting does not bind the Commission, the OUCC, or any other party to any particular treatment in a future proceeding. Nor does the regulatory accounting sought by the OUCC prohibit the Commission, the OUCC, or any other party from inquiring about or considering the effect of any operational savings or other financial impacts that may occur as a result of COVID-19. The OUCC requested that any Phase 1 order in this Cause should direct utilities to maintain adequate records to document these impacts for future consideration.

The OUCC also proposed a second phase to its requested generic investigation, to be conducted on a more deliberate timeline than the Phase 1 emergency relief, to address all related remaining issues through utility-specific sub-dockets, if necessary. Its Petition offered a non-exhaustive listing of potential Phase 2 issues at a high level, which include: (a) appropriate cost recovery methodology, based on review for reasonableness, necessity, and prudence; (b) prohibitions on requests for recovery of COVID-19 related regulatory assets earlier than the utility's next base rate case, except in emergency situations; (c) the extent to which the use of 2020 as a test year remains reasonable without adjustment; (d) expectations of utilities to defer capital

projects and reduce expenses to the extent reasonably possible for the remainder of 2020; (e) expectations for utilities to take advantage of opportunities for utility cost savings, such as through re-financing of outstanding debt where feasible; and (f) regulatory treatment of funds received from the federal or state government in the event utilities avail themselves of available federal or state relief funding.

Finally, the OUCC's Petition sought, to the extent other requests for COVID-19 relief are submitted to the Commission, that the Commission conduct a uniform investigation to address all COVID-19 issues in a manner that supports administrative efficiency and assures equitable relief for all customers.

3. Parties. As this investigation will consider making temporary modifications to the utility service practices of all jurisdictional Indiana utilities due to the COVID-19 public health and economic crisis, we find that all Indiana jurisdictional electric, natural gas, water, wastewater, and telecommunications investor-owned, not-for-profit, and municipal utilities should be notified of this proceeding and made Respondents to this Cause. The OUCC should be included on the service list and participate in this proceeding pursuant to Ind. Code ch. 8-1-1.1. In addition, the Commission encourages those with a substantial interest in the subject matter of this investigation to seek intervention in accordance with 170 IAC 1-1.1-11.

4. Phase 1 Emergency Relief. The Commission recognizes the COVID-19 pandemic has significantly affected the safety, economic security, health, and quality of life of many Hoosiers and businesses located, and operating in Indiana, and negatively affected the ability of Indiana ratepayers to meet their obligations to pay their utility bills. Many Indiana utility customers are facing unprecedented health and economic challenges through no fault of their own that will continue for an uncertain period of time. Continued access to essential utility service during this public health crisis and recovery period is of critical importance. Accordingly, the Commission finds that an emergency under Ind. Code § 8-1-2-113 exists and that relief is necessary and appropriate in order to prevent injury to the businesses or interests of the people in the State of Indiana.

With the prohibition on utility service disconnections renewed by Governor Holcomb's Executive Order 20-28 now set to expire on July 1, 2020, utility customers are vulnerable to imminent disconnection due to unpaid balances. The Commission finds that, in light of the ongoing COVID-19 health and economic emergency, Indiana jurisdictional utilities shall continue to be prohibited from initiating service disconnections for non-payment until such time as the Commission determines that health and economic conditions justify a return to standard utility service disconnection practice. Likewise, Indiana utility customers shall not be assessed late fees, bad check charges, deposits, or credit/debit card convenience fees throughout the Commission's disconnection moratorium. Respondent utilities are ordered to engage with their customers on extended payment arrangements, beyond those contemplated in the Commission's administrative rules, to allow customers an increased opportunity to make payments towards outstanding balances in full.

The Commission acknowledges that, as a result of the temporary forms of customer relief described above, Respondent utilities will incur costs to maintain service to customers whose service would have been disconnected under normally-applicable terms. Accordingly, the

Commission orders Respondent utilities to use regulatory accounting for the limited purpose of recording the direct costs incurred from unpaid customer bills, waived charges, and extended payment arrangements as described above, from March 19, 2020, the date on which Governor Holcomb's utility service disconnection moratorium was made effective, through the date on which the Commission ceases the service disconnection moratorium.

The Commission further finds that by authorizing Respondent utilities to make use of regulatory accounting, rate recovery of any resulting regulatory assets or liabilities is not guaranteed. The Commission will evaluate any rate recovery within the context of necessity, reasonableness, and prudence of the requested amount, and in so doing, will also consider the effect of any utility cost or operational savings, as well as receipt of any government financial assistance such as through the CARES Act or similar federal or state program. The appropriate ratemaking treatment for any resulting regulatory assets or liabilities will be addressed in either the Respondent's next base rate case or if the Respondent utility can prove the existence of an emergency in receiving such relief before its next base rate case, within a utility-specific Phase 2 sub-docket as discussed below. Any such relief will require demonstration that the resulting rates are just and reasonable.

5. Phase 1 Utility Reporting Requirements. Until otherwise notified by the Commission, Respondent utilities are required to file monthly reports with the Commission stating each of the following for the previous month:

- a. Number of accounts by customer class;
- b. Number of accounts certified as eligible for energy assistance since October 1, 2019;
- c. Number of accounts past due by customer class broken down by 30 days, 60 days, 90 days, and 120+ days past due;
- d. Number of accounts eligible for energy assistance and past due;
- e. Total revenue owed on accounts past due by customer class;
- f. Total revenues owed on accounts eligible for energy assistance and past due;
- g. Number of accounts determined uncollectible by customer class;
- h. Number of accounts eligible for energy assistance and determined uncollectible;
- i. The number and total value of accounts in payment plans by customer class;
- j. The number and total sum of payment arrangements in default by customer class;
- k. The number and total sum of deferred deposits by customer class;
- l. The amounts of all other deferred O&M expenses by expense type;
- m. Items (a) through (l) for each month in 2019; and
- n. The amount of funds received from government relief efforts such as the CARES Act or similar federal or state initiatives.

6. Scope of Phase 2 Investigation. An Attorney's Conference is scheduled for January 13, 2021 or sometime thereafter to discuss the establishment of a procedural schedule in Phase 2. Phase 2 will address all remaining issues, including any requests for utility-specific sub-

dockets, within which requests for emergency rate relief of any regulatory deferrals as a result of the relief ordered in Phase 1 will be considered.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. As a result of the ongoing COVID-19 public health and economic crisis, a two-phase investigation is commenced.

2. As Phase 1 of this investigation, consistent with its authority under Ind. Code § 8-1-2-113, the Commission grants emergency relief to ratepayers of all Indiana jurisdictional electric, natural gas, water, wastewater, and telecommunications investor-owned, not-for-profit, and municipal utilities and hereby prohibits utility service disconnections for non-payment until such time as the Commission determines public health and economic conditions justify a return to standard utility disconnection practice. Indiana utility customers shall not be assessed late fees, bad check charges, deposits, or credit/debit card convenience fees during this disconnection moratorium.

3. Respondent utilities are hereby ordered to engage with their customers on extended payment arrangements, beyond those contemplated in the Commission's administrative rules, to allow customers an increased opportunity to make payments towards paying outstanding balances in full.

4. Respondent utilities are hereby ordered to make monthly reports to the Commission under this Cause as described in Paragraph 5 of this Order.

5. An Attorney's Conference is scheduled for January 13, 2021 or sometime thereafter to discuss the establishment of a procedural schedule in Phase 2. Phase 2 will address all remaining issues, including any requests for utility-specific sub-dockets, within which requests for emergency rate relief of any regulatory deferrals as a result of the relief ordered in Phase 1 will be considered.

6. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, OBER AND ZIEGNER CONCUR:
APPROVED:

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

Mary Becerra, Secretary of the Commission