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**
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**

CAC AND INCAA'S RESPONSE TO OUCC'S REQUEST RELATED TO CUSTOMER DISCONNECTIONS, UTILITY FEES, AND PAYMENT ARRANGEMENTS

Pursuant to Section 3(A)(1) of the Indiana Utility Regulatory Commission's ("Commission") May 27, 2020 Order, Citizens Action Coalition of Indiana ("CAC") and Indiana Community Action Association ("INCAA") hereby file their Response in support of the Indiana Office of Utility Consumer Counselor's ("OUCC") request for a continuance of the consumer protections ordered by Governor Holcomb in Executive Order 20-05.[1] A continued, or indefinite, moratorium on utility service disconnections, required waiver of certain utility fees, and expanded customer payment arrangements is critical until evidence and data supports these consumer protections are no longer needed. The Commission should also immediately institute additional credit and collections practices to ensure continued access to essential utility service and allow consumers a clear and dignified path back to regular utility bill payment. Finally and fundamentally, all protections must be uniform and statewide, clearly identified as the *minimum* protections, and reflect the gravity of the economic turmoil that Hoosiers face and will continue to face for the foreseeable future. These and other CAC and INCAA positions and proposals are discussed below.

I. Evidence Supports the OUCC's Proposal to Continue the Moratorium on Utility Service Disconnections, Required Waiver of Certain Utility Fees, and Expanded Customer Payment Arrangements until Evidence and Data Show These Protections Are No Longer Needed.

The only current known fact is that Indiana utility customers are facing an unprecedented pandemic and that a financial cliff has arrived, with rent, utility and other bills coming due compounded with record high job furloughs, permanent job losses, and COVID-19-related health crises. It is within this context that the Commission should consider the need for the OUCC's proposal to indefinitely continue the implementation of these critical consumer protections instituted by Governor Holcomb in Executive Order 20-02 until evidence and data show the unprecedented economic crisis has ended and customers can afford their essential utility services.

[1] For CAC and INCAA's Response to Section 3(B)(1) of the Commission's May 27, 2020 Order related to Regulatory Accounting, please *see* CAC and INCAA's simultaneously filed *Notice of Joinder to the Indiana Office of Utility Consumer Counselor's June 10, 2020 Response and the Industrial Group's Brief in Response to Phase I Issues.*

The only evidence available supports continuation of these consumer protections until significant evidence shows the financial crises is over for utility customers. Put another way, there is no evidence to support ending the disconnection moratorium, the required waiver of certain utility fees, or the availability of expanded customer payment arrangements *at this time or any set date in the near future*. While the true extent of the financial fallout and the permanent changes to the economy that are coming remain unclear, the Commission's decisions in this docket must be informed by what we know today. Publicly available data during this extraordinary global pandemic, both in terms of the number of persons testing positive for COVID-19, and the economic fallout that has resulted from the closing of non-essential businesses within the State, provide a vivid backdrop for the Commission's evaluation of the need for continuation and expansion of the consumer protections currently in place. For instance:

- U.S. Unemployment:
    - Over 40 million Americans, or one in four workers, have filed an unemployment claim from March 15th to May 23rd. The nationwide unemployment rate through April 2020 was at 14.7%, a level not seen since the Great Depression, with over 20 million people employed in industries most immediately impacted by the pandemic.[2]
    - Households with annual incomes under $40,000 have been the hardest hit. The Federal Reserve reported that nearly 40% of these workers had been furloughed or laid off by early April, as compared to the 13% of households with annual incomes over $100,000 that reported a disruption brought about by the coronavirus.[3] The coronavirus pandemic has disproportionately impacted low-income communities across America, who are now more reliant on aid and protections than ever.

- Indiana Unemployment: Over 50% of Indiana respondents in a recent U.S. Census Bureau survey have experienced a loss of employment income since March 13th. The

[2] United States Census Bureau. 2020.*US Economic and Demographic Data at a Glance.* COVID-19 Demographic and Economic Resources. *covid19.census.gov*
[3] U.S. Federal Reserve: *Report on the Economic Well-Being of U.S. Households* (Washington, D.C: Survey of Household Economics and Decision Making, 2020), accessed June 8, 2020 (https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-overall-economic-well-being-in-2019.htm)

national average is 48%.[4] Nearly 35% of Indiana respondents also anticipate a loss of employment income within the next four weeks. Not including reasons directly related to the coronavirus, approximately 30% of respondents in Indiana were not working at the time of the survey because of (a) virus-related reductions in business, (b) virus-related layoffs, (c) virus-related temporary closures, and (d) virus-related permanent closures.[5] Many of these individuals do not know when they will be able to return to work and resume normal operations, let alone how they will be able to pay their bills and support their families amidst such extreme uncertainty. April 2020 saw Indiana's unemployment rate hit 16.9%, the highest ever recorded.[6] Hoosiers were among the hardest hit in the nation.

- National Housing Insecurity: According to National Public Radio, nearly 5 million homeowners have entered into forbearance plans.[7] Government programs that are patching the wounds do not appear sustainable or adequate enough to assist America's neediest for long. Across the nation, 25% of Latinos have already fallen behind on their payments, along with 28% of African Americans. This compares to the 12% of whites who have fallen behind.[8]

- Low-Income/Minority/At-Risk Issues:
  - COVID-19 itself is another unfortunate example of the racial disparities seen in the United States. If the death rate of white and black Americans from the virus were the same, over 13,000 African Americans would be alive today.[9] As recently as the end of April, millions of Americans were still unable to receive access to their government-sanctioned benefits and stimulus relief. A majority of these individuals were socioeconomically-underprivileged minorities and people of color.[10]
  - Existing difficulties with the rollout of initial payments render the reliability of future processes for dispensing payments very uncertain. As noted above, nearly 40% of low-income Americans are unemployed due to the coronavirus pandemic. This will undoubtedly have long-lasting consequences. Particularly cautionary and evidence-based action is needed in the fight against this virus, especially in the efforts to lift up minority communities while prioritizing public health and community well-being.

[4] U.S. Census Bureau. May 27 2020. "Household Pulse Survey May 14-19." Accessed June 2020. *https://www.census.gov/data/tables/2020/demo/hhp3.html*
[5] Ibid.
[6] U.S. Bureau of Labor Statistics. 2020. "Local Area Unemployment Statistics." Accessed June 2020. *https://www.bls.gov/web/laus/lauhsthl.htm*
[7] National Public Radio (NPR). "Millions of Americans Skip Payments as Tidal Wave of Defaults and Evictions Looms." Accessed June 2020. *https://www.npr.org/2020/06/03/867856602/millions-of-americans-skipping-payments-as-tidal-wave-of-defaults-and-evictions-?utm_source=pocket-newtab*
[8] Ibid.
[9] Coalition for Human Needs. 2020. "COVID-19 Watch: Tracking Hardship." Accessed June 2020. https://www.chn.org/voices/covid-watch-may-29/
[10] ProPublica. 2020. "Millions of People Face Stimulus Check Delays." Accessed June 2020.

- Indana Housing Insecurity: The number of Hoosiers seeking housing assistance and services is up by 22.21%, to over 22,000 Hoosiers. A vast majority of these requests are for rent payment assistance or access to homeless shelters.[11] Before the arrival of COVID-19, a majority of those seeking housing services were either unemployed or unable to work. Now, "unemployed and looking for work" is the highest reported employment status to Indiana 211.[12] Likewise, nearly 14% of Indiana respondents in the Census Bureau Household Pulse Survey expressed "no confidence" in their ability to pay next month's rent, or have already deferred payments. 4% of Indiana homeowners express "no confidence" in their ability to pay next month's mortgage.[13]

- Indiana Food Insecurity and Mental Health: In April, the number of Hoosiers served by the Midwest Food Bank network doubled from the approximately 90,000 normally served per month.[14] Grocery prices across the nation have increased an average of 2.6% in April.[15] This has left many Indiana food banks with added strain and need. Children are especially vulnerable, including the nearly 50% of Hoosier children who depend on free and reduced-price lunches at currently-closed schools.[16] Hoosiers are also struggling with mental health and well-being during these unprecedented times brought about by COVID-19. Over 30% of Indiana respondents to the May 27, 2020 Census Bureau Household Pulse Survey reported frequent feelings of anxiousness "more than half the days" or "nearly every day," against the U.S. average of 27%.[17]

- U.S. Utility Debt: Access to fundamental utilities is more important now than ever, as millions of Americans are just now beginning to emerge from months-long stay at home orders and other restrictions. A recent Vote Solar report found that "the economic devastation of the coronavirus pandemic will plunge 20% of families into utility bill debt over the next 4 months, as layoffs and other economic losses continue throughout the country." The report also states that, nationwide, additions to utility bill debts could total $26 billion over four months.[18]

---

[11] *Indiana Housing Needs March 6 – May 21, 2020* (Indiana: Indiana 211 Partnership, Inc., 2020) accessed June 2020.
[12] Ibid.
[13] U.S. Census Bureau. May 27, 2020. "Household Pulse Survey." Accessed June 2020. *https://www.census.gov/data/tables/2020/demo/hhp3.html*
[14] Rich Nye. "Volunteers Pack 10,000 Boxes of Food for Indiana COVID-19 Assistance," WTHR Indianapolis, April 19, 2020. https://www.wthr.com/article/volunteers-pack-10000-boxes-food-indiana-covid-19-assistance
[15] David Goldman. "Grocery Prices Are Soaring. Here's What's Getting More Expensive," CNN Business, May 14, 2020. https://www.cnn.com/2020/05/13/business/grocery-prices/index.html
[16] Indiana Youth Data Center. 2020. "Public School Students Receiving Free or Reduced-Priced Lunches." Accessed June 2020. *https://datacenter.kidscount.org/data/tables/5187-public-school-students-receiving-free-or-reduced-price-lunches#detailed/2/any/false/871,870,573,869,36,868,867,133,38,35/1279,1280,1281/13762,11655*
[17] U.S. Census Bureau. May 27, 2020. "Household Pulse Survey." Accessed June 2020. *https://www.census.gov/data/tables/2020/demo/hhp3.html*
[18] Vote Solar. May 2020. "COVID-19 and the Utility Debt Crisis." Accessed June 2020. *https://votesolar.org/policy/policy-guides/low-income-solar-access/covid-19-and-utility-debt-crisis/*

- Indiana Utility Debt: National Consumer Law Center provides state-by-state estimates of the number of residential electric utility customers in arrears during the COVID-19 crisis and the dollar value of arrears under a range of scenarios. The depicted scenarios range from very optimistic (20% of residential customers with a 60-day arrearage balance) to more realistic (40% of residential customers with a 90-day arrearage balance). *For just Indiana*, NCLC estimated nearly $140 million in arrears for 20% of customers with bills 60 days past due, $209 million in arrears for 30% of customers with bills 60 days past due, $209 million for 20% of customers with bills 90 days past due, nearly $314 million in arrears for 30% of customers with bills 90 days past due, $279 million for 40% of customers with bills 60 days past due, and $418 million for 40% of customers with bills 90 days past due.[19]

- Second Wave of the Pandemic Is Unavoidable: Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, has called a second wave of the pandemic "unavoidable."[20] A report in the American College of Cardiology Journal noted that current strategies do not eliminate the need for anticipation of a second wave of healthcare strain, anticipating three main areas of concern with the second wave: a rebound in short-term medical needs, intermediate term covid-19 infection consequences, and healthcare provider burnout.[21] Furthermore, some health experts warn that the expected second wave of coronavirus infections will hit alongside the flu, meaning that more people will become sick in the fall and winter and cause pressure on the healthcare systems and result in a situation where the second wave is worse than the spring infections of Covid-19.[22]

All of these data points and observations make clear that we as a society, and certainly the Commission, utilities, and consumers, are just beginning to understand the extent and length of the economic fallout resulting from the pandemic—particularly for low-income families. Indiana utilities' obligation to serve all customers must adjust to this new reality with robust and flexible protections that acknowledge the financial cliff newly unemployed customers, low-

[19] National Consumer Law Center. April 2020. "Skyrocketing Utility Arrears During the COVID-19 Crisis: The Need for Substantial Federal Support." Accessed June 2020. https://www.nclc.org/images/pdf/special_projects/covid-19/IB_Electric_Service_Arrearage_Narrative.pdf

[20] "Fauci: Second wave of coronavirus is 'inevitable'" Published April 29, 2020 on The Hill https://thehill.com/homenews/news/495215-fauci-second-wave-of-coronavirus-in-fall-inevitable

[21] Argulian, Edgar. American College of Cardiology Journal. May 2020. "Anticipating the Second Wave of Healthcare Strain in the COVID-19 pandemic." Accessed June 2020. https://casereports.onlinejacc.org/content/jacccr/2/5/845.full.pdf

[22] Healthline. May 20, 2020. "What a Second Wave or Coronavirus in the Fall Could Look Like." Accessed June 2020 https://www.healthline.com/health-news/what-a-covid-19-wave-in-the-fall-could-look-like

income customers, and customers otherwise experiencing financial difficulties will face when utility and eviction moratoria are lifted.

II. **<u>Additional Credit and Collections Practices Are Needed to Ensure Continued Access to Essential Utility Service and to Allow Consumers a Clear, Dignified Path Back to Regular Utility Bill Payment</u>**.

The Commission must immediately institute further credit and collections practices in addition to continuing the utility disconnection moratorium, the required waiver of certain utility fees, and the availability of expanded payment arrangements until evidence and data show these protections are no longer necessary. Commission action is needed now in recognition of the enormity of the financial losses thousands of newly unemployed customers, low-income customers, and customers otherwise experiencing financial difficulties are facing as a result of the pandemic, and to ensure that Indiana residents are not facing disconnection as soon as the moratorium is lifted.

1. Reconnections—The Commission must act quickly to order all jurisdictional utilities to reconnect previously disconnected customers due to inability to pay now.

There has been no mention thus far as to the steps taken to reconnect customers who were previously disconnected due to inability to pay. It is unclear as to whether utilities made disconnections for nonpayment in the days and weeks leading up to the moratorium, or how these customers were treated after the moratorium was ordered on March 19th, especially considering the March 15th expiration of the winter moratorium on disconnections for LIHEAP customers, i.e., the LIHEAP winter disconnection moratorium expired just four days before the March 19th Executive Order was issued. The Commission should require that all jurisdictional utilities: (1) make a good faith effort to contact customers currently disconnected to notify them of the ability to reconnect to utility service; (2) actually reconnect these customers who were previously disconnected due to inability to pay; (3) proactively engage the customer in the arrangement of an affordable deferred payment arrangement (discussed further below); and (4) waive all reconnection fees. Reconnection action is needed because access to essential utility service is vital to public health and safety at all times, but particularly during a global pandemic. There simply is no excuse for the Indiana utility regulatory community to stand by and permit individuals whose financial circumstances led to a utility disconnection prior to the coronavirus emergency to remain in a residence without essential lights, heat, water and sewer services during a global pandemic. The Commission should immediately order all jurisdictional utilities to reconnect any customers who are currently disconnected from utility service due to inability to pay, communicate that directive to customers, proactively arrange an affordable deferred payment arrangement, and waive all reconnection fees.

2. Deferred Payment Arrangements—The Commission must ensure all customers have access to a default 24-month deferred payment arrangements for Low-income customers, and default 18-month deferred payment arrangement for non-Low-income customers.

Deferred Payment Arrangements ("DPAs"), by their very existence, expose a failure in the notion that electric, gas, water, and wastewater utility services are affordable for all customers at all times. The need for affordable DPAs acknowledges a reality that is critically relevant here and now: an individual's financial circumstances can change in a moment – whether it be due to illness, a resulting medical bill, an unexpected expense, loss of job, loss of child care or, in this instance, a worldwide pandemic that literally shut down the Hoosier economy. DPAs also reflect a leap of faith: their successful completion requires customers to pay off not only their (unaffordable) existing monthly bill, but also a significant add-on payment, with the goal of eventually retiring the arrearage. Given these realities, the Commission must prioritize establishing increased *minimum* DPA requirements for all jurisdictional utilities to ensure that the additional monthly amounts owed as a result of the DPA are as low and affordable as possible. Keeping DPA amounts low requires a significant lengthening of DPA terms than typically offered by Indiana utilities.

It is unclear what DPAs utilities are offering and what information or data, if any, was used to design and support the likely varied approaches.[23] Utility submissions thus far to the Commission's request for such information have been incredibly vague. For example, Aqua Indiana is "offering flexible payment arrangement programs for its customers to assist them during this difficult time". Aqua Indiana's June 9th Submission of Requested Information, p. 2. But clear and detailed information regarding DPAs is absolutely necessary for customers. The actual details of DPAs offered by the utilities may vary significantly in many cases. This highlights the need for the Commission to establish a *single, default, minimum DPA set of terms for all jurisdictional utilities* for both low-income and non-low-income residential customers so that the public, crisis relief agencies, and consumer advocates can help these customers get back on track. While we can be hopeful that the Indiana economy will rebound in the months ahead and that customers will be able to begin catching up on accumulated arrearages, there can be no doubt that the economic shutdown will have exacted a significant toll on finances that will require significantly longer DPA payback periods and flexibility in the DPA terms than are currently offered.

In order to best serve the needs of financially troubled customers in this unusual time of great financial instability, CAC and INCAA again emphasize the need to take an expansive view

---

[23] Under current Commission rules, utilities may offer payment arrangements that are longer than three months. The three month timeframes in 170 IAC 4-1-16(c), 170 IAC 5-1-16(d), and 170 IAC 6-1-16(c) are part of the requirements under which a utility may not disconnect a customer; otherwise, a utility may voluntarily offer longer payment arrangements in a non-discriminatory manner. This leaves consumers with a patchwork of DPAs to navigate where identical circumstances can still result in one electric customer being treated very differently than another.

of flexible credit and collection procedures with clear default minimum terms in place for all jurisdictional utilities. With these points in mind, CAC and INCAA urge the Commission to adopt the following DPA terms for residential customers of all jurisdictional utilities:

- Non-low-income customers: Default term of 18 months (customer may request a shorter or longer term)
- Low-income customers: Default term of 24 months (customer may request shorter term if preferred or longer term if circumstances require)
- Eligibility for "Low-income customers" for default term of 24 month DPA established through proof of proxy assistance programs and self-certification, as discussed below in subsequent section
- Waiver of DPA down payments
- Option to combine DPA with a 12-month Budget Billing option, which then includes current bill in monthly payment
- These customers should not be automatically removed from said DPAs should they miss payments or cannot provide a full payment; rather, the utility should be required to expand the flexibility of the DPA in order to provide these customers with more opportunities to become current on their past due bills. In other words, these DPAs should not be "one strike and you're out."
- Clear description of new flexible DPA terms in a separate notice to customers and again in all disconnection notices

CAC and INCAA urge the Commission to adopt these DPA recommendations, which are rooted in an acknowledgement of the desperate and uncertain financial straits thousands if not millions of low-income Hoosiers are facing now and when the shut off moratorium is lifted once data supports the appropriateness of lifting said moratorium. Adjustments to the utilities' usual credit and collection procedures are necessary to ensure the provision of affordable, essential utility service amidst illness, job furloughs and layoffs. It appears the utilities would like to continue a patchwork of DPA provisions among a customer's electric, gas, water, and wastewater utility services, causing confusion and financial distress to customers, crisis relief agencies helping customers navigate this time, and the public in general. CAC and INCAA's more flexible proposal takes best practices and combines them into a coherent statewide framework that will provide customers with the flexibility needed to stay connected to essential utility service.

3. "Low-income" Eligibility—The Commission should require all jurisdictional utilities to permit customer self-certification of low-income status to access expanded DPAs and other energy assistance for Low-income customers.

Post shut-off moratorium, there will likely be thousands of low-income customers and newly unemployed customers seeking energy assistance statewide and expanded DPAs as discussed in preceding section. The ability to quickly access critical energy assistance funding and CAC and INCAA's recommendation for a 24-month DPA for "Low-income customers" will likely be compromised.

Given these developments, relying on a customer's ability to access Low Income Home Energy Assistance Program ("LIHEAP") as a way to designate eligibility for enhanced credit and collections protections offered to low-income customers is short-sighted. Instead, utilities should be ordered to expand low-income status and access to CAC and INCAA's recommended 24-month DPA for "Low-income customers" by permitting customers to self-certify as low-income through any means-tested program enrollment or attestation of job or wage loss. Beyond enrollment in either LIHEAP, the income supplement, or energy assistance programs that would otherwise qualify a utility customer for LIHEAP status should be accepted as proxy programs for "low-income" status here. These programs include customer enrollment in: (1) public or assisted housing; (2) Supplemental Security Income ("SSI"); (3) Supplemental Nutrition Assistance Program ("SNAP") (formerly Food Stamps); (4) Temporary Assistance for Needy Families ("TANF"); (5) Telephone Lifeline; (6) Women, Infants and Children ("WIC") Special Supplemental Nutrition program; (7) Medicaid; (8) free or reduced school lunch/school breakfast; (9) Head Start; or (10) other programs as may from time to require income qualification. Proof of enrollment in any of these programs should qualify a customer for special low-income protections. Even before the COVID-19 emergency, Massachusetts has permitted low-income customers to access discount rates and arrearage reduction programs through simple self-certification of means-tested programs.[24] The same should apply in Indiana, when customers now more than ever are in need of less bureaucracy and more compassion.

4. Deposits and Fees—The Commission should require all jurisdictional utilities to waive deposits for residential customers, apply existing deposits to outstanding balances, and waive all late fees and penalties now and throughout a post-moratorium period.

The financial fallout of the coronavirus pandemic will leave customers seeking more flexible credit and collection provisions with little to no discretionary income. Demanding an expensive deposit and late fees/penalties on top of payment of current bills and arrearages is both unnecessary and punitive. CAC and INCAA urge the Commission to order all jurisdictional utilities to: (1) waive deposits throughout a post-moratorium period of approximately 6-12 months; (2) waive late fees and penalties throughout an additional 6-12 month period; and, (3) apply existing customer deposits to any outstanding arrearage.

5. Collection Activities and Credit Reporting—The Commission should order all jurisdictional utilities to continue the suspension of collection activities and any credit reporting after the shut-off moratorium is lifted.

CAC and INCAA believe that Indiana utilities have suspended collection activity during the moratorium, but would request the Commission ask for confirmation of such from all jurisdictional utilities. Given the financial upheaval triggered by the Governor's emergency

[24] Under Massachusetts' discount rate law, M.G.L. Ch. 164, section 1F(4), a household is eligible for the discount if it receives "any means tested public benefit [including] … the low-income home energy assistance program [LIHEAP/fuel assistance] for which eligibility does not exceed" 60% of state median income (over $66,000 for a family of 4, as of 2018). In practice, this language means that any household that receives help from an income-tested government assistance program — whether SNAP (Food Stamps), public housing, Medicaid, free school lunch, etc. — and whose income is at or below 60% of median income qualifies for the discount rates.

shelter-in-place order and the closing of schools, universities, and non-essential businesses, the Commission must recognize the economic upheaval the events of the last several months have triggered. Expecting that utility customers, who experienced job losses or working hours reductions, incurred new expenses associated with the crisis or experienced illness and other life changes, can make timely utility payments-in-full is unrealistic. A negative credit report can exact untold costs on a consumer that affect a person's ability to rent an apartment, obtain a job, and other hidden costs. All credit reporting, to the extent it exists, should be ceased until further notice.

6. Notice—The Commission should require all jurisdictional utilities to provide to all customers a description of the new, flexible credit and collection terms and to conspicuously include this information on all disconnection notices for the next two years, at a minimum.

Consumers facing joblessness, food insecurity, long wait times for assistance in seeking unemployment benefits, and other new realities of the post-coronavirus world should not be forced to guess what their utility payment options are. Frequent communication with customers *now* and when the moratorium is lifted, once data actually supports that it is appropriate to do so, is essential to keeping customers informed of their payment options and responsibilities. Failure to do so will add stress and confusion to financially struggling customers' lives, and force tough decisions as to how to apportion limited, if not non-existent, funds for essential food, medication, shelter, and utility services.

To that end, the Commission should require that all jurisdictional utilities provide detailed information to customers regarding the new flexible credit and collection protections adopted in this proceeding. In addition to separate communications detailing the new policies, any disconnection notices sent should include the same detailed information about new flexible credit and collection options available. Consumers cannot make informed decisions as to how to apportion limited funds if they are unaware of options available to them.

7. Data Reporting—The Commission should require the utilities to collect and file data on an ongoing basis to monitor the effectiveness of newly adopted credit and collections protections.

We appreciate the Commission's May 27th Order requesting Joint Utility Petitioners and any jurisdictional Indiana utility intending to participate in this proceeding and request rate relief provide additional information on a monthly basis, including information like the number of accounts past due and the number and total sum of payment arrangements. Order at 5. This implies, if not stipulates, that the Commission's review of the credit and collections protections will be ongoing, but only for this subset of utilities, not for all jurisdictional utilities. The Commission will be unable to determine the financial health of Indiana utility customers under its jurisdiction if it does not require such information from all jurisdictional utilities. Furthermore, CAC and INCAA would recommend the addition of several other data collection items, as has been CAC's recommendation in various rate case dockets over the past several years.[25]

There are several key data points that the utilities should be required to gather if the Commission is to determine whether the revised credit and collections or other procedures adopted in this proceeding are protecting continued access to essential utility service. Understanding the affordability of utility service relies not only on reviewing utility rates, but also analyzing the effectiveness of credit and collection protocols. Last year, the National Association of Regulatory Utility Commissions ("NARUC") and the National Association of State Utility Consumer Advocates ("NASUCA") issued a joint resolution entitled, "Resolution

[25] *See, e.g.*, IURC Cause No. 44576, JI Ex. A, pp. 24-30; IURC Cause No. 44967, JI Ex. 3, pp. 23-29; IURC Cause No. 45159, CAC Ex. 2, pp. 28-36, IURC Cause No. 45253, JI Exhibit 3, pp. 23-29.

on Best Practices in Data Collection and Reporting for Utility Services." The resolution cited the "the value of evidence-based policy making to improve outcomes for both utilities and customers" and the fact that "data collection and sharing play an integral role in providing information for developing evidence-based policies."[26]

NCLC Senior Energy Analyst John Howat is a nationally known expert on energy affordability issues and served on both the NARUC/NASUCA Committee that drafted the Resolution and the panel that discussed data collection issues and the Resolution at the November, 2019 NARUC Conference. He has also served as a witness before this Commission on numerous occasions. His just-published NCLC issue brief, "The Need for Utility Reporting of Key Credit and Collections Data Now and After the Covid-19 Crisis" concludes that commissions will need *monthly data*, *by zip code*, *broken down by both general residential customers and identified low-income residential customers,* in order to truly assess the effectiveness of the credits and collections protections in place. His paper[27] advises that the following, minimum data protocols should be tracked and reported by utilities:

- Number of customers;
- Dollar amount billed;
- Number of customers charged a late payment fee (if authorized against CAC and INCAA's continued waiver request);
- Dollar value of late fees collected;
- Number of customers with an arrearage balance by vintage of 60-90 days, 90+ days;
- Number of disconnection notices sent;
- Number of disconnections for nonpayment;
- Number of service restorations after disconnection for nonpayment;
- Average duration of disconnection;

[26]National Association or Regulatory Utility Commissions and National Association of State Utility Consumer Advocates. 2020. "Resolution on Best Practices in Data Collection and Reporting for Utility Services." https://pubs.naruc.org/pub/9392BD1E-D055-4A2C-9677-AAD00FEA7527

[27] National Consumer Law Center. April 2020. "The Need for Utility Reporting of Key Credit and Collections Data Now and After the COVID-19 Crisis." Accessed June 2020. http://bit.ly/brief-covid-19-data

- Dollar value of security deposits collected (if authorized, against CAC and INCAA's waiver request);
- Number of security deposits collected;
- Number of new DPAs entered into;
- Average repayment term of new DPAs; and
- Successfully completed DPAs.

It should be noted that reporting by zip code is essential to assess the affordability of utility service for customers within a service territory, and the effectiveness of revised credit and collections procedures. Some national and regional data sets show disparities by race in disconnections and other important energy security metrics, even after controlling for income. These disparities raise profound racial justice concerns, and highlight the importance of obtaining utility-specific credit and collections data at the Census tract level. In addition, geographically granular data will also assist the utilities in targeting of effective energy efficiency and other low-income assistance programming. Utilities should be required to file the information monthly so that the Commission can evaluate the effectiveness of the revised credit and collections and other procedures. Finally, it is imperative the Commission collect information related to any disconnections for nonpayment and notices of disconnections sent. While there is currently a moratorium on disconnections for nonpayment, we understand that some utilities may still be sending out notices of disconnection, in addition to the fact disconnections for nonpayment will presumably proceed once the moratorium is lifted (against CAC and INCAA's recommendation).

Comprehensive data collection is needed *now* and should continue *indefinitely* to ensure energy affordability in the difficult days ahead, especially post-shut-off moratorium. If more complete data collection does not begin immediately and continue indefinitely, unique irretrievable credits and collection information (system performance under maximum stress) will be lost. Too much is at stake for Hoosier residents struggling to pay utility bills in the economic tsunami that is still unfolding. The expanded critical data tracking referenced above should be ordered here and now.

III. <u>The Commission Should Clarify Any Consumer Protection Requirements Apply to *All* Jurisdictional Utilities, Not Just Joint Utility Petitioners and Willing Jurisdictional Utilities, and That These Protections Are Being Offered and Instituted in a Manner That Is Uniform and Consistent Statewide</u>.

There is a grave need for specific Commission action requiring consistent, statewide flexible best practices as it relates to consumer protection requirements. Fundamentally, a utility customer's ability to obtain more flexible payment terms and flexible credit and collection protections, for example, should not vary based on the person's address or utility service territory. Stated another way, a customer residing in Dekalb county who may be an Indiana Michigan Power Company electric customer should not be offered protections that differ from her neighbor across the street who may be a Northern Indiana Public Service Company electric customer, nor should one individual's protections differ as it relates to electric service versus water service. As shown by Governor Holcomb's Executive Order 20-05, which required all Indiana utilities, not just Commission jurisdictional utilities, to comply, the Holcomb Administration understands the need for statewide, minimum protections to the extent possible. This should guide the Commission's approach to requiring consistent, *minimum* consumer protections be applied to all jurisdictional utilities statewide, and not at a utility's or individual customer service representative's discretion. Further, the Commission should emphasize that the utilities implementing the consumer protections are to view them as *minimum* protections that can be expanded upon as individual circumstances demand in recognition that we, as a society, have not been here before.

IV. Conclusion

As highlighted above, the people of Indiana and throughout the country are living through an unprecedented global pandemic that has shut down significant portions of the worldwide economy – and in particular industries, such as retail, restaurant, daycare, entertainment and other venues – that employ millions of low-income and hourly wage workers. While utility and eviction moratoria are currently in place, arrearages and rents will be due once those orders are lifted. The financial need for low-income customers is staggering.

This new reality requires bold action on the part of the Commission and utilities – not half measures that simply extend winter protections in existing Commission rules that in no way contemplated a worldwide pandemic and the economic fallout it has triggered. CAC and INCAA urge the Commission to order:

1. A continued moratorium on utility service disconnections, required waiver of certain utility fees, and the availability of expanded customer payment arrangements as recommended by the OUCC for all jurisdictional utilities;

2. All jurisdictional utilities reconnect previously disconnected customers due to inability to pay;

3. All jurisdictional utilities provide customers with access to a default 24-month deferred payment arrangements for Low-income customers, and default 18-month deferred payment arrangement for non-Low-income customers;

4. All jurisdictional utilities permit customer self-certification of low-income status to access expanded deferred payment arrangements and other energy assistance for Low-income customers;

5. All jurisdictional utilities waive deposits for residential customers, apply existing deposits to outstanding balances, and waive all late fees and penalties now and throughout a post-moratorium period;

6. All jurisdictional utilities continue the suspension of collection activities and any credit reporting after the shut-off moratorium is lifted;

7. All jurisdictional utilities provide to all customers a description of the new, flexible credit and collection terms and to conspicuously include this information on all disconnection notices for the next two years, at a minimum;

8. All jurisdictional utilities collect and file data on an ongoing basis to monitor the effectiveness of newly adopted credit and collections protections; and

9. All consumer protection requirements apply to *all* jurisdictional utilities, not just Joint Utility Petitioners and willing jurisdictional utilities, and that these protections are being offered and instituted in a manner that is uniform and consistent statewide.

WHEREFORE, Citizens Action Coalition of Indiana and Indiana Community Action Association respectfully request that the Commission enter an Interim Order consistent with the recommendations made in this Response.

Respectfully submitted,

Jennifer A. Washburn

Jennifer A. Washburn, Atty. No. 30462-49
Citizens Action Coalition of Indiana, Inc.
1915 W. 18th Street, Suite C
Indianapolis, Indiana 46202
Phone: (317) 735-7764
Fax: (317) 290-3700
jwashburn@citact.org

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by electronic mail or U.S. Mail, first class postage prepaid, this 10th day of June, 2020, to the following:

Jason Stephenson
Heather Watts
Robert E. Heidorn
CenterPoint Energy, Inc.
jason.stephenson@centerpointenergy.com
heather.watts@centerpointenergy.com
bob.heidorn@centerpointenergy.com

Kelley A. Karn
Melanie D. Price
Duke Energy Business Services LLC
Kelley.karn@duke-energy.com
Melanie.price@duke-energy.com

Teresa Morton Nyhart
Jeffrey M. Peabody
L. Parvin Price
Nicholas K. Kile
Barnes & Thornburg LLP
tnyhart@btlaw.com
jpeabody@btlaw.com
Parvin.Price@btlaw.com
Nicholas.kile@btlaw.com

Shaw R. Friedman
Friedman & Associates, P.C.
sfriedman.associates@frontier.com

Kurt J. Boehm
Jody Kyler Cohn
John P. Cook
Kevin Higgins
Justin Bieber
Kroger Company
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com
john.cookassociates@earthlink.net
khiggins@energystrat.com
jbieber@energystrat.com

William Fine
Abby Gray
Randy Helmen
Tiffany Murray
Indiana Office of Utility Consumer Counselor
wfine@oucc.IN.gov
agray@oucc.IN.gov
rhelmen@oucc.IN.gov
timurray@oucc.IN.gov
infomgt@oucc.IN.gov

Joseph Rompala
Todd A. Richardson
Lewis & Kappes, P.C.
JRompala@lewis-kappes.com
TRichardson@lewis-kappes.com
etennant@lewis-kappes.com
atyler@lewis-kappes.com

Claudia J. Earls
NiSource Corporate Services – Legal
cjearls@nisource.com

Clayton C. Miller
Stoll Keenon Ogden PLLC
clayton.miller@skofirm.com

Kay E. Pashos
Mark Alson
Ice Miller LLP
kay.pashos@icemiller.com
mark.alson@icemiller.com

Keith L. Beall
Clark, Quinn, Moses, Scott & Grahn, LLP
kbeall@clarkquinnlaw.com

Allison W. Gritton
allison.gritton@woodenlawyers.com

Jennifer A. Washburn

Jennifer Washburn