

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) **CAUSE NO. 45377**
PETITIONERS TO DEFER AS A REGULATORY ASSET) **(Consolidated under**
CERTAIN INCREMENTAL EXPENSE INCREASES AND) **Cause No. 45380)**
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)**

**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) **CAUSE NO. 45380**
TO RELIEVE INDIANA RATEPAYERS OF THE THREAT OF)
UTILITY SERVICE DISCONNECTION AND PAYMENT)
ARREARAGES DURING GLOBAL HEALTH AND ECONOMIC)
CRISIS)**

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S

JUNE 18, 2020 REPLY

Pursuant to Paragraph 3 of the Indiana Utility Regulatory Commission's ("Commission") May 27, 2020 Order in consolidated Cause Nos. 45380/45377, the Indiana Office of Utility Consumer

Counselor (“OUCC”), by counsel, submits this Reply (“June 18 Reply”) to the June 10, 2020 Responses filed in this Cause.

I. DISCONNECTIONS, UTILITY FEES, AND CUSTOMER PAYMENT ARRANGEMENTS

In their June 10 filing, the Joint Utilities propose to (1) stay utility disconnections for only one additional month beyond the expiration of the disconnection moratorium set by Governor Holcomb’s Executive Order); (2) prospectively “waive,” from the date of the Commission’s order, late fees, convenience fees (including credit/debit card fees), and reconnection fees, for residential customers until July 31, 2020; and (3) offer expanded customer payment plans for residential customers that allow arrearages to be paid off over a period of six months, until December 31, 2020. (Joint Utilities’ June 10 Response, p. 6.) The Non-Profit Respondents also allege that a disconnection moratorium and the waiver of certain utility fees is not financially sustainable. (Non-Profit Respondents’ June 10 Response, p. 2.)

Joint Utilities request to limit “any departure from existing rules and practices” to the residential classes, arguing that industrial and commercial customers have access to grants and other government assistance to help pay utility bills and that the costs of any “special treatment” may ultimately be borne by all customers, including residential customers. (Joint Utilities’ June 10 Response, p. 4.)

The Joint Utilities suggest the Commission’s authority to suspend rates, services, practices, and schedules without a utility’s consent is “uncertain.” (Joint Utilities’ June 10 Response, p. 5.)

A. Disconnection Moratorium

i. *Reply to Joint Utilities*

The Joint Utilities offer no compelling reason to arbitrarily end the moratorium on utility service disconnections for non-payment on July 31, 2020. The impacts of the COVID-19 public health and economic crisis are not yet known. The toll of the crisis continues to develop and affects people in new ways every day.¹ Some impacts are already clear. Public health officials continue to recommend measures intended to slow the spread of COVID-19, including staying at home whenever possible, social distancing, wearing of facial masks, and frequent handwashing. Even with adherence to public health recommendations, officials warn of a second COVID-19 outbreak in the fall and winter months of 2020. Unemployment rates in Indiana and across the country are at levels not seen since the Great Depression, and federal supplemental payments to state unemployment benefits are scheduled to expire on July 31, 2020. Those workers who continue to retain their employment, including many utility employees, are working from home at unprecedented levels. These health and economic factors beg for unique and extraordinary consideration, particularly as it relates to access to critical public health services, such as access to electric, gas, water, and wastewater services.

While disconnections for non-payment cannot be suspended indefinitely, the decision to restart the disconnection process should be based on evidence that doing so will not exacerbate the health and financial harm already being experienced across Indiana. The Joint Utilities offer no evidence to support the notion that the challenges of the COVID-19 crisis will be abated by July 31, 2020 to such an extent that the public and financial health of customers will not be harmed if

¹ Some of the health and economic impacts are described in detail by several parties in their June 10 Responses. *See* CAC/INCAA June 10 Response at pages 2 - 7 and Sierra Club's Verified Affidavit of Cheryl Roberto at pages 8 – 10.

they lose access to utility service. The OUCC does not accept the Joint Utilities' argument that extending the disconnection moratorium will necessarily increase bad debt expense. However, the OUCC considers the customer benefits resulting from the extension of the disconnection moratorium and expanded payment options will more than outweigh any potential increase to bad debt expense. The Commission should not succumb to pressure to resume normal operating conditions during a time that is anything but normal. Should the Commission feel compelled to set a date on which it will revisit whether circumstances dictate continuing the disconnection moratorium, it should do so no earlier than December 1, 2020, the date on which the winter disconnection moratorium for LIHEAP customers begins. Utilities are not prevented from contacting customers about payment arrangements during the disconnection moratorium, and as discussed in more detail below, customers with arrearages should be provided with easy to understand notices that include details of the terms of payment arrangements.

ii. *Response to Joint Municipal and Non-Profit Utility Group*

Several municipal and not for profit utilities, including the Joint Municipal and Non-Profit Utility Group (collectively "Non-profit Utilities"), have made filings in this docket. These filings have a consistent theme. That an indefinite stay on disconnections of utility service and the waiver of certain utility fees is not financially sustainable. The OUCC has acknowledged that the non-profit utilities have unique challenges regarding the pandemic and are not similarly situated to investor-owned utilities ("IOUs"). However, their customers, both residential and business, are suffering the effects of the pandemic as acutely as all other Hoosiers.

Although the non-profit utilities have unique challenges, many of them, especially municipal electric utilities, also have certain advantages. While there has not been time to conduct discovery in this docket, there are observations that can be made from addressing non-profit utility

needs in rate cases and financing cases historically. For example, municipal electric utilities tend to keep a relatively large amount of cash on their books compared to the amount of revenues/expenses they have, which should help them overcome the effects of any increase in customers not paying their bills under a moratorium. Secondly, while non-profit utilities likely do not have the same access to debt capital as IOUs, municipal electric utilities tend to have very little (if any) debt on their books, so one could expect that banks would look favorably on any request for short term loans if needed. Finally, unlike investor-owned utilities, non-profit electric utilities do not have as much fixed cost per dollar of revenue, because they tend to not own generation (they buy from IMPA or others); purchased power costs may represent over two-thirds of their revenue (compared to less than one-third for most IOUs), which means that when sales go down, their expenses go down a lot more than for an IOU. That helps non-profit utilities withstand reductions in industrial sales during the pandemic and is a relative advantage for the financial health of non-profit utilities in the COVID situation as compared to IOUs.

While the OUCC agrees that non-profit utilities are in a unique situation, their customers need and deserve some rate relief in the form of some extension of the disconnection moratorium and some appropriate rate relief. These utilities all mention that they are working closely with their customers on their individual needs. The OUCC encourages this practice. However, the special circumstances mentioned in their filings deserve to be explored more fully in a Phase 2 proceeding.

B. Utility Fee “Waivers”

In their June 10 Response, the Joint Utilities state they will all prospectively “waive,” from the date of a Commission order in this Cause until July 31, 2020, late fees, convenience fees (including credit/debit card fees), and reconnection fees. At the outset, it must be noted that the Joint Utilities confuse the concept of “waived” utility fees; they are not proposing to “waive” any

fee, they are simply proposing not to collect certain fees from a customer directly but to collect all “waived” fees from all customers through their request for regulatory deferral. In addition to this confusing application of the term “fee waivers,” the Joint Utilities’ proposal presents a number of concerns.

First, if a utility took voluntary action to stop charging customers certain fees before Governor Holcomb’s March 19, 2020 Executive Order prohibiting disconnection for non-payment, the costs associated with that voluntary decision should not be considered in any regulatory deferral for future recovery. Several of the Joint Utilities issued press releases announcing such voluntary action and received positive media attention as a result. It would be inappropriate now to charge all remaining customers for this beneficial public relations decision.

Second, in a time of grave economic trouble across Indiana, burdening customers with late fees is unacceptable. Unlike convenience charges or reconnection fees, for which a utility incurs an actual cost, late fees do not recoup a tangible expense. Instead, late fees are both punitive to consumers and also compensate a utility for an economic cost - the time value of the outstanding bill it is owed – without regard to the “actual” cost to the utility. The COVID-19 pandemic is affecting every industry in the State. Burying customers in late fees in addition to outstanding arrearages for utility service rendered only serves to deepen Indiana’s economic crisis. Proposing to “waive” this fee for customers directly today to charge all customers for all “waived” late fees tomorrow does not sufficiently mitigate the customer burden of this charge. Not only do the Joint Utilities want to be compensated for these non-direct costs, their proposal exacerbates this burden by adding carrying charges to its requested deferral.

C. Customer Payment Arrangements

Customer payment arrangements provide a critical benefit to customers experiencing financial hardship affecting their ability to make complete payments for utility service. When a customer is meeting the terms of a payment arrangement and making regular, timely contributions towards an outstanding bill, the customer cannot be disconnected from service. During this time of acute economic devastation, flexible and expanded payment terms are an essential tool for customers to avoid disconnection and work towards satisfying payment obligations for service.

At page six of their June 10 Response, the Joint Utilities propose expanded payment arrangements for residential customers of six months, such that arrearages would be paid by December 31, 2020. The Joint Utilities appear to base this six-month calculation from June 30, 2020 even though their proposed residential disconnection moratorium would cease on July 31, 2020. Therefore, the proposed expanded payment arrangement for residential customers is only five months from the end of its proposed disconnection moratorium, and even less for any debt incurred after that date. The Joint Utilities propose no extension to payment arrangement terms for arrearages accrued after the end of the disconnection moratorium. The payment timeframe proposed by the Joint Utilities does not adequately consider the magnitude of the financial hardship ratepayers in Indiana are facing and can be reasonably expected to face as a result of the COVID-19 crisis.

The June 10 Response filed by Citizens Action Coalition and INCAA in this Cause provides a merited pathway forward for appropriate customer payment arrangement terms given the circumstances of COVID-19. A default payment term of 18 months for non-low-income customers and 24 months for low-income customers reasonably accounts for the ongoing uncertainty of the economic fallout caused by the pandemic. There should not be an unreasonably

high bar for certification of low-income status and down payments to access a payment arrangement should be waived or reduced. Importantly, customers should not be automatically removed from payment arrangement in the event of a missed payment or when they cannot provide a full payment. During this time of widespread financial hardship, customers should be provided with more opportunities to become current on their past due bills. Finally, a clear description of new flexible payment terms should be provided in a separate notice to customers and again in all disconnection notices.

D. Non-Residential Customers

The Joint Utilities seek to limit disconnection protections and expanded payment benefits to only residential customers and argue that non-residential customers have access to other sources of assistance for utility bills through the CARES Act. The Joint Utilities provide no evidence, such as the number of its accounts in arrears by customer class, to demonstrate whether data supports the notion that non-residential customers are using other tools uniquely at their disposal to stay current on their utility bills during the COVID-19 crisis such that additional forms of relief are not needed. Without such information, the Commission cannot know whether and to what extent restricting access to disconnection protections and expanded payment benefits to only residential customers will create further harm.

It has been widely reported that the CARES Act Paycheck Protection Program (“PPP”), which was intended to help small businesses weather the economic challenges of the COVID-19 pandemic, was difficult for many small businesses to navigate, quickly ran out of available funds, and resulted in many loans made to large corporations with significant assets, not small

businesses.² It should not be presumed then that all non-residential customers actually received CARES Act grants or that sufficient funds were available to negate or reduce their need for utility bill assistance. Small businesses generally operate on very thin margins and have suffered disproportionately. A small business coming out of a shutdown with newly reduced revenues will have a difficult time justifying a bank loan; their recovery will take time. If they go out of business, residential customers lose their jobs compounding the problem. Some large businesses have shut down production, lost revenue, and laid off or furloughed workers. Some of the utilities claim to be working with their customers, negotiating terms of payment. The OUCC encourages this practice but still believes all customers are entitled to some relief.

The Joint Utilities seek to deprive non-residential customers access to disconnection protections and expanded payment arrangements. At this juncture, it is inappropriate and unnecessarily harmful to preemptively limit access to disconnection protections and expanded payment arrangements when no evidence has been presented demonstrating that such assistance is not needed.

E. Commission Authority under Ind. Code § 8-1-2-113

The Joint Utilities acknowledge the Commission's authority under Ind. Code § 8-1-2-113 to alter and amend rates, services, practices and schedules in cases of emergency. But also, the Joint Utilities contend the foregoing language makes uncertain the Commission's authority to suspend the same without the Joint Utilities' giving their consent. (Joint Utilities' June 10, 2020 Response, p. 5.) The Joint Utilities make this suggestion at the same time they are asking the

² <https://www.npr.org/2020/05/04/848389343/how-did-the-small-business-loan-program-have-so-many-problems-in-just-4-weeks>

Commission for unprecedented relief from the effects of the COVID-19 pandemic – a reality that seems to have affected every nation on earth and every person in those nations.

In the same document in which they argue their consent is required before the Commission can order them to forebear disconnections, the Joint Utilities ask again for recovery from ratepayers of increased operating expenses; forgone revenues due to “waived” fees and charges; increased bad debt expense resulting from stayed disconnections, various waivers, and “general COVID-19 economic impacts.” The Joint Utilities indicate any decision to extend the respite from the collection of fees and disconnections beyond the Governor’s Executive Order is essentially theirs to make. The Joint Utilities make this monumental and novel request without affirmatively recognizing the Commission’s authority to take regulatory action it considers necessary to prevent injury to the business or interests of the people or any public utility of this State because of the state of emergency in which we now find ourselves. To date, the Joint Utilities offer their “consent” to only the most modest one-month extension of disconnection moratoria beyond that established by the Governor.

In their own petition, the Joint Utilities noted that Governor Holcomb’s March 19, 2020 Executive Order 20-05 deemed utility service to be essential, prohibited utilities from discontinuing their services, and further, authorized all state agencies with rulemaking power, including the Commission, “to waive, suspend, or modify any existing rule of their agency where the enforcement of which would be detrimental to the public welfare during this emergency.” As to the extent the process of disconnection and imposition of fees is established by Commission rule, this authority to suspend disconnections to the extent it must be exercised, does not depend solely on whether such power is conferred by Section 113.

Indeed, there is no explicit requirement that the Joint Utilities must give their consent before the Commission may require the Joint Utilities to extend the waiver of late fees, bad check charges, reconnection fees, disconnections, or requirement for deposits. Such a condition must be construed. That construction should be rejected. As the Supreme Court of Indiana noted long ago in discussing the Public Service Commission's statutory power to deal with emergencies, such power "is broad in its terms, and comprehensive in meaning. The whole law contemplates service supervision by the commission. To that end the law should be liberally construed, with a view to public welfare." *State ex rel. Indianapolis Traction and Terminal Co. v Lewis et al.*, Public Service Commission of Indiana, 120 N.E. 129, 131 (Ind. 1918).

The Joint Utilities acknowledge what the statute provides explicitly – that in the case of an emergency -- the Commission has the power when it deems it necessary, "to prevent injury to the business or interests of the people, or any public utility of this state . . . to temporarily alter [or] amend . . . any existing rates, services, practices, schedules and order relating to or affecting any public utility or part of any public utility in this state." The only suggestion that the consent of the affected utility is required is when the Commission proposes to "suspend" the same practices or charges. The reason for this distinction is not stated. But a narrow reading of "suspend" is consistent with the broad powers the Commission is given in emergencies to construe its powers liberally with a view to public welfare. *State ex rel. Indianapolis Traction and Terminal Co. v Lewis et al.*, Public Service Commission of Indiana, 120 N.E. 129, 131 (Ind. 1918). "Suspend" can mean "to hold in an undetermined or undecided state awaiting further information." Webster's Third New International Dictionary - 1986, p. 2302. Another definition of "suspend" is "to keep waiting in suspense or indecision." *Id.* In this context and with these meanings, "suspend" means to eliminate a rate or practice without certainty as to whether that rate or practice will be resumed.

None of the relief requested by the OUCC falls into this category. As requested by the OUCC, the cessation of disconnections and other practices is not indefinite but merely temporary.

The Commission's authority under Ind. Code § 8-1-2-113 does not exist in a vacuum. The legislature has explicitly given the Commission the authority, upon its own motion, Ind. Code § 8-1-2-58, or when the issue is otherwise properly presented to it, to investigate into the "service" provided by a regulated utility, to find facts based upon the evidence before it, and to prospectively rectify any perceived inadequacies in the utility's practices or the regulatory scheme. Ind. Code § 8-1-2-54, 69. Inherent in this grant of power is the implicit power and authority to do that which is necessary to effectuate the regulatory scheme. *S. E. Indiana Nat. Gas Co. v. Ingram*, 617 N.E.2d 943, 948 (Ind. Ct. App. 1993) citing *Northern Indiana Public Service Co. v. Citizens Action Coalition* (1989), Ind., 548 N.E.2d 153, 158, cert. denied, 476 U.S. 1137, 106 S.Ct. 2239, 90 L.Ed.2d 687.

The Commission is not being asked by any party to *suspend* the basic rates customers pay for gas or electric service, but mainly to assure that customers be permitted to continue to purchase the services at the authorized rates despite the usual conditions for disconnecting service from those customers being met. The emergency created by this pandemic may necessitate temporary and permanent changes in rules affecting how utilities interact with customers. Joint Utilities' argument that their consent is required to make such changes suggests illogically that the Commission has less authority to act to promote the public interest in the case of emergent crises than it does in the normal course. This argument should be rejected. The Commission can, should, and may be expected to exercise the broad authority it has to effectuate the regulatory scheme to do what it considers necessary to prevent injury to the business or interests of the people or any public utility of this state due to the emergency in which we now find ourselves. Its ability to make

provision to address fees, deposits, disconnection, and other things that it typically addresses in its rules and orders should be brought to bear as a fulfillment of its statutory role.

II. REGULATORY ACCOUNTING

The Joint Utilities no longer request immediate deferral of lost revenues from declining sales, now seeking that this issue be addressed in utility-specific Phase 2 subdockets, which they request commence within 60 days of a final order in this Cause. Delaying consideration of this issue by 60 days does nothing to abate the OUCC's, and other consumer parties', substantive concerns with using a global pandemic as a reason to seek decoupling outside of a base rate case. The Joint Utilities' June 10 Response also appears to revise their prior position on carrying charges, which they now request to be considered in Phase 2. Again, delay in considering this issue does not address the OUCC's concerns, which were described in the OUCC's June 10 Response, with carrying charges on any deferral authorized in this Cause. The Joint Utilities misunderstand the OUCC's proposal on deferral of bad debt expense. Finally, the Joint Utilities make a number of arguments regarding incremental O&M expense, to which the OUCC replies.

A. Lost Revenues from Declining Sales

The Joint Utilities propose to shift to Phase 2 the issue of whether they can defer the fixed cost component of revenue impacts due to reduced customer loads as well as carrying costs associated with the deferrals. They also state that if they must absorb these reduced fixed costs then they should retain any COVID-related savings. Joint Utilities characterize their request as seeking to recover only the "fixed cost" component of their "lost" revenue impact, as if they are forgoing something. Obviously if there are not any sales, there are not any variable costs, such as fuel. No fuel was burned, no sales made. Requesting only the "fixed cost" component of lost sales is no concession.

Although the Joint Utilities want to “kick the can” on lost revenues due to lost sales to Phase 2, this request should not be considered during any Phase of this investigation. The utilities surely have paid attention to the outpouring of anger and frustration from its customers and many public officials over its request to recover revenues for sales they did not make. This reaction is due to the fact that while the utilities want to be made whole, most of their customers are suffering and will never be made whole. Many businesses are suffering revenue losses that they will never recoup. Every utility customer has been adversely affected by this pandemic. If regulation truly is a proxy for competition, then utilities should confront economic realities in the same manner as their customers who are exposed to market forces.

The OUCC supports deferral of costs directly related to the continuation of the disconnection moratorium, a true waiver of certain fees, and expanded customer payment arrangements. However, the OUCC does not support recovery of lost revenues due to lost sales. The Demand Side Management (“DSM”) statutes allow recovery of reasonable lost revenues directly related to a utility’s efforts to successfully implement energy efficiency programs. There is a public good created by the utility’s efforts. There is no comparable statute applicable here, and for good reason. Here, the utilities seek to recover lost revenue without providing any public good and without a sound public policy justification.

B. Bad Debt Expense

In its June 10, 2020 Response to the OUCC’s COVID-19 Requests, the Joint Utilities state the OUCC has proposed that any authorized regulatory accounting for increased bad debt expense associated with the disconnection moratorium should end simultaneously with the end of the moratorium. (Joint Utilities’ June 10 Response, p. 13.) The Joint Utilities misunderstand and mischaracterize the OUCC’s proposal regarding bad debt expense. In the OUCC’s Amended

Petition filed May 27, 2020, the OUCC requested the Commission address certain customer assistance issues in Phase 1 of the generic COVID-19 proceeding, including extension of the disconnection moratorium, waiver of certain utility fees, and the expanded use of payment arrangements. The OUCC further requested the Commission order utilities to immediately begin using regulatory accounting for “any impacts related to the continuation of the service disconnection moratorium, waiver of fees, and expanded customer payment arrangements since March 19, 2020 until such time as it is determined how to appropriately address the delivery of utility service during the ongoing public health and global economic crises.” The OUCC’s proposal was intended to limit the costs that could be recorded in any regulatory asset or liability to those directly related to the continuation of the disconnection moratorium, waiver of certain fees, and expanded customer payment arrangements. The OUCC’s proposal was not intended to limit the recovery of bad debt expense to only that expense incurred and recorded during the disconnection moratorium.

The Joint Utilities cannot disconnect any of its customers during the moratorium and disconnection is generally the first step in writing off a customer account and the ultimate recognition of actual uncollectible or bad debt expense. Neither can the Joint Utilities effectively pursue collection of outstanding accounts receivable during this period. The Joint Utilities will only begin to record actual uncollectible or bad debt expense directly related to the disconnection moratorium once that moratorium has ended and it begins working with customers to set-up payment arrangements and generally proceed with collection efforts. Only after this process has been completed will the Joint Utilities know what its actual incremental uncollectible or bad debt expense will be. Therefore, any actual bad debt expense directly related to Phase 1 actions will necessarily not be known or recorded until well after the end of the moratorium. While Joint

Utilities should record no uncollectible or bad debt expense during the disconnection moratorium, it is possible it will record an allowance for uncollectible accounts founded on estimates and based on past experience. Any allowance recorded during the moratorium would not represent the write-off of actual customer accounts receivable. Joint Utilities should specifically be prohibited from including estimated bad debt expense in any regulatory asset authorized by the Commission. Only the actual incremental uncollectible or bad debt expense directly related to the disconnection moratorium should be eligible for recovery from ratepayers.

C. Incremental O&M

The Joint Utilities' Response on incremental O&M expenses focuses, inappropriately, on exceptions rather than rules. When responding to the idea that utilities should, in light of current circumstances related to the COVID-19 pandemic, consider delaying non-critical capital projects in an effort to shore up cash flow, the Joint Utilities focus on the limited situation in which a project has already begun with crews mobilized to argue that delaying capital projects could end up costing customers more in the long run. It should be self-evident that not every project a utility has slated in 2020 has crews mobilized with work already in progress. Many projects may still be in the engineering and design phase, with work and related funds reserved for later in the year. It is difficult to believe that the utilities cannot identify potential projects that could be delayed without affecting reliability and safety of service; indeed, when earnings per share goals are in jeopardy, utilities make these kinds of decisions regularly.

Moreover, when evaluating regulatory deferrals authorized in other states, the Joint Utilities fail to mention the states that have required regulatory deferrals be offset against reduced expenses. For example, Arkansas' Public Service Commission wrote in its April 27, 2020 order that "Utilities shall be required to offset costs by any cost savings directly attributable to the

suspension of disconnections or other activities during the emergency declaration.” In its May 13, 2020 order, the Public Service Commission of Delaware wrote:

In order for costs to be eligible for inclusion in a Utility's Covid-19 designated regulatory asset, the Utility shall record and maintain details, in the manner provided herein, of any and all assistance or benefit received, regardless of form and whether contingent or unmatured, including but not limited to suspension of disconnections or other activities, and any income received pursuant to the U.S. Department of Treasury's administration of S.3548 (the "CARES Act") or any similar future federal funds in connection with Covid-19 that could offset any Covid-19 related costs.

The Joint Utilities claim they have suffered a financial toll; however, they have not made any showing of a financial toll, no showing of an inability to access competitive capital markets, no showing of diminution of their provision of reliable utility services. Savings achieved should offset costs appropriate for future recovery. Not unrealized sales from customers who did not use any utility service.

III. OTHER ISSUES

A. Reporting Requirements

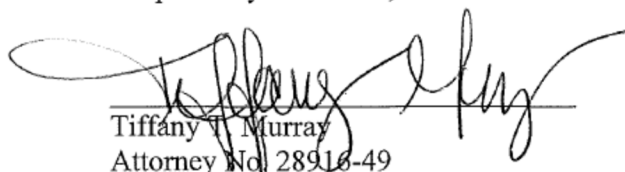
Despite the ongoing nature of the COVID-19 pandemic and before providing any of the information requested by the Commission, the Joint Utilities seek leave to provide the parties and the Commission with the requested monthly information only through December 2020. It would be premature and counter to the very nature of this generic investigation to limit the duration of these monthly reports, particularly when the Commission acknowledges the ongoing and indeterminate economic consequences of the pandemic in its May 27 Order. Those consequences may extend beyond Phase 2. The timing and scope of Phase 2 of this investigation has not yet been established, the Commission and the parties do not yet know what information will be pertinent to these future proceedings and to understanding the impacts of the COVID-19 pandemic on Indiana

utility operations. Limiting that understanding to only six months of information is unduly restrictive.

B. Timing of Phase 2 Utility Subdockets

The Joint Utilities request that Phase 2 of this investigation commence within 60 days of a final order in Phase 1. Their June 10 Response proposes to shift consideration of several issues initially proposed to be addressed in Phase 1 within the utility-specific subdockets in Phase 2. But the Joint Utilities have not demonstrated a need for such urgent action in Phase 2, particularly when, as the Commission's May 27 Order acknowledged, "many impacts of the COVID-19 pandemic may not be fully understood for months, if not years, as the effect is ongoing." (Order at p. 4.) The Joint Utilities request deferral authorization from this Commission in Phase 1, which, if not granted, will impact their ability to seek recovery of any alleged COVID-19 costs in the future. In contrast, by its very nature, Phase 2 of this investigation is not time sensitive. Given that COVID-19 impacts are unlikely to be known only two months from now, and that further impacts from the pandemic could be forthcoming, the most prudent action would be to delay initiation of Phase 2 until early 2021, after Indiana has weathered any potential second wave of the coronavirus and the full impacts of the pandemic are clearer.

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a copy of the *Utility Consumer Counselor's June 18, 2020 Reply* has been served upon the following parties of record in the captioned proceeding by electronic service on June 18, 2020.

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