BEFORE THE

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 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 SUB-DOCKETS 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 INDUSTRIAL GROUP'S REPLY TO UTILITY PETITIONERS' RESPONSIVE BRIEF ON PHASE I ISSUES

Introduction

The Indiana Industrial Group, pursuant to the Commission's May 27th Order, files this reply to address certain issues raised by the Utility Petitioners in their June 10, 2020 Response ("Utility Petitioners' Response").

In their June 10th Response, the Utility Petitioners address the Phase 1 relief sought by the OUCC in its Verified Petition. At the same time, however, the Utility Petitioners take the opportunity to push forward their own agenda, setting forth arguments supporting their proposals for relief to utilities as well as Indiana customers struggling to recover from the COVID-19 Pandemic.

Notably, the Utility Petitioners seek to modify the relief initially requested in their own Joint Petition. Most obviously, they have attempted a strategic retreat from their own request that the issue of lost revenue recovery be addressed immediately, instead asking now that it be pushed into Phase 2 of this proceeding and addressed on a utility-by-utility basis. But acquiescing to such a request is unfair and unnecessary. The issue is ripe for decision, and parties have invested considerable time and energy in addressing the Utility Petitioners' demand for deferred recovery of reduced revenues. That effort should not be disregarded, and the Utility Petitioners should not be given a "second bite at the apple"; the matter should be decided now by denying their request.

The Utility Petitioners also try to shield themselves from any expectation that they be required to evaluate expenses and the option of deferring capital projects. At the same time, they attempt to bargain with the Commission, asking that if their demand for lost revenues is denied, they be permitted to keep any operational savings resulting from the COVID-19 Pandemic. The Utility Petitioners are, however, in no position to bargain. They have an obligation to operate

their businesses efficiently, and that obligation extends to careful consideration of steps that can be taken to mitigate the effects of an economic downturn and reduce burdens on customers. They cannot, in short, pretend that they, alone, operate in a sphere in which business carries on as usual.

The Utility Petitioners also seek to limit any disconnection moratorium, fee waivers, and payment arrangements to the residential class, completely overlooking the impact of the COVID-19 Pandemic on businesses, large and small, throughout the State of Indiana. Non-residential customers should be treated fairly and equitably, and the Utility Petitioners have failed to offer any basis why a reasonable balance in the relationship between themselves and non-residential customers should not be maintained. Importantly, despite allusions to the contrary, the Commission has ample authority under Indiana Code §§8-1-2-69 & 113 to afford that relief, as well as the relief sought by the OUCC and others.

Finally, in the concluding prayer for relief, the Utility Petitioners, for the first time, ask that carrying charges be recovered on any regulatory asset approved by the Commission. This belated request should be subject to very careful scrutiny by the Commission, and if any carrying charges are approved, the Commission should take appropriate steps to reduce those costs to the lowest possible amount reasonably needed by the Utility Petitioners.

A. The Proposal for Deferred Recovery of Reduced Revenues Due to Decreased Load Should Be Decided in Phase 1

After jointly petitioning for deferred accounting to recover lost revenues due to reduced load as an element of Phase 1, the Utility Petitioners are now suggesting it may be preferable to postpone a determination on that request until the individual utility subdockets in Phase 2. See Utility Petitioners' Response at 9-10 & n.6; id. at 11 n.8. For three reasons, that new procedural proposal is inappropriate and unreasonable.

First, the proposal was put forward as a Phase 1 request by the Utility Petitioners, the Commission's Order directed submissions on that issue as a Phase 1 question, the consumer parties accordingly addressed the subject in their June 10th filings, and therefore the issue has been presented and is ripe for decision. Second, the Utility Petitioners jointly asserted common grounds for the requested relief and they all offered virtually identical support in their affidavits, presenting a shared position on an important matter of statewide significance as to which uniform regulatory treatment should be established. Third, the suggestion of fractured determinations across a multiplicity of future proceedings would be procedurally inefficient and prejudicial to the consumer parties that have already expended the time, effort and energy to address the subject in Phase 1.

1. The relief was requested, reiterated by affidavits, ordered to be addressed, actually addressed by party submissions, and is now ripe for decision

In their May 8th Verified Petition, the Utility Petitioners formally, unequivocally and repeatedly requested accounting relief to support deferred recovery of lost revenues due to reduced load *as a Phase 1 determination*. See Utilities' Petition at 2 (preamble reciting deferral of "revenue reductions related to lost load" under (1) and subdocket issues under (2)); ¶6(h) (listing "Revenue impacts due to customer load reductions" among COVID-19 related impacts for purposes of accounting relief); ¶7(a) ("Joint Petitioners respectfully request . . . [t]hat the Commission issue an expeditious order authorizing them to defer, and record in Account 182.3, all expenses, costs, reduced revenues noted in paragraph 6 above, . . . including due to reduced customer load if applicable"); id. ("A prompt order from the Commission" authorizing deferral of "reduced revenues" would protect the financial health of the Utility Petitioners); id. ¶8 (proposing two tracks, where first track is "obtaining expeditious general authority for all Joint

Petitioners" by July 15th to defer for future recovery, *inter alia*, "reductions due to reduced customer load if applicable"); id. at 19 (recital of requested relief asking that Commission "expeditiously" issue an order authorizing deferral of "reduced revenues, including those due to reduced customer load if applicable"). The Utility Petitioners could not have been more clear and explicit in seeking a "prompt" and "expeditious" order no later than July 15th authorizing deferred accounting for future recovery of reduced revenues due to decreased load.

The affidavits submitted by the Utility Petitioners uniformly reiterated the request for deferred accounting for reduced revenues due to decreased load. See Camp Aff. (NIPSCO) ¶¶5, 7, 12, 13(h), 14, 15; Davey Aff. (Duke) ¶¶5, 6, 11, 13; Bell Aff. (Indiana Gas) ¶¶8, 12; Bell Aff. (SIGECO) ¶¶8, 12; Lucas Aff. (I&M) ¶¶6(h), 10; Garavaglia Aff. (IPL) ¶¶7, 8, 13, 15; Stenger Aff. (Sycamore) ¶¶4, 9; Osmon Aff. (MNG/ING) ¶4(f); Salkie Aff. (OVG) ¶¶4, 5, 7, 10, 14(h). The affidavits made clear that the Utility Petitioners were seeking accounting relief associated with reduced load in an order issued by July 15th, as a Phase 1 determination. See Camp Aff. ¶16; Davey Aff. ¶¶14-15, 17; Bell Aff. ¶¶13-15 (for both Indiana Gas and SIGECO); Lucas Aff. ¶¶12-13; Garavaglia Aff. ¶¶16-17; Stenger Aff. ¶¶11-12; Osmon Aff. ¶¶8-9; Salkie Aff. ¶¶13, 15. None of those affidavits retreated in any way from the joint proposal by all the Utility Petitioners seeking deferred accounting for revenue reductions due to decreased consumption, and none withdrew the explicit request by all the Utility Petitioners seeking that accounting authorization in a Phase 1 order no later than July 15th.

On that record, then, the Commission issued its May 27, 2020 Order directing the parties to make submissions on the question of deferred recovery for lost revenues due to decreased load as a Phase 1 issue. The Commission delineated Phase 1 as including the requested authorization for deferral of "revenue reductions related to lost load." See 5/27/20 Order at 3. In calling for

Phase 1 submissions on the Utility Petitioners' regulatory accounting requests, the Commission directed the parties to address "the COVID-19 related expenses" and "the lost revenue due to load reductions" as "distinct requests." Id. at 4 n.2. In accordance with that Order, the June 10th submissions by a number of parties included extensive analysis opposing the request for deferral of revenue reductions due to decreased load. See OUCC Response at 2-9; Industrial Group Response at 8-24; CAC/INCAA Notice of Joinder; Sierra Club Response at 4-17; LaPorte County Response at 5-8.

With the question thus called, and in the face of strong opposition by a number of parties, the Utility Petitioners signaled a strategic retreat in their June 10th Response, by suggesting the question of deferred accounting for lost revenues due to reduced load might be better left to Phase 2, after all. It is too late for that. The Utility Petitioners requested the relief in Phase 1, they supported it as a Phase 1 request in their affidavits, the Commission ordered the parties to address the question distinctly in their Phase 1 submissions, and all the consumer parties accordingly presented their opposing analyses at great length in their June 10th responses. The issue is ripe for a decision, in accordance with the process directed by the Commission in the May 27th Order. Having made and supported the request, thereby eliciting Commission procedural determinations and extensive party submissions, the Utility Petitioners are no longer in a position to call off the process they themselves proposed, in order to delay the decision point to a later juncture.

2. The issue was jointly raised with common questions of statewide significance that should now be decided

The request for deferred recovery of lost revenues due to reduced consumption was made jointly on behalf of all the Utility Petitioners. See Utilities' Petition ¶¶6(h), 7(a), 8; see also id. at 2, 19 (preamble and prayer). The supporting averments were presented as common

circumstances affecting the Utility Petitioners throughout the State. Id. According to the Petition, a major impact of the COVID-19 Pandemic has been the reduction in utility revenue attributable to decreases in customer load and that impact, according to all of the Utility Petitioners collectively, warrants prompt accounting relief on a statewide basis. Id. In that pleading, the Utility Petitioners unequivocally sought joint relief on common grounds to address a phenomenon of shared interest, as to which statewide questions of ratemaking policy predominate over idiosyncratic issues unique to each individual utility.

The supporting affidavits filed by each of the Utility Petitioners, similarly, were presented in parallel fashion, in largely the same terms, emphasizing the equivalent situation experienced by each with respect to reduced load attributable to the pandemic and reiterating the request for deferred accounting that each utility was making. See Camp Aff. (NIPSCO) ¶¶5, 7, 12-16; Davey Aff. (Duke) ¶¶5, 6, 11, 13-15, 17; Bell Aff. (Indiana Gas) ¶¶8, 12-15; Bell Aff. (SIGECO) ¶¶8, 12-15; Lucas Aff. (I&M) ¶¶6(h), 10, 12-13; Garavaglia Aff. (IPL) ¶¶7, 8, 13, 15-17; Stenger Aff. (Sycamore) ¶¶4, 9, 11-12; Osmon Aff. (MNG/ING) ¶4(f), 8-9; Salkie Aff. (OVG) ¶¶4, 5, 7, 10, 13-15. In their individual affidavits as well as their Joint Petition, then, the Utility Petitioners raised common issues in support of uniform accounting relief to address the pandemic-related reduction in load that they all reported they were all facing.

In their June 10th submission, however, the Utility Petitioners adopted an alternative perspective by making the contention, contrary to their Joint Petition and supporting affidavits, that deferred recovery of reduced revenue from decreased load would be "best" postponed to individual utility subdocket proceedings in Phase 2. See Utility Petitioners' Response at 9 & n.6; id. at 11 n.8. According to the Utility Petitioners' revised position, that issue is "highly utility-specific" insofar as different utilities are "differently situated" in terms of the impact on customer

load, availability of decoupling mechanisms, and the need for deferral authority. Id. The Utility Petitioners did not identify any change of circumstance to explain their shift in position, from the time of the Joint Petition and supporting affidavits when uniform accounting relief was jointly sought on a statewide basis to address the pandemic-related load reductions faced by all the Utility Petitioners. Prior to the June 10th filing, the Utility Petitioners did not assert that utility-specific considerations made Phase 2 treatment preferable.

What is actually presented by the request for deferred recovery of reduced revenues from decreased load is an issue of statewide importance. The specifics for each utility will certainly vary, but the fundamental fact pattern applies across all the Utility Petitioners: the COVID-19 Pandemic has affected energy consumption throughout the State, with decreased load being reported in all territories. The proposed accounting relief, furthermore, raises common issues of law with respect to all affected utilities: whether recovery of reduced revenues is permitted under Indiana law, can be authorized outside of a rate case, amounts to retroactive ratemaking, misallocates the risks of economic uncertainties, forces consumers to act as insurers, and requires payment for non-service. The same basic question of regulatory policy is presented in all instances: whether deferred recovery of lost revenues properly balances utility and consumer interests in a reasonable manner where all other sectors of the economy are adversely impacted by the pandemic. In none of those respects do the individual circumstances of specific utilities require separate analysis and discrete determinations. In all respects, rather, the strong interest in regulatory consistency and uniform ratemaking policy support the establishment of a statewide determination by the Commission.

The reason why the Utility Petitioners sought this accounting relief as a Phase 1 determination in the first place, after all, is because they need regulatory assurance of future

recovery in order to book a regulatory asset. The details of each utility's specific situation need not be separately analyzed to address that basic question. Based on the statewide fact pattern of decreased load, the common issues of law, and the fundamental issue of ratemaking policy raised by the joint proposal, the Commission can and should determine in Phase 1 that the requested assurance of future recovery would be unreasonable, unbalanced and contrary to the public interest. Prolonging the litigation to encompass a cascade of particulars across an array of Phase 2 subdockets is unnecessary.

3. The new proposal to postpone the issue to Phase 2 would be procedurally inefficient and prejudicial to the consumer parties

The process established by the Commission in the May 27th Order calls for a threshold determination in Phase 1 on the deferred accounting relief sought by the Utility Petitioners, including specifically the joint request for deferred recovery of reduced revenues due to decreased load. That process is procedurally efficient, because the common issues raised jointly by the Utility Petitioners will be decided once, promptly, at the outset of the proceeding. By contrast, the revised position suggested by the Utility Petitioners in their June 10th submission would substitute, for that singular decision point, a multiplicity of future proceedings requiring individual determinations on separate records for each specific utility. For the Commission and the parties, that alternative would entail delay, the splintering of proceedings, the expansion of contested litigation, and the risk of inconsistent results.

The Industrial Group and other consumer parties, pursuant to the May 27th Order, have already presented their analyses opposing the Utility Petitioners' request for deferred recovery of lost revenues in their respective June 10th submissions. Under the new proposal to postpone the determination to Phase 2, the consumer parties would be required to repeat that effort all over

again, several times over, in an array of future proceedings, utility by utility. Intervening parties would have to make participation decisions on a case-by-case basis, and allocate resources to address parallel issues in a plurality of distinct proceedings. The considerable time, effort and expense that went into the consumer parties' June 10th submissions on this question, in accordance with the May 27th Order, would be wasted. The Utility Petitioners' new proposal to start over again on this issue through multiple subdockets in Phase 2 would be unfairly prejudicial to the Industrial Group and other consumer parties that already devoted the effort and resources to address the issue in Phase 1.

Finally, an additional procedural consequence arising from the new proposal to postpone consideration of lost revenue recovery for reduced load is the corresponding request to accelerate the Phase 2 subdocket proceedings. See Utility Petitioners' Response at 10 n.6 ("In order to preserve the ability to defer such lost revenues, the Commission should initiate such Phase 2 sub-docket proceedings within 60 days of the Phase 1 order."). The May 27th Order, addressing Phase 2, specifically stated: "The Commission anticipates many impacts of the COVID-19 pandemic may not be fully understood for months, if not years, as the effect is ongoing." Id. at 4. By shifting the issue from Phase 1 to Phase 2, however, the Utility Petitioners seek to compress the Phase 2 schedule and undermine the ability of the Commission to address issues properly reserved for Phase 2 in a more considered manner. The existing uncertainties and record deficiencies regarding the scale and impact of the Utility Petitioners' lost revenue request will not become clear in two months. The concept of deciding threshold accounting relief followed by careful consideration of utility-specific computations and rate proposals once the ultimate impact can be better assessed would be lost, if preliminary determinations that are ripe

for resolution in Phase 1 were instead compressed into the sort of expedited Phase 2 process apparently desired by the Utility Petitioners.

B. The Commission Should Address Expectations Regarding Expense Reduction, Capital Project Review, and Operational Savings in Phase 1

The Utility Petitioners also seek to move other items to individual Phase 2 proceedings on the theory that such matters are "utility specific". Among these issues, problematically, is consideration of the OUCC's request that the Commission establish expectations for utilities to "defer capital projects and reduce expenses". Compare OUCC's Petition at 5 with Utility Petitioners' Response at 14. The Utility Petitioners also demand, without any explanation, that if they "must absorb fixed cost recovery losses from reduced load, then any COVID-19 related savings should not be used to offset COVID-19 deferrals." Utility Petitioners' Response at 9. See also id. at 13-14. These two positions are closely related, and both should be rejected by the Commission.

The Industrial Group does not oppose treatment of some issues in Phase 2 proceedings, especially where the issue justifies significant consideration. Even so, there no reason why establishing the *expectation* that utilities take steps to reduce costs or review the option of deferring capital projects is a matter that must be delayed for consideration in any "utility specific" proceeding. Nor is there any justification as to why operational savings should not offset any deferred assets.

"The Commission's assignment is to insure that public utilities provide constant, reliable, and efficient service to the citizens of Indiana." Northern Indiana Public Service Co. v. U.S. Steel Corp., 907 N.E.2d 1012, 1015 (Ind. 2009). Ind. Code §8-1-2-48 specifically gives expansive power to the Commission to inquire into the management of public utilities and, importantly, to disallow unnecessary and excessive expenditures. Indiana-American Water Co.

v. OUCC, 844 N.E.2d 106, 116 (Ind. App. 2006). This is reasonable, as a key component of the regulatory structure in which the Commission acts as the surrogate of competition is to discourage inefficiencies in utility operations and instead pursue a "better policy [of] encourag[ing] thriftiness, saving and frugality on the part of a utility management," as "[s]uch incentive inures eventually to the benefit of the consumers in succeeding rate hearings." Public Service Commission v. City of Indianapolis, 235 Ind. 70, 88, 131 N.E.2d 308, 315 (1956).

It is hard to imagine a time when the provision of constant, reliable and efficient utility service is more pressing than the present. To deliver that service efficiently, however, requires that a reasonable balance be struck between utility expenditures and investments, and "thriftiness, saving, and frugality." It may not practicable at this early juncture to determine whether any specific capital project ought to be delayed or planned expense not incurred, but it is entirely practicable, even necessary, at this juncture for the Commission to set the expectation that utilities comprehensively review capital projects and expenses to achieve cost reductions.

This is only reasonable. The Utility Petitioners cannot, on the one hand, demand recovery of costs and expenses related to the COVID-19 Pandemic, and on the other hand to be freed from their responsibility to manage their operations efficiently in a manner that minimizes costs to ratepayers. To do so would endorse the apparent perception that utilities are entitled to simply carry on with "business as usual".

But business is not usual. Other businesses are reducing costs, cutting workforces, and delaying investments. Individuals and families are struggling to adjust to new patterns of life, the actual or very real threat of lost income, food insecurity, and other issues. The Utility Petitioners cannot, and should not, be insulated from the expectation that they. too, look for ways to reduce costs and economize, as entities impressed with the purpose of serving the public.

Likewise, the Utility Petitioners' demand that they be permitted to keep any operational savings if they are not assured of lost revenue recovery is unsupported and does not follow. Utilities are expected to manage their operations in a prudent and efficient manner; it is not, however, the role of customers to serve as insurers of utility profits. In other words, the Utility Petitioners are not in a position to bargain with the Commission on this issue. They have an obligation to reduce costs and operate efficiently for the benefit of their customers. Again, to accept the Utility Petitioners' position is to accept that "business is usual" must prevail. Under the present circumstances, however, that cannot be the path followed.

C. The Utility Petitioners' Request to Deny Non-Residential Customers Access to Certain Forms of Relief is Discriminatory and Should Be Denied

The Industrial Group takes issue with the suggestion by the Utility Petitioners that relief in the form of a continued moratorium, the waiver of various fees, and flexible payment plans be limited only to residential customers. See Utility Petitioners' Response at 4, 8. The categorical exclusion of all non-residential customers from such protections is contrary to the principle of non-discriminatory ratemaking and, if adopted, would put excessive discretion and bargaining power in the hands of utilities in their dealings with non-residential customers, unbalancing that relationship.

Ind. Code § 8-1-2-68 "proscribes unreasonable differences or unjust discrimination" between customers and customer classes by utilities. Capital Improvement Bd. v. Pub. Serv. Comm'n, 176 Ind. App. 240, 264, 375 N.E.2d 616, 633 (1978). Different charges "for service rendered under different conditions and under different circumstances" is not necessarily unlawful or unduly preferential (id.), but, contrary to the suggestion of the Utility Petitioners, the Commission itself has made clear that in issues involving matters such as the terms of customer deposits, "equity, absent a showing of need to reasonably discriminate, dictates that . . . company

specific rules" that may apply in place of Commission regulations, should nevertheless be "fundamentally the same" as between residential and non-residential customers. Northern Indiana Public Service Co., Cause No. 43526 (Aug. 25, 2010) at 121.

The Utility Petitioners have not shown that there is a reasonable difference between residential and non-residential customers that justifies disparate treatment in this case. Rather, they make broad statements to the effect that residential customers "likely do not have as much access" to outside funding sources as non-residential customers, or that non-residential arrearages "typically have a much larger adverse financial impact" on utilities and those of residential customers. Utility Petitioners' Response at 8. Such statements, without more, are merely generalities and suppositions that are wholly insufficient to draw a reasonable distinction between rate classes, much less to deprive non-residential customers of equal access to programs designed to assist struggling Hoosier businesses and other non-residential customers, as they too struggle to recover from the effects of the COVID-19 Pandemic.

Further, the assertion that limiting the disconnection moratorium, waiver of fees, and access to payment programs "will not preclude" the Utility Petitioners from working with their non-residential customers on "customized payment arrangements" (id.) is insufficient protection for non-residential customers. Categorically excluding those customers from any disconnection moratorium, the waiver of fees, or access to extended payment arrangements establishes a problematic imbalance between the utility and the customer. Simply put, excluding non-residential customers from access to such forms of relief, places a customer with the need for essential utility services in order to continue operating entirely at the mercy of the incumbent utility provider's discretion. The Commission has previously rejected such proposals, instead requiring objective, and verifiable, criteria be used to balance the relationship between customers

and the utility. See, e.g., Joint Petition of Northern Indiana Public Service Co. et al, Cause No. 43685 (April 7, 2010).[1]

Accordingly, the Industrial Group encourages the Commission to reject the arbitrary distinction the Utility Petitioners seek to draw between residential and non-residential customers with respect to access to measures meant to assist customers recover from the COVID-19 Pandemic.

D. The Commission Has Authority to Provide Temporary Relief Regarding Disconnections, Fees and Payment Arrangements

While proposing to continue measures relating to disconnections, collection of fees and extended payment arrangements after expiration of the current Executive Order, the Utility Petitioners apparently question the Commission's authority to order such relief. See Utility Petitioners' Response at 5 (stating Commission authority is "uncertain" and utility consent avoids "the difficult questions of the scope of the Commission's jurisdiction"). Notably, the challenge to Commission authority is not supported by any legal analysis, other than noting the reference to "utility consent" in Ind. Code §8-1-2-113. Id. Contrary to the implication, however, the Commission has all necessary authority to provide the ratepayer relief at issue.

In relevant part, Section 113 provides the Commission with emergency authority to "temporarily alter, amend, or with the consent of the public utility concerned, suspend any existing rates, service, practices, schedules, and order." By the unambiguous grammatical structure, utility "consent" is contemplated only where regulatory provisions are being

[1] One of the specters the Utility Petitioners raise, the possibility that bad debt expense will "ultimately be recoverable from all customers," is premature and speculative. That is a question of cost allocation, properly decided in a rate case where a full assessment of how such expense may be spread among and collected from customers can be decided based on a full evidentiary record. See Joint Petition of NIPSCO et al. (indicating treatment of bad debt in excess of amount assumed in rates is properly addressed in rate case setting).

suspended, not where they are being *temporarily altered or amended*. The proposal here does not involve rescinding disconnection rules or prohibiting collection of fees or rates for service, but rather seeks to extend a temporary period in which the existing customer relief measures will remain in place. The utilities will retain the option to proceed with disconnections at a future point in time, as determined by the Commission, and will retain the ability to seek recovery of their duly authorized rates and charges. The question is one of timing, hence a *temporary* measure that, by the clear terms of Section 113, does not require utility consent.

In addition to emergency powers under Section 113, the Commission also has broad discretion to provide relief under Section 69. See Ind. Code §8-1-2-69 (authorizing Commission to provide relief for "unjust, unreasonable" or "insufficient" acts and practices, or where "any service which can be reasonably demanded can not be obtained"). In Northern Indiana Public Service Co. v. Citizens Actions Coalition, 548 N.E.2d 153, 160-61 (Ind. 1989), the Supreme Court construed Section 69 as exemplifying the Commission's basic function of balancing the interests of utilities and consumers, describing that provision as a grant of "wide authority" and "plenary power." Accord Airco Industrial Gases v. Indiana Michigan Power Co., 614 N.E.2d 951, 954 (Ind. App. 1993). Exercising its broad discretion under Section 69, the Commission has ample authority to determine when and under what circumstances it is "unjust" or "unreasonable" to proceed with disconnections in the face of a severe public health crisis and widespread economic hardship, and what fees and payment arrangements would be just and reasonable in such circumstances.

E. The New Request for Carrying Charges, if Granted, Should Mirror the Cost of Funds for the Utility Petitioners

Among the panoply of requests that the Utility Petitioners seek to move into individual subdockets is one that is entirely new, the recovery of "carrying/financing costs associated with

COVID-19 deferrals." Compare Utility Petitioners' Response at 16 with Utilities' Petition. This, like many of the issues that the Utility Petitioners seek to push into separate, individual, subdockets, does not warrant that relief. Instead, the matter can, and should be, addressed uniformly to the extent any deferred accounting is approved at this time. Doing so will limit the number of issues in any subdocket, and facilitate the more efficient resolution of those proceedings by addressing the issue now.

Specifically, the Commission, to the extent it allows the creation of regulatory assets, should conclude that, consistent with the Utility Petitioners' obligations to reduce costs and limit impacts on customers, the appropriate carrying charges should be calculated at a reasonable level consistent with the utility's obligation to provide service as efficiently and cost-effectively as feasible. At this time the Utility Petitioners have shown no inability to access capital or secure lines of credit at reasonable rates. Accordingly, the cost of any carrying charge should be the lower of the individual utility's WACC or the utility's cost of short-term financing. Such an order would recognize that while utilities incur some cost associated with the delay in recouping amounts in a deferred asset, any recovery should primarily be driven by the actual market cost of debt and the appropriate need to shield customers from excessive costs being built into, as yet, unknown amounts of deferred assets.

CONCLUSION

The modified relief sought by the Utility Petitioners in their June 10th Response should be denied. There is an ample basis to address the question of lost revenue recovery at this time and there is no need, or justification, to delay consideration of a threshold question. Doing so will proliferate litigation and needlessly compress the Phase 2 process. The Commission should also affirm its authority to provide relief to Hoosier ratepayers by clearly indicating the expectation

that the Utility Petitioners should be actively seeking cost reductions and ways to defer capital projects. Likewise, the Utility Petitioners' request that they be allowed to keep operational savings, if denied lost revenue recovery, should be firmly denied as inconsistent with regulatory policy. Further, the Commission should exercise its authority, as it has in the past, to require that all rate classes be similarly treated with respect to disconnections, fee waivers, and deposit rules. Finally, with respect to the Utility Petitioners' new request to approve carrying charges on any regulatory asset, the Commission should be clear in its expectation that those charges will be permitted at only the lowest reasonable cost.

In sum, the Utility Petitioners should be sent a clear message that Hoosiers and Hoosier businesses and communities are struggling to recover from the COVID-19 Pandemic, and that in this atmosphere public utilities, imprinted with a public calling, have a responsibility to assist during such a crisis. While the Utility Petitioners maybe eligible for some forms of relief, others, including recovery of lost revenues, are incongruent with their public calling, and should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the following via electronic mail, this 18th day of June, 2020:

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