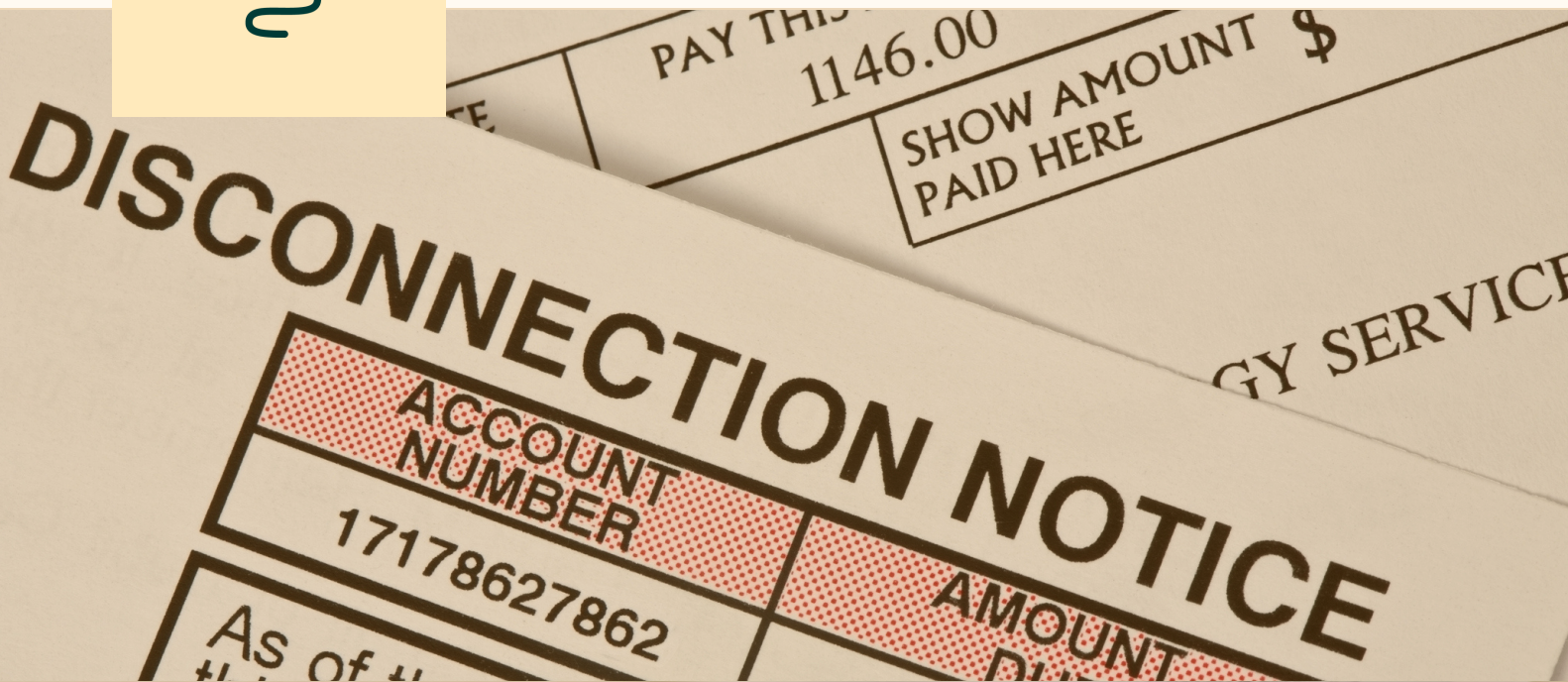


UTILITY SHUTOFFS AND THE COVID-19 PANDEMIC

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OVERVIEW

The pandemic-induced economic crisis has left residential electric customers with billions of dollars in utility debt. More households than ever cannot afford their energy bills and are forced to consider forgoing their essential needs—such as healthcare, groceries, and rent—to maintain their utility service. Communities of color and low-income households are disparately impacted by the health and financial implications of COVID-19, and most at risk for utility disconnection. Solutions to pandemic-related energy insecurity require a range of approaches to protect vulnerable ratepayers from utility shutoffs. This brief sets forth a set of policy recommendations for policymakers and advocates concerning utility shutoffs and consumer protections in the midst and the wake of the COVID-19 pandemic. Based on the best practices gleaned from policy, legislative and executive actions around the country policymakers should take the following approach to utility shutoff moratoria:

1. Design moratoria to eliminate shutoffs throughout the ongoing economic crisis induced by the pandemic;
2. Eliminate utility disconnection notices during utility shutoff moratoria and increase customer access to arrearage information; and
3. Institute flexible AMPs to lower overall monthly energy costs and provide a reasonable pathway to expunge customer debt, reduce barriers to participation in payment plans, and eliminate punitive provisions for missed payments.

INTRODUCTION

The COVID-19 pandemic has led to extreme economic instability and hardship. The head of the Federal Reserve has described the fallout of the COVID-19 pandemic as “the biggest economic shock, in the U.S. and the world, really, in living memory,” citing the country’s jump from the lowest level of unemployment seen in fifty years, to the highest in nearly ninety.¹

Communities of color have faced heightened financial risks associated with the pandemic,² and while jobs have slowly begun to rebound, the recovery has been uneven. In the summer of 2020, for example, the unemployment rate for white workers fell over four percent to 10.1%, while Black workers saw unemployment reduced by just over a percent to 15.4%, and unemployment continued to increase for Black men in June.³ As of July 23rd, unemployment among Latinx workers remained at 14.5%, and Asian workers had seen only small improvements.⁴ This stilted and uneven recovery points to the need for on-going policy intervention to mitigate the impacts of the pandemic-induced economic crisis.

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Energy costs aggravate the financial strain incurred by the inability to work and other challenges brought on by the pandemic, and poor people and people of color pay the most. Energy burden refers to the annual share of household income spent on home energy costs, including heating, cooling, and other energy needs.⁵ A high energy burden is defined as utility costs that are at least 6% of the household income.⁶ On average, U.S. households dedicate 3.1% of their income to

their energy bills.⁷ But the cost of energy is regressive; low-income customers (those with a household income not exceeding 200% of the federal poverty level) spend a larger share of their income on energy costs. Nationwide, low-income households spend 8.1% of their income on utility bills, which is more than 2.6 times greater than the median national energy burden of 3.1%.⁸

Meanwhile, the poorest Americans (those with a household income below 50% of the federal poverty level) dedicate a staggering portion of their income to their utility costs, sometimes shouldering an energy burden as much as 75%.⁹

Low-income households spend 8.1% of their income on utility bills, more than 2.6 times greater than the median national energy burden of 3.1%.⁸ Meanwhile, the poorest Americans sometimes shoulder an energy burden as much as 75%.

The racial disparities in energy burden are stark. Energy burden is 64 percent greater among African-Americans and 24 percent greater among Latinx households than that of white households.

Researchers Sanya Carley and David Konisky conducted the “Survey of Household Energy Insecurity in Time of COVID,” surveying more than 1,800 Americans at or below 200% of the federal poverty line. They found that during the 2020 summer—the second-hottest summer on record—20% of African-American households and nearly 33% of Hispanic households reported that they could not afford their energy bills, compared to 12% of White respondents.¹⁰ In the context of the COVID-19 pandemic, when more individuals are asked to spend time inside the home, these consequences are particularly dire. This increase in energy demand, coupled with the economic hardship induced by the pandemic and pre-existing energy burden facing low- to moderate-income households, has left many unable to pay electric utility bills.

In response, beginning in March, thirty-four states as well as the District of Columbia and Puerto Rico instituted bans, or moratoria, on utility shutoffs, including water, gas, electric, and telecommunications. In a study published May 7, 2020, the Congressional Research Service (CRS) identified 1,055 utilities subject to moratoria policies; 347 of those utilities were subject to voluntary moratoria policies, and 708 of the utilities were subject to mandatory policies.¹¹ The utilities in the CRS's study included publicly-owned utilities, investor-owned utilities, and cooperatives.¹² This policy brief addresses electricity and gas shutoffs. This policy brief outlines several state approaches to utility moratoria and sets forth a range of policy recommendations for regulators and policymakers seeking to respond to the ongoing economic threat posed by COVID-19.

UTILITY SHUTOFF MORATORIA: STATE APPROACHES

States have taken a variety of approaches to implementing moratoria on utility shutoffs. In some states, like California, shutoffs have been suspended via a mandatory order issued by a regulatory body,¹³ while others have required suspensions through legislation (New York is an example)¹⁴ or an executive order, like Colorado.¹⁵ Other states have no mandatory suspension but have requested utility cooperation in ensuring households facing hardships don't get their power disconnected.¹⁶

All member utilities of The Edison Electric Institute, a powerful industry group, have agreed to voluntarily suspend shutoffs.¹⁷ However, customers of electric cooperatives and public utilities are still left largely unprotected by voluntary actions and most state orders, which only apply to regulated utilities.¹⁸ Moreover, although the moratoria may provide some relief for customers, some shutoff policies do not cover all customers, and may only cover senior citizens, low-income customers, or narrowly-defined rate-payer classes, while non-qualifying customers may still be disconnected.¹⁹ See Table 1 for a summary of different state approaches to moratoria.

More than 75% of the thirty-four mandatory suspensions have already expired, with two more set to follow in the next thirty days. As these moratoria begin to lift, the underlying economic emergency continues. Moreover, of the twenty-six states with expired moratoria, only one—Maine—has unrestricted date-based winter protections in place that do not depend on age, income level or hardship status, temperature, and/or medical status.

Moreover, of the twenty-six states with expired moratoria, only one state—Maine—has unrestricted date-based winter protections.



States That Issued Mandatory Moratoria on Utility Shutoffs in Response to COVID-19	<p>Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, Wisconsin</p> <p>Total: 34</p>
States with Expired Moratoria²⁰	<p>Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, New Hampshire, New Mexico, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Wisconsin</p> <p>Total: 26</p>
States with Active Moratoria	<p>Alaska, Arkansas, California, Hawaii, Minnesota, New Jersey, New York, Washington</p> <p>Total: 8</p>
States with Moratoria Expiring in the Next 30 Days (from 12/18/20)	<p>Arkansas, Hawaii</p> <p>Total: 2</p>
States with Expired COVID-19 Related Moratoria While Seasonal (Date-based) Protections Remain in Place	<p>Connecticut*, Delaware*, Georgia*, Illinois*, Indiana*, Iowa*, Kansas*, Maine, Maryland*, Massachusetts*, Mississippi*, Montana*, New Hampshire*, New Mexico*, North Carolina*, Pennsylvania*, Rhode Island*, Vermont*, Wisconsin*</p> <p>Total: 19</p> <p>*Dependent on age, income level or hardship status, temperature, and/or medical status</p> <p>For more information, see this list of seasonal termination protection regulations.</p>



Table 1 (See sources at Appendix A)

Now that the virus has begun to resurge, layoffs may accelerate as some businesses have been ordered to close again, and the expiration of government benefits, particularly the additional \$600 per week provided to laid-off workers pursuant to The CARES Act, threatens to leave both workers and the economy as a whole in a precarious position.²¹ Until treatment advances and a vaccine is available, Federal Reserve Chairman Jeff Powell predicts the economy will remain unstable.²² The economic fallout caused by COVID-19 will outlast the states of emergency declared across the country and is expected to cause a \$7.9 trillion loss in GDP through 2030.²³ A failure to address the immediate and long term needs of those impacted will exacerbate the structural inequality which has resulted in higher unemployment among people of color, who often lack access to accumulated wealth to fall back on during an economic crisis.²⁴

POLICY RECOMMENDATIONS

The ongoing COVID-19 pandemic requires immediate relief to low-income households as well as structural changes to bill payment for ratepayers. Immediate relief may take the form of debt-forgiveness, bill assistance, fee waivers, and flexible payment plans. Although the moratoria may provide a temporary respite for customers, some shutoff policies do not cover all customers, and may only cover senior citizens, low-income customers, or narrowly-defined rate-payer classes; non-qualifying customers may still be disconnected.

The following recommendations offer an overview of best practices for utility shutoffs during the COVID-19 pandemic.

Structure and Design of Moratoria

Recommendation: Extend the timeline for customer protections, using the on-going public health crisis, rather than time, as a guide.

The moratoria on customer utility disconnection expired in many states throughout the summer months in tandem with a lift on lockdown orders. Both protections were relaxed prematurely, as the number of COVID cases surged and households already experiencing extreme financial distress were impacted once more when states shut down their economies for a second time. For the estimated 16 million low-income households in America that struggle to afford their basic energy needs,²⁵ the financial impacts of the COVID crisis worsen the existing health-related effects of high energy insecurity.

When people cannot afford their energy bills, they cannot maintain a healthy home environment. The American Council for an Energy-Efficient Economy (ACEEE) reports that “experiencing high energy burdens can greatly affect the mental and physical health of families by increasing financial stress, cases of asthma, respiratory problems, heart disease, arthritis, and rheumatism.”²⁶ In a 2016 study conducted by Diana Hernández on the health implications of energy insecurity, one customer described how they adapted to high gas costs that prevented them from turning on the heat in their

home during the winter: “I turn the oven on, which is my electricity. The heat goes through the place like that, and then I cut it off.”²⁷ Another customer related how she maintained fresh food when her utilities were disconnected: “all we did was took a bucket like we were having a cookout. You know those buckets that you use to put sodas and stuff. Put some ice in it, it lasted for a week. Eating sandwiches, takeout. My kids said, ‘Mommy, when they gonna put the gas back so we cook the fish?’ I finally got two checks and turned the lights back on. You gotta sacrifice.”

Maintaining uninterrupted utility service will remain vital for public health and safety until a vaccine for COVID is widely disseminated. States must extend moratorium protection for impacted residents until the public-health crisis has passed. Several states such as Arkansas,²⁸ Hawai’i,²⁹ and Maryland³⁰ tether their moratoria to the length of their governor’s state of emergency, while New York’s³¹ moratorium expires 180 days after the state of emergency has been lifted. Finally, California maintains customer protections through April 16, 2021, when the public health crisis is expected to be abated.³²

Recommendation: Suspend disconnection communications and create a user interface for arrearage management.

As the U.S. approaches the third peak in COVID cases,³³ the rise of unemployment across the nation

rivals Great Depression-era trends. Utility moratoria are an extraordinary policy response to unprecedented pandemic-related hurdles to signal to customers experiencing hardship that they are not obligated to forgo essential needs—such as healthcare, groceries, and rent—to maintain their utility service. Yet, findings from the “Survey of Household Energy Insecurity in Time of COVID” by Carley and Konisky suggest that 2.8 million households received shutoff notices from their service provider between May and August of this year.³⁴ This messaging is confusing to customers and frustrates the moratoria's purpose to alleviate financial hardship when customers remain under the perceived threat of disconnection for their inability to pay. In a 2016 study conducted by Hernández, one customer expressed the difficulty of living with high energy security and the threat of an energy shutoff: “Stress. It adds stress. It's silly sometimes, but I think like, ‘Geez. My lights are gonna shut off.’ Even though I know they won't but even if I'm behind a few days a week I worry. I worry about a lot of things. I do. I mean, I know it won't happen but I worry about it.”³⁵

In the nationwide “Survey of Household Energy Insecurity in Time of COVID,” 19% of low-income respondents indicated that they reduced spending on basic household needs, including medicine or food, to pay an energy bill during the pandemic.³⁶ This pressure to pay might stem from ongoing notices concerning the threat of a shutoff. States must require utilities to cease disconnection correspondence until the moratoria are lifted to effectively implement customer protections. In Massachusetts, for example, the Department of Public Utilities prohibits regulated companies from sending “communications that threaten to shut off gas, electric, or water service to any of their

customers for failure to pay a bill or any portion of a bill” until the Massachusetts state of emergency is lifted or until further notice from the Department.³⁷

Once collections resume, billing information must be accessible to customers through an easily-navigable interface. This may include an online dashboard where customers can monitor their upcoming charges and explore payment plan options. For customers enrolled in an arrearage management program, the utility should delineate on the customer's billing statement the amount that their payment is credited toward reducing their arrearage.³⁸ This effectively communicates to the customer that their participation in the bill-assistance plan is honored by the utility and that they are not at risk of disconnection.

Structure and Design of Arrearage Management Programs

Recommendation: Establish flexible arrearage management programs.

Arrearage Management Programs (AMPs) permit low-income customers with significant past-due amounts on their utility bills to avoid disconnection through affordable payment plans and debt-forgiveness. AMPs establish a levelized monthly cost according to the customer's ability to pay. These lowered fixed energy charges allow customers to contribute to a portion of their utility costs as opposed to typical bill management plans that threaten disconnection for even partial default. In the Hernández study referenced above, one customer detailed, “I can't pay because even if I give them \$80, the bill is \$100, \$120 every month. That's why I give them \$80 'cause I can't pay the whole bill.”³⁹

Under AMPs, the current monthly charges at the new, levelized cost replace the past-due amounts. Over time, as the customer makes timely payments for their current usage under the pro-rated cost, a portion of the customer's past-due amount is canceled.⁴⁰ Typically, AMPs are structured for twelve months, at which time the customer's entire arrearage is forgiven.⁴¹ The debt-forgiveness



aspect of AMPs is unlike typical bill payment plans that tack the past-due amounts onto the current charges. Bill payment plans that charge simultaneously for past-due amounts and the customer's current usage respond to a low-income household's request for bill assistance with bills with even higher costs. As one customer under a typical payment plan stated, "the bill is at \$7000. I told the representative to do a payment plan that is no more than \$60, because I honestly can't pay any more than \$60 plus the regular bill. It's too much for me."⁴² Post-moratoria planning requires creating flexible AMPs, with generous debt forgiveness mechanisms and low levelized monthly payments, for the wide base of customers currently falling behind on their utility bills.

State regulators must respond to the mounting utility debt accrued during the pandemic that is threatening widespread shutoffs to households by establishing a cohesive, state model for utilities to adopt. In June 2020, the California Public Utilities Commission established its first statewide AMP framework for investor-owned utilities to adopt in order to reduce the statewide disconnection rate.⁴³ Low-income customers with more than \$500 in arrears are automatically enrolled and become eligible to receive total debt-forgiveness after twelve on-time payments.⁴⁴ In Massachusetts, the Department of Public Utilities updated the state's existing AMP guidelines to alleviate customer hardship as a result of COVID-19. The recent order waived late fees for AMP customers, increased the total arrearage amount that is eligible for debt forgiveness, and extended the repayment period from four months to twelve months.⁴⁵

Recommendation: Reduce administrative barriers to enrollment in AMPs and allow self-certification of economic hardship.

Existing AMPs are often targeted to recognized low-income customer classes. For example, customers in Maine must be eligible for LIHEAP assistance to qualify for AMP enrollment.⁴⁶ However, many new customers have unexpectedly experienced a sudden loss of livelihood, and they lack adequate documentation of their salary changes since the 2019 tax year to demonstrate their

financial hardship and qualify for other assistance programs. Thus, states must reduce the administrative barriers to enrollment by allowing customers to self-certify their need. For example, in order to qualify for Alaska's COVID-19 customer protections, customers must only provide a signed statement to their utility provider that they are experiencing financial hardship related to the COVID-19 emergency.⁴⁷ California provides that, "all customers, even those who are not identified as low-income and have not self-certified that they are low income, should be offered payment plans that extend for at least 18 months" for post-moratoria collections.⁴⁸ States should adopt similar policies that expand the reach of AMPs by lowering administrative barriers to entry. This will allow for maximum protection of customers facing sudden economic hardship.

Recommendation: Remove punitive program terms for missed payments.

Customers benefit from AMPs when they have fallen behind on their utility bills due to inconsistent or low earnings. Yet, many AMPs penalize these customers for the very income status that qualified them for assistance. Current AMPs usually have harsh conditions against missed payments and disallow reinstatement in the program after a customer has defaulted. For instance, in Maine, customers enrolled in the AMP are allowed a maximum of two default payments, at which time "the customer is no longer eligible to participate in the AMP, even if the Defaults are cured."⁴⁹

Post-moratoria, customers will continue to experience unpredictable financial hardships that will interrupt their timely arrearage payments. As a result, regulators must remove punitive program terms and instead create flexible responses to defaulted payments that welcome customer reinstatement. As a model, utilities in Iowa are required to respond to missed customer payments by offering a new payment plan for customers that have made at least two consecutive payments.⁵⁰ Massachusetts removed its punitive terms and now allows customer reenrollment "at any time following a missed payment under an AMP, regardless of the timeframe of any successful prior participation."⁵¹

LOOMING CRISIS: THE PROJECTED FUNDING SHORTFALL FOR CUSTOMER PROTECTION PROGRAMS

The residential electricity sector alone could face as much as \$18 billion in arrearages nationwide due to COVID-19.⁵² The specter of lost revenue poses an extraordinary cost for utilities. Many state public utility commissions are buttressing the massive arrearage costs borne by service providers through emergency relief bills. The Missouri Public Service Commission has approved \$3.5 million to Ameren Missouri, an investor-owned utility serving 1.28 million Missouri customers, to be allocated for low-income bills assistance.⁵³ Likewise, the New York Public Service Commission has approved New York City's \$70.56 million emergency relief budget to support Con Edison, the largest investor-owned utility in the country, to bolster its existing low-income bill discount program.⁵⁴ Some utilities, such as FirstEnergy Corp., are relatively insulated from revenue shortfalls. In Ohio and Pennsylvania, for example, "FirstEnergy's companies have the ability to add riders to rates in order to charge all of its customers for what may become uncollectible expenses from unpaid bills during the pandemic." The utility's regulator in Maryland also issued an order allowing the company to "defer for future recovery all prudent, incremental COVID-19 related costs."⁵⁵

The magnitude of this problem is expected to increase in the coming months, and regulators must cap the amount of debt that service providers are permitted to accrue for customer non-payment. Authorizing residential electric utilities to write-off the full \$15 billion in arrears that have accumulated as a result of the pandemic will only allow losses to be absorbed by all ratepayers in the form of hiked energy costs in future rate cases. More study is needed to evaluate the full range of options available to policymakers to manage this pending utility debt crisis, but regulators and consumer advocates must exercise vigilance to monitor utility companies' commitment to creating just, equitable responses to customers hardship during post-moratoria bill collections, and approve arrearage cost-recovery through energy charges accordingly.

CONCLUSION

The pandemic-induced economic crisis has led to a range of approaches to protect vulnerable ratepayers from utility shutoffs. This brief sets forth a set of policy recommendations for policymakers and advocates concerning utility shutoffs and consumer protections in the midst and the wake of the COVID-19 pandemic. Based on the best practices gleaned from policy, legislative and executive actions around the country policymakers should take the following approach to utility shutoff moratoria:

1. Design moratoria to eliminate shutoffs throughout the ongoing economic crisis induced by the pandemic;
2. Eliminate utility disconnection notices during utility shutoff moratoria and increase customer access to arrearage information; and
3. Institute flexible AMPs to lower overall monthly energy costs and provide a reasonable pathway to expunge customer debt, reduce barriers to participation in payment plans, and eliminate punitive provisions for missed payments.

The vulnerabilities in the energy system revealed by the pandemic expose the need for lasting, equity-centered reforms, but in the interim, the foregoing policy approaches could help to mitigate the pandemic's impacts on the nation's most vulnerable people.

APPENDIX A - LINKS TO ADDITIONAL STATE INFORMATION

[Alaska - Senate Bill No. 241](#)

[Arkansas - PUC Order, Executive Order](#)

[California - Utility Consumer Protections During California COVID-19 Outbreak](#)

[Colorado - DRA Press Release](#)

[Connecticut - PURA Website](#)

[Delaware - Declaration of a State of Emergency: Eighth Extension, Twenty-Third Modification](#)
[Georgia - PSC Order](#)

[Hawaii - PUC COVID-19 Information](#)

[Illinois - ICC Press Release](#)

[Indiana - IURC COVID-19 Investigation](#)

[Iowa - Iowa Utilities Board, Docket SPU-2020-0003](#)

[Kansas - Kansas Corporation Commission, Important Notices related to COVID-19](#)

[Kentucky - Kentucky's Response to COVID-19](#)

[Louisiana - PSC Special Order 43-2020](#)

[Maine - PUC Press Release](#)

[Maryland - PSC Order No. 89636](#)

[Massachusetts - Frequently Asked Questions about Electric, Gas, and Water Utilities during COVID-19](#)

[Minnesota - PUC Order Establishing Peacetime Emergency Requirements and Modifying Reporting Requirements, Emergency Executive Order](#)

[Montana - Governor Directive](#)

[New Hampshire - Commission Actions Relative to COVID-19](#)

[New Jersey - Press Release: Executive Order Extended](#)

[New Mexico - Summary of State Utility Shut-off Moratoriums due to COVID-19](#)

[New York - Senate Bill S8113A, Executive Order No. 202.72](#)

[North Carolina - Order Lifting Disconnection Moratorium and Allowing Collection of Arrearages Pursuant to Special Repayment Plans](#)

[Pennsylvania - PUC Motion](#)

[Rhode Island - RIPUC](#)

[South Carolina - PSC Order 2020-374](#)

[Tennessee - TPUC Press Release](#)

[Texas - PUC Press Release](#)

[Vermont - PUC Press Release](#)

[Virginia - State Corporation Commission Order](#)

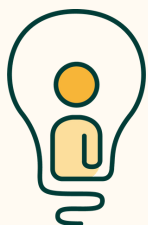
[Washington - UTC Press Release](#)

[Wisconsin - PSC Press Release](#)

ENDNOTES

Acknowledgements

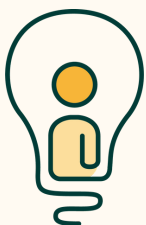
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the COVID moratorium expired on October 31st, and winter protections went into effect the next day and will last through May 1st. In Wisconsin the COVID moratorium expired on November 1st, the same day that winter protections began. Winter protections in the state will last through April 15th. In Maine, customers were left unprotected for fifteen days as the COVID moratorium expired on November 1st, while winter protections did not go into effect until November 15th and will last through April 15th. For more information on state disconnection policies, see:
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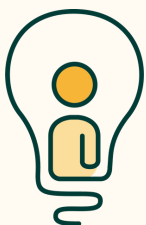
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