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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF INDIANA )  
GAS COMPANY, INC., SOUTHERN INDIANA )  
GAS AND ELECTRIC COMPANY, THE )  
BOARD OF DIRECTORS FOR UTILITIES OF )  
THE DEPARTMENT OF PUBLIC UTILITIES )  
OF THE CITY OF INDIANAPOLIS, AS )  
SUCCESSOR TRUSTEE OF A PUBLIC )  
CHARITABLE TRUST, d/b/a CITIZENS GAS )  
AND NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY, PURSUANT TO IND. )  
CODE 8-1-2.5 et seq., FOR APPROVAL OF )  
ALTERNATIVE REGULATORY PLANS )  
UNDER WHICH EACH PETITIONER )  
WOULD REINSTATE THEIR RESPECTIVE )  
CUSTOMER BILL ASSISTANCE )  
PROGRAMS THROUGH MAY 31, 2011 )

CAUSE NO. 43669

APPROVED: NOV 19 2009

**BY THE COMMISSION:**

**David Lott Hardy, Chairman**

**Aaron A. Schmoll, Administrative Law Judge**

On April 20, 2009, Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North"), Southern Indiana Gas & Electric Company, d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren South") (collectively, "Vectren Energy"), the Board of Directors for Utilities of the Department of Public Utilities of the City of Indianapolis, as Successor Trustee of a Public Charitable Trust, d/b/a Citizens Gas ("Citizens") and Northern Indiana Public Service Company ("NIPSCO" and collectively, the "Petitioners"), filed a Verified Joint Petition with the Indiana Utility Regulatory Commission ("Commission") requesting approval of an alternative regulatory plan ("ARP") for each Petitioner pursuant to Ind. Code § 8-1-2.5 (the "AUR Act") that would allow each of them to reinstate their respective low-income customer bill assistance programs through May 31, 2013. Pursuant to the Commission's November 7, 2007 Order in Consolidated Cause Nos. 43077/43078, Petitioners' prior low-income customer bill payment assistance programs terminated on May 31, 2009.

Pursuant to proper notice given as provided by law, a Prehearing Conference and Preliminary Hearing was commenced on May 20, 2009 at 10:00 a.m. in Room 224, National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioners and the Indiana Office of Utility Consumer Counselor ("OUCC") appeared and participated in the Prehearing Conference by counsel. On June 3, 2009, the Commission adopted a Prehearing Conference Order setting forth a procedural schedule, which incorporated the parties' agreement with respect to procedural matters and included two technical conferences to be held on June 23, 2009 and August 4, 2009.

Pursuant to proper notice given as provided by law, the first technical conference was commenced at 9:30 a.m. on June 23, 2009 in Room 224, National City Center, 101 West Washington Street, Indianapolis, Indiana. During this initial technical conference, representatives of each of the Petitioners presented an overview of the results of their respective programs, generally describing the number of customers receiving assistance and the amount of assistance provided. Petitioners' witness David Carroll discussed the 2008 Annual Report filed on August 15, 2008 in Consolidated Cause Nos. 43077/43078. The 2008 Annual Report was prepared by Roger D. Colton of Fisher, Sheehan and Colton pursuant to a Settlement Agreement entered into and filed with the Commission in Cause Nos. 43077/43078.

On June 24, 2009, the Citizens Action Coalition of Indiana, Inc. ("CAC") filed a petition to intervene. On August 18, 2009, AARP and United Senior Action of Indiana, Inc. ("USA") filed petitions to intervene. The Indiana Community Action Association ("INCAA") filed a petition to intervene on September 3, 2009. The Commission granted the petitions to intervene filed by CAC, AARP, USA and INCAA (collectively the "Residential Customers") on the record during the September 15, 2009 evidentiary hearing in this Cause.

On July 17, 2009, Petitioners filed the direct testimony and exhibits of the following witnesses: David Carroll, President of APPRISE, Sherry Seiwert, Executive Director of the Indiana Housing and Community Development Authority ("IHCDA"), Gregory A. Sawyers, Citizens' Director of Customer Service, Breck A. Sparks, Vectren Utility Holdings, Inc.'s Director of Customer Service, Michael J. Martin, NIPSCO's Director Regulatory and Government Policy – Indiana and Cynthia C. Jackson, NIPSCO's Energy Assistance and Weatherization Program Manager.

Also on July 17, 2009, Petitioners filed a motion to amend the Petition and caption in this proceeding. The motion indicated that Petitioners were requesting in their case-in-chief that the Commission approve replacement low-income energy assistance programs through May 31, 2011, rather than May 31, 2013, as originally sought in the Petition. Petitioners, therefore, sought to amend the Petition and caption to conform to the evidence presented in the proceeding. The Commission granted Petitioners' motion to amend the Petition and caption in this Cause on the record during the September 15, 2009 evidentiary hearing.

On July 31, 2009, Petitioners filed a motion to reschedule the August 4, 2009 technical conference. The Presiding Officers granted Petitioners' motion by docket entry dated August 4, 2009 and rescheduled the technical conference to August 18, 2009.

Pursuant to proper notice given as provided by law, the second technical conference was commenced at 2:00 p.m. on August 18, 2009 in Room 222, National City Center, 101 West Washington Street, Indianapolis, Indiana. During the second technical conference, Mr. Carroll presented an overview of the 2009 Annual Report filed in Consolidated Cause Nos. 43077/43078. Mr. Carroll also described the results of his "business case" analysis of Petitioners' programs.

On August 21, 2009, the Presiding Officers issued a docket entry ordering Petitioners to file supplemental testimony in this proceeding. The purpose of the supplemental testimony was for Petitioners to further "address the business case of the programs." The Presiding Officers further

ordered Petitioners to “supplement their joint case-in-chief with testimony from each of the utility’s CEOs.”

On August 28, 2009, Petitioners filed the supplemental direct testimony of Carey B. Lykins, President and Chief Executive Officer of Citizens, Niel C. Ellerbrook, Chief Executive Officer of Vectren Utility Holdings, Inc., Eileen O’Neill Odum President of NIPSCO, as well as the supplemental direct testimony of David Carroll.

On September 3, 2009, the OUCC filed the direct testimony of Bradley E. Lorton. Also, on September 3, 2009, INCAA filed the direct testimony of Dave Menzer, CAC filed the direct testimony of Kerwin L. Olson, USA filed the direct testimony of Michelle Niemier, and CAC and USA jointly filed the direct testimony of June Lyle. On September 4, 2009, AARP, CAC and USA collectively filed the direct testimony of John Howat. Petitioners filed the rebuttal testimony of Gregory A. Sawyers, Breck A. Sparks, Michael J. Martin and David Carroll on September 10, 2009.

On September 11, 2009, the Presiding Officers issued a docket entry requesting Petitioners’ responses to thirteen questions “on or before September 15, 2009, or be prepared to respond to these questions at the September 15th hearing.” Petitioners filed written responses to the Presiding Officers’ questions on September 14, 2009.

Pursuant to proper notice given as provided by law, an evidentiary hearing was commenced on September 15, 2009 at 9:30 a.m. in Room 222, National City Center, 101 West Washington Street, Indianapolis, Indiana. The evidentiary hearing was reconvened on September 18, 2009. Petitioners, the OUCC and the Residential Customers appeared and participated in the evidentiary hearings held on September 15 and 18, 2009. The direct testimony and exhibits of the Petitioners, the OUCC and Residential Customers were offered and admitted into evidence without objection. Petitioner’s supplemental and rebuttal testimony also was offered and admitted into evidence without objection.

In addition, the Presiding Officers admitted into evidence five additional exhibits offered by the Petitioners, which included: (i) Petitioners’ responses to questions set forth in the September 11, 2009 docket entry as Petitioners’ Exhibit 1; (ii) a chart showing Citizens’ gross and net write-offs from fiscal year 1992 through fiscal year to date 2009 as Petitioners’ Exhibit 2; (iii) a table described by Mr. Sawyers in response to questions from the bench as Petitioners’ Exhibit 3-LF; (iv) Petitioners’ responses to a question set forth in a September 21, 2009 docket entry as Petitioners’ Exhibit 4-LF; and (v) tables showing net write-offs for calendar years 2005-2008 for Vectren and 1998-2008 for NIPSCO as Petitioners’ Exhibit 5-LF.

The Commission also admitted into evidence, without objection, two additional exhibits offered by the OUCC. Those exhibits consisted of a letter of support for the programs from the Indiana Association of United Ways and letters from customers and other interested individuals in support of reinstatement of the programs.

Based upon the applicable law, the evidence presented herein, and being duly advised, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the commencement of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Legal notice of the filing for approval of the ARPs was published by the Petitioners in accordance with Ind. Code § 8-1-2.5-2.

Citizens operates a gas utility and is a “municipally owned utility” within the meaning of the Public Service Commission Act, as amended. NIPSCO, Vectren South and Vectren North are engaged in rendering natural gas utility service to the public within the State of Indiana and own, operate, manage and control plant and equipment used for distributing and furnishing such service. NIPSCO, Vectren North and Vectren South are public utilities as defined in Ind. Code § 8-1-2-1(a).

Each Petitioner is an energy utility as defined in Ind. Code § 8-1-2.5-2 and is subject to the jurisdiction of the Commission to the extent provided by Indiana law. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Petitioners’ Characteristics.** Citizens is a municipally owned gas utility and has the power and authority to engage in, and is engaged in, the business of rendering gas distribution service solely within the State of Indiana under the terms of Ind. Code § 8-1-11.1. Citizens owns, operates, manages, and controls, among other things, plant, property, equipment and facilities, which are used and useful for the production, storage, transmission, distribution and furnishing of gas service to approximately 264,000 residential, commercial and industrial customers in and around Marion County, Indiana.

NIPSCO has authority to engage in the business, and is engaged in the business of supplying electricity and natural gas to the public and owns franchises and indeterminate permits authorizing it to transact the business of supplying electricity and natural gas to the public in the area it serves in the State of Indiana. NIPSCO owns, operates, manages and controls, among other things, plant, property, equipment and facilities which are used and useful for the production, storage, transmission, distribution and furnishing of gas service in northern Indiana.

Vectren North has charter power and authority to engage in, and is engaged in the business of rendering gas distribution service solely within the State of Indiana under indeterminate permits, franchises, and necessity certificates heretofore duly acquired. Vectren North owns, operates, manages, and controls, among other things, plant, property, equipment and facilities, which are used and useful for the production, storage, transmission, distribution and furnishing of gas service to approximately 543,000 ultimate consumers in 311 communities and adjacent rural areas in 49 counties in the north central, central, and southern portions of Indiana.

Vectren South has charter power and authority to engage in, and is engaged in the business of rendering both gas and electric public utility service in the State of Indiana. Vectren South owns, operates, manages, and controls, among other things, plant and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of service to approximately 140,000 ultimate electric customers and 110,000 ultimate gas customers in southwestern Indiana.

3. **Relief Requested.** The Amended Petition seeks Commission approval of the terms of an ARP for each Petitioner, which would allow reinstatement, with appropriate data collection and reporting requirements, of their respective customer bill assistance programs through May 31, 2011. (Amended Petition at ¶ 13.) Petitioners further proposed to use their programs to promote

participation in the State's weatherization effort by requiring customers seeking assistance under the respective programs to apply for funds to weatherize their homes. (*Id.* at ¶ 16.) The particular type of program will be dependent on whether the customer rents or owns the residence, as well as other factors. (*Id.*)

The Petition indicated that if the Commission approves the requested reinstatement of the programs, Petitioners' programs would be funded in fundamentally the same manner as set forth in the September 6, 2007 Stipulation and Settlement Agreement entered into and approved by the Commission in Consolidated Cause Nos. 43077/43078. (*Id.* at ¶ 24.) Petitioners also proposed to continue to devote monies to fund special needs/hardship programs designed to maintain or reconnect service to customers with household incomes at or below 200% of the federal poverty line. (*Id.* at ¶ 29.) In addition, the Amended Petition indicated that if the programs were reinstated, Petitioners would continue submitting reports to the Commission and providing copies to the OUCC and other parties, which will permit the Commission, Petitioners, the OUCC and other interested parties to evaluate the performance and effectiveness of the programs in achieving their goals and purposes. (*Id.* at ¶ 29.)

#### 4. Evidence Presented.

##### a. *Petitioners' Direct Testimony.*

Petitioners' witness David Carroll described the method used and outcome of the empirical analysis he conducted in order to determine that there is a "business case" for continuation of Petitioners' respective low-income energy assistance programs. (Pet. Ex. DC at 3.) Mr. Carroll is the President of APPRISE, Inc., a nonprofit research institute dedicated to collecting and analyzing data and information to assess and improve public programs. Mr. Carroll prepared reports assessing the "business case" for each of Petitioners' programs, which were attached to his direct testimony. (*Id.* at 4; Pet. Ex. DC-1, DC-2, and DC-3.)

Mr. Carroll stated the key statistic developed for each program is the participant bill coverage rate for current year bills. (Pet. Ex. DC at 5.) Citizens' Universal Service Program ("USP") participants paid 96% of their current bill; Vectren Energy's USP participants paid 99% of their current bill, and NIPSCO Winter Warmth Grant recipients paid 100% of their current bill. (*Id.* at 6.) Mr. Carroll also testified that previous reports showed that while the programs do not eliminate collection activities, such activities are reduced and some cost savings can be expected. (*Id.* at 6.)

In order to develop a business case for a low-income energy assistance program, Mr. Carroll said the analyst must measure the gross costs of the program to ratepayers and then estimate any offsetting business savings that result from the implementation of the program. (*Id.* at 7.) Mr. Carroll described two available methods for measuring program costs: (i) the "aggregate cost approach," in which the analyst measures company level business costs and attempts to measure how the implementation of the program changes the total business costs; and (ii) the "customer level cost approach," in which the analyst tracks individual customers, measures the changes experienced by the customer, and then computes a net cost per customer for the program. (*Id.* at 8.) Mr. Carroll testified that previous research has revealed that the "customer level analysis is significantly more robust than the aggregate approach." (*Id.* at 8-9.) Mr. Carroll stated that APPRISE has used the customer level analysis approach for many previous evaluations. (*Id.* at 9.)

Mr. Carroll then testified as to his findings from the “customer level business case analysis” he performed for Citizens, Vectren Energy, and NIPSCO. (*Id.* at 10-12.) With respect to the Citizens USP, Mr. Carroll found the net benefit to other ratepayers ultimately was \$47 per customer participating in the program. (*Id.* at 10.) Mr. Carroll testified that the net cost to other ratepayers resulting from the Vectren Energy USP was determined to be \$0 per customer participating in the program. (*Id.* at 11.) With respect to the NIPSCO Winter Warmth Program, Mr. Carroll determined that the net benefit to other ratepayers ultimately was \$59 per customer participating in the program. (*Id.* at 12.) Mr. Carroll testified that the significant company contributions to the programs had a major impact on program cost effectiveness. (*Id.* at 10-12)

Mr. Carroll testified that continuation of Petitioners’ low-income energy assistance programs is in the public interest. (*Id.* at 15.) Mr. Carroll, however, recommended that Citizens and Vectren Energy consider three changes to their programs: (i) a change in distribution of the discount based on poverty level, rather than Energy Assistance Program (“EAP”) Matrix points; (ii) the addition of payment incentives to the programs, including using either an arrearage forgiveness or an “earned discount” approach; and (iii) more aggressive outreach to participants regarding the accessibility of weatherization funds. (*Id.* at 12-13.) (*Id.*) Mr. Carroll recommended that NIPSCO also consider adding an “earned benefit” incentive to its program and conduct more aggressive outreach to participants as to the availability of weatherization funds. (*Id.* at 14.) However, Mr. Carroll recommended that any changes to Petitioners’ programs be thoroughly tested prior to full scale implementation. (*Id.*)

Petitioners’ witness Sherry Seiwert testified that the Indiana Housing and Community Development Authority (“IHCDA”) supports the continuation of Petitioners’ respective low-income energy assistance programs. (*Id.* at 2.) According to Ms. Seiwert, Petitioners’ programs further IHCDA’s mission and also can be used to further the State’s weatherization goals. (*Id.* at 2 and 6.) Ms. Seiwert stated that the IHCDA believes Petitioners’ low-income energy assistance programs can be a valuable tool to the benefit of low-income ratepayers and the State of Indiana. (*Id.*)

Ms. Seiwert testified that under the American Recovery and Reinvestment Act (“ARRA”), the State of Indiana will receive \$131.8 million in stimulus funding for energy conservation (or weatherization) efforts. (*Id.* at 3.) Ms. Seiwert testified that the reinstatement of Petitioners’ low-income energy assistance programs will be beneficial in assisting the State in distributing and utilizing available ARRA funds by requiring prospective participants to apply for weatherization assistance in order to obtain energy assistance funds from their respective programs. (*Id.* at 4.) In Ms. Seiwert’s opinion, linking Petitioners’ programs to the ARRA weatherization assistance program will promote the public interest, energy utility efficiency and benefit Petitioners’ customers and the State. (*Id.* at 5.) Moreover, Ms. Seiwert stated that reinstatement of Petitioners’ low-income energy assistance programs would further the IHCDA’s core mission of providing every Hoosier the opportunity to live in safe, affordable, good quality housing in economically stable communities. (*Id.* at 6.)

Citizens’ witness Gregory A. Sawyers testified regarding the circumstances surrounding the creation and Commission approval of Citizens’ original USP in 2004 and its continuation through May 31, 2009. (*Id.* at 3-5.) Mr. Sawyers stated that approximately 26,000 of Citizens’ residential customers received assistance from the USP during the 2008-2009 winter heating season. (*Id.*; Pet.

Ex. GAS-6.) Mr. Sawyers then described the need to reinstate Citizens' USP through May 31, 2011.

Mr. Sawyers testified that studies have shown the USP: (i) improves low-income customer payment patterns sufficiently to offset any loss of revenue associated with offering the program (*i.e.*, is "revenue neutral"); (ii) improves the ability of Citizens to interrupt the arrears-to-disconnect cycle of low-income customers; (iii) improves the ability of low-income customers to sustain bill payments through the high cost winter heating months and the entire year; and (iv) improves the ability of Citizens to target collection efforts to "can-pay-but-won't" customers, rather than directing collection efforts to "can't pay" customers. (*Id.* at 13.) Mr. Sawyers testified that the USP also reduces situations where low-income families must rely on unsafe heating alternatives. (*Id.* at 14.) In addition, Mr. Sawyers stated that the USP provides low-income participants an incentive to conserve energy and thereby further reduce the amount they pay by requiring participants to pay a manageable portion of their bill. (*Id.*)

If the USP is not reinstated, Mr. Sawyers believes Citizens will experience a significant increase in defaults, collection activity, and disconnections among the former 26,000 USP participants. (*Id.* at 15) In Mr. Sawyers' opinion, the current economic situation and continued volatility of natural gas prices has hit low-income families hardest because low-income households spend the greatest proportion of their household income on energy costs. (*Id.*) Additionally, the current proposed federal budget for LIHEAP for 2010 is 37% less than the 2009 allocation and Citizens is projecting the assistance its customers receive will be less than half of what they received last year. (*Id.* at 18; *see also*, Pet. Ex. GAS-6.)

In Mr. Sawyers' opinion, non-participating ratepayers will benefit from the reinstatement of Citizens' USP. (*Id.* at 19.) Mr. Sawyers stated that Citizens' uncollectible natural gas utility expenses between 2003 and 2006 remained relatively constant, and, in fact, net write-offs in 2007 were over \$1,000,000 lower than they were prior to the inception of the USP. (*Id.* at 17; Pet. Ex. GAS-7.) Only in fiscal year 2008, due to the mortgage foreclosure crisis, did Citizens see an increase in write-offs. (*Id.*) Mr. Sawyers indicated that this compared favorably to the national trend. (*Id.*)

Mr. Sawyers also testified as to how the USP would operate, if it is reinstated. (*Id.* at 20.) Mr. Sawyers stated that in order for low-income customers to be eligible for USP assistance, the customer's gross household income must be at or below levels established for assistance from LIHEAP and the customer must enroll in and qualify for assistance from LIHEAP. (*Id.*) Citizens will continue to rely on Community Action of Greater Indianapolis ("CAGI") to enroll its low-income customers in the USP. (*Id.* at 21.)

If the USP is reinstated, Citizens would offer discounts of 10%, 18% and 25%, depending on the level of household income, which would be distributed to participating families during the heating season. (*Id.* at 22.) Mr. Sawyers did note, however, that it may be necessary for Citizens to adjust the discounts depending on the number of participating customers. (*Id.*)

The difference between the amount that otherwise would be payable for residential gas heating service under Citizens' approved and authorized rates, and the lower bill paid by eligible USP participants, will be recovered from: (i) Citizens' contributions to the USP; and (ii) a per unit

charge incorporated as part of the monthly bills of Citizens' residential (including low-income customers participating in the Program), commercial, and industrial customers, known as the "USF Rider," to be effective through December 31, 2011. (*Id.* at 23.) Under Citizens' proposal, ratepayers would contribute approximately \$2,605,932 to the USP annually and Citizens would provide \$550,000 annually to fund the program. (*Id.* at 24.) Mr. Sawyers stated that Citizens intends to preserve the \$200 cap on large volume customers agreed upon in prior settlement agreements with its industrial customers. (*Id.*) If a funding deficit exists, Mr. Sawyers testified that Citizens proposes that it be authorized to continue to use its existing USF Rider for reconciliation purposes. (*Id.*)

Mr. Sawyers also testified that the USP can be a valuable tool to promote energy efficiency and the use of ARRA weatherization funds. (*Id.* at 25.) Mr. Sawyers believes linking the USP and the federal weatherization assistance program will help ensure that Citizens' low-income customers that are eligible for federal weatherization assistance receive that assistance. (*Id.* at 27.)

Vectren's witness Breck A. Sparks testified that if Vectren Energy's USP is reinstated, the discounts offered to low-income customers would be the same as they have been since the program's inception. (Pet. Ex. BAS at 6.) The net bill for residential gas service provided to participants would be either 15%, 26%, or 32% lower than it otherwise would be, depending on the application of the State's EAP Matrix. (*Id.*) Mr. Sparks indicated these discounts are intended to change customer behavior and promote energy efficiency by making winter heating bills more manageable for low-income customers and thereby providing them with an opportunity to break the cycle of disconnection and reconnection. (*Id.*)

Vectren Energy also will link its USP to the federal stimulus funds that target energy assistance, weatherization, and energy utilization education. (*Id.* at 9.) Mr. Sparks testified that these programs, in combination, will increase and extend the effectiveness of each of Petitioners' individual program. (*Id.*)

Mr. Sparks testified that Vectren Energy had a combined 30,867 customers enrolled in USP during the 2008/2009 annualized heating season. (*Id.* at 8.) These customers received monthly discounts totaling \$5,108,786. (*Id.*) As a result of receiving the monthly USP discounts, Mr. Sparks stated that USP participants' payments remain on par with non-participants. (*Id.* at 10.) Mr. Sparks testified that the USP monthly discounts assist customers who want to stay current with their winter heating bills and promotes the retention of service by assisting the customer in exiting the State's disconnection moratorium without a significant debit balance. (*Id.* at 12-13.) Without Vectren Energy's USP, low-income customers would look to the Township Trustees and the not-for-profit sector for assistance with their utility bill balances. (*Id.* at 12.) These agencies will not assist customers until the threat of disconnection is imminent, and this requirement forces the utility to incur incremental collection costs which are borne by all ratepayers as a cost of service. (*Id.*)

Mr. Sparks testified that Vectren Energy does not propose any changes to the manner in which its USP previously has been funded. (*Id.* at 14.) Vectren Energy will continue to contribute a total of \$1,098,000 annually to the USP. (*Id.* at 16.) Any unfunded portion of Vectren Energy's USP costs will continue to be funded by per unit charges to the utility's residential, commercial and industrial customers. (*Id.* at 14.) If the USP is reinstated, the \$200 monthly "cap" for large volume and high usage customers would remain. (*Id.* at 15.) Vectren Energy further proposes to continue



to have the ability to “true-up” its USP Rider. (*Id.*)

Mr. Sparks believes the USP is in the public interest. (*Id.* at 19.) In Mr. Sparks’ opinion, due to the current unemployment rates and a slow economic recovery, energy prices will continue to be a significant portion of Indiana residents’ non-discretionary expenses. (*Id.*) According to Mr. Sparks, the USP is an essential part of the energy assistance formula for Indiana residential natural gas heating customers. (*Id.* at 20.)

NIPSCO’s witness Michael J. Martin testified in support of the continuation of the low income energy assistance program offered by NIPSCO referred to as the “Winter Warmth Program.” Mr. Martin stated that the Winter Warmth Program works by making funds available to low-income and hardship customers on a one time basis to help pay off arrearages, cover deposit requirements or cover the cost of especially high bills. (Pet. Ex. MJM at 3.) Because the one-time payments may not be the only assistance the customers need, recipients are: (i) placed in the budget billing program; (ii) provided counseling about ways to reduce gas usage; (iii) eligible to receive weatherization treatment; and (iv) possibly referred to NIPSCO’s Gift of Warmth Program. (*Id.* at 9-10.)

Mr. Martin stated that both anecdotal and statistical evidence establish the effectiveness of Winter Warmth. (*Id.* at 11.) Mr. Martin noted that since Winter Warmth has been in place, news stories about the hardship faced by eligible customers are less frequent. (*Id.*) NIPSCO also hears from the agencies it partners with and community activists with whom it maintains open communication that fewer customers are facing dire circumstances because of home heating concerns. (*Id.*) Mr. Martin noted that Petitioners’ witness Carroll had developed “statistical evidence” of the effectiveness of the Program demonstrating higher revenue collections for participating customers and reduced collection costs associated with these customers. (*Id.* at 11-12.)

Mr. Martin testified that funding from NIPSCO’s customers is appropriate because Winter Warmth generates benefits for all of NIPSCO’s customers. (*Id.* at 13). These benefits include assisting in managing NIPSCO’s bad debt expense and disconnection/reconnection costs that would ultimately result in higher rates for customers as well as keeping low-income customers connected and contributing to NIPSCO’s fixed costs. (*Id.* at 14). Mr. Martin said there are two reasons NIPSCO contributes to Winter Warmth. (*Id.* at 11.) First, NIPSCO believes in the importance of helping low-income and hardship customers keep the heat on in their homes. (*Id.*) Second, there is a good business reason for NIPSCO to foster the Winter Warmth Program -- reduction of bad debt expense. (*Id.*)

Mr. Martin described the Petitioners’ efforts to work with the IHCDA to utilize Winter Warmth to promote weatherization. NIPSCO is proposing to modify Winter Warmth to require recipients to at least apply for weatherization from the IHCDA. (*Id.* at 15.) Mr. Martin noted no requirement would be imposed on customers who rent their residence because such customers are not eligible for weatherization assistance from the IHCDA.

Mr. Martin also explained that NIPSCO believes Winter Warmth qualifies as an ARP and should be continued on that basis. He testified that the Program was in the public interest, promoted energy utility efficiency, and maintained the value of NIPSCO’s energy services. (*Id.* at 17-18.)

NIPSCO's witness Cynthia C. Jackson explained the administration of Winter Warmth and the manner in which the customers enroll. (*Id.* at 4.) NIPSCO partners with twenty-six social service agencies to administer Program benefits. (*Id.* at 9.) Customers are eligible to receive up to \$450 in one-time assistance to cover an arrearage, gas deposit or a reconnect fee. (*Id.* at 8.) Participants also benefit from a reduced deposit requirement. (*Id.*) Since its inception, Winter Warmth has provided assistance to 70,315 customers – of which 52,556 qualified for LIHEAP and 17,759 encountered temporary hardship as determined by the community action agencies that serve as the intake points. (*Id.* at 12.) Ms. Jackson noted that all administrative costs of Winter Warmth exceeding \$100,000 are paid by NIPSCO. (*Id.* at 5.) Ms. Jackson stated that, in her opinion, the Winter Warmth Program has been successful and should be continued. (*Id.* at 6-7.)

NIPSCO is proposing changes in its ARP from the previously approved plan. Ms. Jackson explained that NIPSCO is proposing to require EAP recipients to pay at least a portion of their bill during the moratorium period to be eligible for assistance. (*Id.* at 8.) NIPSCO will also require customers to make a \$50 payment within 30 days of receiving a Winter Warmth benefit and eliminate the discretion of administering agencies to waive this payment. (*Id.* at 9.)

Ms. Jackson also explained changes NIPSCO is proposing to the funding of Winter Warmth. NIPSCO collects funds from its ratepayers and then matches 18% of those contributions with shareholder dollars to fund Winter Warmth. (*Id.* at 10.) Together, these contributions were designed to produce \$6 million per year. However, the customer charge is assessed on a per therm basis and the total dollars produced varied in past years depending on gas usage. Ms. Jackson explained this caused programming difficulty because NIPSCO could never be sure of the total amount of funding that would be available. (*Id.*) NIPSCO proposes to include a true-up mechanism as part of the new ARP to ensure exactly \$6 million is recovered. (*Id.*)

*b. Petitioners' Supplemental Direct Testimony.*

Petitioners' witness Niel C. Ellerbrook testified that Vectren Energy's USP was created in late-2004 as part of a collaborative effort with the OUCC and Citizens to respond to the disproportionate "energy burden" that heating costs place on low-income families. (Pet. Ex. NCE at 4.) For some customers, LIHEAP and potential charitable sources could not bridge the growing gap between the actual cost of service and the customers' ability to pay. (*Id.*) If a customer's primary heat source remains connected, the need for individuals to seek potentially unsafe alternative heat options or to abandon their housing is eliminated. (*Id.*)

In Mr. Ellerbrook's opinion, the issues that resulted in the creation of the USP still exist. (*Id.*) As Vectren Energy's CEO, Mr. Ellerbrook testified that he closely follows the economy, natural gas prices, and resulting impacts on low-income customers. (*Id.*) A May 2008 National Energy Assistance Directors Association report estimated that 15.6 million households were behind in their utility bills, which was an increase of 9.5% over the previous year. (*Id.* at 5.) Mr. Ellerbrook testified that without the USP, disconnected customers who cannot afford to reinstate their service might resort to ovens or space heaters as alternative sources of heat and create safety issues in the process. (*Id.*)

Mr. Ellerbrook testified that a growing number of customers cannot pay their bills, and to

the extent all customers pay about \$5 per year to help them do so, that cost does not outweigh the many program benefits. (*Id.* at 7.) Mr. Ellerbrook stated that even if the program failed to definitively offset the cost through direct benefits captured within the ratemaking process, in his opinion, the USP should continue to exist. (*Id.* at 7-8.) Beyond the human issues of helping those in need and the societal benefits that accompany enhanced quality of life, Mr. Ellerbrook stated that USP participants are less likely to divert gas, which creates safety issues and generates investigation costs. To the extent they are able to remain connected, call center volume is decreased and field personnel costs are saved. (*Id.* at 9.)

According to Mr. Ellerbrook, many factors contribute to there being a “business case” for continuing the USP. (*Id.* at 10) Avoiding disconnections and creating a more stable existence benefits all customers because long term productivity is improved. (*Id.*) Moreover, elimination of the USP could drive additional customers to gas diversion, or even worse, use of dangerous heating sources in their homes. (*Id.* at 11.) Mr. Ellerbrook stated that a reduction in each instance of a customer diverting gas saves \$100 of employee time. (*Id.* at 10.) Although loss of property and life cannot be reduced to economics, a reduction in the use of improper heating sources decreases litigation costs, insurance premiums, and settlement payments that can find their way into customer rates. (*Id.* at 11.)

In addition, there are other more direct cost reductions resulting from the USP that support its continuance, in Mr. Ellerbrook’s view. (*Id.* at 12.) More customers remain connected and pay for service, and this revenue contributes to fixed costs and benefits all customers. (*Id.* at 13.) To the extent some customers will become disconnected and leave Vectren Energy’s customer base without the USP, that revenue would be sought from the remaining ratepayers at the time of the next rate case. (*Id.*)

Another benefit of reinstating the USP is that Vectren Energy and the other Petitioners, will require customers receiving USP assistance to apply for ARRA weatherization assistance. (*Id.* at 14.) This will not only encourage eligible customers to apply for assistance, but also offer a longer-term solution for income-eligible customers to mitigate high energy costs. (*Id.*) Mr. Ellerbrook testified that reinstatement of the USP through May 31, 2011 is in the public interest and vital for Vectren Energy’s customers. (*Id.* at 15.)

During the evidentiary hearing, Mr. Ellerbrook discussed Vectren Energy’s contribution to the USP. Mr. Ellerbrook stated: “I don’t think as a matter of theory that you can sit around and say that the only way this sort of a program is appropriate is if there is a shareholder contribution to it. . . . I think it would be perfectly reasonable for this Commission or any other body to say, you know, I think that there is compelling evidence that suggests that there are benefits that outweigh the costs of the program, and that that’s the way the rates ought to be set, and that there not be a required shareholder contribution to it to justify it. . . . I think in our case the contribution is a product of sort of deliberative discussion and settlement, and we’re perfectly willing to live with that result, but it isn’t something that I feel like I have to defend. . . .” (Tr. at C-73-C-74.)

Petitioners’ witness Carey B. Lykins testified 95,827 individuals live in poverty in Marion County, Indiana. (Pet. Ex. CBL at 2.) Mr. Lykins stated the USP provides assistance to many of these families, allows them to maintain gas service, prevents their resorting to alternative heat sources, and helps them avoid choosing between heat and other necessities such as food and

medicine. (*Id.* at 3.) The USP fills the gap between low-income customers' needs for assistance and assistance available to them from LIHEAP and other programs. (*Id.* at 5.) Mr. Lykins stated that the USP also improves safety and customer service. (*Id.* at 6.)

Without the USP, Mr. Lykins believes low-income customers in Citizens' service territory would experience difficulties paying their natural gas bills. (*Id.* at 6.) Mr. Lykins cited an American Gas Association study that found households receiving federal aid through LIHEAP are spending one-fifth of their annual income on energy bills and, in 2007, were spending 33% more on energy costs than they did in 1998. (*Id.*) Mr. Lykins testified that in the current economic climate, the financial difficulties posed to low-income families have continued and will continue for the foreseeable future. (*Id.* at 7.) Mr. Lykins noted that the number of customers participating in Citizens' USP has increased in each year of its existence. (*Id.*) Mr. Lykins also testified that he believes the positive impacts of the USP identified in the various studies conducted over the last 4 ½ years will begin to diminish if the program is not reinstated. (*Id.*)

Eileen O'Neill Odum, President of NIPSCO, addressed the importance of continuing the Winter Warmth Program. (Pet. Ex. EOO at 2.) She testified that Winter Warmth addresses energy assistance needs of low-income and other hardship customers facing large arrears with benefits that are not provided by other energy assistance programs. (*Id.*) Ms. Odum noted that Winter Warmth targets low-income and hardship customers facing disconnection or an inability to reconnect to NIPSCO gas service and induces them to pay more of their outstanding bill than they would without the Program. (*Id.* at 3.) Ms. Odum believed this segment of NIPSCO's customers would continue to experience difficulties in paying their natural gas bills because of the volatility in gas prices and the high unemployment and other financial difficulties in Northern Indiana. She noted that the challenges that low income customers face paying their gas bill in order to keep heat on during the heating season was the predominant concern expressed at the field hearing in NIPSCO's electric rate case (Cause No. 43526) in Gary last March. (*Id.* at 5.)

Ms. Odum indicated that benefits derived from Winter Warmth include: promoting safety by providing means to keep customers connected who might otherwise resort to unsafe measures to heat their homes; and redirecting collection efforts to customers who are able to pay their bill. She indicated that NIPSCO would continue to support the Program by contributing just under \$1 million from its shareholders to the Program. (*Id.* at 4.) Ms. Odum believed that there is intrinsic value in a community aiding needy individuals and families that face Northern Indiana winters without heat for their homes and urged continuation of the Program. (*Id.* at 6.)

Petitioners' witness Carroll offered supplemental testimony to respond to certain questions raised by the Commission at the second technical conference. (Pet. Ex. DC-S at 1.) Mr. Carroll stated the analyses included in the reports attached to his testimony (Exhibits DC-1, DC-2, and DC-3) address the "business case" of each of Petitioners' programs by looking at the costs paid by ratepayers and comparing those costs to the calculated benefit. (*Id.* at 2.) Mr. Carroll reiterated the conclusion in his direct testimony that there is a "business case" for continuing each of Petitioners' respective low-income energy assistance programs. (*Id.* at 2-3) For both Citizens and NIPSCO, the cost paid by ratepayers is less than their respective programs' calculated benefit. (*Id.* at 2.) The cost paid by ratepayers to partially fund Vectren Energy's program was completely offset by the calculated benefit of the program. (*Id.*)

Mr. Carroll stated the “customer level business case analysis” he performed is a “bottom-up” analysis, which considers how each USP participant impacts other ratepayers. (*Id.* at 5, 12.) Mr. Carroll then described how he conducted the “customer level business case analysis” for Citizens. Mr. Carroll stated the total cost to non-participants of Citizens’ program is the difference between the amount Citizens might have collected from participants without the program and the amount it actually collected. (*Id.* at 6; Pet. Ex. DC-1.) In 2008, Citizens’ USP cost ratepayers \$31 per participant. (*Id.* at 7; Pet. Ex. DC-1.) After measuring the costs to all ratepayers, the next step in Mr. Carroll’s “customer level business case analysis” was to calculate any offsets to the amount paid by ratepayers for each USP participant. (*Id.* at 7.) In Citizens’ case, Mr. Carroll testified the \$31 cost per participant was offset by Citizens’ contributions to the program, the amount of funds carried over from prior years, and the reduction in collections costs Citizens experienced. (*Id.*) After calculating these offsets, Mr. Carroll testified “Citizens’ ratepayers were *net* better off in 2008 for each customer that participated in the USP by \$47.” (*Id.* at 8 (emphasis in original).)

Mr. Carroll described the differences between the “customer level business case analysis” and the “aggregate business case analysis.” Mr. Carroll stated the latter approach is a “top down” analysis that first considers the gross cost to ratepayers and then calculates various utility cost offsets. (*Id.* at 12-13.) Because of the difficulty in developing reasonable estimates of cost offsets in the aggregate approach, Mr. Carroll reiterated that the “customer level business case analysis” is the preferable method to compute the cost incurred by ratepayers. (*Id.* at 13.) Mr. Carroll stated this method has been accepted by other public service commissions, including the New Jersey Board of Public Utilities. (*Id.* at 13-14.)

Mr. Carroll testified it is possible to perform a “top-down” analysis comparing ratepayer contributions to the net benefits ratepayers receive through the USP. (*Id.* at 14.) Using this method, Mr. Carroll testified the USP would provide a net benefit to Citizens’ ratepayers of approximately \$988,000, or \$48 per participant. (*Id.* at 16.) If the USP results in a 50% reduction in collection costs, as opposed to the conservative 10% estimate used in the original analysis, Mr. Carroll stated Citizens’ ratepayers would have received an even greater benefit of \$69 per USP participant. (*Id.*)

Mr. Carroll next elaborated on his testimony regarding Vectren Energy’s USP. (*Id.* at 16.) Mr. Carroll testified the gross cost of Vectren Energy’s program per participating customer is completely offset. (*Id.*) In other words, the net impact of the USP on Vectren Energy ratepayers is \$0. (*Id.*) Mr. Carroll described how he conducted the “customer level business case analysis” for Vectren Energy. (*Id.* at 17.) Mr. Carroll first measured the cost to all ratepayers of each individual customer participating in the USP by adding the utility’s administrative costs to the reduction in payments made by the participants. (*Id.*) Vectren incurred administrative costs of approximately \$1 per participating customer and the difference between the amount Vectren Energy might have collected from participants without the program and the amount it actually collected was \$57 per participant. (*Id.* at 18.) Mr. Carroll calculated the total cost of Vectren Energy’s USP to be \$58 per participant in 2008. (*Id.*)

After measuring the costs to all ratepayers, the next step in Mr. Carroll’s “customer level business case analysis” was to calculate any offsets to the amount paid by ratepayers for each USP participant. (*Id.* at 18.) In the case of Vectren Energy, Mr. Carroll testified the \$58 cost per participant in 2008 was offset by Vectren Energy’s contribution to the program and the reduction in collections costs Vectren Energy experienced. (*Id.* at 18-19.) After calculating these offsets, Mr.

Carroll testified Vectren Energy's ratepayers received a net benefit equal to their contribution and ratepayers were not adversely impacted by the benefits provided to USP customers. (*Id.* at 19.) If Vectren Energy experienced a 50% reduction in collection costs, as opposed to the conservative 10% estimate used in the analysis, Mr. Carroll stated Vectren Energy ratepayers would have benefited by \$21 per participant. (*Id.*)

Mr. Carroll testified that it also is possible to perform a "top-down" analysis of Vectren Energy's USP. (*Id.* at 20.) The "top down" analysis starts with Vectren Energy's USP ratepayer contribution of \$3,273,557, and then reduces that amount by offsetting benefits including: USP participants' improved bill coverage, reductions in collections costs as a result of the USP, and additional bill coverage attributable to the crisis benefit. Mr. Carroll testified this analysis shows the USP provides a net benefit to Vectren Energy's ratepayers of \$0.04 per USP participant if collection costs were reduced by only 10%. (*Id.* at 21.) However, if collection costs were reduced by 50%, Vectren Energy's ratepayers would have benefited by \$525,000, or \$21 per USP participant. (*Id.* at 22) In Mr. Carroll's opinion, there is a "business case" for continuing Vectren Energy's USP. (*Id.*)

Mr. Carroll next clarified his testimony regarding NIPSCO's Winter Warmth Program. (*Id.* at 22.) Mr. Carroll testified the total cost of providing assistance to the average participant was exceeded by the benefits to other ratepayers from providing that assistance. (*Id.*; Pet. Ex. DC-3.) According to Mr. Carroll, NIPSCO ratepayers received a net benefit of \$59 per participant. (*Id.* at 23.)

Mr. Carroll stated the "customer level business case analysis" performed for NIPSCO was similar to the analyses performed for Citizens and Vectren Energy. (*Id.* at 23.) Mr. Carroll first quantified the cost borne by ratepayers by combining administrative costs incurred to operate the program and the ratepayers' contribution to the program. (*Id.*) Administrative costs were \$19 for each participating customer and ratepayers contributed approximately \$324 per customer. (*Id.*; Pet. Ex. DC-3.) After measuring the costs to all ratepayers, the next step was to offset the program's benefits against those costs. (*Id.* at 25.) Mr. Carroll testified the Winter Warmth Program's total cost per program participant was offset by \$388 per participant in reduced non-payment, by the program's \$21 per participant inducement to pay more of their bill, by NIPSCO's \$55 contribution per program participant, and by a conservatively estimated \$2 per customer reduction in collection costs. (*Id.*) After subtracting these benefits from the cost of the program, Mr. Carroll testified NIPSCO's ratepayers received a net benefit of \$59 per participant or \$976,745 for the program as a whole. (*Id.*)

Mr. Carroll testified it also is possible to perform a "top-down" analysis of the Winter Warmth Program. (*Id.* at 26.) Starting with the ratepayer contribution to NIPSCO's Winter Warmth Program of \$5,379,387 and then subtracting program participants' improved bill coverage and the reductions in collections costs as a result of the program, Mr. Carroll testified the Winter Warmth Program would provide a net benefit to NIPSCO's ratepayers in the amount of \$1,126,728. (*Id.* at 26-27.) This equates to a benefit of \$68 per program participant. (*Id.* at 27.) Mr. Carroll concluded there is a "business case" for continuing NIPSCO's Winter Warmth Program. (*Id.* at 27-28.)

In Mr. Carroll's opinion, Petitioners' programs do not need to be consistent. (*Id.* at 28.) Based on his research, Mr. Carroll testified there are many different options to design low-income

energy assistance programs and several other states have divergent programs. (*Id.* at 28-29.) Mr. Carroll stated each of Petitioners' programs delivers benefits and makes energy bills more affordable for low-income customers. (*Id.* at 28.) He opined that if the programs were modified to a single unified format, it is possible the improvements in low-income payment patterns could be altered and customers might have difficulty adapting to program changes. (*Id.*) Mr. Carroll did not recommend modifying the programs simply for the sake of creating a standardized program. (*Id.* at 29.)

c. *OUCC's Direct Testimony.*

OUCC witness, Bradley E. Lorton, is a Utility Analyst in the Natural Gas Division of the OUCC with expertise in economics and utility regulation. (OUCC. Ex. BEL-1 at 1.) Mr. Lorton testified the OUCC supports reinstatement of Petitioners' respective low-income energy assistance programs. (*Id.* at 2.) "The OUCC believes there are positive benefits to both the program participants and the State of Indiana as a whole that have resulted from such programs, and that these benefits will continue in the future through the reinstatement of these programs." (*Id.* citing Pet. Ex. DC-1, DC-2, and DC-3.)

Mr. Lorton testified Petitioners' programs have been successful in assisting low- and moderate-income ratepayers who might otherwise be disconnected from service after the heating season. (*Id.* at 2.) Participants are able to better stay current with their bills and avoid disconnection. (*Id.* at 3.) Without these programs, many of these ratepayers would be disconnected from gas service in the spring and be unable to reconnect by the following winter. (*Id.*) In Mr. Lorton's opinion, Petitioners' programs are important resources for working families and for the many participants who are elderly or disabled. (*Id.* at 4.)

Mr. Lorton also stated that reinstatement of the programs would benefit Indiana's weatherization and energy efficiency efforts. (*Id.* at 4-5.) The OUCC believes the linkage of Petitioners' programs with the federal weatherization funding not only targets those most in need of weatherization assistance, but encourages maximum participation by ratepayers in the ARRA program. (*Id.* at 4.)

Mr. Lorton testified there are benefits for all ratepayers if Petitioners' programs are reinstated. (*Id.* at 5.) Mr. Lorton stated these programs benefit the utilities and all of their ratepayers by reducing collection costs, bad debt write-offs and disconnection/reconnection expenses that might otherwise be passed on to customers in the form of higher rates. (*Id.* at 3, 5.) Mr. Lorton testified there is a benefit to all ratepayers if low-income and hardship customers remain connected and are paying for most of their service. By covering the variable costs of service and contributing to a portion of the utility's fixed costs, all ratepayers benefit from keeping low-income and hardship customers connected. (*Id.*) Mr. Lorton stated that Mr. Carroll's data suggests there is no negative financial impact on the bills paid by non-participating ratepayers, as that data show a net benefit to non-participating ratepayers of between \$0 and \$57 per program participant. (*Id.* at 6.)

Mr. Lorton, however, made five recommendations to improve Petitioners' programs: (i) establish uniformity among the various programs; (ii) change the discount distribution to be based on poverty level instead of the EAP Matrix points; (iii) add incentives for customers to keep current

with their monthly gas bills (such incentives could take the form of arrearage forgiveness or an additional earned discount); (iv) enhance outreach efforts to involve participants in weatherization programs; and (v) direct utilities to share with ratepayers more of the costs and benefits of these programs. (*Id.* at 7-8.) With respect to the fifth recommendation, Mr. Lorton elaborated: “[i]n order to enhance the ‘business case’ for these programs, the OUCC recommends that each utility be directed to contribute \$1 for each dollar contributed by their respective ratepayers to their universal service and winter warmth programs. In other words, each utility would contribute 50% of the funding for their respective programs.” (*Id.* at 8.) Alternatively, the OUCC proposed that “each utility could share any quantifiable savings of these programs with their ratepayers on a 50/50 basis to take effect prior to the commencement of their respective next base rate cases.” (*Id.*)

*d. Intervenors’ Direct Testimony.*

1. Residential Customers Testimony

Residential Customers’ presented the testimony of four witnesses: June Lyle, State Director of AARP Indiana (RC Ex. 1); Michelle Niemier, Executive Director of United Senior Action of Indiana, Inc. (RC Ex. 2); Kerwin L. Olson, Program Director for Citizens Action Coalition of Indiana (RC Ex. 3); and, John Howat, a Senior Policy Analyst for the National Consumer Law Center (RC Ex. 4).

Ms. Lyle testified that the AARP supports reinstating Petitioners’ programs due to AARP’s interest in ensuring affordable essential utility services for seniors and low-income families in Indiana. (RC Ex. 1 at 2-4.). Founded in 1958, AARP is a national nonprofit, nonpartisan membership organization that helps people 50 and over improve the quality of their lives. AARP has over 892,000 members and 32 chapters in Indiana. According to Ms. Lyle, a recent survey conducted by AARP showed that nearly 75 percent of those surveyed reported a rise in their home heating and cooling costs over the previous year and nearly half (46 percent) said they are heating or/and cooling only certain parts of their homes.

Ms. Lyle testified that older persons are especially vulnerable as energy prices continue climbing, in part because they already spend a far greater proportion of their incomes on home energy costs than younger households. She also testified to research that shows that when energy prices increase, households headed by seniors often keep their homes at unsafe temperatures or skimp on paying for other necessities.

Ms. Lyle noted that the financial pressures on seniors currently are increasing and that seniors spend a large percentage of their incomes (about 30 percent) on out-of-pocket health care costs, which are escalating much faster than general inflation. In addition; many seniors have seen their investments suffer in the economic downturn. Ms. Lyle also noted there is expected to be no cost-of-living adjustment for Social Security recipients in 2010.

Ms. Lyle also testified that Federal funding for LIHEAP and WAP has thus far been insufficient to address the home heating and cooling needs of eligible individuals, and the need is growing in this current economic climate. Ms. Lyle concluded that with increasing demands on their limited or declining resources, Indiana seniors who rely on universal service programs will struggle to pay for utility service if Joint Petitioners’ programs are not continued.



Michelle Niemier testified on how seniors and low-income families are uniquely impacted by high heating bills and why it is critical that programs like those proposed by the Joint Petitioners be renewed and expanded. (RC. Ex. 2) USA is a non-profit, nonpartisan, Indiana based member organization working to unite older Hoosiers into a powerful voice to impact policies affecting their lives. It includes more than 10,000 seniors and numerous senior clubs who, together, work on issues such as: nursing home quality and reform; alternatives to nursing homes including home and community-based care; utility and telephone rates; prescription drug prices, and more. Ms. Niemier has nearly 25 years of experience working for social service and advocacy organizations dedicated to assisting low-income families.

Ms. Niemier cited to a 2007 report issued by the Indiana Institute for Working Families which found that nearly 24 percent of all Hoosier workers earn wages below the poverty level and that Indiana now has a larger share of workers earning poverty wages than the national average. She noted how seniors are particularly vulnerable since more than one-quarter of older Indiana residents rely on Social Security as their only source of income and that even with Social Security, ten percent of older Hoosiers are still below the federal poverty standard. Ms. Niemier also cited a 2008 state by state analysis by AARP which reported that 43.4% of Hoosiers 65 years of age and older have a household income of under \$25,000 (20.8% had household incomes below \$15,000).

Ms. Niemier also testified based on her nearly 25 years experience that the current economy has created the same possibilities faced by many seniors during the Great Depression – that traditional family support is simply not available any more. She noted that many low-income, senior gas utility customers, faced with families that could not offer additional help, would skip or stop taking medicine, and as a result get sick and end up in the hospital or even a nursing home. She noted how low-income seniors in particular were subject to deteriorating health, or even death, as a result of curtailing energy use to unsafe levels as a result of unaffordable gas bills.

Kerwin L. Olson testified that there are strong policy implications in support of universal service which can be found in Indiana Code. In particular, he cited to Ind. Code § 8-1-2-69 which requires the Commission to determine and order changes to ensure that rates, regulations, terms and services are reasonable and just if the Commission finds those currently in place to be “unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, inadequate, or otherwise in violation” of the statute. Mr. Olson testified that, as detailed more by Ms. Lyle, Ms. Niemier, and Mr. Menzer, seniors and low-income are confronted with rates, practices and service that are unaffordable, insufficient, or forcing a choice to heat rather than eat or pay for other essential services. Because of the heightened energy burden faced by customers qualified to participate in the programs, the gas utilities rates and practices are insufficient and inadequate or lead to unwholesome, unsafe and perhaps even unsanitary conditions. Mr. Olson testified that the proposed universal service programs are directly aimed at correcting that defect. He also testified that the AUR Act also supports renewal of the universal service programs.

Mr. Olson noted that participants in the programs are screened both by income and energy burden. According to Mr. Olson, crisis assistance is just that, assistance to a customer facing a crisis, and that without the bill discounts, arrearage retirement, and crisis assistance provided by the universal service programs, those customers now participating would not have adequate and economical heating service available to them. Mr. Olson further testified that breaking the cycle of

disconnection and reconnection for non-payment, reducing non-payment and delinquency, ensuring that consumers not only are connected but can afford an adequate or sufficient amount of energy to meet their basic needs are all goals of universal service programs that are consistent with, if not a necessary part, of flexible regulation policy.

According to Mr. Olson, the universal service programs are not merely social programs but serve sound regulatory principles as well. Citing to an article by Roger Colton, Mr. Olson suggested the purpose of programs such as Joint Petitioners to recognize, in advance, those households that will likely find it impossible to pay their utility bills on a regular, timely basis and to collect the maximum amount of revenue from those households in the most cost-efficient way possible. Under such programs, a public utility collects the entire bill from households that are likely to be able to pay their entire bill. The rate relief is offered only to those for whom it can reasonably be determined that the entire bill will not be paid. Therefore, to characterize the EAP as a "low-income social program" is to misconceptualize both the purpose and design of the EAP.

Mr. Olson also enumerated other benefits to the utility and the community from universal service programs. Unaffordable home energy bills lead to the frequent mobility of households and such turnover costs businesses money. Unaffordable bills also lead to the following: time missed due to family care provision which costs business money; more frequent childhood illnesses; time missed due to lack of employee productivity and employee illness costs businesses money; and the inability to stay warm due to unaffordable home energy bills which leads to increased illnesses. Mr. Olson concluded that those factors are important as they mirror similar factors that the Commission routinely relies on when approving economic development discounts for industrial customers.

John Howat of the National Consumer Law Center testified in support of reinstatement of the programs and recommended certain changes. He discussed current data relating to economic and demographic conditions prevailing in Indiana that reflect continued need for comprehensive, effective payment assistance programming. He also provided evidence of increased demand for low-income energy and utility payment assistance in Indiana and nationwide. He then provided a set of policy objectives that should apply generally to effective ratepayer- and utility-funded energy assistance programs. Finally, he reviewed the design features of the Joint Petitioners' Programs in relation to those policy objectives.

Mr. Howat provided evidence that there are hundreds of thousands of Indiana households and families with income levels that are inadequate to meet the cost of monthly necessities, especially heating needs. He provided data showing that a typical two-person adult household in Marion County with income considerably higher than the 150% of poverty LIHEAP/USP/Winter Warmth Program eligibility guideline would be unable to meet monthly expenses for necessities absent the availability of supports such as energy assistance or without incurring unmanageable debt. Mr. Howat also provided census data showing that poverty is disproportionately concentrated in Indiana among African Americans. Fully 22.5 percent of the state's African American population lived below 100 percent of the poverty level, 38 percent lived below 150 percent of poverty, and 49.2 percent lived below 200 percent of the federal poverty level. Among elderly African Americans, 13.5 percent lived below 100 percent of poverty, 43.6 percent lived below 150 percent of poverty, and a majority, 53.3 percent lived below 200 percent of the federal poverty level.

Mr. Howat testified further that Indiana was facing a disproportionately high current unemployment rate and that long-term state employment trends also convey troubling but relevant information – that Indiana has experienced a shift in employment towards occupations with lower average wages. He noted that the current high rate of unemployment among both younger and older workers, coupled with the apparent long-term trend toward employment in relatively low-wage occupations, exert upward pressure on the poverty rates discussed above and downward pressure on state average wages and income growth. He concluded that these changes in income circumstances further illustrate the need for the Programs to help ensure the energy security of those households unable to afford basic heating service. Mr. Howat also provided data showing that despite the moderation in energy prices paid by residential consumers, demand for energy assistance has increased at the national and state levels.

Mr. Howat testified that well-designed ratepayer- and utility-funded energy assistance programs should meet the following, inter-related policy objectives: affordability; maximize benefits of non-participant investments; comprehensiveness; targeted benefits; and, administrative efficiency.

Mr. Howat testified that recent and past evaluations of Joint Petitioners' programs have demonstrated that they have been successful in helping to control, but not fully insulate, participants from terminations of service for nonpayment. In addition, the programs have been successful in interrupting the process of increasing arrears. He viewed the programs as meeting the affordability policy objective for those served but noted that there still is a significant portion of the population in need of additional support.

He also testified that Joint Petitioners' programs are outstanding in that non-participant customer contributions and investment in low-income heating affordability have leveraged an unprecedented level of investor-owned utility shareholder contributions. He was not aware of any other large-scale utility energy assistance programs that operate with the level of shareholder contributions that the Indiana Programs enjoy. Likewise, he noted that Joint Petitioners' Programs currently are not designed to both retire customers' arrears and provide for affordable payments on current bills, and therefore do not fully meet the goal of comprehensiveness. He noted many programs operating in other states are in fact designed to deal with both arrears and current bills.

Mr. Howat testified that Joint Petitioners programs did meet the targeted benefits goal. In particular, the USP Programs include tiered discounts that vary according to the range of household circumstances that are identified in the state's EAP benefits matrix. He noted that while this benefit determination system could be simplified for USP administration purposes, its application results in targeting program resources to households in a needs-based manner. Similarly, the Winter Warmth Program is targeted to households with particular payment troubles.

With respect to administrative efficiency, Mr. Howat testified there are numerous design features of the Programs that meet that goal including: close coordination with EAP; utilization of the state's Community Action Agencies; the provision of tiered discounts which achieves targeting objectives in a manner that is less administratively cumbersome than providing each, individual participant with a unique payment plan or billing credit; and automatically enrolling EAP participants in the Programs.

Mr. Howat concluded with recommendations for improvements to the programs including: 1) arrearage retirement components, 2) expansion of auto-enrollment practice to include participants in the LIS program of Medicare Part D, who by definition meet Program eligibility guidelines; and 3) expansion of Program income eligibility to 200% of the HHS Poverty Guidelines. Those changes would serve the goals of increasing affordability and comprehensiveness while maintaining administrative efficiency.

## 2. IN-CAA Testimony.

Dave Menzer, CAA Utility Programs for the Indiana Community Action Association (“INCAA”) testified with respect to the need for the universal service programs and urged their reauthorization. IN-CAA is a statewide not-for-profit membership corporation, who’s members or network is comprised of Indiana’s 24 Community Action Agencies (CAAs), which serve all of Indiana’s 92 counties. The CAA’s administer intake and registration for the state LIHEAP program.

Mr. Menzer testified that the majority of program participants are seniors, people with disabilities or families with small children in the home. The three programs collectively served 68,108 Indiana households last heating season: Citizens Gas served 20,342 and 3,575 hardship cases; Vectren served 25,031 and 2,194 hardship cases; and NIPSCO served 13,706 and 3,260 hardship cases. Of those households, nearly a quarter had seniors over 60 years of age. Thirty percent had a household member who was disabled. Twenty seven percent had a child under the age of six in the home.

Mr. Menzer also testified that when a home’s primary heating source is disconnected, child protective services can remove the children from the home. The Indiana 211 partnership provides information and referral for Hoosiers in need of a variety of services, and for the first time, requests for utility assistance became the number one need and call volume has increased more than forty percent in the past year. He noted that existing faith based and community organizations, such as United Way, are struggling to raise resources during the current recession, cutting staff and programs, and finding fewer volunteers. These organizations are already struggling to meet the needs of many families who are seeking help with everything from food to medicine to shelter. According to Mr. Menzer, collectively the not-for-profit sector cannot come close to replacing the level of resources generated for utility assistance with these programs if they are not renewed. Approximately 73% of the families that receive LIHEAP assistance in 2008 earned less than \$15,000 per year.

### *e. Petitioners’ Rebuttal Testimony.*

Petitioners’ witness Sawyers offered rebuttal testimony to address certain recommendations made by the OUCC and the Residential Customers. Mr. Sawyers testified Citizens would not contribute \$1 for each dollar contributed by ratepayers as recommended by the OUCC. (Pet. Ex. GAS-R at 3.) Mr. Sawyers stated Petitioners already have agreed to make substantial contributions to support assistance to low-income customers. (*Id.*) In order to meet such a requirement, Mr. Sawyers stated Citizens would be forced to reduce the discounts provided to participants. (*Id.* at 4.) “In other words, [Citizens would] collect just \$550,000 from Citizens’ ratepayers and operate the USP with just \$1.1 million.” (*Id.*) Mr. Sawyers believed this would adversely impact the positive

results achieved by the USP. (*Id.*)

Mr. Sawyers noted that no other party suggested Petitioners should contribute more to their respective programs. (*Id.* at 5.) To the contrary, Mr. Sawyers noted that the Residential Customers' expert witness testified: "I am aware of no other large-scale utility energy assistance programs that operate with the level of shareholder contributions that the Indiana Programs enjoy." Mr. Sawyers also stated that increasing Petitioners' contributions is not necessary to "enhance the 'business case,'" based on the results of Mr. Carroll's studies. (*Id.*)

According to Mr. Sawyers, it also is difficult to "quantify" savings achieved by these programs to share with customers as recommended by the OUCC. (*Id.* at 6.) Mr. Sawyers noted that Vectren Energy's actual collection costs went up, but at a slower rate than might otherwise have been expected in the absence of the USP. (*Id.*) Similarly, Mr. Sawyers stated Citizens' bad debt expense has remained constant, instead of increasing as projected by the National Regulatory Research Institute. (*Id.* at 7.) In each case, Mr. Sawyers testified the savings are not individually quantifiable. (*Id.*) However, the avoided cost savings are passed along to customers through delayed rate cases or reduced revenue requirements in rate cases. (*Id.*)

Mr. Sawyers next responded to the OUCC's suggestion that Petitioners establish uniformity among the various programs. (*Id.*) Mr. Sawyers testified Citizens is willing to participate in such a collaborative effort if the programs are reinstated. (*Id.*) However, Mr. Sawyers believed any such collaborative effort should be preceded by the enunciation of clear objectives for a unified program. (*Id.* at 8.)

Mr. Sawyers stated the OUCC's suggestion that the discount distribution be based on the poverty level instead of EAP Matrix points already has technically been implemented by Citizens and Vectren Energy. (*Id.* at 9.) The EAP Matrix takes poverty level into account, but also accounts for other factors, such as whether the applicant is elderly or disabled, or if there are young children in the home. (*Id.*) Nonetheless, Mr. Sawyers stated Citizens is willing to work with the enrolling community action agencies to determine whether it can obtain just poverty level information for USP participants. If such data is available, Citizens is willing to consider implementing this change as part of a future collaborative effort. (*Id.* at 10.)

Mr. Sawyers stated Citizens also is willing to consider adding incentives for participants to keep current with their monthly bill on a limited "pilot" basis, as recommended by the OUCC and Residential Customers. (*Id.* at 11.) However, Mr. Sawyers testified the addition of such incentives to the program would increase the cost of the USP. (*Id.*) Mr. Sawyers stated Citizens could not implement the other modifications suggested by Residential Customers' witness Howat, such as expanding the USP to participants in the LIS program of Medicare Part D and households with incomes of up to 200% of the federal poverty guidelines. (*Id.* at 12.) Mr. Sawyers testified the Residential Customers' recommendations would expand the number of program participants and increase the costs of the program or require that the discounts provided to participating customers be reduced. (*Id.*)

Petitioners' witness Sparks also disagreed with the OUCC's recommendation that the utilities contribute more to the programs. (Pet. Ex. BAS-R at 2-6.) In Mr. Sparks' view, there is no support for the OUCC's recommendation that Petitioners increase their contributions. (*Id.* at 2.)

Mr. Sparks testified there is no need to “enhance” the “business case” for the programs because Mr. Carroll has found that a “business case” already exists based on the utilities’ current contribution levels. (*Id.* at 3.)

In Mr. Sparks’ opinion, Vectren Energy’s shareholders should not pay a greater proportion of the cost of the programs. (*Id.*) Mr. Sparks noted that Vectren Energy already has contributed approximately 35% of the total annual cost of the USP since it has been in existence, amounting to a total of nearly \$12,000,000 by the end of the proposed two-year reinstatement period. (*Id.*) Mr. Sparks stated that under the OUCC’s proposal, Vectren Energy would either have to contribute an additional \$1,082,000 annually or reduce the discounts provided to USP participants, which would diminish its value and adversely impact customer safety, reliability, and satisfaction. (*Id.* at 3-5.)

Mr. Sparks also testified that the savings resulting from the USP already are being shared with customers. (*Id.* at 5.) Both Vectren North and Vectren South recently concluded rate cases and the benefits of the USP in terms of bad debt reduction and offsets were reflected in the test years used in those cases and passed along to customers in the form of lower base rates than might otherwise have been charged. (*Id.* at 6.) Therefore, in Mr. Sparks’ opinion, there is no need to create a complicated 50/50 savings sharing mechanism. (*Id.*)

Mr. Sparks stated Vectren Energy is willing to engage in a collaborative effort to standardize the low-income energy assistance programs among the Petitioners. (*Id.*) However, Mr. Sparks recommended the parties have a clear understanding of the goals to be achieved through the creation of a unified program before embarking on such an undertaking. (*Id.* at 7.) Mr. Sparks noted that national studies evaluating programs in other states have found that there is no clear benefit to operating under a unified program and customers adapt to the approach historically employed by the state. (*Id.*)

Mr. Sparks also stated Vectren Energy, like Citizens, is willing to work with community agencies to determine whether it can obtain the necessary information to base discounts solely on poverty level, rather than EAP Matrix points. (*Id.* at 9.) Vectren Energy also is willing to discuss as part of a collaborative effort adding incentives for participants to keep their gas bill current. (*Id.* at 10.) Mr. Sparks testified that adding such a mechanism would impose a greater cost on ratepayers and should be tested by a limited sample of customers on a “pilot” basis before being offered more broadly. (*Id.*) Mr. Sparks stated, however, that Vectren Energy was not willing to expand the eligibility for the USP as suggested by the Residential Customers. Mr. Sparks stated that requiring the utilities to accept, evaluate, and qualify customers that have not enrolled in LIHEAP as suggested by the Residential Customers would impose a tremendous burden on Vectren Energy and increase the administrative cost of the USP. (*Id.*)

Mr. Martin pointed to OUCC witness Lorton’s acknowledgement that Winter Warmth generated positive benefits and had strong support from the public. (Pet. Ex. MJM-R at 2.) He emphasized, however, that NIPSCO is unwilling to increase shareholder funding for the Program to a dollar for dollar match of ratepayer contributions as Mr. Lorton urged. (*Id.* at 3.) Mr. Martin stated that there was no evidence of the need for an “enhancement” to NIPSCO’s business case for Winter Warmth by requiring additional shareholder funding and that NIPSCO was unwilling to agree to contribute additional shareholder funds. (*Id.* at 4.) He pointed out that NIPSCO’s contribution, as a percentage of its gas revenues, was already greater than the average residential

customer's contribution. (*Id.*) NIPSCO's (and the other Joint Petitioners') level of contribution has already been called "unprecedented" and unique by experts in this field, according to Mr. Martin. Mr. Martin testified that a dollar for dollar contribution from NIPSCO's shareholders would be possible only if the total funding for the Program was reduced so that NIPSCO's proposed contribution remained the same. (*Id.* at 5.) Mr. Martin noted that there was no evidence Winter Warmth would be equally effective with less than a third of the funding.

Mr. Martin also expressed concern with Mr. Lorton's proposal for the Joint Petitioners' to share any savings from the Program on a 50/50 basis with customers. (*Id.*) He highlighted the difficulty in quantifying the savings from Winter Warmth and separating other factors that could influence bad debt expense and other expenses where savings are expected to be generated. (*Id.* at 6.) Mr. Martin also stated that Mr. Lorton did not explain whether the savings would be reset once they are embedded in a new base rate case. Mr. Martin noted that a bad debt tracker would address many of these issues, but Mr. Lorton was not explicitly recommending that type of mechanism. (*Id.*)

Mr. Martin too indicated a willingness to participate in a collaborative to examine best practices but believed it was important to identify the goals of low-income programs before working to develop a single program throughout Indiana. (*Id.* at 7.) Mr. Martin indicated that he would oppose uniformity if that was purely the motivation of the change. He expressed doubt about whether uniformity would really make it easier to compare the performance of the programs, noting the different characteristics of various utilities' service territories. (*Id.*)

Mr. Martin also commented on other recommendations made by Mr. Lorton and Residential Customers' witness Howat. Mr. Martin explained that NIPSCO is already making efforts to promote weatherization through Winter Warmth, and that without further clarification of additional steps sought by the OUCC, he found it difficult to commit to any further "undefined enhancements." (*Id.* at 8.) Mr. Martin confirmed NIPSCO's willingness, on a pilot basis, to explore arrearage forgiveness or an additional earned discount as part of the collaborative recommended by the OUCC. (*Id.*) NIPSCO is not, at this time, proposing to move towards a discounted payment on current bills, but it would agree to evaluate such a proposal in a future collaborative. (*Id.* at 9.) Finally, Mr. Martin testified that customers receiving Medicare Part D Low Income Subsidies are already eligible to receive Winter Warmth assistance.

Petitioners' witness Carroll stated that the OUCC's proposal that each utility contribute \$1 for each dollar contributed by their respective ratepayers is inconsistent with the funding of low-income programs in other states. (Pet. Ex. DC-R at 2.) Mr. Carroll stated that like Residential Customers' witness Howat, he was unaware of any other jurisdiction enjoying the "unprecedented" level of support from utilities and shareholder contributions that is present in Indiana. (*Id.*) Mr. Carroll testified many states have adopted mechanisms to ensure the utilities collect, on a dollar-for-dollar basis, their expenditures on low-income programs. Mr. Carroll cited Maine, California, Pennsylvania, Wisconsin, Maryland, Ohio and New Jersey as examples of states where low-income energy assistance programs are funded entirely by ratepayers. (*Id.* at 3)

Mr. Carroll also stated that additional contributions from the Petitioners are not required to make the programs meet a business case evaluation. (*Id.* at 4.) Mr. Carroll explained that each program already either provides a *net* benefit to non-participating ratepayers or does not adversely impact ratepayers, largely due to the Petitioners' already significant contributions. (*Id.*)

Mr. Carroll testified he believed implementing a mechanism for sharing savings with ratepayers on a 50/50 basis, as suggested by the OUCC, would be difficult due to the complexity involved with attempting to identify "savings" from the programs. (*Id.*) Mr. Carroll cited Vectren Energy's collections costs and Citizens' bad debt costs as examples. Mr. Carroll noted that Vectren Energy's collection costs have increased, but only slightly due to the success of the USP. (*Id.*) Similarly, Citizens' bad debt costs have remained constant, while nationally most gas utilities' bad debt costs have increased. (*Id.* at 5.) Mr. Carroll concluded that expenses have been saved by both utilities due to the programs, but there is no "quantifiable" amount that can be identified and shared because collection costs and bad debt costs have either slightly increased or remained relatively constant. (*Id.*) According to Mr. Carroll, the savings provided by Petitioners' programs allow them to delay seeking an increase in their rates and to reduce the level of any requested rate increase. (*Id.*)

Mr. Carroll also stated the OUCC's recommendation that the Commission establish uniformity among the various low-income energy assistance programs in Indiana is ill-advised, absent further study. (*Id.* at 6.) Mr. Carroll stated that each program has been tested and found to benefit participating customers, while either benefitting or not adversely impacting non-participating customers. (*Id.*) According to Mr. Carroll, any change could risk reducing the benefits currently being realized. (*Id.*)

Mr. Carroll also stated that there is no empirical evidence that arrearage forgiveness or "earning the discount" will work in this jurisdiction to encourage prompt payment from low-income participants. (*Id.* at 7; Pet. Ex. DC-1 and DC-2.) While acknowledging that both mechanisms could potentially improve customer payments, Mr. Carroll advised against implementing a costly full-scale change to the programs without testing the modification on a sample of participating customers and seeing evidence that the revised mechanism would benefit participants and non-participants. (*Id.* at 7.)

*f. Testimony presented at the September 15, 2009 and September 18, 2009 Hearings.*

The parties' witnesses also appeared before the Commission to answer any cross-examination question and questions from the bench. Mr. Carroll, during cross-examination by the OUCC, stated that he did not consider net bad debt expense because he had only asked for gross bad debt from the utilities. He explained that he had only requested gross numbers because he wanted to see the effect on individual ratepayers. He stated that his understanding was that various types of collections would reduce gross write-offs to net write-offs, but he was not sure of all of the factors that would be included in creating a net number. He also explained the rationale for pursuing the customer level analysis rather than the aggregate analysis was that there is no methodology for directly measuring the savings and write-offs because the write-offs did not actually occur.

In response to questioning from the bench, Mr. Carroll admitted that to the extent the programs reduce a utility's bad debt expense, ratepayers do not see that benefit until the reduction of bad debt is placed into a utility's base rates or some other type of rate mechanism refunds that benefit to the ratepayers. Mr. Carroll contended, however, that the programs allow ratepayers to accrue the benefit of avoiding rate cases that would increase the bad debt expense included in rates. In response to further bench questions, Mr. Carroll testified that, using NIPSCO as an example,



NIPSCO's authorized recovery of \$4.5 million dollars of bad debt expense plus the \$6 million from Winter Warmth did not make NIPSCO whole even if NIPSCO's gross bad debt was \$10 million. According to Mr. Carroll, he would have expected NIPSCO's gross bad debt write-offs to increase to \$16 million from \$10 million in the absence of Winter Warmth.

In response to questioning from the bench, Mr. Lykins stated that Citizens had net write-offs of \$4.2 million in 2008. He agreed that Citizens would be fully compensated for bad debt expense if write-offs in a future year were the same as those used to set base rates. Mr. Lykins testified that he did not believe it was possible for Citizens to isolate uncollectible expense from the USP, but did not consider the USP as a tool to recover write-offs. He agreed that he did not intend to double collect from ratepayers for the same expense. Mr. Lykins discussed the expectation for lower gas prices this winter, but opined that continued problems with the economy would still create a demand for the USP.

Mr. Lykins discussed the USP dollars that were carried over from prior years, but did not know why USP dollars were not spent in the year in which they were collected. He stated that he was not aware of a similar program for electric heating customers within the Citizens Gas service territory, although he testified that a majority of homes within Marion County are heated with natural gas. Mr. Lykins explained that Westfield Gas, which is owned by Citizens Energy Group, does not have a USP, but that he would like to implement such a program for Westfield Gas customers. Finally, Mr. Lykins testified that in response to the moratorium on shut-offs imposed by the General Assembly, Citizens has not gone back to the legislature for funding; instead, Citizens has attempted to manage the process in the most effective way possible.

Ms. Odum, responding to questions from the bench, testified that Winter Warmth contributes to closing the shortfall between the \$4.5 million of bad debt included in NIPSCO's base rates and the actual write-offs that NIPSCO has made in the past five years, but does not contribute to the entire difference. She later stated that she did not consider Winter Warmth as a direct dollar for dollar offset for bad debt. Ms. Odum acknowledged that ratepayers predominantly fund Winter Warmth, with NIPSCO only contributing 18 percent of the program cost. She admitted that the \$950,000 contributed by NIPSCO shareholders to Winter Warmth is further reduced on a net basis by the tax benefit of the business expense deduction and administrative costs.

Ms. Odum also discussed the lack of a similar program for electric heating customers within NIPSCO's service area, stating that while the Winter Warmth program was initiated during a time of high gas price volatility, electric heating customers would have the same heating season impacts as those faced by gas heating customers. Finally, Ms. Odum stated that she did not believe NIPSCO had ever approached the General Assembly to seek State assistance from the state-mandated gas moratorium, although she personally did not believe low-income ratepayer assistance was necessarily a ratepayer obligation.

Mr. Ellerbrook testified that low-income electric heating customers had similar needs as gas customers, but Vectren did not see a need to extend the program to those customers at this time. He stated that he believed the impetus for Vectren's USP program came from the industry, and not from the State. Mr. Ellerbrook testified that he did not agree that the USP program could be characterized as a bad debt tracker, and that one would hope that credits to USP qualifying customers are exceeded by other cost of service elements, including uncollectible accounts. He

explained that Vectren's recent base rate cases allowed for a commodity cost tracking element for uncollectible accounts, but the existence of the USP program avoided some uncollectible expense being included in base rates. He further stated that by considering the USP program in its base rate case, he did not believe that there were any winners or losers.

In responding to the tax consequences of the shareholder contribution to the USP programs, Mr. Ellerbrook agreed that the net effect of the shareholder contribution would be reduced on an after-tax basis, he opined that there would also be a corresponding revenue reduction that would offset the deduction from the contribution. He stated that the bulk of the funds that go towards funding program costs, from Vectren's position, come from the Proliance settlement and are treated not as a charitable contributions, but as a business expense deduction. Mr. Ellerbrook agreed that the general ratemaking process would allow a utility to establish all costs and capture all costs, although potentially resulting in a substantial number of customers that are disconnected absent a USP program.

## **5. Discussion and Commission Findings.**

### *a. Background of this Cause and Low-Income Assistance programs.*

In reviewing the program proposals in this Cause, we find it useful to acknowledge the history of these programs before the Commission. On March 4, 2004 in Cause 42590, Vectren and Citizens filed a joint request for approval of their USP programs. As stated in the Commission's August 18, 2004 Order in that Cause, the Commission conducted two evidentiary hearings prior to issuing its Order approving a settlement agreement among all of the parties to that Cause, which created a two-year pilot program. On December 9, 2005, Vectren sought to modify the settlement agreement to address "Share the Warmth" funding, and the Commission conducted a third evidentiary hearing prior to issuing a second order on January 18, 2006.

On September 21, 2004 in Cause 42722, NIPSCO filed its first request for approval of its Winter Warmth program. As stated in the Commission's December 15, 2004 Order in that Cause, the Commission conducted an evidentiary hearing on November 30, 2004 and approved a settlement agreement among all or the parties for a one-year pilot program.

On October 3, 2005 in Cause 42927, NIPSCO filed its request seeking extension of its one-year program. As stated in the Commission's January 31, 2006 Order in that Cause, the Commission conducted two evidentiary hearings, a field hearing in Fort Wayne, Indiana, and a third evidentiary hearing prior to approving a one-year extension of its pilot program.

On June 27, 2006 in Cause 43077, NIPSCO filed a third request for extension of its Winter Warmth program, and Vectren and Citizens filed a joint request on the same day in Cause 43078. The two Causes were later consolidated. The Commission conducted an evidentiary hearing on October 13, 2006, which was converted to a technical conference to address the prefiled evidence then in the record. The Commission conducted two additional evidentiary hearings prior to issuing its Interim Order approving an extension of the programs through May 31, 2007. The Commission conducted two additional technical conferences on June 14, 2007 and July 24, 2007, prior to conducting two additional evidentiary hearings. On November 4, 2007, the Commission issued its final order in Cause 43077/43078 modifying the settlement agreement and extending the programs

until May 31, 2009.

The history of this Cause was discussed earlier in this order, but in brief, consisted of two technical conferences and two days of evidentiary hearings. In total, the Commission has conducted five technical conferences, a field hearing, and thirteen evidentiary hearings to reach this stage of the proceedings.

The programs at issue in this Cause supplement the federal low income program for heating assistance pursuant to the Low Income Energy Assistance Program ("LIHEAP"). LIHEAP is a federally funded grant program implemented by each state to assist low-income households with a household income of up to 150% of poverty level. Congress has appropriated \$4.5 billion for the program nationwide, and an additional \$590 million contingency budget. The program targets those with the lowest incomes paying a high proportion of their household income primarily for meeting their immediate home energy needs. The program encourages that priority be given to those with the "highest home energy needs," meaning low income households with a high energy burden and/or the presence of a "vulnerable" individual in the household, such as a young child, disabled person, or an elderly individual. The forms of assistance for low-income households may include: financial assistance towards a household's energy bill, emergency assistance if a household's home energy service is shut-off or about to be shut-off and a range of other energy-related services that a state may choose to offer, such as weatherization improvements, repair and replacement of energy equipment, etc. See U.S. DEPT. OF HEALTH AND HUMAN SERVICES, LIHEAP Fact Sheet, *available at* <http://www.acf.hhs.gov/programs/ocs/liheap/about/index.html>. As a federal program, LIHEAP is ultimately funded by tax revenues received from the general public, i.e., not solely utility ratepayers.

Petitioners also funded separate crisis or hardship programs that provided bill assistance to customers up to 200% of poverty level. Because LIHEAP funding does not assist customers above the 150% poverty level, NIPSCO proposed customer assistance for those ratepayers up to 200% of poverty level as part of its Winter Warmth program. In Cause 43077/43078, Joint Petitioners' witness Roger Colton recommended that Citizens and Vectren include additional funding for ratepayers between 150 percent and 200 percent of poverty level. Based on Mr. Colton's recommendation, Citizens and Vectren pledged additional funding for assisting customers between 150 percent and 200 percent of poverty level for the programs that ended in May 2009. For the proposed programs at issue in this Cause, Vectren pledged \$150,000, Citizens pledged \$450,000, and NIPSCO pledged \$500,000 of assistance for customers between the 150% and 200% of poverty level.

*b. Review of Petitioners' Programs under the AUR Act.*

Each Petitioner is an "energy utility" under the AUR Act. Petitioners commenced this Cause for the purpose of seeking Commission approval to implement ARPs, pursuant to Ind. Code 8-1-2.5. Under Section 6(a)(1) of the AUR Act, the Commission may adopt alternative regulatory practices, procedures and mechanisms and establish just and reasonable rates and charges that: (a) are in the public interest as determined by consideration of the factors listed in Ind. Code § 8-1-2.5-5; and (b) enhance or maintain the value of the energy utility's retail energy services or property, including practices and procedures focusing on price, quality, reliability and efficiency of the service provided by the energy utility. Pursuant to Ind. Code § 8-1-2.5-5(b), the Commission, in

determining whether the public interest will be served must consider:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.
- (2) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility's customers or the state.
- (3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.
- (4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

In our November 7, 2007 Order in Consolidated Cause Nos. 43077/43078, we found "the evidence of record in this consolidated case . . . falls short of adequately demonstrating the impact of Petitioners' programs on the finances of Petitioners." Consolidated Cause Nos. 43077/43078 at 20 (approved November 7, 2007). We further stated "[i]t is our goal that in extending the pilot programs, Petitioners will be able to focus on demonstrating the 'business case' for these programs and provide the type of data the Commission believes appropriate" as part of their seeking reinstatement of the programs. *Id.* Although we approved the continuation of the pilot programs, our determination of the public interest of Petitioners' respective programs shifted to whether the Petitioners demonstrated the business case of the programs.

In this proceeding, the utilities retained David Carroll of APPRISE, Inc. to evaluate the benefits received by ratepayers who do not participate in the programs in comparison to ratepayers' contributions toward the programs. APPRISE is a nonprofit research institute dedicated to collecting and analyzing data and information relating to programs that provide bill payment assistance, energy education, and energy efficiency services to low-income households.

The methodology Mr. Carroll used to perform the "business case" analysis takes into account ratepayer contributions as compared to avoided bad debt and collections costs, and other indirect costs. Mr. Carroll concluded there is a "business case" for the reinstatement of each of Petitioners' respective low-income energy assistance programs. With respect to the Citizens and NIPSCO low-income energy assistance programs, Mr. Carroll concluded the cost paid by ratepayers is less than the calculated benefit of the programs. Specifically, Mr. Carroll concluded Citizens' ratepayers "were net better off in 2008 for each customer that participated in the USP by \$47." Similarly, Mr. Carroll found the gross cost of the NIPSCO Winter Warmth Program per participating customer was exceeded by the benefits, and NIPSCO ratepayers received a net benefit of \$59 per participant. With respect to Vectren Energy's USP, Mr. Carroll determined that the cost paid by ratepayers was completely offset by the calculated benefit of the program. Mr. Carroll stated that the Vectren Energy program did not adversely impact non-participating ratepayers and significantly benefited participating customers.

Although no party to this proceeding contested the findings of Mr. Carroll's "business case" analysis, the decision on whether a business case was made or not ultimately rests with this Commission, and not whether any parties disputed whether such a case was made. Mr. Carroll's testimony acknowledged that this analysis is "difficult:"

As I described during the first technical conference, it is very difficult to develop reasonable estimates of cost offsets for an "Aggregate Business Case Analysis." In particular, it is virtually impossible to assess the amount of the utility's write-off savings, collections cost savings, etc. without having data for all participants before and after they began participating in the programs. Other cost offsets, include costs associated with: interest on working capital that is required to fund outstanding customer arrearages; customer service calls that relate to payment problems and the resolution of payment problems; and resolving regulatory issues relating to complaints by customers with payment problems. Again, each of these costs is virtually impossible to measure without data for all participants before and after they began participating in the programs. Even the measurements would require that assumptions be made.

Exhibit DC-S at 13. Mr. Carroll further discussed this at the hearing:

[W]hen people talk about all of the ratepayer funded energy assistance programs that have been implemented, they -- many of them can be traced back to that time period when . . . people started to understand how vulnerable low income households are to those shocks to the rates, *and what you can see is it's difficult to do an analysis of what would . . . have occurred if these programs weren't in place in terms of costs to ratepayers to address uncollectibles.* [W]hat kind of rate cases would have needed to be held in order to . . . give the utilities their appropriate rate of return or, you know, whatever your goals are with respect to that, and the answer is you can't tell because you had the programs in place, so they mitigated the potential increase in those uncollectibles.

Transcript B49-B50 (emphasis added).

Unlike the parties to this case, we cannot say that Petitioners have fully demonstrated the "business case" for these programs. As discussed by Mr. Carroll, his approach was to examine the "long-term" benefits of the program—however, we as the Commission must also look at the short-term benefits in terms of the costs that ratepayers must bear to allow utilities to implement these programs. The effect of ratepayer funding of these programs is immediate, while the avoided costs of increased bad debt are not going to be realized until those costs are placed into rates. While much focus was placed on the utility contribution to the programs, little was placed on the net cost to the utilities when tax implications were considered. NIPSCO's Winter Warmth proposal, for instance, contributes less than \$1 per \$5 contributed by ratepayers. On an after tax basis, NIPSCO's \$915,000 contribution drops substantially, and more so after its \$314,545 of administrative expenses are considered.

Although we do not find that Petitioners were able to fully demonstrate the financial aspects of a business case, we do not conclude the exercise was futile or without value. Instead, we find

that these programs offer complexities with respect to ratemaking that should ultimately be addressed in the context of a utility base rate case rather than as a single issue under the AUR Act. Mr. Ellerbrook noted that the programs were not necessary on a theoretical level if costs were considered in a rate case:

[T]here is a point with this sort of a program where . . . science stops and art begins, and you start talking about . . . some costs that are measurable and some that are not measurable, but, again, I would say that . . . as a matter of pure ratemaking theory, I think you could not have this program and ultimately establish costs at a level that allows the company to earn its allowed return so all the costs could be recovered.

(Tr. at C42-C43.)

Each of the utility's CEOs acknowledged that bad debt expense is a portion of the rates that are currently collected by the utilities. Based on the data contained in Petitioner's Exhibit 4-LF, Citizens is authorized to collect \$1.1 million of bad debt expense through base rates, and in 2008, collected an additional \$2.4 million of bad debt expense through its GCA tracking mechanism. Vectren's gas companies are authorized to collect \$2.6 million of bad debt expense through base rates, and in 2008, collected an additional \$6.1 million of bad debt expense through their GCA tracking mechanisms. NIPSCO, which has not had a base rate case since 1988, is authorized to collect \$4.5 million of bad debt expense through base rates. We further note that Citizens' and Vectren's rate cases involved test years during which the USP programs were in effect, which may have affected the amount of bad debt the utilities encountered during the test year.

Mr. Carroll's analysis appears to have considered bad debt expense, but it is not clear that his analysis provides a true picture of the effect the utilities' authorized recovery of bad debt expense has on the business case for the programs. Mr. Carroll stated during the hearing that he only utilized gross bad debts in his business case analysis. In doing so, he acknowledged that a number of factors that would have offset bad debt expense were ignored. We are mindful that each of the Petitioners is allowed to recover an amount of bad debt expense that was approved by the Commission in its last respective base rate case. We are also mindful that approving the recovery of program costs, in isolation, and in the absence of considering the costs of other related expense items, may lead to a utility rate that allows a utility to over-recover with respect to the previously-approved expense items. As stated by Ms. Odum, for instance, Winter Warmth "contributes to some closure of that shortfall [between authorized bad debt expense and actual debt expense]." Tr. at EOO-15. While she later opined that it did not contribute to the entire difference, the lack of evidence presented in this case makes it impossible for this Commission to make a similar conclusion.

It is well-settled that a rate that allows an over-recovery, just as with one that allows an under-recovery, is an illegal and confiscatory rate. See *Public Service Comm. v. City of Indianapolis*, 235 Ind. 70, 131 N.E.2d 308, 314 n.1 (1956), citing *Terre Haute Gas Corp. v. Johnson*, 221 Ind. 499, 45 N.E.2d 484 (1943). Here, the record is wholly incomplete, and as such, there is insufficient evidence of record to determine whether or to what extent the Petitioners are missing or exceeding their authorized returns.

In spite of the lack of evidentiary support, we also recognize that the proposed programs may not offset bad debt expense on a dollar-for-dollar basis. In some ways, the programs complement a utility's bad debt expense by increasing low-income customer bill payment and helping to maintain such customers on the utility's system. As stated by Mr. Ellerbrook:

USP participants are less likely to divert gas (a growing industry issue) which creates significant safety issues and investigation costs, and potential higher unaccounted for gas costs for all customers. . . . [T]o the extent these USP customers retain service, they do not call the utility—given a small percent of customers drive call center volume, increased calls from disconnected or payment challenged customers means that all other customers have more trouble getting their needs met when the call center is busy. And, if our field personnel are not engaged in disconnections and reconnections, apart from reduced costs, they can perform other functions that enhance reliability. In my view, these unquantified benefits do create a USP “business case.”

(Pet. Ex. NCE at 9-10.)

In addition to considering these unquantified benefits, we note that the shut-off moratorium established by Ind. Code Section 8-1-2-121 prevents utilities from making certain business decisions during the heating season. Even though some of the costs associated with the moratorium will be reflected in terms of a utility's recovery of bad debt, some of those costs can be avoided through the USP/Winter Warmth programs.

This matter contains a confluence of issues that, unfortunately, are not within the ability of the Commission to resolve on a firm factual basis consistent with its statutory mandate and its usual procedures. The issue of recovery by some mechanism of the Petitioners' costs related to nonpayment by those who have benefitted from service, at least until 2004, was never a particular issue that was treated in a context other than a rate case. At the request of the Petitioners, the Commission undertook to examine this issue more closely but, unfortunately, did so in isolation via an ARP rather than through more comprehensive proceedings in a rate case.

One of the responsibilities of the Commission is to set rates that, among other things, are fair and nondiscriminatory; thus, all customers are treated alike and like any business, those who are unable or choose not to pay for the service are denied it. The Commission has recognized that there will be a financial effect from customers that do not pay their bills and, in every one of the Petitioners' base rates, there is a portion that is in recognition that not only will some customers not pay their bills but, despite their best efforts, the utility will not recover its expenses from that customer. It is the Commission's responsibility to maintain financially healthy utilities and, as part of that responsibility, it reviews the operations of the utilities and determines if they are conducting themselves appropriately. Typically, this oversight is done in a comprehensive manner; in fact, the Commission typically will not look at a particular cost factor in isolation.

The primary difference that is, at least in part, affecting this particular issue is the role of the Legislature. As set out in Ind. Code § 8-1-2-121, virtually all electric and gas utilities are prohibited from terminating service to a particular class of customers: this means, of course, that service continues, even in the face of nonpayment, during the moratorium period. The statute does not

provide funding to replace this lost revenue.

As noted above, the Commission has approved inclusion in base rates and the Petitioners are currently collecting an amount in recognition of this revenue shortfall. In 2008, Citizens was authorized to collect \$1.1 million through base rates plus an additional recovery through its GCA; Vectren was authorized to collect \$2.4 million through base rates plus an additional recovery through its GCAs; and NIPSCO was authorized to collect \$4.5 million through base rates. Additional funding is available to utilities from the federal government through LIHEAP. This funding is targeted toward the same customers that are covered by Ind. Code § 8-1-2-121. The amount varies by year, but in 2008 was \$67.6 million.<sup>1</sup> This money is not disbursed to the recipients, but is transferred directly to the utilities. The State also has a variety of programs available including the township trustee. There was no evidence of the amounts made available through these programs or agencies. The Petitioners also seek to establish a program that addresses the revenue shortfall from a customer group that is not covered by the statute typically, i.e., those that are at an income level of greater than 150% of poverty but not exceeding 200%. No evidence established the development of this group. For the programs Petitioners seek to establish herein, all are on top of the existing rate structures that provide current funding, on top of the LIHEAP funding and on top of any other assistance.

The funding for the new programs comes in greatest measure from ratepayers; the Petitioners, in varying amounts, also contribute. This is the source of some divergence amongst Petitioners. Citizens is not an investor-owned utility, but for rate purposes is regulated as a municipality. It most assuredly is not a municipality as it has, among other things, sources of income not available to the other Petitioners. Thus, even though it seeks contributions from its ratepayers, it also contributes money from its unregulated entities such as Proliance. *See Petition of the Board of Directors for the Department of Public Utilities of the City of Indianapolis*, Cause 41605 (Dec. 11, 2002). As Mr. Ellerbrook indicated, Vectren also utilizes funds made available to Vectren through the Proliance settlement in Cause 42973. *See Verified Joint Petition of Indiana Gas et al.*, Cause 42973 (April 25, 2006). In addition, the stated "contributions" from the investor-owned Petitioners turn out to be contributions that are, on an after tax basis, considerably less than the stated amount.

Even though they are "Joint" Petitioners, the requested programs all differ from each other in many respects as do the costs identified amongst the Petitioners; for all practicable purposes, there are three separate petitions. The proffered evidence is weak on showing, on an accounting basis, and on the reviewable revenue shortfall from 2008 or any other period. Still, there is evidence of revenue shortfalls that are appropriate for cost recovery. Absent the Legislative mandate that creates this shortfall, the Commission would likely not consider responding to the Petition outside of a full rate case. Here, it seems appropriate to allow these programs, as modified herein, in order to be responsive and to allow the gathering of experience for this issue to be considered in a rate case.

Having considered these programs previously under the AUR Act, we conclude that the programs contribute to a number of moving parts that are more appropriately addressed through a

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<sup>1</sup> Indiana LIHEAP Fact Sheet, available at [www.liheap.org/liheap%20fact%20sheet/IN/liheap-IN.pdf](http://www.liheap.org/liheap%20fact%20sheet/IN/liheap-IN.pdf).



rate case. Accordingly, the programs are hereby approved until the Commission's order in the respective utility's next rate case, as modified in Paragraph 5(c)(ii), below.

Based on the Commission's discussions with NIPSCO, Citizens, and Vectren outside of the context of this Cause, all three utilities have indicated that new rate cases would be filed within the next three years, with NIPSCO filing in 2010, and Citizens and Vectren filing in 2012. Inasmuch as the utilities wish to continue these programs, the programs shall be included as part of the requested relief in their respective base rate cases, which must be filed by October 31, 2012 in order for the programs not to lapse. If a rate case is not filed by each of these utilities by October 31, 2012, the programs authorized in this Cause will terminate and will not be considered by this Commission outside the context of a base rate case.

*c. Terms of the Reinstated Programs*

*i. Recommended Changes to the Programs.*

Petitioners proposed to operate and fund their respective low-income energy assistance programs in fundamentally the same manner as set forth in the September 6, 2007 Stipulation and Settlement Agreement, which the Commission approved in Consolidated Cause Nos. 43077/43078. The manner in which Petitioners' programs would be operated and funded if the Commission approved their reinstatement in this Cause is specifically described in Petitioners' direct testimony and exhibits. Petitioners proposed only two modifications to the programs: (i) all three Petitioners proposed to use their respective programs to promote participation in the federal ARRA weatherization assistance program, by requiring customers seeking assistance under the respective programs to apply for funds to weatherize their homes (Amended Petition ¶ 16); and (ii) NIPSCO proposed to modify its program to require customers receiving Winter Warmth funds to make at least some payment on their bills during the moratorium period and make a \$50 payment toward their outstanding balance prior to receiving assistance and to implement a true-up mechanism to ensure that the Winter Warmth Rider, combined with NIPSCO's contribution, generates \$6 million.

No party contested the modifications Petitioners proposed to make to their respective programs. However, the OUCC and Residential Customers each recommended certain operational enhancements to the programs. In addition, the OUCC recommended: "that each utility be directed to contribute \$1 for each dollar contributed by their respective ratepayers to their universal service and winter warmth programs;" or alternatively, "each utility could share any quantifiable savings of these programs with their ratepayers on a 50/50 basis." This proposal was later reduced to a one-third/two-thirds basis in the OUCC's proposed order. These proposed modifications are addressed below.

*a. Recommended program enhancements.*

The OUCC recommended the following modifications to the programs: (i) establish uniformity among the various utility universal service programs in Indiana through a collaborative effort; (ii) change the Citizens and Vectren Energy discount distribution to be based on the poverty level rather than the Energy Assistance Program Matrix points; (iii) add incentives for participants to keep current with their monthly gas bills (such as arrearage forgiveness or an additional earned discount); and (iv) enhance outreach efforts to involve program participants in weatherization programs. The Residential Customers also recommended that Petitioners offer an arrearage

retirement program. In addition, the Residential Customers recommended that Petitioners expand their programs “so that customers qualified for the Medicare Part D LIS program are automatically enrolled” and to include customers at or below 200% of the federal Poverty Guidelines.

In general, Petitioners agreed to consider each of the above recommendations proposed by the OUCC and Residential Customers going forward. Petitioners also indicated they were willing to discuss adding incentives to their programs for participants to keep current with their monthly gas bills. Petitioners noted that customers enrolling in the USP will be required to apply for any applicable weatherization programs, including the ARRA weatherization assistance program.

b. Increased utility contribution

The OUCC recommended “[i]n order to enhance the ‘business case’ for these programs, . . . that each utility be directed to contribute \$1 for each dollar contributed by their respective ratepayers to their universal service and winter warmth programs. In other words, each utility would contribute 50% of the funding for their respective programs.” Petitioners indicated that in order to meet such a dollar-for-dollar requirement, if it were to be ordered by the Commission, they would have to reduce the benefits provided by their respective programs and collect from ratepayers only the amount the utility was able and willing to contribute.

ii. Commission Findings with respect to program modifications

As discussed above, we find that Petitioners’ programs shall be reinstated and operate as the Petitioners proposed in their case-in-chief, as modified below. The utilities shall encourage the use of the ARRA weatherization assistance program funds by providing the application materials for weatherization assistance to all program participants and encouraging participant applications for such assistance.

We understand that the discounts offered under the Citizens and Vectren Energy USPs will be included on customer bills beginning in the next billing cycle after the effective date of this Order. Due to delays brought on by the Petitioners’ own failure to present their case to the Commission, there is no time to consider, test and implement any of the modifications suggested by the parties prior to the beginning of the 2009-2010 heating season. We note that Petitioners’ witness Carroll cautioned that it would be “prudent to test [any] change with a sample of participating customers prior to full-scale implementation.” We also note that the evidentiary record lacks sufficient specificity as to how proposed changes to the programs would be designed and operate.

However, there are certain changes toward uniformity that can and must be made in order for this Commission to allow the utilities to continue these programs through their next rate case orders. First, the utility contributions to these programs need to be more consistent. Under Petitioners’ current proposals: (i) before considering resources carried over from prior years, Citizens will contribute \$550,000 to its USP – or approximately 18% of the total \$3.2 million cost of the program; (ii) Vectren Energy will contribute \$1,098,000 to its USP – or approximately 23% of the \$4.8 million cost of the program; and (iii) NIPSCO will contribute \$915,254 to the Winter Warmth Program – or 18% of the \$6 million that will fund the program. These amounts are consistent with the amounts Petitioners have contributed to the programs in past years.

One "role of the Commission is to find a proper balance between a utility's ratepayers and its investors." *In re Indiana-American Water Company, Inc.*, Cause No. 40103 (May 30, 1996). We believe those interests would be balanced if we were to modify Petitioners' ARPs and require increased utility contributions. The evidence indicates the utilities are contributing between 18% and 23% of the costs of their respective programs. Conversely, the utilities' ratepayers are contributing between 77% and 82% to the USP and Winter Warmth Programs. This significant difference between utility and ratepayer contributions does not represent an appropriate balance given the fact these programs provide benefits to both the utilities and the ratepayers. However, the Commission finds the matching of ratepayer contributions should be done in a more incremental approach than as proposed by the OUCC.

Therefore, the Commission finds that until these programs are considered in a rate case, the utilities shall contribute at least 25% of the program cost. The 25% utility contribution shall not include administrative expenses. Based on total program amounts presented by the utilities, Vectren's dollar contribution shall be approximately \$1.2 million, Citizens' dollar contribution shall be approximately \$800,000, and NIPSCO's dollar contribution shall be approximately \$1.5 million.

We further find that program dollars shall not be used to pay customer deposits. The function of these programs is to help create a positive payment behavior by participating customers. Deposits function to protect the utility rather than serve the function of these programs. NIPSCO is the only utility that currently uses program funds to "credit" customer accounts for deposits.

Going forward, if Petitioners seek to have the Commission consider the USP/Winter Warmth programs in their respective upcoming base rate cases, it would be advantageous to move toward a uniform program that in addition to serving Petitioners' customers, could also potentially serve as a model program that other gas utilities may utilize should they seek to implement similar programs for their customers. From the Commission's perspective, the ideal uniform program will be transparent and will allow for comparison among participating utilities, minimize administrative costs, and best serve the main goal of the programs, namely, to create a positive payment behavior by participating customers.

**6. Reporting Requirements.** During the interim period between the issuance of this Order and the Commission's Orders in each utility's next base rate cases, the Petitioners, on or before August 15, shall file, under this Cause, the following information on a calendar year basis and on a July to July basis: Ratepayer contributions received; utility contributions made; prior year carryover (if any); bad debt recovered through base rates; bad debt recovered through GCA; net bad debt write off during the reporting period. Additional hearings or technical conferences may be necessary as part of the Commission's review process involving the data included in the annual compliance filings.

**7. Conclusion.** Based upon the applicable law and evidence presented, we find that the ARPs, as modified herein, are reasonable and in the public interest and that reinstatement of the USPs should be approved consistent with our findings set forth herein.

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

1. Petitioners' proposed Alternative Regulatory Plans, as modified in this Order, shall be and hereby are approved and Petitioners are hereby authorized to implement the terms thereof. Specifically, each Petitioner shall fund at least 25% of the program costs as indicated above, and any administrative costs shall not be counted towards that amount. Program funding may not be utilized for deposits.

2. Petitioners' low-income energy assistance programs shall be effective immediately and shall expire upon the effective date of a final Commission order in Petitioners' next base rate case. For any Petitioner that fails to file a rate case by October 31, 2012, the programs shall terminate on that date and shall not be considered under the AUR Act.

3. Petitioners are hereby authorized to file tariff sheets consistent with the above findings, which shall become effective upon their filing and approval with the Commission's Natural Gas Division.

4. Petitioners shall make compliance filings in accordance with Para. 6.

5. In accordance with I.C. 8-1-2-70, Citizens shall pay the following itemized charges within twenty days from the date of the Order to the Secretary of this Commission, as well as any additional costs which were or may be incurred in connection with this Cause:

Commission Charges	\$ 3,208.88
OUCC Charges	\$ 1,097.67
Legal Advertising Charges	\$ 153.97
Total	\$ 4,460.52

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

**GOLC, LANDIS, AND ZIEGNER CONCUR; HARDY AND ATTERHOLT ABSENT:**

**APPROVED: NOV 19 2009**

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



**Shala M. Coe**  
**Acting Secretary to the Commission**