

A report on regulatory principles, policies, and accounting treatments applied in other jurisdictions in response to COVID-19

prepared for the Ontario Energy Board by London Economics International LLC
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Upon a comprehensive review of orders and news releases issued by state- and provincial-level governments and regulators throughout the United States and Canada, their response to COVID-19 can generally be summarized as including the following measures:

- implementing utility service disconnection moratoriums: although all states and provinces had a mandatory or voluntary moratorium in place at some point this year, only 39% of jurisdictions have moratoriums that are currently still in effect;*
- authorizing utilities to defer costs arising from the pandemic: approved in 69% of jurisdictions, although the types of expenses and revenues allowed varies; and*
- expanding customer payment arrangements for those facing potential disconnection: implemented in 53% of jurisdictions, with some plans extending up to 24 months.*

The following report summarizes these responses at the regional level, and also includes specific examples to provide context as to how these responses are being implemented at the state- or provincial-level.

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List of acronyms

AAO	Accounting Authority Order	IURC	Indiana Utility Regulatory Commission
ADIT	Accumulated Deferred Income Tax	LEAP	Low-income Energy Assistance Program
APA	Arrears Payment Arrangement	OEB	Ontario Energy Board
BCUC	British Columbia Utilities Commission	OER	Ontario Electricity Rebate
C&I	Commercial and industrial	OESP	Ontario Electricity Support Program
CEAP	COVID-19 Energy Assistance Program	PPE	Personal Protective Equipment
CEAP-SB	CEAP - Small Business	PRC	Public Regulation Commission
DA	Deferral Account	PSC	Public Service Commission
DPU	Department of Public Utilities	PUC	Public Utilities Commission
EAP	Energy Affordability Program	ROE	Return on Equity
EFA	Emergency Financial Assistance	RPP	Regulated Price Plan
GA	Global Adjustment	TOU	Time-of-use
HECO	Hawaiian Electric Co. Inc.	US	United States
ICI	Industrial Conservation Initiative	WACC	Weighted Average Cost of Capital
IOU	Investor-owned utility		

1 Executive summary

1.1 Scope of work

London Economics International LLC (“LEI”) was engaged by the Ontario Energy Board to assist in (i) its Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency (EB-2020-0133), and (ii) its ‘Utility Remuneration’ and ‘Responding to Distributed Energy Resources’ consultations (EB-2018-0287 and EB-2018-0288, respectively). Among other deliverables, LEI’s scope of work included the creation of a Report on Other Jurisdictions, to be used as part of both consultations, that discusses the following topics:

- a. **overview of regulatory responses:** a review of other jurisdictions in North America to understand what other regulators have done to date, or announced that they are considering, as well as highlighting approaches that are unique;
- b. **regulatory principles:** identification of the regulatory principles and policies being used, or expected to be used, by other regulators in their handling and review of COVID-19;
- c. **accounting treatment:** identification of the accounting treatments expected to be used in other jurisdictions to address the recognition of COVID-related regulatory assets or deferrals on utility financial statements; and
- d. **treatment of lost revenues:** note what other jurisdictions in Canada and the United States (“US”) are considering and implementing regarding the treatment of lost revenues attributable to the COVID-19 pandemic.

1.2 Overview of findings

To conduct this jurisdictional review, LEI examined dockets and news releases from state- and provincial-level governments and regulators across the US and Canada. From this jurisdictional scan, the following measures were identified as the most common regulatory responses to the ongoing COVID-19 pandemic:

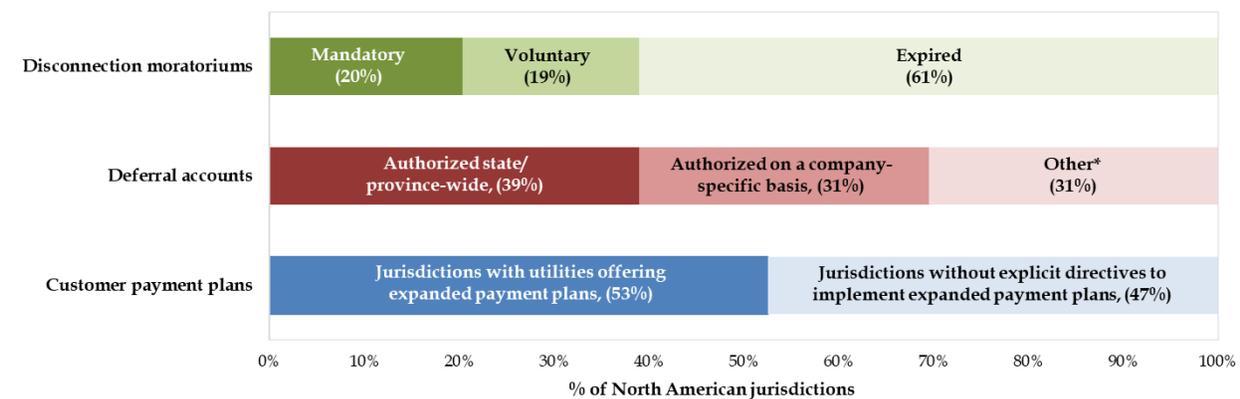
- **utility service disconnection moratoriums:** suspensions on disconnections for non-payment have been implemented across all states and provinces since the onset of the pandemic, either on a mandatory or voluntary basis. However, many of these moratoriums have since expired, with only 12 US states having mandatory moratoriums still in effect;
- **deferral accounts:** 41 states and provinces have authorized utilities to defer costs arising from the pandemic. 23 of these jurisdictions have issued decisions on a state- or province-wide basis, which have been promulgated mostly through accounting authority orders issued by regulators, although some jurisdictions have enabled this accounting mechanism through legislation instead. Notably, 74% of these 23 jurisdictions have

authorized utilities to establish regulatory assets for possible future recovery, while 26% have allowed deferral for tracking and accounting purposes only;¹ and

- **expanded customer payment plans:** as moratoriums across the region have been lifted or allowed to expire, many regulators have explicitly required or encouraged utilities within their jurisdiction to offer expanded payment arrangements to customers facing disconnection.

Figure 1 depicts the proportion of the 50 US states and nine other Canadian provinces (excluding Ontario)² that have implemented each of the three measures mentioned above. As demonstrated in the chart, 39% of North American jurisdictions have ongoing moratoriums in place (20% of which are mandatory, 19% of which are voluntary), 69% have authorized the deferral of COVID-related costs, and 53% have expanded customer payment plans (either because regulators have explicitly directed/encouraged their implementation, or because utilities have offered them of their own accord).

Figure 1. Summary of regulatory responses to COVID-19 across North America



* Includes jurisdictions that have either taken no definitive action, or that have proceedings underway to determine cost recovery (i.e., for whom cost provisions are pending). Figure 7 provides a breakdown of jurisdictions included in each category.

LEI conducted further analysis into the deferral account orders issued in 23 of the 59 jurisdictions, namely those that apply on a state- or province-wide basis.³ LEI began the research process for this report in September 2020 and finalized the list of 23 jurisdictions in October 2020. Updates

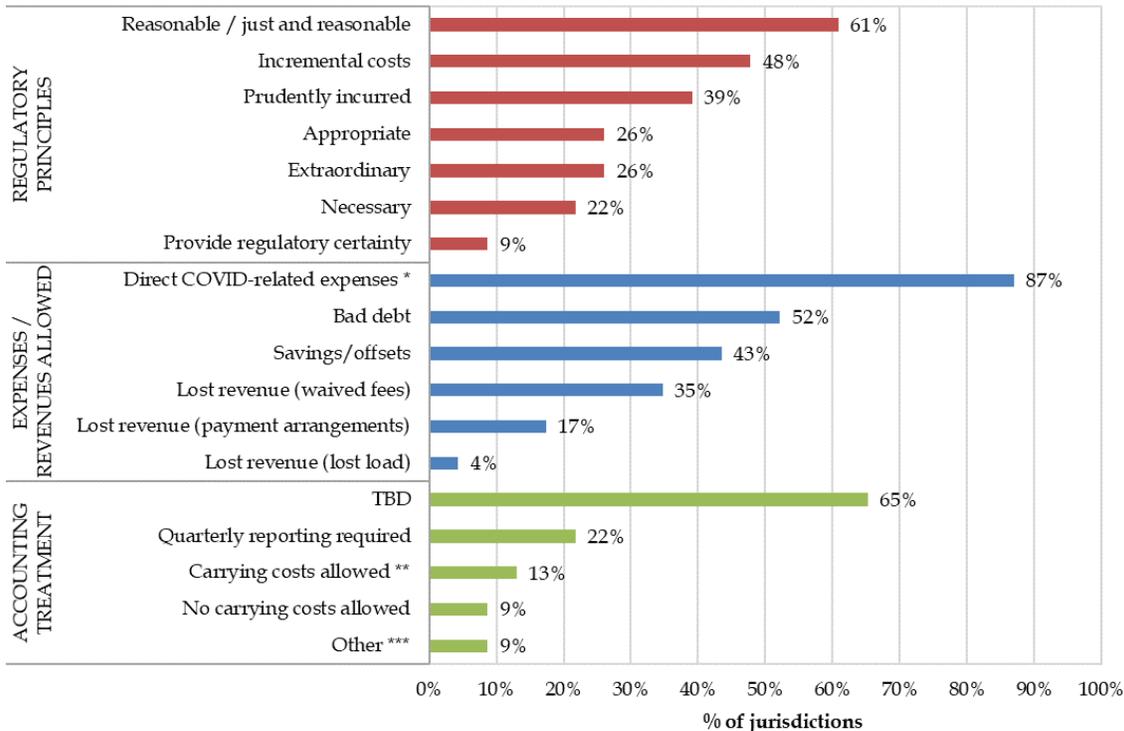
¹ The latter 26% of jurisdictions have allowed deferral of certain expenses/revenues, where “deferral authorization is for accounting purposes only and does not bind the Commission to any particular course of action in any future proceeding before the Commission.” See for example Michigan PSC. *Order in Case No. U-20757*. April 15, 2020. p. 15.

² A discussion of Ontario’s response to COVID-19 is included in Section 2.

³ We do not include the 18 jurisdictions (or 31%) in our analysis that have authorized deferral on a utility-specific basis, as these orders have been issued with differing guidance provided depending on the utility in question. These inconsistencies prohibit aggregation at the state- or provincial-level.

for these jurisdictions were made as of November 30, 2020. LEI also conducted a scan of updates for the remaining 36 jurisdictions as of November 30, 2020. This report is based on the latest available information compiled on a best-efforts basis.

Figure 2. Summary of deferral account orders for selected jurisdictions with generic accounts



Note: See Figure 8 and surrounding discussion for sources and notes. Generic accounts refer to generic, industry-wide deferral accounts established by the regulator/legislator through orders with or without a hearing or through legislation (see Section 3.2 for further details).

From this analysis of the 23 jurisdictions, the following observations were made with regards to the regulatory principles relied upon, the treatment of lost revenues, and the accounting treatments expected to be used (see Figure 2):

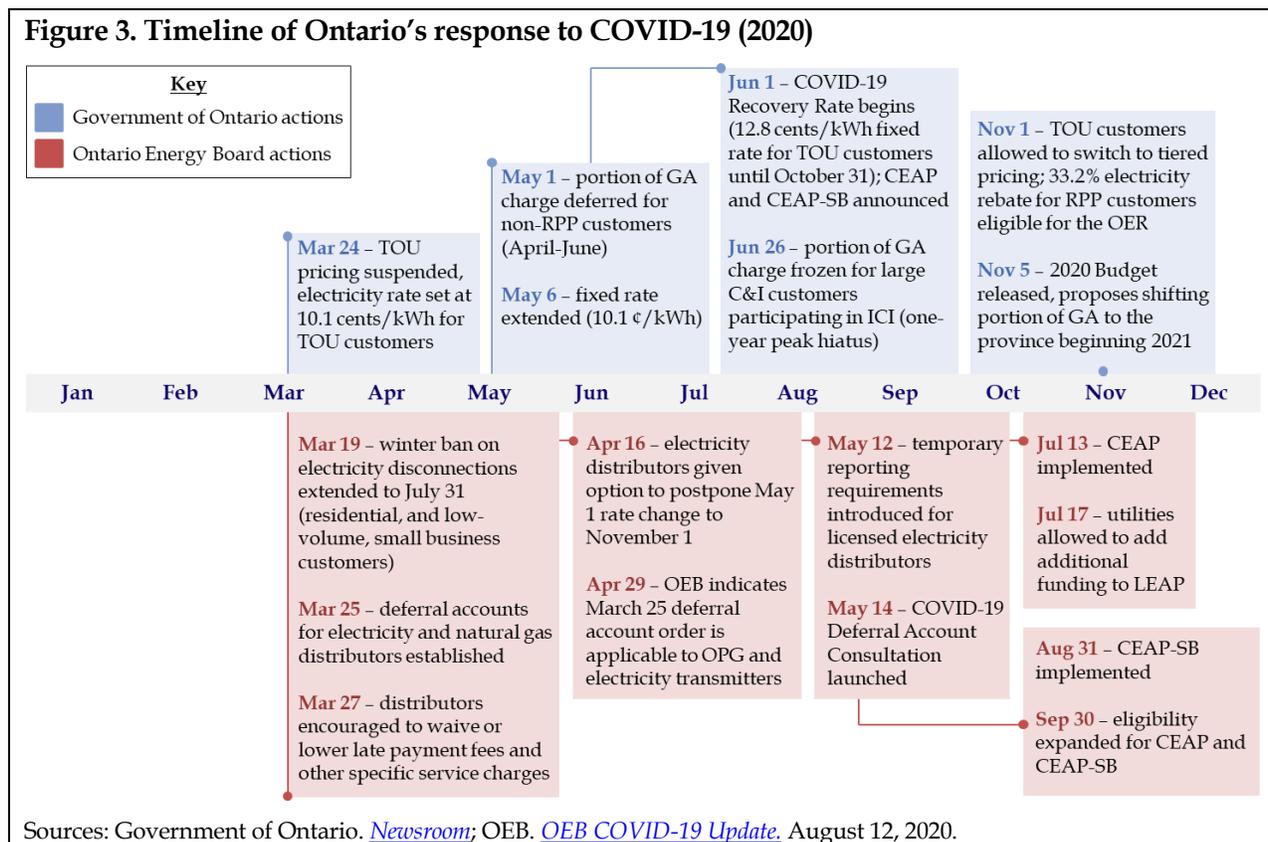
- regulatory principles:** many of the orders reviewed mentioned principles such as *just and reasonable* (61%) and *prudently incurred* (39%), and stated qualifiers such as *appropriate* (26%), *extraordinary* (26%), and *necessary* (22%) in relation to the costs that would be eligible for recovery in future proceedings. With regards to the principles relied upon to justify the establishment of COVID-19 deferral accounts, commissions cited qualifiers such as *appropriate*, *extraordinary*, and to *provide regulatory certainty* as reasons. Section 3.2.1 includes excerpts from commission orders to provide further context as to the principles regulators have and will continue to rely on in relation to their handling of the COVID-19 pandemic;
- treatment of lost revenues:** the eligibility of lost revenues for deferral has been contentious across the region, with only 35% of jurisdictions allowing the deferral of lost revenues from waived fees, followed by 17% for lost revenues from expanded payment

arrangements, and only 4% for lost revenues from lost load. Notably, these percentages account only for the jurisdictions that have explicitly allowed for these components to be deferred; orders issued by many regulators lack specificity as to the type of expenses and revenues allowed, and so their view on deferring lost revenues cannot be inferred; and

- **accounting treatment:** 65% of jurisdictions have postponed identification of specific accounting treatments to future proceedings, with only 13% of jurisdictions allowing carrying costs.

2 Ontario's response to COVID-19

To serve as a baseline for the following report, this section first describes the energy-related actions Ontario has implemented in response to the COVID-19 pandemic. These actions began when the Government of Ontario declared a provincial emergency on March 17, 2020.⁴ Figure 3 presents a timeline of what has been done in the province throughout the year, broken down by actions implemented by the Government of Ontario and the Ontario Energy Board (“OEB” or “the Board”). These actions are described in further detail in the sections below.



2.1 Government of Ontario

Since the onset of the COVID-19 pandemic, the Government of Ontario has taken various steps to provide customers with financial relief from their energy bills, which are discussed in the subsections that follow. These steps include:

- providing funding for recently announced **energy cost relief programs** such as the COVID-19 Energy Assistance Program (“CEAP”) for residential customers, and the CEAP-SB for small businesses (both of which have been established by the OEB);

⁴ Ontario Office of the Premier. [Ontario Enacts Declaration of Emergency to Protect the Public](#). March 17, 2020.

- the **suspension of time-of-use (“TOU”) electricity pricing** for residential customers, farms, and some small businesses to provide rate stability and predictability; and
- the **deferral of portions of the Global Adjustment (“GA”) charge** for commercial and industrial (“C&I”) Class A customers and Class B customers that are not on the Regulated Price Plan (“RPP”) to provide electricity rate relief,⁵ as well as an announced shift in a portion of GA charges to the province beginning in January 2021.⁶

2.1.1 Energy cost relief programs

On June 1, 2020, the Office of the Premier announced funding for two new programs to provide various customers with financial relief from their energy bills. The first comprised of \$9 million in funding for the CEAP, which provides eligible customers with one-time payments to “help pay down any electricity bill debt incurred over the COVID-19 period.” The second comprised of \$8 million in funding for the CEAP-SB, which provides support to eligible small businesses “struggling with bill payments as a result of the outbreak.”⁷ These programs were established and launched by the OEB on July 13, 2020 and August 31, 2020, respectively.^{8,9}

The CEAP and CEAP-SB are provided in addition to the province’s existing electricity cost relief programs, such as the Ontario Electricity Rebate (“OER”), Low-income Energy Assistance Program (“LEAP”), and the Ontario Electricity Support Program (“OESP”), among others. For example, through the OER, the province subsidizes electricity bills for eligible customers by 31.8%.¹⁰

On October 13, 2020, the Ministry of Energy, Northern Development and Mines (“the Ministry”) announced changes to some of the province’s energy cost relief programs, including expanded eligibility for both the CEAP and CEAP-SB,¹¹ as well as an increase in the OER to 33.2%, effective November 1, 2020. The Ministry also established a new Energy Affordability Program (“EAP”) to begin the week of January 4, 2021, which provides eligible households with free electricity saving measures, as well as energy efficiency upgrades.¹²

⁵ OEB. [Guidance to Electricity Distributors on Implementing the Emergency Order Regarding the Deferral of a Portion of the Global Adjustment](#). May 26, 2020.

⁶ Ontario Ministry of Finance. [Ontario’s Action Plan: Protect, Support, Recover](#). November 5, 2020.

⁷ Ontario Office of the Premier. [Ontario Supports Those Struggling with Electricity Bills during COVID-19](#). June 1, 2020.

⁸ OEB. [Implementation of the COVID-19 Energy Assistance Program \(CEAP\)](#).

⁹ OEB. [Implementation of the COVID-19 Energy Assistance Program – Small Business \(CEAP-SB\)](#).

¹⁰ Ontario Office of the Premier. [Ontario Supports Those Struggling with Electricity Bills during COVID-19](#). June 1, 2020.

¹¹ As decided in the OEB’s September 30, 2020 [Decision and Order](#).

¹² Ontario Ministry of Energy, Northern Development and Mines. [Ontario Helps Keep Energy Costs Low for Families, Small Businesses and Farmers](#). October 13, 2020.

2.1.2 Changes to time-of-use pricing

On March 24, 2020, through an Emergency Order titled “Electricity Price for RPP Consumers,” the Government of Ontario suspended TOU electricity rates for a 45-day period. In its place, TOU customers (comprising of approximately five million residential consumers, farms, and some small businesses) would automatically be charged a lower, fixed rate of 10.1 cents/kWh (the off-peak rate). Switching from TOU pricing to a fixed off-peak rate was estimated to provide rate reductions of over 50% compared to on-peak rates.¹³ This Order was extended on May 6, 2020 until May 31, 2020.¹⁴

On May 30, 2020, the Ministry introduced a new fixed electricity price of 12.8 cents/kWh (the “COVID-19 Recovery Rate,” based on the average cost of electricity) to apply to TOU customers in place of the previous 10.1 cents/kWh fixed rate. The COVID-19 Recovery Rate took effect over the June 1, 2020 to October 31, 2020 period, to “provide consumers with greater stability and predictability with their electricity bills.”¹⁵

Starting November 1, 2020, TOU customers have been able to switch from their TOU rates to tiered pricing (where electricity rates are fixed up to a certain level of consumption). This allows customers to “choose a plan that best suits their household and lifestyle.”¹⁶

2.1.3 Changes to Global Adjustment charges

On May 1, 2020, the Ministry implemented an emergency order to defer a portion of GA charges for C&I Class A customers and Class B customers that do not participate in the RPP (which includes over 50,000 companies in Ontario). The portion of charges deferred were designed to hold GA rates in line with pre-pandemic levels and would be deferred for the April-June 2020 period. This provided “companies with temporary immediate relief on their monthly electricity bills.” It is anticipated that these deferred costs (excluding interest) will be recovered from these Class A and non-RPP Class B customers over a 12-month period beginning in January 2021.^{17, 18}

On June 26, 2020, the Ministry announced that the proportion of GA charges attributable to large C&I customers participating in the Industrial Conservation Initiative (“ICI”) (comprising over 1,300 participants in Ontario) would be frozen for a period of two years. Under this measure, eligible companies are not required to reduce their electricity usage during peak hours, as their

¹³ Ontario Office of the Premier. [Ontario Providing Electricity Relief to Families, Small Businesses and Farms During COVID-19](#). March 24, 2020.

¹⁴ Ontario Office of the Premier. [Ontario Extends Electricity Rate Relief During COVID-19](#). May 6, 2020.

¹⁵ Ontario Ministry of Energy, Northern Development and Mines. [Ontario Provides Consumers with Greater Stability and Predictability with Their Electricity Bills](#). May 30, 2020.

¹⁶ Ontario Office of the Premier. [Ontario Supports Those Struggling with Electricity Bills during COVID-19](#). June 1, 2020.

¹⁷ Ontario Ministry of Energy, Northern Development and Mines. [Ontario Providing Support for Industrial and Commercial Electricity Consumers During COVID-19](#). May 1, 2020.

¹⁸ IESO. [Deferral of Global Adjustment Charges](#). May 1, 2020.

proportion of the GA charge is frozen, essentially allowing them to “return to full levels of operation without the fear of electricity costs spiking.”¹⁹

On November 5, 2020, the Government of Ontario released its 2020 Budget ‘Ontario’s Action Plan: Protect, Support, Recover,’ which announced a measure to shift a portion of non-hydro renewable contract costs that were previously funded through the GA to the province.²⁰ This measure, anticipated to begin in January 2021, is expected to result in an average reduction in all-in electricity bills for Class A and non-RPP Class B customers of around 14% and 16%, respectively. In addition to providing rate relief to existing customers, this shift is also designed to make Ontario’s rates more competitive compared to other North American jurisdictions.²¹

2.2 Ontario Energy Board

The OEB, as the province’s independent energy regulator, has implemented additional measures throughout the year to provide further support for both customers and utilities, which are discussed in further detail in the subsections below. These actions include, but are not limited to:

- **extending the province’s electricity winter disconnection ban** until July 31, 2020;
- **establishing deferral accounts** for regulated utilities to track any incremental costs and lost revenues related to the COVID-19 pandemic; and
- **other rate relief measures**, including: providing certain electricity distributors with the option of postponing rate changes from May 1 to November 1; encouraging distributors to waive or lower service charges and offer greater payment flexibility to customers; establishing CEAP and CEAP-SB; and allowing utilities to add funding to LEAP.

2.2.1 Electricity and gas disconnection moratorium

On March 19, 2020, the OEB extended its winter ban on electricity disconnections for non-payment for residential customers to July 31, 2020. The OEB also broadened the ban to apply to low-volume, small business customers, where low-volume customers are defined as those with annual electricity consumption below 150,000 kWh. The Board found the extension to be in the public interest as it ensured “that all low volume consumers ... are not disconnected for non-payment while Ontario addresses the current COVID-19 pandemic.”²² Notably, while the COVID-19 moratorium expired on July 31, 2020, the annual winter ban (for occupied residential

¹⁹ Ontario Ministry of Energy, Northern Development and Mines. [Ontario Provides Stable Electricity Pricing for Industrial and Commercial Companies](#). June 26, 2020.

²⁰ Ontario Ministry of Finance. [Ontario’s Action Plan: Protect, Support, Recover](#). November 5, 2020.

²¹ Ibid.

²² OEB. *Decision and Order (EB-2020-0109) Amending Electricity Distributor Licenses to Prohibit the Disconnection of Low-volume Consumers and Related Matters in light of the COVID-19 Pandemic*. March 19, 2020.

properties) commenced on November 15, 2020 and ends on April 30, 2021.²³ This ban now also applies to natural gas customers.

2.2.2 Establishing a COVID-19 deferral account

On March 25, 2020, the OEB established the “Deferral Account 1509 – Impacts Arising from the COVID-19 Emergency” (“the Account”) plus three sub-accounts for all rate-regulated electricity utilities, as well as sub-accounts for natural gas utilities under Account 179.²⁴ The structure and details of these sub-accounts are summarized in Figure 4 in blue. Overall, the Account shall be used to “track any incremental costs and lost revenues related to the COVID-19 pandemic.”²⁵

On April 16, 2020, the OEB offered 31 distributors the option to postpone implementation of their rate changes set for May 1 to November 1, 2020. This option would “enable distributors to provide additional relief to their customers at this unprecedented time if they are able to do so without jeopardizing continuity and reliability of service.” Distributors choosing to postpone their new rates were instructed at the time to track “any temporarily forgone distribution revenue” in the Lost Revenues sub-accounts.²⁶ However, on August 6, 2020, the OEB established a new sub-account, ‘Forgone Revenues from Postponing Rate Implementation,’ to track these revenues instead (one for electricity distributors under Account 1509 and one for natural gas distributors under Account 179, if needed).²⁷

On August 14, 2020, the OEB established another new sub-account, ‘Bad Debt,’ to record bad debt amounts separately. The Board determined separation of this component was appropriate because “bad debt is potentially one of the largest incremental cost components of the Account.” Previously these amounts were recorded under the Other Costs sub-account. Again, the new sub-account was added to Account 1509 for electricity utilities and Account 179 for natural gas distributors. As noted by the OEB, “[t]he establishment of this sub-account should not be construed in any way as confirming the recoverability of any incremental bad debt in advance of the conclusion of this consultation and/or a decision on disposition of the Account by the OEB.”²⁸ Figure 4 illustrates these new sub-accounts in red.

²³ OEB. [Rules for electricity utilities](#).

²⁴ The [March 25 Order](#) applies to all rate-regulated electricity and natural gas distributors. In an [April 29, 2020](#) letter, the OEB indicated that the Order also applies to Ontario Power Generation Inc. and all rate-regulated electricity transmitters.

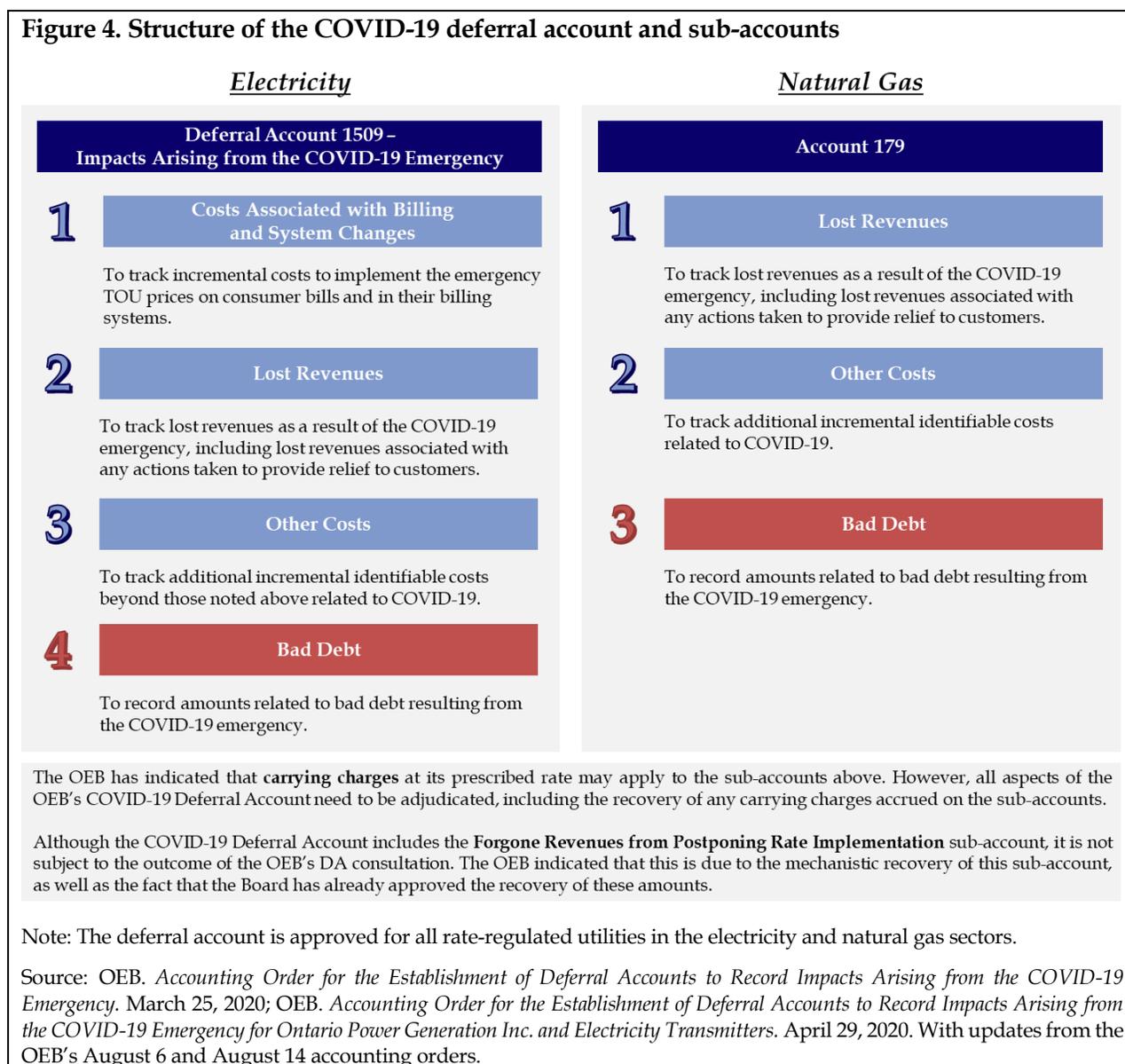
²⁵ OEB. *Accounting Order for the Establishment of Deferral Accounts to Record Impacts Arising from the COVID-19 Emergency*. March 25, 2020.

²⁶ OEB. *Approach to Incentive Rate-setting Decisions for May 1, 2020 Rates*. April 16, 2020.

²⁷ OEB. *Accounting Order for the Establishment of a Sub-account to Record Impacts Arising from the COVID-19 Emergency for Forgone Revenues from Postponing Rate Implementation*. August 6, 2020.

²⁸ OEB. *Accounting Order for the Establishment of a Sub-account to Record Impacts Arising from the COVID-19 Emergency from Bad Debt*. August 14, 2020.

Figure 4. Structure of the COVID-19 deferral account and sub-accounts



2.2.3 Customer rate relief actions

Throughout the year, the OEB implemented various other measures to provide further rate relief for customers. On March 19, 2020, in its Order extending the winter disconnection moratorium, the Board encouraged distributors to “focus efforts on promoting solutions for customers that have arrears,” including providing greater flexibility in payment terms, offering customers

arrears payment arrangements (“APAs”), and increasing customer awareness of available support programs.²⁹

On March 27, 2020, the OEB provided further guidance to electricity and natural gas distributors, encouraging them to waive or lower specific service charges, such as fees for late payment or fees for non-sufficient funds. In addition, the Board stated that distributors choosing to waive or lower these charges would be able to track “any lost revenues” in the Lost Revenues sub-accounts.³⁰

Finally, on July 17, 2020, the Board enhanced funding for the LEAP Emergency Financial Assistance (“EFA”) by allowing electricity and gas distributors to make a one-time increase to their contribution, which can be recorded in the Other Costs sub-accounts. The increase is capped at 50% of a distributor’s 2020 fiscal year funding amount.³¹

²⁹ OEB. *Decision and Order (EB-2020-0109) Amending Electricity Distributor Licenses to Prohibit the Disconnection of Low-volume Consumers and Related Matters in light of the COVID-19 Pandemic*. March 19, 2020.

³⁰ OEB. *Guidance to Electricity and Natural Gas Distributors on Providing Relief to Customers During the COVID-19 Emergency*. March 27, 2020.

³¹ OEB. *Enhanced Funding for LEAP Emergency Financial Assistance for 2020*. July 17, 2020.

3 Summary of responses across North America

LEI reviewed the measures taken by state- and provincial-level governments and regulators across the US and Canada in response to the COVID-19 pandemic. This included a review of dockets and news releases from all 50 US states and all Canadian provinces to gather intelligence as to what other jurisdictions have done to date, or announced that they are considering. By and large, these measures include:

- **utility service disconnection moratoriums:** since the onset of the pandemic, all US states and Canadian provinces have implemented either mandatory or voluntary disconnection moratoriums for non-payment, many of which have expired. Currently, only 12 states in the US have ongoing mandatory moratoriums, as detailed in Section 3.1, with some extending into 2021;
- **deferral accounts:** 41 states and provinces have allowed utilities to track and defer costs arising from the pandemic. Section 3.2 assesses the guiding principles regulators intend to rely on in their handling of COVID-19, the expenses and revenues allowed for deferral, and their accounting treatment. Analysis is restricted to 23 of the states and provinces that have authorized deferral in generic accounts that apply to all utilities. We do not include the remaining 18 jurisdictions in our analysis as they have authorized deferral on a utility-specific basis, with differing guidance provided depending on the utility in question;
- **expanded customer payment plans:** as moratoriums across the region have been lifted, many regulators have required utilities to offer expanded/flexible customer payment plans to those facing disconnection. The details of these plans are presented in Section 3.3; and
- **limited rate case activity:** Section 3.4 covers the slowing pace of rate case filings since the onset of the pandemic, as well as measures that regulators and utilities have taken as a result of COVID-19, including delaying the implementation of rate increases.

3.1 Utility service disconnection moratoriums

Utility service disconnection moratoriums are policies that are put in place to suspend customer disconnections by utilities for non-payment (i.e., when a customer fails to fully pay a utility bill). Disconnection moratoriums “do not relieve customers of the requirement to pay their utility bills,” but rather are “designed to ensure that customers continue receiving [utility] service even if they cannot pay their [utility] bill.”³²

In the US and Canada, jurisdiction over utility disconnection policies lies at the state, provincial, or local level. As such, the moratoriums that have been established amidst the ongoing COVID-19 pandemic have differed widely in terms of scope, duration, and related provisions (e.g., whether utilities are allowed to charge late fees, or whether they are required to restore power to previously disconnected customers). Many COVID-19 moratoriums were enacted through individual orders, directives, or legislation beginning in March, coinciding with stay-at-home

³² Congressional Research Service. *COVID-19 Electric Utility Disconnections*. June 9, 2020.

orders, and have been revised and extended on numerous occasions as the pandemic has continued to unfold.³³ As of May 2020, 1,055 utilities in the US (investor-owned, publicly-owned, and co-operatives) serving 113 million residential customers (or 88% of residential customers) were operating under a disconnection moratorium.³⁴

Some moratoriums have been implemented on a mandatory basis (passed down by the state or provincial regulator/government), while others have been agreed upon on a voluntary basis by utilities. Some cover the disconnection of utility services including electricity, natural gas, water, and telecommunications, while others cover only a selection. Some moratoriums cover all customer classes, while others typically apply only to residential customers or those facing financial hardship relating directly to the pandemic. Some moratoriums have already expired, while others extend as far out as April 30, 2021 (**Washington state**).

For some that have expired or are set to expire soon, the end of the COVID-19 moratorium coincides with the beginning of an annual winter shut-off moratorium. In the US, winter moratoriums are in effect in states such as **Maine** (November 15-April 15), **Massachusetts** (November 15-April 15), **Ohio** (October 5-April 15), **Rhode Island** (November 1-April 15), and **Wisconsin** (November 1-April 15).³⁵ In Canada, winter moratoriums are in effect in provinces such as **Ontario** (November 15-April 30)³⁶ and **Alberta** (October 15-April 15 for electricity, November 1-April 15 for gas).³⁷

Notably, on October 30, 2020, a group of nine US senators called on utilities in the US to reinstate disconnection moratoriums until the end of the pandemic (i.e., until the National Emergency declaration and respective state emergency declarations are lifted). The request was issued through a letter sent to 21 electric, gas, water, and telecommunications companies. Although companies were asked to respond by November 13, 2020, it appears that no substantial action has been taken since the request was issued.³⁸

Figure 5 and Figure 6 illustrate the status of utility service disconnection moratoriums in Canada and the US, respectively. As these policies are subject to a high level of uncertainty given the constant evolution of the pandemic, the maps are based on the latest available information compiled on a best-efforts basis.

³³ Ibid.

³⁴ Ibid.

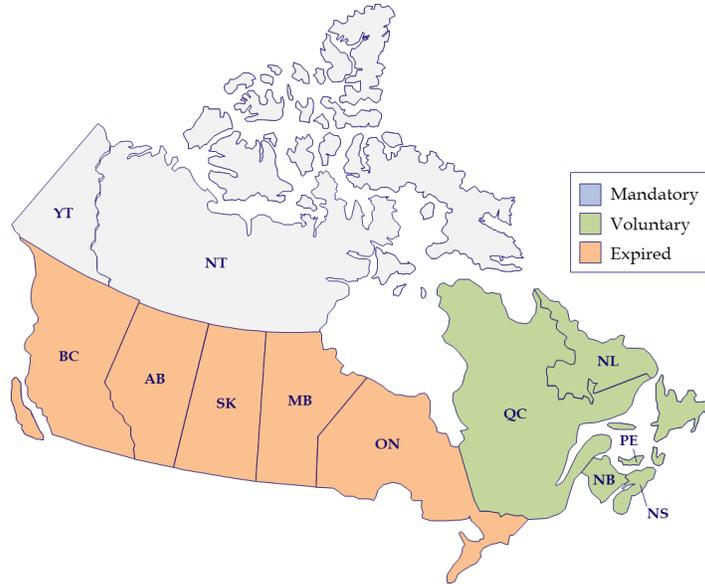
³⁵ S&P Global. *Utility Service Termination Moratoriums – Database*. October 5, 2020.

³⁶ OEB. [Rules for electricity utilities](#), and OEB. [Rules for natural gas utilities](#).

³⁷ Utilities Consumer Advocate. [AUC Winter Utility Reconnection Program](#).

³⁸ S&P Global. [US Senators ask utilities to halt shut-offs until pandemic ends](#). October 30, 2020.

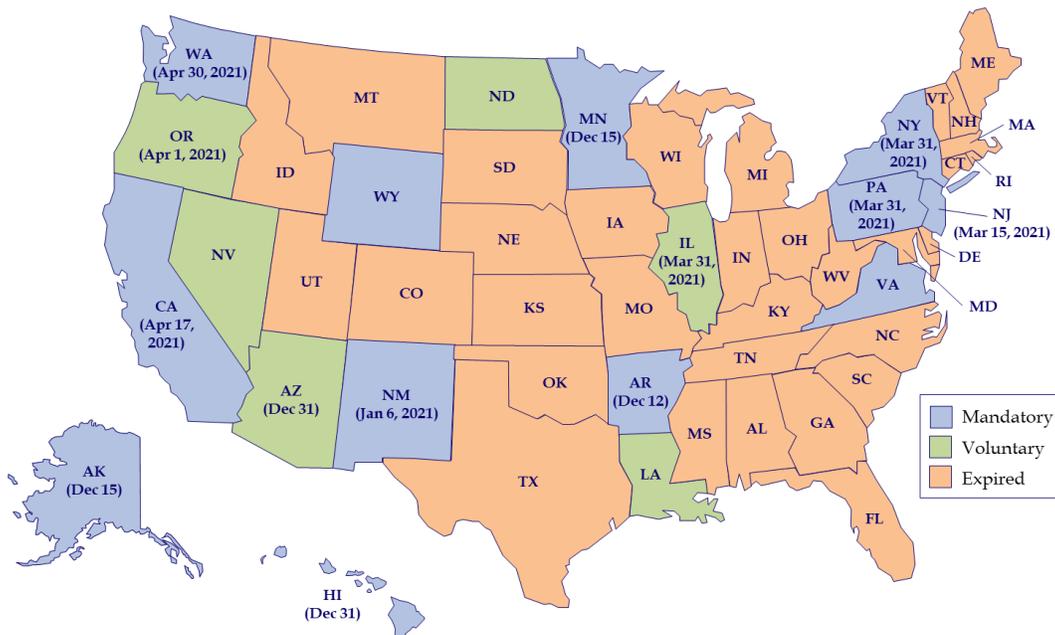
Figure 5. Map and status of COVID-19 disconnection moratoriums in Canada



Notes: Map lists status as 'expired' if disconnection moratorium related to COVID-19 has expired, but winter disconnection moratorium is currently in effect.

Sources: S&P Global Market Intelligence; LEI analysis.

Figure 6. Map and status of COVID-19 disconnection moratoriums in the US



Notes: Map lists status as 'expired' if disconnection moratorium related to COVID-19 has expired, but winter disconnection moratorium is currently in effect. Voluntary moratorium end dates vary by utility.

Sources: S&P Global Market Intelligence; NARUC. [Map of Disconnection Moratoria](#). November 23, 2020; LEI analysis.

As demonstrated in the figures, COVID-19 moratoriums have expired throughout much of Canada and the US. However, 12 states in the US still have ongoing mandatory moratoriums, including:

- **Alaska:** through Senate Bill 241, public utilities (electric, gas, among others) are prevented from disconnecting residential customers – specifically those experiencing financial hardship related to the ongoing COVID-19 state public health emergency, which has been extended until December 15, 2020;^{39, 40}
- **Arkansas:** the Arkansas Public Service Commission (“PSC”) ordered all Commission-jurisdictional electric, gas, and water public utilities to suspend disconnections for all customer classes during the Governor’s emergency declaration, which was most recently extended on October 13 by 60 days until December 12, 2020;^{41, 42}
- **California:** the California Public Utilities Commission (“PUC”) suspended electric, natural gas, and water utility disconnections for residential and small business customers through April 16, 2021;⁴³
- **Hawaii:** the Hawaii PUC extended its suspension of disconnections of electricity, gas, telecommunications, water, and wastewater services through December 31, 2020;⁴⁴
- **Minnesota:** the Minnesota PUC encouraged electric and gas utilities to restrict disconnection of residential customers for the duration of the state peacetime emergency, which was extended through December 14, 2020.^{45, 46} Notably, the state’s Cold Weather Rule prevents electric and gas shut-offs for residential customers from October 15 through April 15, 2021;⁴⁷
- **New Jersey:** Executive Order No. 190, signed by Governor Phil Murphy, extends the disconnection moratorium for gas, electric, and water utilities (both public and private) in the state through March 15, 2021 for residential customers;⁴⁸

³⁹ Legislature of the State of Alaska. *Senate Bill No. 241*. March 28, 2020.

⁴⁰ Alaska Office of the Governor. [Governor Issues New COVID-19 Public Health Disaster Emergency Declaration](#). November 6, 2020.

⁴¹ Arkansas PSC. *Order No. 1, Docket No. 20-012-A*. April 10, 2020.

⁴² State of Arkansas Executive Department. *Proclamation EO 20-48*. October 13, 2020.

⁴³ CPUC. *Emergency Authorization and Order Directing Utilities to Implement Emergency Customer Protections to Support California Customers During the COVID-19 Pandemic (Resolution M-4842)*. April 17, 2020.

⁴⁴ Hawaii PUC. *Order No. 37284 Extending Suspension of Termination or Disconnection of Regulated Utility Services due to Non-payment and/or Assessment of Other Charges Through December 31, 2020*. August 24, 2020.

⁴⁵ Minnesota PUC. *Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic*. May 22, 2020.

⁴⁶ Governor Tim Walz. *Emergency Executive Order 20-97*. November 12, 2020.

⁴⁷ Minnesota PUC. [Shut-Off Protection](#).

⁴⁸ Governor Philip D. Murphy. *Executive Order No. 190*. October 15, 2020.

- **New Mexico:** the New Mexico Public Regulation Commission (“PRC”) approved an order that took effect on November 10 and placed a moratorium on electric, gas, and water disconnection for residential customers until January 6, 2021;⁴⁹
- **New York:** under amendments to the Public Service Law by Governor Andrew Cuomo, the moratorium on disconnections of residential electricity, gas, steam, telephone, and water customers expires March 31, 2021 (but only for customers experiencing “a change in financial circumstances due to the COVID-19 state of emergency”);⁵⁰
- **Pennsylvania:** although the mandatory moratorium on utility disconnections (for energy and water utilities, and regulated telecommunications carriers) was lifted on November 9, the Pennsylvania PUC has implemented customer safeguards protecting certain residential and small commercial customers from facing shut offs until March 31, 2021;⁵¹
- **Virginia:** through the state’s budget bill passed on November 18, legislators reinstated the moratorium on electric, gas, and water disconnections for residential customers that was originally implemented in March but expired on October 5. The moratorium is reinstated indefinitely – either until lifted by the governor, or until 60 days after the governor’s state of emergency expires, whichever is earlier;⁵²
- **Washington:** the Washington Utilities and Transportation Commission extended its moratorium on disconnections by electric and gas investor-owned utilities (“IOUs”) until April 30, 2021 for residential and small commercial customers;⁵³ and
- **Wyoming:** the Wyoming PSC issued an order authorizing the suspension of service disconnections by all public utilities within the state.⁵⁴ The order, issued on March 26, 2020, is still in effect as it has not been superseded by a subsequent order to date.

3.2 Deferral accounts

Regulatory assets are an accounting mechanism unique to utilities and are typically authorized by commissions through an accounting authority order (“AAO”), which allow utilities to defer costs arising from a variety of matters, including “extraordinary” circumstances such as extreme weather events. Essentially, expenses “that would normally be recorded on the company’s

⁴⁹ NARUC. [Map of Disconnection Moratoria](#). October 27, 2020.

⁵⁰ New York Department of Public Service. *Notice of Revision to Department of Public Service Guidance Relating to the COVID-19 Utility Moratorium on Terminations and Disconnections (Matter 20-01676)*. September 8, 2020.

⁵¹ The Philadelphia Inquirer. [Utilities can soon cut off nonpaying customers, Pa. says, but the poorest customers are protected](#). October 8, 2020.

⁵² S&P Global. [Virginia’s COVID-19 utility shut-off ban to extend indefinitely under new law](#). November 19, 2020.

⁵³ Washington Utilities and Transportation Commission. *State regulators extend protections for energy customers affected by COVID-19 (Docket Number: U-200281)*. October 6, 2020.

⁵⁴ Wyoming PSC. *Order Authorizing Suspension of Certain Tariffs, Rules, Regulations and Similar Terms of Service (Record No. 15474)*. March 26, 2020.

income statement during the present period” are deferred to a future period, and are recorded as a regulatory asset appearing on the company’s balance sheet instead.⁵⁵

As observed by the Indiana Utility Regulatory Commission (“IURC”) in its COVID-19 Emergency Order, “[w]hile any authorization to establish a deferred regulatory asset has no immediate impact on a utility’s rates, it does carry with it a general presumption that such costs, if determined to be reasonable and necessary, are entitled to future recovery in rates.”⁵⁶

Generally, and as established by precedent set in previous rate cases dealing with deferred costs from severe weather events, regulatory assets are often recovered over a multiyear period (typically five to seven years),⁵⁷ with the utility sometimes allowed to earn a return on the unamortized balance.⁵⁸ It is important to note that while recovery of a regulatory asset is likely, it is subject to a prudence review, and therefore, is not guaranteed. Such a review would determine the eligibility of costs for recovery, and involves the commission considering “whether or not unanticipated costs should be treated as “extraordinary” and recovered, or considered “normal” volatility in utility costs that are part and parcel of the traditional regulatory process.”⁵⁹

The COVID-19 pandemic is unquestionably an extraordinary event, and as such, many commissions throughout North America have authorized utilities to defer costs associated with it. Provided sufficient cashflow from other sources is available, deferral is an acceptable option for both regulators and utilities alike, as it strikes a balance between providing utilities with regulatory certainty and keeping their earnings whole, while also avoiding immediate rate increases for customers during the current economic downturn.⁶⁰

As demonstrated in Figure 7, LEI observes that 41 states and provinces have authorized the deferral of COVID-related costs, with 23 of the states/provinces enabling this for all utilities within its jurisdiction (issued through orders with or without a hearing, or through legislation), and 18 of the states/provinces authorizing deferral on a utility-specific basis instead. The remaining 18 states/provinces have either taken no definitive action or have a proceeding underway to determine cost recovery.

⁵⁵ S&P Global. [Postponing review of deferral mechanics hampers one’s grasp of ratemaking tools](#). August 18, 2020.

⁵⁶ IURC. *Phase 1 and Interim Emergency Order of the Commission (Cause No. 45380)*. June 29, 2020. p. 7.

⁵⁷ However, in Ontario the common clearance period for many deferral accounts is one year, although mitigation measures, if needed, may include two to three years amortization.

⁵⁸ S&P Global. [State regulators take 1st steps to address COVID-19 costs to utilities](#). March 31, 2020.

⁵⁹ S&P Global. [As COVID-19 wears on, regulators examine moratorium extensions, cost recovery](#). July 24, 2020.

⁶⁰ S&P Global. [As transition to ‘normal’ begins, states eye COVID-19 cost recovery options](#). May 28, 2020.

Figure 7. COVID-19 cost recovery provisions by state/province (as of October 2020)

Deferral authorized in generic proceeding for all utilities		Deferral authorized on a utility-specific basis		Other	
Alaska	Mississippi	Arizona	New York	<u>Cost provisions pending</u>	<u>No definitive action</u>
Arkansas	Nevada	Colorado	Ohio	Kentucky	Alabama
California	New Jersey	Florida	Rhode Island	Maine	Tennessee
Connecticut	New Mexico	Georgia	South Dakota	Massachusetts	Manitoba
Delaware	Oklahoma	Illinois	Utah	Missouri	New Brunswick
Hawaii	Pennsylvania	Iowa	Washington	New Hampshire	Newfoundland & Labrador
Idaho	Texas	Kansas	Wyoming	North Carolina	Nova Scotia
Indiana	Virginia	Montana	British Columbia	North Dakota	Quebec
Louisiana	West Virginia	Nebraska	Prince Edward Island	Oregon	Saskatchewan
Maryland	Wisconsin			South Carolina	
Michigan	Alberta			Vermont	
Minnesota					

Sources: S&P Global. [Regulators seesaw on shut-off policy, move slowly on COVID-19 cost recovery](#). October 5, 2020; regulator websites; LEI analysis.

LEI analyzed the orders/legislations for each of the jurisdictions authorizing deferral in generic accounts⁶¹ applied across all of its utilities (i.e., the 23 states/provinces listed in the blue shaded column in Figure 7). LEI chose to focus on these jurisdictions only, as the states/provinces that are authorizing deferral on a utility-specific basis have done so through different orders which prohibit aggregation at a state- or provincial-level. For example, the British Columbia Utilities Commission (“BCUC”) has issued tailored and varied cost provisions across utilities within its jurisdiction, including authorizing different accounting treatments and eligible expenses for different companies.⁶²

It is important to note that of the 23 jurisdictions reviewed, 74% have authorized utilities to establish regulatory assets to record certain expenses/revenues, which generally provides utilities the ability to seek “possible recovery through future rates.”^{63, 64} The remaining 26% of

⁶¹ Generic accounts refer to generic, industry-wide deferral accounts established by the regulator/legislator through orders with or without a hearing or through legislation.

⁶² See BCUC. Order Nos. G-176-20, G-133-20, G-132-20, G-147-20, G-146-20, G-79-20. 2020.

⁶³ Idaho PUC. Order No. 34718, Case No. GNR-U-20-03. July 7, 2020. p. 10.

⁶⁴ Of the 23 jurisdictions reviewed, none have yet to rule on possible cost-sharing mechanisms related to the recovery of balances in COVID-19 deferral accounts. However, some stakeholders have called for cost-sharing mechanisms to be in place. For example, the Michigan Department of the Attorney General asked the Michigan PSC to consider, among other issues, that “utilities should adopt the spirit of shared sacrifice and recover only 80% of costs incurred.” Although the Commission did not rule on the matter in its July 23 order, it stated: “[r]egarding potential cost recovery for utilities’ COVID-19-related expenses, the Commission finds it important to point out the financial hardship that individuals and businesses across the state are experiencing. While rate-regulated energy providers are lawfully entitled to recover reasonably and prudently incurred expenses related to the cost of service, this is also an opportunity for the utilities to share

jurisdictions have instead allowed deferral of certain expenses/revenues, where “deferral authorization is for accounting purposes only and does not bind the Commission to any particular course of action in any future proceeding before the Commission.”⁶⁵ The latter approach aligns with the Accounting Orders issued by the OEB, such that the COVID-19 Deferral Account has been established for tracking purposes, with an assessment of any claimed amounts to be made by the OEB at the time they are brought forth for disposition.

In addition, of the 23 jurisdictions reviewed, 65% of commissions established generic deferral accounts or regulatory assets in response to their respective states of emergency,⁶⁶ 22% of commissions authorized them in response to utility-initiated motions, applications, or petitions seeking relief, while the remaining 13% of jurisdictions promulgated them through legislation (including Alaska’s Senate Bill 241, Alberta’s Utility Payment Deferral Program Act, and California’s Assembly Bill 913; the latter two pieces of legislation are discussed in Section 3.2.2.1 and Section 3.2.3, respectively).

Through a review of the orders/legislations promulgated in the selected 23 jurisdictions, LEI has identified the most common:

1. regulatory principles relied upon;
2. types of expenses and revenues allowed; and
3. approaches to accounting treatment.

The results of this analysis are summarized in Figure 8, with a discussion of each of these elements included in the subsections that follow. Note the percentages reflect the proportion of jurisdictions that have explicitly mentioned each item in their rulings (e.g., for bad debt’s 52%, the remaining 48% of jurisdictions have not denied deferral of bad debt to date, but instead have not explicitly mentioned this expense in their rulings).

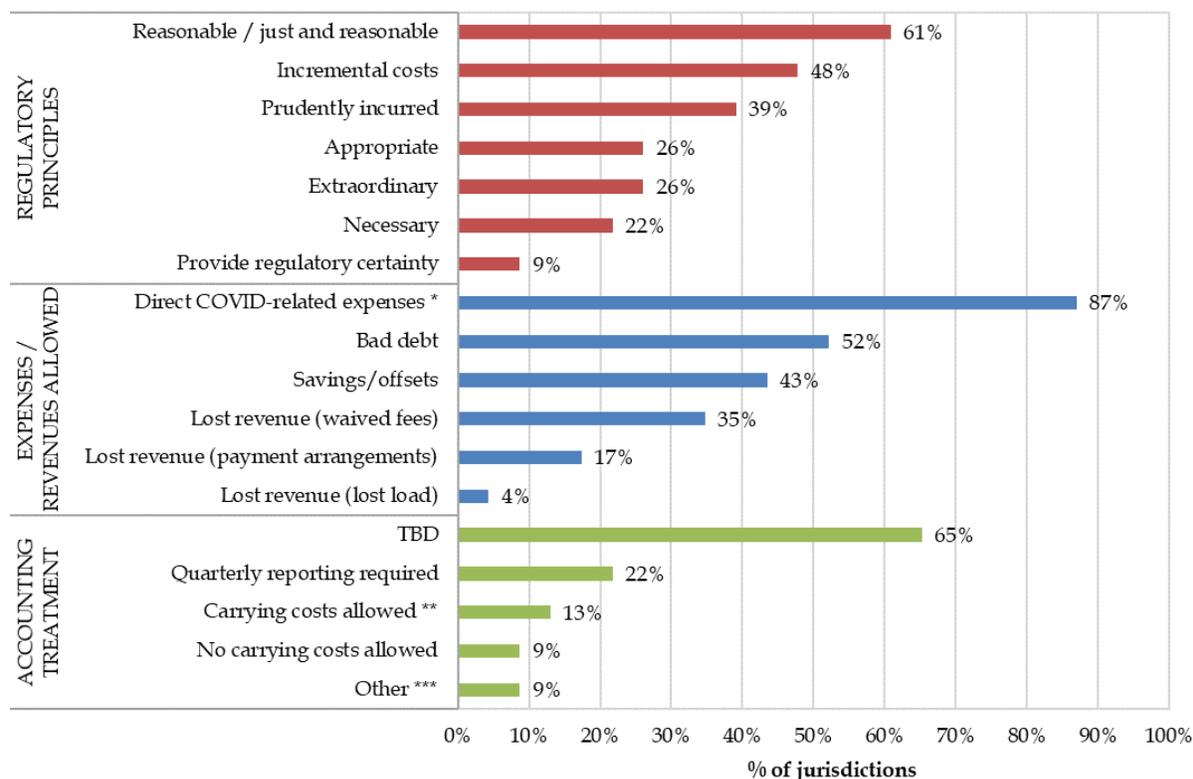
the economic burden that has been brought on by the pandemic and approach cost recovery with the spirit of shared sacrifice.” (Source: Michigan PSC. *Order in Case No. U-20757*. July 23, 2020. p. 23, 29-30)

⁶⁵ Michigan PSC. *Order in Case No. U-20757*. April 15, 2020. p. 15.

⁶⁶ See for example:

1. **Michigan PSC:** “In the matter, on the Commission’s own motion, to review its response to the novel coronavirus (COVID-19) pandemic, including the statewide state of emergency, and to provide guidance and direction to energy and telecommunications providers and other stakeholders.” (Michigan PSC. *Order in Case No. U-20757*. April 15, 2020. p. 1)
2. **West Virginia PSC:** “The Commission, on its own motion, authorizes the deferral of costs for certain utilities ... to address additional, extraordinary costs the utilities may experience that are directly related to changes in operations required by the COVID-19 virus and to changes in billing and collecting to accommodate customers impacted by the COVID-19 virus emergency.” (West Virginia PSC. *Commission Order No. 262.4*. May 15, 2020. p. 1)

Figure 8. Summary of deferral account orders for selected jurisdictions with generic accounts



* Direct COVID-related expenses include jurisdictions with orders/legislation lacking specificity as to the costs that are eligible for deferral. These orders often include language along the lines of “record costs resulting from the suspension of disconnections” or “record the incremental costs related to COVID-19 incurred” with little to no additional context/guidance.

** Virginia, Wisconsin and Alberta. In Wisconsin, IOUs are authorized to accrue carrying costs at the short-term rates approved in their most recent rate case, while munis are authorized to accrue at the benchmark rate of 4.90% (subject to change). In Alberta, carrying costs are to be collected based on the weighted average cost of capital (“WACC”).

*** California and Mississippi. California has authorized its Commission to “approve the securitization of revenue shortfalls associated with the economic effects of the COVID-19 pandemic.” Mississippi authorizes utilities to place the unamortized balance of regulatory assets and the associated Accumulated Deferred Income Tax liability in rate base and request an amortization schedule in their next rate filings.

Note: Includes only the 23 jurisdictions that have issued generic orders/legislation authorizing deferral accounts for all utilities (see Figure 7 for a list of states/provinces included).

Sources: Commission Orders/legislation; LEI analysis of sources listed in spreadsheet attached to S&P Global. [RRA Regulatory Focus: Regulators seesaw on shut-off policy, move slowly on COVID-19 cost recovery](#), October 5, 2020.

3.2.1 Regulatory principles

In their handling and review of COVID-19, regulators first and foremost will be guided by their mandate to consider and adequately balance the interests of **utilities**, with respect to cost recovery and reasonable return on capital investment, and their **customers**, with regard to fair and affordable rates and reliable service. As succinctly summarized in the Arkansas PSC’s COVID-19 administrative order, the Commission (as well as commissions across the region generally):

“is charged with the duty of ensuring that public utilities provide safe, adequate, and reliable utility service at just and reasonable rates. By law, such rates must allow public utilities the opportunity to recover the prudently incurred cost of providing such service and a fair rate of return on capital invested by the utilities for the purpose of providing such service. The Commission is also charged with the duty of ensuring that customers are not charged excessive rates for such service.”⁶⁷

While the COVID-19 pandemic is unprecedented, and the magnitude of its impacts are not yet fully known or understood, commissions across the region have noted several established policies and principles which they intend to rely on when weighing the interests of utilities with those of their customers. The most frequently mentioned principles and qualifiers are listed in Figure 8 and are described more fully below, followed by a textbox which includes excerpts from commission orders and decisions justifying the establishment of COVID-19 deferral accounts:

- **just and reasonable:** ‘just and reasonable’ was mentioned in 61% of the deferral account orders reviewed. For example, referring to the future review of deferred expenses, the Maryland PSC stated that it “will consider in future proceedings whether each Utility’s request for recovery is **just and reasonable**” [emphasis added];⁶⁸
- **incremental costs:** 48% of jurisdictions studied authorized the deferral of only *incremental* costs or expenses, which the Mississippi PSC defined as “those costs or expenses which are in excess of the costs previously provided for in rates. Such costs may include capital costs and expenses”;⁶⁹
- **prudently incurred:** again, in reference to the types of costs or expenses eligible for deferral, 39% of commissions analyzed stated that these must be ‘prudently incurred’ or subject to a prudence review. For instance, the Minnesota PUC stated: “[u]tilities that have costs approved for deferred accounting must also always establish the costs’ reasonableness and **prudence**” [emphasis added];⁷⁰
- **appropriate:** 26% of commissions studied mentioned their consideration of appropriateness not only in terms of deciding whether to authorize deferral of COVID-related costs in the first place, but also in their future determinations of the length of the recovery period for said costs. On the former, the Delaware PSC found “that authorizing a Utility to create a regulatory asset of COVID-19 related costs is **appropriate** because the current catastrophic health emergency is outside the control of the Utilities and is a non-recurring event.” On the latter, the Delaware PSC stated that it “will evaluate the COVID-19 regulatory asset account in future rate case proceedings to determine ... the

⁶⁷ Arkansas PSC. *Order No. 1, Docket No. 20-012-A*. April 10, 2020. p. 1.

⁶⁸ Maryland PSC. *Order Authorizing Establishment of a Regulatory Asset for COVID-19 Related Incremental Costs (Case No. 9639)*. April 9, 2020. p. 3.

⁶⁹ Mississippi PSC. *Order Authorizing Utility Response and Accounting for COVID-19 (Docket No. 2018-AD-141)*. April 14, 2020. p. 3.

⁷⁰ Minnesota PUC. *Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic (Docket Nos. E,G-999/CI-20-425 and E,G-999/M-20-427)* May 22, 2020. p. 5.

appropriate period of recovery for any approved amount of the regulatory asset” [emphasis added in both instances];⁷¹

- **extraordinary:** 26% of the commissions analyzed also used ‘extraordinary’ as a qualifier for the costs eligible for deferral. For example, the Minnesota PUC recognized “that COVID-19-related expenditures and other financial impacts are unusual, **extraordinary**, and infrequent. The Commission also recognizes that without recovery of these costs, a utility could suffer financial harm.” [emphasis added];⁷²
- **necessary:** 22% of commissions stated their intent to consider necessity when reviewing future requests for recovery. For example, the Oklahoma Corporation Commission found that “it will consider in future proceedings whether each utility’s request for recovery of these regulatory assets is reasonable and **necessary**” [emphasis added];⁷³ and
- **provide regulatory certainty:** two of the 23 commissions reviewed (or 9%) cited ‘providing regulatory certainty’ as a reason for authorizing deferral accounting for COVID-related costs. For example, the Texas PUC noted that “[t]hrough this Order, the Commission takes steps to provide regulated utility companies some **regulatory certainty** by authorizing the use of an accounting mechanism and a subsequent process through which regulated utility companies may seek future recovery of expenses resulting from the effects of COVID-19.”⁷⁴ [emphasis added]

Various commission decisions establishing deferral accounts

IURC: “A request for regulatory accounting authority, which is a type of single-issue ratemaking and generally prohibited, is a request for **extraordinary** relief. We have previously held that,

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

continued...

⁷¹ Delaware PSC. *Order No. 9588, Docket No. 20-0286*. May 13, 2020. p. 3-4.

⁷² Minnesota PUC. *Order Approving Accounting Request and Taking Other Action Related to COVID-19 Pandemic (Docket Nos. E,G-999/CI-20-425 and E,g-999/M-20-427)* May 22, 2020. p. 5.

⁷³ Oklahoma Corporation Commission. *Interim Order No. 711412, Cause No. PUD202000050*. May 7, 2020. p. 2.

⁷⁴ Texas PUC. *Order Related to Accrual of Regulatory Assets (Project No. 50664)*. March 26, 2020. p. 1.

... Given Governor Holcomb's declaration of a public health emergency and issuance of Executive Orders prohibiting utility disconnections, along with the Commission's decision above that an emergency situation exists so as to necessitate a modification to certain utility practices and charges, we find it **appropriate and reasonable** to authorize jurisdictional Indiana utilities to use regulatory accounting for any impacts associated with any prohibition on utility disconnections, waiver or exclusion of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees), and the use of expanded payment arrangements to aid customers." [emphasis added]

[IURC. Phase 1 and Interim Emergency Order of the Commission (Cause No. 45380). June 29, 2020. p. 7-8]

Wisconsin PSC: "When determining whether authorization of deferral accounting treatment is appropriate, prior Commission orders have adopted and applied Staff Accounting Statement of Policy 94-01, and those orders set forth the criteria for evaluating the use of the deferral accounting method. The criteria to be considered are: 1) the amount is **outside the control of the utility**; 2) the expenditure is **unusual** (e.g. nontypical, noncustomary) **and infrequently recurring**; 3) the immediate recognition of the expenditure causes the utility serious **financial harm**; and 4) the immediate recognition of the expenditure causes **significant ratepayer impact**. These criteria can be considered individually or together with other criteria.

The declaration of a public health emergency is an exceptional and unusual situation. ... As a result, the Governor and this Commission have taken steps to ensure continuation of and enhanced access to such services during the declared public health emergency. Responding to these directives and other activities that utilities may need to take during this declared public health emergency may result in the incurrence of expenditures and/or foregone revenue which are outside of the utility's control. The Commission finds that such expenditures and/or foregone revenue are unusual and infrequently occurring, and could cause the utility financial harm or distort the current year's income.

Therefore, all electric, gas, steam, and water public utilities are authorized to defer expenditures incurred by the utility resulting from its compliance." [emphasis added]

[Wisconsin PSC. Order (5-AF-105). March 24, 2020. p. 2-3]

3.2.2 Expenses/revenues allowed

Across the region, the deferral account directives that have been issued by regulators or governments at times lack specificity as to the types of eligible expenses or revenues. Some orders include language along the lines of "record costs resulting from the suspension of disconnections" or "record the incremental costs related to COVID-19 incurred" with little to no additional context or guidance provided. However, of the 23 jurisdictions reviewed, the eligible expenses can generally be categorized into the following buckets:

- **direct costs:** which may include personal protective equipment ("PPE") costs for employees, as well as other health and safety costs incurred to comply with government orders (e.g., increased technology costs for remote work, critical employee sequestration costs, employee screening and testing, and incremental labour costs/overtime/

training).⁷⁵ These are listed as ‘Direct COVID-related expenses’ in Figure 8; 87% of the jurisdictions reviewed allow these costs to be tracked and deferred; and

- **indirect costs:** which include “higher incidence of bad-debt/uncollectibles costs relative to the normalized amounts reflected in base rates and lost revenues due to business closures caused by stay-at-home requirements and the pandemic-related recession.”⁷⁶ As demonstrated in Figure 8, 52% of jurisdictions studied authorize the deferral of bad debt expenses. The textbox below summarizes various commission justifications for approving the recording or deferral of bad debt.

In contrast, the deferral of lost revenues is more limited, with only 35% of jurisdictions authorizing the deferral of lost revenues relating to waived fees, followed by 17% for lost revenues relating to expanded customer payment arrangements, and only 4% for lost revenues relating to lost load.

Various commission decisions regarding bad debt

Idaho PUC: *“The Commission is aware that the utilities have large customer accounts receivable from past-due bills and additional past-due amounts will continue to increase due to the Emergency. ... Although there is no set end-date to the Emergency, the Commission will allow the utilities to defer uncollectible bad debt expenses ... exceeding the 2019 levels of uncollectible bad debt. [Utilities] must also file a report with the Commission by December 31, 2020 detailing its current deferral amount and projections for additional deferrals if the utility is still suspending disconnections at the time of reporting. Additionally, we remind the utilities that authority to defer does not guarantee recovery. Actual recovery amounts and terms of recovery will be determined after a review of the prudence and reasonableness of these deferred expenses in the next rate proceeding.”*

[Idaho PUC. Order No. 34718, Case No. GNR-U-20-03. July 7, 2020. p. 7-8]

Michigan PSC: *“Given the immediate and severe economic impacts of responding to the COVID-19 crisis, and the impact it has had and will continue to have on the ability of many customers to pay bills, the Commission authorizes all electric, natural gas, and steam utilities under its jurisdiction to defer uncollectible, or bad debt, expense incurred beginning March 24, 2020 (the date of Governor Whitmer’s Executive Order 2020-21) that are in excess of the amount used to set current rates. The Commission expects to provide additional guidance in a future order ... and notes that this deferral authorization is for accounting purposes only and does not bind the Commission to any particular course of action in any future proceeding before the Commission.”*

[Michigan PSC. Order in Case No. U-20757. April 15, 2020. p. 15]

continued...

⁷⁵ S&P Global. [As COVID-19 wears on, regulators examine moratorium extensions, cost recovery.](#) July 24, 2020.

⁷⁶ Ibid.

Oklahoma Corporation Commission: although the Commission authorized utilities to record increased bad debt expenses above the level included in base rates as a regulatory asset (“including bad debts associated with factoring of accounts receivable”), it noted that “each utility shall take reasonable steps, and be able to show efforts made, to minimize the amount of bad debt that may ultimately occur from COVID-19. Those steps may include continuing to advise customers of their responsibility to pay any outstanding amounts owed once the moratorium is lifted, encouraging customers to make partial payments if they are unable to pay in full, utilizing payment plans, and resuming collection activities as reasonable once the moratorium is lifted.”

[Oklahoma Corporation Commission. *Interim Order No. 711412, Cause No. PUD202000050*. May 7, 2020. p. 2]

Overall, and as demonstrated by the proportion of jurisdictions allowing the deferral of each type of cost, direct costs have been less contentious than indirect costs, especially lost revenues. This is because direct costs are expected to be less substantial, while the “magnitude of the indirect costs may not be known for some time as the economic impact of the pandemic will likely persist after the crisis subsides.”⁷⁷ As such, the views of various jurisdictions on the topic of deferring lost revenue are covered in Section 3.2.2.1 (waived fees and expanded payment arrangements) and Section 3.2.2.2 (lost load) below.

Notably, in addition to deferring expenses, 43% of the jurisdictions reviewed also require utilities to track any savings, regardless of form, that may offset the deferred costs. For example, the New Jersey Board of Public Utilities ordered that “all deferred incremental COVID-19-related costs be offset by any federal or state assistance that the utility may receive as a direct result of the COVID-19 pandemic” and required “that all affected utilities maintain detailed records of the incremental COVID-19-related costs and savings during the COVID-19 pandemic.”⁷⁸

Among the jurisdictions reviewed, the Arkansas PSC issued one of the more thorough deferral directives, with Commission Staff creating a standardized form for all utilities to use when submitting their quarterly reports. The textbox below summarizes the guidance provided by the Arkansas PSC, which gives a sense of the type of expenses and offsets considered in other jurisdictions.

⁷⁷ Ibid.

⁷⁸ New Jersey Board of Public Utilities. *Order Authorizing Establishment of a Regulatory Asset for Incremental COVID-19 Related Expenses* (Docket No. AO20060471). July 2, 2020. p. 4.

Arkansas PSC COVID-19 Administrative Orders

In a series of administrative orders in Docket No. 20-012-A, the Arkansas PSC authorized all Commission-jurisdictional electric, gas, and water public utilities to “establish regulatory assets to record costs resulting from the suspension of disconnections.” Upon doing so, utilities are required to “file a quarterly report on the amounts of the costs incurred and saved which have been booked to the regulatory assets beginning on July 1, 2020 and every three months thereafter.”

To provide further clarity, Commission Staff created a form to be used by utilities in their quarterly filings, which identified the following specific cost categories:

1. **Uncollectible Accounts Expense:** costs resulting from the suspension of disconnections and reconnections;
2. **Non-payment of Fees:** all fees, such as credit card fees or late fees;
3. **Direct Cash Expenses:** cash outlays made for the benefit of the quarter being reported, including PPE, sanitization of facilities, technological needs, temporary facilities for sequestration of critical operations personnel, etc.; and
4. **Savings:** savings attributable to disconnections, as well as other activities during the emergency, which includes the recognition of any reduced level of expense associated with the State of Emergency.

Sources: Arkansas PSC. *Order No. 1, Docket No. 20-012-A*. April 10, 2020; Arkansas PSC. *Order No. 3, Docket No. 20-012-A*. June 16, 2020.

3.2.2.1 Lost revenue from waived fees and expanded payment arrangements

Eight of the 23 jurisdictions reviewed (or 35%) authorized utilities to defer lost revenue associated with waived fees. For example, the Wisconsin PSC found it “reasonable to conclude that any foregone revenue associated with the temporary authorized waivers be included in the deferral authorization.”⁷⁹

Some regulators have provided further guidance as to the level of foregone revenue to be deferred – the Idaho PUC recognized that “[i]n response to the Emergency, certain public utilities suspended disconnections and waived late payment fees to assist customers facing unprecedented economic pressures. These utilities expect to incur significant incremental costs by responding to the Emergency in this manner.”⁸⁰ As such, the Idaho PUC ordered that utilities may book uncollected late fees at 2019 levels, noting:

“We realize late fees are usually collected and accounted for as revenue. However, during the ongoing suspension of late fee collections, the utilities will not realize

⁷⁹ Wisconsin PSC. *Supplemental Order – First (5-AF-105)*. May 14, 2020. p. 4.

⁸⁰ Idaho PUC. *Order No. 34718, Case No. GNR-U-20-03*. July 7, 2020. p. 2.

any revenue from late fees. While it would be hard to quantify the amount that would have been collected during the Emergency absent suspension, we believe the most equitable way to account for these unrealized revenues is to use 2019 as a baseline for the late fees.”⁸¹

As for lost revenues associated with expanded payment arrangements, four of the 23 jurisdictions (or 17%) have explicitly authorized this deferral. For example, the IURC found it “appropriate and reasonable to authorize jurisdictional Indiana utilities to use regulatory accounting for any impacts associated with any prohibition on utility disconnections, waiver or exclusion of certain utility fees (i.e., late fees, convenience fees, deposits, and reconnection fees), and **the use of expanded payment arrangements to aid customers.**”⁸² [emphasis added] This has also been authorized in Alberta, as discussed in the textbox below.

Alberta Utility Payment Deferral Program

Through the Utility Payment Deferral Program, the Government of Alberta allowed residential customers, farms, and small businesses to defer bill payments on their electricity and natural gas bills. Customers were able to sign up to the program between March 18, 2020 to June 18, 2020. 350,000 customers (or 13% of the province’s customer base) participated in the program and have until June 18, 2021 to repay their deferred payments through 12 equal monthly installments.

As part of this expanded payment program, and as promulgated through the Utility Payment Deferral Program Act, utilities “may establish a deferral account with the approval of the Commission for the purposes of the administration of payments” and “must use the weighted average cost of capital to determine the carrying costs that may be collected in respect of the deferred payments.”

Sources: Government of Alberta. [Protecting Alberta’s families and economy](#). March 18, 2020; Government of Alberta. [Utility payment deferral](#); Province of Alberta. *Utility Payment Deferral Program Act (Statutes of Alberta, 2020: Chapter U-4)*. March 18, 2020.

3.2.2.2 Lost revenue from lost load

Only one of the 23 jurisdictions reviewed (California) has authorized the deferral of lost revenues from lost load. Details on California’s handling of this deferral is explored in the textbox in Section 3.2.3. Across the region, LEI observes that only one other jurisdiction has explicitly allowed the deferral of lost revenue from lost load (Kansas), although this treatment has been authorized on a utility-specific basis.⁸³ In three separate orders, the Kansas Corporation Commission

⁸¹ Ibid. p. 8.

⁸² IURC. *Phase 1 and Interim Emergency Order of the Commission (Cause No. 45380)*. June 29, 2020. p. 8.

⁸³ On November 4, Minnesota Power Inc. sought approval from the Minnesota PUC “to track and record as a regulatory asset large lost revenues that have occurred because two large industrial customers in the utility’s service territory idled operations due to COVID-19.” The utility has requested the Commission to resolve its petition by June 1, 2021. (Source: S&P Global. [Minnesota Power seeks to defer COVID-related industrial customer lost revenue](#). November 5, 2020)

determined it was “in the public interest” to allow Evergy Metro Inc., Evergy Kansas Central, Inc., Empire District Electric Company, Black Hills Energy, Kansas Gas Service, and Atmos Energy Corporation to “identify, track, document, accumulate, and defer in a regulatory asset extraordinary costs and lost revenue, plus carrying costs, associated with the COVID-19 pandemic.”⁸⁴ The Commission further noted that the approval “is not a finding that tracked costs and lost revenue will be included in future rates” but that this would be determined in each utility’s future rate proceeding.⁸⁵

In contrast, other jurisdictions have considered the deferral of lost revenues attributable to lost load, and have either outright denied the treatment, or postponed determination to a future proceeding. We cover each commission’s reasoning in the textbox below.

Various commission decisions denying deferral of lost revenues due to lost load

Idaho PUC: *“We believe that reduced sales are a risk inherent in a utility’s business model. This risk can adversely alter the demand of a utility’s product at times and does not automatically mean a utility can recover the loss from reduced sales. At the same time, we realize this Emergency does not necessarily represent the type of risk a utility usually plans for or anticipates. We realize there may be a significant decrease in customer demand from certain classes, but without any information to begin quantifying the effect of shifting customer demand to other classes, we are not comfortable allowing utilities to book potential lost revenues into the regulatory asset account at this time. ... We think the best way to proceed into this unknown arena is to allow for tracking with the potential to move the lost revenues to the deferral account later.”*

[Idaho PUC. Order No. 34718, Case No. GNR-U-20-03. July 7, 2020. p. 8-9]

IURC: *“we fail to see how creation of a regulatory asset for lost revenues would be in the public interest under current circumstances absent a financial emergency to the utility that impacts its ability to provide safe and reliable service. ... The balance of this Order seeks to work toward allowing customers to meet their obligation while providing utilities the reasonable relief they need to help such customers do so. However, asking customers to go beyond their obligation and pay for service they did not receive is beyond reasonable utility relief based on the facts before us. A utility’s customers are not the guarantors of a utility earning its authorized return. Instead, utilities are given the opportunity to recover their costs and a fair rate of return, which includes a certain level of risk attributable to variable sales.”*

[IURC. Phase 1 and Interim Emergency Order of the Commission (Cause No. 45380). June 29, 2020. p. 8-9]

Wisconsin PSC: *“because there is insufficient information regarding the effect of the COVID-19 pandemic on sales revenue, the Commission declines to include declining sales revenue as a component of forgone revenue in the deferral authorization.”*

[Wisconsin PSC. Supplemental Order – First (5-AF-105). May 14, 2020. p. 4]

⁸⁴ Kansas Corporation Commission. *Orders Approving Application for Accounting Authority Order (Docket No. 20-EKME-454-ACT, 20-EPDE-427-ACT, 20-GIMG-423-ACT)*. July 9, 2020.

⁸⁵ Ibid.

3.2.3 Accounting treatment

By and large, 65% of the jurisdictions studied have remitted identification of specific accounting treatments to future proceedings (listed as ‘TBD’ in Figure 8). Many of these jurisdictions have included some form of the following language in their commission orders authorizing the establishment of regulatory assets:

“In future proceedings, the Commission will consider whether each Utility’s request for recovery of these regulatory assets is reasonable and necessary. The Commission will also consider in a future proceeding other issues, such as the appropriate period of recovery for the approved amount of regulatory assets, any amount of carrying costs thereon, any savings directly attributable to suspension of disconnects, and other related matters.”⁸⁶

It seems that many regulators are deferring these considerations due to the unprecedented nature of the COVID-19 pandemic. For example, as noted by the Arkansas PSC, “[b]ecause each utility has different cost recovery mechanisms and the magnitude of the utilities expenses are unknown at this time, the Commission finds that it is premature to decide the exact recovery mechanism for any utility for COVID-19 related costs.”⁸⁷

However, of the jurisdictions reviewed, LEI has observed the following trends in the identification of specific accounting treatments:

- **quarterly reporting requirement:** 22% of jurisdictions (Arkansas, Delaware, Hawaii, Minnesota, and New Jersey) require utilities to submit quarterly reports to their respective commissions, detailing the amounts of costs incurred and any savings realized and booked in their deferral accounts; and
- **decisions on carrying costs:** two jurisdictions (Idaho and Indiana) have denied utilities the ability to apply a carrying charge to their deferrals. In contrast, three jurisdictions have allowed it: Virginia, Wisconsin (investor-owned utilities are authorized to accrue carrying costs at the short-term rates approved in their most recent rate case, while munis are authorized to accrue at the benchmark rate of 4.90%),⁸⁸ and Alberta (carrying costs are to be determined based on the WACC).⁸⁹

As demonstrated in Figure 8, 9% or two of the jurisdictions studied have specified other details regarding the accounting treatment of their authorized deferral accounts. These are California (discussed in the textbox below) and Mississippi. The Mississippi PSC grants utilities the authority to place the unamortized balance of their regulatory assets and the associated

⁸⁶ Arkansas PSC. *Order No. 1, Docket No. 20-012-A*. April 10, 2020. p. 3.

⁸⁷ Arkansas PSC. *Order No. 2, Docket No. 20-012-A*. May 27, 2020. p. 9.

⁸⁸ Wisconsin PSC. *Supplemental Order – First (5-AF-105)*. May 14, 2020.

⁸⁹ Province of Alberta. *Utility Payment Deferral Program Act (Statutes of Alberta, 2020: Chapter U-4)*. March 18, 2020.

Accumulated Deferred Income Tax (“ADIT”) liability in rate base and request an amortization schedule in their next rate filings.⁹⁰

California allows securitization of COVID-19 costs

On September 29, 2020, Governor Gavin Newsom signed into law Assembly Bill No. 913, which allows electric utilities to securitize revenue shortfalls arising from COVID-19. Specifically, the Bill allows utilities to request the California PUC to issue a financing order, which would authorize the recovery of certain incremental undercollection amounts through the issuance of bonds. These amounts include:

- **lost revenues:** the difference between the forecasted amount of billed revenues for 2020, based on the authorized sales forecast, and the revenues actually billed, if the incremental amount as a percent of the forecasted amount of billed revenues for 2020 is at least 5%; and
- **bad debt:** the amount of the residential and small business customer bad debt expense for 2020 that exceeds the bad debt expense for 2020 that was adopted by the California PUC in the general rate case.

The state legislature justified the Bill given that “[t]he electrical corporations would implement rate increases in the short term, to recover revenue shortfalls resulting from declining sales and unpaid bills, and such rate increases would come at a time of economic stress and uncertainty.” Instead, “[s]ecuritization is a proven method of stabilizing rates by smoothing rate increases over a longer period of time.”

Source: California Legislative Information. [Assembly Bill No. 913 \(Chapter 253\)](#). September 30, 2020.

3.3 Customer payment plans

As discussed in Section 3.1, many of the disconnection moratoriums that were in place across the US and Canada have since expired. As jurisdictions begin to move away from these suspensions, regulators are requiring utilities to extend flexible payment arrangements to customers under financial strain, as they are no longer protected from facing utility service disconnection. Utilities are also implementing these expanded payment plans of their own accord. Figure 9 lists the details of some of these programs, which in some instances extend payment plans to up to 24 months.

⁹⁰ Mississippi PSC. *Order Authorizing Utility Response and Accounting for COVID-19 (Docket No. 2018-AD-141)*. April 14, 2020.

Figure 9. Examples of expanded customer payment plans

State	Payment plan details
Connecticut	Customer payment plans extended from 20 to 24 months
Delaware	PSC requires utilities to extend a 4-month payment plan for past due accounts to customers impacted by COVID-19 (e.g., loss of employment)
Indiana	Payment plans extended to offer at least 6 months to all customers
Iowa	Iowa Utilities Board instructed IOUs to allow at least one year of non-payment for eligible customers
Kansas	Utilities required to offer customers 12-month payment plans for arrearages through the end of 2020 and waive late fees
Kentucky	Utilities required to create payment plans (6 months - 2 years); shall only require the customer to pay a fixed, equal installment over the entire term of the plan
Louisiana	Temporary payment plans for recovery of past due balances for residential customers for up to 12 months
Maryland	Utilities required to offer customers a payment plan of at least 12 months (24 months for those receiving energy assistance); must give customers at least a 45-day notice prior to disconnection (previously only required a 14-day notice)
New Hampshire	Gubernatorial order requires that customers must be provided an opportunity to make a reasonable payment arrangement (at least 6 months)
New Jersey	Residential/commercial customers offered Deferred Payment Agreement between 12-24 months (with no down payment)
North Carolina	Residential customers given at least 6 months to pay outstanding bills, no reconnection fee
Pennsylvania	Utilities must offer payment plans of at least 18 months to small business customers
South Carolina	Commission ordered 6-month minimum repayment period
Washington	Commission directed utilities to offer payment plans of up to 18 months (residential) or 12 months (small commercial)
Alberta	Residential customers, farms, and small businesses allowed to defer bill payments between March 18, 2020 to June 18, 2020. Deferred payments to be repaid by June 18, 2021

Sources: S&P Global Market Intelligence; regulator websites; LEI analysis.

3.4 Rate increase requests

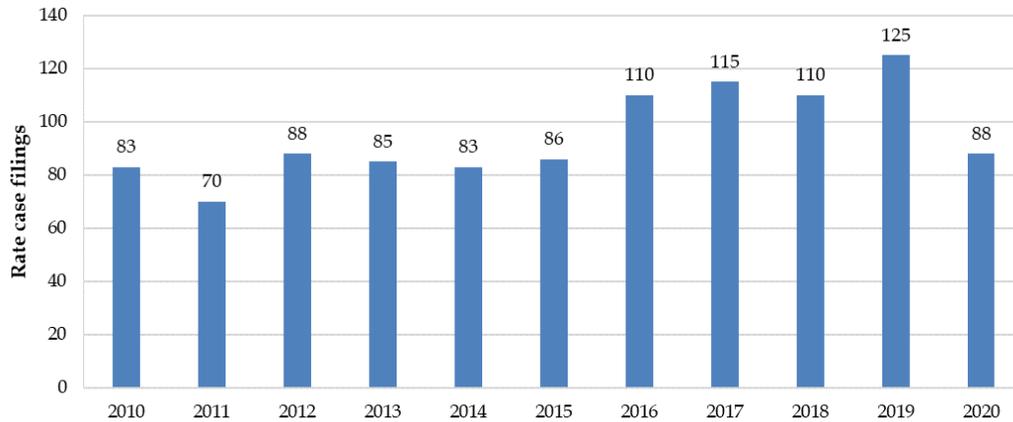
Since March 2020, rate case activity has slowed significantly. At the onset of the first wave of the pandemic, rate case filings over the March 13 to April 24 period reached lows not seen since 2011.⁹¹ As of October 23, 2020, the rate case count has risen modestly, but is still on par with slower activity seen in 2015 (see Figure 10).⁹² Notably, “[w]hile the economic fallout of this unprecedented pandemic will likely weigh on rate case outcomes this year, rate case decisions issued through the first half have largely been devoid of COVID-19 commentary.”⁹³

⁹¹ S&P Global. [Amid virus strain, 2020 rate case count not replicating recent years’ tallies](#). April 28, 2020.

⁹² S&P Global. [Case filing tally masks challenges faced by utilities in 2020](#). October 26, 2020.

⁹³ S&P Global. [Electric ROE authorizations drift lower in H1’20 as virus worries continue](#). August 4, 2020.

Figure 10. Rate case filings across the US, 2010-2020 (for the January 1-October 23 period)



Source: S&P Global. [Case filing tally masks challenges faced by utilities in 2020](#). October 26, 2020.

In addition, many rate case decisions have been postponed until later this year and into next year as a result of COVID-19.⁹⁴ Examples are listed below of utilities that have delayed their rate case filings, or that have suspended their rate increases in light of the ongoing pandemic:

- **Hawaii:** the Hawaii PUC adopted an unopposed settlement which will keep Hawaiian Electric Co. Inc.'s ("HECO") electric rates unchanged. The settlement noted that HECO "understands that any rate increase at this time would be a hardship on customers already financially distressed as a result of economic impacts of the COVID-19 pandemic";⁹⁵
- **Oregon:** PacifiCorp in Oregon decreased its proposed return on equity ("ROE") from 10.25% to 9.8% "to mitigate the rate impacts in light of COVID-19";⁹⁶
- **South Carolina:** the South Carolina PSC granted Dominion Energy South Carolina, Inc.'s request to delay its January 2021 deadline for new rates, which the company applied for "due to the difficulty and uncertainty during the present time as the result of COVID-19";⁹⁷
- **New Brunswick:** the New Brunswick Energy and Utilities Board granted NB Power's motion to defer implementation of new rates that were set to take effect on April 1, 2020 until March 31, 2021. The Board concluded "that the need for financial relief to ratepayers is greater than the risk of financial harm to NB Power";⁹⁸ and
- **New York:** the New York PSC adopted, with modifications, a three-year joint proposal by New York State Electric & Gas Corp. and Rochester Gas and Electric Corp., where the

⁹⁴ S&P Global. [With US mired in recession, energy allowed returns continue downward spiral](#). October 20, 2020.

⁹⁵ S&P Global. [No change in base rates, average ROE authorized for Hawaiian Electric](#). October 27, 2020.

⁹⁶ S&P Global. *RRA Regulatory Focus: Major utility cases in progress in the U.S. – the rate cases*. September 17, 2020.

⁹⁷ South Carolina PSD. *Preliminary Order on New Electric Rate Case for Dominion Energy South Carolina, Inc (Order No. 2020-313, Docket Nos. 2017-207-E, 2017-305-E, 2017-370-E, and 2020-106-A)*. April 28, 2020. p. 2.

⁹⁸ New Brunswick Energy and Utilities Board. *Ruling on Motion (Matter No. 458)*. October 2, 2020. p. 6.

Commission noted that while “the signatory parties in the electric rate plans have taken ample effort to minimize ratepayer impacts during the COVID-19 pandemic by focusing only on critical incremental spending needs and agreeing to cost recoveries in ways that have been successfully employed previously, this unique time in history requires an even bolder approach to minimizing customers’ financial impacts.” This includes an authorized ROE of 8.8% (below the 9.5% ROE proposed by the utilities, and also below the nationwide average ROE authorized for electric distribution-only rate cases of 9.37% for 2019), and delaying rate-year one increases that were supposed to take effect on April 17, 2020, among other measures.⁹⁹

⁹⁹ S&P Global. [NY PSC orders well-below average ROE, modified 3-year plan for NYSEG and RG&E](#). November 23, 2020.

4 Concluding remarks

Generally, Ontario's response to the ongoing COVID-19 pandemic has aligned with approaches adopted in various jurisdictions throughout North America (Figure 11 on the next page summarizes the OEB's major responses to date in relation to the pandemic). Commonalities are observed in the following areas:

- **implementing utility service disconnection moratoriums:** at the outset of the pandemic, all US states and Canadian provinces suspended disconnections on either a voluntary or mandatory basis. On March 19, 2020 the OEB followed suit by extending its winter disconnection moratorium to July 31, 2020. Although the COVID-19 moratorium has since expired (as is the case in 61% of North American jurisdictions), the province's annual winter ban commenced on November 15, 2020 and is set to run until April 30, 2021;
- **authorizing deferral accounts:** similar to 69% of North American jurisdictions, the OEB established a COVID-19 deferral account on March 25, 2020 for all rate-regulated utilities in the electricity and natural gas sectors.¹⁰⁰ The regulatory principles mentioned in the OEB's various accounting orders generally align with the most common principles relied upon in other North American jurisdictions (e.g., allowing the deferral of *incremental* costs, considering *appropriateness*);
- **providing customer relief:** utilities in 53% of North American jurisdictions are offering expanded payment plans to customers under financial strain. Likewise, the OEB has encouraged distributors to offer customers APAs and provide greater flexibility in payment terms, and has also allowed utilities to add funding to the LEAP. The Government of Ontario has also implemented various cost relief measures, including providing funding for programs such as CEAP and CEAP-SB (both of which were established by the OEB), suspending TOU electricity pricing, and deferring or freezing portions of the GA charge (as well as shifting a portion of the GA charge to the province beginning in January 2021); and
- **delaying rate increases:** rate case activity in North America has slowed noticeably this year, with many regulators delaying rate increases. In line with this, the OEB offered 31 distributors the option to delay their rate changes from May 1, 2020 to November 1, 2020.

Differences arise when analyzing the specifics of the deferral accounts that have been authorized across various jurisdictions. The OEB has allowed utilities to track the following: incremental COVID-related costs (as allowed in 87% of the 23 jurisdictions with generic accounts),¹⁰¹ bad debt (allowed in 52% of jurisdictions), and lost/forgone revenues. Lost revenue is one area where commissions throughout North America have issued differing decisions. Of the 23 jurisdictions

¹⁰⁰ The [March 25 Order](#) applies to all rate-regulated electricity and natural gas distributors. In an [April 29, 2020](#) letter, the OEB indicated that the Order also applies to Ontario Power Generation Inc. and all rate-regulated electricity transmitters.

¹⁰¹ We do not include the 16 jurisdictions (or 27%) in our analysis that have authorized deferral on a utility-specific basis, as these orders have been issued with differing guidance provided depending on the utility in question. These inconsistencies prohibit aggregation at the state- or provincial-level.

reviewed, 35% have explicitly allowed deferral of lost revenue from waived fees, 17% have explicitly allowed deferral of lost revenue from expanded payment arrangements, while only 4% have explicitly allowed deferral of lost revenue from lost load. On this latter component (lost revenue from lost load), 13% of the 23 jurisdictions either outright denied deferral, or postponed determination to a future proceeding. The remaining 83% of jurisdictions have not issued opinions regarding the treatment of this component.

In addition, the OEB has issued more guidance on the accounting treatment of the COVID-19 deferral account than most other North American jurisdictions; 65% of the 23 jurisdictions studied have postponed identification of specific accounting treatments entirely to future proceedings. For starters, the OEB has implemented monthly reporting requirements for electric utilities until the end of January 2021,¹⁰² which is more frequent than the quarterly reporting requirement in effect in 22% of the 23 jurisdictions reviewed. Furthermore, the OEB has indicated that carrying charges at its prescribed rate may apply to the sub-accounts,¹⁰³ as compared to only 22% of the 23 jurisdictions that have made a ruling either way on whether carrying costs are or are not allowed.

Figure 11. OEB’s major responses to the COVID-19 pandemic

Date	Response
March 19	Winter electricity disconnection ban extended to July 31 and eligibility expanded
March 25	COVID-19 Deferral Account established for electricity and gas distributors
March 27	Distributors encouraged to waive/lower late payment fees and other charges
April 16	Electricity distributors allowed to postpone May 1 rate change to November 1
April 29	OEB indicates COVID-19 Deferral Account is applicable to OPG and electricity transmitters
May 12	Temporary reporting requirements are introduced for licensed electricity distributors
May 14	COVID-19 Deferral Account consultation launched
July 13	CEAP implemented
July 17	Utilities allowed to add additional funding to LEAP
August 6	Forgone Revenues from Postponing Rate Implementation sub-account established
August 14	Bad Debt sub-account established
August 31	CEAP-SB implemented
September 30	Eligibility expanded for CEAP and CEAP-SB
November 15	Winter disconnection ban begins (now applies to residential electricity and gas customers)

Source: OEB. [OEB COVID-19 Update](#). August 12, 2020; various decisions and orders.

¹⁰² OEB. *Continuation of Temporary Monthly Reporting Requirement Related to the Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency (EB-2020-0133)*. October 5, 2020.

¹⁰³ However, all aspects of the OEB’s COVID-19 Deferral Account need to be adjudicated, including the recovery of any carrying charges accrued on the sub-accounts.

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