

**PUBLIC COUNSEL
RESPONSE TO REQUEST FOR INFORMATION**

Docket Nos.: UE-220066, UG-220067, UG-210918
Requester: ALJ Michael Howard
Type: Bench Request
Request No.: BR-8
Date: February 9, 2024

Prepared by: Public Counsel
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BENCH REQUEST NO. 8

Professor David Konisky discusses the Commission’s requirement for quarterly reporting on disconnections, COVID-era disconnection moratoriums, and data compiled by the Energy Justice Lab regarding reported disconnections in other states. *See, e.g.*, Konisky, Exh. DK-1T at 6:18-7:4.

- a. Please explain how disconnection moratoria and other customer protections required by the Washington Utilities and Transportation Commission compare to protections afforded customers in other states.
- b. Please identify any regulatory bodies in the United States that currently prohibit any disconnections for nonpayment.

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- a. **Please explain how disconnection moratoria and other customer protections required by the Washington Utilities and Transportation Commission compare to protections afforded customers in other states.**

The Energy Justice Lab, that I co-direct, has reviewed and compiled state-level data on disconnection moratoria and other customer protections. These data are reported in our Utility Disconnections Dashboard, which is available at <https://utilitydisconnections.org/>. The Energy Justice Lab also issued a June 2023 report that summarizes state disconnection protections across the country, which I have included as Attachment A.¹

Disconnection moratoria.

The State of Washington currently has a partial moratorium in place for the winter months. My understanding of the policy is that for low-income customers, where household income is not higher than the maximum allowed for eligibility under the state's plan for Low-Income Home Energy Assistance Program (LIHEAP), disconnections are prohibited between November 15 and March 15 each year, as long as the customer provides a notice of income and enrolls in a payment plan. Customers are required to pay back what they owe by the following October 15, or they become ineligible for this protection in the future until their late bill is paid.² I characterize this winter seasonal protection as “partial” because of the specific conditions that customers must meet for eligibility (i.e., it is not an unconditional moratorium). States across the country vary in the types of disconnection moratoria that they have in place to protect customers during the winter season. In total, 41 states and the District of Columbia have

¹ Public Counsel BR-8, Attachment A.

² *See* WAC 480-100-128; WAC 480-100-143; RCW 35.21.300; RCW 80.28.010; RCW 54.16.285.

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some sort of moratoria in place. Of these states, some have date-based moratoria similar to the State of Washington, and others have temperature-based moratoria (and some use a combination of date and temperature). States also vary in whether these protections are unconditional (e.g., Illinois, Oregon) or whether they include some conditions that specify eligibility requirements, such as is the case in Washington with the income and payment plan conditions. The State of Washington's approach of limiting its winter disconnection moratoria to designated low-income customers is not uncommon.

The State of Washington has additional protections in place outside of cold-weather months. The state requires regulated utilities to establish conditions in its tariff(s) under which the utility will cease nonvoluntary service disconnections during inclement weather events. In addition, the state has a temperature-based disconnection moratorium to protect customers during hot weather events. This moratorium, which became on effective July 23, 2023, prohibits a utility from disconnecting residential customers on any day during which the National Weather Service has issued or has announced that it intends to issue a heat-related alert.

Summer or hot-weather disconnection moratoria are less prevalent across the country compared to winter or cold-weather protections. In total, 20 states and the District of Columbia have disconnection moratoria related to heat, with some based on dates and others based on temperatures or heat indexes. The policy in the State of Washington does not limit its heat-based disconnection protection to specific customers based on income or other criteria, which is a practice shared by many other states (e.g., California, Colorado, and Oregon).

Other customer protections.

The State of Washington provides additional customer protections for disconnections in cases where customers have documented medical conditions.³ Specifically, disconnections are to be delayed for up to 60 days if the termination of service will aggravate an existing medical condition as long as this condition is substantiated by a qualified medical professional. Medical certificates can be issued by a licensed physician, a nurse practitioner, or physician's assistant, and they must include an explanation of how the current medical condition will be aggravated by disconnection of service, a statement of how long the condition is expected to last and the title, signature, and telephone number of the person certifying the condition. Customers must enter into a payment agreement to receive this medical protection. In addition, disconnections will be delayed for up to 5 business days if the customer notifies a utility that they intend to obtain a medical certificate.

The State of Washington is similar to most states across the country in having medical exemptions from utility disconnections. In total, 44 states and the District of Columbia offer

³ See WAC 480-100-128.

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medical protections for customers. The provisions of these medical exemptions vary with respect to their total length ranging from a few weeks to a full year, and 41 states require evidentiary documentation, usually in the form of a medical certificate obtained from a licensed medical provider. The State of Washington is one of 16 states that require customers to enter into a payment plan to receive a medical exemption from a disconnection.

The State of Washington does not currently have customer protections for disconnections for other types of customers. Some other states provide these types of customer protections, for example, for customers with young children (4 states), elderly residents (14 states), and individuals with disabilities (11 states).

b. Please identify any regulatory bodies in the United States that currently prohibit any disconnections for nonpayment.

I am aware of two regulatory bodies that currently prohibit a utility from disconnecting customers due to nonpayment. First, the Los Angeles Board of Water and Power Commissioners adopted a motion on November 16, 2022 that prohibits the Los Angeles Department of Water and Power from shutting of water or electricity service to low-income and senior citizen customers for nonpayment if they are enrolled in certain LADWP assistance programs.⁴ Second, the City of Chicago's City Council adopted an ordinance on July 22, 2022 that prohibits the Department of Water Management from shutting off water service to residential customers for nonpayment.⁵

In addition, many regulatory bodies prohibited disconnections for some period of time during the COVID-19 pandemic.

⁴ Los Angeles Dept. Water & Power, *LA Board of Water & Power Commissioners Approve Policy to End Water and Power Shutoffs for Low-Income Residential Customers Unable to Pay their Utility Bill*, LADWP (Nov. 16, 2022). <https://www.ladwpnews.com/la-board-of-water-power-commissioners-approve-policy-to-end-water-and-power-shutoffs-for-low-income-residential-customers-unable-to-pay-their-utility-bill/>

⁵ Press Release, City of Chicago Mayor's Press Office, *City Council Passes Ordinance Promoting Water Access, Affordability, And Data Reporting Transparency* (July 20, 2022). https://www.chicago.gov/city/en/depts/mayor/press_room/press_releases/2022/july/PassesOrdinanceWaterAccessAffordabilityTransparency.html