

States Must Help Protect Vital Utility Service During the Ongoing COVID-19 Pandemic: Models from Three States

As the COVID-19 pandemic spread through the United States, with its accompanying economic shutdown, several states adopted a moratorium on terminations of utility service. However, in most states that adopted moratoriums, those termination prohibitions have already expired or will within the next few months. Legislators and utility regulators must act now to extend these moratoriums and require more flexible and generous bill payment practices to ensure continued access to essential utility service. Even before the hardships due to COVID-19, about one-third of the U.S. population was already facing serious difficulty in paying utility bills. The COVID pandemic has exacerbated the problem, with essential utility service today even more unaffordable for millions of utility customers.

The COVID-19 crisis has highlighted that access to utility service is essential to maintain public health and safety. Access to utility service should not be forfeited because of a person's inability to afford that service. Policymakers should seize on the current pandemic as an opportunity to create permanent consumer-oriented policies that ensure access to vital utility service for all.

Recently, utility commissions in California, Illinois, and Massachusetts took significant steps to help consumers stay connected to utility service. In each of these states, state regulators acted proactively, while utility shut-off moratoria were in place, to enact consumer protections with the goal of ensuring continued access to essential utility service for vulnerable populations. Each offers model provisions for regulators to enact in their states. This blog post summarizes the orders.

California

On June 11, 2020, the California Public Utility Commission (CPUC) adopted a Phase I decision (D.20-06-003) in CPUC Rulemaking 18-07-005, the so-called "disconnection docket." The Phase I decision provides a suite of pro-consumer credit and collection rules and practices for the four large electric and gas companies to reduce residential disconnection rates for nonpayment. The proceeding followed the passage of California Senate Bill 598 (SB 598), which requires the CPUC to reduce utility disconnection rates by January 1, 2024.

Previously, in April, the CPUC had extended the shut-off moratorium until April 16, 2021, through its approval of Resolution M-4842.

The Phase I Decision makes permanent, with some modifications, interim rules that were previously adopted in D. 18-12-013, and which

- Sets caps on the disconnection rate of the four large investor-owned utilities (IOUs) .
- Protects medical baseline (seriously ill) customers from disconnection for nonpayment as long as they agree to a 12-month payment plan.
- Protects low-income customers from disconnection for nonpayment until the utility offers to enroll eligible customers in all applicable benefit programs administered by the utility.
- Requires the utility to offer customers a 12-month payment plan before disconnecting for non-payment.
- Prohibits disconnections for non-payment during extreme weather (temperatures above 100

degrees or below 32 degrees).

In addition, the Phase I decision:

- Eliminates service deposits and reconnection fees.
- Creates arrearage management programs (AMPs) for the four IOUs.
- Creates Percentage of Income Payment Plan (PIPP) pilots for the 10 California zip codes with the highest disconnection rates.
- Establishes a CPUC Enforcement Branch citation program designed to ensure compliance with the rules outlined in the decision.

Illinois

On June 18, 2020, the Illinois Commerce Commission (ICC) approved a settlement reached among the state's investor-owned utilities, consumer advocates, and the Commission's Staff. The settlement in ICC Docket No. 20-0309 provides financially struggling customers with several protections designed to minimize disconnection of essential utility service and make bills more affordable.

The Order followed the ICC's issuance of an Emergency Interim Order on March 18, 2020 that required a moratorium on investor-owned utility shut offs, suspended late fees and penalties due to a customer's inability to pay, and further required the investor-owned utilities to file more flexible credit and collections procedures for the Commission's consideration and approval.

The agreement, as approved by the Commission, includes the following:

- Reconnection of customers previously disconnected customers, and waiver of the usual reconnection fees.
- Extension of the moratorium on disconnections through late summer of 2020.
- Debt forgiveness for LIHEAP-eligible customers totaling \$48 million. A typical forgiveness, for example, totals \$500 per utility for Chicago customers.
- Provision of 24-month deferred payment arrangements (DPAs), with no down payments, for customers claiming financial hardship, and DPAs of 18 months for residential customers who do not claim financial hardship.
- Self-certification of financial hardship, which then allows access to expanded customer protections.
- Reporting of disconnections, late fees, DPAs, deposits and other data by zip code, to ensure that regulators and consumer advocates can monitor disconnection and other credit and collection practices for disproportionate impacts in communities of color.
- Utility agreement to engage, with stakeholders, in a discussion on how to improve the affordability of utility service for low income customers.

Massachusetts

The Massachusetts Department of Public Utilities (DPU) opened an investigation in May, Docket No. 20-58, to solicit input from stakeholders about the need for post-moratorium policies to protect struggling consumers, as well as recommendations for utility cost recovery. The DPU invited the utility companies, the Attorney General, the Department of Energy Resources, NCLC, the Low-Income Energy Affordability Network, and others to participate. On July 31, 2020, the DPU issued an order which includes the following protections for residential customers:

- Extends the residential disconnection moratorium until November 15. On that date, the winter moratorium on shut-offs for low-income Massachusetts customers kicks in and continues through March 15, 2021.
- Extends the length of payment plans for twelve months, with the possibility of 18 months for “unique circumstances.”
- Expands the Arrearage Management Program (AMP), by allowing repeat enrollments, increasing the amount of arrearages that are forgiven, and allowing applicants to initially self-certify their income eligibility.

For additional details about the orders in these three states, see NCLC’s new issue brief.