

Billing Problems and Dispute Resolution

When a utility’s billing practices are inaccurate or unfair, residents can receive outside water bills that don’t reflect their actual usage. Incorrect bills can lead to shutoffs, liens, and other debt collection actions if the utility’s processes for disputing charges are not fair and accessible or if customers are unaware of the discrepancy.

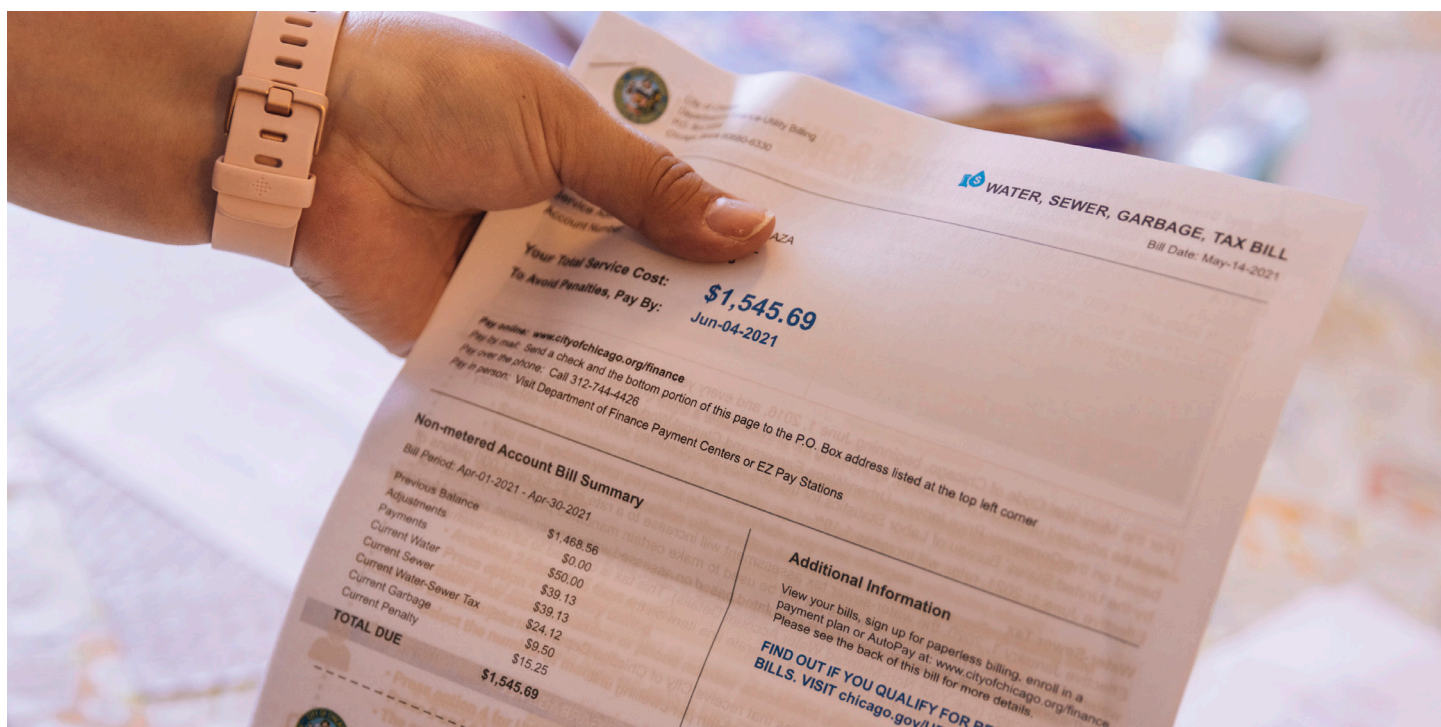
When many customers are receiving inaccurate bills, it is often a sign of deeper problems. Widespread billing issues can cause distress within affected communities and contribute to community-level unaffordability. They can also affect the utility’s ability to maintain a stable and predictable revenue stream and to continue providing safe and reliable service.

This module first identifies common billing issues and unfair practices. It explores problems an individual household may experience, including challenges related to inaccurate water meters; unmetered billing; billing that is “bundled” with other, non-water services; and billing issues of specific concern to tenants who are not direct customers of the water utility. Then, this module moves on to larger, systemic issues that can occur with water billing, with a focus on creating fair and accessible dispute resolution

processes. Throughout, the module identifies potential solutions and best practices to deal with specific water billing problems.

SOLUTIONS AND TOOLS EXPLORED IN THIS MODULE:

- Spotting common issues and unfair practices that can result in overbilling
- Preventing shutoffs when water bills are combined with billing for other city services
- Preventing abusive or unfair billing of tenants by landlords
- Fixing systemic billing problems that lead to excessive bills
- Creating clear, fair, and accessible dispute resolution processes



© Taylor Glascock for NRD/C

WHEN AN INDIVIDUAL WATER BILL SEEMS TOO LOW OR TOO HIGH

There are usually rules that govern what happens when water meters are inaccurate. State utility commissions may establish these rules for the utilities they regulate; for municipal or cooperative utilities, they may be set by local lawmakers or the utility itself.

Inaccurate meters may be too slow or too fast, both of which may cause problems for a household.

Slow meters: If a household hasn't reduced its water usage but a reading indicates that less water was used than in prior readings, the meter could be slow. The risk is that the utility will later back bill the water customer for the difference and the amount will be unaffordable. While utilities are usually allowed to back bill when a customer has been underbilled, there may be rules that limit how far back in time the billing can be adjusted. Water customers who face an unaffordable back-bill charge should ask for a reasonable payment plan. (See the Water Debt module for more information on payment plans.)

The water utility is responsible for ensuring accurate meters, so if the period allowed for back billing is unreasonable (say, several years) or there is no limit at all, this could be an area for advocacy. For example, advocates could push to shorten the period for back billing and to require the utility to offer affordable payment plans in those circumstances.

Fast meters: Similarly, if a household hasn't increased its usage since the last bill but the current one shows there has been an increase, the water meter may be fast. The risk here is that the consumer is being overbilled. Water customers can usually request that the water company test the meter. If the meter is fast, the customer should be credited for overpayments.

PROTECTION FROM DISCONNECTION WHEN THERE IS A GOOD-FAITH DISPUTE

A standard practice in utility consumer protection is to exempt the customer from disconnection during a good-faith dispute over the bill. Otherwise, a customer may lose access to essential utility service only because of the utility's billing or metering mistake. Where this rule exists, consumers are often required to pay the portion of the utility bill that isn't under dispute. For more on disconnection protections, see the Water Shutoffs module.



© Brian Maranan Pineda for NRDC

PROBLEMS WHEN WATER ISN'T METERED OR IS ESTIMATED

There are still places where homes are not individually metered (issues specific to rental units are discussed later in this module). Unmetered households are still billed, but the bill is estimated instead of being tied to actual usage. This can result in an unfair situation in which bills are higher than if a home were metered. In Chicago, for example, non-metered accounts are charged a flat rate based on factors such as building size, lot size, and plumbing fixtures. The average unmetered single home in Chicago is estimated to pay 25 percent more than a metered home, and the difference is even greater for two-flat properties.¹ Chicago is restarting its program to install free water meters. The program was put on hold due to concerns that installation of the meters could exacerbate lead levels in the water by disturbing service lines.²

In addition, unmetered billing can inhibit water conservation efforts. There is less incentive to install water efficiency measures or invest in water-efficient appliances if these actions do not lead to lower water bills.

In some places, water service is metered, but the utility will read the meter only every few billing cycles (for example, quarterly). The utility will then "true up" the difference between the estimated bills and the household's actual usage. If the estimated bills are too low, this can create problems similar to those caused by slow meters, with the household back billed for an unaffordable amount. As with slow meters, this problem can be addressed through consumer protection rules that limit back billing and require the utility to offer affordable payment plans.

QUESTIONS TO CONSIDER:

As you develop a water affordability advocacy plan, answering the following questions may help you identify issues to address concerning billing problems and bill dispute resolution processes.

- Does your utility use estimated billing or actual meter readings (or both) to calculate bills?
- How does your utility deal with inaccurate bills? Can customers get a refund if overcharged?
- How far back can your utility back bill customers when it undercharges them? Can customers get a reasonable payment plan to pay back-billed charges?
- Does your utility bundle multiple charges together (e.g., water, electric, solid waste)? What happens if a customer can afford to pay only a portion of the bill?
- Does your state or city regulate how landlords bill their tenants for water?
- Have multiple people in the community received inaccurate bills? Have inaccurate bills led to disconnections or other hardships?
- What is the process for disputing a bill? Is it easy to find and fair to the customer? How does the utility notify customers about this process?
- Who decides the outcome of billing disputes? How do you appeal a determination?
- Do tenants have a way to appeal bills paid to a third party (such as a property management company that generates water bills using a formula)?

AFFORDABILITY PROBLEMS WHEN THE WATER BILL INCLUDES OTHER UTILITIES AND SERVICES

One problem that is difficult to fix—but incredibly harmful for struggling households—can arise when a municipality bundles multiple services on one bill.³ For example, the water bill might also include electricity service, natural gas service, solid waste disposal, or any other services provided by the municipality. (In some cases, it may not even be apparent what portion of the combined bill is for water and sewer service.) Because a combined bill is much larger than just a water bill, it may be more difficult for some customers to pay all charges at once, increasing the risk of losing water service.

For example, a white paper from Arizona State University reports that in Phoenix, “the average residential customer pays approximately \$55 per month for water and sewer services but is charged nearly double that on the City Services Bill because solid waste and various other services and taxes are included in the bill.”⁴ In Phoenix, all city service charges are due when billed. When a customer fails to pay the bill in full, a 3 percent late fee is assessed and at some point a customer will be disconnected from water altogether if the combined bill is not fully paid.⁵

There are other places, too, where water has been disconnected for nonpayment of a bill for combined city services, or even where a city refuses to restore water service unless a customer pays off both an overdue water

bill and other, unrelated debt, such as parking tickets and library fines. In LaGrange, Georgia, the Georgia State Conference of the NAACP and others sued the city of LaGrange over the discriminatory impact of policies that put conditions on the ability to start or maintain water service if there were unrelated debts owed to the city (e.g., unpaid traffic tickets), arguing that the policy disproportionately harmed Black residents. The 11th Circuit held that the Fair Housing Act challenge could proceed, and the city settled soon thereafter.⁶ The settlement removed the city’s ability to condition utility service on the payment of nonutility debt; it also removed all existing nonutility debt from all city bills and voided all payment arrangements for such debt as of September 9, 2020.⁷ Previously, similar issues had been reported in San Diego.⁸

Perhaps the simplest way to address this problem would be to ban combined billing.⁹ However, this may encounter stiff resistance from municipalities because billing systems can be expensive to purchase or modify. Or municipalities may want to maintain leverage to get residents to pay for other services, and threatening to disconnect water service serves this purpose. Short of an outright ban, one option is to limit the ability of the utility to terminate water service on the basis of non-water charges. A proposed law in California would prohibit utilities that use combined bills from terminating water service “if the customer has paid an amount equal to or greater than the monthly charge for water service.”¹⁰

Systemic billing problems can lead to shutoffs, liens, and severe economic distress for water customers.

SPECIAL PROBLEM FOR RENTERS AND CONDO OWNERS WHEN A THIRD PARTY GENERATES THE WATER BILLS

Multifamily rental buildings, especially older ones, are less likely than single-family homes to have individually metered units for water service because submetering is often too expensive. (This can also be the case in some condominiums.) In this situation, the landlord/property owner is the customer of the water utility, not the renter. In some of these cases, the landlord may hire a third-party billing company to prepare water bills for the renters. Third-party billing companies base each renter's water bill on a formula rather than actual usage, a practice sometimes called ratio utility billing. The formula may be based on any number of factors, including the number of residents in the unit, the square footage, or the number of bathrooms and/or water fixtures.

The use of ratio utility bills (RUBs) can raise problems for renters.¹¹ First, depending on the formula, a renter who uses little water may be unfairly charged the same amount as (or potentially even more than) other renters who use much more. Second, if the formula for calculating bills is not transparent, it can be difficult to tell if the charges are reasonable—that is, if the landlord and third-party billing company are collecting only enough to cover the landlord's water bill plus a reasonable administrative fee. Third, renters may not be able to effectively dispute their bills. For example, they may not know basic information such as where to go to dispute a water bill, what remedies (if any) are available, or whether nonpayment of a water bill will be treated like nonpayment of rent.

Curbing abuse by landlords and third-party billing companies may require legislation or regulation to address the problem.¹² Some municipalities have passed ordinances that protect tenants from unfair and deceptive RUB practices and provide clear avenues for disputes.¹³ Advocates helping renters who suspect their landlord may be abusing RUBs should consider seeking help from tenant advocacy organizations or legal services housing experts.¹⁴

WHEN THE BILLING PROBLEM IS SYSTEM-WIDE

When multiple members of a community experience the same billing issue at the same time, this could be a sign that there are larger system-wide problems. Systemic

overbilling can also contribute to unaffordability at the community or utility-wide scale and lead to stress, economic hardship, and disconnections.

Large-scale billing problems are surprisingly common. In San Diego, years of unexplainably high bills affecting almost 2,750 customers led to an audit of the city water utility's metering and billing system. The 2018 audit report found that 10 meter readers accounted for 71 percent of the erroneous water bills.¹⁵ In response, San Diego decided to move to "smart" water meters—also called advanced metering infrastructure (AMI)—to automate meter readings. However, the new meters the city purchased from Mueller Water Products, based in Atlanta, were defective.¹⁶ As of May 2020, only about 6 percent of San Diego's water meters had been replaced by functional AMI meters, but the costs for the meter replacement had ballooned by tens of millions of dollars.¹⁷

Similarly, in Baltimore, the city water department struggled for more than a decade with serious billing problems. In 2018 the Baltimore Department of Public Works issued 566 "erroneous inflated" water bills, most for more than \$50,000. And this wasn't the first systemic issue in the city. In 2012 the local news highlighted the plight of outraged homeowners about to lose their homes over water debt of as little as \$530—even as the homeowners argued that the underlying water bills were erroneous.¹⁸ After a comprehensive audit in 2012, the city refunded \$4.2 million to 38,000 households for overbilling between 2009 and 2012. (A subsequent audit found further errors, which were never refunded.) Since then, the city has invested more than \$130 million into developing an upgraded digital metering system. However, a recent audit report found that tens of thousands of the new water meters in the city and county were not fully functional, and the city had not resolved more than 8,000 open tickets about water account problems, many of which had been open for years.¹⁹

In Pittsburgh, cutbacks to the city water utility's account management staff and metering systems led to wide-scale billing errors, with some bills showing increases of 600 percent. The errors led to missed payments and shutoffs, particularly in majority-Black neighborhoods.²⁰ These large-scale billing problems have led to community-driven campaigns for change.

CONFRONTING WATER BILLING ISSUES IN DEKALB COUNTY, GEORGIA

DeKalb's water utility replaced its water meters, and soon thereafter many water customers received dramatically larger water bills. In 2016 DeKalb water customers formed a Facebook group to compare high water bill experiences in an attempt to understand what was going on. Membership grew rapidly, from 450 to more than 2,000 within months. Patterns started to emerge as residents shared their stories about malfunctioning meters, billing anomalies (with bills as high as \$5,000 and \$22,000), and terrible customer service. Moreover, there was no functional and civil way to dispute a water bill. DeKalb Water Watch organized a town hall meeting on the water billing problems, and media coverage followed.²¹ It turned out there were problems with the meters, and the utility imposed a five-year disconnection moratorium to address the meter and billing issues. An independent audit of the water metering and billing processes, technologies, controls, and personnel eventually identified numerous problems causing the inaccurate water bills, including lack of coordination among departments, manual processes prone to human error, poor oversight of the contractors installing the meters, overreliance on temporary workers with high turnover, and limited procedures for correcting bills, among others.²²

As these examples suggest, systemic billing issues can be challenging to address. The root causes of inaccurate billing can be complicated and may include software or billing process errors, dysfunctional governance, staffing problems, equipment failure, and more. Fixing the issue may require the utility to make expensive investments in upgraded infrastructure or software systems, which can create entirely new problems if the process is not managed properly (as in the San Diego and Baltimore examples outlined above).

To begin to address systemic billing issues, advocates may first need to convince the utility and/or regulators that there is a problem. To do so, it can be immensely helpful to gather data on the number of billing complaints, the number of disconnection notices and shutoffs, and where they are occurring. (Ideas and tools for how to do this are covered in the module on Data Collection and Transparency.) Gathering stories about inaccurate billing and how disputes have been handled (or not) is also important. In Baltimore, for example, media reports covering a local church that was repeatedly and egregiously overbilled prompted outrage and helped get the issue on the City Council's agenda.²³

Putting pressure on government officials to hire an independent auditor can be an effective tactic. This puts the onus on local officials to investigate the root causes of a billing problem. However, it is important to maintain public pressure and scrutiny during the audit process, to ensure that the audit is fair and that proposed solutions are responsive to community needs.

Community organizers can also consider demanding a prohibition on shutoffs while a problem is being investigated and fixed. Customers will likely be held accountable for any water arrearages or debt that grows while shutoffs are suspended, however, so paying what they are able during this time can help avoid a very large water bill once regular collection practices start again.

Sometimes, even repeated investigations and attempts at reform will fail to fix the problem. In such cases, making

progress may require creative advocacy. In Baltimore, for example, after investments in new metering infrastructure failed to fix longstanding billing issues at the city Water Department, advocates mounted a successful campaign to reform the department through legislation. Among other changes, the Baltimore Water Accountability and Equity Act, enacted in 2020, creates a new Office of Water-Customer Advocacy that is responsible for collecting data on billing issues and customer complaints, investigating systemic problems, and recommending reforms. The law also establishes an independent appeals process to handle billing disputes.²⁴

UTILITIES CAN OFFER BILL TIMING OPTIONS TO FACILITATE ON-TIME PAYMENT

Some water utilities offer billing options that are designed to make it easier for households to pay regular utility bills on time without reducing the total amount billed. For example, some utilities allow customers to change the timing and frequency of their bill, which can help consumers better match their expenses to their regular payday, avoiding cash flow problems.²⁵ In addition, leveled billing options allow a household to elect to receive a consistent water bill every month based on its average monthly usage, increasing predictability and helping to eliminate "bill shock" on a month-to-month basis.²⁶

DISPUTING A WATER BILL (NOTICE AND AN OPPORTUNITY TO DISPUTE A BILL)

The process for disputing a water bill will vary by utility. Unfortunately, some water utilities may not make it easy to find instructions on how to dispute a bill or may not even have specific rules or processes for doing so. This is especially common among utilities that are not commission-regulated, such as most municipal utilities. (Tips on finding your utility's consumer protection rules are provided in the Water Shutoffs module, in the text box "Finding Your Water Utility's Consumer Protection Rules.")



Having clear, fair, and accessible processes for disputing a water bill is a critical consumer protection. Furthermore, under the Due Process Clause of the U.S. Constitution, customers of publicly owned water utilities (e.g., municipal utilities) are entitled to adequate notice of a disconnection and an opportunity to fairly dispute the charges.²⁷ In some circumstances, these constitutional protections may also apply to privately owned utilities—for example, when the rules for dispute resolution are set by the state utility commission.²⁸

If your water utility does not have specific rules and procedures for disputing a water bill, or if the process is inadequate, creating a fair and effective dispute resolution process could be an important advocacy goal. To start, it may be helpful to look at the dispute resolution rules for nearby water companies in the state, as well as the state public utility commission's rules for private, investor-owned water companies and/or electric and gas companies. Commission-regulated electric utilities are particularly likely to have long-standing dispute resolution rules that can be used as models by advocates seeking to institute a new or improved process.

LITIGATING DUE PROCESS RIGHTS

In recent years, civil rights organizations have brought cases in several jurisdictions challenging utilities' poor notice procedures and lack of a meaningful opportunity to challenge a water bill and alleging disproportionate harm to communities of color from water utility debt collection policies and practices.²⁹

In 2019, for example, the NAACP Legal Defense Fund filed a case on behalf of Black residents of Cleveland, Ohio who alleged that they had been overbilled for water service, leading to service disconnections. Among other claims, the lawsuit alleges that although Cleveland Water has a process for customers to dispute their bills before a Water Review Board, the utility does not typically notify customers of this right. As a result, the lawsuit alleges, the city did not provide a reasonable opportunity for the residents to dispute their water bills, a violation of their due process rights under the 14th Amendment. In a preliminary ruling, a federal district court denied the city's motion to dismiss, citing not only the city's own municipal code requiring 15-day advance notice of shutoffs, but also a 1987 consent decree that established certain shutoff notice and dispute resolution requirements in order to protect due process rights.³⁰

Baltimore offers an example of a place where advocates secured a detailed dispute resolution process through adoption of a new local law. The process includes initial review by an Office of Water Customer Advocacy within the utility and an opportunity for appeal to an independent board.³¹

Advocates may want to consider not only a local approach to improving dispute resolution processes, but also a statewide legislative approach to establish uniform minimum requirements for all water utilities. For example, California's Water Shutoff Protection Act requires all water utilities with at least 200 service connections to make available (including on the utility's website, if one exists) a written policy on disconnection for nonpayment. Each utility's policy must include a "formal mechanism for a customer to contest or appeal a bill."³² The law prohibits disconnection for nonpayment while an appeal of a bill is pending.³³ The law does not otherwise specify any required elements of a bill dispute process, however.³⁴

Elements of a strong dispute resolution process include the following:

- Dispute resolution rules and policies should clearly state which department or person is responsible for handling water billing disputes.³⁵ Some utilities have a dispute resolution board that includes customers.³⁶ The process for appealing a dispute outcome should also be spelled out for customers.³⁷

- To ensure customers are aware of their rights, the rules and procedures for disputing a bill should be included on the customer's regular bill and published online in an easy-to-find location. This information should also be provided on shutoff notices. Materials should be translated into appropriate languages and presented in accessible formats.³⁸
- There should be multiple ways of submitting a dispute, including via toll-free phone number, in person at a customer service center, by mail, or online.³⁹
- A common protection is to prohibit disconnection pending the resolution of a good-faith billing dispute.⁴⁰ For consumers, it is advisable to pay the non-disputed portion of the bill(s) pending the resolution of the good-faith billing dispute, if possible. Some jurisdictions explicitly require this. Paying the non-disputed portion will help keep water debt from growing, and it demonstrates good faith on the part of the customer.
- There should be a reasonable time frame for the dispute to be investigated and a result reported back to the consumer.

KEY RESOURCES:

National Consumer Law Center's "Access to Utility Service" (6th ed.).

"Access to Utility Service" provides a breadth of coverage on utility (mainly energy) billing practices and shut-off protections. The online version of this manual requires a subscription, but you might be able to find a copy in a local law library or legal services office.

ENDNOTES

- 1 Chicago Department of Water Management, “MeterSave Program,” accessed April 13, 2022, <https://www.metersave.org/MeterSave>.
- 2 Fran Spielman, “Chicago to Restart Voluntary Water Meter Installations After Three-Year Pause Amid Concern About Elevated Lead Levels,” *Chicago Sun Times*, May 18, 2022, <https://chicago.suntimes.com/city-hall/2022/5/18/23125361/water-meter-installations-lead-levels-service-lines-chicago-city-program-jan-1-deadline-state-law>. See also Chicago Department of Water Management, “MeterSave Program.”
- 3 Kyl Center for Water Policy at Morrison Institute, *Ten Tenets of Water Equity: Considerations for Community Water Systems*, Arizona State University, April 2021, 9–11, https://morrisoninstitute.asu.edu/sites/default/files/water_equity_2021.pdf.
- 4 Kyl Center for Water Policy, *Ten Tenets of Water Equity*.
- 5 Phoenix City Code, Ch. 37, Art. V, Section 37-88, <https://phoenix.municipal.codes/CC/37-87>; City of Phoenix Water Services Department, *Water Equity Initiative*, June 23, 2020, 5, https://www.phoenix.gov/waterservicessite/MediaAssets/WSD%20Home%20Page/EquityPaper_2020-06-23_Final.pdf.
- 6 Georgia State Conference of the NAACP v. City of LaGrange, 940 F.3d 627 (11th Cir. 2019); Hunter Riggall, “LaGrange Settles Utilities Lawsuit Alleging Discrimination,” *LaGrange Daily News*, November 2, 2020, <https://www.lagrangenews.com/2020/11/02/lagrang-settles-utilities-lawsuit-alleging-discrimination/>.
- 7 For a copy of the settlement agreement as well as other filings related to Georgia State Conference of the NAACP v. City of LaGrange, Georgia, see Relman Colfax, “Case Profiles: Georgia Conference of the NAACP v. City of LaGrange,” accessed May 12, 2022, <https://www.relmanlaw.com/cases-LaGrange>.
- 8 Jeff McDonald, “City Tacks Parking, Library Fines Onto Late Water Bills; Consumer Groups Say Overdue Books Shouldn’t Be Part of Equation,” *San Diego Union Tribune*, May 1, 2016, <https://www.sandiegouniontribune.com/news/watchdog/sdut-water-bills-2016may01-htm1story.html>.
- 9 The U.S. Water Alliance, an influential voice in the water utility sector, recently called for an end to bundled billing of water and other municipal services, arguing that the practice “can contribute to putting essential services out of reach for low-income customers and should not be allowed.” Mami Hara, Renée Willette, and Emily Simonson, “Making Water a Public Good: The Bigger Picture of Water Affordability,” *U.S. Water Alliance*, 2022, <http://uswateralliance.org/sites/uswateralliance.org/files/Making%20Water%20a%20Public%20Good.pdf>.
- 10 Cal. SB 223 (2021–2022 Reg. Sess.), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=20210220SB223. This bill would add a specific provision on combined billing to the state’s existing Water Shutoff Protection Act, which provides standard safeguards against disconnection for all water customers of water utilities with 200 or more service connections. Utilities that bundle multiple services on one bill already must comply with existing law (as there is no exception for them), but the proposed amendment would provide a more specific rule in such cases. For more on the Water Shutoff Protection Act, see the text box, “California’s Water Shutoff Protection Act,” in the Water Shutoffs module.
- 11 See, e.g., Jennifer Wadsworth, “San Jose City Council to Vote on Key Changes to Local Rent Laws,” *San Jose Inside*, April 23, 2018, <https://www.sanjoseinside.com/news/san-jose-city-council-to-vote-on-key-changes-to-local-rent-laws/>; Jody Meacham, “Grappling With Soaring Housing Costs, San Jose Again Enacts New Rules for Apartment Landlords,” *Silicon Valley Business Journal*, April 25, 2018, <https://www.bizjournals.com/sanjose/news/2018/04/25/san-jose-apartment-rental-laws-control-utilities.html>.
- 12 San Jose Municipal Code tit. 17, ch. 17.23, pt. 3, 17.23.315, https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT17BUCO_CH17.23REDIMEARDWUNEXMOMOPA_PT3INREREINPEHEPR.
- 13 Seattle Mun. Code tit. 7, ch. 7.25, https://library.municode.com/wa/seattle/codes/municipal_code/281112?nodeId=TIT7COPR_CH7.25THPABIRE; Code of Montgomery Cnty. Regs. § 29.00.01, https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_comcor/0-0-0-15166.
- 14 For links to local legal service providers, see Legal Services Corporation, “Get Legal Help,” accessed May 13, 2022, <https://lsc.gov/about-lsc/what-legal-aid/get-legal-help>. State bar associations may also have pro bono attorneys who can assist renters.
- 15 David Garrick, “San Diego Restructuring Utilities Department After Outcry Over Water Bill Errors,” *Chicago Tribune*, February 20, 2019, <https://www.chicagotribune.com/sd-me-water-bill-restructure-20190220-story.html>.
- 16 Ry Rivard, “City Spent Almost \$2M More on Troubled ‘Smart’ Water Meter Program Than Authorized,” *Voice of San Diego*, November 12, 2018, <https://voiceofsandiego.org/2018/11/12/city-spent-almost-2m-more-on-troubled-smart-water-meter-program-than-authorized/>.
- 17 Bob Hansen (“Consumer Bob”), Tom Jones, and Nicholas Kjeldgaard, “Double Trouble: San Diego’s Problematic Water Meter Program May Cost Twice as Much,” NBC 7 San Diego, May 5, 2020, <https://www.nbcsandiego.com/news/investigations/nbc-7-responds/double-trouble-san-diegos-problematic-water-meter-program-may-cost-twice-as-much/2319402/>.
- 18 Luke Broadwater, “When the Water Bill Is \$50,000: Hundreds of Baltimore Customers Hit With Incorrect Bills,” *Baltimore Sun*, February 8, 2018, <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-water-bill-errors-20180208-story.html>; “Homeowners: Water Bill Mistakes Led to Us Possibly Losing Our Homes,” CBS Baltimore, March 21, 2012, <https://baltimore.cbslocal.com/2012/03/21/homeowners-water-bill-mistakes-led-to-us-possibly-losing-our-homes/>.
- 19 Emily Opilo and Alex Mann, “Report Finds Broken Equipment, Unresolved Water Customer Complaints Cost Baltimore City, County Millions,” *Baltimore Sun*, December 21, 2020, <https://www.baltimoresun.com/politics/bs-md-pol-baltimore-water-20201221-5qrkdudxcbh67kklmbd7auqtte-story.html>; Emily Opilo, “Audit: Baltimore Doesn’t Know How Much Water Customers Were Charged and Wasn’t Collecting Overdue Bills,” *Baltimore Sun*, February 9, 2022, <https://www.baltimoresun.com/politics/bs-md-ci-baltimore-water-billing-audit-20220209-czlwezo6qzdg7jwjqiyh7hua-story.html>.
- 20 Demos, Pittsburgh United, and Our Water Campaign, *Water as a Public Good: Pittsburgh’s Our Water Campaign*, February 8, 2022, 6–7, https://www.demos.org/sites/default/files/2022-02/PGHOurWater_FINAL.pdf.
- 21 Star McKenzie, founder of DeKalb Water Watch, personal communication, September 7, 2021. See also Mark Niese, “Anxious DeKalb Residents Seek Relief From Extreme Water Bills,” *Atlanta Journal-Constitution*, October 6, 2016, <https://www.ajc.com/news/local-govt-politics/anxious-dekalb-residents-seek-relief-from-extreme-water-bills/mc56yyLvmi4HxsAVoChPDP/>; Mark Niese, “Internal Report Details DeKalb’s Mistakes With High Water Bills,” *Atlanta Journal-Constitution*, June 9, 2017, <https://www.ajc.com/news/local-govt-politics/internal-report-details-dekalb-mistakes-with-high-water-bills/fz6lBJS76MZevZc9u7ejbN/>.
- 22 KPMG, *DeKalb County Water Metering and Billing Audit Report*, September 26, 2017, <https://www.decatrish.com/wp-content/uploads/2017/08/KMPG-DeKalb-County-Water-Metering-and-Billing-Audit-Report.pdf>.
- 23 Keith Daniels, “Baltimore City Council President Wants to Investigate Water Billing Problems,” WBFF Fox45 Baltimore, January 13, 2021, <https://foxbaltimore.com/news/local/baltimore-city-council-president-wants-to-investigate-water-billing-problems>.
- 24 Balt. City Code art. 24, §§ 2-17 through 2-23, <https://legislativereference.baltimorecity.gov/city-codes>.
- 25 See U.S. Environmental Protection Agency (hereinafter EPA), *Drinking Water and Wastewater Utility Customer Assistance Programs*, April 2016, 10, https://www.epa.gov/sites/default/files/2016-04/documents/dw-ww_utilities_cap_combined_508.pdf.

- 26 Ibid.; National Consumer Law Center, *Surviving Debt: Expert Advice for Getting Out of Financial Trouble*, chapter 15: “Utility Terminations” (Boston: National Consumer Law Center, 2021) (see section on “Level Payment Plans; Dealing With Quarterly and Bi-Monthly Bills; Changing Your Due Dates”), <https://library.nclc.org/surviving-debt-links>.
- 27 *Memphis Light, Gas, & Water Div. v. Craft*, 436 U.S.1 (1978); Patricia A. Jones and Amber Moulton, *The Invisible Crisis: Water Unaffordability in the United States*, Unitarian Universalist Service Committee, May 2016, 22–24, https://www.uusc.org/sites/default/files/the_invisible_crisis_web.pdf (describing allegations of extensive due process violations in connection with Detroit’s mass water shutoffs in 2014).
- 28 Generally speaking, the U.S. Constitution protects only against actions taken by the government. However, it may also protect against actions taken by a private company if the government is closely involved in the action—such as, sometimes, when a privately owned utility acts pursuant to a rule created by a state public utility commission. *Jackson v. Metro. Edison Co.*, 419 U.S. 345, 351 (1974) (noting, “It may well be that acts of a heavily regulated utility with at least something of a governmentally protected monopoly will more readily be found to be ‘state’ acts than will the acts of an entity lacking these characteristics.”); *Denver Welfare Rts. Org. v. Pub. Utilities Comm’n*, 190 Colo. 329, 335–337 (Colo. 1976).
- 29 *Georgia State Conference of the NAACP v. City of LaGrange*, 940 F.3d 627 (11th Cir. 2019) (claim that the city’s practice of disconnecting water service for failure to pay unrelated municipal debt has a discriminatory impact on Black residents in violation of the Fair Housing Act survives a challenge to dismiss); *Pickett v. City of Cleveland*, No.1:19 CV 2911 (N.D. Ohio Sept. 29, 2020), https://www.clevescene.com/media/pdf/09.29.20_oliverdecision_clewaterlawsuit.pdf (order denying motion to dismiss claim that city violated plaintiffs’ due process rights by failing to provide adequate notice before disconnecting water service).
- 30 *Pickett v. City of Cleveland*, No.1:19 CV 2911 (N.D. Ohio Sept. 29, 2020).
- 31 Balt. City Code art. 24, §§ 2-17 through 2-23. These reforms were adopted as part of the city’s Water Accountability and Equity Act of 2020.
- 32 Cal. Health & Safety Code § 116906 (West), https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=. This California law is discussed further in the Water Shutoffs module.
- 33 Cal. Health & Safety Code § 116908(b) (West), https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=.
- 34 In Michigan, advocates are backing legislation to establish similar requirements for utilities to create dispute resolution policies. Mich. SB 348, §§ 1b, 1c (2021), <http://legislature.mi.gov/doc.aspx?2021-SB-0348>.
- 35 The Los Angeles municipal water utility’s shutoff policy offers a straightforward example. See Los Angeles Department of Water & Power, “I.L.C: Contest or Appeal Bill Amount,” in *Policy and Practices for Discontinuation of Residential Water Service for Nonpayment*, accessed May 18, 2022, https://www.ladwp.com/cs/ideplg?IdcService=GET_FILE&dDocName=OPLADWPCCB725104&RevisionSelectionMethod=LatestReleased.
- 36 For example, the Washington Suburban Sanitary Commission has a Dispute Resolving Board, composed of two customer members and one utility employee, which hears disputes about bills before they are paid. Washington Suburban Sanitary Commission (WSSC), “Regulations and Procedures to Know,” WSSC Water, accessed April 14, 2022, <https://www.wsscwater.com/customer-service/rates-and-billing/regulations-and-procedures-know>. Atlanta has a Water and Sewer Appeals Board, composed of citizens appointed by the City Council, which hears appeals of the municipal utility’s decisions on billing disputes. City of Atlanta Department of Watershed Management, “Water and Sewer Appeals Board,” accessed May 19, 2022, <https://www.atlantawatershed.org/appeals/>.
- 37 For example, Baltimore’s Water Accountability and Equity Act makes available extensive detail on procedures to appeal a bill, including requirements to provide notice of the right to appeal; deadlines and methods for filing an appeal; the customer’s right to be represented by counsel, submit evidence, and conduct cross-examination; requirements for written decisions on appeals; and a right of judicial review. Balt. City Code art. 24, §§ 2-20, 2-21. The Atlanta municipal water utility’s website provides instructions for requesting a billing adjustment and appealing the utility’s decision on the request. Atlanta Department of Watershed Management, “How to Request an Account Adjustment,” accessed April 14, 2022, <https://www.atlantawatershed.org/account-review-request/>.
- 38 For example, California’s Water Shutoff Protection Act requires water utilities to have a process for disputing bills, which must be posted on a utility’s website (if any), translated from English into other languages as appropriate, and included with shutoff notices. Cal. Health & Safety Code §§ 116906, 116908 (West). In Atlanta, the home page of the municipal water utility’s website prominently features links to detailed information on how to “Dispute My Bill” and “Make an Appeal.” Atlanta Department of Watershed Management, “Atlanta Watershed Management,” accessed May 19, 2022, <https://www.atlantawatershed.org>.
- 39 Los Angeles Department of Water & Power, “I.L.C: Contest or Appeal Bill Amount.”
- 40 Cal. Health & Safety Code § 116908(b) (West); Balt. City Code art. 24, § 2-22; Los Angeles Department of Water & Power, “I.L.C: Contest or Appeal Bill Amount.”