March 2017

LIGHTS OUT IN THE COLD

Reforming Utility Shut-Off Policies as If Human Rights Matter

Environmental and Climate Justice Program, NAACP

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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 UNINTERUPTED 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.

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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 advisory[15] 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]

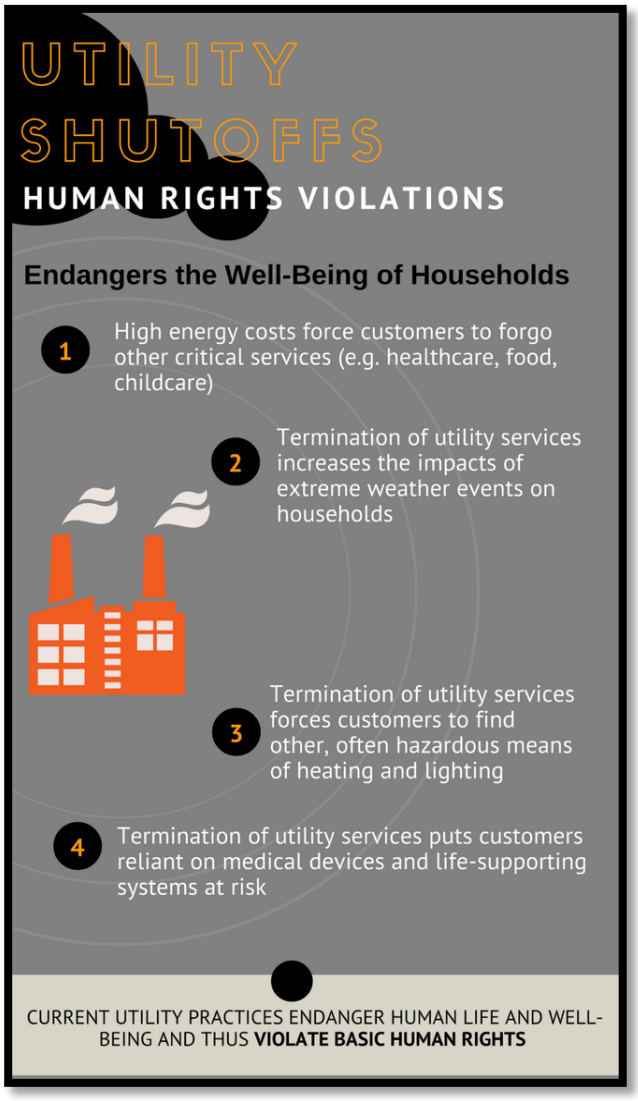
Nationwide, annual temperatures have been rising over the past 50 years.[18] The hottest parts of the country, including Texas, the Southwest, and Florida have already experienced large increases in extreme heat days, including days over 90°F, 95°F, and 100°F. Extreme heat when paired with rising humidity 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 Commissions[29] 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.

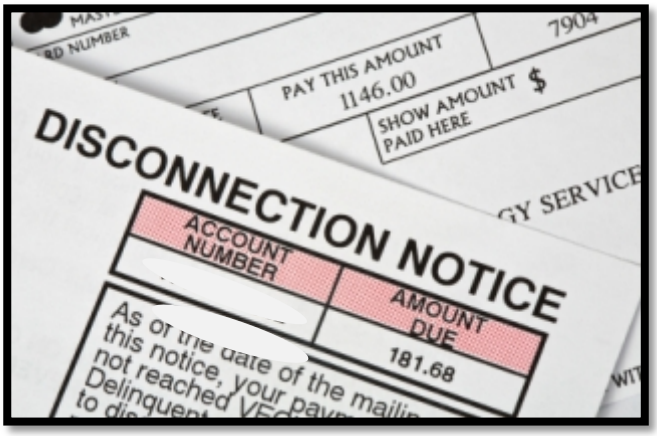
DISCONNECTION POLICIES AND THEIR REGULATION

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 polices, 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.

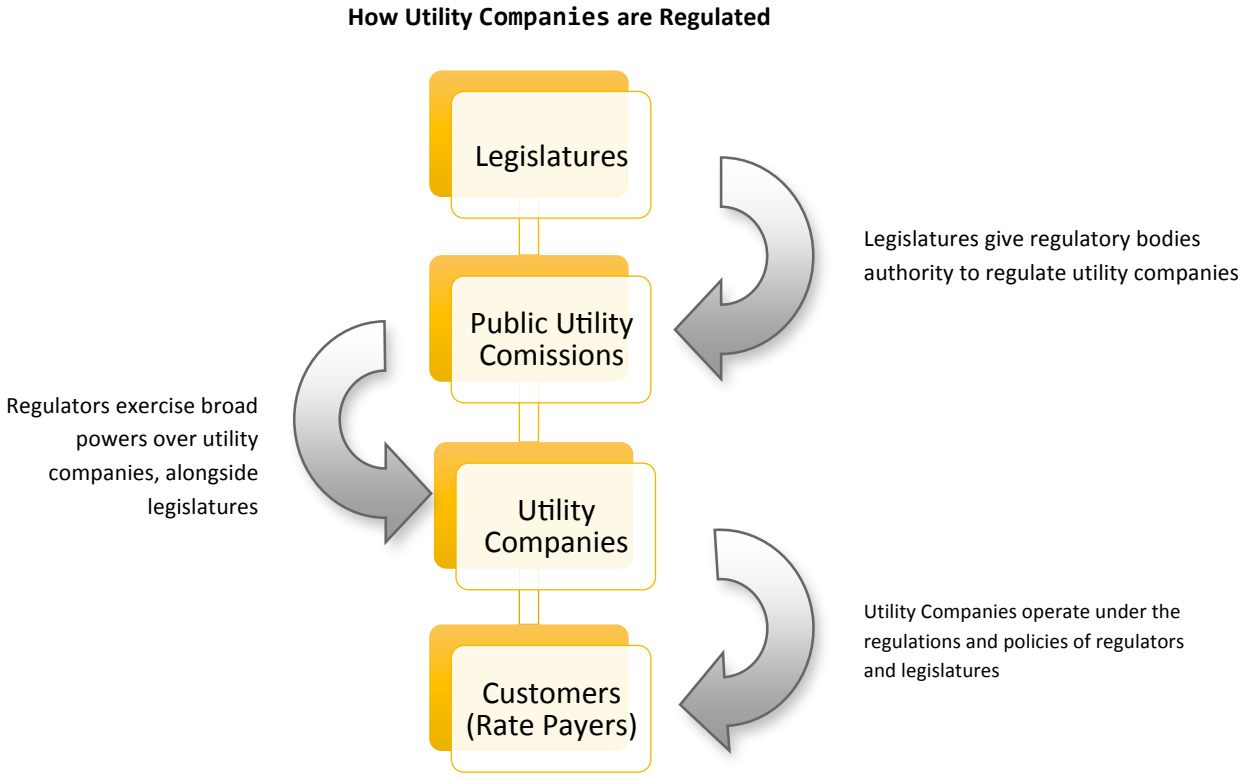


Figure 1. How Utility Models are Regulated: The Traditional Model

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

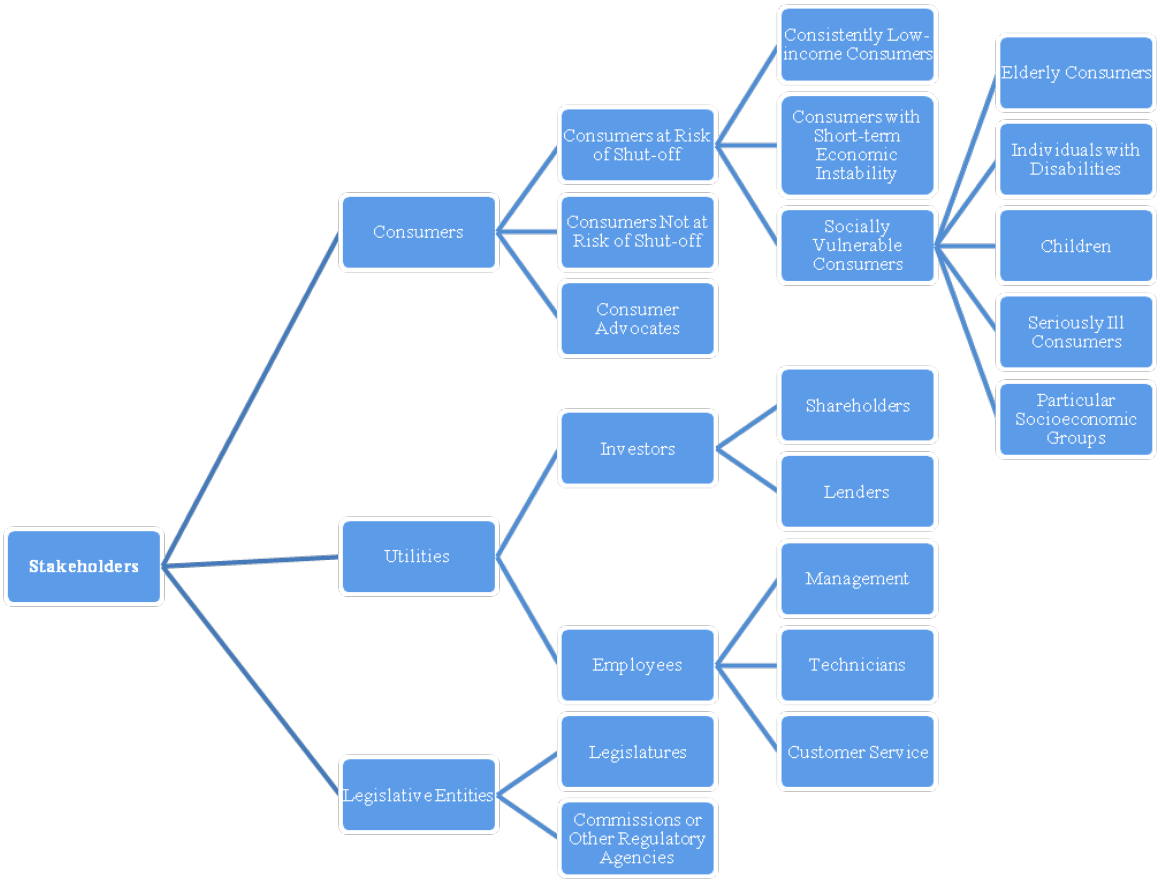


Figure 2. Stakeholders in utility disconnections

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 Sylvan[59]

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

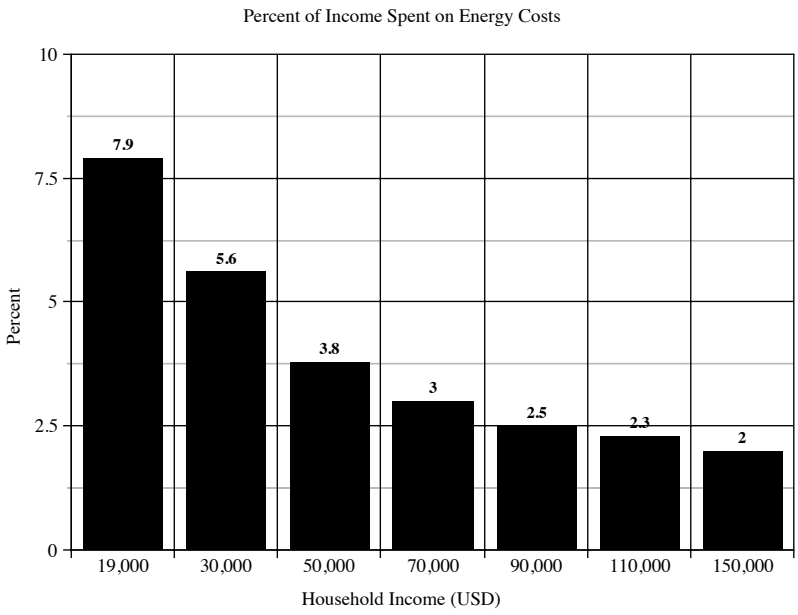


Figure3. Household Energy Burdens by household income

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 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.

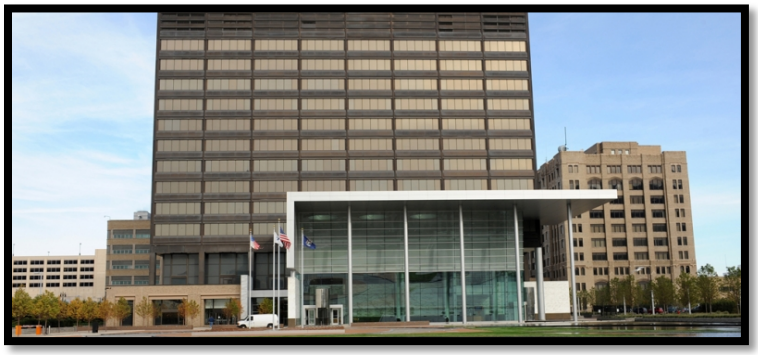
Disconnections due to nonpayment occur in significant amounts, and are on the rise in some areas.[66] In Ohio, four gas and electric companies serving the Cleveland area reported 169,521 service disconnections due to nonpayment during the twelve months between June of 2014 and May of 2015 (Table 2).[67] 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]

"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)

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.

A family sits and waits as emergency respondents extinguish the flames
Source: Denver Post

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 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).

Louisville, KY November 15, 2016: House Fire caused using space heater
Source: WLKY, Kentucky

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 notice and associated fees.

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]

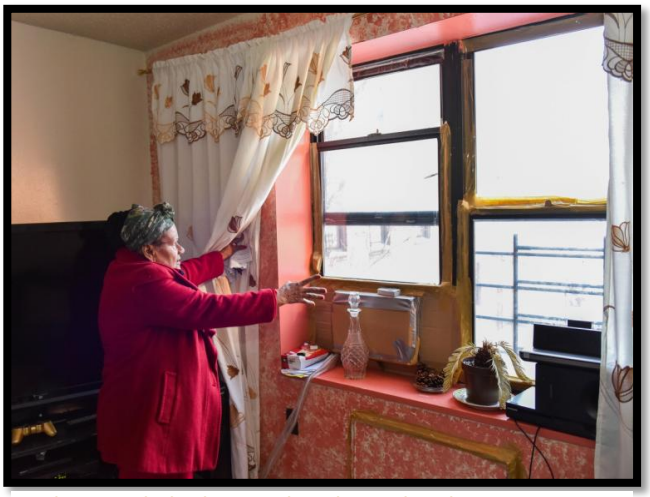
House fires can start from even a lit candle when used for heating and light in a home

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 polices 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

> **"[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 Egland, Member, National NAACP Board of Directors*

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]

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 polices are key examples of what utilities can do to provide more protective disconnection polices. 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

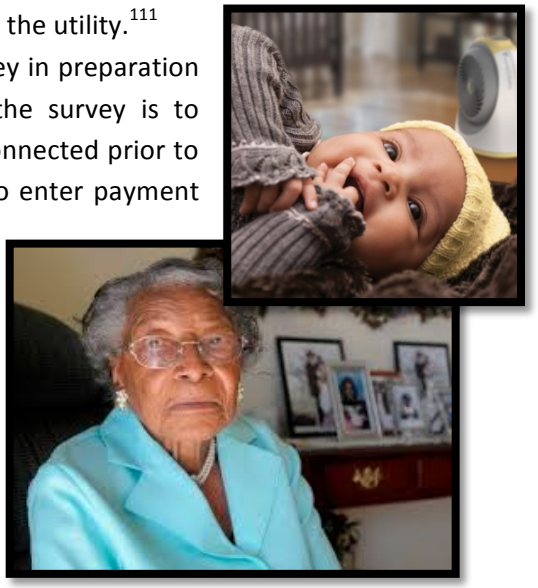
- Arkansas does not charge disconnection fees for water, gas, or electric utilities.[107]

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



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

on a similar model in Massachusetts.[115]

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 bares 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.

Bill assistance programs are often the first solution at risk customers use to avoid utility disconnections
Source: La Casa De Don Pedro

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

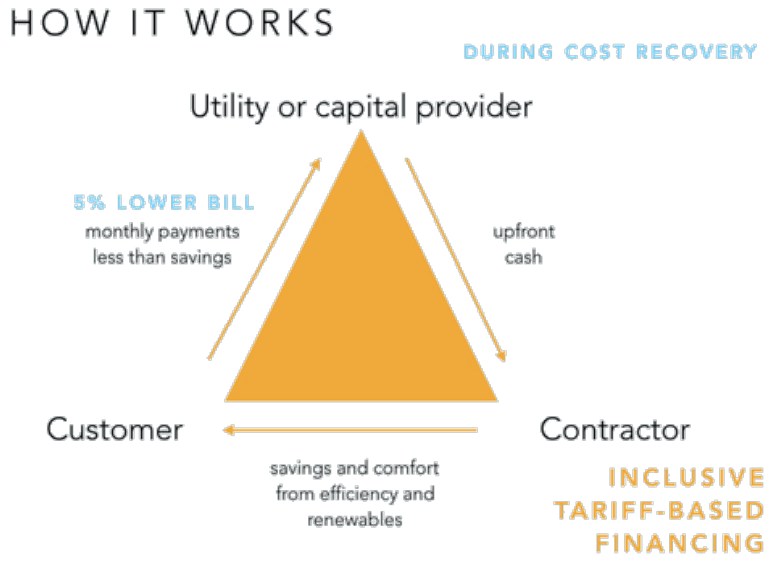


Figure4. Inclusive Financing Model, Source: Local Self-Resilience Energy Democracy Initiative

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.

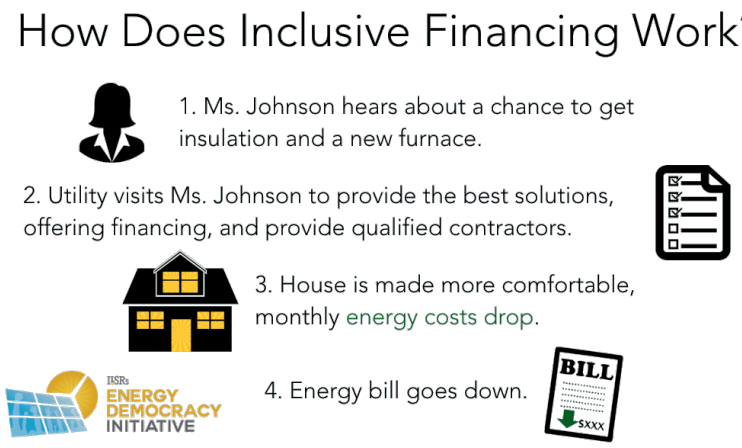


Figure 5. Simple overview of how inclusive financing works

THE NEED FOR UNITERRUPTED 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 Right 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 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.

Source: People over Profit, twitter.com

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.

RECCOMENDATIONS 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

RECCOMENDATIONS 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.

RECCOMENDATIONS 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 Secretary[139]

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;

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

PAYMENT ASSISTANCE

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

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.

RECCOMENDATIONS 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.

RECCOMENDATIONS FORPUBLIC 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

RECCOMENDATIONS 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.

RECCOMENDATIONS 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.).

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

Advocates of the George Wiley Center, RI
Source: George Wiley Center

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 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/

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 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 sector, by transitioning power to the people and anchoring the change in increased energy efficiency distributed generation of clean energy.

There is an opportunity to reinvent this sector, to create a shared economy and keep this money in the hands of citizens. Some individuals, households, and communities have begun to move toward energy sovereignty. Stories such as Amy Mays, (see story on Page 33, *From Persecuted by My Utility to Powered and Empowered by the SUN!)*, provide an example of what can be. It is time for a Just Transition to localized economies, grounded in ecological stewardship, community wellbeing, democratic decision-making, and locally control resources (Figure 6). [142]

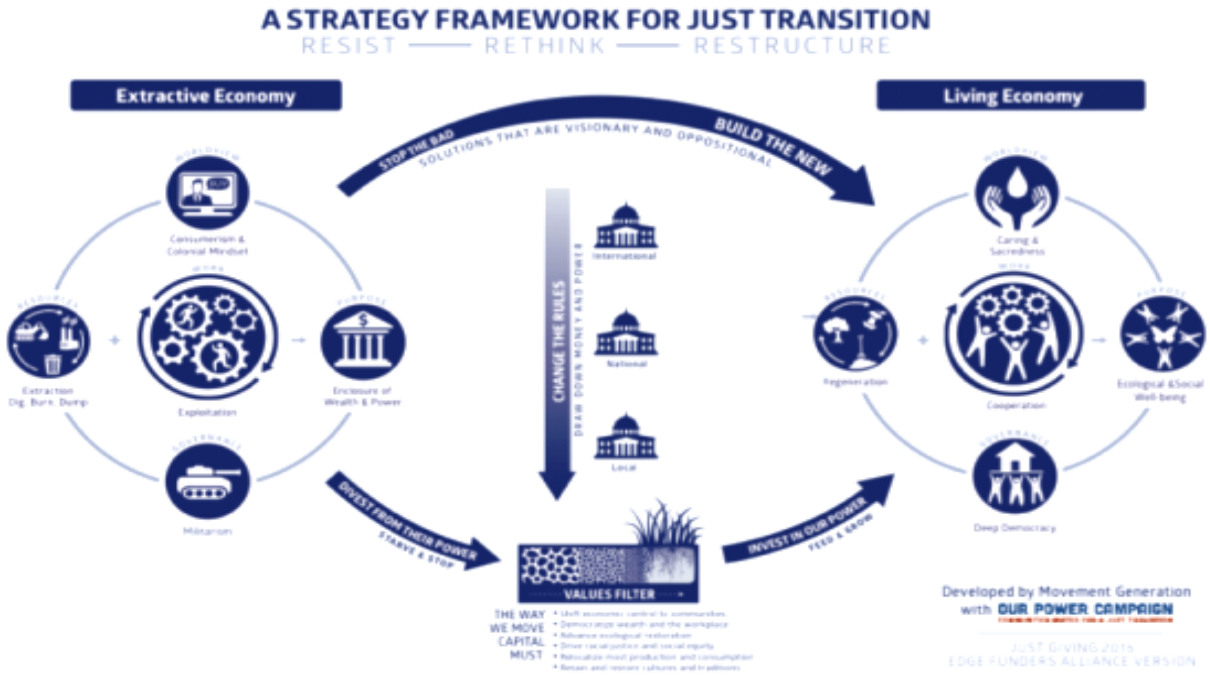


Figure 6. A Just Transition, Source: Our Power Campaign, Climate Justice Alliance

VISION IN ACTION

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

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

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!


NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
NAACP
FOUNDED
1909