

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)
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
(Consolidated under
Cause No. 45380)

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

**JOINT UTILITIES' JUNE 18, 2020 REPLY
TO OTHER PARTIES' COVID-19 RESPONSES**

I. Introduction

In its May 27, 2020 Order in this Cause, the Commission created a briefing schedule on two Phase 1 issues: (1) the OUCC's request for a continued moratorium on utility disconnections and waiver of certain utility fees and extended payment arrangements; and (2) the OUCC's

and/or Joint Utility Petitioners' request for regulatory accounting. Joint Utilities¹ submit this Reply pursuant to the Commission's Order.

II. Customer Protections

At the outset, it is important to recognize the breadth of these proceedings. The OUCC's Petition does not simply cover the Joint Petitioners – themselves a diverse group of energy utilities serving all four corners of the State. The OUCC's Petition covers every jurisdictional utility, regardless of whether the service is electricity, gas, water or sewer; regardless of how many customers they serve; regardless of the demographics of their individual customer bases; regardless of how they are legally organized. The CAC/INCAA's Response confirms that what is sought is a state-wide universal rule for all jurisdictional utilities concerning disconnections, fees and payment arrangements. As the various utilities' filings describing actions taken to protect customers during the COVID-19 pandemic demonstrate, such an approach is not necessary. Joint Utilities have protected customers in unprecedented ways and in Joint Utilities' June 10, 2020 comments, Joint Utilities have committed to continue such protections for a reasonable period of time.

A. Proposed Disconnection Moratorium and Waivers of Various Fees.

In its June 10 Response, CAC/INCAA argues that the Commission should continue the disconnection moratorium, as well as require waiver of various utility fees indefinitely, until "evidence and data show the unprecedented economic crisis has ended and customers can afford their essential utility services."² CAC/INCAA also specifically propose that deposits, along with all late fees and penalties, be waived for residential customers for six (6) to twelve (12) months post-moratorium. (CAC/INCAA Response, at p. 2.) CAC/INCAA's position appears to be generally consistent with the OUCC's proposal for an indefinite continuation of the disconnect moratorium and an indefinite waiver of fees; and the OUCC's proposal is also supported by the Industrial Group, the City of LaPorte, and the Sierra Club.

¹ Duke Energy Indiana, LLC, Indiana Gas Company, Inc., Indiana Natural Gas Corporation, Indiana Michigan Power Company, 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 Co., and Sycamore Gas Company. The Joint Utilities have authorized counsel for Sycamore Gas Company to submit these Reply Comments on behalf of the Joint Utilities.

² CAC/INCAA June 10 Response, at p. 2.

As previously stated, the Joint Utilities support proposals for an extended disconnect moratorium and waivers of certain utility fees -- late payment fees, convenience fees, and reconnection fees.³ Specifically, the Joint Utilities support proposals to extend the disconnection moratorium, and to waive these fees, for residential customers, and for a definite period of time (through July 31, 2020). The Joint Utilities' proposal will allow utilities to work with their customers for a full month after Governor Holcomb's disconnection moratorium ends with respect to disconnection, reconnection, and imposition of fees.

The Joint Utilities urge the Commission to proceed with caution because the longer and more expansive these customer protections become, the greater the customer arrearages, disconnections, and bad debt expense will be down the road. Essentially, an unduly lengthy disconnect moratorium, accompanied by ongoing waivers of fees, has the potential to result in nonpayment of bills for months, after which many customers will be unable to get back on track with their utility bills. Ultimately, utilities and/or other utility customers will be left to subsidize those unpaid bills.

Caution should be taken for legal reasons, as well. For example, the Commission's rules only regulate utility disconnections for nonpayment and customer deposits vis a vis residential customers,⁴ thus bringing into question the authority of the Commission to regulate such actions with respect to commercial and industrial customers, in the absence of a rulemaking. As another example, the Public Service Commission Act constrains the Commission's ability to suspend utility practices without the utility's consent and in the absence of a formal public hearing.⁵ Even temporary action taken in the case of emergency requires the consent of the public utility in order for the Commission to suspend existing rates, practices, etc.⁶ It is thus questionable whether the Commission can lawfully, without the utilities' consent, impose disconnection moratoriums, and

³ Joint Utilities submit that the Commission should not require waivers of customer deposits for new service. Deposits are imposed based on creditworthiness factors, and are an important means of mitigating customer arrearages and bad debt expense.

⁴ See 170 IAC 4-1-15 and 4-1-16.

⁵ See Ind. Code §§ 8-1-2-113 and 8-1-2-59.

⁶ See Ind. Code § 8-1-2-113.

suspend customer deposits, late fees, convenience fees, and reconnection fees for any fixed duration, let alone for an indefinite period of time.

A number of other state commissions addressing COVID-19 have reached similar conclusions: that moratoriums should be limited to residential customers; that moratoriums and fee waivers should be in place temporarily, for a definite period of time; and in some cases, that they should be predicated on utility consent. For example, Alaska and Connecticut have limited disconnection moratoriums to residential customers; Oklahoma has encouraged voluntarily disconnection moratoriums for a period of 30 days; Arkansas's disconnection moratorium extends only through the Governor's emergency declaration; Connecticut's and Iowa's moratoriums are scheduled to terminate July 1; Mississippi's disconnection moratorium has a duration of 60 days; Vermont's moratorium is scheduled to terminate July 31; Wisconsin's moratorium is announced to terminate July 25. Additionally, Wisconsin has announced that utilities may begin charging late payment fees and customer deposits in July. *See* Attachment 1 hereto.

B. Proposed Expanded Customer Payment Arrangements

Several commenters request extended or expanded customer payment arrangements as an option, including CAC/INCAA's request for 18-month arrangements for residential customers and 24-month arrangements for low-income residential customers, as well as other process changes related to deferred payment plans. Joint Utilities agree that in these unprecedented times, expansion of payment arrangements is a reasonable accommodation for residential customers.⁷ As such, Joint Utilities have voluntarily committed to allow payment arrangements of up to six (6) months for residential customers, doubling the time required by the Commission's rules,⁸ with the ability of individual utilities to allow for more flexible and longer

⁷ As with the proposals concerning the disconnection moratorium and fee waivers, the Joint Utilities request that the Commission proceed cautiously with respect to requiring broad extended customer payment arrangements and expanding this beyond residential customers. Of course, Indiana's utilities will continue to work with their commercial and industrial customers on payment arrangements as they already do. However, the practical consequences of unduly lengthy payment arrangements, as well as the legal constraints imposed by Ind. Code sections 8-1-2-113 (requiring utility consent and a definite time period) and 8-1-2-59 (requiring a formal public hearing) are equally relevant to this issue of Commission-required extended customer payment arrangements.

⁸ *See, e.g.*, 170 IAC 5-1-16(d)(2)(B)(1).

arrangements. Additionally, Joint Utilities are committed to continuing to work on an individual basis with non-residential customers on payment issues.

However, Joint Utilities disagree that the Commission should require utilities to expand payment arrangements up to 18 to 24 months as proposed by CAC/INCAA. First, it should be noted that the length of the utility service disconnection suspension is integrally tied to the issue of payment arrangements. The longer the disconnect moratorium lasts, the larger the past due unpaid balance and the longer it may take customers to get current on their past due unpaid balance. Therefore, a moderate approach to the disconnection suspension is necessary to enable customers to be able to pay off past due balances. It is important to note that for Joint Utilities the statutory winter disconnect moratorium from 2019/2020 has effectively never ended for low-income customers because the COVID-19 disconnect suspension occurred at roughly the same time as the end of the winter disconnect moratorium. As such, this group of customers could already have unpaid balances from as long ago as November 2019, as a bookend example.

The Joint Utilities agree that consumer policies should enable customers to pay their own bills as much as possible to minimize bad debt expense, which is eventually shared by all customers. Mandating payment arrangements of 18 to 24 months extends the period of time a customer will be required to pay an extra amount on top of the current month's charges, making it harder to stay current on both and increasing utilities' bad debt expense. Joint Utilities already work with residential customers on an individual basis to extend payment plans or enter into new payment plans when such customers contact the utility, and will continue to do so. However, a six (6) months for such payment arrangements constitutes a reasonable amount of time for most customers to pay off past due balances; accordingly, Joint Utilities recommend that as the standard.

The Joint Utilities are generally able to combine deferred payment arrangements with a budget billing program as proposed by CAC/INCAA. However, the other changes to current process requested by the CAC/INCAA are simply not feasible from a system, IT and training perspective, including waiving deferred payment arrangement down payments, and changing the rules around removal from the deferred payment arrangement for missed payments. As stated,

the Joint Utilities do and will continue to work with customers on payment arrangements to extend or enter into new arrangements, but it would be virtually impossible for utilities to implement new rules and processes during the COVID-19 pandemic, which is also impacting the utilities' operations.

The Joint Utilities agree to communicate payment arrangement options to customers and in many cases have already begun to do so.

Finally, Joint Utilities do not see a need to distinguish payment arrangement options between low-income and other residential customers as suggested by CAC/INCAA, as it adds complexity to the process, which may already prove overwhelming to utility customer call centers. In particular, the CAC/INCAA recommendation that residential customers be permitted to self-certify for low-income by providing proof of any means-tested program enrollment or attestation of job or wage loss is problematic, as it would require an entirely new process, including IT and training changes at a time when customer call centers are already expected to be extremely busy. Not to mention that many utility call center representatives are working remotely, making new rule changes and training more difficult.

CAC/INCAA's proposal for self-certification presents other issues, as well. Currently, eligibility for low income programs, such as the heating assistance program administered under Ind. Code § 4-4-33 (*i.e.*, Low Income Home Energy Assistance Block Grant under 42 U.S.C. 8621 *et seq.* or "LIHEAP"), is determined by the Community Action Program ("CAP") agencies as utilities do not have the information necessary to determine income status or otherwise assess a customer's eligibility for assistance programs where the eligibility is based on the customer's income. The CAP agencies are trained in and have the online and other facilities necessary to responsibly make such determinations. Unlike the CAP agencies, utilities do not currently have the experience and structures in place to verify self-certifications or to respond to customer inquiries about such eligibility. The cost of implementing the proposed self-certification process may outweigh the benefit. Therefore, the Commission should conclude that the CAC/INCAA proposal is not suited for adoption as part of this docket.

C. Proposed Credit and Collection Practices and Associated Reporting Requirements

CAC/INCAA urge the Commission to use the COVID 19 pandemic as grounds to mandate *indefinitely* sweeping new requirements for utility credit and collection practices, including:

1. Order all jurisdictional utilities to continue *indefinitely* the suspension of collection activities and any credit reporting after the shut-off moratorium is lifted. (CAC/INCAA Response, at pp. 18, also 12-13.)
2. Order all jurisdictional utilities to provide to all customers a detailed description of new, flexible credit and collection terms and to conspicuously include this information on all disconnection notices for the next two years, at a minimum. (*Id.* at pp. 19, also 2, 13-14.)
3. Order all jurisdictional utilities to collect and file on a monthly basis and by zip code comprehensive data to allow the Commission to monitor the effectiveness of newly adopted credit and collections protections. (*Id.* at pp. 19, also 14-15.) The new data collection and reporting requirements would be mandated immediately and continued indefinitely. (*Id.* at p. 16.)
4. Institute all consumer protection requirements on *all* jurisdictional utilities in a manner that is uniform and consistent statewide. (*Id.* at pp. 19, also 17.) On the other hand, CAC/INCAA/INCAA argue that such uniformity should be viewed as *minimum* protections that should be expanded based on individual circumstances. (*Id.* at p. 17.)

There are a number of reasons why CAC/INCAA's proposal should be rejected. To begin, Indiana jurisdictional utilities differ greatly, and many may not have the ability to comply with CAC/INCAA's proposed information collection requirements. In addition, and importantly, CAC/INCAA fail to establish a reasonable nexus between their proposed comprehensive reporting requirements and the COVID-19 crisis. The CAC/INCAA proposals are not new; they have previously been presented and rejected in various cases before the Commission. *E.g.* IPL, Cause No. 44576 (IURC 3/16/2016) at 58 (declining to order the collection and reporting requirements proposed by CAC/INCAA). Nothing about the COVID-19 pandemic warrants the Commission reaching a different result. Compliance with regulatory reporting requirements imposes a cost on the regulated entity. The cost of configuring information technology systems to gather information and the cost to have regulatory systems compile and report such information is substantial. This additional cost must necessarily be reflected in the rates charged for service. New reporting requirements also impose a resource cost on the Commission because the Commission would receive a large volume of data it is not currently receiving. If the

Commission is not prepared to devote resources to policing utility compliance and analyzing the comprehensive data produced by the new reporting requirements, the adoption of the CAC/INCAA proposal would be for naught. Simply put, CAC/INCAA have failed to establish an emergency need for their proposed new data gathering and reporting requirements, much less established that the potential benefit of the proposed new requirements would exceed the cost thereof. Finally, the CAC/INCAA proposals fail to recognize there are already a multitude of existing laws enacted to safeguard the dignity of a debtor. *See* Fair Debt and Collections Practices Act and Fair Credit Reporting Act. For all of these reasons, these proposals should be rejected.

III. Deferrals and Subsequent Recovery of COVID-19 Related Costs

At the outset, it is important to dispel several misconceptions presented by the OUCC and others in their June 10 comments. At the heart of regulation is a “regulatory compact”:

There is . . . a long-standing, but unwritten, rule, that governs cost recovery and lies at the heart of established regulated prices. This rule is known as the regulatory compact. Under the regulatory compact, the regulator grants the company a protected monopoly, essentially a franchise, for the sale and distribution of electricity or natural gas to customers in its defined service territory. In return, the company commits to supply the full quantities demanded by those customers at a price calculated to cover all operating costs plus a “reasonable” return on the capital invested in the enterprise.⁹

Inherent in this regulatory compact is the recognition that a public utility must furnish reasonably adequate service and facilities, to all customers willing and able to pay the regulated rates for such service. In return, the utility is provided the opportunity to recover its prudent and reasonable costs of providing such service, plus a reasonable return on the capital it has invested in utility property. This necessarily includes a true opportunity to recover substantial, unexpected costs of providing utility services.

The Joint Utilities submit that the regulatory compact can best be fulfilled by allowing Indiana’s utilities to defer, and recover through future rates, their incremental costs associated with providing service throughout this crisis. As the Joint Utilities’ filings make clear, the Joint

⁹ Lesser and Giacchino, *Fundamentals of Energy Regulation* (2007), at p. 43 (footnote omitted). Although referred to as an “unwritten” rule, the regulatory compact stems in part from the Fifth Amendment to the U.S. Constitution’s “Takings Clause,” which prohibits a governmental taking of property without just compensation.

Utilities are amenable to much of the customer relief sought by the OUCC and other consumer advocates (waiving late payment fees, waiving convenience (credit/debit card) fees, waiving reconnection fees, and offering extended customer payment plans), provided the impact on the utility is also recognized through the use of regulatory accounting.

The OUCC and other parties fail to note that, unlike other entities, a public utility must furnish reasonably adequate service and facilities to all customers, 24 hours a day, every day. In return, the utility is provided the opportunity to recover its prudent and reasonable costs of providing such service through IURC-approved rates. These approved rates provide the opportunity, but not a guarantee, to earn a reasonable return on the capital it has invested in utility property.

The COVID-19 pandemic has challenged Indiana's utilities, and Indiana's utilities have risen to the challenge of continuing to provide adequate and reliable utility services while taking numerous actions to protect the health and safety of their employees and the public they serve. In addition, Indiana utilities have taken numerous, costly steps to assist their customers during these difficult times, including staying disconnections for nonpayment (even before the Governor's Executive Order requiring such). A critical question now before this Commission is: how should significant and unexpected costs, resulting from the COVID-19 pandemic and that are not reflected in a utility's current Commission-approved rates, be treated?

A number of parties – including the OUCC, CAC/INCAA, and Industrial Group – take the position that most or all of the Joint Utilities' requested relief is unnecessary, ignoring that current rates in no way anticipated the unprecedented nature of the COVID-19 pandemic and its adverse impact on utilities.

The Industrial Group suggests that traditional ratemaking, such as a base rate case, is the preferred course. While some utilities may indeed file base rate cases in the near future, deferred accounting relief is complementary to, not mutually exclusive of, a base rate case. Deferred

accounting simply allows a utility to reserve current costs for future recovery, for example in a base rate case.¹⁰

The Industrial Group also argues that existing rates already compensate the utility for COVID-19 costs through a return on equity (ROE) component. However, a review of ROE evidence presented in any rate case will demonstrate that a pandemic was not a risk either contemplated or compensated through any utility's existing ROE. The Sierra Club argument (Sierra Club Response, at p. 10) that the accounting deferral sought by the Joint Utilities would warrant a reduction in the utilities' ROE also lacks merit. The COVID-19 pandemic and associated global economic shut down is unprecedented. To the extent the "investors are allocated the risk of variable sales" as Sierra Club contends (*id.*), that allocation rests on the assumption that the economy will continue in some predictable or representative fashion and not be subject to government shut downs to stop a dangerous global pandemic. Joint Utilities submit that no utility in Indiana currently has rates that reflect the risks of a pandemic.

As stated above, other regulatory tools exist to provide avenues for cost recovery for significant and unexpected costs incurred by utilities in their provision of utility services outside of rate cases – notably, deferred accounting authority and rate adjustment (tracking) mechanisms. The Commission can use these tools to allow deferred amounts to be recovered over a longer period than the period over which they were incurred. The result restores the true opportunity for the utility to earn its authorized return and maintain its financial health, while delaying and mitigating the ultimate rate impact on customers. It is for this reason that the Joint Utilities have proposed the use of deferred accounting as the primary cost recovery option in this case. Deferred accounting provides financial relief to the utility without causing an immediate increase to rates during the financial challenges presented by the pandemic.

¹⁰ In a general rate case, deferrals and amortization periods are used to smooth the recovery of unusual or nonrecurring costs over time. This practice recognizes that there are times when a utility reasonably advances funds for the benefit of its customers and should be afforded the opportunity to recognize these costs via the ratemaking process. This practice also recognizes that the exercise of the Commission's authority to grant accounting and ratemaking relief safeguards the interests of both utilities and consumers.

This financial relief is important because if the regulatory process does not provide utilities with a true opportunity to recover prudently incurred costs, and a reasonable return on invested capital, the utility is at risk of credit rating downgrades and higher costs of capital. Utilities rely on their credit quality to obtain financing for needed investments on reasonable terms, and they rely on investors and their capital to fund needed plant investments. Safeguarding the financial health of Indiana's utilities benefits customers as well as the utility.

Nor does the Joint Utilities' requested deferred accounting authority constitute prohibited retroactive ratemaking. The prohibition against retroactive ratemaking¹¹ generally precludes a utility from recovering past losses in future rates, and precludes customers from claiming a return of past profits and earnings through future rates.¹² Importantly, however, there are exceptions to the prohibition against retroactive ratemaking – exceptions that are designed to ensure that significant, unexpected costs can be deferred and ultimately recovered, consistent with the regulatory compact. The first such exception provides that deferring costs on the books preserves such costs for inclusion in a subsequent proceeding, and does not constitute retroactive ratemaking.¹³ The second exception is for unexpected sudden changes in costs or revenues, such as costs associated with a severe storm or hurricane, changes in regulation, or compliance with governmental mandates.¹⁴ Notably, both of these exceptions apply in this case: Joint Utilities are

¹¹ Indiana Code § 8-1-2-68 codifies the prohibition against retroactive ratemaking:

Whenever, upon an investigation, the commission shall find any rates, tolls, charges, schedules, or joint rate or rates to be unjust, unreasonable, insufficient, or unjustly discriminatory, or to be preferential or otherwise in violation of any of the provisions of this chapter, the commission shall determine and by order fix just and reasonable rates, tolls, charges, schedules, or joint rates to be imposed, observed, and followed in the future in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory or preferential or otherwise in violation of any of the provisions of this chapter.

¹² “Past losses of a utility cannot be recovered from consumers nor can consumers claim a return of profits and earnings which may appear excessive.” *Indiana Bell Tel. Co., Inc. v. Office of Util. Consumer Counselor*, 717 N.E.2d 613, 625 (Ind. Ct. App. 1999), *modified on rehearing on other grounds*, 725 N.E.2d 432 (Ind. Ct. App. 2000).

¹³ *See In Re Petition of South Haven Sewer Works, Inc.*, Cause No. 41903 (IURC; June 5, 2002; 2002 Ind. PUC LEXIS 221)(“The deferred debit accounting system can be viewed as a method of preserving for Commission consideration non-test-year expenses that would otherwise not be reflected on a test year ledger.”)

¹⁴ *See, e.g., I&M*, Cause No. 44075 (IURC 2/13/2013), at 73 (major storm reserve accounting treatment will smooth out the impacts of major storms, thereby mitigating the financial consequences of a major storm); *IPL* Cause No. 44576 (IURC 3/16/2016) at 64 (major storm reserve appropriately balances the interests of both the utility and the customer). *See also, Re Joint Petition of Indiana Bell et al*, Cause No. 39348 (IURC 12/30/1992). *See, e.g., PSI and Vectren*, Cause Nos. 42257 and 42266 (IURC; Dec. 11, 2002)(approving settlement and authorizing deferral of

seeking deferred accounting authority in order to preserve an opportunity for recovery of COVID-19 costs; and the COVID-19 costs are unexpected and extraordinary, resulting from a worldwide pandemic.

The fact that the Joint Utilities' COVID-19 costs are ongoing and thus are not known with finality does not preclude the deferred accounting authority being sought. There is no requirement that a category of costs be "fixed and known" at the time the deferral authority is granted. For example, the Commission has previously authorized deferred accounting treatment, up front, for anticipated MISO administrative costs, and for anticipated MISO ancillary service market costs.¹⁵ In addition, the Commission, through reserve accounting, allows deferrals of storm costs without the precise cost impacts being known.¹⁶ Further, very recently, the Commission ordered jurisdictional utilities to begin deferring all impacts from the Tax Cut and Jobs Act, before such impacts were known or incurred (and before any investigation into the utilities' financial condition).¹⁷ And as discussed later in this Reply, other states are allowing deferral of COVID-related costs prior to the cost impacts being fully known. Of course, the cost and revenue impact of utilities' deferred COVID costs will be fully quantified prior to any costs being reflected in rates.

In sum, the Commission should remain mindful of the regulatory compact and balance the interests of both customers and utilities in this Cause, both of whom have been impacted by the COVID-19 pandemic. As set out in the Joint Utilities' June 10 Response, and discussed above, the Joint Utilities support an extension of the disconnection moratorium for residential customers for a month beyond the end of the Governor's moratorium; the Joint Utilities support the waiver of certain fees for residential customers, specifically, late payment fees, convenience fees, and reconnection fees, for the same period of time; and the Joint Utilities support extended repayment plans for residential customers (allowing repayment through year-end 2020); provided that the utilities are authorized to defer their COVID-19 related costs for recovery through future rates.

MISO administrative costs); *see also Duke, IPL, NIPSCO and Vectren*, Cause No. 43426 (IURC; Aug. 13, 2008)(authorizing deferral of MISO ancillary service market costs).

¹⁵ *See orders cited in footnote 6, supra.*

¹⁶ *See orders cited in footnote 6, supra.*

¹⁷ *See IURC Investigation into Tax Cuts and Jobs Act of 2017*, Cause No. 45032 (IURC; Jan. 3, 2018).

A. Deferral of Incremental COVID-19 Related O&M Costs

The OUCC and Sierra Club criticize the utilities for making a timely and prudent request for regulatory relief. Among the arguments put forth include: the Joint Utilities have failed to present specific evidence of their COVID-19 expenses;¹⁸ deferral authority is not warranted because we do not yet know the full impact of the COVID-19 pandemic; and the Joint Utilities seek a *carte blanche*.¹⁹

These parties' proposed standard for deferral authority – that the expenses must not only be material but must be known with specificity even while the impacts are ongoing -- is misguided and unsupported by precedent. It is misguided in that the proposed standard would be impossible to meet in cases such as this, where the circumstances giving rise to the need for cost deferrals is ongoing, making the total costs that will be incurred as yet unknown. Further, the proposed standard is not supported by Commission precedent. There are numerous instances when the Commission authorized deferred accounting prior to the full costs being known. For example, the Commission has authorized deferred accounting treatment for different types of MISO costs prior to the costs being incurred and known.²⁰ Similarly, the Commission allows deferral through reserve accounting of major storm restoration costs without knowing the full cost impacts.²¹ And the Commission has ordered utilities to defer federal tax cut impacts upfront, prior to assessing the full impact of such on utilities.²² In all of these cases, the Commission granted deferred accounting authority knowing that the full impact of the situation would only be determinable in the future. And in all of these cases, the ultimate recovery in rates took place only after the full costs (or revenues) were known, presented to the Commission, and supported by the utility – just as the Joint Utilities are proposing to do in this case.

¹⁸ Sierra Club's claim that the utility affidavits fail to support the material impact of COVID 19 is not accurate. *See e.g.* Duke Energy Indiana Affidavit, ¶¶9-11; IPL Affidavit ¶¶12-13, 15; NIPSCO Affidavit, ¶¶ 9-10, 14; Sycamore Gas Affidavit, ¶¶6-7; Vectren Affidavit ¶¶ 9-10.

¹⁹ OUCC Response, at pp. 2, 6, 9; Sierra Club Response, at pp. 14-15; Industrial Group Response, at p. 25.

²⁰ *See* orders cited in footnote 8, *supra*.

²¹ *See* orders cited in footnote 8, *supra*.

²² *See* order cited in footnote 12, *supra*.

Indiana’s utility regulatory framework supports proactive Commission action, not a “wait and see how approach” as urged by the consumer parties. The Indiana General Assembly has assigned to the Commission the responsibility to take action to prevent injury to both the public *and* the utilities it regulates and to ensure that rates are just and reasonable and service is reliable.²³ If utility service is “essential” and must be continued, it logically follows that payment for utility service and recovery of the cost of providing such service is also essential.

The COVID-19 pandemic is ongoing and utilities continue to incur related costs. With their Joint Petition, the Joint Utilities presented detailed evidence as to the type and scope of COVID-related costs they are incurring. (*See* Joint Utilities’ Affidavits supporting Joint Petition.) The Joint Utilities have identified with reasonable specificity the types of COVID-19 related O&M costs that would be authorized for deferral. Joint Petition at § 6. Further, with respect to the concept of offsetting deferred amounts with any operational or other COVID-19 related cost savings, the Joint Utilities are agreeable to documenting such amounts. However, in the absence of full deferral/subsequent recovery of COVID-19 related costs and financial impacts – including deferral and recovery of the fixed cost portion of COVID-19 related reduced revenues – any operational cost savings should not be used as an offset to the deferrals. The Joint Utilities’ proposal is reasonable; it allows the utilities to continue to manage their businesses in the midst of this health and financial crisis, consistent with the ongoing obligation to provide adequate and reliable service while restoring to the utilities a true opportunity to earn their Commission-authorized returns.²⁴

²³ Ind. Code §§8-1-2-113, -68 and -69. The Indiana Supreme Court made clear in 1929 that the Commission cannot look only at the interest of consumers:

We repeatedly hear the expression that it is the duty of the Commission to represent the public alone. If, by this remark, it is meant that the Commission is organized but for one purpose, that of antagonistic action toward utilities under any and all circumstances, then one of the great purposes of the law, adequate service by the utility at the least cost to the consumer, might be entirely defeated. The theory of the law creating the Commission body composed of a personnel especially qualified by knowledge, training and experience pertaining to the subject-matter committed to it for award consonant with reasonable fairness and substantial justice according to legislative mandate, and the circumstances shown relative to its effect in the future on the utility’s ability to serve the interest and convenience of the public, the cost and expense to the parties interested being an element for consideration.

In Re NW. Ind. Tel. Co., 201 Ind. 667, 674-675, 171 N.E. 65, 67-68 (1929).

²⁴ The FAC and GCA earnings tests reasonably safeguard against excess earnings. Therefore, the Sierra Club’s arguments about the potential for excess earnings does not justify the rejection of the relief sought by Joint Utilities.

B. Deferral of Waived Fees and Charges

With respect to uncollected revenues for customer charges as a result of the disconnection moratorium, the OUCC does not object to recording these limited uncollected revenues starting from March 19, 2020, to the extent the utilities adequately document these uncollected revenues related to the disconnection moratorium by month, customer class, and by subaccount – and offer extended and more forgiving customer payment arrangements. The Joint Utilities generally agree with this, although the starting point for the deferral should be slightly earlier in March, when the utilities actually began waiving such fees.

However, the OUCC also argues that any regulatory deferral authorized should be net of reduced expenses or any other form of savings or relief a utility has availed itself of and consideration of any savings they did not undertake. As discussed above, while the Joint Utilities are amenable to documenting any COVID-related savings or governmental relief, in the absence of recovery of fixed costs associated with reduced customer loads, such savings or relief should not be used as offsets. It is imperative that the Commission recognize that Indiana utilities are managing through this crisis by managing their cash flow, identifying possible savings, and reallocating cash to COVID-19 activities. Further, it should be noted that the OUCC's description of possible savings offsets is overly broad and would include savings not remotely related to COVID-19. If savings are ultimately used to offset fixed cost recovery – a Phase 2 issue -- any such savings should meet the requirement of being directly COVID-19-related. To do otherwise would impair Indiana's utilities ability to financially manage through this crisis.

The Industrial Group takes the position that, while the Joint Utilities' request for deferral of incremental expenses and revenue impacts associated with the suspension of disconnections and waiver of fees is not *per se* unreasonable, there has been insufficient detail provided by the utilities to justify the relief requested. The Industrial Group argues it is premature to grant deferred accounting treatment as requested until such time as a more comprehensive review of the request, including the reasonableness and the size of the asset and the cost included, can be conducted. As discussed above, this is a misguided position and inconsistent with Commission precedent. It is appropriate to grant deferral authority now, while also requiring utilities to present detailed accounting of costs prior to such being approved for recovery in rates. Notably,

other states have authorized deferred accounting treatment for such waived fees upfront, without knowing the full impact of the ongoing waivers. See Attachment 1 hereto.

C. Deferral of Incremental Bad Debt Expense

COVID-19 represents a challenge and a hardship for all parties, including utilities. As shown by the Joint Utilities' June 10th Response, Joint Utilities support a reasonable (but not indefinite) continuation of the moratorium on service disconnection and other customer focused relief such as suspension of certain fees and extended payment arrangements, provided that the cost of providing customers these benefits may ultimately be recovered in utility rates. This cost reasonably and necessarily includes the cost of bad debt. While suspending disconnection for failure to pay for service and other measures, which for many of the Joint Utilities includes waiving late fees and extending payment arrangements, support customers' ability to maintain essential utility services, these actions do not assure that payment for services rendered will ever be made. Even with extended payment arrangements, the COVID-19 economic shutdown may cause an increase in the uncollectible or bad debt expense. Thus, even though the ultimate impact of COVID-19 on bad debt expense may not be fully known for some time, the utilities should be authorized to defer for future recovery through rates incremental bad debt expense resulting from the ongoing economic effects of COVID-19. This deferred accounting treatment too is consistent with what a number of other states are doing. See Attachment 1 hereto.

D. Technical Accounting Issues

(1) Financial Accounting Standards Board ("FASB") Accounting Standards Codification 980-605-25-4 – Regulated Operations ("ASC 980").

As an initial matter, Joint Utilities recognize that the Commission has authority to authorize utilities to use accounting that departs from Generally Accepted Accounting Principles ("GAAP"). Ind. Code §§ 8-1-2-10, 14. That being said and for the reasons stated in the Affidavits presented in support of the Joint Petition, the Joint Utilities seek a Commission decision that their outside auditors will accept as complying with GAAP. Therefore, this reply focuses on and clarifies the accounting standards in light of the concerns raised by the OUCC and Sierra Club. Ultimately, the technical accounting issues associated with certain regulatory deferrals are better suited for Phase 2 of this proceeding.

OUCC and Sierra Club contend “there is no accounting standard that requires or specifically allows deferral of lost revenues due to declining sales or load as Joint Petitioners request.” OUCC Response at 3; Sierra Club Comments at 4-5 (“The Commission cannot create a regulatory asset for revenue unearned because disappointing sales do not qualify for treatment as a regulatory asset under governing account rules.”)

The OUCC and Sierra Club’s arguments are not correct. Accounting standards allow a regulated asset for incurred costs as well as items that qualify as an “alternative revenue program”.²⁵ ASC 980-360, 605. The OUCC and Sierra Club discussion of this standard does not accurately reflect the complete and actual language of this accounting standard. While “[t]he major alternative revenue programs currently used can generally be segregated into two categories, Type A and Type B” (ASC 980-605-25-1), the OUCC contention that these program types are limited to the effects of weather and DSM, and utility incentive awards is not correct. “Type A programs adjust billings for the effects of weather abnormalities *or broad external factors* or to compensate the utility for demand-side management initiatives (for example, no-growth plans and similar conservation efforts).” ASC 980-605-25-2. (Emphasis added.) The OUCC Comments fail to recognize that these programs can also adjust billing for the effect of broad external factors. “Type B programs provide for additional billings (incentive awards) if the utility achieves certain objectives, such as reducing costs, reaching specified milestones, or demonstratively improving customer service.” *Id.* “Both types of programs enable the utility to adjust rates in the future (usually as a surcharge applied to future billings) in response to past activities or completed events.” ASC 980-605-25-3. Put another way, under ASC 980-605-25, an “alternative revenue program” can be used to address revenue issues driven by factors outside the regulated utility’s control or as the result of the achievement of certain objectives. There is no question that the load loss and associated foregone fixed cost recovery driven by the COVID-19 pandemic and associated government shut down orders is beyond the utility’s control. This event is not the result of market forces or utility action. It resulted from the government ordered business shut downs to slow and contain the spread of COVID-19 so as not to endanger human

²⁵ While the acronym (“ARP”) is the same, an “alternative revenue program” should not be confused with an “alternative regulatory plan.” The former is governed by ASC 980-605; the latter is governed by Ind. Code § 8-1-2.5-1 *et seq.*

life and not overwhelm medical resources. Given this unprecedented event, it is reasonable for the Commission to take action to prevent injury to both customers and utilities.

A regulated utility may recognize the revenue which is the subject of an “alternative revenue program” if the following conditions are met:

- a. The program is established by an order from the utility's regulatory commission that allows for automatic adjustment of future rates. Verification of the adjustment to future rates by the regulator would not preclude the adjustment from being considered automatic.
- b. The amount of additional revenues for the period is objectively determinable and is probable of recovery.
- c. The additional revenues will be collected within 24 months following the end of the annual period in which they are recognized.

ASC 980-605-25-4. Sierra Club’s concern (Roberto Testimony ¶14) that this relief might overlap lost revenue recovery for energy efficiency programs is not grounds to reject this relief. Many energy efficiency programs have been reduced or temporarily halted as a result of the COVID-19 economic shut down. Joint Utilities do not seek to double recover the impact of the COVID-19 driven load loss. This and other technical issues can be sorted out and addressed during the Phase 2 sub-docket process.

(2) Probable of Recovery

The OUCC Comments urge the Commission to include a finding in its order in this Cause that “future recovery of any authorized deferral is subject to review of reasonableness and prudence.” OUCC Comments, ¶7. The Blakley Affidavit (¶3) filed in support of the OUCC Comments proposes the Commission “send a clear message that future recovery of an accounting deferral is not guaranteed and is subject to review for reasonableness, necessity, and prudence.” These comments warrant a clarification of the accounting standard and Joint Utilities’ request for a Commission order that complies with the accounting standard.

The Joint Utilities do not seek *carte blanche* rate recovery as argued by the Industrial Group (p. 25). As shown above, verification of the adjustment to future rates by the regulator

would not preclude the adjustment from being considered automatic. ASC 980-605-25-4. Rather, utility to defer certain costs in accordance with ASC 980, accounting standards require that the utility must be able to conclude that the particular deferral is probable of recovery. In the absence of past precedent of approved accounting for similar issues, the best proof of probability of recovery for a new type of cost such as COVID-19 related costs is a commission order providing deferral accounting deferral authority for particular cost(s) and/or revenue(s). This does not mean the deferral may not be audited or verified. While the deferral authority itself is not subject to later view, the reasonableness and prudence of amounts included in the deferral may be scrutinized.

For example, Joint Utilities request authority to defer incremental increases in costs due to COVID-19, including costs incurred for cleaning supplies, health care costs, testing and temperature checks, personal protection equipment, and equipment and supplies to enable employees to work from home. Joint Petition, §6. A Commission order authorizing the creation of a deferral of this and other O&M costs for future recovery through rates does not guarantee recovery no matter what the costs ultimately incurred are. The costs must still be reasonable, prudent, and not excessive.

Similarly, Joint Utilities request authority to defer foregone revenues due to suspended/waived fees and charges. The prudence of waivers/suspensions of the designated charges and fees and the reasonableness of the length of the waiver/suspension period are being decided now. Consequently, these matters would not be subject to *post hoc* review because that determination would be made at the time the deferral is authorized. Because the amount of an individual charge or fee is already established in the utility's Commission-approved tariff, reasonableness of these charges and fees would not be subject to *post hoc* review. However, in a future rate proceeding, the regulatory asset would remain subject to review and verification to confirm that the amounts recorded therein match the tariff and are the type of charge or fee allowed to be deferred.

Accordingly, Joint Utilities request that the Commission in its order state that the deferrals are authorized for future recovery through rates. Doing so will not prohibit the

Commission or Consumer Parties from inquiring about or considering whether the deferred costs are reasonable and prudent in amount, when recovery in rates is ultimately at issue.

IV. Phase 2 Issues

Much of the other parties' Responses focus on the Joint Utilities' initial request, made in their May 8 Joint Petition, that the Commission authorize utilities to defer, for subsequent recovery, the fixed cost component of revenue declines due to reduced customer load resulting from the COVID-19 pandemic. However, in the Joint Utilities' June 10 Response, the Joint Utilities amended this request, and have asked the Commission to address it in Phase 2 of this proceeding. Phase 2 sub-dockets are more appropriate forums for this request, given the utility-specific issues involved, and what appears to be the controversial nature of the request. The Joint Utilities disagree with many of the statements made by other parties on this issue – for example, the Industrial Group's decoupling analogy is unpersuasive for several reasons; there is at least one example to date where another state commission has authorized deferral of these reduced revenues – but each Joint Utility that desires to seek this specific deferred accounting authorization in a Phase 2 sub-docket will reserve their arguments until that Phase 2.

It is worth pointing out, however, that the Sierra Club's reliance on the Commission's 2011 Order in *In Re: Petition of Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana*, Cause No. 43839 (April 27, 2011), p. 86, is misguided, and in fact supports the Joint Utilities' position. (See Roberto Testimony, footnote 8-9.) This 2011 Order was in no way related to the unprecedented impact of a global pandemic and associated economic shut down, and nothing in that decision precludes the Commission from granting the relief the Joint Utilities seek today. Furthermore, the discussion of the regulatory compact in this 2011 Order supports Commission action to safeguard Indiana's public utilities as a result of the COVID-19 pandemic and economic challenges:

In turn, [the public utility] must plan for and serve all of those consumers. The public is provided reasonable and adequate utility service at reasonable rates and, in exchange, utilities are ensured cost recovery and an opportunity to earn a reasonable return on its investment.

Id. at 86.²⁶

All parties agree that the COVID-19 pandemic and its impact on the economy is an extraordinary event. As such, Joint Utilities have taken extraordinary actions of suspending disconnects and waiving fees and it is reasonable for the Commission to exercise its accounting authority so that utilities providing an essential service to the public are not financially harmed, while at the same time protecting the interest of customers. Therefore, the Commission should reject the argument that utilities are not entitled to accounting relief to address the impact of the COVID-19 driven losses. Instead, the Commission should recognize that Indiana utilities are differently situated with respect to the impact of COVID-19 on customer loads, the availability of any decoupling mechanisms, and the need for such deferral authority, and therefore find that the Commission will defer consideration of this matter to Phase 2 sub-docket proceedings.²⁷ Pursuant to the Commission's May 27, 2020 Order in this Cause, each utility is reporting weather normalization data that measures the impact to revenue for each month in 2019 as well as ongoing months. Consideration of the lost fixed cost recovery issue in utility Phase 2 sub-dockets will allow the Commission to consider this data as well as the utility specific circumstances, in determining whether a deferral is reasonably necessary to restore the utility's right to a realistic opportunity to earn its authorized return.²⁸

Along with any utility requests for such deferred accounting authority, the Joint Utilities reiterate their request that Phase 2 sub-dockets be established to address any proposed bad debt tracking mechanisms, and any cost allocation issues.

V. Extraneous Issues

ExteNet filed a Response²⁹ proposing that that the IURC:

²⁶ Sierra Club's unsupported contention that the Joint Utilities should have insured for earnings disappointment resulting from an unprecedented shut down of the global economy lacks merit. Even if such insurance were available for unprecedented events and not cost prohibitive, Sierra Club points to no Commission precedent establishing that prior to recent events the incurrence of such costs would be viewed as necessary and not excessive.

²⁷ See Joint Utilities June 10, 2020 Reply, footnote 6.

²⁸ Sierra Club's discussion of the impact of lower sales on the Joint Utilities' fuel costs, including the fuel component of purchased power and unit commitment decisions is a red herring. Sierra Club Response, at p. 13. Fuel costs will continue to be the subject of the fuel and gas cost adjustment proceedings.

²⁹ It does not appear from ExteNet's Response that ExteNet either has Indiana counsel, as required by Indiana rules, or that ExteNet has formally petitioned to intervene in this docket.

- (1) Require utility pole owners to give wireless providers non-discriminatory and equal access to utility poles and contractors;
- (2) Reaffirm and state that wireless telecommunications providers are critical infrastructure workers as those workers are described by the Director of the U.S. Cybersecurity and Infrastructure Security Agency in his guidance of March 19, 2020 on the COVID-19 response and reiterated in the Governor's Executive Order 2020-59; and
- (3) Encourage municipalities to expediently process applications for placement of small wireless facilities.

These proposals are not related to COVID-19 and should be ignored.

In a similar vein, the Sierra Club filed a massive amount of information unrelated to COVID-19, which should also be ignored.

VI. Conclusion

For the foregoing reasons, the Joint Utilities respectfully request that the Commission:

- (1) approve the Joint Utilities' offer to implement (or continue to implement) a moratorium on utility disconnections of residential customers for nonpayment through July 31, 2020;
- (2) approve the Joint Utilities' offer to waive late payment fees, credit/debit card convenience fees, and reconnection fees for residential customers from the date of the Commission's order through July 31, 2020;
- (3) approve the Joint Utilities' offer to expand the use of payment arrangements to aid residential customers, by offering payment arrangements to such customers that extend payment obligations up to six (6) months (through December 31, 2020);
- (4) authorize Joint Utilities' to create regulatory assets by deferring:
 - (a) increased expenses relating to operating and providing utility services safely and reliably in the midst of the COVID-19 pandemic (as outlined in the Joint Utilities' Verified Petition);
 - (b) waived fees and charges; and
 - (c)

increased bad debt expense resulting from stayed disconnections, various waivers, and general COVID-19 economic impacts;

- (5) establish individual utility sub-docket proceedings in a Phase 2 of this proceeding, to consider (a) any individual utility requests to defer and subsequently recover a portion (the fixed cost component) of reduced revenues due to reduced customer loads resulting from COVID-19; (b) any individual utility requests to defer and subsequently recover carrying/financing costs associated with the COVID-19 deferrals; (c) any individual utility requests for approval of a bad debt tracking mechanism for timely recovery of increased bad debt expense; (d) utility documentation of any COVID-19 related savings and/or governmental aid; and
- (6) discontinue the monthly reporting requirements as of December 31, 2020.

Respectfully submitted,



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Other State Commissions' COVID-19 Orders Authorizing Deferred Accounting*

Alaska:

Alaska Senate Bill 241 – legislation enacted in April 2020 imposes a disconnect moratorium for residential customers who provide a sworn statement of financial hardship and enter into a deferred payment arrangement. This legislation also authorized utilities to record regulatory assets, to be recovered through future rates, for uncollectible residential utility bills and extraordinary expenses resulting from COVID-19.

Arkansas:

Docket No. 20-012-A; Order No. 1 (Ark. PSC; Apr. 10, 2020) – Arkansas PSC ordered suspension of disconnections through Governor's emergency declaration. Also provided regulatory certainty by authorizing the use of deferred accounting so that utilities may seek future recovery of costs resulting from the suspension of disconnections. In this Order, the PSC also encouraged utilities to offer reasonable payment arrangements to customers.

Docket No. 20-012-A; Order No. 2 (Ark. PSC; May 27, 2020) – Arkansas PSC authorized waivers of various fees and charges and authorized utilities to defer such waived fees and charges for future recovery; in this Order, the PSC also authorized the deferral of incremental COVID-19 related costs.

Connecticut:

Docket No. 20-03-15 (Conn. PURA) – Connecticut Public Utilities Regulatory Authority issued a series of orders that imposed a disconnect moratorium on residential customers for the duration of the State public health emergency, and imposed a disconnect moratorium for other classes of customers through July 1, 2020. The PURA also authorized utilities to create regulatory assets for all costs and lost revenues due to their COVID-19 orders.

Delaware:

Docket No. 20-0286; Order No. 9588 (Del. PSC; May 13, 2020) – Delaware PSC authorized deferred accounting for utilities' incremental COVID-19 costs incurred to ensure customers have essential utility services. The Commission stated that it will evaluate the COVID-19 regulatory asset accounts in future rate case proceedings to determine whether the costs are recoverable, the appropriate period of recovery for any approved amounts, any amount of carrying costs thereon, any savings attributable to suspension of disconnects or other activities, etc.

District of Columbia:

Order No. 20329 (D.C. PSC; April 15, 2020) – D.C. Public Service Commission authorized Potomac Electric Power Co. and Washington Gas Light Co. to create a regulatory asset account to record the incremental costs related to COVID-19.

Iowa:

Docket No. SPU-2020-0003; Docket No. ARU-2020-0123; Docket No. ARU-2020-0150; Docket No. ARU-2020-0156; Docket No. ARU-2020-0222; Docket No. ARU-2020-0225 (Iowa Util. Bd.; May 1, 2020) -- Iowa Utilities Board issued an order allowing any public utility to establish and use a regulatory asset account to track increased expenses and other financial

impacts, including revenue changes, incurred after March 1, 2020. Any utility which intends to utilize a regulatory asset account is required to file a proposal 30 days from the date of the order. The proposal should identify the costs, financial assistance, revenue changes, and other matters to be accounted for in the regulatory asset account and additional data to be reported.

Docket No. SPU-2020-0003 (Iowa Util. Bd.; May 20, 2020) – the Iowa Utilities Board issued an order lifting the utility disconnection moratorium as of May 28, 2020 for municipal and cooperative utilities, and as of July 1, 2020 for investor-owned utilities.

Kansas:

Docket No. 20-GIMX-393-MIS (Kan. Corp. Comm.; May 21, 2020) – the Kansas Corporation Commission authorized utilities to defer bad debt expense and waived fees and charges.

Maryland:

Order No. 89542; Case No. 9639 (Md. PSC; April 9 2020) – the Maryland PSC authorized deferral of incremental COVID-19 related costs.

Michigan:

Case No. U-20757 (Mi. PSC; April 15, 2020) – the Michigan PSC authorized deferral of incremental bad debt expense.

Minnesota:

Docket No. E,G-999/CI-20-425; Docket No. E,G-999/M-20-427 (Minn. PUC; May 22, 2020) – Minnesota Public Utilities Commission authorized utilities to defer incremental COVID-19 related costs.

Mississippi:

Docket No. 2018-AD-141 (Miss. PSC; April 14, 2020) – Mississippi PSC authorized the deferral of all necessary and reasonable incremental costs or expenses to plan, prepare, stage, or react to protect and keep safe its employees and customers, and to reliably operate its utility system. Additionally, the Commission authorized utilities to defer any costs, including any incremental bad debt expenses and all associated credit and collection costs, related to connections, reconnections, or disconnections for all customer classes. This deferral authorization includes, but is not limited to customer-paid fees associated with on-line and telephonic bill payment, as well as bad debt expense, credit and collection costs, and other related costs associated with suspensions of both disconnections and customer convenience fees, including the costs to implement these measures. The Commission also temporarily suspended disconnections of certain utility services for 60 days.

Oklahoma:

Cause No. PUC 202000050; Order No. 711412 (May 7, 2020) – Oklahoma Corporation Commission authorized utilities to record regulatory assets for: increased bad debt expenses; costs associated with expanded payment plans; waived fees; incremental expenses that are directly related to the suspension of or delay in disconnection of service or the reconnection of service; expenses associated with ensuring continuity of service and protecting utility personnel,

customers and the general public. The Commission also stated it would determine recovery of the deferred amounts, and possible carrying costs, in future proceedings. The Commission declined to mandate either the waiver of fees or the use of expanded customer payment arrangements, but is supportive of this assistance. In addition, the Commission worked with utilities to organize voluntary disconnect moratoriums of approximately 30 days. While the Commission declined to mandate waiver of fees and charges, such as late fees, convenience fees, and reconnection fees or the expanded use of payment plans, the Commission is supportive of such assistance by utilities.

Vermont:

Case No. 20-0703-PET (Vt. PSB; May 28, 2020) – Vermont Board extended moratorium on utility disconnections through July 31, 2020.

West Virginia:

General Order No. 262.4 (W. Va. PSC; May 15, 2020) – West Virginia PSC authorized deferral of incremental COVID-19 related costs, bad debt expense, and lost demand charges from business customers. Further, this Order allows utilities to file for a limited, COVID-19 rate increment.

Wisconsin:

Docket 5-AF-105 (Wi. PSC; May 14, 2020) – Wisconsin PSC authorized deferral of incremental COVID-19 related costs, waived fees, and incremental bad debt expense. The Commission also authorized the deferral of carrying costs for the deferred amounts. To ensure consistent tracking, the Commission directed utilities to work with PSC Staff to create sub-accounts specific to and limited to COVID-19.

On June 11, 2020, the Wisconsin PSC announced that the disconnection moratorium would end July 25, 2020. Additionally, the news release indicates that the PSC voted to allow utilities to commence charging late payment fees on debts incurred after July 15, and to allow utilities to require a cash deposit as a condition of new service starting July 31. See 6/11/2020 PSC News Release, found at <http://apps.psc.wi.gov/vs2017/NewsReleases/default.aspx>.

**This Attachment focuses primarily on the deferred accounting authorizations in the above orders; it is not intended to be a complete summary of each order.*