ORIGINAL

| Commissioner | Yes | No | Not Participating |
|---|---|---|---|
| Huston | √ | | |
| Freeman | √ | | |
| Krevda | √ | | |
| Ober | √ | | |
| Ziegner | √ | | |

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

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| **VERIFIED JOINT PETITION OF DUKE ENERGY INDIANA, LLC, INDIANA GAS COMPANY D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC., INDIANA MICHIGAN POWER COMPANY, INDIANA NATURAL GAS CORPORATION, INDIANAPOLIS POWER & LIGHT COMPANY, MIDWEST NATURAL GAS CORPORATION, NORTHERN INDIANA PUBLIC SERVICE COMPANY, LLC, OHIO VALLEY GAS CORP. AND OHIO VALLEY GAS, INC., SOUTHERN INDIANA GAS & ELECTRIC COMPANY D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC., AND SYCAMORE GAS COMPANYFOR (1) AUTHORITY FOR ALL JOINT PETITIONERS TO DEFER AS A REGULATORY ASSET CERTAIN INCREMENTAL EXPENSE INCREASES AND REVENUE REDUCTIONS OF THE UTILITY ATTRIBUTABLE TO COVID-19; AND (2) THE ESTABLISHMENT OF SUBDOCKETS FOR EACH JOINT PETITIONER IN WHICH EACH JOINT PETITIONER MAY ADDRESS REPAYMENT PROGRAMS FOR PAST DUE CUSTOMER ACCOUNTS, APPROVAL OF NEW BAD DEBT TRACKERS, AND/OR DETAILS CONCERNING THE FUTURE RECOVERY OF THE COVID-19 REGULATORY ASSET** | ) | **CAUSE NO. 45377 (Consolidated under Cause No. 45380)** |
| **PETITION OF INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR FOR GENERIC INVESTIGATION INTO COVID-19 IMPACTS TO BE CONDUCTED OVER TWO PHASES; EMERGENCY RELIEF PURSUANT TO IND. CODE § 8-1-2-113 TO RELIEVE INDIANA RATEPAYERS OF THE THREAT OF UTILITY SERVICE DISCONNECTION AND PAYMENT ARREARAGES DURING GLOBAL HEALTH AND ECONOMIC CRISIS** | ) | **CAUSE NO. 45380**<br>**APPROVED: JUN 29 2020** |

**PHASE 1 AND INTERIM EMERGENCY ORDER OF THE COMMISSION**

**Presiding Officers:**
**James F. Huston, Chair**
**Loraine L. Seyfried, Chief Administrative Law Judge**

On May 27, 2020, the Commission issued an Order ("May 27 Order") under this consolidated Cause notifying all jurisdictional Indiana utilities of its decision to conduct a generic investigation to consider and address the impacts of the Coronavirus Disease of 2019 ("COVID-19") and the Indiana

Governor's COVID-19 Executive Orders on the rates and provision of utility service by all jurisdictional Indiana utilities and on their ratepayers.

Because Cause Nos. 45380 and 45377 had been consolidated, the Commission determined that the issues to be considered would include those raised by the Indiana Office of Utility Consumer Counselor ("OUCC") as well as those raised by Duke Energy Indiana, LLC, Indiana Gas Company, Inc., Indiana Natural Gas Corporation, Indiana Michigan Power Company, Indianapolis Power & Light Company, Midwest Natural Gas Corporation, Northern Indiana Public Service Company, LLC, Ohio Valley Gas Corp. and Ohio Valley Gas, Inc., Southern Indiana Gas & Electric Co., and Sycamore Gas Company ("Joint Utility Petitioners"). The Commission further determined it would be appropriate to address both the OUCC's and Joint Utility Petitioners' specific requests for immediate and subsequent relief through their proposed two-phase approach.

Phase 1, which is the subject of this Order, is to address:

(1) the OUCC's request to stay disconnections of utility service, waive certain utility fees (e.g., late fees, convenience fees, deposits, and reconnection fees), and expand the use of customer payment arrangements; and

(2) various requests for regulatory accounting authority related to:

(a) revenue impacts associated with the service disconnection moratorium, waiver of fees, and expanded customer payment arrangements;

(b) uncollectible or bad debt expense associated with customers' inability to pay utility bills;

(c) increased operating and maintenance costs;

(d) financing costs and pension expenses; and

(e) revenue impacts due to customer load reductions.

The May 27 Order established a briefing schedule to allow the parties and interested jurisdictional Indiana utilities the opportunity to respond to these Phase 1 requests. All responses were due June 10, 2020 and all replies were due June 18, 2020. The Commission also requested information concerning utility customer assistance measures currently in place and plans for after the disconnection moratorium expires. In addition, the Commission has received hundreds of letters and other correspondence from Indiana Legislators, local officials, and the general public concerning the issues in this proceeding.

**1. <u>Disconnections, Utility Fees, and Customer Payment Arrangements</u>.** The OUCC, in its May 8, 2020 Verified Petition in Cause No. 45380, requested the Commission to require all jurisdictional Indiana utilities to stay disconnections of utility service that are pending or imminent with the expiration of the moratorium on utility service disconnections under Indiana Governor

Holcomb's Executive Order 20-25, as well as waive certain utility fees (e.g., late fees, convenience fees, deposits, and reconnection fees) and expand the use of customer payment arrangements.[1]

Responses to the OUCC's request were filed by the Joint Utility Petitioners, Indiana Industrial Group, Sierra Club, Citizens Action Coalition ("CAC"), Indiana Community Action Association ("INCAA"), Board of Commissioners of LaPorte County ("LaPorte County"), and the Joint Municipal and Non-Profit Utility Group ("MNUG"). Except for the Joint Utility Petitioners and MNUG, the other intervenors generally supported the OUCC's request. Sierra Club, CAC, and INCAA also recommended that the Commission consider additional customer protections than what was requested by the OUCC. Replies were filed by the OUCC, Joint Utility Petitioners, CAC, INCAA, LaPorte County, and MNUG.

The Joint Utility Petitioners, while questioning the Commission's authority under Ind. Code § 8-1-2-113 to grant the OUCC's request, argued that any departure from existing rules and practices should be limited to the residential class of customers to which the Commission's rules concerning deposits and disconnections apply. They asserted that, unlike residential customers, their commercial and industrial customers were eligible to receive grants from the federal government that were specifically earmarked to pay utility bills. The Joint Utility Petitioners proposed that: (1) utility disconnections for nonpayment by residential customers continue to be stayed until July 31, 2020; (2) waiver of late fees, convenience fees, and reconnection fees for residential customers be stayed from the date of this Order to July 31, 2020; and (3) expanded customer payment arrangements that allow arrearages to be paid off over a period up to six months be offered.

MNUG asserted that the Commission lacks jurisdiction over a municipal utility's terms and conditions of service, such as disconnections/reconnections, payment arrangements, and waiver of fees and therefore, any Commission order would not apply to them. They further argued that the indefinite continuation of the OUCC's requested customer protections are not financially sustainable for municipal and small non-profit utilities and argued a need for flexibility in working with their customers.

In accordance with our May 27 Order, many of our jurisdictional Indiana utilities provided a list of measures each utility has in place to assist customers during this COVID-19 pandemic and their plans to continue such assistance in the future when the disconnection moratorium is lifted. While some responses were more detailed than others, we were greatly encouraged by the responses to see the measures that are being taken by many of the utilities to assist their customers in arranging payment plans to ensure those that have fallen behind on their bills can remain connected to essential utility service once the disconnection moratorium is lifted.[2]

While many of the utilities have taken action pursuant to the Governor's Executive Orders, the Joint Utility Petitioners question our authority to address those same matters. Under Ind. Code § 8-1-2-113(a),

[1] Executive Order 20-28 extended the disconnection moratorium through June 30, 2020, and encouraged utilities and municipalities to work with customers to establish reasonable payment arrangements for past due amounts.
[2] For example, see Citizen Energy Group's June 15, 2020 filing.

> [t]he Commission may, when it considers necessary to prevent injury to the business or interests of the people or any public utility of this state in case of any emergency to be judged by the commission, temporarily alter, amend, or with the consent of the public utility concerned, suspend any existing rates, service practices, schedules, and order relating to or affecting any public utility or part of any public utility in this state.

While the Commission recognizes that a plain reading of this statute appears to require a public utility's consent to the Commission's suspension of an existing rate or service practice, we do not agree that the statute requires a utility's consent to temporarily alter or amend an existing rate or service practice when the Commission considers such to be in the public interest and necessary to prevent injury to the business or interests of the people or any public utility of Indiana. *State ex rel. Indianapolis Traction & Terminal Co. v. Lewis, et al.,* 120 N.E. 129 (Ind. 1918) (holding the emergency law should be liberally construed with a view to public welfare).

On March 6, 2020, Governor Holcomb issued Executive Order 20-02 declaring a public health emergency due to COVID-19. Soon thereafter, on March 19, 2020, Governor Holcomb issued Executive Order 20-05 declaring utility service to be an essential service and prohibiting Indiana utilities from discontinuing services to residents and businesses during the public emergency, which continues today. As reflected in the parties' filings, the COVID-19 pandemic has created a sudden and substantial impact on Indiana's economy, its residents, businesses, and utilities. An increased number of Hoosiers and Hoosier businesses are experiencing financial strain as evidenced by the elevated unemployment rates and business closures (both temporary and permanent). The parties' filings also demonstrate that Hoosiers, businesses, and utilities are all experiencing to some degree an increase in expenses for COVID-19 related issues.

Although it is far from certain when the COVID-19 pandemic will end or when the impacts from it will be fully realized, Governor Holcomb has established a roadmap to help put Indiana "Back on Track." Indiana is continuing to make progress in reopening its economy and is currently in the Fourth stage, preparing to enter into the Fifth and final stage.

As of the date of this Order, the disconnection moratorium has not been extended beyond June 30, 2020. If the disconnection moratorium is not extended beyond June 30, we find an emergency exists necessitating additional action to prevent injury to Hoosiers and Hoosier businesses. Specifically, we find that jurisdictional Indiana utility disconnection practices should be temporarily amended to prohibit disconnection of any customer for 45 days, until after August 14, 2020. We further find that because the COVID-19 pandemic has materially impacted a large number of residential customers as well as businesses, this amended disconnection practice shall apply to all customer classes of the utility.[3] While we understand that the COVID-19 pandemic has caused significant financial difficulties for some customers, the economy is beginning to open and we are therefore hesitant at this time to extend beyond August 14, 2020, any prohibition on disconnections

[3] We are aware, as supported by the parties' filings, that both individuals and businesses have been recipients of federal, state, and community aid intended to assist with COVID-19 related financial issues, including utility bills.

that could result in higher unpaid balances that ultimately may be more difficult for affected customers to pay down. We note that the winter disconnection moratorium began on December 1, 2019, and many utilities extended that moratorium on their own initiative prior to the issuance of the Governor's Executive Order 20-05, which has resulted, in effect, a disconnection moratorium of approximately eight months.[4] In addition, any incremental cumulative unpaid balances not eventually paid by affected customers creates a new system-wide cost that must be absorbed by the utility or paid by unaffected customers. Temporarily prohibiting disconnections until August 14, 2020 is a balanced solution that allows both customers and utilities additional time to enter into reasonable payment arrangements to address any arrearages that may have accumulated and maintain essential utility services for the benefit of all customers, the utilities, and other stakeholders. It also affords us the opportunity to gain a better understanding of the situation through receipt of the information requested further below and in our May 27 Order, which will inform our decisions going forward.

During this time, we also find that utility tariff rates and charges approved pursuant to Commission rules and applicable orders shall be temporarily amended to exclude the collection of late fees, convenience fees, deposits, and reconnection fees.[5] The Commission has included the collection of deposits, which was supported by the OUCC, CAC, and INCAA, because the deposits can be a significant barrier to customers obtaining or continuing to receive service. Utility practices shall be further temporarily amended to specifically require implementation of more flexible and extended payment arrangements. At a minimum, jurisdictional Indiana utilities shall offer payment arrangements with a period of at least six months from the expiration of the moratorium over which arrearages may be paid. This effectively doubles the requirement in the Commission's rules that provides for a three-month minimum over which arrearages may be paid. Nothing in this Order prohibits a utility from offering a payment plan that provides for a payment period of greater than six months. However, a utility's payment plan offers are to be non-discriminatory between customers and address all arrearages, whether from the winter moratorium or public health emergency, in a single payment plan.

While we decline at this time to order specific utility management decisions by further amending utility service practices, we fully expect and encourage jurisdictional Indiana utilities to make all reasonable efforts to reach out, communicate (through phone calls, text messaging, email, U.S. mail, and the utility's website), and engage with their customers as soon as possible so that utility service can be maintained. Utilities are also encouraged to offer other additional payment arrangements that were identified in the June 15, 2020, jurisdictional Indiana utility filings, such as use of deposits to pay existing balances, no limits on the number of payment arrangements for customers that have fallen in arrears, and smaller required payments of outstanding balances. We also encourage the utilities to collaborate with interested stakeholders, such as the OUCC, CAC, Sierra Club, and INCAA to identify other customer assistance practices and measures that could be implemented.[6]

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[4] December 1, 2019 to August 14, 2020.

[5] Because utility service practices and tariff rates and charges are being temporarily amended in this Order, such amendments do not need to be filed with the Commission's technical staff, but instead should be clearly communicated to customers through the utility's website and other means of customer communications.

[6] The scheduling of a Technical Conference to facilitate such collaboration among interested parties may also be

Although the Commission does not have jurisdiction over all utilities operating in Indiana, we encourage those utilities not subject to the Commission's jurisdiction regarding the relief ordered herein to consider implementing the practices set forth in this Order.[7]

Because the COVID-19 pandemic is ongoing, our decision today is subject to further revision, either on the Commission's own initiative or at a party's request, should circumstances change that warrant additional action. In an effort to monitor ongoing efforts of utilities and customers to enter into reasonable payment arrangements, we find that jurisdictional Indiana utilities shall provide updates on their efforts. The first update shall be filed under this Cause on or before July 15, 2020, with a second update filed on or before July 27, 2020 (to coincide with the filing of the information requested in our May 27, 2020 Order), and then monthly thereafter. Such update shall include a description of the utility's efforts to contact delinquent customers since Governor Holcomb's issuance of Executive Order 20-05 on March 19, 2020 and sufficient data from which to allow the Commission to determine the utility's progress in getting delinquent customers to enter into payment arrangements. We will also continue to monitor the customer complaints received by the Commission's Consumer Affairs Division, which often include complaints about non-jurisdictional as well as jurisdictional Indiana utilities, along with any further developments in the COVID-19 pandemic and future developments in the Governor's Back on Track plan.

**2. Regulatory Accounting.** Both the OUCC and the Joint Utility Petitioners recommended the Commission authorize certain regulatory accounting, such as the use of regulatory assets and liabilities, for COVID-19 related impacts. More specifically, the OUCC recommends that the Commission authorize the use of regulatory accounting for any impacts associated with any required stay of disconnections, waiver of certain utility fees, and expanded payment arrangements. In addition to this authorization, the Joint Utility Petitioners seek authorization to use regulatory accounting for: (1) uncollectible or bad debt expense associated with customers' inability to pay utility bills; (2) increased operating and maintenance costs; (3) financing costs and pension expenses; and (4) revenue impacts due to customer load reductions.

The OUCC, Joint Utility Petitioners, Indiana Industrial Group, Sierra Club, CAC, INCAA, LaPorte County, and MNUG filed responses to the regulatory accounting requests.[8] Replies were filed by the OUCC, Joint Utility Petitioners, CAC, INCAA, LaPorte County and MNUG. While there was general support for the OUCC's requested regulatory accounting authority, the OUCC and all intervenors except MNUG opposed the additional regulatory accounting requests of the Joint Utility Petitioners. MNUG, noting that some view the Joint Utility Petitioners' request as having the potential to create further economic distress for customers struggling to pay bills and keep businesses open, indicated that its member utilities were not asking for any regulatory relief at this time.

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considered in Phase 2.

[7] This Order is intended to apply only to those utilities subject to the Commission's jurisdiction as set forth in Indiana law and interpreted by the courts. As noted by MNUG, we recognize that municipal utilities are not subject to the general grant of authority to the Commission or the Commission's rules and regulations governing utility service. *See Anderson v. Pub. Serv. Comm'n of Ind.,* 397 N.E.2d 303 (Ind. Ct. App. 1979).

[8] CAC and INCAA joined in the response of the OUCC and Indiana Industrial Group.

The purpose of utility regulation is to ensure utilities, which provide an essential public service, recover their costs and have a reasonable opportunity to earn a fair rate of return. *Fed. Power Comm'n v. Hope Natural Gas Co.,* 320 U.S. 591, 603 (1944). It is not a guarantee that a utility will make a profit or receive certain revenues. The ratemaking process of setting just and reasonable rates involves a balancing of investor and consumer interests. The Commission has the responsibility of balancing the right of the utility's investors to recover costs and the opportunity to earn a fair rate of return against the right of the public to pay no more than reasonable rates for the utility's service. Typically, this balancing occurs during a base rate case when the entirety of the utility's expenses and revenue requirements can be evaluated.

A request for regulatory accounting authority, which is a type of single-issue ratemaking and generally prohibited, is a request for extraordinary relief.[9] We have previously held that,

> [i]n considering such requests, it is necessary to consider the balance struck between the utility and its ratepayers by approving such a request. For example, the gravity of the financial event involved and its impact upon the utility is appropriate to consider, as well as the impact such accounting and/or ratemaking treatment will have upon the utility's ratepayers. Further, it is necessary for the utility requesting such extraordinary treatment to be able to demonstrate with convincing evidence that the financial event is in fact occurring, and that such financial impact is fixed, known and measurable. If all of these elements are established, a utility might receive approval for such an extraordinary request.

*Ind. Mich. Power Co.,* Cause No. 40980 at 7 (IURC Nov. 12, 1998). *See also, Duke Energy Ind., Inc.*, Cause No. 43743 (IURC Oct. 19, 2011). While any authorization to establish a deferred regulatory asset has no immediate impact on a utility's rates, it does carry with it a general presumption that such costs, if determined to be reasonable and necessary, are entitled to future recovery in rates. Accordingly, it is in this context that we evaluate the OUCC's and Joint Utility Petitioners' requests.

It is generally undisputed that the COVID-19 pandemic is an unprecedented and extraordinary event. However, because the event is still occurring and the timeframe for its end uncertain, we cannot begin to understand the gravity or longer-term financial impact the event will have on utilities and their customers. Consequently, while the COVID-19 pandemic may be an extraordinary event, we find we lack sufficient evidence at this time to determine what, if any, extraordinary treatment is warranted beyond the limited relief requested by the OUCC. Therefore, except for the limited relief requested by the OUCC, we find no emergency exists at this time that necessitates the authorization of the additional regulatory accounting by July 15, 2020, as requested by the Joint Utility Petitioners for the reasons set forth further below.

[9] When regulatory asset accounting is permitted, retroactive ratemaking takes place. However, there are exceptions to the prohibition against retroactive ratemaking for extraordinary events, such as a severe storm. *PSI Energy, Inc.*, Cause No. 39195 (IURC Feb. 26, 1992).

Given Governor Holcomb's declaration of a public health emergency and issuance of Executive Orders prohibiting utility disconnections, along with the Commission's decision above that an emergency situation exists so as to necessitate a modification to certain utility practices and charges, we find it appropriate and reasonable to authorize jurisdictional Indiana utilities to use regulatory accounting for any impacts associated with any prohibition on utility disconnections, waiver or exclusion of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees), and the use of expanded payment arrangements to aid customers.[10] Such regulatory accounting authority may include costs incurred beginning on March 6, 2020, the date of Governor Holcomb's emergency declaration. During this period of significant financial crisis, ratepayers have directly benefitted from the disconnection moratorium and the non-payment of certain utility fees as a result of specific government direction. In addition, although the quantification of these costs is largely unknown at this time, they are generally limited in scope and the prudency and reasonableness of the final amounts will be analyzed when making our final determination of the amounts that will be included for cost recovery.[11] We also find that the jurisdictional Indiana utilities should be authorized regulatory accounting treatment for COVID-19 related uncollectible and incremental bad debt expense.

With regard to the Joint Utility Petitioners' request for regulatory authority related to increased operation and maintenance[12] ("O&M") and pension expense, we decline to approve these requests in Phase 1. We find these requests distinguishable from that approved above because the costs, and any savings that may be found to offset them, are not the direct result of a specific emergency government direction. At this time, we lack sufficient evidence demonstrating these expenses have created or will create any substantial financial burden on the utility or that the expenses are in any way so significant as to warrant extraordinary relief. Without knowing the extent of the financial impact, it is difficult to balance the interests of the utility and its customers. And because deferred regulatory accounting carries with it a presumption of cost recovery, if reasonable and prudent, we must be cautious in authorizing utilities that extraordinary relief. Consequently, we find this request is better addressed in Phase 2 and/or through an individual utility's request for a subdocket wherein evidence of the impact of any costs or offsetting savings can be presented and considered in an evidentiary hearing.

Regarding Joint Utility Petitioners' request for regulatory accounting authority related to financing costs, we agree with the OUCC that such relief is unnecessary and premature. Given the limited accounting authority authorized herein, we see no reason to include any carrying/finance costs associated with those deferrals.

Finally, with regard to the Joint Utility Petitioners' request for regulatory accounting authority for lost revenues due to customer load reductions, we fail to see how creation of a regulatory asset for lost revenues would be in the public interest under current circumstances absent a

[10] Impacts, if any, related to the exclusion of late fees may be recorded, but utilities may not record or recover late fees not assessed.
[11] The burden of proof remains on the utility when seeking to recover any amounts in rates.
[12] Including COVID-19 related labor costs, non-labor material costs, non-labor remote working-related expense, non-labor costs associated with sequestration, and non-labor communication costs.

financial emergency to the utility that impacts its ability to provide safe and reliable service. No such financial emergency evidence has been provided here. As the OUCC and other intervenors point out, the Joint Utility Petitioners have provided no demonstration of the financial impact that decreased loads are having on utility operations or, more specifically, how such impacts have affected their access to capital markets.

Under the regulatory compact, at a base level, utilities are obligated to provide safe, reliable service and customers are obligated to pay just and reasonable rates for any such service they receive. The balance of this Order seeks to work toward allowing customers to meet their obligation while providing utilities the reasonable relief they need to help such customers do so. However, asking customers to go beyond their obligation and pay for service they did not receive is beyond reasonable utility relief based on the facts before us. A utility's customers are not the guarantors of a utility earning its authorized return. Instead, utilities are given the opportunity to recover their costs and a fair rate of return, which includes a certain level of risk attributable to variable sales. The approvals herein are intended to support the revenue recovery by utilities for the service they have provided pursuant to their approved rate designs by supporting a customer's ability to eventually pay for services received. We decline to move beyond this recovery based upon the facts presented.

Accordingly, we deny Joint Utility Petitioners' request for regulatory accounting related to lost revenues related to customer load reductions.

**3. Other Matters.** Although the Commission granted the OUCC's request to commence this investigation to address both immediate and future COVID-19 related issues, including the Joint Utility Petitioners' requests, a jurisdictional Indiana utility's decision not to seek rate relief at this time or participate in Phase 2 of this proceeding does not preclude that utility from seeking cost recovery or other related rate relief at any time in the future through existing regulatory avenues, such as through the filing of a base rate case.

In addition, any information required to be reported by this Order or our May 27 Order may be modified or terminated at the direction of the Presiding Officers.

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

1. If the statewide utility disconnection moratorium is not extended beyond June 30, 2020, all jurisdictional Indiana utilities shall comply with the temporarily amended utility practices and tariff rates and charges set forth herein. Utility service disconnections are prohibited through August 14, 2020, along with the collection of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees). Jurisdictional Indiana utilities shall offer extended payment arrangements to all customers.

2. All jurisdictional Indiana utilities are authorized to use regulatory accounting for COVID-19 related impacts directly associated with any prohibition on utility disconnections, collection of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees),

and the use of expanded payment arrangements, as well as COVID-19 related uncollectible and incremental bad debt expense.

3. Joint Utility Petitioners' request for regulatory accounting authority for O&M expense, financing costs, pension expense, and lost revenues related to customer load reductions is denied as set forth herein.

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

**HUSTON, FREEMAN, KREVDA, AND ZIEGNER CONCUR; OBER CONCURS WITH OPINION:**

**APPROVED: JUN 29 2020**

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

Mary M Becerra

**Mary M. Becerra,**
**Secretary of the Commission**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

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| **VERIFIED JOINT PETITION OF DUKE ENERGY INDIANA, LLC, INDIANA GAS COMPANY D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC., INDIANA MICHIGAN POWER COMPANY, INDIANA NATURAL GAS CORPORATION, INDIANAPOLIS POWER & LIGHT COMPANY, MIDWEST NATURAL GAS CORPORATION, NORTHERN INDIANA PUBLIC SERVICE COMPANY, LLC, OHIO VALLEY GAS CORP. AND OHIO VALLEY GAS, INC., SOUTHERN INDIANA GAS & ELECTRIC COMPANY D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC., AND SYCAMORE GAS COMPANYFOR (1) AUTHORITY FOR ALL JOINT PETITIONERS TO DEFER AS A REGULATORY ASSET CERTAIN INCREMENTAL EXPENSE INCREASES AND REVENUE REDUCTIONS OF THE UTILITY ATTRIBUTABLE TO COVID-19; AND (2) THE ESTABLISHMENT OF SUBDOCKETS FOR EACH JOINT PETITIONER IN WHICH EACH JOINT PETITIONER MAY ADDRESS REPAYMENT PROGRAMS FOR PAST DUE CUSTOMER ACCOUNTS, APPROVAL OF NEW BAD DEBT TRACKERS, AND/OR DETAILS CONCERNING THE FUTURE RECOVERY OF THE COVID-19 REGULATORY ASSET** | **CAUSE NO. 45377 (Consolidated under Cause No. 45380)** |
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## CONCURRING OPINION OF DAVID L. OBER

I agree with the majority in rejecting the request by Joint Utility Petitioners for regulatory accounting authority for O&M expense, financing costs, pension expense, and lost revenues related to customer load reductions. I further agree that it is reasonable to authorize the use of regulatory accounting for any impacts associated with any required stay of disconnections, waiver of certain utility fees, and expanded payment arrangements. However, I write separately to address the service disconnection moratorium.

The COVID-19 pandemic is an unprecedented real shock to the global economy. The effects of the pandemic have been jarring and the full impact of this emergency is indeterminable.

The response by Governor Holcomb and his administration is to be greatly commended, for without the quick action that was taken the negative impacts would have been far worse. Many Hoosiers are experiencing unemployment, reduced hours and wages, and support programs that are struggling to stay abreast of the growing need for assistance. It is easy to conflate the reopening of sections of the economy with economic recovery; however, the shape and pace of the economic recovery remains opaque.

Therefore, it is premature to suppose that on some date certain the recovery will be such that utilities can resume normal operations with respect to their customers. Indeed, this Commission in its May 27 Order (at 3) noted that,

> it would be unreasonable to expect that the financial, health, and other hardships currently being experienced as a result of the COVID-19 pandemic would immediately disappear upon expiration of any public health declaration or disconnection moratorium.

The Joint Utility Petitioners and other jurisdictional Indiana utilities participating in this proceeding are not due to file certain informational data that was requested in the May 27 Order until June 29, 2020.[1] Upon receiving this information and the subsequent filings requested in this Order, I expect that the Commission will have an opportunity prior to August 14, 2020—when the temporary prohibition on utility disconnections outlined in this Order ends—to reassess and determine the reasonableness of extending the moratorium further based on state economic conditions and the efficacy of actions taken by utilities to enter into favorable payment arrangements with customers to reduce arrearages.

We are beginning the warmest months of the year when utility usage increases and access to service is critical. Disconnecting essential utility service for those whose economic security has been harmed during the public health emergency is unconscionable and only adds to the already significant human cost of the COVID-19 pandemic.

Subject to the comments herein, I concur with the majority in this Order.

[1] In the May 27 Order, the Commission requested monthly reports providing information for the previous month. That information is due to be submitted on June 27, 2020, which falls on a weekend and, per Commission rules, is not due until the next business day, which is June 29, 2020 (the date of this Order).