

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

AVISTA CORPORATION d/b/a AVISTA
UTILITIES,

Respondent.

DOCKET UE-240006 and UG-240007
(Consolidated)

EXHIBIT SNS-8

Franklin, M. & Kurtz, C.,
Lights Out in the Cold: Reforming Utility Shut-off Policies as if Human Rights Matter
NAACP (2017)

July 3, 2024

March 2017



LIGHTS OUT IN THE COLD

Reforming Utility Shut-Off Policies as If
Human Rights Matter

Environmental and Climate Justice Program, NAACP



LIGHTS OUT IN THE COLD: Reforming Utility Shut-Off Policies as If Human Rights Matter

March 2017

Created by the NAACP Environmental and Climate Justice Program

National Association for the Advancement of Colored People
4805 Mt. Hope Drive, Baltimore, MD 21215
(410) 580-5777
ecjp@naacpnet.org
www.naacp.org

Foreword by: Jacqueline Patterson, Environment and Climate Justice Program Director, NAACP

Primary Authors: Marcus Franklin, NAACP
Caroline Kurtz, Georgetown University Law Center

Contributing Authors: Mike Alksnis, NAACP
Lorah Steichen, NAACP
Chiquita Younger, NAACP

Acknowledgements

This report was made possible by the support and dedicated work on utility disconnection protection and policy development of:

Professor Scott Hempling, Georgetown University Law Center
Dr. Holmes Hummel, Founder, Clean Energy Works
David Pomerantz, Executive Director, Energy and Policy Institute
The National Consumer Law Center
The Michigan Welfare Rights Organization
The Committee to End Utility Shut Offs
Public Utility Law Center



EXECUTIVE SUMMARY

As a part of a broader consumer protection arrangement, the adoption of utility disconnection policies acknowledges the problems faced by customers who are vulnerable to having their utilities disconnected. Unfortunately, the interests of these customers often compete with the interests of utility companies, regulators, and other utility customers. This poses an obstacle to the design of appropriate disconnection policies that recognize the necessity of utility services and the rights of utility customers. A “disconnection policy” describes the justifications, procedures, and consumer protections with which a utility must comply before terminating service to a customer. Although a utility typically maintains the right to disconnect a

customer for a variety of reasons, there are more problematic issues with disconnection because of nonpayment.¹



Aftermath of a space heater fire in Prince George's County, MD
Source: <http://patch.com/maryland/bowie/space-heaters-cause-bedroom-fires-twice-week-0>

This report provides a comprehensive overview of common disconnection protections and policies employed by utilities nationwide, explores critical issues that should be considered in the development of disconnection policies, and calls for concrete action toward establishing policies that protect the well-being of all utility customers and the eventual **ELIMINATION OF UTILITY DISCONNECTIONS**. The need to incorporate human rights into the utility business model is a key component of the larger reform of the extractive energy economy and movement toward energy justice. The energy justice movement upholds that all individuals have the right to: safe, sustainable energy production; resilient and updated energy infrastructure; affordable energy; and uninterrupted energy service.²

This report discusses common disconnection protections across all types of utilities, but focuses on those set for Investor-Owned Utilities (IOU's). Issues with existing disconnection practices and state level model policies are explored. Recommendations for the establishment of a right to utility service are put forward to ensure the future protection of utility customers.

EXISTING STATE POLICIES

PROCEDURAL PROTECTIONS AND CONSIDERATIONS:

- All states require utility companies to provide a written, phone, or personally delivered notice before a disconnection.
- There is a wide range of disconnection limitations. Some states will not disconnect during certain hours of days of the week, while other states will not disconnect before or during a holiday.

- Fifteen states do not specify policies for utility reconnection fees.

SEASONAL PROTECTIONS:

- Date-based protections take place during the colder months, usually between the months of November and March or April. Temperature protections are based on various ranges of hot and cold temperatures that could place residents in danger. Most of the states will not disconnect when temperatures are below 32°F or above 95°F, but the offering of this protection varies by state.
- Nine states do not provide any state regulated seasonal protections for utility customers. These states include: Alaska, California, Colorado, Connecticut, Florida, North Dakota, Oregon, Tennessee, and Virginia.

PAYMENT ASSISTANCE

- Most states offer a payment plan option to avoid disconnections and charge a fee to reconnect to utility services.

PROTECTIONS FOR SOCIALLY VULNERABLE GROUPS

- Medical protections are generally offered for disabled or elderly customers. Generally, a medical certificate is required to postpone a disconnection for various amounts of time.
- Eight states do not have regulations establishing standard protections for socially vulnerable groups. Among these states are: Alaska, Arkansas, Colorado, Florida, Kentucky, North Carolina, North Dakota, and Rhode Island.

THE RIGHT TO UNINTERRUPTED ENERGY SERVICE

The establishment of a universal **right to uninterrupted energy service** would ensure that provisions are in place to prevent utility disconnection due to non-payment and arrearages.³ Toward establishing such a right, we call for all utility companies to advocate for and incorporate the following foundational principles into their models, operations, and policies:

1. Secure **ACCESS** to utility services for all households;
2. Ensure **INCLUSION** of all customers in the development of utility policies and regulations;
3. Create full **TRANSPARENCY** of the information and actions of utility companies, regulating bodies, legislatures, and utility affiliated organizations;
4. Guarantee the **PROTECTION** of the human and civil rights of all customers; and
5. Advance programs that help **ELIMINATE POVERTY**, so that all customers can pay utility bills.

While the end goal is clear—to **prioritize utility policies that place a moratorium on utility service disconnections**—these principles can be furthered through the following practices:

PROCEDURAL PROTECTIONS

1. Require multiple attempts at both written and telephonic or in-person contact before disconnection;
2. Secure notification of disconnection by mail;
3. Require a post-disconnection notice to all customers;

4. Provide additional notice provisions for customers who can be disconnected remotely;
5. Restrict disconnections to times between 8:00am-2:00pm on days when the utility has employees available to reconnect utility services;
6. Provide notice and utility disconnection policies in multiple languages;
7. Remove all policies allowing utilities to charge disconnection and reconnection fees;
8. Cease the collection of deposits for utility service activation and/or reconnection;

SEASONAL PROTECTIONS

9. Include seasonal protections with both temperature and date-based solutions;
10. Set disconnection arrearage minimums for customers who use utility services as the primary source of heating or cooling during periods of seasonal protection;
11. Provide utility services during extreme weather events that fall outside of seasonal protection periods;

PAYMENT ASSISTANCE

12. Allow budget payment plans to distribute utility costs throughout the year;
13. Allow partial payment plans to customers to prevent disconnections;
14. Provide connections to social services and case management resources for households with arrearages;

PROTECTIONS FOR THE SOCIALLY VULNERABLE

15. Establish simple procedures for socially vulnerable groups to apply and be registered for protection from disconnection;
16. Implement customer surveys in advance of extreme weather seasons to screen for socially vulnerable individuals;
17. Ensure active outreach to socially vulnerable customers and households for inclusion in protection programs; and
18. Registration into these programs should be complimented with a notification to local and/or state emergency relief agencies and safety responders.

The policies and protections detailed in this report represent stop-gap measures to lessen harms on utility customer wellbeing. In advancing energy justice, all individuals have the right to: safe, sustainable energy production; resilient and updated energy infrastructure; affordable energy; and uninterrupted energy service.⁴ The NAACP calls for the development of policies and utility structures that improve energy efficiency throughout the energy continuum, advance clean and renewable energy production, encourage and enable the development of distributed generation, and protect human life and wellbeing. These aspects are components of the larger utility system change that we must build.

TABLE OF CONTENTS

FOREWORD: A CALL TO MORALITY— <i>by Jacqueline Patterson, NAACP Environmental and Climate Justice Program Director</i>	vii
Introduction	2
The Human Cost of Utility Disconnection	3
Disconnection Policies and Their Regulation	5
What is a Disconnection Policy?	5
How are Disconnection Policies Regulated?	6
Competing Interests	7
Disproportionate Energy Burdens	9
Types of Disconnection Policies	15
State Disconnection Protection Policies	18
Model State Policies	18
Financing to Reduce and Eliminate Disconnections	22
Bill Assistance Programs	22
Weatherization and Energy Efficiency Programs	23
Inclusive Financing Models	24
The Need for Uninterrupted Service	25
Improved Data Collection, Research, and Transparency	26
Upholding Human Rights in the Short Term	28
Building on the Legacy of Change	31
LONG TERM VISION	32
From Persecuted by my Utility to Powered and Empowered by the SUN! -Amy Mays, Arizona	34
Appendix A: Electricity Affordability Index - U.S. States	35
Appendix B: Survey of State Disconnection Policies	36
End Notes	65

FOREWORD: A CALL TO MORALITY—BY JACQUELINE PATTERSON, NAACP ENVIRONMENTAL AND CLIMATE JUSTICE PROGRAM DIRECTOR

I will never forget the sound of fear in my father's voice on the phone or the look of desperation in his eyes when I walked through the door. I was home to take care of my Dad in what turned out to be his last days on earth. I had gone out to get some items that he needed. My cell phone rang and it was him on the other end saying that the power had gone out and he didn't know how long his respirator would run without it. I raced home and as I opened the door, my Dad was just standing in the middle of the living room, attached to his respirator, looking desperate. It turned out to just be that I needed to flip the switch on the circuit breaker. But it brings home the reliance that so many have on electricity to sustain life.

As many of us were enjoying turkey, ham, or tofurkey with loved ones, exchanging presents, and engaging in holiday festivities, for some of us, all was not merry and bright. Too many are shivering in the deep freeze that had assailed a large swath of the nation, huddled around space heaters or open oven doors in homes lit by candles or kerosene lamps, because they could not pay their electricity/heating bills and were thus without this vital resource. The stories over the years are too many to list, but each one alone represents a moral imperative for systems reform of the utility business model because no life should be lost for lack of the basic human right to safe shelter, in a land of plenty:

- A Maryland man in dire straits after having his electricity disconnected, resorted to using a generator to power the home where he was raising his seven children.⁵ Carbon monoxide released by the generator killed the entire family as they slept.⁶ Also in MD, a fire swept through a row house killing 10 people, including 7 children aged 7 months, 5, 7, 11 and 12 years, and two 3 year olds, as well as 3 adults, after the termination of the electricity caused residents to begin using candles and a kerosene lamp for electricity.⁷
- In Michigan, John Skelley, a 69-year-old man, passed away in his home from hypothermia and other causes, several days after his gas service was disconnected.⁸ Also in Michigan, a fire sparked by a space heater being used to heat the home after utilities had been shut off took the lives of three people.⁹
- In New York, three young boys, ages 4 months, 2 years, and 5 years died in a fire caused by a candle used for light after the utility company disconnected service for non-payment.¹⁰ In another New York incident, a child died in a fire started by a candle, in a home where service was scheduled to be reconnected 24 hours after the desperate measures took his life.¹¹
- In California, five children, ages 4, 1 and two 2 year olds, lost their lives when their electricity had been disconnected and their mothers, who were sisters living together, used candlelight to light their home, resulting in a fire.¹²

Too often these tragedies are chalked up to the inevitable consequences of poverty and implicitly relegated to being sad, but acceptable losses, with an unspoken notion that “We can’t save them all!” However, every one of these losses was preventable and we cannot, in good conscience, stand by and watch more when we have the means to ensure access for all.

The cost of extreme poverty should not be a death sentence.

Whether it is extremes in heat, extremes in cold, or the need for electricity to power life saving devices like respirators or medicines requiring refrigeration not to mention just providing light, electricity/heating/cooling is essential, not just for quality of life, but also for maintenance of life!

We've shared a small sampling of illustrative stories of the consequences of inaction on utility shut-offs that have spanned decades. Yet, with relative inaction, in terms of system reform, so many more are in harm's way now, with the potential for dire circumstances resulting in desperate and possibly deadly actions. As of December 15, 2015, in Pennsylvania alone, at least 9,169 households had no central heating and 414 households were using potentially unsafe heating sources.¹³ In Michigan, ravaged by the post-industrial economic downturn, from January to September 2013, DTE Energy--a utility company formerly known as Detroit Edison--reported 169,407 shut-offs, while another utility company, Consumers Energy (CMS), reported 118,203 shutoffs. Disconnections in Michigan have increased dramatically since the crash of 2008, with DTE completing two and half times as many shutoffs in 2011 than in 2007.¹⁴ This trend is observable on a national scale.

The headlines today heralding the "winter weather blast" with 99 million people in the US under a winter weather advisory¹⁵ highlight the proven fatal cocktail being mixed with the ingredients being harsh weather and lack of protection for thousands of vulnerable households who are struggling with making ends meet, placing them in a vice that can result in resorting to hazardous means of lighting and heating.

Science has spoken and so has Mother Nature as she continues respond to our abuse in the form of the polluting ways we employ to generate energy. Climate change is already resulting in weather extremes from extreme heat to extreme cold to extreme storms.¹⁶ As such, we are seeing more days where air conditioning or at least a fan is required and days of extreme cold requiring heat, and greater amounts of snow to such an extent that even if someone wanted to leave an unheated home in search of warmth elsewhere, this may not be an option. Besides which, the ongoing crisis of homelessness finds the most vulnerable communities without available shelter space, or any alternatives if their homes are unsafe.¹⁷

Nationwide, annual temperatures have been rising over the past 50 years.¹⁸ The hottest parts of the country, including Texas, the Southwest, and Florida have already experienced large increases in extreme heat days, including days over 90°F, 95°F, and 100°F. Extreme heat when paired with rising humidity levels, make blistering hot days more dangerous. Cities in these states are facing the greatest projected increases in dangerous heat over the next several decades.¹⁹ With more than 80 percent of Americans living in cities, urban heat islands, combined with greenhouse gas heat trapping, can have serious health effects for hundreds of millions of people during the hottest months of the year. Heat is already the number one weather-related killer in the U.S., triggering asthma attacks, heart attacks, and other serious health impacts.²⁰ The National Center for Disaster Preparedness of Columbia University in New York, projects that about 3,000 people in the U.S. could die each year from heat waves under current climate warming patterns. This estimate is a combination of various factors, including exposure to the higher greenhouse gas emissions, higher urban-based populations, and impeded climate adaptation and mitigation efforts.²¹

Winter storms have also increased in frequency and intensity since the 1950s, and their tracks have shifted and power intensified in the U.S. Other trends in severe storms, including the intensity and frequency of tornadoes, hail, and damaging thunderstorm winds, are being studied intensively for their relationship to

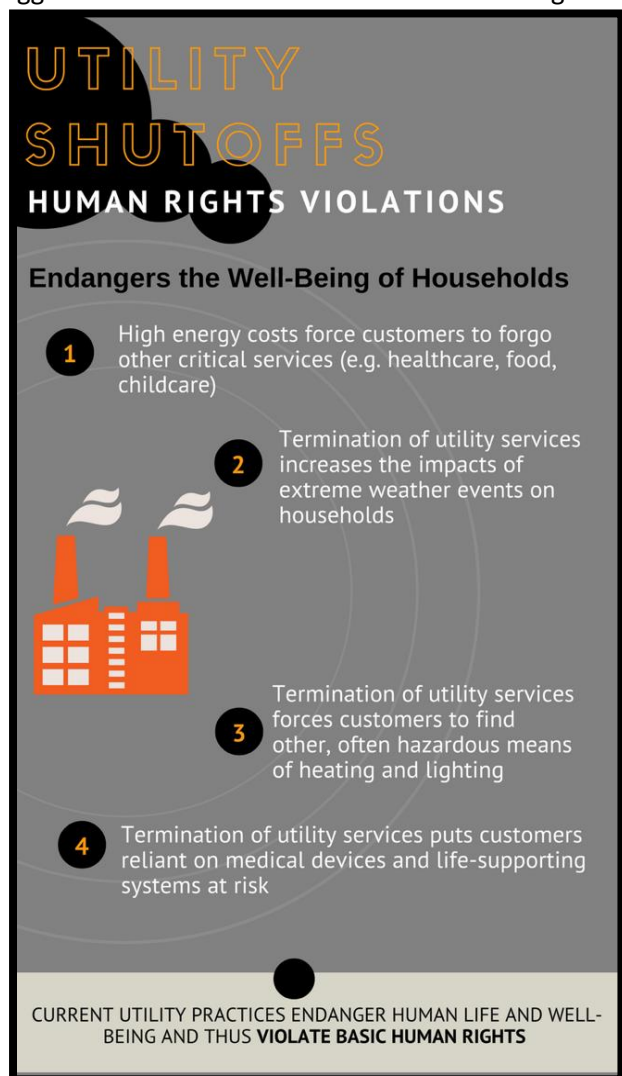
climate change.²² Loss of internal temperature control, due to extreme heat and cold, can result in a variety of illnesses, including heat cramps, heat exhaustion, heatstroke, and hyperthermia when exposed to extreme heat, and hypothermia and frostbite when exposed to extreme cold. Exposure to temperature extremes can worsen chronic health conditions.²³

There are utilities, such as the Roanoke Rural Electric Co-Op in North Carolina, that are being intentional about designing a business model that is human rights based, protective of the environment, yet financially sound. At the same time, other utilities are driving our continued slide towards catastrophic climate change by denying science, and in some cases, intentionally obscuring science as well as by their refusal to aggressively pursue energy efficiency, embrace the transition to clean energy, and/or allow/facilitate distributed generation of clean energy.^{24 25 26} And some of the most aggressive utilities are the ones behind the highest numbers of shutoffs where there is record keeping. These utilities obstinately defend the practices of fossil fuel based energy production, disproportionately polluting the very same communities, with the highest rates of shut-offs, to produce the very electricity to which they do not have access.

In Dayton Texas, Sam Houston Electric Cooperative has disconnected the utilities of vulnerable households in areas impacted by the Cedar Power Project, which operated three trash burning incinerators until 2008.²⁷ The air pollution produced by incinerators is known to contribute to the development of chronic diseases like chronic obstructive pulmonary disease (COPD) as well as many other serious health problems.²⁸

Given that low-income communities, communities of color, and vulnerable persons, including people who are elderly, pay the highest proportion of their incomes to energy and they are most vulnerable to shut off and most likely to suffer from the pollution from energy production, this is a prime example of the deep injustices in the extractive economy.

As detailed in this report, there are utilities that have managed to reform in such a way that provides protections for low-income customers. Yet too many companies and their trade associations use their influence on the Public Utilities Commissions and Public Service Commissions²⁹ to push back on the protections communities need.³⁰ We must put pressure on utility companies that have refused to innovate despite the models being out there for operating utilities in a humane way that maintains operations and uphold human rights. Not only do we need pro-people policies to reform utility company practices in the



short term, but in the long term we need a people led movement to seize the reins of our utilities sector, including water, another essential resource that befalls a similar fate of being withheld from those suffering from extreme poverty.

The NAACP is a part of building the new economy that puts power in the hands of the people, literally and figuratively. However, in the meantime, we have developed this study that chronicles the best and worst of utility policies and practices with the aim of uplifting examples of the most humane policies, and providing a blueprint for reform for those who continue to sacrifice the lives of vulnerable communities for profit. We are issuing a call to legislators, regulators, utility companies, researchers, and advocates for us all to step up our efforts in reforming what we have now, even while we as people's advocates push for total-systems change. Until we have transformed to the new, people led, economy, we must all take responsibility for pushing for the reforms that protect the lives of those who are most vulnerable. We particularly issue a call to conscience to the legislators, regulators, and the companies that have used the profits from the electricity and heating bills that we pay every day, to suppress human rights through anti-customer protection, anti-regulatory, anti-clean energy, anti-energy efficiency, anti-distributed generation lobbying while staunchly maintaining practices that have taken lives.

While we build a new economy with foundational principles of human rights, community ownership and control, participatory democracy, and shared wealth and wellness, through this effort, the NAACP, its units, and its partners and allies will work to ensure that utilities, regulators, and legislators are held accountable to executing policies and practices that ensure that right to the commons, resources essential for life, are upheld for all!

**LIGHTS OUT IN THE COLD:
REFORMING UTILITY SHUT-OFF
POLICIES AS IF HUMAN RIGHTS
MATTER**

INTRODUCTION

Disconnection policies consist of the justifications, procedures, and consumer protections with which a utility must comply before terminating service to a customer. Unfortunately, the interests of these customers often compete with the interests of other stakeholders. This poses an obstacle for the design of appropriate disconnection policies that recognize the necessity of utility services and the rights of vulnerable customers. The need to incorporate human rights into the utility business model is apparent.

Disconnection policies are implemented by legislatures and regulators, and vary widely from state to state. Some policies are protective of consumers, while others lack safeguards. The right to uninterrupted energy service must be established and upheld for the protection of human life. In the long term, the termination of households from utility services must be eliminated, in the interim, it is critical to ensure the absolute highest level of protections for vulnerable households facing disconnection.

This report discusses common disconnection protections across all types of utilities, but focuses on those set for Investor-Owned Utilities (IOU's). Issues with existing disconnection practices and state level model policies are also explored. Financial options are presented as a short-term solution to reduce a household's risk of disconnection, however, the report sets forth broad principles and specific recommendations for stakeholders as we move towards a shared vision of an energy democracy. While the report highlights disconnection practices mandated by state legislatures and authorized regulatory bodies, the issues and impacts outlined can, and have, applied to Publicly-Owned Utilities (POU's) as well.

TYPES OF UTILITY COMPANIES

Investor Owned Utilities (IOUs)

Investor-owned utilities are privately-owned, for-profit electric utility whose stock is publicly traded. It is rate regulated and authorized to achieve an allowed rate of return. Traditionally, the investor-owned utilities own generation, transmission, and distribution assets. These utilities are regulated by state legislatures and the regulatory bodies to which they delegate authority. Customer rates are set and regulated by the Public Utility Commission through public process that includes some customer participation.

Publicly Owned Utilities (POUs)/Consumer owned utilities (COUs)

Publicly owned utilities are under public control and regulation. These utilities are organized in various forms, such as municipal owned, rural cooperatives, public utility districts. COUs have varied regulatory structures. Customer rates are set by each utility's governing body-board or city council in a public forum.

Municipally owned: A municipally or city-owned utility is a non-profit electricity provider that is owned and operated by the municipality it serves. Municipals may or may not have their own generation facilities. For municipals without their own generation often develop a contract with another company to generate electricity. Since the customers are local, the municipals do not need to transmit electricity over high-voltage power lines. Generally, municipal-owned utilities are controlled by the City Council or a special board or committee.

Rural Electric Co-ops: Rural Electric Cooperatives are operated by and for the people of the community. The Electric Co-ops were formed to bring electricity to rural households that investor-owned utilities do not serve. They are divided into distribution cooperatives or generation and transmission cooperatives. Distribution co-ops provide end-users with electricity. Generation and transmission co-ops are usually owned and managed by several distribution co-ops to sell wholesale power to distribution co-ops. The consumers of the utility elect a board to manage and make decisions for the Cooperative.

Public Utility Districts (PUDs): Public Utility Districts are utility-only government agencies that provide things like electricity, natural gas, sewage treatment, waste collection/management, telecommunications, or water. The utility districts are created by the local government bodies. PUDs are regulated by a board or commission that is elected by the voters of that district.

No longer should the narrative be, poor people making bad choices and paying the consequences for their bad choices. The principles and actions promoted by this report apply to all utilities. It is time that utility companies are held accountable for the lives and families that they endanger, and that we all transition to the mindset that access to energy and utility services is a human right. The right to uninterrupted energy service must be established and upheld for the protection of human life. In the long term, the termination of households from utility services must be eliminated, in the interim, it is critical to ensure the absolute highest level of protections for vulnerable households facing disconnection.

THE HUMAN COST OF UTILITY DISCONNECTION

“These companies are getting rich while we freeze to death.”

-Bernard, resident of Detroit, MI

The following is a collection of true stories about real people whose lives were cut short, or nearly cut short, by utility companies who were willing to pull the plug to protect profits.

THE PEOPLE OF DETROIT, MICHIGAN

“DTE [Energy] changes my rates practically every month. They’re constantly trying to squeeze every penny out of us. I keep my gas nearly at zero and they are still charging me an arm and a leg.”

-Daryl, resident of Detroit, MI

In 2010, utility shutoffs by DTE Energy resulted in several deadly house fires in Detroit that caused several deaths, including the deaths of two wheelchair-using brothers on Dexter Avenue and three children on Bangor Street. In response, DTE tried to preserve a favorable image by misdirecting attention away from its responsibility for the tragedies, making an outcry to bring “energy thieves” to justice—unidentified people who the company accused of illegally connecting houses to DTE power lines. With the support of the Michigan state government, DTE called for the arrest of “energy thieves” and launched a spying campaign against Detroit residents, which included the use of invasive aerial infrared photography to determine which households still had heat after having their power disconnected for nonpayment.

Meanwhile, DTE also launched a publicity campaign to promote its charity, the Heat and Warmth Fund (THAW), as well as its Winter Protection Plan (WPP) program. Not only do these programs protect only seniors from utility shutoffs during the winter, but they also place families into payment plans that essentially keep them in a state of permanent debt to the company. In many cases, families cannot afford to stay on track with the payment plans that are offered and end up having their power disconnected anyway.

After visiting a DTE office to make a payment, a Detroit resident named Bernard commented, “I came in here to pay \$236. That was the minimum amount they said would stop them from shutting off our utilities. They wanted me to pay \$560, but I just don’t have the money. People on my block are using whatever they have—space heaters, stovetops, anything they can think of. Finding an alternative way to keep warm has become

necessary to survive. And you know the company is making good money. These companies are getting rich while we freeze to death.”

At the same DTE office, a Detroit resident and mother of three named Tametria said, “They set me up on a payment plan, where I was supposed to pay \$300 every month. I kept up with most of the payments, but when I lost my job, they still shut us off. I have three kids, and now we’ve had to move in with a friend. I came in today and they said I have to pay \$2,600 to get my house turned back on. It’s unbelievable. We can’t move back into our house because we can’t afford those thousands of dollars.”³¹

ROBERT ROBERTS – OVERLAND PARK, KANSAS

In 2016, a senior living in Overland Park, KS had his electricity shut off by his utility company even though he needed a nebulizer and oxygen to breathe. Robert A. Roberts, Sr. was already struggling to pay medical bills that piled up because of his health problems, including multiple sclerosis and chronic obstructive pulmonary disease (COPD).

A concerned neighbor, Randen Smith, decided to help Mr. Roberts by powering his medical equipment with an extension cord that was connected to Mr. Smith’s home. Kansas City Power & Light (KCP&L) said it was “unsafe” to provide electricity to Mr. Roberts through the extension cord and ordered Mr. Smith to pull the plug, threatening to also shut off his power if he refused. Mr. Smith refused to stop helping Mr. Roberts. “I don’t want someone dying on my hands,” Smith said. “Maybe KCP&L doesn’t mind, but it bothers me that someone needs help and electricity and oxygen to live, so I’m going to help.”

Mr. Roberts had been living with his son and grandchildren in Overland Park since 1989.³² The family lives less than one mile away from an incinerator used to burn medical waste, which has been operated by Shawnee Mission Medical Center since 2008.³³ The air pollution produced by incinerators is known to contribute to the development of chronic diseases like COPD, as well as many other serious health problems.

MARVIN SCHUR – BAY CITY, MICHIGAN

In 2009, a 93-year-old man named Marvin Schur froze to death in his home after his utility company restricted his electricity because of an unpaid bill. The official cause of his death was hypothermia, which was determined by a medical examiner who called it “a slow, painful death.” Mr. Schur owed more than \$1,000 and, as a penalty, the utility company installed a “limiter” to restrict his use of electricity, resulting in his death.

A utility bill was found on Mr. Schur’s kitchen table with a large amount of money attached to it—a sign that he was trying to save up to pay his bill. The utility company was owned by Bay City, Michigan. Bay City manager Robert Bellerman stated that he did not believe the company did anything wrong.³⁴

JESSE WYANT – EUDORA, KANSAS

“That’s premeditated murder—if you know a person is on life-sustaining oxygen, and you pull the plug and you kill them.”-Ms. Wyant, resident of Eudora, KS

In Eudora, KS in 2011, Beverly and Jesse Wyant were notified by the city that their electricity would be shut off if they did not pay their bill, even though Jesse, age 86, was terminally ill and needed an oxygen concentrator to survive. The couple was having difficulty making ends meet after a fire destroyed much of their home. Since then, they struggled to pay for refurbishments and other expenses so they could cope with the damage. The city refused to wait a mere five days for Beverly's state pension payment to come in; instead, they set up a turnoff time. Luckily, their daughter could pay the bill for them to keep the electricity on, but many families are not fortunate enough to have the resources to do this.³⁵

LESTER BERRY – DAYTON, TEXAS

Although Lester Berry, a 70-year-old resident of Liberty County, TX, was only \$129.62 behind on his electricity bill, his utility company cut off his power, resulting in his death. Mr. Berry had congestive heart failure and COPD, which meant that he needed constant power to his oxygen concentrator to survive. When Sam Houston Electric Cooperative disconnected his electricity, Mr. Berry very painfully suffocated to death.

Mr. Berry was found with his hand inches away from his phone, which needed electricity to work, leading his son to believe that he tried to call for help just before he died. Mr. Berry's family said the electric power provider was well informed about his need for electricity to power his life-sustaining medical equipment, so they had no reason to assume his power would be disconnected for nonpayment of a mere \$129.62.³⁶

Dayton, TX, where Lester Berry died, was home to the Cedar Power Project, which operated three trash burning incinerators until 2008.³⁷ The air pollution produced by incinerators is known to contribute to the development of chronic diseases like COPD, as well as many other serious health problems.

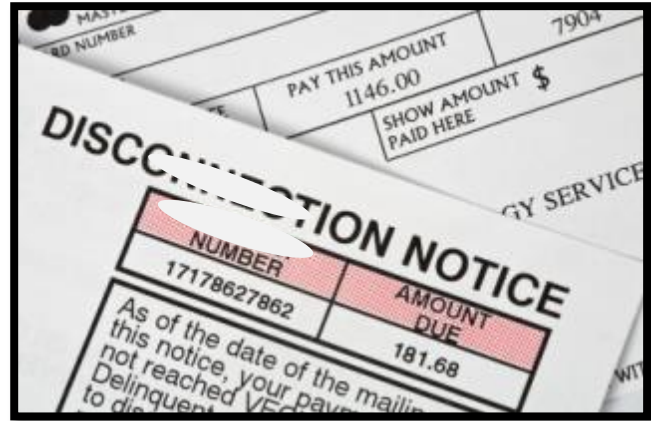
The instances of customer endangerment illustrated in the above stories highlight the need for change. With the myriad of protections, programs, and policies that exist for utility customers at risk of disconnection due to nonpayment there is no reason for undue suffering. In the interest of protecting the rights of utility customers, it is necessary to understand how utilities protect against disconnections due to nonpayment, and where there is opportunity for improvement.

DISCONNECTION POLICIES AND THEIR REGULATION

WHAT IS A DISCONNECTION POLICY?

A "disconnection policy" describes the justifications, procedures, and consumer protections with which a utility must comply before terminating service to a customer. Although a utility typically maintains the right to disconnect a customer for a variety of reasons, there are particular considerations with disconnection as a result of nonpayment.³⁸ Disconnection policies may be found in whole or in part in state statutes, regulations, public utility commission orders, and utility tariffs, but are most frequently established in regulations.³⁹ Regulators and other policymakers determine which elements to include or omit in disconnection policies, leading some disconnection policies to be more protective of consumers than others.⁴⁰ Some components that are commonly found in disconnection policies include:

1. Required notice to the customer that the utility intends to disconnect service;
2. Limitations on disconnections during certain times of year or in extreme weather;
3. Limitations on the day or time of day when a disconnection may occur;
4. Protections for customers who have disabilities, are elderly, or seriously ill; and
5. The availability of payment plans for customers who have trouble affording their bills.⁴¹



A disconnection notice

Source: [Benefits Learning Network](#)

HOW ARE DISCONNECTION POLICIES REGULATED?

Unlike other businesses, public utilities are bound by the public's interest because they are “of public consequence, and affect the community at large.”⁴² Many public utilities are even granted monopolies in exchange for what is supposed to be tight regulation in the public's interest. It is within the powers of legislatures to both regulate public utilities and define what it means for that utility to act in the public interest.⁴³ Traditionally, this has meant the protection of the health, safety, and general welfare of the public.⁴⁴

Legislatures delegate their authority to directly oversee public utilities to officials who serve in public utility commissions or other regulatory agencies.⁴⁵ Despite this delegation of regulatory authority, the legislatures retain the right and the duty to define the “public interest” which utilities must adhere to and which utility regulators must protect.⁴⁶ Legislatures and regulators exercise broad power over public utilities, but the role of regulators is limited by the legislature's definition of the public interest.

Public utility commissions and legislatures are able to control market entry for new utility providers, set rates, set standards for the quality and safety of service, and prevent the utility from taking undue financial risks.⁴⁷ While public utility commissions are free to regulate utilities in accordance to the public interest, they may be limited in their ability to confront new challenges that fall outside of the scope of the traditional public interest goals.⁴⁸ Among these challenges include climate change, rising energy costs, air pollution, new technologies, and racial discrimination.⁴⁹

Absent a clear public interest basis to tackle these challenges, commissions may enact regulations that go against the interests of customers.⁵⁰ Alternatively, this lack of clarity could cause commissions to be leery of taking action, or leave them unwilling to take on challenges, even if they would be permitted to do so.⁵¹ Thus, it is important for legislatures to provide utility commissions with a clear public interest mandate to authorize and encourage the commission to regulate on emergent challenges or topics. This lack of clarity allows for continued violations of customers' rights by public utilities.

How Utility Companies are Regulated

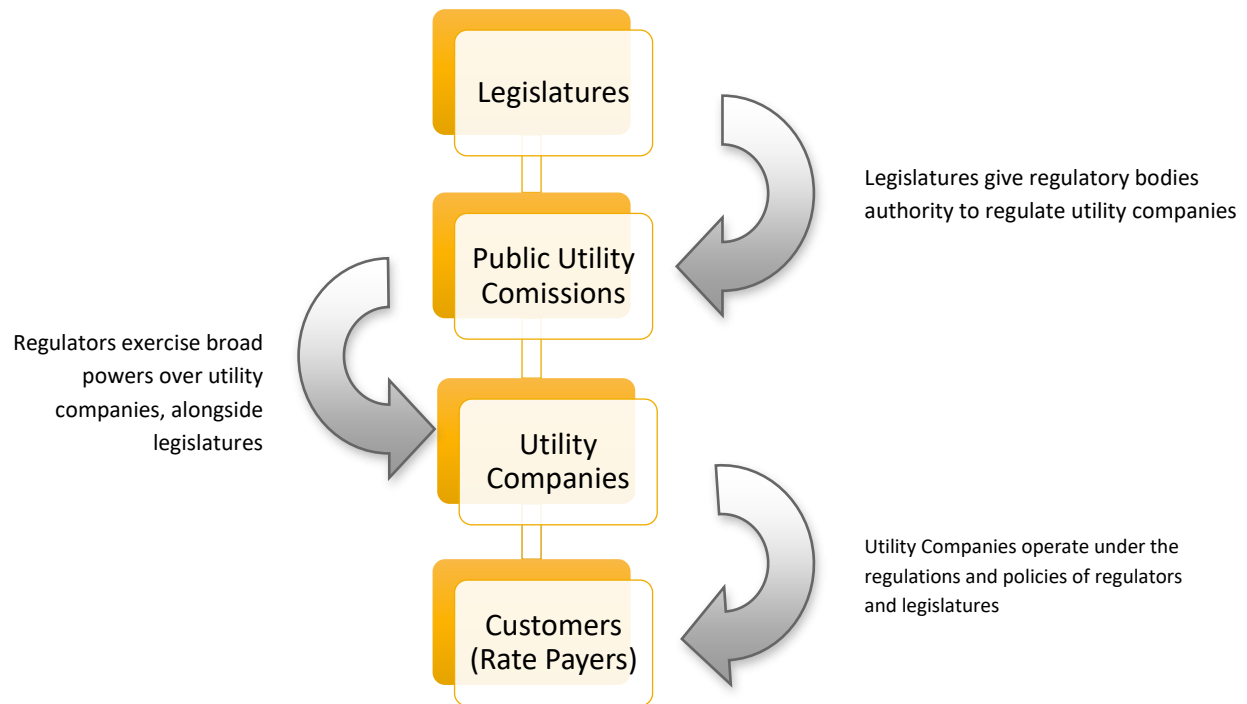


Figure 1. How Utility Models are Regulated: The Traditional Model

COMPETING INTERESTS

There are multiple stakeholders who may have competing interests regarding disconnection policies that must be considered when endeavoring to reform the utility system to solve the problems faced by those who experience utility disconnections. Figure 2 depicts some of the stakeholders who may have an interest in disconnection policies.⁵² The interest of the following groups typically come into play: utility customers, those at risk and not at risk of disconnection; utility companies; and legislators and regulators. Within each of these groups are individuals that are directly and indirectly impacted by utility disconnections and other actions.

CUSTOMERS

Consumers who are at risk of being disconnected have an interest in maintaining their service under protective disconnection policies. In contrast, consumers who are not at risk of being disconnected may be asked to subsidize those customers who are unable to pay; therefore, they may want less protective policies to keep their own rates lower. This additional burden on customers in-good-standing is a form of cost shifting—when a utility charge higher rates or other fees for services to one group than another less reliable group. Such cost shifting practices undermine the ability of more customers to pay their utility bills. Too often cost shifting is practiced in instances where a utility has the ability and capacity to absorb the costs of customers at risk of nonpayment.⁵³

All utility customers have an interest in disconnection policies, as disconnection from utility services for any reason directly impacts customer wellbeing and security. Often families are put at risk when utility services are denied. In most states, lack of proper and safe heating and lighting sources can be a catalyst for social service and child protective services investigations. Lack of proper heating and lighting can be designated as housing safety and physical environment hazards for children.⁵⁴ This potential of the separation of families due to utility service disconnections is not only traumatic, but frequently hinders households from seeking help when in already vulnerable positions.⁵⁵

UTILITIES

Utilities have an interest in earning a profit, so they may prefer a less protective disconnection policy that allows them to disconnect customers more quickly once an account becomes delinquent;⁵⁶ however, utilities likely also wish to avoid putting their customers at risk, out of humanitarian concern, or, in some cases, if only to save themselves from negative press and public perception.⁵⁷

Stakeholders in Public Utility Disconnections

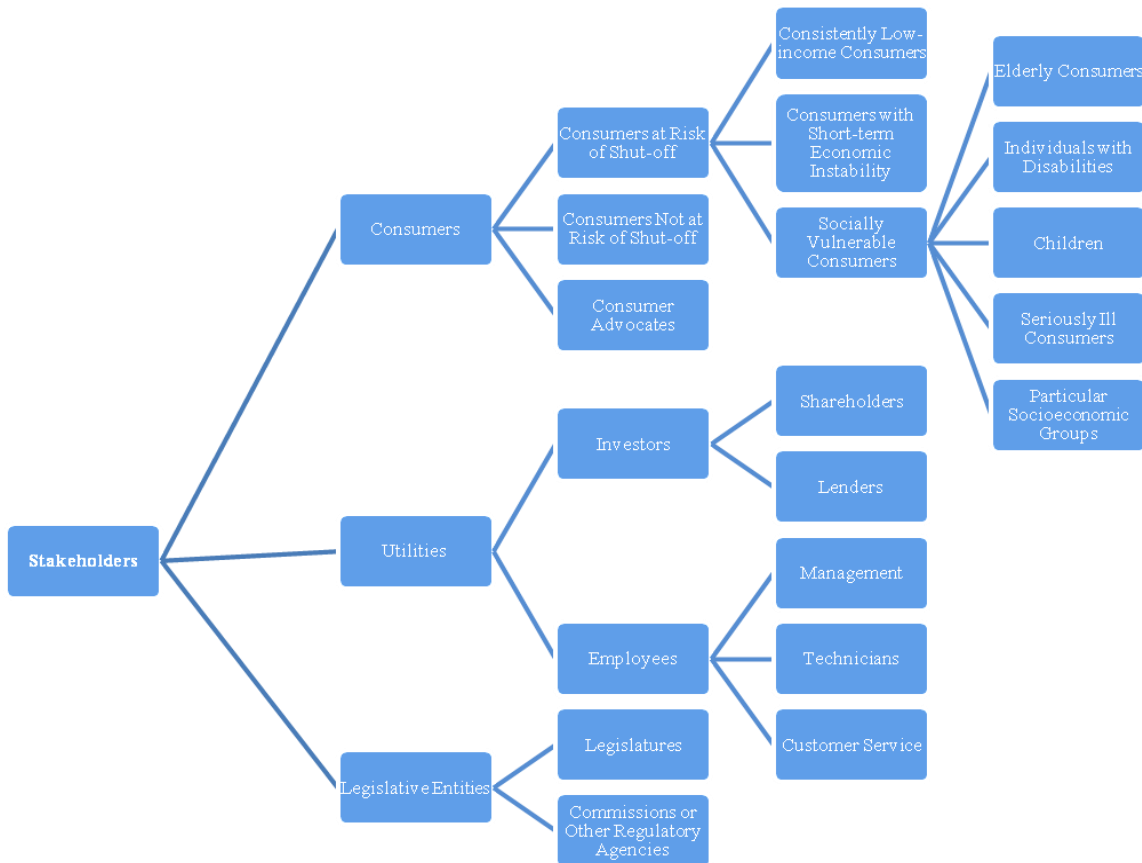


Figure 2. Stakeholders in utility disconnections

LEGISLATORS AND REGULATORS

Legislators and regulators share in the interests of both the utilities and the consumers, and they may have their own political or professional interests, but they ultimately must select a disconnection policy that will work best for the people in their state or jurisdiction.⁵⁸ In the face of these potentially competing interests, it is critical that regulators are engaged in determining how they can align the views of different stakeholders to create effective and socially-conscious disconnection policy.

DISPROPORTIONATE ENERGY BURDENS

"Something like electricity, that's really just an essential of living a normal life."

-Rudy Sylvan⁵⁹

There are many issues with the way utilities construct and apply disconnection policies in the United States. Utility disconnections can have a discriminatory impact on low income people, people of color, elderly people, people with special health needs, and other socially vulnerable utility customers who disproportionately face potential violations of human rights. Utility companies, regulators, and legislatures have developed suites of protections, which if implemented appropriately can remediate several critical concerns for vulnerable populations. These concerns include:

1. Customers with limited income bear a disproportionate burden of energy bills;
2. Disconnections have a disparate impact on low income communities and communities of color;
3. Customers may be reliant on utility services for medical devices and life-supporting systems; and
4. Vulnerable customers' use of hazardous heating, cooling, and lighting measures can have harmful and even fatal results.

ENERGY BURDEN ON LOW-INCOME HOUSEHOLDS

About 48% of American families (approximately 59 million households) have pre-tax annual incomes of \$50,000 or less, with an average after-tax income among these households of \$22,732—less than \$1,900 per month. Since families of color and seniors have

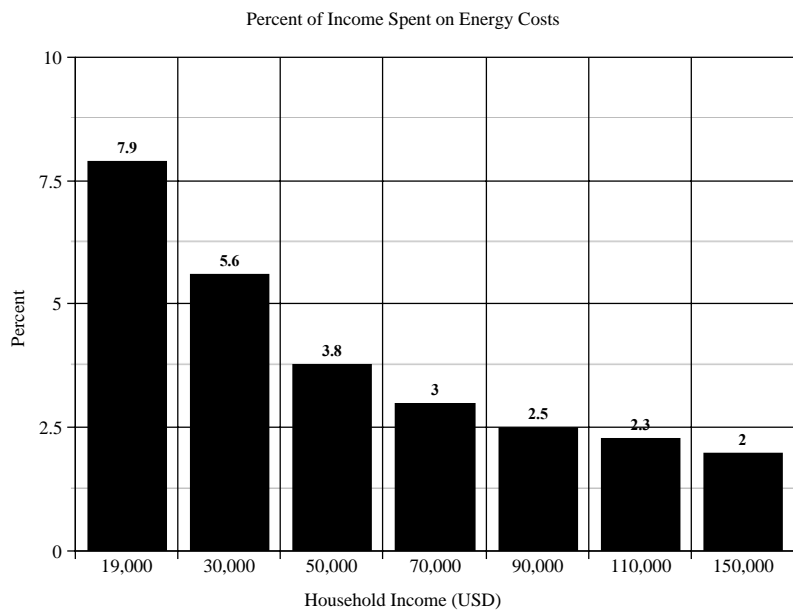


Figure3. Household Energy Burdens by household income

comparatively lower median incomes, these groups are among the people who are most vulnerable to rising

energy costs. “Median income” can be considered the midpoint, where one-half of households have incomes above this amount, and one-half have incomes below it. In 2015, the U.S. median household income was about \$51,939. Table1 provides a summary of the median incomes of especially vulnerable households compared to the U.S median.⁶⁰

Utility customers with limited income are at a higher risk of having their utilities disconnected due to nonpayment. This is due, in part, to the nature of utility payments. Utility costs often make up a larger portion of expenses for households with limited extra income (Figure 3,⁶¹ and these costs can change throughout the year as increased heating or cooling is needed.⁶² Energy costs are consuming as much of the incomes of America’s lower- and middle-income families as the cost of other basic needs, such as housing, food and health care. Additionally, households with limited extra income may live in older homes that are less energy efficient, and they may not have the financial ability to pay for efficiency upgrades.⁶³ Customers having trouble affording electric service may also be struggling to maintain cell phone or internet service. Many existing policies around disconnection procedures ignore this and provide notice solely through electronic means.

Table 1. Mean Income for Vulnerable Groups in the United States vs. the National Median Income

Household Type	Percentage of U.S. Households	Median Income	Amount Lower than U.S. Median Income
African-American	13%	\$45,186.93	-\$6,752.07
Latino/Hispanic	13%	\$45,186.93	-\$6,752.07
Age 65+	23%	\$39,993.03	-\$11,945.97

Table 2. Utility disconnections in Cleveland, OH 2014-2015

Total Service Disconnections for Nonpayment Jun 2014 – May 2015	
Cleveland Electric Illuminating Company	14,594
Columbia Gas of Ohio	92,313
Dominion East Ohio	62,398
Orwell Natural Gas	\$216
Total	169,521

Table 3. Unpaid bills for disconnections in Cleveland, OH 2014-2015

Total Number of Unpaid Bills for Disconnections Jun 2014 – May 2015	
Cleveland Electric Illuminating Company	\$12,306,545
Columbia Gas of Ohio	\$62,593,567
Dominion East Ohio	\$63,585,403
Orwell Natural Gas	\$86,447
Total	\$138,571,962

The cost of energy is not dramatically different for households that have significantly different incomes, which increases the likelihood that customers with little extra income will fall behind on utility payments and risk disconnection due to nonpayment. Utility cost remain significantly unchanged over all income groups is because:⁶⁴

1. Electricity and other utility services are a basic human need, not a luxury, making it relatively inelastic to income compared to consumer goods;
2. Even if low-income families do use less electricity, there is an energy efficiency gap, in terms of housing and access to the proper technology; and
3. A significant portion of electricity bills are paid via fixed costs, which means it doesn't matter how much electricity you use or don't.

In 2009, households with incomes of less than \$20,000 spent an average of \$1,571 on utilities while households with incomes of \$100,000–\$119,999 spent an average of \$2,572.⁶⁵ While these customers' relative incomes increased by more than 500%, the price they pay for utilities increases by only 163.7%. The reasons listed above have contributed to this pattern.

Disconnections due to nonpayment occur in significant amounts, and are on the rise in some areas.⁶⁶ In Ohio, four gas and electric companies serving the Cleveland area reported 169,521 service disconnections due to nonpayment during the twelve months between June of 2014 and May of 2015 (Table 2).⁶⁷ These disconnections equate to approximately \$138,571,962 in unpaid utility bills, which averages to just over \$800 per disconnection (Table 3).⁶⁸

"The cost benefit analysis of how the utility business model is structured around utility shut offs in the face of such wealth building focus means a choice of life and death for some and the choice between a Porsche and an Audi for others."

*-Jacqueline Patterson, Director, NAACP
Environmental and Climate Justice Program*

PROFITEERING OF UTILITY COMPANIES

When considering that utility company executives make millions of dollars in bonuses and pay increases, annually, that exceed the amount of revenue lost to nonpayment is a further sign of injustice. First Energy, the parent company of Cleveland Electric Illuminating Company, made over \$16 million *in performance bonuses alone* at the end of 2016, more than enough to cover the debt of disconnected customers from the previous year (Table 4). Disparities such as this are common, and even more drastic in other regions of the U.S. As shown in Appendix A, Ohio, as well as many other states, have electric affordability indexes above the national average (2.5%). Tennessee, South Carolina, Mississippi, Alabama, and Hawaii all have energy affordability indexes equal to or more than 3.5%. In these states, the average customer faces a higher energy burden. A burden that is deeply felt by low income and socially vulnerable populations. The stark contrast

between the amount of money utility companies spend on executive bonuses and unnecessary infrastructure, illuminates the larger issue of profiteering within the energy industry.



DTE Headquarters in Detroit, MI
Source: [U.S. Department of Energy](#)



Detroit, MI Residences in the DTE Service Territory
Source: [Fireplace Chats](#)

Table 4. First Energy Executive Compensation FY 2015-2016

Cleveland Electric Illuminating Company (First Energy) 2015-2016			
Executive	Base Salary	Total Compensation	Pay Increase
1	\$ 1,118,558.00	\$ 4,238,701.00	\$ 3,120,143.00
2	\$ 636,154.00	\$ 2,339,431.00	\$ 1,703,277.00
3	\$ 510,231.00	\$ 7,054,125.00	\$ 6,543,894.00
4	\$ 752,789.00	\$ 3,004,793.00	\$ 2,252,004.00
5	\$ 599,176.00	\$ 2,135,552.00	\$ 1,536,376.00
6	\$ 552,404.00	\$ 2,017,272.00	\$ 1,464,868.00
Total	\$ 4,169,312.00	\$ 20,789,874.00	\$ 16,620,562.00

DISPARATE IMPACT ON LOW INCOME COMMUNITIES AND COMMUNITIES OF COLOR

African Americans spend a significantly higher amount of their total incomes on energy—including electricity, heating, fuel, and the energy used to produce, package, transport and sell goods—than the general U.S. population, except in higher income groups. The American Association of Blacks in Energy argues that this occurs for two reasons:⁶⁹



1. African Americans are more than twice as likely to live in poverty as non-African Americans. Low income households pay similar amounts for electricity and heating as high income households; and
2. African Americans spend a significantly higher fraction of their household income on electricity and heating than non-African Americans who spend more on energy used in the production and consumption of goods.



In general, low income populations spend a significantly higher fraction of expenditures on energy purchases than the middle-class and the wealthy: 13% of expenditures in the lowest income groups as opposed to just 5% of household income in the highest income groups.⁷⁰ The higher percentage of low income African Americans exacerbates the vulnerability of African Americans to high energy prices and in turn utility disconnections. This helps explain why increases in energy prices are likely to negatively impact African Americans more significantly than the general population.⁷¹ In addition to the economic burden of high

prices, to the extent that low income customers, low income African Americans customers in particular, choose to forgo or trade-off energy use with other necessities such as food and health care, high energy prices can represent a significant health hazard.⁷² The choice between utility services and other necessities is not an easy choice. In a 2011 survey, lower-income households reported the following reactions to high energy bills:

- 24% went without food for at least one day;
- 37% went without medical or dental care;
- 34% did not fill a prescription or took less than the full dose; and.
- 19% had someone become sick because their home was too cold.⁷³

While having limited extra income puts individuals at higher risk for being disconnected due to nonpayment, a customer's race may also influence how likely an individual is to be disconnected from utility service. Data from the 2009 United States Energy Information Administration's Residential Energy Consumption Survey indicates that even among financially similar customers, African Americans experienced disconnections more frequently.⁷⁴ Among all households at or below 150% of the federal poverty level, 11.3% of African American headed households were shut off in contrast to 5.5% of Caucasian headed households.⁷⁵ While every region of the United States reflected this disparity, it was most prominent in the southern region, where 16% of African American headed households at or below 150% of the poverty level were disconnected compared to approximately 6% of Caucasian headed households.⁷⁶ In this case, intentional discrimination can be difficult to prove without concrete data and research of the differences between groups in the prioritization of energy bills over other expenses. These disparities may be the result of institutional racism; uneven levels of consumer education; differences in savings, available income, or outside assistance; and geographic density of customers based on race.⁷⁷

USE OF HAZARDOUS HEATING METHODS

Despite the significant costs of utilities on customers with limited extra income, the use of utility services remains necessary. Heating and cooling homes accounts for 47.7% of all residential energy consumption, with 41.5% of all residential consumption going solely to heating.⁷⁸ Customers use more energy in months when heating is necessary, and customers with little extra income may be especially vulnerable to disconnection during these more costly months.⁷⁹ For customers who live in colder climates, or who experience unusually extreme weather, the consequences of being disconnected throughout the winter months are potentially severe.

Customers take risks when they turn to alternative heating or light sources, such as space heaters, candles or generators, which can cause fires or emit toxic carbon monoxide.⁸⁰ As noted, there have been publicized deaths that resulted from the disconnection of a heat-utility during the winter months. **According to the National Fire Protection Association, while only 32 percent of home heating fires involve space heaters, heaters are involved in 79 percent of home heating fire deaths.**⁸¹ Customers face additional health hazards

"Regardless of whether it's shut off or simply that bills are so high that people voluntarily limit usage, several things happen. People use space heaters, kerosene heaters, that increase risk of fire and carbon monoxide poisoning. And people limit use of electricity. They light the home with candles, which are often too close to something combustible."

-David Fox of the National Low-Income Energy Consortium (NLIEC)



A family sits and waits as emergency respondents extinguish the flames

Source: [Denver Post](#)

throughout the year particularly when they are left without air conditioning in extreme heat, and when electricity is disconnected from customers who rely on the service to power their medical devices.⁸²

TYPES OF DISCONNECTION POLICIES

The policies and protections outlined in this section are common among all types of utility companies. But these are particularly measures outlined by state legislatures and authorized regulatory bodies (i.e. Public Utility Commissions, Public Service Commissions, and other bodies) for the regulation of IOUs. Many of these protections are also used by Publically-Owned Utilities (POUS) and Customer Owned Utilities (COUs).

PROCEDURAL PROTECTIONS AND CONSIDERATIONS

Procedural protections that are commonly included in disconnection policies include adequate notice prior to disconnection of the utility service



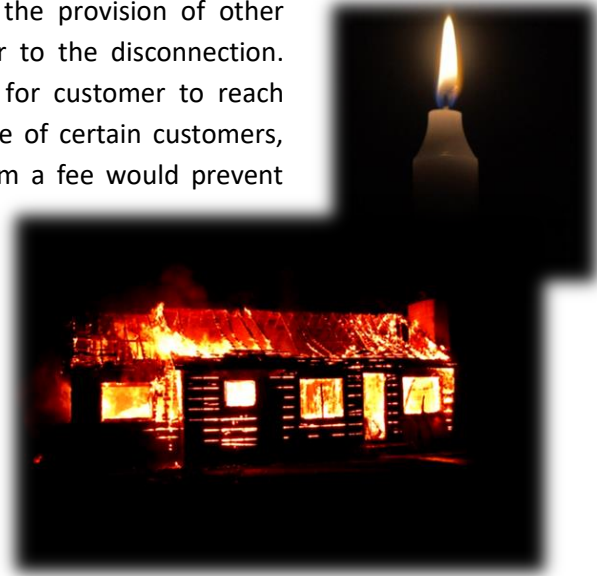
and limitations on when disconnections may occur. An additional procedural option often used by states is the imposition of fees for disconnecting or reconnecting a utility service to a customer. Utility services can be disconnected and reconnected in person and remotely, depending on the type of meter or infrastructure onsite. Producers for in person or automated disconnection and reconnections have varying policies in several states. This includes differences in [Louisville, KY November 15, 2016: House Fire caused using space heater](#) Source: [WLKY, Kentucky](#)

Notice: Is a constitutionally assured procedural right that must be given to all customers before termination of utility service.⁸³ In addition to being constitutionally required, providing a robust notice to customers ensures that customers are aware that they are delinquent in their payments. This not only protects the customer from being disconnected, but it alerts customers of their duty to pay for the utility service. Though a minimum level of notice is required before any utility may be disconnected for nonpayment, the length of notice and notice procedures vary widely in different states. Typically, notice is given by mail, by posting of the notice at the customer's home, by delivery to the customer, by phone, or, in limited states, by email.⁸⁴ Some states require that notice be provided in multiple languages.⁸⁵

Limitations on Disconnection: Many states choose to limit the days and times when utilities may disconnect a customer from service. Enacting these limitations often protects customers from being disconnected at a time when they would be unable to quickly remedy the disconnection. Most states will, at minimum, limit disconnections to business hours on days when the utility is open and available to receive a customer's payment.⁸⁶ Some states offer more customer protection by allowing disconnection only during limited hours

of the business day. If a state requires personal notice before a disconnection, the state may be more lenient with the hours and days on which a disconnection may take place.

Disconnection and Reconnection Fees: Almost every state explicitly authorizes reconnection fees.⁸⁷ Reconnection fees are authorized to allow a utility to collect additional payment for the acts of disconnection and reconnection, and the provision of other customer service interactions with the customer prior to the disconnection. Reconnection fees are often adopted as a deterrent for customer to reach disconnected status.⁸⁸ Other states are more protective of certain customers, such as the elderly or low-income customers for whom a fee would prevent reconnection.⁸⁹ Some states also authorize the collection of a fee for disconnection.⁹⁰ The fee amounts and procedures for disconnection and reconnection vary among states. The Public Utility Commission, of Ohio provides a Winter Reconnect Order for residential customers under the threat of disconnection or who have been disconnected to file for have their service reconnected or maintained for the winter months. Customers filing an order must pay a \$175 fee to retain service and an additional reconnection fee of \$36 to reconnect service.⁹¹ Some states, including Arkansas, do not charge disconnection fees, but may still allow for utilities to charge reconnection fees.⁹²



House fires can start from even a lit candle when used for heating and light in a home

In most cases disconnection and reconnection fees are still applied for remote disconnections and reconnections—remote connections can be made simply by flipping a switch. Disconnection and reconnection fees are another obstacle for customers at risk of disconnection, as well as those who have already been disconnected. Utility companies that offer these fees as disincentives for customers do not recognize that disconnections themselves are disincentives for most customers. These administrative policies do not help any customer, but further endanger customer well-being.

Deposits and Guarantees: In some states, new utility customers or customers with poor payment history, utility companies can require payment of a deposit or the submission of a letter of guarantee from a third party able to pay in lieu of the customer. Many PCU's and other utility regulatory bodies set minimums and maximums on deposit amounts and prescribe payment installment programs for paying deposits more than a set amount.⁹³ Deposits are often required on top of reconnection fees and arrears.⁹⁴ Deposit amounts vary from state to state and have been reported in excess of \$150.⁹⁵

SEASONAL PROTECTIONS

Seasonal protections are included in the disconnection policies of many states. Seasonal protections are generally date-based, temperature-based, or include a combination of both protections. Most seasonal protection policies apply to winter months or cold temperatures, but some also apply to summer months and extreme heat. Seasonal protections are usually implemented to protect customers from the health risks associated with having a utility disconnected during periods that could be especially dangerous to health.



Resident reveals the duct taped windows in her Claremont Houses apartment in the Bronx, NY.

Source: [David Wexler, New York Daily News](#)

Date-Based Protections: These protections set specific dates of when customers cannot, without due diligence, be disconnected from a utility service. Dates typically span the late fall to early spring months, when temperatures are at their lowest. Though less common, some states implement date-based protection periods for the summer months as well.⁹⁶

Temperature-Based Protections: Many states have a temperature-based protection plan to protect customers from extreme cold weather. These protections acknowledge the dangers that customers face when they are disconnected from a utility that may be providing them with heat during periods of cold weather.

PAYMENT ASSISTANCE

Many states require utilities to offer payment plans that may allow a customer to avoid disconnection or to more easily afford their bills throughout the course of the year. These plans can take many forms. One common option allows for all customers to enter a “budget billing” or “leveled plan.” These plans are typically available to any eligible customer, and it allows a customer to divide a yearly bill evenly over twelve months.⁹⁷ A second common option is offered only to customers who are at risk of having their utility disconnected. These customers are given a chance to pay the amount due in portions rather than all at once, which allows a customer to expedite reconnection to the utility service.⁹⁸ Payment plans are also frequently required to avoid disconnection during seasonal protective periods.⁹⁹

"[S]ome energy companies will offer the bare minimum in assistance. Many application assistance locations are inaccessible to disadvantaged populations... [P]rogram applications require multiple sources of documents and are so lengthy, complex and intrusive that needy applicants are discouraged from completing them. The process of applying for energy bill payment assistance should not cause added humiliation."

-Katherine Eglund, Member, National NAACP Board of Directors

PROTECTIONS FOR SOCIALLY VULNERABLE GROUPS

Most states offer protection for groups that may be considered especially vulnerable to the risks and hazards associated with utility disconnections. Traditionally, this category includes protection for people who are

elderly, people with special health conditions, and individuals with disabilities. Most states only require utilities to offer protections to socially vulnerable customers who register with the utility; however, for some of these groups, registration may be a barrier that prevents them from being protected under the applicable laws.

STATE DISCONNECTION PROTECTION POLICIES

Disconnection protections vary significantly by state. The combination of protections provided by utilities is ideally fit to the context of that state and its definition of public interest, however, these considerations do not result in adequate protections in all cases. To truly uphold human rights, in the public interest, the ultimate aim is to eliminate disconnections altogether and, pending broader system reform, ensure the absolute highest level of protection for vulnerable households facing disconnection. Table 5 illustrates how different protection policies and prescriptions are state by state.

Table 6 indicates the general utility disconnection policies for each state. Most states require utility companies to provide a written, phone, or personally delivered notice before a disconnection. Date based protections take place during the colder months, usually between the months of November and March or April. Temperature protections are based on various ranges of hot and cold temperatures that could place residents in danger. Most of the states will not disconnect when temperatures below 32°F or above 95°F, but the offering of this protection varies by state. Most the states offer a payment plan option to avoid disconnections and charge a fee to reconnect to utility services. Medical protections are generally offered for disabled or elderly customers. Generally, a medical certificate is required to postpone a disconnection for various amounts of time. There is a wide range of disconnection limitations. Some states will not disconnect during certain hours of days of the week, while other states will not disconnect before or during a holiday. A detailed compilation of utility disconnection protections can be found in Appendix B.

MODEL STATE POLICIES

The following policies are key examples of what utilities can do to provide more protective disconnection policies. These policies represent a step toward a more human rights based utility structure.

NOTICE

- In Oregon, a utility must provide a written notice by mail or delivery at least fifteen days before the scheduled disconnection.¹⁰⁰ A second notice must then be mailed or delivered five days before the scheduled disconnection.¹⁰¹ The utility must attempt to make personal contact with the customer immediately before the disconnection, and if this attempt is unsuccessful, the utility must post a notice at the customer's residence.¹⁰² Additionally, Oregon requires special notice protections following a disconnection when a utility is able to disconnect a customer remotely without making personal contact.¹⁰³
- Some states require that notice be provided in multiple languages, as in Colorado where a utility must provide notice in English and "languages other than English where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language as determined by the latest U.S. Census information."¹⁰⁴

LIMITATIONS ON DISCONNECTION

- In Iowa, a customer may only be disconnected between the hours of 6:00am and 2:00pm, which ensures that a customer has an opportunity to be reconnected the same day that the disconnection takes place.¹⁰⁵
- Most states provide avenues for renters to address situations where landlords fail to pay utility bills. In these instances, if a landlord fails to provide a utility, they can be held in violation of state and local housing codes and penalized. Many states have provisions which provide tenants with remedies against utility disconnections including: transferring of rental properties to tenant control; paying utility bills in place of landlords and deducting the amount from rent payments; and/or avenues for legal action and court involvement.¹⁰⁶

DISCONNECTION AND RECONNECTION FEES

- Arkansas does not charge disconnection fees for water, gas, or electric utilities.¹⁰⁷

SEASONAL PROTECTIONS

- Rhode Island has one of the most protective date-based winter seasonal protection plans. The regulation was recently passed, and became effective on November 2, 2016.¹⁰⁸ During the period from November 1–April 15, utilities are severely restricted in their ability to disconnect a customer for nonpayment. Customers who use a utility for their primary heating service may not be terminated unless they have arrearages greater than \$500.¹⁰⁹ While customers who have delinquencies greater than this amount may be disconnected, the utility must first file an affidavit with the state’s Division of Public Utilities and Carriers at least forty-eight hours before the scheduled disconnection.¹¹⁰ Additionally, there are no disconnections allowed for any customer who has a protected status with the utility.¹¹¹
- In Pennsylvania, utilities are required to distribute a survey in preparation for the winter protection period.¹¹² The purpose of the survey is to connect utilities with the customers who have been disconnected prior to the winter protection period. Utilities are encouraged to enter payment agreements with these customers so that they may be reconnected before the winter period begins.¹¹³



PAYMENT ASSISTANCE

- Rhode Island's Henry Shelton Act of 2011 (amended in 2016) establishes an arrearage forgiveness program for customers eligible for Low Income Home Energy Assistance Program (LIHEAP) who have had their utility services disconnected for non-payment or who have been scheduled for disconnection. Participating customers have one-twelfth of their arrearage forgiven for every month of successful payment, for up to \$1,500 of forgiveness in a year.¹¹⁴ This system is based on a similar model in Massachusetts.¹¹⁵

Small children, the elderly, and those with medical conditions and disabilities are particularly vulnerable to exposure to extreme weather

(Child) Source: [Olkbridge Family](#)

(Woman) Source: [Persimmon Hollow](#)

PROTECTIONS FOR SOCIALLY VULNERABLE GROUPS

- Massachusetts offers expansive protection for individuals who are seriously ill, elderly, and have disabilities, but the state also requires that utilities take steps to protect young children.¹¹⁶ No disconnections are allowed for households with children under twelve-months, or for households where the only residents are aged sixty-five or older and minor children.¹¹⁷
- To combat barriers to registration for protection programs, North Dakota implemented a utility survey that must be distributed to all new customers and all current customers on an annual basis. This survey questions all customers about any members of the household who qualify for protection due to age, illness, or disability.¹¹⁸

Table 5. Survey of State utility customer disconnection protections

State	Procedural Protections	Seasonal Protections	Payment Assistance	Protections for Vulnerable Groups
Alabama	Provide customers with a written notice five days before scheduled disconnection Requires a reconnection charge	When the temperature is forecasted to be 32°F or below for that calendar day, the utility cannot be disconnected	The utility does not have a payment plan option and	Special consideration based on age, disability, medical conditions or other circumstances is granted, but not required
Alaska	Customers receive an initial notice fifteen days before scheduled disconnection, and a second notice is provided in person, by telephone or by posting three days before a disconnection Disconnections can occur Monday-Thursday between 8:00am-5:00pm	Does not require seasonal protections	Deferred payment agreement with the utility to pay their outstanding balance in installments over a period not to exceed 12 months	A customer, who is elderly, ill, dependent on life support systems, or disabled, can have their disconnection postponed for fifteen days
Arkansas	Initial notice to be mailed eight days or delivered five days before the disconnection, Disconnections can only occur during normal business hours No reconnection charges	Disconnections are not permitted between November 1-March 31 Gas utilities may not disconnect for low-income customers When the temperature is 95°F or above, disconnections are not allowed for elderly or disabled customers	Offer payment plans for customers, who qualify as low-income, during winter protection period	Customers, who are elderly or have disabilities, must have two notice attempts at least 72 hours before shut off
Kansas	Written notice to be sent ten days before scheduled disconnection and the utility must call two times at least two days before disconnection	Disconnections are not permitted between November 1-March 31 If temperature drops below 35°F in the following 48-hour period, disconnections are not permitted	Customers must enter into negotiated payment plan, pay 1/12 of arrearage, 1/12 of current bill and disconnection, reconnection and deposit if applicable and apply for energy assistance funds to avoid disconnection	Customers with a medical certification must also provide proof of inability to pay the bill in full
Tennessee	Requires only a reasonable notice to be provided Does not specify a period for disconnections	Does not offer date based or temperature based protection	Offers payment plans for customers	A thirty day disconnect delay can be granted if physician, public health official or social service official certifies that a household member's health would be adversely affected

Table 6. Disconnection Protection Polices in the United States

State	Notice	Date Based Protection	Temp. Based Protection	Payment Plans	Reconnection Fee	Medical Protections	Disconnection Limitations
Alabama	X		X		X	X	
Alaska	X			X	X		X
Arizona	X		X		X		
Arkansas	X	X	X	X			X
California	X					X	
Colorado	X						
Connecticut	X			X	X	X	
Delaware	X	X	X	X		X	X
D.C.	X		X		X	X	X
Florida	X				X		X
Georgia	X	X	X	X	X	X	X
Hawaii	X					X	X
Idaho	X	X		X		X	X
Illinois	X	X	X	X		X	X
Indiana	X	X		X	X	X	
Iowa	X	X		X	X	X	X
Kansas	X	X	X	X	X	X	
Kentucky	X	X		X			X
Louisiana	X	X	X	X	X	X	X
Maine	X	X		X	X	X	X
Maryland	X	X	X	X		X	X
Massachusetts	X	X		X		X	X
Michigan	X	X		X	X	X	X
Minnesota	X	X	X	X	X	X	X
Mississippi	X	X	X	X	X	X	
Missouri	X	X	X	X	X	X	
Montana	X	X	X	X		X	X
Nebraska	X	X		X	X	X	X
Nevada	X		X	X	X	X	X
New Hampshire	X	X		X	X	X	X
New Jersey	X	X	X	X		X	
New Mexico	X	X		X	X	X	X
New York	X	X		X		X	X
North Carolina	X	X		X	X		X
North Dakota	X			X	X		X
Ohio	X	X		X	X	X	X
Oklahoma	X	X	X	X	X	X	X
Oregon	X			X	X	X	
Pennsylvania	X	X		X	X	X	X
Rhode Island	X	X	X	X	X		X
South Carolina	X	X		X	X	X	X
South Dakota	X	X		X		X	X
Tennessee	X			X		X	
Texas	X		X	X	X	X	X
Utah	X	X		X	X	X	X
Vermont	X	X	X	X	X	X	X
Virginia	X				X	X	X
Washington	X	X		X	X	X	X
West Virginia	X	X		X	X	X	X
Wisconsin	X	X	X	X	X	X	X
Wyoming	X	X	X	X	X	X	X

FINANCING TO REDUCE AND ELIMINATE DISCONNECTIONS

There are financing models that can help reduce the burden of utility costs on at-risk customers. These options are only steps toward a broader vision. It bears emphasis that the injustices of many utility practices are fundamental wrongdoings that contribute to the creation and continuation of poverty. The big picture is economic justice and equity, virtues that are thwarted by current utility business models regardless of strategies to reduce household energy burdens. Bill assistance programs, energy efficiency and weatherization programs, and inclusive financing models are resources that can and should be used in the short term to prevent and reduce the risk of utility disconnection. These approaches are band-aids applied to the symptoms of deep systemic roots of poverty. While they are positive and useful models and resources, they are merely a step toward the ideal.

BILL ASSISTANCE PROGRAMS

Bill assistance programs provide financial assistance for households to pay their immediate home energy bills. There are many federally funded bill assistance programs, the main programs include the: Low Income Home Energy Assistance Program (LIHEAP), the primary federal bill assistance program; Emergency Food and Shelter Program (EFSP), funded by the Federal Emergency Management Agency; and Residential Assistance for Families in Transition (RAFT), provided by the U.S. Department of Housing and Community Development.

Federal Bill assistance programs, as well as those operated by non-profits, often have social service and case management resources for households.

LIHEAP provides funding to states, which is then distributed to qualified households. The funds dispersed by states can be



Bill assistance programs are often the first solution at risk customers use to avoid utility disconnections

Source: La Casa De Don Pedro

direct bill assistance (the majority of funds), crisis assistance, support for weatherization programs, or other forms of aid to reduce household energy needs. Across most states, household eligibility is established between 150% and 110% of the federal poverty line, or 60% of the state median income.¹¹⁹ The program also provides direct payments to tenants, who meet income eligibility requirement for fuel assistance, whose heat is included in the rent.¹²⁰

EFSP grants are allocated at the county and regional levels. EFSP tends to pay for only one month's utility bill and requires that the household has received a shut-off notice. In many states, the same agency that processes LIHEAP applications also administers EFSP funds. The Department of Housing and Community Development's RAFT program provides substantial help with utility and heating bills. Unlike other federal bill assistance programs, RAFT's requirements and regulations tend to change with each fiscal year. Often to qualify for RAFT assistance, households must have at least one dependent child under the age of 21 and at

risk of homelessness. Utility bill payments will be made only as part of family re-housing or stabilization plans. RAFT funds are administered by regional non-profit agencies.¹²¹

Although many bill assistance programs exist, there is still limited federal funding available in most states for low-income residents, and some funding is available from utilities in some states. Many state programs also have trouble reaching their target populations. Even in states with more successful bill assistance programs (e.g. California, New York, Illinois, etc.), only about 1% of the eligible population are reached annually.¹²² Although many households receive assistance and can avoid disconnection through bill assistance programs, they are not an effective long term solution.

WEATHERIZATION AND ENERGY EFFICIENCY PROGRAMS

Through upgrading the efficiency of homes, households can reduce the burden of their energy bills. Programs that focus on weatherization and energy efficiency fund longer term solutions to household energy burdens by cutting wasted energy, improving comfort, and lowering costs.¹²³ Weatherization and energy efficiency retrofits are multi-benefit approaches to alleviating many consequences of living in poverty. When done holistically, the infrastructure and ventilation improvements and use energy efficient appliances that characterize these programs can save a household from undue energy burdens and environmental health hazards.¹²⁴ Low income households, the same that are most at risk of utility disconnections, are more often living in sick buildings, homes, and communities with poor environmental health conditions.¹²⁵

Weatherization programs install energy efficiency upgrades aimed at improving the physical space between the interior and exterior of a building, such as weather-stripping doors and windows, air sealing (as seen in the picture above), and installing insulation. Weatherization programs also fund upgrades or repairs to heating and cooling systems.¹²⁶ The most effective weatherization and energy efficiency programs address the largest household energy uses with the longest sustained savings (e.g. heating and cooling), which often have the greatest impact on reducing energy burdens.¹²⁷



Weatherization of homes is easy and effective way to reduce energy use
Source: [Habitat for Humanity, Prince William County, VA](#)

Unlike bill assistance and most weatherization programs, utility energy efficiency programs can include a variety of program strategies. Some utility energy efficiency programs operate in tandem with local or statewide weatherization efforts, using similar channels to reach customers. The most common low-income energy efficiency approaches are whole-building weatherization, and the installation of low-cost energy efficiency measures (e.g., efficient lighting, high-efficiency showerheads and faucet aerators, and air infiltration reductions). Some utilities operate direct-install programs targeting multifamily rental buildings as part of their low-income program offerings.¹²⁸ Building upgrades through weatherization and energy efficiency programs are the primary way of reducing the likelihood of non-payment that most households can employ.

Reductions in energy bills often equal reductions in the risk of disconnection. Even still, investment in energy efficiency and weatherization programs is an underutilized strategy.¹²⁹

INCLUSIVE FINANCING MODELS

Programs that help utility customers pursue home improvements can reduce monthly utility bills. With energy efficiency measures alone, customers are predicted to save \$2 trillion by 2030. Inclusive financing programs use a utility tariff rather than a loan to finance cost effective energy upgrades, and they break down the barriers to access so that these savings can be realized.¹³⁰ These models are providing an avenue for access for utility customers who may not qualify for direct install programs for low-income customers yet still struggle to make ends meet and keep the lights on.

Utilities that offer inclusive financing can remove major barriers to energy efficiency and renewable energy development by allowing customers to opt into a tariff that authorizes the utility (1) to make site-specific investments in cost effective energy upgrades and (2) to recover its costs with a charge on the bill that is significantly less than the estimated savings. Where inclusive financing programs exist, they are open to all utility customers regardless of their income, credit score, or renter status.¹³¹ Figures 4 and 5, from the Institute for Local Self-Reliance's Energy Democracy Initiative, illustrates the how inclusive financing works in the utility space. Utilities provide contractors with the upfront funding for onsite energy efficiency, weatherization, and renewable energy projects. The resulting savings from those projects is more than the costs added to the utility bill as payment for the project installation and infrastructure. The result is lower monthly utility bills. No utility offering inclusive financing based on the Pays As You Save®(PAYS®) system has reported a single disconnection for non-payment among program participants.

Many utility cooperatives have seen inclusive financing models work. At Roanoke Electric, a utility cooperative in a persistent poverty area of North Carolina, the Upgrade to \$ave program has invested in upgrades at more than 300 homes. The estimated average monthly net savings for participating customers

HOW IT WORKS

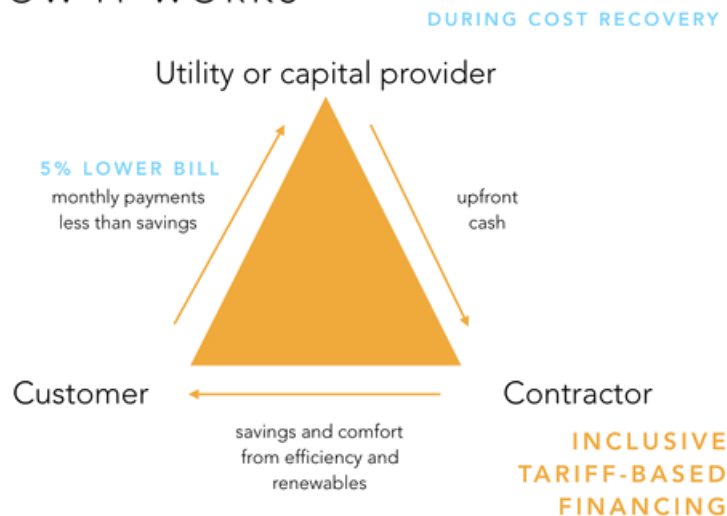


Figure4. Inclusive Financing Model, Source: Local Self-Resilience Energy Democracy Initiative

is around \$50, as they pay the monthly program service charge that is capped at 75% of the estimated savings - so the customer net savings from the beginning.¹³² With these savings, inclusive financing models have the express potential to reduce and eliminate utility disconnections and provide critical services to vulnerable populations.

How Does Inclusive Financing Work?

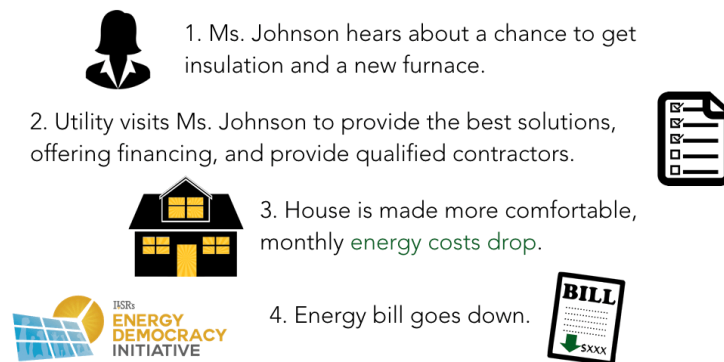


Figure 5. Simple overview of how inclusive financing works

THE NEED FOR UNINTERRUPTED SERVICE

"What kind of world do we live in where children can die a fiery death and there is no massive outcry?...We call on everyone opposed to this constant inhumanity against poor people to join us...and demand an immediate moratorium on gas and light shutoffs,"

-Maureen Taylor, State Chairperson, Michigan Welfare Rights Organization

The establishment of a universal **right to uninterrupted energy service** would ensure that provisions are in place to prevent utility disconnection due to non-payment and arrearages.¹³³ Toward establishing such a right, we call for all utility companies to advocate for and incorporate the following foundational principles into their models, operations, and policies:

1. Secure **ACCESS** to utility services for all households;
2. **INCLUSION** of all customers in the development of utility policies and regulations;
3. **TRANSPARENCY** of the actions of and information held by utility companies, regulating bodies, legislatures, and utility affiliated organizations;
4. **PROTECTION** of the human and civil rights of all customers; and
5. Advance programs that help **ELIMINATE POVERTY**, so that all customers can pay utility bills.



Maureen Taylor of the Michigan Welfare Rights Organization
Source: [Wiley Price](#)

The policies and protections detailed in this report represent stop-gap measures to lessen harms wrought by a system that is predicated on amassing profits without regard to the impacts on people. In advancing energy justice, all individuals have the right to: safe, sustainable energy production; the resilient and updated energy infrastructure; affordable energy; and uninterrupted energy service.¹³⁴ The NAACP calls for the development



Source: [People over Profit, twitter.com](https://twitter.com/PeopleOverProfit)

of policies and utility structures that improve energy efficiency throughout the energy continuum, advance clean and renewable energy production, encourage and enable the development of distributed generation, and protect human life and wellbeing. We further call for a system that puts power in the hands of the people, literally and figuratively. These aspects are components of the larger utility system change that we must build.

There are proven pathways for change. As demonstrated, improved energy efficiency would lower energy bills and make it less likely for utility customers to fall into arrears.¹³⁵ The same is true of distributed generation, particularly when paired with Pay As You Save (PAYS) models that would allow households to pay very little for electricity.¹³⁶ With greater energy independence and

reliance on renewable sources, the entire energy system would be less vulnerable to market fluctuations, which would stabilize costs.¹³⁷ Through reducing emissions from fossil fuel based energy production, climate change mitigation goals would also benefit from these shifts. Therefore, the tremendous expense of disaster related outages, which are increasing and have real impacts on utilities' budgets,¹³⁸ would be reduced—protecting customers from yet another hazardous outage that is outside of their control.

Utility customers who are disconnected due to non-payment should not face the potential of death and suffering when viable solutions exist. Much action is needed to cease this needless endangerment. Now is the time to expand the research and evidence surrounding the impacts and issues of utility disconnections, as well as reform how we manage and operate the entities that supply these critical services.

IMPROVED DATA COLLECTION, RESEARCH, AND TRANSPARENCY

"For some customers, there is "a permanent level of unaffordability built into the rates."

-William Yates, Senior Financial Analyst, Public Utility Law Project of New York.

There is a need for more extensive and transparent data and research concerning utility disconnections, nationwide. Until this information is more readily documented, shared, and analyzed our message will be more easily ignored. Where this information does exist, it needs to be made publicly available, especially to customers of utilities.

RECOMMENDATIONS FOR UTILITY COMMISSIONS, REGULATORS, AND UTILITIES

It is the responsibility of utility companies and those who regulate them to ensure that records and data of disconnections are documented and made publicly available, at minimum, to its customer base. In accordance with the rights, principles, and actions previously discussed, we advise public utility commissions, regulators, and utility companies to:

1. Set strict record keeping standards of the entire disconnection/ termination of service process;
2. Conduct studies on the financial and human costs of utility disconnections;
3. Make records of disconnection publicly available on commission, utility, or government websites; and
4. Use this information to evaluate and improve disconnection protection policies and safeguards.



Members of the Committee Against Utility Shutoffs (CAUS) speaking at a community event
Source: [CAUS](#)

RECOMMENDATIONS FOR GOVERNMENT AGENCIES AND ORGANIZATIONS

Several federal and state agencies and organizations collect, analyze, and release data and reports regarding the U.S. energy industry at multiple scales (e.g. [U.S. Energy Information Administration](#)). To the extent that utility disconnections are a part of these analyses is currently unknown, however, moving forward, it is imperative that this information be included and made publicly available. In accordance with the rights, principles and actions previously discussed, we advise these government agencies and organizations to:

1. Maintain extensive and up to date databases containing disconnection data provided by utility companies and regulatory sources;
2. Obtain, analyze, and make transparent aggregate utility disconnection data in U.S. energy sector reports; and
3. Hold public utility commissions, regulators, and utility companies accountable for providing complete datasets for assessment and dissemination.

RECOMMENDATIONS FOR UNIVERSITY AND NON-PROFIT RESEARCHERS

As a society, we rely on academic and professional research for input into policy development. Thus, researchers from universities and organizations with research capacity (e.g. [National Consumer Law Center](#) and [the Consumer Federation of America](#)) must also be aware of these issues and conduct studies that foster better understanding of the connections between utility disconnections, their impacts on households, and other industries and sectors. We are asking researchers from colleges, universities, and capable non-profit organizations, particularly those with strong environmental and energy justice programs, to:

1. Expand research on socially conscious utility and energy models;

2. Advance research that impacts all parts of society, particularly vulnerable populations;
3. Partner with communities in and promote community participatory research models; and
4. Use expanded data in accordance with the principles and rights outlined.

UPHOLDING HUMAN RIGHTS IN THE SHORT TERM

“Utilities are a social right. People have a right not to freeze to death! They have the right not to live on the bare edge of survival. To realize this right, however, we must fight for it. And this demonstration is an initial stage in this fight.”

-Lawrence Porter, CAUS chairman and SEP Assistant National Secretary¹³⁹

While the end goal is clear—to **prioritize utility policies that place a moratorium on utility service disconnections**—these principles can be furthered through the following practices:

PROCEDURAL PROTECTIONS

1. Require multiple attempts by phone, in writing, and, in person contact before disconnection;
2. Secure notification of disconnection by mail;
3. Require a post-disconnection notice to all customers;
4. Provide additional notice provisions for customers who can be disconnected remotely;
5. Restrict disconnections between 8:00am-2:00pm (or during hours of operations, and not later than 2 hours before close of business) on days when utilities have employees available for reconnections;
6. Provide notice and utility disconnection policies in multiple languages;
7. End policies surrounding disconnection and reconnection fees;
8. Cease the collection of deposits for utility service activation and/or reconnection;
9. Ensure that renters retain access to energy services when nonpayment is the fault of the landlord or other third party;

SEASONAL PROTECTIONS

10. Include seasonal protections with both temperature and date-based solutions;
11. Set disconnection arrearage minimums for customers who use utility services as the primary source of heating or cooling during periods of seasonal protection;
12. Provide utility services during extreme weather events that fall outside of seasonal protection periods;

PAYMENT ASSISTANCE

13. Allow budget payment plans to distribute utility costs throughout the year;



Committee Against Utility Shutoffs (CAUS) Utility Shut-off Demonstration in Detroit, MI

Source: [CAUS](#)

14. Allow partial payment plans to customers to prevent disconnections;
15. Provide connections to social services and case management resources for households with delinquent bills (i.e. budgeting, food assistance, and other social services);

PROTECTIONS FOR HOUSEHOLDS THAT ARE SOCIALLY VULNERABLE

16. Establish simple procedures for socially vulnerable groups to apply and be registered for protection from disconnection;
17. Implement customer surveys in advance of extreme weather seasons to screen for socially vulnerable individuals;
18. Ensure active outreach to socially vulnerable customers and households for inclusion in protection programs; and
19. Registration into these programs should be complimented with a notification to local and/or state emergency relief agencies and safety responders.

RECOMMENDATIONS FOR UTILITY COMPANIES

With the intent to incorporate human rights into existing utility business models, we advise Utility Companies and affiliate organizations to:

1. Operate according to the principles and practices of human rights; and
2. Cease investments and lobbying practices that undermine the right to uninterrupted utility services.

RECOMMENDATIONS FOR PUBLIC UTILITY COMMISSIONS AND REGULATORS

With the intent to incorporate human rights into existing utility business models, we advise Public Utility Commissions, and regulators to:

1. Enforce and adhere to the principles and practices of a human rights based utility model;
2. Hold public hearings to investigate the extent and nature of disconnections in services areas;
3. Mandate exploration and implementation of energy efficiency, clean energy, and distributed generation programs and technologies;
4. Ensure that regulatory processes, meetings, and proceedings are accessible to all customers; and
5. Hold themselves and utility companies accountable to the concerns of customers.

INVESTOR-OWNED UTILITY ENGAGEMENT

While every state has different regulation rules, it is a common practice to contact the utility as the first step to engagement. Investor-owned utilities are regulated by the Public Service Commission (PSC)/Public Utility Commission (PUC). Generally, PSC/PUC deal with problems or issues that the consumer feels were not solved by the utility, such as,

- Service installation and line extensions
- High bills
- Quality of service
- Meter tests
- Reasonable payment arrangements
- Outages
- Incorrect rates or tariffs
- Unauthorized switching of utility service from one

RECOMMENDATIONS FOR LEGISLATURES

With the intent to incorporate human rights into existing utility business models, it is critical that legislatures:

1. Amend legal definitions of "public interest" to incorporate additional aspects of human rights;
2. Establish policies mandating the principles and practices of the right to uninterrupted utility service;
3. Pass legislation that enables the advancement of energy efficiency and clean energy programs and technology;
4. Pass legislation that enables the advancement of energy independence;
5. Provide utility commissions with a clear public interest mandate to authorize and encourage commissions to regulate on new challenges and topics including climate change, rising energy costs, air pollution, new technologies, and racial discrimination.

Traditional and innovative public interests related to disconnection policies could include: the health, safety, and welfare of the public; consumer protection from monopoly market power; protection of low-income members of society; protection of socially vulnerable groups; protection of socioeconomic group who are disproportionately impacted by utility disconnections; enabling consumers to pay for utilities.

RECOMMENDATIONS FOR UTILITY CUSTOMERS AND CONSUMER ADVOCATES

As customers and advocates, our goal in the short term is to stop the suffering of vulnerable communities and those who face utility disconnection now. We as advocates who seek to secure disconnection policies that fall outside of traditional regulations and protect the right to uninterrupted utility services must:

1. Directly engage state and local legislatures before a commission will pass regulations;
2. Demand legislatures pass specific authorizations for these regulations;
3. Petition utilities and public utility commissions to adopt these principles;
4. Hold utilities accountable for supporting the human rights of customers by documenting and building the evidence of how human and civil rights are violated;
5. Partner with research institutions to conduct community participatory research;
6. Demand improved access to Public Utility Commission and regulatory meetings and proceedings;
7. Demand increased transparency of the operations of utility companies and their affiliates; and
8. Enforce the demand for policies and practices that protect human life through grassroots advocacy (e.g. consumer education, direct negotiations, lobbying, direct action, media campaigns, and litigation where necessary, etc.)

By recognizing energy as a basic need and human right, households would ideally be protected by moratoriums whereby energy services would remain available indefinitely, particularly for vulnerable households and customers. However, right now the goal is to end the current suffering of households that are energy insecure by adopting these principles. In advancing more humane disconnection practices, we must recognize that protections do not curb utility debt accumulation or provide indefinite protections from suffering. Households who experience chronic energy insecurity are not only subjected to shut-offs, but also face increased financial liabilities, exposure to additional health risks, and residential and economic

instability.¹⁴⁰ The policies and strategies outlined here represent a movement toward a more humanistic utility model, however, we must exemplify the change we want to see. We must develop community solar gardens and engage in community aggregated choice, while advocating for policies that move communities toward energy sovereignty (e.g. energy efficiency, clean energy, distributed generation, local hire provisions, disadvantaged business enterprise, etc.).



Advocates of the George Wiley Center, RI

Source: [George Wiley Center](#)

BUILDING ON THE LEGACY OF CHANGE

In solidarity with organizations and initiatives nationwide, we seek to advance the conversation and action around the creation of utility models that work for consumers and the environment. We stand with those who have worked for decades before us to remove the ills of utility disconnections, including [TURN: The Utility Reform Network](#) in California, the [George Wiley Center](#) in Rhode Island, the [Utility Reform Project](#) in Oregon, [New York's Utility Project](#) in New York, the [Committee Against Utility Shutoffs](#) (CAUS) and [Michigan Welfare Rights Organization](#) (MWRO) in Michigan, and national organizations like the [National Consumer Law Center](#), and [the Consumer Federation of America](#), among others. The work of these and other organizations have saved lives and secured the safety of so many in the states and regions in which they advocate and beyond.

Members of the George Wiley Center have successfully secured the strongest child protection in the country. In Rhode Island, there are guaranteed utility service protections for households in financial hardship with children under two years old. The Center has also challenged the State's Division of Public directly through collective community action to institute Emergency Restoration of utility service to medically vulnerable households. These are protections all states should have in place.

In December 2015, New York's Utility Project filed an amicus brief in the United States Supreme Court in

LEADING DISCONNECTION PROTECTION WORK NATIONWIDE

TURN- The Utility Reform Network [CA] advocates for customers and assists them with understanding their bills and utility practices. The group holds utility corporations accountable by demanding fair rates, cleaner energy and strong consumer protections.

<http://www.turn.org/>

George Wiley Center [RI] organizes people from low-income communities to advocate for systematic change. One of the major campaigns is based on utility justice. The "Know Your Utility Rights" clinics educate consumers on their rights and how to challenge the Division of Public Utilities.

<http://www.georgewileycenter.org/utilities>

Utility Reform Project [OR] is asking for a reform of the entire utility system. The group wants the control of electric utilities to be in the hands of customers and their elected officials. They want just utility rates and fair billing practices.

<http://utilityreform.org/index.htm>

New York's Utility Project [NY] is advocating for universal service, affordability, and customer protection for New York State utility consumers.

<http://utilityproject.org/>

Committee Against Utility Shutoffs (CAUS) [MI] is asking for the stop to utility shut offs and for DTE Energy's top executives and government regulators to be held accountable for utility related fires.

<https://www.facebook.com/stopshutoffs/>

Hughes v. PPL EnergyPlus, LLC. The organization sought answers to the following:

Whether, when a seller offers to build generation and sell wholesale power on a fixed-rate contract basis, the Federal Power Act field-preempts a state order directing retail utilities to enter into the contract; and whether the Federal Energy Regulatory Commission's (FERC's) acceptance of an annual regional capacity auction preempts states from requiring retail utilities to contract at fixed rates with sellers who are willing to commit to sell into the auction on a long-term basis.¹⁴¹

The Utility Project frequently engages in such legal action to ensure that utility action is in accordance with customer interests and rights.

The NAACP stands with these organizations in the pursuit of the elimination of the practice of utility service disconnection. While establishing and expanding protections is pressing, advocates must remember that the goal is much larger. Utility companies and their associates must be held accountable and be leaders in the transformation of the energy sector. Equity will not be achieved overnight. It will only be achieved through hard work on the part of us all.

LONG TERM VISION

It is crucial to remember that the reforms we are calling for and the tactics we use to achieve them are in the short term to address the emergency circumstances in which all too many households find themselves. In the long term, we must continue to push for systems change, including distributed generation and people owned, human rights centered utilities. It is time to not only eliminate the harmful utility practices, but to correct the extractive economy that we currently face.

Each of the deaths and suffering detailed in this report is an indictment against the companies who wielded power and ignored the cries for mercy in the heartless pursuit of profits, and against the legislators and regulators who failed to provide adequate leadership. In the short term, we can push for the reforms as detailed above. But they've had their chance and it's time for a total system revolution.

The fight against the extractive economy is not about making things better for people who are poor; it is about eliminating poverty, racism, and other social and structural inequities that render households vulnerable. In 2015, the U.S. energy sector made \$178 billion from residential energy use alone. As we focus on eliminating poverty while ensuring energy security, one way of doing this is to reform the energy sector, a \$6 trillion

VISION IN ACTION

FROM PERSECUTED BY MY UTILITY TO
POWERED AND EMPOWERED BY THE SUN! -
AMY MAYS, ARIZONA

My story began in 1994 when I opened a beauty shop for my daughter. After we had been in business for four years, my troubles began with the local utility company, Salt River Project (SRP), when they required that I pay an additional deposit to continue to receive electricity services. I fought, but eventually ended up paying the additional deposit. Then, in June 2003, the utility company demanded a further deposit, even though I was current on all payments.

I contacted the Arizona State NAACP office and they convinced the utility company to reconnect the electricity if I paid a portion of the deposit. However, in August 2003, SRP again disconnected the electricity requesting the remainder of the deposit. We did not have the money so they turned off the electricity, which resulted in the closing of our nearly ten-year old business. Even though our service was terminated, with all payments up to date, the utility company inexplicably continued to demand payment for this completely illegitimate “bill.”

Since that bill from my closed business went “unpaid,” to add insult to injury, the utility company disconnected the electrical power to my home on April 8, 2004. From 2004 to 2006 I suffered without electricity, living out of my ice chest.

When I first heard about solar panels in 2006 I began reading everything I could about them. I searched online until I located a solar system designed for off-grid cabins. I ordered my first solar system for \$5,000. As a trained electrician, I had the skills to install the panels myself. I purchased additional solar panels one or two panels at a time, and the necessary equipment for installation, until I had accumulated enough for an additional system, which I also installed myself. As I’ve gotten older, I’ve trained another electrician to help maintain my solar panel system.

Ten years later, now in 2016, my home is still not connected to the utility-operated grid. I haven’t paid an electricity bill since 2004, and the savings I have experienced as a result have been tremendous. Without an electricity bill to pay every month, my solar panels paid for themselves and I’ve been saving money ever since. I will never go back to the utility connection. Through my own rooftop solar panels, I have been liberated from the high rates the utility companies demand and the control they held over me!

With life threatening, high heat temperatures in Arizona, solar has literally saved my life!

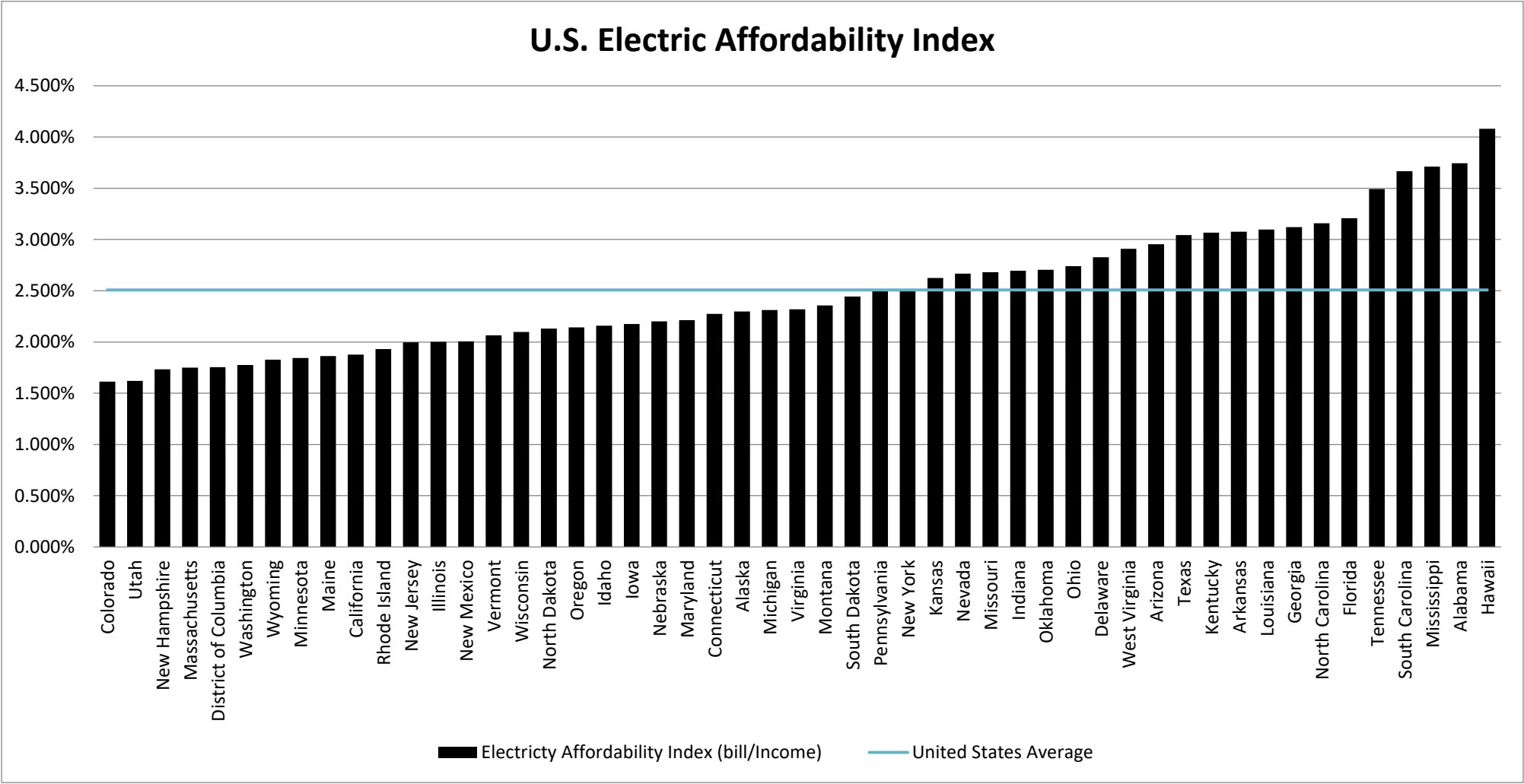
I share my story with everyone I meet. In fact, my doctor was so inspired by my story that he recently had solar panels installed on his home. He, too, has been thrilled with his experience going solar and told me that last month his electricity bill has gone down to a mere \$30.

It feels good to control my own power and not have to rely on the utility company for anything. I want people to know that if I can find independence through solar, then other people can do the same. The power from the sun is already there and always will be. Now people just need to find ways to use it!



Amy Mays telling her story at an NAACP Energy Justice Training in 2016

APPENDIX A: ELECTRICITY AFFORDABILITY INDEX - U.S. STATES



APPENDIX B: SURVEY OF STATE DISCONNECTION POLICIES

ALABAMA

Source	ALA. ADMIN. CODER. 770-X-1-.12
Notice	Written notice must be provided five days before scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	Yes. No disconnections when the temperature at that location is forecasted to be 32°F or below for that calendar day.
Payment Plans	No. Utility may require payment of all delinquent charges and reconnection fee before reconnecting.
Reconnection Charge	Yes.
Medical Protections	Tariffs govern disconnection of service practices when life or health is threatened by disconnection. Customers may require special consideration based on age, disability status, medical conditions, or other circumstances.

ALASKA

Source	ALASKA ADMIN. CODE tit. 3, §§52.445, 52.450
Notice	Initial notice must be mailed to customer fifteen days before scheduled disconnection. Second notice provided in person, by telephone, or by posting must be made three days before scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections may occur Monday-Thursday between 8:00am-5:00pm. No disconnections on Fridays, Weekends, or days preceding legal holidays.
Payment Plans	Yes. Deferred payment may be an alternative to disconnection based on the tariff of a utility.
Reconnection Charge	Yes.
Medical Protections	Postpone disconnection for fifteen days for customers who are elderly, ill, dependent on life support systems, or who have a disability.

ARIZONA

Source	ARIZ. ADMIN. CODE §§ R14-2-211, R14-2-201
Notice	Written notice must be provided five days before scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	Yes. No disconnection on a day when the forecasted temperature for the following day does not exceed 32°F. The Commission may determine that other weather conditions are especially dangerous to health as the need arises.
Reconnection Charge	Yes.

ARKANSAS

Source	ARK. CODE ANN. § 23-4-204, ARK. ADMIN. CODE §§ 126.03.2-6.04, 126.03.2-6.09, 126.03.2-6.13, 126.03.2-6.15, 126.03.2-6.18
Notice	Initial notice may be mailed eight days before scheduled disconnection or delivered five days before a scheduled disconnection. Customers who are elderly or who have disabilities must have two notice attempts at least 72 hours before the shut off. If neither attempt is successful, written notice must be given at least 24 hours in advance of disconnect.
Date Based Protection	November 1–March 31. Gas utilities may not disconnect services for low-income customers.
Temperature Based Protection	Yes. No disconnections on a day when a temperature 32°F or below is forecasted any time in the following 24 hours. No disconnections for elderly customers or customers with disabilities on a day when a temperature of 95°F or above is forecasted any time in the following 24 hours.
Disconnection Limitations	Disconnect may occur during normal business hours, but not in the last hour of the business day. No disconnections on a day, or day before a day when the utility will have no employees available to reconnect.
Payment Plans	Yes. Entry into payment plan is required to qualify as allow-income customer during winter protection period. Plans are available to other customers to defer disconnection at other times.
Other Protections	No disconnection charges allowed for water, gas, or electric utilities.

CALIFORNIA

Source	CAL. PUB. UTIL. CODE §§ 10010, 10010.1, CAL. MIL. & VET. Code § 827
---------------	---

Notice	Notice must be sent fifteen days before the scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	None.
Payment Plans	Yes. Available to customers with medical certification.
Medical Protections	No disconnection with medical certification that a disconnection is life threatening to the customer. Customer must enter into a payment plan.
Other Protections	No disconnection due to a reduction in household income as the result of a member of the household being called to active duty status in the military.

COLORADO

Source	4 COLO. CODE REGS. §§ 723-3:3408 (electricity), 723-4:4407 (gas)
Notice	Initial written notice must be provided by mail fifteen days before the scheduled disconnection. Second notice must be attempted in person or by phone 24 hours before the scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	None.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for sixty days with a medical certification. Medical certification may be renewed for an additional thirty days.
Other Protections	Notice shall be printed in English and any other language where the utility's service territory contains a population of at least ten percent who speak a specific language other than English as their primary language.

CONNECTICUT

Source	CONN. AGENCIES REGS. §§ 16-3-100, 16-11-75
Notice	Written notice must be provided by mail thirteen days before the scheduled disconnection.

Date Based Protection	Yes. No disconnections November 1–April 15th for qualifying low-income customers. However, if utilities provided service during the previous winter protection period, and customer was disconnected during the unprotected time, customer must pay the lesser of: 20% of outstanding balance, minimum payments due under amortization agreement, or \$100 to be reconnected.
Temperature Based Protection	None.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	No disconnection with medical certification during the winter protection period. No disconnection with medical certification and entry into a payment plan during all other times. Certification must be renewed every fifteen days unless physician certifies otherwise.

DELAWARE

Source	26 DEL. ADMIN. CODE §§ 3002-1.0, 3002-2.0, 3002-3.0, 3002-6.0
Notice	Written notice must be provided fourteen days before the scheduled disconnection. During the winter protection period, the utility must make two attempts at telephone notice before disconnection. At least one attempt must be made after 6:00pm. During the summer protection period, the utility must make one attempt at telephone notice after 6:00pm before disconnection. Employee disconnecting service must attempt personal contact prior to disconnection.
Date Based Protection	Yes. June 1–September 30, November 15–March 31. Additional notice requirements apply during these periods.
Temperature Based Protection	Yes. No disconnection on a day when temperatures are below 32°F or above 105°F.
Payment Plans	Yes.
Medical Protections	No disconnection with medical certification.

DISTRICT OF COLUMBIA

Source	D.C. MUN. REGS. tit. 15 §§ 315, 312, 306, 314, 311, 310
Notice	Notice must be mailed fifteen days before the scheduled disconnection. Utility must attempt two notifications by phone or in person prior to day of disconnection. Employee must make one attempt to personally notify the customer at time of disconnection for gas or electricity. If no contact is made in these three additional attempts, the disconnection of electricity or gas will be postponed.

Date Based Protection	None.
Temperature Based Protection	Yes. No disconnection on days below 32°F, or on days preceding a legal holiday or weekend with a forecasted temperature below 32°F.
Disconnection Limitations	No disconnections between 5:00pm Thursday and 8:00am Monday. No disconnections on a legal holidays or any other day when the utility is closed to the public.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for up to twenty-one days with medical certification and entry into a payment plan. Certification may be renewed for an additional twenty-one days.

FLORIDA

Source	FLA. ADMIN. CODE r. 25-30.320, 25-30.345
Notice	Notice must be provided five business days before the scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	None.
Disconnection Limitations	No disconnections between 12:00pm on Friday and 8:00am on Monday, or after 12:00pm on the day before a legal holiday and before 8:00am on the following business day.
Reconnection Charge	Yes.

GEORGIA

Source	GA. COMP. R. & REGS. 515-3-3-.01, 515-3-2-.01, 515-3-2-.02, 515-3-2-.04, 515-3-3-.07
Notice	Written notice must be provided five days before scheduled disconnection. Personal contact must be attempted within two days of scheduled disconnection.
Date Based Protection	Yes. No disconnection November 15–March if customer enters into payment plan.

Temperature Based Protection	Yes. No disconnection when forecasted low for day of disconnection is below 32°F. No disconnection when Heat Advisory or Excessive Heat Warning is in effect for the county on day of disconnection.
Disconnection Limitations	Disconnection only on business days when utility is available to receive payment.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	No disconnection for the length of certification with medical certification.

HAWAII

Source	HAW. CODE R. § 6-60-8
Notice	Written notice must be provided a reasonable amount of time before scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections may occur only during utility business hours. No disconnections on weekends or legal holidays.
Payment Plans	No. Must pay the bill, even if protesting the charge or scheduled disconnection in order to avoid disconnection.
Other Protections	Utility must provide special consideration in disconnecting service to customers 62 years of age or older and customers with disabilities.

IDAHO

Source	IDAHO ADMIN. CODE r.31.21.01.306, 31.21.01.308, 31.21.01.311, 31.21.01.603
Notice	Initial written notice must be provided seven days before scheduled disconnection. Second written notice may be sent three days before scheduled disconnection. Utility must attempt in person or telephone notice at least 24 hours before the scheduled disconnection.
Date Based Protection	Yes. No disconnections for households with children, elderly occupants, or seriously ill occupants from December–February. No disconnections for households with children, elderly occupants, or seriously ill occupants when customer enters an approved payment plan from November–March.

Temperature Based Protection	None.
Disconnection Limitations	No disconnections on Fridays, weekends, legal holidays, or days preceding legal holidays. No disconnections when the utility is not open for business.
Payment Plans	Yes. Offered at utility’s discretion outside of the winter protection period. Winter payment plans are available November–March.
Medical Protections	Postponement of disconnection for thirty days with medical certification.

ILLINOIS

Source	ILL. ADM. CODE tit. 83 §§ 280.80, 280.130, 280.135, 280.160, 280.180, App. A
Notice	Initial written notice must be provided in person or by mail ten days before the scheduled disconnection. Notice must be attempted by telephone 48 hours before the scheduled disconnection. A second telephone notice must be attempted 24 hours before the scheduled disconnection if the first call was unsuccessful.
Date Based Protection	Yes. No utility may disconnect service for low-income customers, active military personnel, or military veterans from December 1– March 31. A utility with more than 100,000 customers may not disconnect service from December 1- March 31. Protection from disconnection may require entry into a winter payment plan.
Temperature Based Protection	Yes. No disconnections on a day when the temperature is forecasted to be below 32°F over the next 24 hours, or during the holiday or weekend following the scheduled disconnection. A utility with more than 100,000 customers may not disconnect when temperatures exceed 95°F in the next 24 hours, or during the holiday or weekend following the scheduled disconnection.
Disconnection Limitations	No disconnections one hour before the utility is closed to the public. No disconnections when the utility is not open to the public. No disconnections after 12:00pm on Fridays.
Payment Plans	Yes. Entry into payment plan may be required to prevent disconnection during seasonal protection periods.
Medical Protections	Postponement of disconnection for sixty days with medical certification.

INDIANA

Source	170 IND. ADMIN. CODE 4-1-15, 4-1-16, 4-1-16.6 (electricity) 170 IAC 5-1-15, 5-1-16, 5-1-16.6 (gas)
Notice	Written or personal notice must be provided fourteen days before the scheduled disconnection. Employee must attempt personal contact immediately before scheduled disconnection. Employee performing the disconnection is not required to accept payment to prevent the disconnection.

Date Based Protection	Yes. December 1–March 15, no disconnection for low-income customers
Temperature Based Protection	None.
Disconnection Limitations	Disconnects only allowed between 8:00am-3:00pm. No disconnect on any day when utility is not open, or after noon on a day preceding any day when the utility is not open.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for ten days with medical certification. Certification may be renewed for an additional ten days.

IOWA

Source	IOWA ADMIN. CODER. 199-19.4(476) (gas), 199-20.4(476) (electricity)
Notice	Written notice must be provided twelve days before the scheduled disconnection. For customers billed more frequently than once per month, an additional notice must be posted 24 hours before the scheduled disconnection.
Date Based Protection	Yes. November 1–April 1 no disconnections for low-income customers.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections may take place between the hours of 6:00am-2:00pm Monday–Thursday.
Payment Plans	Yes.
Reconnection Charge	Yes. Also allowed to charge for disconnection of services. Fees may be higher for reconnection in evenings or on weekends.
Medical Protections	Disconnection postponed for thirty days with medical certification and entry into a payment plan.
Other Protections	For households where a head of the household is a service member deployed for military service, no disconnections are allowed during the deployment and for ninety days after the deployment.

KANSAS

Source	Kansas Corporation Commission “Electric, Natural Gas and Water Billing Standards” Order (2012)
---------------	--

Notice	Written notice must be provided ten days before the scheduled disconnection. Utility must make two attempts at telephone notice at least two days before the scheduled disconnection.
Date Based Protection	Yes. November 1–March 31 disconnections are not permitted in accordance with temperature restrictions.
Temperature Based Protection	Yes. No disconnections on a day when the temperature will drop below 35°F or when the temperature is forecasted to be "in the mid 30s or colder" in the following 48-hour period.
Payment Plans	Yes. Payment plan required during winter protection period when the weather is above 35°F. To prevent disconnection, the customer must pay 1/12 of arrearage amount, 1/12 of the current bill, all disconnection or reconnection fees, and enter into an 11-month payment plan for the remaining amounts. Payment plans of "reasonable installments" permitted at other times during the year with medical certification.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for at least twenty-one days with medical certification and proof of inability to pay the full amount of the balance. Customer must enter into a payment plan.

KENTUCKY

Source	807 KY. ADMIN. REGS. 5:006
Notice	Written notice must be provided ten days before the scheduled disconnection.
Date Based Protection	Yes. November 1–March 31 no disconnections for low-income customers who enter into and comply with a payment plan.
Temperature Based Protection	None.
Payment Plans	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification.

LOUISIANA

Source	Commission General Order R-29706, Entergy Tariff
Notice	Written notice must be provided thirty days before the scheduled disconnection.
Date Based Protection	None.

Temperature Based Protection	No disconnections on a day when the temperature is forecasted to remain at or below 32°F for the following 24 hours, and when the previous day’s highest temperature did not exceed 32°F. No disconnections on a day when a heat advisory is in effect.
Disconnection Limitations	No disconnections Fridays after 1:00pm, on weekends, legal holidays, or the day before a legal holiday.
Payment Plans	Yes. Payment plans available to prevent disconnection.
Reconnection Charge	Yes. \$30.00 charge for Entergy.
Medical Protections	Postponement of disconnection by 30 days with medical certification and entry into a payment arrangement. Certification must be renewed annually.

MAINE

Source	65-407 ME. CODE R. Ch. 815, §§ 2, 10, 11, 12
Notice	Written notice must be provided fourteen days before the scheduled disconnection. Utility must attempt personal notice during the winter protection period.
Date Based Protection	Yes. November 15–April 15 no disconnections for low-income customers who enter into a payment plan.
Temperature Based Protection	None.
Disconnection Limitations	No disconnections on Fridays, weekends, legal holidays or the day immediately before a legal holiday. Disconnections must take place between 8:00am–3:00pm on scheduled day.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification. Certification may be renewed twice during a twelve-month period. Utility must not accept more than three medical emergencies during a twelve month period.

MARYLAND

Source	MD. CODE REGS. 20.31.01.03-.04, 20.31.02.05, 20.31.03.03, 20.31.05.07 .
Notice	Written notice must be mailed fourteen days before the scheduled disconnection. Utility must make two personal notice attempts before disconnection during the winter protection period.

Date Based Protection	Yes. November 1–March31 no disconnections unless utility certifies an affidavit to the Commission which considers low-income status of customer; elderly, ill, or disability status of customer; amount in arrearage; etc.
Temperature Based Protection	Yes. No disconnections on days when forecast is 32°F or below.
Disconnection Limitations	Disconnections allowed Monday–Thursday. Disconnections allowed on Saturday if utility has made two unsuccessful attempts to disconnect on weekdays.
Payment Plans	Yes.
Other Protections	Postponement of disconnection when an occupant of the premises is elderly, seriously ill, has a disability, or relies upon life-support equipment. Utilities may use their discretion to not discontinue service if it reasonably believes disconnection will endanger life, health, or safety.

MASSACHUSETTS

Source	220MASS. CODE REGS. 25.01, 25.02 25.03, 25.05
Notice	Notice must be provided between 72 hours and fourteen days before the scheduled disconnection.
Date Based Protection	Yes. November 15–March 15 no disconnection if the utility provides heat and the utility service was not disconnected before November 15.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections Monday–Thursday between 8:00am–4:00pm. No disconnections on a legal holiday or the day before a legal holiday.
Payment Plans	Yes.
Medical Protections	No disconnection for nonpayment with medical certification. Certification must be renewed quarterly or every six months for chronic conditions.
Other Protections	No disconnection for nonpayment if the household has a child under 12 months old. No disconnections if all adults are 65years old or older, and a minor resides in the house. No disconnections for low-income customers. Renewal of low-income status must be made quarterly, except during the seasonal protection period. Disconnection for customers 65 years or older may be done only after receiving written approval.

MICHIGAN

Source	MICH. ADMIN. CODE r. 460.1626, 460.147, 460.102460.148, 460.150, 460.141, 460.140, 460.139, 460.1607, 460.120, 460.143, 460.147, 460.144
---------------	--

Notice	Notice must be provided by phone or mailing. Phone notice must be attempted two times at least one day before the scheduled disconnection. Mailed notice must be sent at least five days before the scheduled disconnection.
Date Based Protection	Yes. November 1–March 31. No disconnections for customers 65 years or older. No disconnections for eligible low-income customers with entry into a payment plan where customer makes monthly payments equal to 7% of the annual bill.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections 8:00am–4:00pm. No disconnections on a day before a day when the utility is unavailable for reconnections. No Friday disconnections for payment plan defaults during the winter protection period.
Payment Plans	Yes. Special rate of payment available for low-income customers during the winter protection period.
Reconnection Charge	Yes. No reconnection fee for customers 65 years or older during the winter protection period.
Medical Protections	Postponement of disconnection for not more than twenty-one days with medical certification. Certification may be renewed up to a total postponement of sixty-three days in a twelve-month period. A utility is not required to grant postponements totaling more than 126 days per household.
Other Protections	No disconnections for eligible military customers for ninety days. Protection may be renewed for an additional ninety days. Protection requires the customer to enter into a payment plan at the close of the protection period.

MINNESOTA

Source	MINN. STAT. §§ 216B.096, 216B.097, 216B.0975, 216B.0993, 216B.098 .MINN. R. 7820.2400, 7820.2600, 7820.2500
Notice	Notice required by mail or in person.
Date Based Protection	Yes. October 15–April 15 no disconnections for all customers who enter into payment plans.
Temperature Based Protection	Yes. No disconnections when an excessive heat watch, heat advisory, or excessive heat warning has been issued.
Disconnection Limitations	During the winter protection period, disconnections may occur Monday–Thursday. Utility may disconnect on Fridays only with personal notice and an offer of payment agreement. No disconnections on a legal holiday, day preceding a legal holiday, or day when the utility or commission is closed.

Payment Plans	Yes. Required during the winter protection period for all customers. Utility cannot request payments of more than 10% of the customer’s household for low-income customers. Gas utilities are permitted to have budget payment plans.
Reconnection Charge	Yes.
Medical Protections	No disconnections with medical certification
Other Protections	Any customer may apply to the commission for emergency status. The commission may declare an emergency status to exist and postpone disconnection for a period of up to thirty days.

MISSISSIPPI

Source	39-1 CODE MISS. R. §§ 2:0, 2:8
Notice	Notice must be mailed or posted at least five days before scheduled disconnection.
Date Based Protection	Yes. December 1–March 31 no disconnections when the customer enters into and complies with a payment plan.
Temperature Based Protection	Yes. No disconnections in any county on days with a freeze warning or excessive heat warning issued by 8:00am on the scheduled day.
Payment Plans	Yes. Required for winter protection period.
Reconnection Charge	Yes. Reconnection and disconnection fee permitted.
Medical Protections	No disconnection December–March with medical certification. Postponement of disconnection for sixty days with medical certification at any other point during the year.

MISSOURI

Source	MO. CODE REGS. ANN. tit. 4, §§ 240-13.055, 240-13.050
Notice	Written notice may be mailed or delivered in person. If mailed, the notice must be sent at least ten days before the scheduled disconnection. If delivered, the notice must be given at least 96 hours before the scheduled disconnection. Utility must attempt to contact the customer at least 24 hours before the scheduled disconnection through a written notice, posting on the property, or two phone calls. Employee must attempt personal contact at time of disconnection.
Date Based Protection	Yes. November 1–March 31 no disconnections with entry into a payment plan

Temperature Based Protection	Yes. No disconnections on a day or day before the temperature is below 32°F. No disconnections on a day or day before the temperature is above 95°.
Payment Plans	Yes. Initial payment may not exceed 12% of twelve-month bill amount for a customer who has not defaulted on a winter protection period payment plan. Initial payment must be 80% of the customer’s balance for a customer who has defaulted on a winter protection period payment plan.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for twenty-one days with medical certification.

MONTANA

Source	MONT. ADMIN. R. 38.5.1410, 38.5.1412, 38.5.1413, 38.5.1405, 38.5.1415, 38.5.1411
Notice	Notice must be mailed at least twenty days before the scheduled disconnection. If customer does not respond to the first notice, a second notice must be mailed at least ten days before the scheduled disconnection. In person or phone notice must be provided one day before actual disconnection. Employee must attempt personal notice at the time of disconnection.
Date Based Protection	Yes. November 1–April 1 no disconnections without prior approval of the Commission.
Temperature Based Protection	Yes. No disconnection on days below 32°F or on days when freezing temperatures or snowstorms are predicted for the following day.
Disconnection Limitations	Disconnections allowed between 8:00am–12:00pm. No disconnections on a day or immediately preceding a day when the utility is not open to the public.
Payment Plans	Yes. Payment plan available at any time for a customer who is unable to pay full bill.
Medical Protections	No disconnection with medical certification and entry into a payment plan.

NEBRASKA

Source	NEB. REV. ST. § 70-1606. 291 NEB. ADMIN. CODE Ch. 9 §§ 013, 021
Notice	Notice must be mailed, delivered in person, or posted at least seven business days before the scheduled disconnection.
Date Based Protection	Yes. November 1–March 31 no disconnections for eligible low-income customers.
Temperature Based Protection	None.

Disconnection Limitations	No disconnections on weekends, legal holidays, or when the utility is not open to the public.
Payment Plans	Yes. Payment plans available at any time and to any customer who is unable to pay. Payment plans are to be “reasonable” and worked out between the utility and the customer. Customer who believes the offered plan is unreasonable may file a complaint with the commission. Payment plan is required to restore service from November 1–March 31
Reconnection Charge	Yes. Disconnection fees also allowed but not during winter protection period.
Medical Protections	Postponement of disconnection for thirty days with medical certification. Only one certification is allowed for each incidence of nonpayment.
Other Protections	“The Commission shall have the authority to order a temporary ban on any or all disconnections for jurisdictional utilities during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of customers or to property.”

NEVADA

Source	NEV. ADMIN. CODE §§ 704.360, 704.370, 704.372, 704.375, 704.383
Notice	Notice must be mailed, e-mailed, or personally delivered at least ten days before scheduled disconnection. If customer does not respond to the first notice, a second notice must be provided at least 48 hours before the scheduled disconnection. The second notice may be in person, by mail, posting, telephone, or e-mail. If a customer has defaulted on a payment plan agreement the utility must provide notice only 48 hours before the scheduled disconnection.
Date Based Protection	None.
Temperature Based Protection	Yes. No disconnections during a period when weather is below 15°F or above 105°F. No disconnections when weather is below 20°F or above 95°F for elderly customers or customers with disabilities.
Disconnection Limitations	Disconnections allowed Monday–Friday. No disconnections on legal holidays or the day before a legal holiday.
Payment Plans	Yes. Payment plans available for any customer at any time.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification and entry into payment plan. Medical certification may be renewed for an additional thirty days.

Other Protections Utility may not terminate service to a customer if the amount owed is \$100 or less for electricity, gas, or gas and electricity combined.

NEW HAMPSHIRE

Source	N.H. CODE ADMIN. R. ANN. PUC. 1202.19, 1203.07, 1203.11, 1203.12, 1204.01, 1204.02, 1204.03, 1204.04, 1204.05, 1204.06, 1205.02, 1205.03, 1205.04, 1205.05
Notice	<p>Notice must be mailed at least fourteen days before the scheduled disconnection. During the winter protection period, notice must be made in person or by telephone two to eight days before the scheduled disconnection. Customer can be disconnected without further notice for defaulting on a payment plan.</p> <p>For a customer with an expired medical emergency certification, notice must be made in person or by phone two to eight days before the scheduled disconnection. If no contact is made, in person contact must be attempted on the day of disconnection. Utility must have a supervisor review any expired medical emergency account where successful contact has not been made before disconnection.</p>
Date Based Protection	Yes. November 15–March 31. Utility needs permission from the commission to disconnect customers 65 years or older. No disconnections for non-heating gas arrearages up to \$125, non-heating electric arrearages up to \$225, and heating arrearages up to \$450. For financial hardship customers, payment of 10% of balance is sufficient to reconnect.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections allowed 8:00am–3:30pm Monday–Friday. No disconnections on or on the day before a legal holiday or on or on the day before a day when the commission is closed
Payment Plans	Yes. Available at any time for all customers. Must pay a portion of arrearage and set up installment payments for the remaining arrearage. Customer must pay current and future bills in full and on time. During the winter protection period, financial hardship customers have monthly payments of 10% of the winter protection period payment, or 10% of the balance due and the winter protection period payment.
Reconnection Charge	Yes.
Medical Protections	No disconnection for customer with medical certification who enters into a payment agreement. If customer does not comply with the payment agreement, the utility must get permission from the commission to disconnect. Length of certification is determined by the certifying physician and must last at least ninety days, but may last for up to one year.
Other Protections	<p>No disconnection if arrearage is outstanding for less than sixty days and is less than \$50.</p> <p>“The commission shall impose a moratorium on disconnections of service when there exists an imminent peril to the public’s health, safety or welfare.”</p>

NEW JERSEY

Source	N.J. ADMIN. CODE §§ 14:3–3A.2, 14:3–3A.3, 14:3–3A.4, 14:3-3A.5, 14:3–7.5, 14:3–7.7
Notice	Written notice must be mailed to customer at least 10 days before scheduled disconnection. Customers known to be 65 years or older must be given notice by phone in addition to notice by mail.
Date Based Protection	Yes. November 15–March 15 no disconnections for eligible low-income customers. Customers disconnected prior to this period may be reconnected upon payment of no more than 25% of the outstanding balance. No security deposits required for eligible low-income customers.
Temperature Based Protection	Yes. No disconnections when temperature forecasted to be 32°F or below any time in the following 24 hours. No disconnection for low-income customers when the temperature is forecasted to be above 95°F any time in the following 48 hours.
Payment Plans	Yes. Budget billing plan available throughout the year. Deferred payment agreement available at least once a year for customers who are unable to pay. During the winter protection period eligible customers are only required to make “good-faith payments...if they have the ability to do so.” Their payments may be lower than the installment requested by the utility if they are unable to pay the full amount.
Medical Protections	Postponement of disconnection for sixty days with medical certification. Certification may be renewed at the discretion of the Board of Public Utilities. The request for renewal must be made in writing to the Board.
Other Protections	No disconnection unless arrearages are over \$100.00 or account has been in arrears for more than 3 months.

NEW MEXICO

Source	N.M. CODE R. §17.5.410
Notice	Initial written notice must be provided in English and Spanish at least fifteen days before the scheduled disconnection. Initial notice may be provided in person, by mail, or by e-mail. Final notice must be given at least two days before the scheduled disconnection in person, by phone, or by certified mail. If utility does not disconnect within five days after the scheduled date, an additional final notice is required.
Date Based Protection	November 15–March 15 no disconnections for those who have no arrearages prior to the winter protection period, or those who have a payment plan set up for the arrearages.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections allowed Monday–Thursday between 7:30am–4:00pm. No disconnections 24 hours before a legal holiday or weekend unless the utility is open to the public on the holiday or weekend.

Payment Plans	Yes. Budget billing plans are available to any customer throughout the year for up to 12 months.
Reconnection Charge	Yes.
Medical Protections	Disconnection prohibited for low-income customers with medical certification. Social service agency must certify the customer’s financial status. Medical certification may be short-term for ninety days, or long-term for up to one year. Financial certification must be renewed every ninety days.

NEW YORK

Source	N.Y. COMP. CODES R. & REGS.tit. 16, §§ 11.4, 11.5, 11.7, 11.8, 11.9, 11.10, 11.11
Notice	Final notice required at least fifteen days before the scheduled disconnection. Customers who are blind, have a disability, or who are 62 years or older whose remaining household members are blind, have a disability, are 62 years or older, or 18 years or younger are given telephone or personal notice at least 72 hours before disconnection.
Date Based Protection	Yes. For two weeks encompassing Christmas and New Year’s Day, no disconnections may occur. During the period of November 1–April 15, the utility must provide phone or personal notice at least 72 hours in advance of the disconnection. At time of disconnection the utility employee must attempt to determine if a disconnection will cause customer or household members to suffer a serious impairment to health or safety. No disconnection for up to fifteen days if the employee determines it will cause a serious impairment. Utility must report this finding to the Commission, who will determine if disconnection is allowed following the fifteen days.
Temperature Based Protection	None
Disconnection Limitations	Disconnections allowed 8:00am–4:00pm Monday–Thursday. No disconnections the day before or day of a legal holiday, or on a day when the utility is closed to the public.
Payment Plans	Yes. Both deferred payment agreements and budget billing plans are available to customers in accordance with their financial need.
Medical Protections	Postponement of disconnection for thirty days with medical certification. Certification may be renewed for an additional thirty or sixty days at the discretion of the commission.
Other Protections	Special requirements for two-family dwellings that are served by a single meter. Utility must survey all disconnected customers before November 1 to determine if the customer may suffer a serious impairment to health or safety from a continued lack of service. If the utility determines that a customer or resident is likely to suffer a serious impairment, it will restore service immediately.

NORTH CAROLINA

Source	4 N.C. ADMIN. CODE 11.R8-20, 11.R12-8, 11.R12-10 (gas), 11.R12-11 (electricity)
Notice	Notice must be provided to customer at least ten days before the scheduled disconnection. Personal or telephone notice must be given 24 hours before the scheduled disconnection. Personal contact must be attempted directly before disconnection.
Date Based Protection	Yes. November 1–March 31 no disconnections without approval of the commission for low-income customers whose household has a member who is at least 65 years old or has a disability.
Temperature Based Protection	None.
Disconnection Limitations	No disconnections on Fridays, weekends, legal holidays, or on the day before a legal holiday.
Payment Plans	Yes. Available to any customer who is unable to pay the full amount. Payment installments may be made for up to six months.
Reconnection Charge	Yes. Also has a disconnection fee of \$1.00 when a utility dispatches an employee to the property to disconnect the service.
Other Protections	No electricity disconnections without review and order by a supervisor.

NORTH DAKOTA

Source	N.D. ADMIN. CODE 69-09-01-18.1(gas),69-09-02-05.1(electricity)
Notice	Written notice must be mailed ten days before the scheduled disconnection. Personal notice must be given to customers aged 65 or older or customers with a disability. No further notice is required to a customer who defaults on a payment plan.
Date Based Protection	None.
Temperature Based Protection	None.
Disconnection Limitations	No disconnection after 12:00pm on any day. No disconnections on Fridays, weekends, legal holidays, or the day before legal holidays.
Payment Plans	Yes. Payment plan available to any customer who is unable to pay the full amount.
Reconnection Charge	Yes.
Other Protections	Utilities must annually send surveys to customers to ascertain households with residents 65 years or older, residents with disabilities, and residents with serious medical conditions. Survey must also be distributed to new customers.

OHIO

Source	OHIO ADMIN. CODE 4901:1-18-05,4901:1-18-06,4901:1-18-07, 4901:1-18-12, 4901:1-18-13, 4901:1-18-16,4901:1-18-17 .Public Utility Commission of Ohio Reconnect Order (issued annually).
Notice	Notice must be mailed at least fourteen days before the scheduled disconnection. Personal notice must be attempted immediately before disconnection. If personal notice is not possible, written notice must be conspicuously posted on the property.
Date Based Protection	Yes. November 1–April 15 the notice period is extended by 10 days, with an additional mailed notice. All customers not currently on a payment plan are offered a winter protection period payment plan prior to the beginning of this period.
Temperature Based Protection	None.
Disconnection Limitations	Disconnection allowed before 12:30pm on any day when the utility is open to the public.
Payment Plans	Yes. Percentage of Income Payment Plan (PIPP) program in place for eligible customers. Customer billed the greater of 6% of household income or \$10. Any delinquent customer is eligible for other payment plans. 1/6th plan divides arrearages into six payments in addition to full payment of current bill. 1/9th plan divides arrearages into nine monthly payments with budget payments on current bills. Winter protection period 1/3rd payment plan is offered to all customers not already on a payment plan. This plan allows a customer to pay 1/3rd of arrearages and current bill during each billing period. Utility may accept a customer’s proposed payment plan. Budget payment plans available for customers without arrearages.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection by thirty days with medical certification. Certification may be renewed twice in a twelve-month period. Payment plan required at the expiration of the certification.

OKLAHOMA

Source	OKLA. ADMIN. CODE §§ 165:35-21-2, 165:35-21-10,165:35-21-31 (electricity), 165:45-11-11, 165:45-11-13, 165:45-11-14, 165:45-11-16, 165:45-11-17, 165:45-11-19(gas)
Notice	Written notice must be mailed or delivered ten days before the scheduled disconnection. During the winter protection period, a utility must provide a second notice to the customer by phone, in person, or by mail 48 hours before the scheduled disconnection. If a customer defaults on a payment plan and previous notices have expired, the utility will provide notice of disconnection at least 24 hours before the scheduled disconnection. If previous notices have not expired, no notice is required.
Date Based Protection	Yes. November 15–April 15 a second notice is required.

Temperature Based Protection	Yes. If utility is used for heating, no disconnections on a day where the high daytime temperature is 32°F or below, or the forecasted nighttime low will be 20°F or below. If utility is used for cooling, no disconnection if the temperature on the day of disconnection is 101°F or above.
Disconnection Limitations	No disconnections during the last two hours of the business day, on legal holidays, on weekends, or after 12:00pm on Fridays.
Payment Plans	Yes. Utility is required to offer a deferred payment agreement to any customer who cannot make a full payment.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification and entry into a payment plan. Certification may be renewed once for an additional thirty days. Customer may make additional medical certification claims after payment has been made in full on the balance from a previous medical certification claim.
Other Protections	Customers with disabilities or age 65 or older may request that the commission also be notified of their scheduled disconnection prior to such disconnection.

“The Commission shall have the authority to order a temporary ban on any or all disconnections during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of consumers or to property.”

Disconnection may be delayed for at least 20 days when a customer has applied for, but has not yet received federal or state financial assistance.

OREGON

Source	OR. ADMIN. R. 860-021-0328, 860-021-0405, 860-021-0410, 860-021-0414, 860-021-0415
Notice	Written notice must be personally delivered or mailed fifteen days before the scheduled disconnection. Second notice must be mailed or delivered five days before the scheduled disconnection. Personal notice must be attempted immediately before the disconnection, and if no personal contact is made, notice must be posted on the premises. If customer is remotely disconnected without personal contact on the day of the scheduled disconnection, the utility must call the customer at least twice a day for three consecutive days before proceeding with the disconnection. At least one call must be made between both 8:00am–5:00pm and 6:00pm–8:00pm.
Date Based Protection	None.
Temperature Based Protection	None.

Payment Plans	Yes. Customers at risk of disconnection may enter into a “time-payment agreement.” Customers under time-payment agreements must be given the choice between a levelized plan or an equal-pay plan. Under a levelized plan, the customer will pay 1/12 of the yearly bill and the arrearages every month for twelve months. Under an equal-pay time-payment agreement, the customer will pay 1/12 of the arrearages and the normal full monthly bill.
Reconnection Charge	Yes. Reconnection fee and “after hours reconnection fee” for reconnection after utility business hours. May charge more for same-day, after hours reconnection.
Medical Protections	Postponement of disconnection for up to six months for a certified illness, or up to twelve months for a certified chronic illness. Certifications may be renewed. Certified customers with arrearages are required to enter a payment plan.
Other Protections	When utility believes—based on phone or in person contact—that the customer does not understand the consequences of the scheduled disconnection, the disconnection is postponed for five business days, and the utility must notify both the Department of Human Services and the Commission.

PENNSYLVANIA

Source	52 PA. CODE §§ 56.82,56.91, 56.93, 56.94, 56.96, 56.97, 56.99,56.10056.111, 56.112, 56.113, 56.114, 56.116, 56.117
Notice	Written notice must be provided at least ten days before the scheduled disconnection. Personal or phone notice must be attempted at least three days before the scheduled disconnection. If contact by phone is unsuccessful, the utility is obligated to attempt personal contact. If personal contact is unsuccessful, the utility is required to post a notice of disconnection. Utility employee must attempt personal notice immediately before disconnection. December–March a utility must post a notice of disconnection at the customer’s residence 48 hours before the scheduled disconnection, unless personal contact has been made with the customer. A post-disconnection notice and medical certification form must be posted or delivered to the customer following disconnection.
Date Based Protection	Yes. December 1–March 31, no disconnections for residential customers with incomes at or below 250% of the Federal poverty level. Within ninety days of December 1, utility must attempt to make contact with all customers who were previously disconnected to work out a payment plan for reconnection.
Temperature Based Protection	None.
Disconnection Limitations	Disconnections allowed Monday–Friday as long as the utility is able to accept payment to reconnect on the day of disconnection or the following day.
Payment Plans	Yes. No disconnection if customer enters and abides by a payment agreement.
Reconnection Charge	Yes

Medical Protections Postponement of disconnection for up to thirty days with medical certification and payment plan. If customer abides by the payment plan, the customer is eligible for continual renewals of the certification. If customer fails to make payments, the customer is eligible for only one renewal. The customer may be given a new certification upon complete payment of arrearages.

RHODE ISLAND

Source 53-1 R.I. CODE R. §§ 15:II; 15:III3(C), 3(E), 3(F), 4, 5, 6;15:IV3, 4; 15:V

Notice Written notice must be provided at least 10 days before a scheduled disconnection. The notice may be posted, or mailed and posted.

Date Based Protection Yes. November 1–April 15 no disconnections for primary heating accounts with arrearages of less than \$500, or other accounts with arrearages of less than \$200. No disconnections for a protected status customer. Utility may not terminate any customer without filing an affidavit with the Division of Public Utilities and Carriers at least forty-eight hours before the scheduled disconnection.

Temperature Based Protection Yes. No disconnections on days when there is a heat advisory or excessive heat warning in effect.

Disconnection Limitations No disconnections on Fridays, weekends, legal holidays, days before legal holidays, or when the utility is not open to the public for regular business.

Payment Plans Yes. Available to all customers at any time. Payment plan levels the amount paid over a ten or twelve-month period into equal installments. Different payment plans are available for protected status customers, low-income customers, and all other customers. While enrolled in a payment plan, no disconnection may occur unless the customer violates a rule of the utility.

Reconnection Charge Yes.

Other Protections Permission of the Division of Public Utilities and Carriers is needed before a utility may disconnect a household where any member has a disability or where all adult members are 62 years or older. No disconnection when a child younger than 2 resides in the house and the customer was not previously disconnected before the birth of the child.

SOUTH CAROLINA

Source S.C. CODE ANN. §§ 58-5-1110 (gas), 58-27-2510 (electricity) .S.C. CODE ANN. REGS.103-342,103-352(electricity), 103-442,103-452(gas)

Notice Notice must be mailed at least ten days before the scheduled disconnection. Notice must be provided by phone or in person within two business days of the scheduled disconnection.

Date Based Protection Yes. December–March for customers with medical certification.

Temperature Based Protection None.

Disconnection Limitations	Disconnections allowed Monday–Thursday between 8:00am–4:00pm. No disconnection on the day of or day before a utility’s collection offices are closed.
Payment Plans	Yes. No disconnection with enrollment and adherence in a deferred payment plan.
Reconnection Charge	Yes.
Medical Protections	No disconnection December–March for a customer with medical certification who is unable to pay through an installment plan. Certification lasts thirty days and may be renewed three times.

SOUTH DAKOTA

Source	S.D. ADMIN. R. 20:10:20:03, 20:10:20:06, 20:10:20:07, 20:10:20:10
Notice	Written notice must be mailed or delivered to a customer at least ten days before the scheduled disconnection.
Date Based Protection	Yes. November 1–March 31 customers are given an additional 30 days before disconnection.
Temperature Based Protection	None.
Disconnection Limitations	No disconnections on Friday, Weekends, any legal holidays, or any days when the utility services are not open to the public.
Payment Plans	Yes.
Medical Protections	Disconnection postponed for thirty days with a medical certification. No renewals are allowed.

TENNESSEE

Source	TENN. COMP. R. & REGS. 1220-04-04-.19 (electricity), 1220-04-05-.18(gas)
Notice	Reasonable notice must be provided.
Date Based Protection	None.
Temperature Based Protection	None.
Payment Plans	Yes. Available for customers who are “temporarily unable to pay their bills.”

Medical Protections Postponement of disconnection for thirty days with medical certification.

TEXAS

Source 16 TEX. ADMIN. CODE §§ 7.460(gas), 25.29 (electricity), 291.88

Notice Written notice must be mailed or delivered in English and Spanish before the scheduled disconnection.

Date Based Protection None.

Temperature Based Protection Yes. No disconnections on days when the temperature does not exceed 32°F when the temperature also did not exceed 32°F on the previous day. No disconnections on days when there is a heat advisory issued for the county, and an advisory was also issued on either of the previous two days.

Disconnection Limitations No disconnections on a day or day before the utility is not open to the public.

Payment Plans Yes. Payment plans available at all times of the year. Payments accrued during an extreme weather emergency are deferred until the emergency is over. Utilities must provide payment plans to help customers

Reconnection Charge Yes.

Medical Protections Disconnection postponed with medical certification. May be disconnected if the postponed bill is not paid by the end of the following billing cycle, and customer has not entered into a payment plan.

UTAH

Source UTAH ADMIN. CODE r. R746-200

Notice Written notice must be provided by mail or delivery ten days before the scheduled disconnection. At least 48 hours before scheduled disconnection, the utility must provide a second notice by mail, phone, or in person. Personal contact is required October 1–March 31. Written notice provided to a customer with life support device medical certification must be mailed or delivered at least thirty days before scheduled disconnection.

Date Based Protection Yes. October 1–March 31 personal notice required.

Temperature Based Protection None.

Disconnection Limitations Disconnections allowed Monday 9:00am–Thursday 4:00pm. No disconnections on legal holidays or on days when the utility services are not open to the public.

Payment Plans	Yes. Deferred payment programs when an applicant cannot pay an outstanding debt in full. Utilities permitted to have budget payment plans or equal pay payment plans.
Reconnection Charge	Yes.
Medical Protections	Medical certification postpones disconnection for the lesser of one month or the duration of the medical certification. Postponement for medical certification may be used twice in a calendar year. A customer with a life support device medical certification receives 30 days of additional notice before disconnection.

VERMONT

Source	18-1 VT. CODE R. §§ 4:3.301,4:3.302, 4:3.303,4:3.304, 4:3.305,4:3.306,31:11
Notice	Written notice must be provided before the scheduled disconnection. If mailed, it should be sent five days before scheduled disconnection. If delivered, it should be posted 72 hours before scheduled disconnection. Personal notice required 48 hours before the scheduled disconnection during November 1–March 31. Posted notice or personal notice is required at the time of disconnection.
Date Based Protection	Yes. November 1–March 31 no disconnections without personal oral notice at least 48 hours in advance of disconnection.
Temperature Based Protection	Yes. No disconnections on days when it will be below 10°F on the day of disconnection or the following day. No disconnections for households with a member 62 years or older when the temperature will be below 32°F on the day of disconnection or the following day.
Disconnection Limitations	Disconnections allowed between 8:00am–2:00pm if the utility’s business hours extend until 5:00pm. Disconnections allowed between 8:00am–5:00pm if the utility’s business hours extend until 8:00pm.
Payment Plans	Yes.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification. Medical certification may be consecutively renewed once. Medical certification for postponement or reconnection may not be used more than three times in a calendar year without written permission from the Commission.

VIRGINIA

Source	VA. CODE ANN. § 56-247.120 Va. Admin. Code 5-330-40(electricity)
Notice	Written notice must be mailed at least ten days before the scheduled disconnection.
Date Based Protection	None.

Temperature Based Protection	None.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for thirty days with medical certification. Postponed for ten days based on written or oral reporting of medical condition to allow for a medical certification to be submitted. Electric utility is not required to provide the ten-day postponement more than once in a calendar year.

WASHINGTON

Source	WASH. ADMIN. CODE 480-90-128, 480-90-133, 480-90-138, 480-90-143(gas), 480-100-128, 480-100-133, 480-100-138, 480-100-143(electricity), 365-100-010, 365-100-030
Notice	Notice must be mailed at least eight days before the scheduled disconnection if mailed from within Washington, Oregon, or Idaho. Notice must be mailed at least eleven days before the scheduled disconnection if mailed from any other state. Second notice must be made by mail, delivery, or telephone at least two business days before the scheduled disconnection.
Date Based Protection	Yes. November 15–March 15. No disconnections for low-income customers who enter a payment plan.
Temperature Based Protection	None.
Disconnection Limitations	No disconnection on Weekends, legal holidays, or any other day when a utility is not available to reconnect service that day or the following day.
Payment Plans	Yes. Deferred payment plans available to prevent disconnection during winter protection period. Equal-payment plans are available to all customers at any time.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for the lesser of sixty days or length of certification with medical certification. Customer must enter a payment agreement. Utility may not ask for more than 10% of arrearages to begin the payment plan. Medical certification can be used twice within any 120-day period.

WEST VIRGINIA

Source	W. VA. CODE R.§§ 150-3-4 (electricity), 150-4-4 (gas)
Notice	Written notice must be mailed ten days before the scheduled disconnection. Notice must be made in person or by phone at least 24 hours before the scheduled disconnection. Written notice must be mailed five days before the scheduled disconnection for a customer who has defaulted on a payment plan.

Date Based Protection	Yes. December 1–February 28(29) no disconnections without the approval of a manager of the utility.
Temperature Based Protection	None.
Payment Plans	Yes. Deferred payment plans available to prevent disconnection. Utilities must renegotiate a payment plan if the customer’s financial situation significantly changes.
Reconnection Charge	Yes. Standard reconnection charge is \$5.00.
Medical Protections	If a customer notifies the utility of her inability to pay and informs the utility that disconnection of the service would be especially dangerous to the health or safety of a member of her household, the customer is entitled to meet with a manager of the utility by phone or in person. The utility has discretion to disconnect, pending customer’s appeal to the commission. Disconnection may be prohibited for the following health or safety considerations: 1) Households where a member has a medical certification. Medical certification must be renewed every thirty days, unless a physician certifies that the condition is permanent. 2) The time period from December 1-February 28(29). 3) the use of the utility for life-supporting equipment.
Other Protections	No disconnection without third-party notice for customers 65 years or older, or customers with disabilities.

WISCONSIN

Source	Wis. ADMIN. CODE PSC §§ 113.012,113.0301, 113.0303,113.0304(electricity), 134.02,134.062,134.0623,134.0624(gas)
Notice	Written notice must be mailed or delivered ten days before the scheduled disconnection. If the disconnection does not take place within twenty days of the date listed on the written notice, an additional notice must be left on the premises 24–48 hours before the scheduled disconnection.
Date Based Protection	Yes. November 1–April 15 no disconnections for customers whose household income is at or below 250% of the federal poverty guidelines. No disconnections for those with medical certification, the elderly, those with disabilities, or young children. Burden of proof that disconnection is allowed is on the utility. Management-level employee must approve all disconnections during this period. By the end of the day following a disconnection, a utility must provide a follow-up visit to check for dangers to health or safety for any member of the household.
Temperature Based Protection	Yes. No disconnection in a county on a day when a heat advisory, heat warning, or heat emergency is in effect.
Disconnection Limitations	No disconnections on Fridays, weekends, legal holidays, or any other day when the utility is not available to reconnect services. Not applicable if utility provides these services 24 hours a day, seven days a week.
Payment Plans	Yes. Payment plans available to prevent disconnection.

Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for up to twenty-one days with medical certification or other protective certification (elderly and young children). Customer must enter into a payment plan.
Other Protections	“If the utility becomes aware that there are extenuating circumstances, such as infirmities of aging, developmental, mental or physical disabilities, the use of life support systems, or like infirmities incurred at any age, or the frailties associated with being very young, the utility shall take these circumstances into consideration prior to disconnecting service.”
WYOMING	
Source	WYO. ADMIN. CODE § PSC PSCR Ch. 3 §§ 9, 10
Notice	Notice must be provided to the customer at least seven calendar days before the scheduled disconnection. Notice may be completed by mail, in person, or over the phone. An additional notice may be provided electronically. Notice in person or by phone must be attempted before a disconnection during winter protection period.
Date Based Protection	Yes. November 1–April 30 additional notice by phone or in person is required before disconnection. No disconnections from December 24–January 2.
Temperature Based Protection	Yes. No disconnections on days when it is forecasted to be below 32°F any time in the following 48 hours. Temperature protection applies only for customers who are eligible for government assistance or who are only able to pay for service in installments.
Disconnection Limitations	Disconnections between 8:00am–4:00pm Monday–Thursday. No disconnections on legal holidays, the day before legal holidays, or on any other day when the utility is not open to the public.
Payment Plans	Yes. Payment plans available to prevent disconnection.
Reconnection Charge	Yes.
Medical Protections	Postponement of disconnection for 15 days with medical certification.
Other Protections	Utilities must assist customers who are elderly or who have a disability and who are unable to pay their utility bills with determining available government assistance.

END NOTES

¹See e.g., MICH. ADMIN. CODE r. 460.137 (2016) (permitting disconnection of a customer for nonpayment, failure to provide a deposit, engaging in unauthorized use of the utility service, refusing to allow access to utility equipment installed on the premises, misrepresenting his or her identity at the outset of service, and violating any utility rules approved of by the commission).

²*Ibid.*

³Hernández, Diana. "Sacrifice along the energy continuum: a call for energy justice." *Environmental Justice* 8, no. 4 (2015): 151-156.

⁴*Ibid.*

⁵Deneen L Brown Mary Pat Flaherty John Woodrow Cox. "Carbon Monoxide Blamed after Father and His 7 Children Die in Their Sleep." *The Washington Post*, April 8, 2015. Accessed December 28, 2016. http://www.highbeam.com/doc/1P2-37832793.html?refid=easy_hf.

⁶*Ibid.*

⁷"Power Shut Off: Candle Triggers Blaze; 10 Killed." *The Evening News* (Beacon, NY), May 15, 1982. Accessed December 28, 2016.

<https://news.google.com/newspapers?nid=1982&dat=19820515&id=AYRGAAAIBA&sjid=mTINAAAIBA&pg=1950,1867982&hl=en>.

⁸*Utility Says It Followed Rules in Shutting Off Service*, DAILY TRIBUNE (May 1, 2015), <http://www.dailytribune.com/general-news/20150501/utility-says-it-followed-rules-in-shutting-off-service>; See also, Khalil AlHajal, *Relative of John Morgan Shocked Over Power Disconnection that Came Days Before Flint Senior's Death*, MLIVE (Feb. 21, 2012), http://www.mlive.com/news/flint/index.ssf/2012/02/relative_of_john_morgan_shocke.html; Susan Candiotti, *Man Who Froze Had History of Late Utility Payments*, CNN (Feb. 19, 2009), <http://www.cnn.com/2009/US/02/19/michigan.freezing.death/index.html?iref=nextin>; John Kass, *Elderly Woman Dies After Gas Shut Off*, CHICAGO TRIBUNE (Jan. 22, 1985), http://articles.chicagotribune.com/1985-01-22/news/8501050026_1_gas-service-peoples-gas-light-three-other-deaths.

⁹Jones, Shannon. "DETROITERS DEMAND END TO UTILITY SHUT-OFS." *Voice of Detroit*, March 14, 2011. Accessed December 28, 2016. <http://voiceofdetroit.net/2011/03/20/detroiters-demand-end-to-utility-shut-offs-mar-12/>.

¹⁰"Officials: Candles Likely Cause Of Fire That Killed 3 Young Boys In The Bronx Neighbors: Mom Used Candles After Electricity Had Been Turned Off Due To Nonpayment." *CBS New York*, October 26, 2013. Accessed December 28, 2016. <http://newyork.cbslocal.com/2013/10/26/police-candles-likely-caused-fire-that-killed-3-young-boys-in-the-bronx/>.

¹¹Norlander, Gerry. "Candle Fires: A Symptom of "Rolling Blackouts" Affecting Low-Income Households." *Candle Fires: A Symptom of "Rolling Blackouts" Affecting Low-Income Households*. September 05, 2006. Accessed December 28, 2016. <http://pulpnetwork.blogspot.com/2006/09/candle-fires-symptom-of-rolling.html>.

¹²Ishimaru, Heather. "FAIRFIELD FAMILY HAD POWER SHUT OFF." *ABC 7 News San Francisco-Oakland-San Jose*, April 30, 2010. Accessed December 28, 2016. <http://abc7news.com/archive/7416709/>.

¹³Pennsylvania Public Utility Commission, *2015 Gas and Electric Cold Weather Survey Results* (Dec. 22, 2015), http://www.puc.pa.gov/General/publications_reports/pdf/Cold_Weather_Results_2015.pdf.

¹⁴Thomas Gaist, "Energy companies continue utility shutoffs as bitter cold hits Detroit," *International Committee of the Fourth International*, 2014, <https://www.wsws.org/en/articles/2014/01/28/dtes-j28.html>.

¹⁵Guy, Michael, and Azadeh Ansari. "Next blast of arctic air will bring more blistering cold temperatures." *CNN*, December 16, 2016. Accessed December 28, 2016.

¹⁶"Climate Change Impacts." EPA. December 20, 2016. Accessed December 28, 2016. <https://www.epa.gov/climate-impacts>.

¹⁷"The State of Homelessness in America 2016." National Alliance to End Homelessness. April 06, 2016. Accessed January 03, 2017. <http://www.endhomelessness.org/library/entry/SOH2016>.

¹⁸"The Hottest Cities in U.S. vs. the Fastest Warming." Climate Central: A Science & News Organization. July 19, 2016. Accessed December 28, 2016. <http://www.climatecentral.org/news/fastest-warming-cities-20535>

¹⁹"U.S. Faces Dramatic Rise in Extreme Heat, Humidity." Climate Central: A Science & News Organization. July 13, 2016. Accessed December 28, 2016. <http://www.climatecentral.org/news/sizzling-summers-20515>.

²⁰"Hot and Getting Hotter: Heat Islands Cooking U.S. Cities." Climate Central: A Science & News Organization. August 20, 2014. Accessed December 28, 2016. <http://www.climatecentral.org/news/urban-heat-islands-threaten-us-health-17919>.

²¹Shockman, Elizabeth. "Will heat waves cause more deaths as the climate warms?" *Public Radio International*. July 23, 2016. Accessed December 28, 2016. <http://www.pri.org/stories/2016-07-23/will-heat-waves-cause-more-deaths-climate-warms>.

²²"National Climate Assessment." National Climate Assessment. 2014. Accessed December 28, 2016. <http://nca2014.globalchange.gov/report>.

²³ *Ibid.*

- ²⁴ Henderson, Brian Holton. "Hypocrisy and Cronyism in the 'Sunshine' State." The Huffington Post. July 16, 2014. Accessed January 03, 2017. http://www.huffingtonpost.com/brian-holton-henderson/florida-solar_b_5574755.html.
- ²⁵ Kaiser, Brian. "Environmental Group Exposes FirstEnergy Hypocrisy on Clean Energy in Newly Launched Digital Ads." Ohio Environmental Council. March 09, 2016. Accessed January 03, 2017. <http://www.theoec.org/press-releases/environmental-group-exposes-firstenergy-hypocrisy-clean-energy-newly-launched-digital>.
- ²⁶ "Brown Sky: The Truth About How Rocky Mountain Power Obstructs Renewable Energy." HEAL Utah. August 07, 2015. Accessed January 03, 2017. <http://www.healutah.org/BrownSky/>.
- ²⁷ Energy Justice Network, "Cedar Power Project," 2016, <http://www.energyjustice.net/map/displayfacilityadvanced-68910.htm>.
- ²⁸ *Ibid.*
- ²⁹ Warrick, Joby. "Utilities wage campaign against rooftop solar." *Washington Post* (2015).
- ³⁰ Sforza, Teri. "Watchdog: California utilities spend lots of public's money to influence state politics." *Orange County Register*, October 25, 2015. Accessed January 4, 2017. <http://www.ocregister.com/articles/political-689074-public-million.html>.
- ³¹ Thomas Gaist, "Energy companies continue utility shutoffs as bitter cold hits Detroit," *International Committee of the Fourth International*, 2014, <https://www.wsws.org/en/articles/2014/01/28/dtes-j28.html>.
- ³² Betsy Webster and Nick Sloan, "Overland Park man helping neighbor without power says he was threatened by KCP&L," *KCTV*, 2016, <http://www.kctv5.com/story/32297060/overland-park-man-helping-neighbor-without-power-says-he-was-threatened-by-kcpl>.
- ³³ Energy Justice Network, "Shawnee Mission Medical Center," 2016, <http://www.energyjustice.net/map/displayfacilityadvanced-72570.htm>.
- ³⁴ The Editorial Board, "About That 93-Year-Old Man Who Froze to Death," *The New York Times*, 2009, http://theboard.blogs.nytimes.com/2009/01/27/about-that-93-year-old-man-who-froze-to-death/?_r=1.
- ³⁵ Christine Metz, "Utility cutoffs a life-or-death matter for Eudora couple recovering from house fire," *Lawrence Journal-World*, 2011, <http://www2.ljworld.com/news/2011/feb/27/utility-cutoffs-can-be-life-or-death-matter/>.
- ³⁶ L.M. Sixel, "Lawsuit says power cutoff was fatal to man on oxygen," *Houston Chronicle*, 2016, <http://www.houstonchronicle.com/business/article/Family-sues-power-company-claiming-electricity-6791350.php#photo-9318593>.
- ³⁷ Energy Justice Network, "Cedar Power Project," 2016, <http://www.energyjustice.net/map/displayfacilityadvanced-68910.htm>.
- ³⁸ See e.g., MICH. ADMIN. CODE r. 460.137 (2016) (permitting disconnection of a customer for nonpayment, failure to provide a deposit, engaging in unauthorized use of the utility service, refusing to allow access to utility equipment installed on the premises, misrepresenting his or her identity at the outset of service, and violating any utility rules approved of by the commission).
- ³⁹ See Appendix A *infra* p. 25 for a survey of disconnection policies from all fifty states and the District of Columbia.
- ⁴⁰ See *Ibid.*
- ⁴¹ *Ibid.*
- ⁴² *Munn v. People of State of Illinois*, 94 U.S. 113, 126, 24 L. Ed. 77 (1876).
- ⁴³ See Eric Filipink, *Serving the "Public Interest"—Traditional vs. Expansive Utility Regulation*, NAT'L REG. RES. INST., December 30, 2009 at 3, 10.
- ⁴⁴ CHARLES F. PHILLIPS, JR., *THE REGULATION OF PUBLIC UTILITIES: THEORY AND PRACTICE* 87 (Public Utilities Reports, Inc., 3rd ed. 1993).
- ⁴⁵ Filipink *supra* note 33 at 11; Hemplings *supra* note 30 at 3-4 (noting that some commissions receive their powers directly from constitutions).
- ⁴⁶ See Filipink *supra* note 33 at 3.
- ⁴⁷ *Ibid.* at 12-13.
- ⁴⁸ *Ibid.* at 14.
- ⁴⁹ *Ibid.*; see generally, *NAACP v. FPC*, 425 U.S. 662 (1976).
- ⁵⁰ Filipink *supra* note 33 at 14.; see generally, *Ark. Elec. Co-operative Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375.
- ⁵¹ See Filipink *supra* note 33 at 14.
- ⁵² *infra* p. 25.
- ⁵³ See, e.g. 3830 PUR Util. Reg. News 1 ("Also, associated with the cost of the line extension facilities that go into the utility's rate base are costs for such things as depreciation, return, income taxes, property taxes, O&M costs, administrative and general costs, and franchise fees and uncollectibles."); Thomas K. Schmieder, *Measuring the Cost of Late-Paying Customers*, PUB. UTIL. FORT., January 18 1990, at 25 ("Late-paying customers are being subsidized by those customers who pay on time.").
- ⁵⁴ DePanfilis, Diane. *Child neglect: A guide for prevention, assessment, and intervention*. US Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, Office on Child Abuse and Neglect, 2006.
- ⁵⁵ Fridersdorf, Conor. "When the State Takes Kids Away From Parents: Three Perspectives." The Atlantic. July 24, 2014. Accessed January 25, 2017. <http://www.theatlantic.com/national/archive/2014/07/when-the-state-gets-between-kids-and-parents-3-radically-different-perspectives/374954/>.

⁵⁶See generally Schmieder, *Measuring the Cost of Late-Paying Customers* *supra* note 27.

⁵⁷See Knauss, *Why is National Grid Shutting Off So Many Homes for Nonpayment This Summer? And 5 Other Questions* *supra* note 16 (“[the director of credit and collections for New York electric company] is acutely aware of the hazards customers face if they provide their own light and heat with candles, generators or kerosene heaters. ‘It keeps me up at night,’ he said.”).

⁵⁸SCOTT HEMPLING, *REGULATING PUBLIC UTILITY PERFORMANCE: THE LAW OF MARKET STRUCTURE, PRICING AND JURISDICTION*, 2-3 (2013).

⁵⁹Ishimaru, Heather. “Fairfield Family Had Power Shut Off.” April 30, 2016. Accessed December 28, 2016.

<http://abc7news.com/archive/7416709/>.

⁶⁰American Coalition for Clean Coal Electricity, “Energy Cost Impacts on American Families,” 2015,

<http://www.americaspower.org/sites/default/files/Trisko-National-Family-Energy-Costs-June-2015-FINAL.PDF>.

⁶¹See Figure 1 *infra* p. 21. Figure 1 is compiled from data from the most recent Residential Energy Consumption Survey: U.S.ENERGY INFO. ADMIN., TABLE CE1.1: SUMMARY HOUSEHOLD SITE CONSUMPTION AND EXPENDITURES IN THE U.S. – TOTALS AND INTENSITIES (2012), <https://www.eia.gov/consumption/residential/data/2009/index.php?view=consumption#summary>.

⁶²See Figures 2-3 *infra* pp. 21-22. Figures 2-3 are compiled from data from U.S.ENERGY INFO. ADMIN., NOVEMBER 2016 MONTHLY ENERGY REVIEW 85, 123 (2016), <http://www.eia.gov/totalenergy/data/monthly/archive/00351611.pdf>. Natural gas and electricity are the most common utilities used to heat and cool homes. See U.S. Energy Info. Admin., *Everywhere but Northeast, Fewer Homes Choose Natural Gas as Heating Fuel* (2014), <http://www.eia.gov/todayinenergy/detail.php?id=18131>.

⁶³See U.S. Energy Info. Admin., *Newer U.S. Homes are 30% Larger but Consume About as Much Energy as Older Homes* (2013), <http://www.eia.gov/todayinenergy/detail.php?id=9951>; Figure 4 *infra* p. 22. Figure 4 is compiled from data from the most recent Residential Energy Consumption Survey: TABLE CE1.1 *supra* note 6.

⁶⁴Drehobl, Ariel, and Lauren Ross. “Lifting the High Energy Burden in America’s Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities.” In *American Council for an Energy Efficient Economy*. 2016.

⁶⁵TABLE CE1.1 *supra* note 6.

⁶⁶See Daniel Simmons-Ritchie, *As Utility Disconnections Have Risen in PA, Are More People Dying?*, PennLive (Feb. 25, 2016),

http://www.pennlive.com/news/2016/02/as_utility_disconnections_have_risen.html; Tim Knauss, *Alarmed by Rising Utility Disconnections, NY Regulators Launch Review of Low-Income Assistance Programs*, THE POST-STANDARD (Jan. 8, 2015),

http://www.syracuse.com/news/index.ssf/2015/01/alarmed_by_rising_utility_disconnections_ny_regulators_launch_review_of_low-income_ass.html.

⁶⁷See Figures 4-5 *infra* p. 23 compiling data from Columbia Gas of Ohio, *Annual Report of Service Disconnections for Nonpayment* (Jun. 18, 2015), <http://dis.puc.state.oh.us/TiffToPDF/A1001001A15F18B04321A88891.pdf>; Dominion East Ohio, *Annual Report of Service Disconnections for Nonpayment* (Jun. 24, 2015),

<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15F24B31136J00420.pdf>; The Cleveland Elec. Illuminating Co., *Annual Report of Service Disconnections for Nonpayment* (Jun. 29, 2015),

<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15F29B13823D00352.pdf>; Orwell Nat. Gas, *Annual Report of Service Disconnections for Nonpayment* (Aug. 6, 2015), <http://dis.puc.state.oh.us/TiffToPDF/A1001001A15H06A93752J00358.pdf>.

Cleveland was one city of interest identified by the NAACP for review, and Ohio is one state that requires the annual reporting of disconnections due to nonpayment pursuant to OHIO REV. CODE § 4933.123 (2016).

⁶⁸See *Ibid.*

⁶⁹Oakland, C. A. “Energy, Economics, and the Environment: Effects on African Americans.” (2004).

⁷⁰*Ibid.*

⁷¹*Ibid.*

⁷²*Ibid.*

⁷³Choate, Jo-ann, and Mark Wolfe. “2009 national energy assistance survey.” *Washington, DC: national energy assistance Directors’ association* (2010).

⁷⁴Policy Analyst at the Nat’l Consumer Law Ctr., *Unpublished Disconnection Information*, received from Marcus Franklin of the NAACP on October 25, 2016. Notably, the analyst cites to information from the 2009 Residential Energy Consumption Survey. Questions on the survey ask specifically about a respondent’s need for or use of energy assistance programs for both heating and cooling utilities; the survey collects information regarding the number of disconnection notices, number of days a customer remained disconnected, and whether or not medical attention was required as a result of the disconnection. U.S.ENERGY INFO. ADMIN., RESIDENTIAL ENERGY CONSUMPTION SURVEY, 89-94 (2009),

http://www.eia.gov/survey/form/eia_457/archive/2009%20RECS%20457-A%20Household%20Survey.pdf. The survey also collects data on the race of the respondents, and tracks the geographic location of respondents. *Id.* at 84-85. While this data was collected in the survey, it was not released in the public copy of the survey microdata. See U.S.ENERGY INFO. ADMIN., PUBLIC USE MICRODATA (2013), <https://www.eia.gov/consumption/residential/data/2009/index.php?view=microdata>. Accessing a more complete set of microdata collected from this survey could assist advocates in determining a clearer picture of the racial disparity that has been identified in the application of disconnection policies. The prevalence of this disparity, and additional information about which states, cities, or other areas demonstrate this disparity could be ascertained based on the information collected in the survey. Additionally, there is currently a 2016 Residential Energy Consumption Survey available that asks similar questions to the 2009 version. U.S.ENERGY INFO. ADMIN., RESIDENTIAL ENERGY CONSUMPTION SURVEY, 17-18 (2016),

http://www.eia.gov/survey/form/eia_457/2015_EIA-475A_paper.pdf. The results of this survey and access to the complete set of data would be especially helpful for advocates to access because it would give a more current picture that might be more helpful for legislators and regulators to consider when choosing disconnection policies.

⁷⁵*Ibid.*

⁷⁶*Ibid.*

⁷⁷*Ibid.*

⁷⁸U.S. Energy Info. Admin., *Heating and Cooling No Longer Majority of U.S. Home Energy Use* (2013), <http://www.eia.gov/todayinenergy/detail.php?id=10271>.

⁷⁹See Figures 2-3 *infra* pp. 21-22. Figures 2-3 are compiled from data from U.S.ENERGY INFO. ADMIN., NOVEMBER 2016 MONTHLY ENERGY REVIEW 85, 123 (2016), <http://www.eia.gov/totalenergy/data/monthly/archive/00351611.pdf>.

⁸⁰See DeNeen L. Brown, MaryPat Flaherty & John Woodrow Cox, *Carbon Monoxide Blamed After Father and His 7 Children Die in Their Sleep*, WASHINGTON POST (Apr. 7, 2015), https://www.washingtonpost.com/local/grandparents-father-of-7-who-died-in-princess-anne-home-was-doing-his-best/2015/04/07/fa8debc2-dd14-11e4-be40-566e2653afe5_story.html?utm_term=.22c640ffbb02; Tim Knauss, *Why is National Grid Shutting Off So Many Homes for Nonpayment This Summer? And 5 Other Questions*, THE POST-STANDARD (Sept. 7, 2014),

http://www.syracuse.com/news/index.ssf/2014/09/why_national_grid_disconnections_for_nonpayment_are_peaking_at_80_per_hour_this_summe.html; *Father and 3 Kids Killed by Carbon Monoxide Poisoning*, WILX (July 16, 2009),

<http://www.wilx.com/home/headlines/50986627.html>.

⁸¹"Space Heaters Involved in 79 Percent of Fatal Home Heating Fires." February 11, 2010. Accessed December 28, 2016.

<http://www.nfpa.org/news-and-research/news-and-media/press-room/news-releases/2010/space-heaters-involved-in-79-percent-of-fatal-home-heating-fires>.

⁸²See L. M. Sixel, *Lawsuit Says Power Cutoff Was Fatal to Man on Oxygen*, HOUSTON CHRON. (Jan. 28, 2016),

<http://www.houstonchronicle.com/business/article/Family-sues-power-company-claiming-electricity-6791350.php>; Brian R. Ballou, *Power is Cut, a Woman Dies, and Furor Follows*, The Boston Globe (June 26 2010),

http://archive.boston.com/yourtown/salem/articles/2010/06/26/power_is_cut_nh_woman_dies_and_furor_follows/; *Family Sues Utility Over Mother's Death After Power Disconnected*, SOUTH BEND TRIB. (Jan. 26, 2007),

http://articles.southbendtribune.com/2007-01-26/news/26767343_1_ipl-utility-worker-medical-devices.

⁸³See *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 98 S. Ct. 1554, 56 L. Ed. 2d 30 (1978) ("a utility may not terminate service "at will" but only "for cause," and hence respondents assert a "legitimate claim of entitlement" within the protection of the Due Process Clause of the Fourteenth Amendment.").

⁸⁴See, e.g., NEV. ADMIN. CODE § 704.360 (2011).

⁸⁵4 COLO. CODE REGS. § 723-3:3408 (2016).

⁸⁶HAW. CODE R. § 6-60-8 (1981) ("Termination shall not occur on Saturdays, Sundays or holidays observed by the utility and shall be planned during normal utility working hours.").

⁸⁷See, e.g., ALA. ADMIN. CODE r. 770-X-1-.12 (2013) ("Whenever service is discontinued for nonpayment and customer requests that service be restored...a reconnection fee, in the amount authorized by the Commission for each respective utility, shall be added to customer's delinquent account ...and can be required by the utility to be paid before service is restored.").

⁸⁸See Schmieder, *Measuring the Cost of Late-Paying Customers* *supra* note 27; *In the Matter of Jackson Cty. Fuel Comm., Petitions for Moratorium of Disconnections & Disconnects.*, 14 146, 2014 WL 1762943, at *1 (Apr. 30, 2014) ("The six energy utilities' reconnection charges range from \$20 to \$32 and only partially cover the utilities' costs to reconnect residential service."); *W. G. Gas, Inc., Petition to Increase Reconnection Fee.*, 99-1539-G-T, 2000 WL 36572195, at *1 (Mar. 14, 2000). *But see*, Dave Lieber, *The Watchdog: Texas Electricity Companies Profit from Fees That Some Call 'Money for Nothing'*, The Dallas Morning News (Aug. 2013), <http://www.dallasnews.com/news/watchdog/2013/08/10/the-watchdog-texas-electricity-companies-profit-from-fees-that-some-call-money-for-nothing>.

⁸⁹See, e.g., MICH. ADMIN. CODE r. 460.1626 (2016).

⁹⁰39-1 CODE MISS. R. § 2:8 (2011).

⁹¹"Winter Reconnect Order: Maintain electric and natural gas service." Winter Reconnect Order: Maintain electric and natural gas service. Accessed January 24, 2017. <http://www.puco.ohio.gov/puco/index.cfm/be-informed/consumer-topics/winter-reconnect-order-maintain-electric-and-natural-gas-service/#sthash.zrQVrJLk.dpbs>.

⁹²ARK. ADMIN. CODE §§ 126.03.2-6.04, 126.03.2-6.09, 126.03.2-6.13, 126.03.2-6.15, 126.03.2-6.18

⁹³"Consumer Information." Utility Services | Consumer Information. August 2012. Accessed January 25, 2017. <https://www.consumer.ftc.gov/articles/0220-utility-services>.

⁹⁴"Billing Rights." Maryland State Public Service Commission - Billing Rights. Accessed January 25, 2017. http://webapp.psc.state.md.us/intranet/info/billingrights_new.cfm.

⁹⁵"Deposits and Connection Fees | Your Own Utilities." Deposits and Connection Fees | Your Own Utilities. Accessed January 25, 2017. <https://www.talgov.com/you/you-customer-helpful-fees.aspx>.

⁹⁶26 DEL. ADMIN. CODE § 3002-1.0 (2016).

⁹⁷N.M. CODE R. § 17.5.410 (2011) (“A utility shall offer a budget payment plan to its residential customers....The budget payment plan shall provide the residential customer with a method of levelizing the bill for utility service. It shall be designed to avoid the accumulation of an unpaid balance which will be burdensome to pay in a single payment.”).

⁹⁸UTAH ADMIN. CODE r. R746-200 (2012).

⁹⁹ARK. ADMIN. CODE § 126.03.2-6.15 (2016).

¹⁰⁰OR. ADMIN. R.860-021-0405. (2009).

¹⁰¹*Ibid.*

¹⁰²*Ibid.*

¹⁰³*Ibid.* The regulation requires that:

Attempt to contact the customer at a service address where remote disconnect capability is installed via the telephone at least twice a day for the three consecutive days prior to the proposed disconnection, and at least one call must be placed during the morning or afternoon (8:00 am to 5:00 pm) and another call placed during early evening (6:00 pm to 8:00 pm). Where an answering machine or service is available, the utility must leave a message at the end of each calling day informing the customer of the proposed disconnection.

¹⁰⁴4 COLO. CODE REGS. § 723-3:3408 (2016).

¹⁰⁵IOWA ADMIN. CODER. 199-19.4(476) (2016).

¹⁰⁶Cheung, Jason. "Landlord Fails To Pay a Utility Bill." Landlord Fails To Pay a Utility Bill | LegalMatch Law Library. April 06, 2015. Accessed February 17, 2017. <http://www.legalmatch.com/law-library/article/landlord-fails-to-pay-a-utility-bill.html>.

¹⁰⁷ARK. ADMIN. CODE §§ 126.03.2-6.04, 126.03.2-6.09, 126.03.2-6.13, 126.03.2-6.15, 126.03.2-6.18

¹⁰⁸53-1 R.I. CODE R. § 15:III (2016).

¹⁰⁹*Ibid.*

¹¹⁰*Ibid.*

¹¹¹*Ibid.* In Rhode Island, customers who qualify for protected status include individuals who are, “unemployed, seriously ill, elderly, handicapped or a recipient of LIHEAP funds.”

¹¹²52 PA. CODE § 56.461 (2011).

¹¹³PENNSYLVANIA PU. UTILITY COMM., *Press Releases*, (2014) http://www.puc.pa.gov/about_puc/press_releases.aspx?ShowPR=3472.

¹¹⁴R.I. Gen. Laws § 2087 2016

¹¹⁵"State of Rhode Island General Assembly." State of Rhode Island General Assembly. April 26, 2016. Accessed February 17, 2017.

http://www.rilin.state.ri.us/pressrelease/_layouts/RIL.PressRelease.ListStructure/Forms/DisplayForm.aspx?List=c8baae31-3c10-431c-8dcd-9dbbe21ce3e9&ID=11705&Web=2bab1515-0dcc-4176-a2f8-8d4beebdf488.

¹¹⁶220MASS. CODE REGS.25.03 (2016).

¹¹⁷*Ibid.*

¹¹⁸N.D. ADMIN. CODE69-09-02-05.1

¹¹⁹Drehobl, Ariel, and Lauren Ross. "Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities." In *American Council for an Energy Efficient Economy*. 2016.

¹²⁰*Ibid.*

¹²¹Harak, Charlie. "UTILITIES ADVOCACY FOR LOW-INCOME HOUSEHOLDS IN MASSACHUSETTS." Stay Connected. June 2013. <http://www.nclc.org/special-projects/stay-connected-training.html>.

¹²²*Ibid.*

¹²³Drehobl, Ariel, and Lauren Ross. "Lifting the High Energy Burden in America's Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities." In *American Council for an Energy Efficient Economy*. 2016.

¹²⁴"Occupant Health Benefits of Residential Energy Efficiency." *E4TheFuture*. (2014)

¹²⁵Adamkiewicz, Gary, Ami R. Zota, M. Patricia Fabian, Teresa Chahine, Rhona Julien, John D. Spengler, and Jonathan I. Levy. "Moving environmental justice indoors: understanding structural influences on residential exposure patterns in low-income communities." *American journal of public health* 101, no. S1 (2011): S238-S245.

¹²⁶*Ibid.*

¹²⁷"Top 5 Reasons to Be Energy Efficient," Alliance to Save Energy, November 13, 2013, accessed October 19, 2016, <http://www.ase.org/resources/top-5-reasons-be-energy-efficient>.

¹²⁸*Ibid.*

¹²⁹Kiker, Patrick. "Report: "Energy Burden" on Low-Income, African American, & Latino Households up to Three Times as High as Other Homes, More Energy Efficiency Needed." Report: "Energy Burden" on Low-Income, African American, & Latino Households up to Three Times as High as Other Homes, More Energy Efficiency Needed | ACEEE. April 20, 2016. Accessed January 06, 2017. <http://aceee.org/press/2016/04/report-energy-burden-low-income>.

¹³⁰Farrell, John, and Karlee Weimann. "Report: Inclusive Financing for Efficiency and Renewable Energy." Institute for Local SelfReliance. November 2016. Accessed January 06, 2017. <https://ilsr.org/report-inclusive-energy-financing/>.

¹³¹*Ibid.*

¹³²*Ibid.*

¹³³Hernández, Diana. "Sacrifice along the energy continuum: a call for energy justice." *Environmental Justice* 8, no. 4 (2015): 151-156.

¹³⁴*Ibid.*

¹³⁵ Alliance to Save Energy, "Top 5 Reasons To Be Energy Efficient," 2012, <http://www.ase.org/resources/top-5-reasons-be-energy-efficient>.

¹³⁶ Walton, Robert. "Pay As You Save: Co-ops are reaching new customers with a novel way to pay for efficiency." *Utility Dive*. August 17, 2016. Accessed January 06, 2017. <http://www.utilitydive.com/news/pay-as-you-save-co-ops-are-reaching-new-customers-with-a-novel-way-to-pay/424234/>.

¹³⁷ "Benefits of Renewable Energy Use." Union of Concerned Scientists. Accessed January 06, 2017.

http://www.ucsusa.org/clean-energy/renewable-energy/public-benefits-of-renewable-power#.WG_HRIUrKM8.

¹³⁸ Campbell, Richard J. "Weather-related power outages and electric system resiliency." Congressional Research Service, Library of Congress, 2012.

¹³⁹ Bukowski, Diane. "DETROITERS DEMAND END TO UTILITY SHUT-OFS." March 20, 2011. Accessed December 28, 2016.

<http://voiceofdetroit.net/2011/03/20/detroiters-demand-end-to-utility-shut-offs-mar-12/>.

¹⁴⁰*Ibid.*

¹⁴¹ "Utility Project Urges Supreme Court to Reverse Decision Impeding State Electric Power Initiatives and Not to Endorse Deregulation." New Yorks Utility Project To help educate the public about its legal rights as utility consumers. December 15, 2015. Accessed January 07, 2017. <http://utilityproject.org/2015/12/15/utility-project-urges-supreme-court-to-reverse-decision-impeding-state-electric-power-initiatives/>.

¹⁴² "About the Campaign." Our Power Campaign. 2016. Accessed January 06, 2017. <http://www.ourpowercampaign.org/about>.