

FILED  
May 8, 2020  
INDIANA UTILITY  
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

CAUSE NO. 45380

**INDIANA UTILITY CONSUMER COUNSELOR’S VERIFIED PETITION FOR  
GENERIC INVESTIGATION INTO COVID-19 IMPACTS**

The Indiana Utility Consumer Counselor, William I. Fine, having been duly sworn upon his oath, respectfully petitions the Indiana Utility Regulatory Commission (“Commission”) to commence a generic investigation to consider the impacts of COVID-19 and Governor Eric J. Holcomb’s COVID-19 Executive Orders on the rates and provision of utility services (“Petition”). Hoosiers are now facing unprecedented health and financial hardships caused by the COVID-19 pandemic that will continue for the foreseeable future. Absent action to abate looming utility service disconnections for many customers and sizeable accumulated payment obligations, ratepayers in Indiana will experience serious challenges when Governor Holcomb’s Executive Order prohibiting service disconnections expires. To address the difficult and critical consequences of the COVID-19 pandemic, the Office of Utility Consumer Counselor (“OUCC”) requests the Commission, in expedited fashion, conduct a two-phase investigation. In the first phase, the OUCC proposes the Commission protect the immediate needs of Indiana ratepayers by requiring all jurisdictional Indiana utilities to (a) stay all utility service disconnections that will be

pending or imminent when the State's disconnection moratorium is lifted, (b) waive certain utility fees, including late fees, convenience fees, deposits, and reconnection fees, and expand the use of payment arrangements to aid customers, and (c) immediately begin using regulatory accounting, such as the use of regulatory assets and liabilities for any impacts related to (a) and (b) until such time as it is determined how to appropriately address the delivery of utility service during and for a period after the ongoing public health and global economic emergency. The OUCC proposes the second phase of this generic investigation address all related remaining issues through utility-specific sub-dockets, if necessary, and offers in this Petition a non-exhaustive listing of potential issues at a high level. In support of this Petition, the OUCC represents the following:

1. On March 6, 2020, Indiana Governor Eric J. Holcomb issued Executive Order 20-02 declaring a public health disaster emergency in Indiana attributable to COVID-19. On March 19, 2020, Governor Holcomb issued Executive Order 20-05 "HELPING HOOSIERS DURING THE PUBLIC HEALTH EMERGENCY DECLARED FOR THE CORONAVIRUS DISEASE 2019 OUTBREAK," which prohibited providers of gas and electric utilities, broadband, telecommunication, water and wastewater services from discontinuing service to any customer in the state as these services are essential to Hoosiers and Hoosier businesses particularly during this state of public health emergency. Governor Holcomb's Executive Order 20-25, issued on May 1, 2020, renewed Indiana's COVID-19 public health disaster emergency declaration, including the prohibition on utility disconnections through June 4, 2020.

2. The COVID-19 pandemic has resulted in a health and economic crisis across the world, including within the United States and the State of Indiana. As of the date of this filing, over 1.3 million Americans have been diagnosed with COVID-19 and over 77,000

Americans have died from the disease. In Indiana, as of the date of this filing, the State Department of Health reports over 23,146 positive COVID-19 cases and 1,328 COVID-19 deaths. Millions of Americans, including many Indiana residents, are under some form of a “stay at home” order in an effort to slow the spread of COVID-19, requiring many to work remotely while others have faced imposed and indefinite unemployment as a result. On March 23, 2020, Governor Holcomb issued Executive Order 20-08 “DIRECTIVE FOR HOOSIERS TO STAY AT HOME” ordering all non-essential activity in Indiana to cease. Executive Order 20-26 “ROADMAP TO REOPEN INDIANA FOR HOOSIERS, BUSINESSES AND STATE GOVERNMENT” provides Governor Holcomb’s five-stage plan to provide for a phased reopening of Indiana’s economy by July 4, 2020. In addition to substantial disruptions in daily life, the COVID-19 pandemic has created a sudden, immense impact on the American economy. The U.S. Bureau of Labor Statistics reports the nation’s unemployment rate through the end of April 2020 is 14.7%, with over 20 million jobs lost in the month of April alone. U.S. unemployment in February 2020 was 3.5%. In the week ending May 2, 2020, over 3 million Americans applied for unemployment benefits for the first time, including over 43,000 Hoosiers. The Atlanta Federal Reserve US Gross Domestic Product (“GDP”) estimate for the second quarter is currently negative 34.9%. The widespread shuttering of many businesses and unexpected shift to remote work for many Hoosiers has undoubtedly had an effect on demand for essential utility service within the State, and on customers’ ability to pay for such services during this time of tremendous financial strain.

3. The Commission is authorized to take emergency action when necessary to prevent injury to the business or interests of the people or any public utility of this state, including

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

4. Consistent with the Commission's authority and obligation under Ind. Code § 8-1-2-113 and in light of the widespread effects of the COVID-19 pandemic and uncertainty as to when it will end, the OUCC requests the Commission immediately initiate Phase 1 of this generic COVID-19 proceeding by staying all jurisdictional utility service disconnections that will be pending or imminent when the moratorium on utility service disconnections as set forth in the Governor's Executive Order 20-05 expires on June 4, 2020. The OUCC requests the Commission also find that current public health and economic circumstances justify the waiver of certain utility fees, including late fees, convenience fees, deposits, and reconnection fees, and that Indiana utilities should expand the use of payment arrangements to aid customers.<sup>1</sup> The OUCC requests the Commission

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<sup>1</sup> All non-jurisdictional utilities should be encouraged to enact similar practices to suspend utility service disconnections, waive certain fees, and expand customer payment arrangements.

order utilities to immediately begin using regulatory accounting, such as the use of regulatory assets and liabilities, for any impacts related to the continuation of the service disconnection moratorium, waiver of fees, and expanded customer payment arrangements since March 19, 2020, the date of Governor Holcomb's Executive Order 20-05, until such time as it is determined how to appropriately address the delivery of utility service during the ongoing public health and global economic crisis. Authorizing utilities to make use of regulatory accounting as described herein does not bind the Commission, the OUCC, or any other party to any particular treatment in a future proceeding, nor is the Commission, the OUCC, or any other party prohibited from inquiring about or considering the effect of any operational savings or other financial impacts that may occur as a result of COVID-19. As part of any Phase 1 order, the Commission should direct utilities to maintain adequate records to document these impacts for future consideration.

5. The OUCC further requests the Commission consider all other COVID-19 issues in Phase 2 of this generic proceeding within utility-specific sub-dockets, if necessary.

Examples of potential issues for examination in Phase 2 include:

- Appropriate cost recovery methodology, based on review for reasonableness, necessity, and prudence;
- Prohibitions on requests for recovery of COVID-19 related regulatory assets earlier than the utility's next base rate case, except in emergency situations;
- The extent to which the use of 2020 as a test year remains reasonable without adjustment;
- Expectations of utilities to defer capital projects and reduce expenses to the extent reasonably possible for the remainder of 2020;

- Expectations for utilities to take advantage of opportunities for utility cost savings, such as through refinancing of outstanding debt where feasible; and
  - Regulatory treatment of funds received from the federal or state government in the event utilities avail themselves of available federal or state relief funding.
6. To the extent other requests for COVID-19 relief are submitted to the Commission, the OUCC requests the Commission conduct a uniform investigation to address all COVID-19 issues in a manner that supports administrative efficiency and equitable relief for all customers.
7. I affirm under the pains and penalties of perjury that the foregoing representations are true to the best of my knowledge and belief.

WHEREFORE, the OUCC respectfully requests that the Commission promptly enter an appropriate order consistent with the OUCC's request in Paragraphs 4, 5, and 6 of this Petition and grant such other and further relief as may be appropriate and proper.

Further affiant sayeth not.

Respectfully submitted,



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William I. Fine  
Attorney No. 6830-45  
Utility Consumer Counselor, State of Indiana

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing *Utility Consumer Counselor's Verified Petition for Generic Investigation Into COVID-19 Impacts* has been served upon the following parties of record in the captioned proceeding by electronic service on May 8, 2020.

*For Duke Energy Indiana:*

Kelley A. Karn  
Melanie D. Price  
Duke Energy Business Services LLC  
[kelley.karn@duke-energy.com](mailto:kelley.karn@duke-energy.com)  
[melanie.price@duke-energy.com](mailto:melanie.price@duke-energy.com)

*For Indiana Natural Gas and Midwest Natural Gas:*

L. Parvin Price  
Barnes & Thornburg LLP  
[Parvin.Price@btlaw.com](mailto:Parvin.Price@btlaw.com)

*For I&M:*

Jeffrey M. Peabody  
Barnes & Thornburg LLP  
[jpeabody@btlaw.com](mailto:jpeabody@btlaw.com)

*For IPL:*

Teresa Morton Nyhart  
Barnes & Thornburg LLP  
[tnyhart@btlaw.com](mailto:tnyhart@btlaw.com)

*For Indiana Gas and SIGECO:*

Jason Stephenson  
Heather Watts  
Robert Heidorn  
CenterPoint Energy, Inc.  
[Jason.Stephenson@centerpointenergy.com](mailto:Jason.Stephenson@centerpointenergy.com)  
[Heather.Watts@centerpointenergy.com](mailto:Heather.Watts@centerpointenergy.com)  
[Bob.Heidorn@centerpointenergy.com](mailto:Bob.Heidorn@centerpointenergy.com)

*For NIPSCO:*

Claudia J. Earls  
NiSource Corporate Services – Legal  
[cjearls@nisource.com](mailto:cjearls@nisource.com)

*For OVG:*

Clayton C. Miller  
STOLL KEENON OGDEN PLLC  
[clayton.miller@skofirm.com](mailto:clayton.miller@skofirm.com)

*For Sycamore Gas:*

Kay E. Pashos  
Ice Miller LLP  
[kay.pashos@icemiller.com](mailto:kay.pashos@icemiller.com)



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William I. Fine, Attorney No. 6830-45  
Utility Consumer Counselor, State of Indiana

**INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR**

**PNC Center**

115 West Washington Street, Suite 1500 South  
Indianapolis, IN 46204

**[infomgt@oucc.in.gov](mailto:infomgt@oucc.in.gov)**

317/232-2494 – Telephone

317/232-5923 – Facsimile