

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission)	
on its Own Motion)	
)	Docket No. 20-0309
In the Matter of Moratorium on Disconnection)	
of Utility Services during the Public Health)	
Emergency Declared on March 9, 2020)	
pursuant to Sections 4 and 7 of the)	
Illinois Emergency Management Agency Act)	

VERIFIED RESPONSE OF
COMMUNITY ORGANIZING AND FAMILY ISSUES (COFI)
TO ILLINOIS UTILITIES' RESPONSES TO THE
ILLINOIS COMMERCE COMMISSION'S
EMERGENCY INTERIM ORDER OF MARCH 18, 2020

Karen L. Lusson
Attorney
National Consumer Law Center
7 Winthrop Square
Boston, MA 02110
(708) 469-7567
klusson@nclc.org

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Community Organizing and Family Issues (“COFI”), by its attorney, National Consumer Law Center (“NCLC”), hereby files its Response to the Responses filed by regulated electric, gas, water/wastewater utilities¹ to the directives included in the Illinois Commerce Commission’s (“ICC” or “the Commission”) Emergency Interim Order (“Emergency Order”) of March 18, 2020. The Emergency Order, among other actions, required a moratorium on utility shut offs, late fees and penalties due to a customer’s inability to pay, following the Governor’s March 9, 2020 state of emergency declaration due to the COVID-19 pandemic, and further required the utilities to file “proposed credit and collections procedures in this proceeding for the Commission’s consideration and approval.”²

¹ Responses were filed by Commonwealth Edison Company, Northern Illinois Gas Company, d/b/a Nicor Gas Company, Ameren Illinois Company, Peoples Gas Light & Coke Company/North Shore Gas Company, Mt. Carmel Public Utility Company, Liberty Utilities, Illinois American Water Company, Aqua Illinois, Inc., Consumers Gas Company, MidAmerican Energy Company, and Utility Services of Illinois.

² Emergency Order at 4, 5.

COFI is a community-based not-for-profit center and resource for family-focused organizing, leadership development and community building focused on the well-being of children, youth and families in low-income and working families. COFI has offices in both Chicago and East St. Louis, Illinois, and works for public policy change on a variety of statewide issues impacting low-income and working families throughout the State of Illinois.

COFI's members include low-income parents and grandparents who, in turn, have built local and citywide organizations that are fighting for change around issues affecting families. COFI's parent leadership and community organizing model, Family Focused Organizing, has engaged thousands of low-income African American and Latino parents in improving preschools, schools, communities and public policies in Chicago, throughout Illinois and beyond. In addition to its City of Chicago and East St. Louis area work, COFI works intensively with families and parent leaders in Aurora, Elgin and Evanston, and has partnerships in West Chicago, Skokie, and Oak Park. In previous years, COFI has likewise worked with families in Decatur, Springfield and some rural communities.

COFI members will be directly impacted by the policies established in this proceeding. COFI's Response, which includes input from parent members who share their concerns surrounding the COVID-19 economic shutdown, provides unique and informed recommendations on best practice protections for low-income utility customers.

I. INTRODUCTION

As the Commission recognized in its Emergency Order, Illinois utility customers are facing an unprecedented pandemic, requiring Illinoisans to shelter-in-place for the foreseeable future. In order to protect public health, Governor Pritzker has ordered all non-essential business to close their doors until further notice, creating an economic free-fall that has impacted nearly

all Illinoisans, but in particular, low-income and hourly wage workers who suddenly find themselves without a source of income. As discussed further below, African American Illinoisans have been particularly impacted by the virus, and undocumented immigrants are ineligible for unemployment and federal stimulus cash assistance. The financial cliff that persons living paycheck-to-paycheck avoided prior to the COVID-19 pandemic has arrived, with rent, utility and other bills coming due. School and day care closures, job furloughs, permanent job losses, closed assistance agencies, and COVID-19-related health crises are just a sampling of the life changes low-income families, in particular, are experiencing. It is within this context that the Commission should review the utility credit and collections (“C&C”) filed in this proceeding.

As discussed below, the utility Responses submitted are varied, with some utilities displaying evidence of a thoughtful, albeit imperfect approach to flexible and deferred payment terms. Others propose tightfisted plans that fail to recognize the extent of the financial crisis in which Illinois low-income residents (and newly low-income residents) find themselves. Nearly all of the Responses require cumbersome certification of financial need for special low-income customer protections that ignore the administrative hurdles low-income persons are facing on the ground that, if approved, would only increase the stress and difficulties of obtaining bill payment assistance during this extraordinary time.

Each of the Responses, however, include at least one proposal that, when modified and combined with other worthwhile proposals, can form the basis of a uniform, statewide “best practices” plan worthy of Commission adoption. COFI submits that the Commission’s goal in this proceeding is to craft just that – a single set of required, more flexible credit and collections (“C&C”) protections to be adopted by all utilities to serve all Illinois customers – and in particular, the financially troubled persons for whom these flexible C&C protections are being

targeted. To do otherwise would only sow unnecessary confusion at a time when consumers are seeking clear guidance as to their options in accessing not just essential utility service, but also food, medical care, transportation, child care, rental and mortgage payment assistance, and employment in general following the shutdown of the economy. Moreover, consumers across the state should have access to the same minimum utility C&C protections regardless of their location and service territory to ensure continued access to essential utility service.

It must be noted too, however, that none of the proposals offered address the reality that a growing number of Illinois low-income customers will be unable to afford essential utility service unless reduced rates and arrearage management program provisions that write off utility debt, similar to the design of the existing but grossly underfunded Percentage of Income Payment Plan (“PIPP”) program, are made available. What’s clear is that a multi-faceted, approach to C&C that recognizes the enormity of the pandemic and its economic fallout for both existing low-income customers *and* newly financially-strapped customers is essential if *all* customers, regardless of their income, are to remain connected to affordable utility service. The Commission, too, must require utility data collection to enable the effectiveness of new C&C protections to be monitored. These and other COFI positions and proposals are discussed below.

II. ARGUMENT

A. The Commission Should Approve Uniform, Statewide Credit and Collections Practices That Are Clearly Identified As Minimum Protections And That Reflect the Gravity of the Economic Tsunami That Illinoisans Face.

In its Emergency Order, the Commission stated that it “finds that temporary implementation of revised and more flexible utility credit and collections procedures are needed to ensure that customers remain connected to essential utility services when the emergency status

ends.”³ The Commission required that “utilities should temporarily enact more flexible credit and collections procedures than the minimum standards outlined in Part 280⁴ of the Commission’s Rules to remain in effect for a period of no less than six (6) months.”⁵

In response, twelve electric, gas and water utilities filed plans on March 27, 2020. No two utilities offered the same proposals. The varied responses highlight, first and foremost, the need for specific Commission action requiring *consistent, statewide* flexible best practices. Fundamentally, a utility customer’s ability to obtain more flexible payment terms and flexible C&C protections should not vary based on the person’s address or utility service territory. Stated another way, a customer residing on the east side of Austin Boulevard in Chicago (a Peoples Gas customer) should not be offered C&C protections that differ from her neighbor directly across the street (a Nicor Gas customer).

The Commission’s existing rules require statewide, minimum protections that speak directly to the need for uniform protections, and should guide the Commission’s approach to requiring consistent utility proposals. The initial provisions of Part 280 of the Commission’s rules (Section 280.5 Policy, Section 280.10 Exemptions, Section 280.15 Compliance and Section 280.20 Definitions) should guide the Commission’s approach to requiring consistent utility proposals. These provisions make clear the Commission’s intention that the same *minimum* consumer protections are necessary to be applied by *all* utilities, and not at a utility’s or individual customer service representative’s (“CSR”) discretion. Further, these general

³ *Id.* at 4.

⁴ 83 Ill. Admin. Code Part 280 *et seq.*

⁵ *Id.*

provisions emphasize that the utilities implementing the rules are to view them as *minimum* protections that can be expanded upon as individual circumstances demand.⁶

It is within this framework that the revised, emergency C&C protections should be viewed; that Commission action is needed to (1) require a common set of *minimum* protections to be offered to financially struggling customers throughout the state; and (2) that the practices approved in this docket should be viewed as protections that can be expanded upon by a utility *as it addresses the particular financial circumstances of a customer* seeking assistance. The goal for all utilities is to assist each customer in remaining connected to the utility network. Understanding that these would be minimum protections recognizes that no two customers' financial crises will be alike.

The need for a Commission finding that these will, again, be *minimum* protections that require an entirely more flexible and individualized utility response to customers facing unaffordable bills should be rooted, too, in a recognition that we, as a society, have not been here before. While the true extent of the financial fallout and the permanent changes to the economy that are coming remain unclear, the Commission's decision 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 insufficiency of the utility plans submitted⁷.

⁶ See, e.g., Part 280.5 Policy: "The policies and procedures outlined in this Part shall take precedence over any inconsistent utility tariff, unless the conflicting tariff provision has been specifically approved by the Commission as a waiver or exemption from this Part, and shall be viewed as the minimum standards applicable to gas, electric, water and sanitary sewer utilities. Utilities that are subject to this Part shall have the ability to expand or supplement the customer rights guaranteed by these provisions as long as those policies are applied in a nondiscriminatory manner."

⁷ COFI requests that the Commission take administrative notice of the information cited in these bulleted items, pursuant to 83 Ill. Admin. Code Part 200.640.

For instance:

- As the Commission’s Emergency Order noted, the World Health Organization (“WHO”) on March 11, 2020, declared coronavirus and the disease it causes, COVID-19, a pandemic.⁸ As of April 5, 2020, some 348,867 cases of coronavirus infection have been confirmed, with 16,351 confirmed deaths in some 81 countries and territories, according to the WHO.⁹ The number of coronavirus cases, the number of deaths and the number of affected countries are expected to climb even higher.¹⁰
- In Illinois, for example, about 19% of persons tested for coronavirus infection have tested positive for the virus as of April 5, 2020.¹¹ As of April 5, 2020, 11,256 Illinois residents have tested positive for the coronavirus out of 58,983 persons tested. There have been 274 deaths in the state. The City of Chicago and surrounding areas, in particular, have been identified by the Illinois Department of Public Health (“IDPH”) as a hot spot of coronavirus infection.¹² Given the mapped location of this area, low-income persons and persons of color are particularly and disproportionately impacted by the pandemic.
- The African American community in Illinois has been particularly hard hit by the pandemic, according the IDPH. The agency reports that 3,312 African American Illinois residents have tested positive for the coronavirus as compared to 3,141 white Illinoisans, as shown in the chart below:

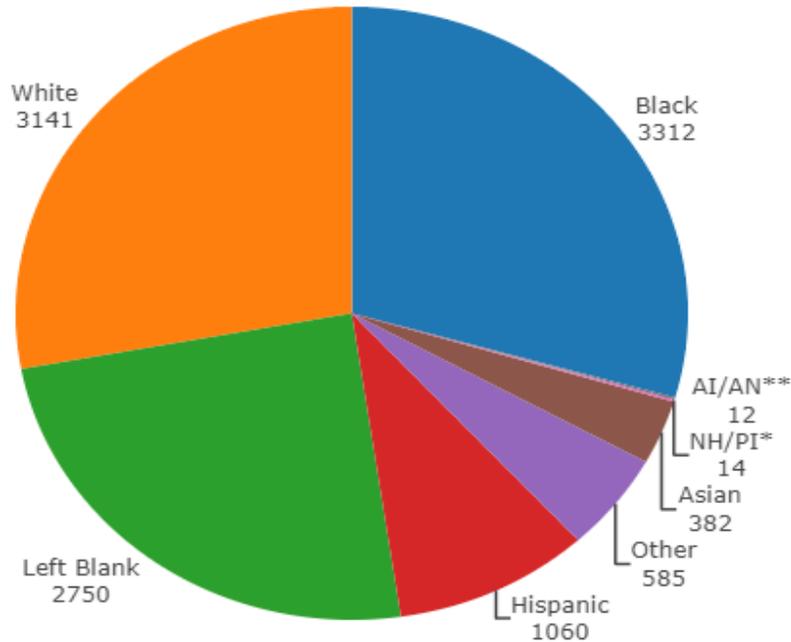
⁸ Emergency Order at 1.

⁹ See <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

¹⁰ See <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

¹¹ See Illinois Department of Health website, <http://www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z-list/coronavirus>

¹² *Id.*



Source: Illinois Department of Health website:
<https://www.dph.illinois.gov/covid19/covid19-statistics>

- An analysis published by Chicago public radio station WBEZ states that while black residents make up only 23% of the population in the county, they account for 58% of the COVID-19 deaths. As of Saturday, 107 of Cook County’s 183 deaths from COVID-19 were black. In Chicago, 61 of the 86 recorded deaths – or 70% – were black residents. Blacks make up 29% of Chicago’s population.¹³
- Governor Pritzker ordered Illinois residents to shelter in place via his [Executive Order No. 10](#), which requires all residents to stay home, with exceptions for essential needs or business activities. The order extends through April 30, 2020. As a result, restaurants, bars, and service industries in general, which employ countless, low-income hourly-wage workers, have been shuttered. The Order recognizes that “COVID-19 has resulted in significant economic impact, including loss of income and wages, that threaten to undermine housing security and stability.”¹⁴

¹³ See <https://www.wbez.org/shows/wbez-news/in-chicago-70-of-covid19-deaths-are-black/dd3f295f-445e-4e38-b37f-a1503782b507>

¹⁴ *Id.*

- Low-income customers, who already face difficulties affording essential utility services¹⁵, will undoubtedly be impacted most by the disruption of the economy that is occurring as they are directed by their employer or public health officials to stay home due to illness, or have lost wages due to the economic shutdown.
- On March 20, Governor Pritzker issued an executive order instructing that eviction for residential premises be prohibited during the Gubernatorial Disaster Proclamation. However, all unpaid rent will still be owed at the end of the Emergency Proclamation period.¹⁶
- Currently, all energy assistance offices throughout the state are closed to the public. The Community and Economic Development Association of Cook County, Inc. (“CEDA”), one of the largest private, nonprofit Community Action Agencies in the country, is the primary agency delivering Low Income Home Energy Assistance Program (“LIHEAP”) and Percentage of Income Payment Plan (“PIPP”) benefits in the state. CEDA is struggling, like many other service-related entities, to continue to serve clients in the midst of a global pandemic without risking further spread of the virus. CEDA has announced that is no longer taking energy assistance applications due to the state of emergency declaration and the required social distancing. While currently enrolled PIPP customer will continue to receive benefits, CEDA states that it will not accept new energy assistance, including LIHEAP, applications at this time. All furnace repair and replacements are likewise suspended at this time.¹⁷ New PIPP enrollments for the fiscal year ended December 31, 2020.
- Unemployment claims filed with the state have grown exponentially.¹⁸ The Illinois Department of Employment Security (“IDES”) is currently working through an unparalleled number of unemployment benefit claims and questions, both online and through the call center. The department received close to 115,000 claims for the week of March 21 alone, an increase of nearly 1,400% compared to the corresponding week in 2019. Over the first three weeks of March, IDES received more than 130,000 unemployment benefit claims, an increase of close to 400% compared to the corresponding weeks in 2019. Additionally, the call center continues to field hundreds of calls per minute, per day, requiring the Governor to move the IDES website to new hardware infrastructure to handle the increased demand.¹⁹
- At least one U.S. Federal Reserve Bank official predicted the U.S. unemployment rate may hit 30% in the second quarter because of shutdowns to

¹⁵ *One in Three U.S. Households Faces A Challenge in Meeting Energy Needs*, Energy Information Administration, September 19, 2018; See <https://www.eia.gov/todayinenergy/detail.php?id=37072>.

¹⁶ See <https://www2.illinois.gov/Pages/Executive-Orders/ExecutiveOrder2020-10.aspx>

¹⁷ See <http://www.cedaorg.net/COVID-19/>.

¹⁸ See <https://www2.illinois.gov/ides/SitePages/NewsArticleDisplay.aspx?NewsID=496>

¹⁹ *Id.*

combat the coronavirus, with an unprecedented 50% drop in gross domestic product.²⁰

- In addition, the newly unemployed face significant hurdles in qualifying for unemployment benefits. For example, the Illinois Department of Unemployment Insurance states that individuals who are confined to their home “would still need to meet all other eligibility requirements, including the requirements that the individual be able and available for work, registered with the state employment service and actively seeking work from the confines of his or her home. The individual would be considered able and available for work if there was some work that he or she could perform from home (e.g., transcribing, data entry, virtual assistant services) and there is a labor market for that work.”²¹ Needless to say, hourly workers in service industries will have difficulty performing their work at home, particularly when children are now at home due to school and daycare closures.
- Undocumented workers do not qualify for unemployment, which is affecting thousands throughout Illinois. It’s estimated that there are about 500,000 undocumented immigrants in Illinois, and it is assumed that most of the jobs that these individuals fill - hospitality, agriculture, construction - are being downsized. And, because undocumented immigrants are more likely to make less at these jobs to begin with, they are likely not to have savings to rely on and are therefore especially vulnerable. Many are having to make the hard choice of whether to keep working so they can pay for essentials, or keeping themselves and their families safe by following social distancing recommendations.²²
- Any immigrant, not just undocumented individuals, who does not have a social security number will not receive a \$1,200 relief check authorized in the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act. On top of that, even if individuals have a social security number, if they filed taxes and listed an undocumented child or family member on the returns, they will not receive a relief check.²³
- Food banks in the Chicago area and around the state are seeing visits grow exponentially, demonstrating the financial devastation low-income Illinoisans are experiencing. The *Chicago Tribune* reports that as of April 2, 111 out of 354 pantries in the Greater Chicago Food Depository network have closed, and the pantries that remain open are anticipating a large influx of new clients in the coming weeks. Some pantries in Chicago have already cited an increase in visits

²⁰ Steve Matthews, *Bloomberg News*, “U.S. Jobless Rate May Soar to 30%, Fed’s Bullard Says,” March 22, 2020.

²¹ See <https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx>

²² See <https://www.npr.org/local/309/2020/03/27/822475329/thousands-of-undocumented-workers-face-the-pandemic-without-a-safety-net>; See also <https://www.chicago.gov/city/en/sites/covid-19/home/employment-and-financial-assistance.html> (“Undocumented immigrants are not eligible at this time. To be eligible, you must be authorized to work in the U.S.”)

²³ See <https://www.congress.gov/bill/116th-congress/senate-bill/3548/text>, Sec. 6428(e)(3).

of up to 40% and a large number of new clients visiting or requesting service, and this number is only expected to rise.²⁴

- When utility bills become unaffordable, the likelihood that consumers will seek expensive payday loans significantly increases. Before the COVID-19 pandemic, according to one financial services report, utility bills constituted the number-one reason for consumers to use small-dollar credit products (“SDCs”), otherwise known as payday loans. The top 3 uses for an SDC product included: utility bills (36%), general living expenses (34%), and rent (18%). Users of very short-term loans were almost twice as likely as users of short-term loans to borrow for routine expenses like utility bills (42% versus 28%) or general living expenses (41% versus 20%).²⁵

Over the last week-and-a-half, COFI directors surveyed 100 low-income member families across Illinois to assess their concerns following the shutdown of the state’s economy. See COFI Survey and Affidavit of Tracy Ocomy Crowder, COFI’s Deputy Director, Organizing and Policy, attached as Appendix A. COFI’s members include low-income parents and grandparents who, in turn, have built local and citywide organizations that are fighting for change around issues affecting families. The findings were as follows:

- **Twenty-four percent of parents responded that economic insecurity is their largest challenge right now.** Many families have lost employment or experienced a reduction in the household’s work hours, and are fearful about making ends meet right now with significantly reduced or no household income. Those who are undocumented are concerned about their lack of eligibility for the unemployment insurance and cash relief offered in the federal relief package.
- Despite the moratorium on evictions, families are concerned about the **inability to pay rent** and fear consequences.
- **Access to food** continues to be an issue. Issues include inadequate income to pay for groceries, challenges accessing meals offered through schools, difficulty accessing Supplemental Nutrition Assistance Program (“SNAP”) and Women, Infants and Children (“WIC”) benefits, food pantry closures, lack of

²⁴ See <https://www.chicagotribune.com/news/ct-chicago-food-pantries-coronavirus-20200328-6bud3cz225a5hiqcfvqe4f3ye-story.html>

²⁵ *A Complex Portrait: An Examination of Small-Dollar Credit Consumers*, The Center for Financial Services Innovation, Rob Levy, Manager, Innovation and Research, Joshua Sledge, Analyst, Innovation and Research, August 2012, p. 4.

transportation to get food (and increased exposure risk by relying on public transit), stores being sold out of necessity items like milk, and continued price gouging causing rising prices for essential items.

- **Twenty-one percent** of parents responded that staying healthy is their largest challenge right now. This includes concerns about accessing medical care for COVID-19 and existing chronic conditions, as well as worries about the consequences of getting sick. Inconsistent information around immigrant communities' access to testing and medical care for COVID-19 was also reported.²⁶

All of these data points and observations, which COFI requests that the Commission take administrative notice of,²⁷ make clear that we as a society, and certainly the Commission, are just beginning to understand the extent and length of the economic fallout resulting from the pandemic – particularly for low-income consumers. Illinois utilities obligation to serve *all customers*, which accompanies their status as monopoly providers of essential utility services, must adjust to this new reality with robust and flexible protections that acknowledge the financial cliff low-income customers will face when utility and eviction moratoria are lifted.

The provision of more flexible utility collections practices is today more than ever a critical function of a utility's obligation to serve. Failure to sufficiently modify C&C procedures, resulting in the disconnection of thousands of low-income utility customers would constitute a

²⁶ In terms of the full survey, the responses to the “biggest challenge” questions were as follows:

- Economic insecurity – e.g. loss of a job or a reduction in the household's work hours; concerns about ability to pay for utilities, housing, food or other necessities (24%).
- Staying healthy – e.g. avoiding COVID-19 exposure, concerns about family members getting sick, challenges accessing medicine for chronic conditions (21%)
- Keeping children occupied – e.g. boredom, loss of routine, challenges of staying indoors (16%)
- Children's education – e.g. challenges of homeschooling, lack of technology (13%)
- Food insecurity – e.g. difficulties renewing SNAP and WIC benefits, SNAP benefits inadequate to meet household's needs, trouble paying for groceries (9%)
- Mental health – e.g. anxiety, stress, mental well-being (6%)
- Transportation – e.g. problems with public transportation, not having access to a car (3%).

²⁷ COFI requests that the Commission take administrative notice pursuant to 83 Ill. Adm. Code Part 200.640.

violation of the obligation to provide service outlined under Section 8-101 of the Public Utilities Act.²⁸ COFI urges the Commission to acknowledge this new economic reality for thousands of existing and new low-income utility customers, along with the utilities' obligation to serve *all customers* throughout the state, as it makes findings establishing more flexible, minimum C&C protections for the near future.

B. The Utilities' Proposals Fall Short of Ensuring Affordable Utility Service, Post COVID-19 Emergency.

As discussed below, the plans submitted by the utilities, while some better than others, all fail to holistically protect low-income consumers and working families impacted by the COVID-19 emergency. COFI urges the Commission to adopt the recommendations below, which both recognize the enormity of the financial losses thousands of low-income and newly low-income customers are facing as a result of the pandemic, and a commitment to ensure that Illinois residents are not facing disconnection once the emergency moratorium order is lifted.

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

The Responses filed by several utilities suggest that essential reconnections of previously disconnected customers have not occurred, as no mention was made of steps taken to reconnect customers who were previously disconnected due to inability to pay. While not ordered by the Commission, some utilities have set the precedent for doing just that, having recognized that no one should be forced to shelter in place in a home without essential utility service.

²⁸ 220 ILCS /8-101. ("A public utility shall furnish, provide, and maintain such service instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and convenience of its patrons, employees, and public and as shall be in all respects adequate, efficient, just, and reasonable. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable. A public utility shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay.")

Commonwealth Edison Company (“ComEd”), for example, as well as Utility Services of Illinois, Inc. (a water/wastewater company), and Illinois-American Water Company each stated in their respective Responses that they are in the process of reconnecting previously disconnected customers who were disconnected for non-payment.²⁹ ComEd’s Response notes that it issued a press release on March 23, 2020, an email on March 24th, and will send a follow-up letter to customers, announcing its commitment to “work with residents whose service was disconnected prior to ComEd’s March 13 suspension (of) service disconnections” and encouraged affected customers to contact ComEd.³⁰ ComEd states it is waiving reconnection fees, as well.³¹ The notices further note that the Company will work with such customers to make financial arrangements, as necessary.

COFI applauds those efforts and urges the Commission to require *all* utility respondents in this proceeding to do the same by (1) reconnecting customers who were previously disconnected due to inability to pay; (2) sending notices to customers that they should contact the utility for said reconnection; (3) proactively engaging the customer in the arrangement of an affordable DPA (see DPA discussion below), and (4) waiving all reconnection fees. .

Reconnection action is needed because access to essential service is vital to public health and safety at all times, but particularly during a global pandemic and the state’s shelter-at-home directive, as the Commission recognized in its Emergency Order:

Access to essential utility service will be necessary to slow the spread of the disease and to protect public health. Frequent hand washing is strongly recommended as a way to limit the spread of COVID-19, requiring access to running water in residences and elsewhere. Access to lighting, electrical appliances and heat are critical at any time, but especially so during a public health emergency when many Illinois residents will be required or

²⁹ See ComEd Response at 7; Illinois-American Response at 2; Utilities Service of Illinois Response at 2.

³⁰ ComEd Response at 7, Attachments G and H.

³¹ *Id.*

requested to remain at home. The Commission observes that the ability to remain safely and comfortably in one's own home during this pandemic should not be determined by one's financial condition during this emergency.

Emergency Order at 4. There simply is no excuse for the utilities and the Commission 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 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 DPA, and waive all reconnection fees.

2. Deferred Payment Arrangements – The Commission Must Ensure All Customers Have Access to a Default 24-Month DPA If They Self-Certify as Low-Income, and a Default 18-month DPA For Non-Low-Income Customers.

DPAs, by their very existence, expose a failure in the notion that electric, gas and water utility service 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, loss of job, loss of child care or, in this instance, a worldwide pandemic that literally shut down the Illinois 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's objective in establishing more flexible DPA terms should be 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 Illinois utilities.

It is important to note, too, that utility DPAs, as offered and presented by Illinois utilities, have a dismal track record in enabling customers to successfully retire arrearages. Recent compliance filing reports filed in May of 2019 by the four major Illinois electric and gas utilities pursuant Part 280.180(h) reveal, in most cases, shockingly high default rates³² For the period of October 1, 2018 through March 31, 2019, the utilities reported the following DPA default rates:

Ameren:	0% to 24%
ComEd:	110% to 237%
Nicor:	95%
Peoples Gas:	72.92% to 78.69%

The failed legacy of utility DPAs to date, too, must inform the Commission’s actions in this docket and going forward, and argues for significantly more flexible terms. An important foundational rule in any new DPA protections approved is encapsulated in a statement included in Illinois Consumers Gas Company’s plan: “Consistent with its usual policy, IGC is willing to work with customers to avoid hardships associated with the public health emergency.” IGC Response at 2. Indeed, the need to work with customers as they navigate their way out of this unprecedented financial tsunami will be critical to ensure that all customers have continued access to essential utility service. Yet, ICG’s DPA proposal calls for payment terms that appear to be *less flexible* than under current Part 280 rules. (“Customers with histories showing evidence of late payments due to the Covid-19 public health emergency will be granted additional time to retire their indebtedness to the Company thru extended payment arrangements

³² See <https://www.icc.illinois.gov/chiefclerk/filings/compliance.aspx?dt=6&ddt=72>

extending up to 6 months past the initial payment of one third of the past due amounts.”)³³

Again, the proposed terms presented by the utilities, which vary significantly in many cases, highlight the need for the Commission to establish a single, default, minimum DPA term for both low-income and non-low-income residential customers. While we can be hopeful that the Illinois 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 than are currently offered.

Nicor, for example, proposes to simply extend the winter disconnect rules, which translates into a four- to-12-month DPA offering for non-low-income customers.³⁴ Low-income customers would be offered a DPA “of up to 18 months”³⁵ – language that is troubling in its vagueness and CSR discretion. Further, a customer’s ability to access low-income protections under Nicor’s proposal would still require LIHEAP or PIPP enrollment³⁶ – an untenable requirement that makes no sense when community action agencies will likely be faced with a deluge of energy assistance requests once they re-open. Customers’ ability to easily access LIHEAP and PIPP benefits without significant delay given the probable new demand is unlikely. In addition, whether the additional funding supplied by the federal government in the recently enacted CARES Act will be sufficient to meet the intensely increased need is uncertain. When the money runs out, so does LIHEAP grant availability. What is clear is that the Commission’s

³³ Part 280.135 of the Commission’s Rules enables non-low-income customers to access a DPA of a minimum 4 to 12 months. Low-income customers have access to a DPA of between 6 and 12 months. 83 Ill. Admin. Code Part 280.135, 280.140.

³⁴ Nicor Response at 4.

³⁵ *Id.*

³⁶ *Id.*

demand for new flexibility must apply to establishing eligibility for low-income status, as discussed further below.

Other utility proposals are flawed, but have aspects that when combined with other proposals of merit could provide a template for DPA best practices. For example, ComEd proposes that it “will extend the maximum length of DPAs offered to eligible customers from 12 months to 24 months during the Moratorium Period and for six months following the expiration of the Moratorium Period.”³⁷ The Company adds that customers who have existing DPAs may be able to renegotiate for the longer terms.³⁸ While COFI supports the DPA-term extension to 24 months, the problem with ComEd’s proposal is that it in no way guarantees that customers will obtain the longer DPA terms cited. Only customers who can “demonstrate their financial hardship will be eligible for these more flexible deposit and (DPA) terms, and customers will be asked to provide supporting documentation, such as an application for unemployment benefits, two paystubs showing a change in pay, or an employment termination notice,” according to ComEd.³⁹ These requirements seem to create a new category of low-income customer – what is essentially the “provably unemployed.” But this crisis has triggered unexpected expenses and losses of income for low-income families across the state that may not be readily provable by paystub or benefit application. Customers’ monthly budgets, for example, may have been significantly impacted by unexpected expenses, such as the need to purchase internet service for in-home schooling. Customer may have had to voluntarily leave a job due to family illness, the removal of elderly family members from a nursing home impacted by COVID-19 outbreaks or new child care responsibilities prompted by the closing of daycare centers.

³⁷ ComEd Response at 6.

³⁸ *Id.*

³⁹ *Id.* at 5.

Ameren proposes an 18-month DPA term for non-low-income customers and a 24-month term for low-income customers.⁴⁰ Whether Ameren is proposing these term lengths as default numbers is unclear. If proposed as default DPA terms, COFI supports this proposal as a best practice. Ameren, however, continues to consider only LIHEAP or PIPP customers as qualifying for low-income status – an untenable barrier to more robust protections.⁴¹ NS/PGL *does* appear to propose using automatic default DPA terms, thereby eliminating any discretion on the part of the CSR, although for shorter terms lengths of 12 and 18 months for non-low-income customers and low-income customers, respectively, than Ameren proposes.⁴² NS/PGL, too, continues to propose defining a low-income customer as only those who receive LIHEAP or PIPP benefits.⁴³ This unnecessary requirement fails to acknowledge the thousands if not millions of customers whose income qualifies as low-income under any assistance program’s definition, but may not have been able to successfully apply for assistance given that LIHEAP agencies across the state have closed their doors. That requirement cannot stand given the financial cliff that millions of Illinoisans will face once utility and eviction moratoria are lifted.

Liberty Utilities proposes some additional terms applicable to low-income customers, but is vague as to how those terms would be applied. Liberty simply states the Company would extend the term of deferred payment arrangements for low-income customers “to twelve, eighteen or twenty-four months.”⁴⁴ Given that no detail is provided as to how a Liberties CSR would present these options, the proposal leaves low-income customers unaware of their right to a full 24-month DPA.

⁴⁰ Ameren Response at 5.

⁴¹ *Id.*

⁴² *Id.*

⁴³ NS/PGL Response at 3.

⁴⁴ Liberty Response at 5.

For its part, Illinois-American makes no mention of special terms for low-income customers, and instead proposes DPA terms that are *less than* the 12-months available under currently permitted under Part 280 rules. The Company states that it will extend its usual four-month DPA into an eight-month term, for example.⁴⁵ This is insufficient for customers facing high bills and limited if no income. Illinois-American does, however, offer customers the opportunity to combine a DPA amount with a Budget Billing monthly payment, thereby enabling a customer to roll a DPA into a budget billing plan that levelizes payments, including past due amounts, for a longer, 12-month period.⁴⁶

Another troubling aspect of all of the utility offerings is the requirement that customers pay a minimum 10% down payment before entering into the DPA.⁴⁷ Even that offer, which is unnecessarily punitive given the current economic conditions, requires a customer to demonstrate financial hardship, according to the utility filings. This is untenable when consumers may be facing bills of many hundreds of dollars, depending on whether a customer had a pre-COVID-19 arrearage.

It is unclear what information or data, if any, was used to design and support the proposed approaches. No rationale is cited for the figures chosen and the policies proposed. In addition, no mention is made whether customers who default on a DPA will be offered a second plan that is as long or longer than the existing DPA. The Commission should model a utility's obligation to offer an additional DPA on the Iowa Utilities Board rule⁴⁸ that requires a utility to offer a second payment agreement for a term equal to or greater than the first, for a customer

⁴⁵ IAW Response at 4.

⁴⁶ *Id.*

⁴⁷ *See, e.g.,* NS/PGL Response at 3; ComEd Response at 7; Ameren Response at 5; Nicor Response at 4.

⁴⁸ Iowa Admin. Code r. 199-19.4(10).

who has made at least two consecutive payments. COFI urges the Commission to take administrative notice of this Iowa regulation.

In order to best serve the needs of financially troubled customers in this unusual time of great financial instability, COFI, again emphasizes the need to take an expansive view of flexible C&C procedures with clear default minimum terms in place. With these points in mind, COFI urges the Commission to adopt the following DPA terms for residential customers:

COFI's DPA Proposal

- 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 established through proof of proxy assistance programs and self-certification, as discussed in Section 3 (Low-Income Eligibility) below
- Waiver of DPA down payments
- Option to combine DPA with a 12-month Budget Billing option, which then includes current bill in monthly payment.
- When a customer defaults on a DPA, the utility shall offer another payment agreement for a term equal to or greater than the first
- Clear description of new flexible DPA terms in a separate notice to customers and again in all disconnection notices

COFI urges 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 Illinoisans are facing now and when the shut off moratorium is lifted. The Commission' Emergency Order makes clear that adjustments to the utilities' usual C&C procedures are necessary to ensure the provision of *affordable*, essential utility service amidst illness, job furloughs and layoffs. The Utilities proposals, if adopted, would lead to a patchwork

of DPA provisions among a customer’s electric, gas and water utility services, causing confusion and financial distress. COFI’s more flexible proposal takes the best practices of each utility proposal and combines them into a coherent framework that will provide customers with the flexibility needed to stay connected to essential utility service.

3. “Low-income” Eligibility – The Commission’s Rules Should Require All Utilities to Permit Customer Self-Certification of Low-Income Status.

Post shut-off moratorium, there will likely be thousands of low-income customers and newly unemployed customers seeking energy assistance statewide. Given the shut-down of community action agencies like CEDA, the ability to quickly access critical energy assistance funding will likely be compromised. In addition, the state agency that oversees LIHEAP distribution, the Department of Commerce and Economic Opportunity’s (“DCEO”) Office of Community Assistance recently informed the Low Income Energy Assistance Policy Advisory Council (“PAC”) members that the Illinois Comptroller’s Office borrowed on March 25, 2020, some \$70 million in LIHEAP State Supplemental Funds.⁴⁹ *See* OCA Notice, attached as Appendix B. It is COFI’s understanding that the State has no obligation to restore the borrowed funds from that funding source.

Given these developments, relying on a customer’s ability to access LIHEAP or PIPP as a way to designate eligibility for enhanced C&C protections offered to low-income customers is short-sighted. As noted above, ComEd states in its plan that customers requesting more flexible deposit and DPA terms will be asked to provide supporting documentation, such as an application for unemployment benefits, two paystubs showing a change in pay, or an

⁴⁹ COFI requests that the Commission take administrative notice of this information, pursuant to 83 Ill. Admin. Code Part 280.640.

employment termination notice.⁵⁰ While that expansion of the definition of low-income eligibility LIHEAP or PIPP enrollment is welcome, it is untenable and cumbersome for customers who are already facing bureaucratic hurdles in accessing unemployment benefits and the general stress of making ends meet.

Instead, utilities should be ordered to expand low-income status 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 or PIPP, 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) Pharmaceutical Assistance for the Aged and Disabled (“PAAD”); (7) Women, Infants and Children (“WIC”) Special Supplemental Nutrition program; (8) Medicaid; (9) free or reduced school lunch/school breakfast; (10) Head Start; (11) Dependency and Indemnity Compensation (“DIC”) for Surviving Spouse or Parents of Veterans; or (12) other programs as may from time to time 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.⁵¹ The same should apply in Illinois, when customers now more than ever are in need of less bureaucracy and more compassion.

⁵⁰ ComEd Response at 5.

⁵¹ 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

4. Deposits and Fees – The Commission Should Require Utilities to Waive New Deposits for Residential Customers, Apply Existing Deposits to Outstanding Balances, And Continue to Waive All Late Fees and Penalties.

Like other utility plan provisions, the utility responses related to the demand for customer deposits for residential customers varied, and in most cases fall short of what is needed to protect energy and water affordability. For its part, ComEd states that the Company will waive deposits for customers seeking new service through at least May 1, 2020, upon expressed financial hardship by residential and small business (up to 400 kW) customers. During the same period, residential and small business customers seeking reconnections who demonstrate financial hardship will be routed to the ComEd customer relations area “for additional account review, including a determination of whether the deposit can be waived.”⁵² Current residential and small business customers that express financial hardship and have an existing deposit will be routed to the ComEd customer relations area for additional account review through at least May 1, 2020, including a determination of whether the existing deposit can be applied to an outstanding balance, according to the Company. This response, however, suggests much discretion will be left to customer service representatives (“CSRs”), with no details supplied as to what will convince the CSR to waive the deposit.

Peoples Gas, for its part, states that it will not be collecting deposits from either non-low-income or low-income customers entering into DPAs for past due arrearages.⁵³ Nicor, on the other hand, will continue to assess deposits pursuant to the winter deposit rules provided for in

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.

⁵² ComEd Response at 7.

⁵³ PGL Response at 3.

83 Ill. Adm. Code § 280.135(e).⁵⁴ Ameren admits that it is still pondering whether it will continue to seek deposits, late payment fees, reconnection fees, and returned payment fees.⁵⁵ Of the two major water utilities, Aqua states that it does not now assess deposits for new water and waste water service customers, and will not for the six months following the moratorium.⁵⁶ Aqua is silent as to whether it would assess deposits for customers paying late with an arrearage, pursuant to 83 Ill. Admin. §280.40(e). Illinois-American is silent on the issue of deposits altogether. No utility asserts that it will continue the current moratorium on late fees and penalties ordered by the Commission in its Emergency Order.

Except for NS/PGL's waiver, most of the utilities fall short in comprehending the inability of customers who have lost jobs to pay a deposit on top of arrearages and current bills, or late fees and penalties when the moratorium order is lifted. The financial fallout of the coronavirus pandemic will leave customers seeking more flexible C&C 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. COFI urges the Commission to (1) adopt the NS/PGL proposal of waiving deposits, and order all utilities to follow that rule throughout the post-moratorium period; and (2) order all utilities to continue the moratorium on late fees and penalties throughout the six-month period. Any existing customer deposits should be applied to any outstanding arrearage.

5. The Need for an Emergency, Parallel PIPP Program – The Commission Should Order Electric and Gas Utilities to Offer Low-income Customers A Parallel PIPP Program.

⁵⁴ Nicor Response at 4.

⁵⁵ Ameren Response at 3.

⁵⁶ Aqua Response at 4.

At least one utility acknowledged in its Response that “even in the best of times, the application of a deferred payment agreement is a balancing act between easing strains on customers' cash flow and helping them reduce their outstanding debt for service rendered.”⁵⁷ Ameren observed that this “balancing act” can “lead them into a never-ending cycle of making payments that go primarily to current charges for service without making progress towards reducing debt associated with previous charges for service.”⁵⁸ COFI could not agree more.

Stated another way, DPAs alone cannot solve the problem that existed even *before* the COVID-19 crisis: that millions of low-income customers, comprised of persons who may be unemployed, on disability, receiving a limited pension or are being paid an inadequate living wage and living paycheck-to-paycheck, find utility bills unaffordable. With the economic shutdown accompanying the COVID-19 pandemic, thousands of hourly wage earners – particularly those in the retail, restaurant and service industries -- have seen their livelihoods disappear overnight. More flexible C&C procedures alone will not be enough to keep thousands of low-income (or zero income) Illinoisans connected to essential utility service.

Illinois’s PIPP program is a well-designed, statutory low-income assistance program that enables low-income customers whose income falls at or below 150% of the federal poverty level to pay no more than a total of 6% of their monthly income for electric and gas bills combined, but in any event no less than \$10 per month (unless the household does not pay directly for heat, in which case its payment shall be 2.4% of income but in any event no less than \$5 per month).⁵⁹ The monthly credit to a PIPP customer cannot exceed \$150 per month per household and \$1,800 annually.⁶⁰

⁵⁷ Ameren Response at 6.

⁵⁸ *Id.*

⁵⁹ 305 ILCS 20/18(c)(2).

⁶⁰ *Id.*

The PIPP program also includes an Arrearage Reduction Program (“ARP”) that provides a 1/12 credit of an outstanding arrearage for each month that a plan participant timely pays his or her utility bill. Under the PIPP statute, the total amount of arrearage credits shall equal no more than \$1,000 annually for each participant for gas and no more than \$1,000 annually for each participant for electricity.⁶¹

While popular among enrollees, PIPP is woefully underfunded as compared to the statewide need for the reduced bills and arrearage reduction opportunities the program provides. For example, during the 2018-2019 fiscal year, CEDA was unable to accept new PIPP enrollees due to unavailable funds. This past year, like other years, saw the PIPP enrollment period close by December 31st – just three months after the October 1, 2020 start of LIHEAP/PIPP enrollment season.

During the state’s budget impasse of 2015-2017, when state agency budgets were frozen in place, DCEO was forced to discontinue the PIPP for Illinois residents. In its stead, however, electric and gas utilities worked with stakeholders and Commission leadership to retain the arrearage reduction program component of PIPP that reduced a customer’s outstanding arrearage by 1/12 for every current monthly payment made. That spirit of cooperation and assistance in extraordinary circumstances should guide the Commission’s and utilities’ response here.

Given the financial cliff that awaits low-income customers once the shut off moratorium is lifted, and the acknowledged inadequacy of more flexible C&C procedures to minimize the fallout, the Commission should order the utilities to establish the funding of a parallel PIPP available to those customers unable to access LIHEAP assistance in the weeks ahead. The Utilities should be ordered to work with DCEO and the community action agencies to investigate

⁶¹ *Id.*

whether initiation of the parallel program can operate as a part of agency services after the anticipated demand for LIHEAP assistance in the weeks ahead subsides.

Funds utilized to cover the costs of the parallel PIPP could be recorded in a deferred account. Issues surrounding cost recovery would be addressed in a future Commission order within this docket, along with the issues surrounding the moratorium on late fees and other ordered actions. Due to the extraordinary financial fallout of the pandemic, the closure of non-essential businesses, and the exponential increase in unemployed Illinois residents, this extraordinary action is needed to ensure that the thousands of families impacted by the pandemic and the accompanying shutdown of the economy will be able to retain essential utility service.

The Commission acknowledged its authority to take extraordinary action in its Emergency Order, citing its authority under Section 8-505 and 8-808⁶² of the Act to order the existing shut off moratorium. The Commission should continue to act on that authority here to protect the most vulnerable among us, who are as deserving of access to essential utility service as any other customer whose income, particular profession and good fortune have, to date, insulated them from the economic fallout of the COVID-19 pandemic.

6. Collection Activities and Credit Reporting– The Commission Should Order all Utilities to Continue the Suspension of Collection Activities And Any Credit Reporting After the Shut -Off Moratorium is Lifted.

Most if not all utilities have suspended collection activity during the moratorium. As of March 16, 2020, ComEd states that it has temporarily suspended sending newly delinquent accounts to collections, and will continue the suspension during the Moratorium Period.⁶³ In

⁶² 220 ILCS 5/8-505, 8-508.

⁶³ ComEd Response at 8.

addition, ComEd, in partnership with its third-party collection agencies, has temporarily suspended all debt collection activities for accounts placed with collection agencies.⁶⁴ ComEd's silence on the period after the moratorium is lifted, however, suggests these debt collection activities will resume. Nicor and NS/PGL are silent on proposed collection activities, as is Aqua and Illinois-American.

The Utilities silence on extending any existing moratorium on debt collection and credit reporting (to the extent utilities engage in credit reporting) is troubling. Given the financial upheaval triggered by the Governor's emergency 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 weeks 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.

C. No Decision Should Be Made in This Docket As To Whether And How Waived Fees and Other Expenses Will Be Treated Going Forward.

At least one utility, Nicor Gas, boldly declared it intends to recover waived late payment fees ordered by the Commission in its annual uncollectibles rider reconciliation.⁶⁵ Other utilities referenced the intention to recover costs in future proceedings.⁶⁶ The Commission should reject that and any other utility proposal that calls for a finding in this Order that coronavirus-related expenses and waived fees should be recovered. The Commission's Emergency Order included

⁶⁴ *Id.*

⁶⁵ Nicor Gas Response, p. 2.

⁶⁶ *See, e.g.,* Ameren Response at 3.

no directive on recovery of revenues associated with waived late fees and other penalties. While the Commission ordered the utilities to “track all spending resulting from the measures in response to the COVID-19 pandemic, in order to enable a meaningful future Commission review of the reasonableness and prudence of such spending;”⁶⁷ the Commission wisely made no finding on recovery of these amounts.

The Utilities are free to try and make the case for recovery of these amounts at a later date in another proceeding, at which time those requests can be reviewed for their appropriateness, prudence and reasonableness. But not here and now. The abbreviated schedule in this docket permits no review of claimed expenses or “lost revenues” to justify any finding of prudence or reasonableness of expense. No evidence exists in the record to justify such recovery.

D. The Commission Should Order Utilities to Provide Specific Notice to All Customers That Describes the New, Flexible C&C Terms, And To Conspicuously Include The Information on All Disconnection Notices.

In its Emergency Order, the Commission recognized the importance of keeping customers apprised of changes in utility credit and collections practices when it ordered that “Utilities shall also be required to notify all households at risk of disconnection of these emergency shut-off protections.”⁶⁸ 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 is essential to keeping customers informed of their payment options and responsibilities. Failure to do so will not only add stress and confusion to financially struggling customers’ lives, and force tough decisions as

⁶⁷ Emergency Order, Finding 12, p. 7.

⁶⁸ Emergency Order at 5.

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 electric, gas and water utilities provide detailed information to customers regarding the new flexible C&C 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 C&C options available. Consumers cannot make informed decisions as to how to apportion limited funds if they are unaware of options available to them.

E. The Commission Should Require the Utilities To Collect and File Data Over the Next Several Months to Monitor the Effectiveness of Newly Adopted Credit and Collections Protections.

The Commission's Emergency Order implies, if not stipulates, that the Commission's review of the submitted C&C plans will be ongoing.⁶⁹ The Commission will be unable to determine if additional proceedings are needed unless it requires the utilities to track certain data points that will reveal both the need for a continuation of the flexible C&C procedures and the success, or lack thereof, of the new payment terms.

There are several key data points that the utilities should be required to gather if the Commission is to determine whether the revised C&C 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")

⁶⁹ See Emergency Order at 4 (the Commission required that the revised C&C procedures be in place for *no less than* 6 months, implying the need to revisit any set time period adopted) and 7, Finding 13 ("Should further proceedings be required, they should be convened on an expedited basis.")

issued a joint resolution entitled, “Resolution 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.” (See NARUC/NASUCA Resolution attached as Appendix C.)

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. His just-published NCLC issue brief, “The Need for Utility Reporting of Key Credit and Collections Data Now and After the Covid-19 Crisis” concludes⁷⁰ 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 C&C protections in place. His paper⁷¹ 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 COFI’s continued waiver request);
- dollar value of late fees collected;
- number of customers with an arrearage balance by vintage;
 - 60 – 90 days
 - 90+ days
- dollar value of arrearages by vintage;

⁷⁰ See Affidavit of John Howat, attached as Appendix D.

⁷¹ <http://bit.ly/brief-covid-19-data>

- 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;
- dollar value of security deposits collected (if authorized, against COFI’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 C&C 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 C&C procedures.

Finally, COFI anticipates that some utilities, in their Replies to this request, will balk at the idea of requiring data collection. Claims may be made that data collection recommendations are premature, given the Commission’s recently initiated Notice of Inquiry⁷² on utility data collection and reporting. The Commission should reject such rebuttal. Action and data collection

⁷² *Illinois Commerce Commission -- On Its Own Motion, Notice of Inquiry Regarding Energy Affordability, 20-NOI-01, Order of March 18, 2020.*

are needed *now* if the Commission is serious about ensuring energy affordability in the difficult days ahead, post-shut-off moratorium. Whether the aforementioned data tracking is *precisely* the right data set can be examined as part of the NOI. Defining perfect data points must not prevent good data collection now. If data collection is not begun immediately, unique irretrievable C&C information (system performance under maximum stress) will be lost.

The Commission cannot afford to blindly hope for the best as it establishes more flexible C&C protections. Too much is at stake for Illinois residents struggling to pay utility bills in the economic tsunami that is still unfolding. The critical data tracking referenced above should be ordered here and now.

III. CONCLUSION

As highlighted above, the people of Illinois 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. State, federal and not-for-profit assistance agencies have shut their doors to in-person visits or altogether in some instances. 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. COFI urges the Commission to order the utilities to enact the following measures to assist financially troubled consumers throughout the state:

- **Reconnection** of all previously disconnected customers due to inability to pay, with waivers of reconnection fees;
- **Continued waiver of late fees and penalties;**
- **More flexible DPAs**
 - Non-low-income customers: Default term of 18 months (customer may request a shorter term);
 - Low-income customers: Default term of 24 months (customer may request shorter term if preferred or longer term if circumstances require);
 - Eligibility established through proof of proxy assistance programs and self-certification;
 - Waiver of DPA down payments;
 - Option to combine DPA with a 12-month Budget Billing option, which then includes current bill in monthly payment;
 - When a customer defaults on a DPA, the utility shall offer a second payment agreement for a term equal to or greater than the first; and
 - Clear description of new flexible DPA terms in a separate notice to customers and again in all disconnection notices;
- **Expanded low-income eligibility criteria;**
- **Waiver of deposit requirements for all residential customers;**
- **Moratorium on credit reporting;**
- **Creation of a parallel PIPP program;**
- **Additional customer Notice requirements detailing the more flexible protections; and**
- **Robust data collection that will enable Commission review and assessment of the new protections.**

WHEREFORE, Community Organizing and Family Issues respectfully requests that the Commission enter an Interim Order consistent with the recommendations made in this Response.

Respectfully submitted,

/s/ Karen L. Lusson

Karen L. Lusson
Attorney, National Consumer Law Center
7 Winthrop Square
Boston, MA 02110
(708) 469-7567
klusson@nclc.org

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