

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company for Approval of its)	Case No. 20-602-EL-UNC
Temporary Plan for Addressing the COVID-)	
19 State of Emergency.)	

In the Matter of the Application of Ohio)	
Power Company for Waiver of Tariffs and)	Case No. 20-603-EL-WVR
Rules Related to the COVID-19 State of)	
Emergency.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of Certain)	Case No. 20-604-EL-AAM
Accounting Authority.)	

In the Matter of the Application of Ohio)	
Power Company for Approval of A)	Case No. 20-734-EL-AEC
Reasonable Arrangement.)	

**COMMENTS FOR CONSUMER PROTECTION
REGARDING OHIO POWER COMPANY'S TRANSITION PLAN TO ADDRESS
THE CORONAVIRUS EMERGENCY FOR ELECTRIC CUSTOMERS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

As the PUCO considers OCC’s Comments on AEP’s transition plan, it should keep recent developments in the forefront of its review for the public’s protection. The development is that this week Governor Mike DeWine addressed the people of Ohio regarding the threat of the coronavirus, again showing his great concern for their safety and welfare.¹

¹ “As Prepared Address to the Citizens of Ohio,” Ohio Governor Mike DeWine (July 15, 2020); https://content.govdelivery.com/attachments/OHODD/2020/07/15/file_attachments/1496675/Address%20to%20the%20People%20of%20Ohio%20As%20Prepared%2007.15.20.pdf

The Governor advised that “We have now reached THE most critical point in our battle against the coronavirus.” (Original emphasis) He warned that “If all of us do not take immediate action to slow this virus down, the tragedy that we see playing out on our television screens every day in Florida, Texas, Arizona, and California may well be our reality in just a matter of weeks.” He informed (on page 3) that “Clearly – clearly the virus is spreading with a vengeance across many parts of Ohio and lurks, waiting to attack victims in all of our 88 counties. Tragically, in just four months, we have already lost 3,075 Ohioans to this dreaded disease – nearly the same number of Ohioans who died in the Vietnam War (3,094).” (Footnote omitted)

He continued (on page 4) that “Ohio is sliding – sliding down a very dangerous path, with our once flattened-curve starting to sharpen and spike.... Weeks can be the difference between who lives and who dies in Ohio.” And he said (on page 6) “But masks are not enough.... Good decisions will protect the economy and save lives. Reckless ones will hurt and kill.”

Consumers need extra regulatory protections, including adoption of OCC’s proposals, to ensure affordable and continued access to their essential electric utility services throughout the coronavirus emergency and for a reasonable time afterwards.² Protections are especially needed to address the challenges of at-risk populations in AEP’s service area. Those challenges include, but are not limited to high poverty levels,³ food insecurity,⁴ and the impacts of social disparities

² See OCC’s Comments Regarding AEP’s Temporary Plan Addressing the Coronavirus Emergency (April 27, 2020) (“OCC Emergency Plan Comments.”)

³ For example, AEP serves customers in several of the Ohio Appalachian Counties where poverty rates exceed 23% and some cities such as Portsmouth even exceed 35%. (Ohio Poverty Report.

⁴ The food insecurity rate in Ohio has increased to 23% as a result of the pandemic.
<http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>.

in our country where, for example, minorities suffer from poverty at higher levels than their percentage representation in the overall population.⁵

In the city of Columbus, even before the crisis, residents already were at risk with poverty at 20.8% of the population. In Franklin County, before the crisis, residents were at risk with food-insecurity at 17%; however, recent pandemic-related data show food insecurity *statewide* at 23%.⁶ Further, 503,500, renters in Ohio were unable to pay their rent in June, according to a study.⁷ So circumstances no doubt are worsening for all Ohioans served by AEP including those in Appalachian counties.

The coronavirus pandemic continues to take a toll on Ohioans' health and financial well-being. There have been more than 61,300 cases of coronavirus in Ohio, over 3,000 deaths,⁸ and over 1.36 million Ohioans have lost jobs and filed for unemployment during the last 13 weeks.⁹ Alarming, the state Administration announced recently that the number of Ohioans contracting the coronavirus is again rising.¹⁰ The financial strain that many Ohio customers are suffering as a result of the pandemic will continue for some time, maybe years.

As utilities like AEP seek to resume their pre-coronavirus operations, the PUCO should continue to protect consumers facing health, safety, and financial hardships.¹¹ In light of the

⁵ For example, black Americans are 11.8% of Ohio's population, yet 32% of black Americans in Ohio live below the poverty line. <https://www.welfareinfo.org/poverty-rate/ohio/>.

⁶ <http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>.

⁷ See <https://www.census.gov/data/tables/2020/demo/hhp/hhp8.html>, Housing Table 1(b), Ohio tab. See also <https://cohhio.org/9561-2/>.

⁸ <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home>.

⁹ <https://www.crainscleveland.com/government/ohio-unemployment-claims-down-nearly-300000-april-peak>.

¹⁰ <https://www.cleveland.com/datacentral/2020/06/ohios-disturbing-new-trend-of-increasing-coronavirus-cases.html>.

¹¹ OCC is the statutory representative of Ohio's residential utility consumers.

Governor's address on the virus' surge in Ohio, it is premature to consider a proposal to transition away from consumer protections that are in place due to the pandemic.

II. BACKGROUND

A. The health and financial crises faced by consumers is far from over.

Ohioans continue to face health and financial challenges due to the coronavirus. In fact, the health and financial challenges in Franklin County and the other large counties in Ohio are on the rise due to the disturbing increase in coronavirus cases and hospitalizations in recent weeks. Governor DeWine recently expressed concern over this alarming trend in Franklin and Hamilton Counties (two of Ohio's largest counties) and ordered mandatory face masks in these and five other counties in Ohio.¹² This awful scenario will be even more difficult if utility disconnections are allowed to resume. This pandemic has impacted all areas of life, and unemployment in the country is now considered the worst since the Great Depression.

B. The consumer protections the PUCO implemented during the emergency are important and have allowed Ohioans continued and uninterrupted access to vital utility services.

Against this backdrop of human suffering, the PUCO rightfully ordered public utilities to file plans for protecting their customers. AEP filed its plan in steps -- on March 17, March 24, and April 9. In response, OCC filed comments on April 27, 2020. Among other recommendations, OCC advocated that the PUCO extend consumer protections for a reasonable period of time after the formal declaration of emergency ends.¹³

The PUCO subsequently issued a Finding and Order approving AEP's Emergency Plan on May 6, 2020. The PUCO said that "in light of the easing of social distancing restrictions as

¹² See footnotes 1 and 2, *supra*.

¹³ See OCC Comments at 2 (April 27, 2020).

provided in the Department of Health’s Amended Stay at Home Order...AEP should begin working with [PUCO] Staff to develop a comprehensive plan describing the Company’s expectations to safely resume activities to a pre-COVID-19 basis.”¹⁴ The Order directed AEP, within 45 days, to propose a transition plan (“Transition Plan”) for resuming normal activities.¹⁵ On July 1, 2020, the PUCO issued an Entry denying the applications for rehearing by AEP, OMAEG, and the OCC. AEP filed its Plan on July 6, 2020.

C. AEP’s transition plan proposal to end consumer protections is premature given the coronavirus emergency has not officially ended and is most likely far from over. AEP’s plan will not adequately protect consumers facing extreme financial hardship and maintain uninterrupted electric utility service.

AEP’s Transition Plan includes a detailed plan to end the disconnection moratorium period (before the emergency has ended) and incorporates opt-in payment plan options for non-residential customers.¹⁶ AEP also proposes that its waiver requests that were previously approved by the PUCO be phased out as part of its transition plan after twelve months.¹⁷ As part of its Transition Plan for resumption of disconnections, AEP claims that it has acquired the proper personal protective equipment (“PPE”) for all of its employees working in the field, and it is also requiring contractors to wear appropriate PPE.¹⁸ Further, AEP asserts that its policies and procedures for both employees and contractors complies with all applicable guidelines issued by the Ohio Department of Health and the Governor’s Office, including the April 30, 2020 Stay Safe Ohio Order and the Governor’s Responsible Restart Ohio protocols.¹⁹

¹⁴ See Finding and Order at ¶ 25 (May 6, 2020).

¹⁵ See *id.*

¹⁶ See AEP’s Transition Plan at 2.

¹⁷ See *id.* at 2-3.

¹⁸ See *id.*

¹⁹ See *id.*

Effective August 1, 2020, AEP proposes to begin notifying customers that disconnections will resume September 1, 2020.²⁰ AEP's plan also states that updated disconnect notices, bill messages, calls, and a COVID-19 landing page on AEP's website will notify customers of the re-implementation dates of disconnects.²¹ The disconnections will begin with the September billing cycles.²² AEP proposes that customer bills issued during the September billing cycles will contain a disconnect notice that provides the amount of payment needed to maintain services and the information to set up a payment plan, along with the expected date of disconnection.²³ Thereafter, the September billing cycles will follow the normal disconnection procedures, including remote disconnection of customers where capabilities exist.²⁴

AEP also details how late payments, reconnection fees, and deposits will change. Late payments made during the moratorium period of March 9 through July, 31, 2020, will not trigger a deposit for customers.²⁵ And for 90 days after the moratorium ends, August through October, AEP states it will not assess new deposits so customers will have a catch-up period to pay their balance down instead of paying a deposit.²⁶ Starting in November, any late payment will trigger deposits, but if customers enter into a payment arrangement, AEP states it *may* help reduce the amount of non-payment going forward and reduce the likelihood of a customer deposit requirement.²⁷

²⁰ *See id.* at 3.

²¹ *See id.* at 3-4.

²² *See id.* at 4.

²³ *See id.*

²⁴ *See id.*

²⁵ *See id.*

²⁶ *See id.*

²⁷ *See id.* at 4-5.

AEP states that coding was added to its billing system prior to turning off the late payment and reconnection fees so it could track the accounts that would have otherwise been assessed a late payment or reconnection fee.²⁸ AEP states that if customers enter into a payment plan and make payments on time then no additional late fees will be assessed.²⁹ AEP also plans to back bill customers for reconnection fees accrued during the moratorium period.³⁰ Additionally, if the accounts tracked for late payments or reconnection fees are closed within 12 months after the moratorium ends, AEP will attach bad debt onto the account.³¹

AEP also proposes, under the PUCO's direction in the Finding and Order, and in lieu of AEP's requested reasonable arrangement, an opt-in extended payment plan mechanism for non-residential customers.³² The PUCO specified that "this mechanism should enable any non-residential customer subject to a minimum billing demand provision that has or will have during the pendency of the emergency, for service rendered on or after March 9, 2020, an accumulated bill payment arrearage to maintain service, while eliminating the arrearage over a reasonable period of time measured with reference to the state's phased efforts to responsibly relax the requirements of the Stay at Home Order."³³ AEP proposes, only for August through October, that it will offer the following for non-residential customers:³⁴

- A 1/3 payment plan of commercial accounts – requires 25% of the past due amount to be paid prior to setting up the arrangement.
- Allow for 1/6 payment plan of commercial accounts – requires 50% of the current past due balance to be paid prior to setting up the arrangement.

²⁸ *See id.*

²⁹ *See id.*

³⁰ *See id.*

³¹ *See id.* at 4-5.

³² *See id.* at 4.

³³ *See id.*

³⁴ *See id.* at 6.

- The Company will include a communication plan to notify customers that the payment plans are available (in coordination with Staff). There will be a bill message for non-residential customers encouraging them to call the Company to work out a payment plan if needed. Managed accounts will be contacted via email or personal contact. Automated calling may be used as well.

The PUCO also directed AEP to include provisions for residential customers impacted by the emergency to have extended payment plans.³⁵ AEP proposes, only for August through October, that it will offer the following for residential customers:

- Normal requirement is 1/6 and 1/9 extended payment plans but customers will be offered a repayment plan from 2-12 months.
- Initial payment amount should be 50% of the required amount for reconnect if disconnected or 25% of the account balance if prior to disconnection. Initial payment should not be less than 1/12 of the account balance.
- There will be an option for the Budget or AMP regardless of the length of the payment arrangement. Phone calls, web or IVR payment arrangements will all provide these options.

AEP's proposed Transition Plan also accounts for deferrals of incremental costs and savings and addresses its waiver request updates and reports on its in home energy audits.³⁶ AEP requests that its waiver granting a timeline to exclude call tracking times for call center be extended for three months and then AEP will work with Staff to determine if the call center activity has sufficiently reduced to re-implement call waiting time or if the rule should continue to be waived.³⁷

For customer complaints, AEP states that it will request a waiver for customer complaint due dates from 3 days to 10 days following the return to normal operations in order to manage

³⁵ Finding and Order at ¶ 25.

³⁶ *See id.* at 7-10.

³⁷ *See id.* at 9.

the increased number of customer complaints.³⁸ AEP explains that it proposes to work with the Staff on a template for certain types of complaints in order to introduce efficiencies for both AEP and the Staff's call centers and complaint desks while still managing customers' expectations and questions.³⁹

For suspended inspections and other field activity, AEP states it has not suspended inspections generally but follows a safety protocol as described, and will continue to monitor the impacts of COVID 19 and revisit reading meters inside of residential premises, keeping the Staff updated on the process.⁴⁰ AEP further explains that, in the meantime, if the customer provides permission for non-residential service, AEP may enter using the appropriate social distancing protocol and PPE.⁴¹ Additionally, AEP states that has not discontinued new service calls.⁴²

For PIPP anniversary date and reverification, AEP states it will work with ODSA on verification dates and how they intend to handle non-reverification drops.⁴³ AEP explains that it may drop customers for bills that are not current on the anniversary date, and may also drop the customer from the PIPP Plus program at the Customer's request if they want to go on AMP or budget.⁴⁴ AEP also intends to move the PIPP anniversary dates prior to October to October.⁴⁵ Further, if the customer is not current on their August anniversary date, they would be provided notification in August and the drop would not occur until 60 additional days which would

³⁸ *See id.* at 9-10.

³⁹ *See id.*

⁴⁰ *See id.* at 10.

⁴¹ *See id.* at 10.

⁴² *See id.* at 10.

⁴³ *See id.*

⁴⁴ *See id.*

⁴⁵ *See id.*

include the ability to drop prior to the October bill.⁴⁶ AEP further explains that the Winter reconnect starts in October and the date for winter crisis is November 1st, so if anniversary dates are moved to October, their first notice to drop if not current is October, the second notice will be November and if still not current would drop prior to the December bill.⁴⁷ AEP asserts this timing lines up with the winter crisis funds to add additional protection to PIPP customers.⁴⁸

AEP's proposals should be rejected.

D. The PUCO's has the authority to modify AEP's transition plan, and it should do so in order to continue the consumer protections in place until after the emergency officially ends, and for a reasonable period of time thereafter.

AEP's Transition Plan is unreasonable, and fails to account for the cognizable needs of its customers. In fact, the recent data reported by AEP reflects the personal-financial crisis that is directly impacting AEP's residential customers.

The number of residential electric accounts with greater than 60 days in arrears increased by approximately 21,866 customers since March 2020, and there were 120,453 customers in greater than 60 days arrears by the end of May 2020.⁴⁹ The number of customers with arrears that are greater than 60 days is a good measure of the number of customers who are significantly behind in their payments and could face being disconnected for non-payment when AEP resumes disconnections. And these numbers have likely increased significantly in June and July given the high expected electric bills that will accompany the heat wave that has settled across Ohio.

While some of these customers may income-qualify for financial bill payment assistance under the ODSA Summer Crisis Program, many may not have access to bill payment assistance

⁴⁶ *See id.*

⁴⁷ *See id.*

⁴⁸ *See id.*

⁴⁹ *In the Matter of the Annual Report Required by Section 4933.123 Regarding Service Disconnections for Nonpayment*, Case 20-937-GE-UNC, Ohio Power Company Annual Disconnection Report (June 16, 2020).

when AEP begins disconnecting consumers. This is why it is crucial for AEP to offer consumers *all* of the PUCO ordered payment plans like the one-third, one-sixth, and one-ninth payment plans mandated in the rules.⁵⁰ But the rules also contemplate more reasonable customized payment plans suitable for the customer and the utility.⁵¹ Customized payment plans could spread missed payments over a longer period of time and require a minimal initial down-payment. And AEP should not be allowed to charge consumers late fees or disconnect customers while the declared emergency is in place, and for a reasonable period of time thereafter.

III. RECOMMENDATIONS

A. To protect consumers, there should be a consistent approach to implementing an orderly transition to pre-pandemic operations for all utilities (and consumers) in Ohio.

The PUCO should establish a uniform set of guidelines applicable to all utilities for establishing an orderly transition back to pre-pandemic operations. For example, consumer protection recommendations published by the National Consumer Law Center (“NCLC”), offer more reasonable consumer protection guidance for the PUCO to adopt.⁵² The PUCO’s approval of a utility’s transition to pre-pandemic operations should not precede the official end of the health emergency and for a reasonable time thereafter.

Dominion has proposed through its Transition Plan to resume disconnecting customers for non-payment and to resume imposing the strict eligibility requirements for participation in the PIPP program beginning August 3, 2020.⁵³ *The PUCO has already and unfortunately*

⁵⁰ Ohio Adm. Code 4901:1-18-05.

⁵¹ *Id.*

⁵² See National Consumer Law Center, *Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services* (March 2020), attachment A.

⁵³ See Dominion’s Transition Plan (June 18, 2020) at 2, 5.

approved Columbia Gas of Ohio's plan to resume disconnecting customers for non-payment and to impose the strict eligibility requirements for participation in the PIPP program beginning July 29, 2020.⁵⁴ Suburban Natural Gas Company proposes that the utility will mail disconnection notices beginning August 18, with scheduled disconnections the 1st week of September.⁵⁵ Duke has proposed resuming disconnections for non-payment beginning in September 2020.⁵⁶

Utilities are intending to resume usual pre-COVID-19 activities *even though there is no clear end in sight for the state of emergency*. And each utility is proposing its own deadline for resuming activities such as disconnections for non-payment. Consumer protections available in some utility service territories are radically different than the protections available for consumers elsewhere. This haphazard approach should not be approved by the PUCO.

Until the health emergency is better controlled through a vaccine, a cure or widespread immunity, the PUCO should not approve a transition to pre-pandemic operations. But if the PUCO approves such a transition, it should establish a uniform set of guidelines that protect consumers statewide, applicable to all utilities, by providing an orderly and fair transition back to pre-pandemic operations.

B. To protect consumers, the PUCO should require AEP to continue suspending all disconnections for non-payment until a reasonable period after the formal coronavirus state of emergency has ended and a reasonable time thereafter.

AEP properly suspended its disconnections of customers related to non-payment in response to the PUCO's emergency order.⁵⁷ But now AEP is requesting that this important

⁵⁴ See *In the Matter of the Motion of Columbia Gas of Ohio, Inc. to Suspend Certain Procedures and Process During the COVID-19 State of Emergency and Related Matters*, Case No. 20-637-GA-UNC, Supplemental Finding and Order (June 17, 2020), at ¶26.

⁵⁵ Suburban Transition Plan, at 1.

⁵⁶ Duke Transition Plan at 9.

⁵⁷ See AEP's Emergency Plan Application at 2.

consumer protection end by September 1, 2020, approximately two months from now.⁵⁸ It is easy to understand why AEP (or any utility for that matter) is interested in returning to pre-pandemic operations as soon as possible. It is less clear why the PUCO seems inclined to allow the swift transition before the emergency has officially ended, especially at a time when the coronavirus cases and deaths are spiking. AEP's proposal is unreasonable (though we appreciate that AEP proposed a longer timeline for consumer protection than some other utilities) because it fails to recognize that the crisis is far from over for Ohioans.

In fact, it is reported that coronavirus cases are on the rise in Ohio.⁵⁹ Thus, there is certainly no reason to believe now that the coronavirus emergency will be over by September 1, 2020. It would not be preventing "injury" to the public -- that the emergency statute (R.C. 4909.16) is designed to prevent -- to approve AEP's plan for resuming disconnections of consumers starting September 1, 2020.

Instead, the PUCO should modify AEP's Transition Plan by adopting a recommendation that OCC has consistently made: extend the suspension of disconnections for non-payment for a reasonable period of time *after* the formal declared coronavirus emergency has ended.⁶⁰ This would give consumers peace of mind during the crisis that their basic, essential utility service will not be shut off. It will also give the PUCO the flexibility to address utilities' emergency plans based on facts as the emergency unfolds. Setting a date-certain now for when AEP can start disconnecting customers for non-payment (while the emergency is still in place, coronavirus

⁵⁸ See Transition Plan at 3-4.

⁵⁹ See note 7, *supra*.

⁶⁰ See OCC Comments at 2.

cases are on the rise, and there is no certainty when the emergency will end) is a bad approach for consumers.⁶¹

C. The PUCO should require AEP to offer extended payment plans and make certain that AEP is not assessing late payment fees on residential customers contrary to its tariff and waive reconnection fees until the emergency is over and a reasonable time after the emergency has ended.

AEP proposes to start charging consumers for late payment fees and reconnection fees starting August 1, 2020.⁶² While AEP has proposed charging residential customers late payment fees in its recently filed rate case, it does not now have authority to charge residential customers late payment charges.⁶³ AEP initially offered to “work with customers on a case-by-case basis to determine reasonable payment plans based on the current past due balance. The specific terms will depend on the customer’s ability to pay, available bill assistance, the arrearage balance, and other factors.”⁶⁴ AEP’s Transition Plan proposes a repayment plan from 2-12 months but will require 50% down if already disconnected or 25% of the balance prior to disconnection.⁶⁵ AEP also states that Budget or AMP will also be available regardless of the length of the payment arrangement and this options will be available by phone, web, or IVR.⁶⁶

A more concerning part of AEP’s plan is that AEP states that coding was added to its billing system prior to turning off the late payment and reconnection fees so it could track the

⁶¹ The PUCO has the authority to suspend disconnections and to order other consumer protections under R.C. 4909.16. It enables the PUCO to act when it “deems it necessary to prevent injury to the business or interests of the public....”

⁶² See AEP’s Transition Plan at 4.

⁶³ *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case 20-585-EL-AIR, Direct Testimony of Andrea Moore (June 15, 2020) at 11.

⁶⁴ See AEP’s Emergency Plan Application at 5.

⁶⁵ See AEP’s Transition Plan at 6.

⁶⁶ See *id.*

accounts that would have otherwise been assessed a late payment or reconnection fee.⁶⁷ AEP states that if customers enter into a payment plan and make payments on time then no additional late fees will be assessed.⁶⁸ But AEP also plans to back bill customers for reconnection fees accrued during the moratorium period.⁶⁹ Additionally, if the accounts tracked for late payments or reconnection fees are closed within 12 months after the moratorium ends, AEP will attach bad debt onto the account.⁷⁰

Given that AEP makes no distinction on the class of customers where it is tracking what late payments would have been, assurance is needed that residential customers will not be charged these late payment fees. This is patently unfair to consumers, especially those that move or close their account for any reason. The PUCO should require AEP to continue to provide payment plan for consumers that need to close their account.

Although the Transition Plan does provide the required six and nine month payment options, unlike Duke's plan, a 25-50% down payment is ridiculous. The PUCO should require that AEP offer its customers payment plans without a down payment. Other transition plans recently filed by Dominion Energy Ohio and Suburban Natural Gas include additional payment options such as twelve-month payment plans and twenty-four-month payment plans for exceptional circumstances. AEP should offer no less for its consumers

AEP is offering a plan from two to twelve months, but the minimum payment terms should be no less than six months. The PUCO should require AEP and the other utilities to work with their customers and offer *at least* twenty-four-month payment plans for exceptional

⁶⁷ See *id.* at 4-5.

⁶⁸ See *id.*

⁶⁹ See *id.*

⁷⁰ See *id.* at 4-5.

circumstances, including where consumers are still out of work or have been otherwise directly impacted by the virus. These extended options are of vital importance to consumers facing the on-going personal-financial crisis caused by the coronavirus pandemic.

Unlike Duke, AEP's transition plan does provide specific details on the requirements that will be imposed upon PIPP customers.⁷¹ However, it will begin dropping PIPP customers as early as October.⁷² AEP claims it will work with ODSA on how verification dates will be handled post moratorium,⁷³ But AEP intends to drop customers from PIPP who are not current on their anniversary date.⁷⁴ This could substantially impact PIPP customers and their ability to prevent disconnection of service. Therefore, AEP needs to be coordinating the details of how it is handling PIPP rules with the PUCO to minimize the impact on PIPP shut-offs. Only the PUCO has the statutory authority to determine disconnection requirements for PIPP customers.⁷⁵

At a minimum, the PUCO should require AEP to continue suspending reconnection fees and deposits. AEP claims that it will not assess new deposits for 90 days after the moratorium ends,⁷⁶ But AEP was even charging customers deposits during the moratorium. In fact, in April and May 2020, AEP charged deposits to over 36,000 customers.⁷⁷ AEP should cease the practice of charging deposits now and not resume such practices until after the emergency has been declared to be over and for a reasonable time thereafter. And it should allow customers to enter

⁷¹ Transition Plan at 10.

⁷² *See id.*

⁷³ Transition Plan at 10.

⁷⁴ *Id.*

⁷⁵ R.C. 4928.53(B)(3).

⁷⁶ Transition Plan at 4.

⁷⁷ Case 20-937-GE-UNC. AEP Ohio Annual Disconnection Report (June 30, 2020).

into payment plans for paying back any past-due amounts accruing during the state of emergency until the emergency is over and for a reasonable time after.

These recommendations will provide some much-needed relief to AEP customers who have lost income or jobs due to the coronavirus emergency. And it will allow AEP to collect revenues for utility service over a longer period of time while consumers are fighting to get back on their feet.⁷⁸

D. To protect consumers, the PUCO should reject AEP's deferral request. At a minimum, the PUCO should modify it.

AEP's proposed Transition Plan also proposes accounting deferral of incremental costs and savings.⁷⁹ AEP's proposal should be rejected. Consumers should not become guarantors of revenues and earnings for utilities. If the PUCO allows for the deferrals (and it should not), then it should implement protections for consumers including requiring the foregone revenues to be offset with revenue increases experienced during the emergency. And before approving the deferrals for collection from consumers, the PUCO should examine AEP's earnings during the period to assess whether charging consumers for foregone revenue recovery is just and reasonable.

Under Ohio law revenues are not guaranteed to utilities. Ratemaking is not supposed to be a dollar for dollar collection of costs from consumers. Utilities are afforded an opportunity to earn a fair and reasonable rate of return on their investment. In return they are obligated to provide safe and reliable service to consumers. Absent express statutory authority, otherwise, that is the regulatory compact under which utilities operate in Ohio. Notably, AEP does not make

⁷⁸ See R.C. 4928.02 (L).

⁷⁹ See Transition Plan at 7-10.

the case that there is express authority for it to collect lost revenues related to foregone revenue. That's because there is no such authority.

In this regard, on June 28, 2020, the Indiana Commission denied requests by all electric utilities to create a regulatory asset for lost revenues similar to what AEP is requesting.⁸⁰ The Indiana Commission found that recovery of lost revenues is asking consumers to go beyond their obligation to pay for service they did not receive and that such charges are not in the public interest absent a financial emergency to the utility that impacts its ability to provide safe and reliable service.⁸¹ That is a good ruling for ratemaking balance and consumer protection.

If the PUCO determines to allow AEP to defer foregone revenues, the PUCO should place safeguards on the deferrals to protect consumers from potentially paying too much money to AEP. The consumer protections should include that AEP will track not only the costs avoided during the emergency but also the revenues it collects from consumers during the emergency. Such revenues could potentially offset the claimed foregone revenue.

For example, the PUCO's moratorium on consumer disconnections and extension of the winter reconnection provisions means that there are almost certainly more residential consumers on AEP's distribution system than might otherwise be. AEP garners revenue from these consumers than it would not collect if the consumers were otherwise disconnected. When considering collection of the deferrals from consumers, the PUCO should consider offsetting

⁸⁰ *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 § 8-1-2-1133 to Relieve Indiana Ratepayers of the Threat of Utility Service Disconnection and Payment Arrearages During Global Health and Economic Crisis*, IURC Cause No. 45380, Phase 1 and Interim Emergency Order of the Commission at 8-9 (June 29, 2020).

⁸¹ *Id.*

revenues as well. This approach is consistent with the PUCO's ruling that expenses avoided during the emergency should be tracked and used to offset increased expenses.⁸²

In addition, the PUCO should make sure that AEP has reduced discretionary expenses to minimize cost impacts to consumers. AEP should not charge consumers for coronavirus costs if it has taken a "business as usual" approach to managing its costs. For example, AEP should be required to demonstrate that it has: refinanced outstanding debt (to take advantage of lower interest rates); considered using short-term debt to cover any extraordinary expenses or revenue losses; reduced allocation of costs from shared services or parent organizations due to cost reductions experienced at those entities; reduced O&M travel; reduced office expenses including power, office supplies, etc.; and reduced incentive pay or employee bonuses to reflect current economic circumstances.

The PUCO should also examine the earnings of AEP during the emergency period. It would not be just and reasonable to require consumers to guarantee foregone revenues during a period where the utility's earnings are sound and not impacting the utility's ability to provide safe and reliable service. Consumers and shareholders alike should share the costs of the pandemic.

Finally, AEP should be required to file cost tracking reports quarterly with the PUCO that have clear and concise cost categories that are clearly defined, and in direct response to the coronavirus pandemic. Further, carrying charges, if permitted at all (and they should not be), should be limited to the short-term debt costs applied to the deferred regulatory asset.

⁸² Emergency Plan Order, at ¶44.

IV. CONCLUSION

As the Governor's address communicated yesterday, Ohio consumers continue to face perilous times. The pandemic has brought to Ohio – a health crisis and a personal-finance crisis. It is premature to consider AEP to transition back to pre-pandemic operations. The more responsible course of action is for the PUCO to continue to require AEP to offer consumer protections until the coronavirus emergency is over and for a reasonable period of time thereafter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 16th day of July 2020.

/s/ William Michael
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Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services

March 2020

KEEP RESIDENTIAL UTILITY SERVICE ON DURING THE CRISIS

Access to affordable electric, gas, water, sewer, and telecommunications (including internet) services is essential at all times, but especially during a worldwide pandemic and shelter-at-home orders. Throughout the COVID-19 emergency, states should take the following steps to ensure that consumers stay connected to essential utility networks and reduce the need for public interaction:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay, during the crisis;
- Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
- Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the length of the emergency declaration;
- Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service;
- Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access and eligibility certification processes; and

ENSURING THAT UTILITY SERVICE IS AFFORDABLE FOR ALL

After emergency orders have been lifted, states should ensure that utility arrearages incurred during the crisis do not trigger disconnections. States should require all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. Such protections should:

- Eliminate any customer deposit requirements;
- Eliminate down payment requirements on deferred payment arrangements (DPAs);
- Allow flexible, reasonable DPAs that are based on the customer's ability to pay;
- Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
- Eliminate minimum balance requirements for prepaid utility service customers;
- Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP, but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
- Prohibit utilities from imposing late fees and engaging in negative credit reporting

Questions? Contact National Consumer Law Center advocates Jen Bosco (jbosco@nclc.org), Charlie Harak (charak@nclc.org), John Howat (jhowat@nclc.org), Karen Lusson (klusson@nclc.org) or Olivia Wein (owein@nclc.org).

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Summary: Comments Comments for Consumer Protection Regarding Ohio Power Company's Transition Plan to Address the Coronavirus Emergency for Electric Customers by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Michael, William J. Mr.