BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Report Required by R.C. 4933.123 Regarding Service Disconnections for Nonpayment.	)))	Case No. 21-548-GE-UNC

MOTION FOR THE PUCO TO INVESTIGATE AEP OHIO'S PRACTICES FOR CONSUMER DISCONNECTIONS, CREDIT, COLLECTIONS, AND USE OF SMART METERS FOR REMOTE DISCONNECTIONS, IN LIGHT OF AEP'S JUNE 11, 2021 REPORTING OF ITS COMPARATIVELY HIGH DISCONNECTIONS OF CONSUMERS

AND

MOTION FOR THE PUCO TO IMMEDIATELY SUSPEND AEP OHIO'S DISCONNECTIONS OF CONSUMERS DURING A PUCO INVESTIGATION *OR, AS A SECONDARY ALTERNATIVE,* TO SUSPEND AEP'S USE OF SMART METERS FOR REMOTE DISCONNECTIONS DURING A PUCO INVESTIGATION

AND

MOTION FOR THE PUCO TO SUSPEND ALL ELECTRIC AND GAS UTILITY DISCONNECTIONS OF CONSUMERS DURING THE UPCOMING WINTER HEATING SEASON *OR, AS A SECONDARY ALTERNATIVE,* TO CONTINUE AND EXPAND CONSUMER PROTECTIONS IN FUTURE WINTER RECONNECT ORDERS INCLUDING BY BANNING REMOTE ELECTRIC DISCONNECTIONS

AND

MOTION FOR THE PUCO TO REQUIRE THE ELECTRIC AND GAS UTILITIES TO ASSESS AND REPORT THE IMPACTS OF DISCONNECTIONS IN THEIR SERVICE AREAS, ESPECIALLY ANY DISPROPORTIONATE IMPACTS FOR DIVERSE SEGMENTS OF THE POPULATION INCLUDING BUT NOT LIMITED TO AT-RISK AND MINORITY COMMUNITIES AND THE WORKING POOR, TOWARD FURTHER CONSUMER PROTECTION PROGRAMS AND THE PUCO'S ASSURANCE OF ENERGY JUSTICE

BY

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OFFICE OF THE OHIO CONSUMERS' COUNSEL
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AEP's disconnection practices should be investigated by the PUCO. While AEP Ohio was making the second highest profits[1] of any AEP utility in the nation, it was disconnecting Ohio consumers at a level that was nearly two-thirds of all electric utility disconnections in Ohio and approaching one-half of all electric and gas disconnections combined. Meanwhile, many Ohioans were struggling with their health and financial well-being during a global pandemic. But just as the pandemic was ramping up, AEP reportedly was asking state utility regulators to join it in lobbying[2] the United States Congress *not* to pass legislation that included a national moratorium on disconnections.[3]

Accordingly, Advocates for Basic Legal Equality, Inc., the Legal Aid Society of Southwest Ohio, LLC, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, and Pro Seniors, Inc. (the "Consumer Parties") move the PUCO to protect consumers by investigating AEP Ohio's practices for disconnections, credit, collections, and use of smart meters to remotely disconnect its consumers.[4] To protect consumers during the investigation, the Consumer Parties move the PUCO to suspend AEP Ohio disconnections on consumers during the investigation. As a secondary alternative, the Consumer Parties move the PUCO to suspend AEP Ohio's use of smart meters for remote disconnections.

The Consumer Parties also move the PUCO to suspend disconnections of electric and natural gas consumers during the upcoming winter heating season. As a secondary alternative to suspending disconnections, Consumer Parties move to continue and expand protections in the PUCO's winter reconnect order to help electric and gas consumers maintain their essential utility services against the threat of disconnection. Additionally, the Consumer Parties move the PUCO

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[1] J.P. Morgan's Energy, Power & Renewables Conference, AEP Presentation at 24 (June 22, 2021) (Exhibit A).

[2] *See* April 22, 2020 Correspondence from Steven G. Stewart, Brad N. Hall, and Taylor J. Rymiszewski (Exhibit B).

[3] In other lobbying-related activity, AEP reportedly gave $900,000 to Generation Now in 2019 for passing tainted House Bill 6. That tainted bill happened to include a projected $700 million subsidy, at consumer expense, to bailout AEP (and bailout Duke and DP&L). AEP owns the largest stake in OVEC's coal plants. Anderson, D., *AEP contributed to dark money group that gave money to Generation Now.* Energy and Policy Institute (July 24, 2020); Anderson, D., *More Generation Now dark money traced to AEP in Ohio corruption scandal* (Dec. 2, 2020); FirstEnergy Corp. has entered into a deferred prosecution agreement with the United States Department of Justice in connection with the bribery scandal to pass tainted House Bill 6. *See, e.g.,* United States Department of Justice, Press Release, "FirstEnergy charged federally, agrees to terms of deferred prosecution agreement," (July 22, 2021) (Exhibit C).

[4] Authority for our motions is found under R.C. 4905.05, 4905.06, 4909.154, 4909.16, and Ohio Adm. Code 4901-1-12, among other authority.

to require electric and gas utilities to assess and report the impacts of disconnections in their service areas, especially any disproportionate impacts for diverse segments of the populations including but not limited to at-risk and minority communities and the working poor, toward the PUCO's assurance of energy justice.

Advocates for Basic Legal Equality, Inc. ("ABLE") is a non-profit legal service provider that provides high quality legal services in civil matters to low-income individuals. The Legal Aid Society of Southwest Ohio, LLC resolves serious legal problems of low-income people, to promote economic and family stability and to reduce poverty through effective legal assistance. The Office of the Ohio Consumers' Counsel ("OCC") is the statutory representative of millions of Ohio residential utility consumers. The Ohio Poverty Law Center ("OPLC") works to reduce poverty and increase justice by protecting the legal rights of Ohioans living in poverty. Pro Seniors, Inc. is a non-profit legal service provider located in Cincinnati that works to expand economic opportunities and improve the quality of life for senior residents of Ohio.

The reasons for these consumer protection motions are further set forth in the attached memorandum in support.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On June 11, 2021, AEP Ohio reported (per O.RC. 4933.123) an alarming number of electric consumer disconnections for the year ended May 31, 2021 (even though there were no disconnections for three months during the PUCO's moratorium). AEP made 124,157 disconnections of Ohio consumers, which was 64% of the total electric utility disconnections of 195,186. AEP consumers were disconnected as they struggled with the coronavirus and related financial emergency. Those disconnections occurred long before Governor DeWine lifted the state of emergency in June 2021.

Also, in disconnection data that AEP earlier shared with the PUCO, it significantly under-reported disconnections (reporting under 3,000 disconnections) for October 2020. That early under-reporting deterred a more timely understanding of what now shows for October 2020 as 23,414 disconnections, as reported in its annual disconnection report. In fact, AEP reported to the PUCO Staff that there were 69,392 disconnections between September 2020 and May 2021[5] when there were actually 124,157 publicly reported in the Annual Disconnection Report.

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[5] *See* Report of Service Disconnections for Nonpayment of Ohio Power Company, Case No. 21-548-GE-UNC (June 11, 2021) ("AEP Ohio Disconnection Report"). There were no service disconnections in June, July or August, 2020.

AEP Ohio's disconnections of consumers' electric service for nonpayment were more than all other Ohio electric distribution utilities combined.[6] AEP Ohio's use of advanced metering infrastructure (smart meters) makes it technically easy to disconnect people's electricity. Per a PUCO rule waiver granted AEP Ohio, AEP can and does disconnect consumers without notifying them in-person at their home prior to disconnecting service (as the PUCO's rules otherwise have required for decades).[7] As a result, AEP Ohio had the technical ability and regulatory permission to disconnect large numbers of consumers from their essential utility service right when they needed it most during the height of the coronavirus pandemic.

AEP's disconnections can have a disparate impact on at-risk and low-income consumers despite state policy protecting these consumers.[8] The PUCO should take action now to protect consumers by granting these motions and investigating AEP Ohio's disconnection, credit, collection, and smart meter policies and practices, consistent with the Consumer Parties' recommendations below.

On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effects of the coronavirus pandemic.[9] Subsequently, the PUCO opened a docket. It directed all utilities to "review their service disconnection policies, practices, and tariff provisions and to promptly seek any necessary approval to suspend otherwise applicable requirements that may impose a service continuity hardship on residential

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[6] *Id.*

[7] The PUCO has further waived the requirement that AEP Ohio provide in-person notice to consumers prior to disconnection. *In the Matter of the Application of Ohio Power Company for a Limited Waiver of Ohio Adm. Code 4901:1-18-06(A)(2)*, Case No. 17-1380-EL-WVR *et al.*, Finding and Order (April 11, 2018).

[8] R.C. 4928.02(L).

[9] Executive Order, 2020-01(D).

and non-residential customers or create unnecessary COVID-19 risks associated with social contact."[10]

In response to the PUCO's Entry, AEP Ohio submitted an emergency plan in Case No. 20-602-EL-UNC. The PUCO endorsed a moratorium on utility service disconnections for nonpayment.[11] The disconnection moratoria were helpful, but they ended prematurely when consumers were still suffering the distress of the pandemic and the related financial crisis.

AEP Ohio stated that its emergency plan was intended to last "the entire duration of the declared emergency."[12] But AEP Ohio's moratorium against electric utility shutoffs, which began on March 12, 2020, did not last that long. On August 12, 2020, the PUCO approved AEP Ohio's return to pre-COVID-19 operations and activities, including a resumption of consumer electric utility shutoffs in September 2020.[13] The PUCO allowed AEP Ohio to resume service disconnections despite the PUCO's acknowledgment that "many customers may continue to experience financial stress as a result of COVID-19, despite the gradual reopening of businesses throughout Ohio."[14] R.C. 4909.16 (the emergency statute), among other authority, supports the granting of the Consumer Parties' motions.

II. PUCO AUTHORITY TO INVESTIGATE FOR PROTECTION OF CONSUMERS

The PUCO may examine public utilities regarding the manner in which their properties are "operated, managed, and conducted ***and their compliance with all laws, orders of the

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[10] *In the Matter of the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (March 12, 2020), at ¶1.

[11] *See In the Matter of the Application of Ohio Power Company for Approval of its Temporary Plan for Addressing the COVID-19 State of Emergency*, Case No. 20-602-EL-UNC *et al.*, Second Amended Application of Ohio Power Company (April 9, 2020).

[12] *Id.* at 2.

[13] Case No. 20-602-EL-UNC *et al.*, Supplemental Finding and Order (August 12, 2020), at ¶26.

[14] *Id.*

commission, ***" among other things, per R.C. 4905.06. Further, that statute gives the PUCO the same authority to examine with regard "to the persons or companies owning, leasing, or operating such public utilities***", as referenced in R.C. 4905.05.

Also, the PUCO has authority under R.C. 4909.154 to "consider the management policies, practices, and organization" of a public utility. Under this law, the PUCO can require a public utility to supply information about its policies, practices, and organization. Under R.C. 4909.154, the PUCO can require such information even if there is no rate case under consideration.[15]

If the PUCO finds that a utility's policies, practices, or organization are "inadequate, inefficient, or improper," the PUCO may recommend changes to the utility, per R.C. 4909.154. The PUCO has construed the statute to provide "clear authority to enforce our recommendations should they not be followed."[16] And under R.C. 4909.154, "[i]n any event, the public utilities commission shall not allow such operating and maintenance expenses of a public utility as are incurred by the utility through management policies or administrative practices that the commission considers imprudent."[17] The PUCO has used this statute throughout the years to

[15] *In the Matter of the Application of Ohio American Water Company to Increase its Rates for Water and Sewer Services Provided to its Entire Service Area*, Case No. 09-391-WS-AIR, Opinion and Order (May 5, 2010) (ordering management audit outside of a rate case with results to be considered in next rate case); *In the Matter of the Regulation of the Electric Fuel Component Contained within the Rate Schedules of Dayton Power & Light Company*, Case No. 87-107-EL-EFC, Entry on Rehearing at 7 (Mar. 15, 1988) (holding that the PUCO could review the management practices of a utility under the statute outside a base rate case).

[16] *In the Matter of the Application of the Toledo Edison Company for Authority to Amend and Increase Certain of Its Rates and Charges for Electric Service; In the Matter of the Application of The Cleveland Electric*, 1996 Ohio PUC LEXIS 180, 168 Pub. Util. Rep. 4th (PUR) 193, Case No. 95-299-EL-AIR et al., Opinion and Order at 115 (Apr. 11, 1996).

[17] *See In the Matter of Ohio Edison Company for an Increase in Rates*, Case No. 81-898-EL-AEM, Opinion and Order at 6 (July 31, 1981) (ordering a management audit after allegations were made that utility was having financial difficulties that allegedly required a $90 million bailout from customers); *In the Matter of the Application of Ohio American Water Company to Increase its Rates for Water and Sewer Services Provided to its Entire Service Area*, Case No. 09-391-WS-AIR, Opinion and Order (May 5, 2010) (PUCO ordered a management performance audit after questions were raised in a utility's rate case concerning affiliate transactions, allocation of service

order management audits of utilities or to bar utilities from collecting expenses that are unlawful or imprudent.[20]

III. RECOMMENDATIONS

A. To protect consumers, the PUCO should investigate AEP Ohio's practices for consumer disconnections, credit, collection, and use of smart meters for remote disconnections.

1. The PUCO should investigate AEP Ohio's consumer disconnections, credit, and collection policies and practices.

For the following reasons, the PUCO should investigate AEP Ohio's disconnection, credit, and collection policies and practices used throughout the coronavirus pandemic. According to the annual disconnection statistics, AEP Ohio's disconnections were 64% (124,157) of the statewide electric utility disconnections of 195,186, and 46% (124,157) of the 270,659 total major electric and gas disconnections statewide. The number of AEP Ohio disconnections of consumers during the coronavirus public health emergency is deeply concerning.

AEP Ohio's disconnections can have a disparate impact on at-risk and low-income consumers, among other communities. It is state policy to protect "at-risk populations" in the provision of energy services.[18] At-risk populations include but are not limited to minority and senior citizen communities that suffer a higher rate of poverty, food insecurity, and illness related to the coronavirus pandemic. Energy justice demands that the PUCO protect vulnerable consumers from having their essential energy service disconnected. In addition to investigating AEP Ohio's disconnection, credit, and collection policies and practices, the PUCO should

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company costs, and the lack of cost controls); *In the Matter of the Application of Cobra Pipeline Company Ltd. For an Increase in its Rates and Charge et al.*, Case No. 18-1549-PL-AEM, Opinion and Order at 74 (Sept. 11, 2019) (PUCO disallowed previously assessed personal property taxes for years prior to test period, along with associated penalties and interest, as imprudently incurred expenses that are barred from recovery under R.C. 4909.154).

[18] R.C. 4928.02(L).

consider the disparate impact of shutoffs on at-risk and low-income and other communities. The PUCO should determine why the shutoffs occurred during a time when so many consumers in Ohio suffered the health and financial impacts of the pandemic.

AEP Ohio's Annual Report regarding service disconnections shows that AEP Ohio disconnected residential consumers' electric service for nonpayment a very concerning 124,157 times (September 2020 through May 2021).[19] This far exceeds the number of disconnections for all other Ohio electric distribution utilities *combined.* The FirstEnergy utilities reported 29,276 disconnections (October 2020 through May 2021).[20] Duke Energy Ohio reported 28,028 disconnections (October 2020 through May 2021).[21] And AES Ohio (DP&L) reported 13,727 disconnections (September 2020 through May 2021).[22] Thus, there was a total of 71,031 disconnections for *all* other Ohio electric distribution utilities as compared to AEP Ohio's 124,157 disconnects of consumers.

As shown in the following chart, while the number of residential customer disconnections per 1,000 customers declined for all of the electric utilities last year, AEP Ohio disconnected far more consumers per 1,000 customers than any other electric utility in Ohio. AEP Ohio disconnected residential customers at a rate of 95 disconnections per 1,000 customers. This was over twice the level of disconnections per 1,000 customers of any other electric utility in Ohio. For example, Duke Energy Ohio was disconnecting customers at a level of 42 disconnections per 1,000 residential customers. Dayton Power and Light and Toledo Edison were disconnecting

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[19] *See* AEP Ohio Disconnection Report.

[20] Case No. 21-548-GE-UNC, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Notice of Filing Service Disconnection for Nonpayment Report (June 30, 2021).

[21] Case No. 21-548-GE-UNC, Duke Energy Ohio, Inc.'s Report of Service Disconnections for Nonpayment (June 25, 2021).

[22] Case No. 21-548-GE-UNC, The Dayton Power & Light Company d/b/a AES Ohio's Notice of Filing Service Disconnection for Nonpayment Report (June 30, 2021).

customers at a level of 29 disconnections per 1,000 customers. Ohio Edison was disconnecting customers at a rate of 18 disconnections per 1,000, while Cleveland Electric Illuminating Company performed approximately 7 disconnections per 1,000 customers.

Electric Distribution Utility	2018/2019 Annual Disconnection Report Disconnections per 1,000 Customers	2019/2020 Annual Disconnection Report Disconnections per 1,000 Customers	2020/2021 Annual Disconnection Report Disconnections per 1,000 Customers
AEP Ohio	106	102	95
Ohio Edison	49	35	18
Cleveland Electric and Illuminating	28	23	6.9
Toledo Edison	35	24	29
Dayton Power &Light	61	47	29
Duke Energy Ohio	64	49	42

AEP Ohio made 23,414 disconnections in October 2020 alone.[23] This is particularly concerning as this is a high number of shutoffs for a single month during a time where public health concerns about the global pandemic and the onset of the winter heating season should have prevailed.

Further, AEP Ohio grossly underreported the number of October 2020 disconnections to the PUCO Staff at the time. AEP Ohio informed the PUCO Staff that there were just over 2,800 disconnections in October 2020[24] when, in fact, there was really 23,414 (as reported eight months later when the Annual Disconnection Report was publicly filed by AEP). This underreporting of disconnections to the PUCO Staff occurred during several months between September 2020 and May 2021. In fact, AEP Ohio reported there being 66,392 consumers disconnections during this time when there was actually 124,157. Under-reporting can deter the

[23] AEP Ohio Electric PIPP Report.

[24] According to the October 2020 Electric PIPP Report, AEP Ohio reported 2,505 residential non-PIPP customer disconnections and 296 PIPP customer disconnections.

timeliness of needed additional attention and regulatory oversight. The under-reporting should be investigated.

Electric utility service is *essential* to consumers, particularly when more families needed to be at home in the Fall and Winter months due to job loss, health issues, or school closures as a result of the pandemic. Access to utility service can literally be a matter of life or death. In Case 15-298-GE-CSS, a complaint was filed. The complaint alleged an Ohio utility failed to follow proper disconnection procedures resulting in the hypothermia deaths of elderly and physically disabled consumers who could not heat their home after the disconnection of their utility service.[25] The PUCO found that the utility failed to follow the PUCO's winter heating season rules when it disconnected service to the deceased consumers' household.[26] The PUCO subsequently initiated a review of the related disconnection policies and procedures.[27] This tragedy should never happen again in Ohio.

Given the large number of AEP Ohio disconnections for nonpayment, the PUCO should likewise initiate an investigation (audit and review) of AEP Ohio's disconnection policies and procedures.[28] In this time where consumers are still suffering the health and financial impacts of the coronavirus pandemic, the PUCO should take all necessary action to protect consumers' health, safety, and access to essential electric services. At a minimum, the investigation of AEP Ohio's disconnection, credit, and collection policies and practices should:

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[25] *Jeffrey Pitzer v. Duke Energy Ohio*, Case No. 15-298-GE-CSS.

[26] *Jeffrey Pitzer v. Duke Energy Ohio*, Case No. 15-298-GE-CSS, Opinion and Order (August 30, 2017) at ¶58.

[27] *In the Matter of the Commission's Investigation of the Disconnection Practices and Policies of Duke Energy Ohio, Inc.*, Case No. 17-2089-GE-UNC, Entry (October 11, 2017).

[28] *See* the report documenting the Compliance Audit and Review of the Disconnection Practices and Policies of Duke Energy Ohio (March 14, 2018) that was publicly filed in Case No. 17-2089-GE-UNC and made available for review and comments by parties in the case.

- Analyze AEP Ohio's disconnection process for compliance with PUCO rules and approved waivers including the in-person notice requirements waived in Case No. 17-1380-EL-WVR;

- Compare AEP Ohio's disconnection notice process with other utilities, including utilities with advanced metering infrastructure, and report on best practices for noticing and protecting consumers in connection with pending disconnection;

- Review AEP Ohio's policies and procedures related to the critical customer list and informing agencies and consumers about the availability of the list to avoid remote disconnection of service;

- Audit and provide analysis on AEP Ohio's current practices for compliance with the minimum PUCO service requirements related to disconnection of electric service in Ohio Adm. Code 4901:1-18;

- Review the actions that were taken by AEP Ohio to comply with the PUCO approval of the emergency plan that enabled AEP Ohio to resume disconnections;

- Review AEP Ohio's reporting of credit and collection data including the Electric Percentage of Income Payment Plan ("PIPP") Reports and the Annual Disconnection Reports to ensure accurate and consistent public reporting of data;

- Review AEP Ohio's current disconnection timelines and report on their adequacy and responsiveness in helping consumers avoid disconnections;

- Review AEP Ohio's temperature thresholds and monetary thresholds for disconnection limits or moratorium and provide best practice recommendations;

- Review trends in the level of AEP Ohio's uncollectible expenses over multiple years and assess the reasonableness of arrearage management practices;

- Review AEP Ohio's payment arrangements, including extending customized plans and terms that are mutually agreeable with consumers, and that extend beyond the minimum requirements contained in Ohio Adm. Code 4901:1-18;

- Audit and report on AEP Ohio's disconnection notice effectiveness such as customer responsiveness to phone calls and mailed notices;

- Review and evaluate options available to consumers for making payments to AEP Ohio; and

- Review and report on AEP Ohio's outreach to at-risk consumers and communities regarding disconnection and payment assistance.

Consumer Parties' Motion should be granted and the PUCO should investigate AEP Ohio's consumer disconnections, credit, and collection policies and practices.

2. The PUCO should investigate AEP Ohio's use of smart meters for remote disconnections of consumers.

In Case No. 17-1380-EL-WVR, the PUCO granted AEP Ohio a waiver of a consumer protection rule, O.A.C. 4901:1-18-06(A)(2). OCC and Ohio Partners for Affordable Energy opposed the waiver. This important rule otherwise requires AEP to provide residential consumers with in-person notice on the day the consumer's service is to be disconnected. The waiver that AEP sought and was granted enabled remote disconnections. With AEP's filing of its disconnection statistics, it seems the unfortunate result of that waiver for Ohio consumers is known. The PUCO should investigate the matter.

The worthy purpose of O.A.C. 4901:1-18-06(A)(2) is to provide consumers one last chance to keep their utility service from being shut off. Consumers can make payment or payment arrangements prior to disconnection.

Further, the utility representative making the in-person notification may determine that a disabled or infirm consumer qualifies for a medical certification to assist in maintaining essential utility service. But as it stands now, utilities that have been granted a waiver of this rule are only required to provide bill and telephone notifications to the consumer.

With the proliferation of advanced metering infrastructure and smart meters, disconnecting service to consumers is as easy for AEP Ohio as remotely flipping a switch, without having to visit the consumer's premises. Consequently, the rule for in-person notice to consumers before disconnection is more important than ever to prevent consumers from losing essential (and potentially lifesaving) utility service. While the number of AEP Ohio disconnections during the last year is alarming considering the global pandemic Ohioans are struggling with, the smart meters have enabled AEP Ohio to disconnect far more consumers now than in the past. ***Meter technology should be used for the benefit of people and not against people.***

The following chart compares the average number of disconnections for the period 2010 through 2015 with the average number of disconnections between 2016 and 2021. Over the past decade, the average number of disconnections for all of the electric distribution utilities (with the exception of AEP Ohio) have declined. For AEP Ohio, the average annual number of disconnections during the period 2010 through 2015 was 91,613.

But the average annual number of disconnections has increased to 124,284 during the period 2016 through 2021. While AEP Ohio significantly increased disconnections by 35.7 percent, the other Ohio utilities managed decreases in the number of disconnections, between 2 percent and 34.9 percent. For Ohioans, this means that consumers of AEP Ohio are far more likely to be disconnected than consumers of other electric utilities, apparently because AEP Ohio uses its smart meters against them.

Electric Distribution Utility	2010 - 2015	2016 - 2021	Change (%)
AEP Ohio	91,613	124,284	35.7
Ohio Edison	47,013	39,263	(16.5)
Cleveland Electric & Illuminating	18,720	15,469	(17.4)
Toledo Edison	9,430	9,241	(2)
Dayton Power & Light	35,053	25,641	(26.9)
Duke Energy Ohio	74,792	48,683	(34.9)

For consumer protection, answers are needed about how AEP's technical capability for remote disconnections and its rule waiver may have been unfortunate factors in its high disconnections of consumers. The smart grid AEP touts and that consumers have paid plenty to AEP for installing (with dubious benefits for consumers) ironically may be in use against consumers' interest as an accessory to AEP's high disconnections. Consumer Parties' Motion should be granted and the PUCO should investigate AEP Ohio's remote disconnections.

3. As part of an investigation of AEP, the PUCO should require AEP Ohio to publicly report, on a monthly basis, its consumer disconnections.

Gas and electric utilities are required to provide customer disconnection information on an annual basis in their disconnection report. AEP Ohio's disconnection behavior demonstrates the importance of timely and accurate disconnection reporting. AEP's total number and rate of disconnections of consumers relative to other utilities is very high. As noted earlier, between September 2020 and May 2021, AEP Ohio reported there being 124,157 disconnections.

Timely disconnection reporting is important for the PUCO and consumer advocates to know. But this information is also important to others who do not have access to the statistics through regulatory protocols. Those others can include social welfare agencies, charitable organizations, public policymakers and AEP Ohio's own consumers, among others. The information should be in the public domain on a timely basis, for transparency in the regulatory process of Ohioans' state government (the PUCO).

The PUCO should require AEP to file monthly reports with its statistics for disconnections of consumers. Under the current circumstances of AEP's high disconnections, that frequency will serve the public interest in promptly identifying any disconnection trends that are especially concerning for consumers. The reporting should include the number of disconnections by zip code, which could provide more details about particular communities and segments of communities that tend to be more at risk for disconnection. This information will help the PUCO promote energy justice, an important issue that has been made even more important due to the pandemic.

B. To protect consumers, the PUCO should immediately suspend all of AEP Ohio's disconnections of consumers for non-payment, during the investigation.

In a November 30, 1982 editorial, the Akron Beacon Journal described the PUCO's 1982-1983 winter disconnection moratorium as "humane, responsible."[29] That characterization of a PUCO disconnection moratorium 40 years ago is applicable today. Indeed, the PUCO just last year allowed for a moratorium on energy utility disconnections of consumers, given the pandemic emergency. And now government is expressing concern that another wave of the pandemic may be developing.[30]

At-risk populations in Ohio have been disproportionately affected by the pandemic, both financially and physically. The poverty rate in Ohio is approximately 14.9%, and nearly 1.7 million Ohioans have reported income below the poverty line.[31] The poverty rate among African-Americans in Ohio is 32%.[32] Food insecurity in Ohio for 2020 is reported at 16%, an increase of almost 3% over 2019.[33] And there is reporting that food insecurity has nearly doubled during the early months of the pandemic.[34] Recently, over a half million Ohioans were unable to pay their rent.[35] And there is a continuing shortage of affordable rental homes for low-income Ohioans.[36]

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[29] "PUCO winter shutoff ban is humane, responsible," Akron Beacon Editorial, p. A4 (Nov. 30, 1982). (Attached as Exhibit H).

[30] "Ohio records more than 1,000 COVID cases for 2nd day in a row," by K. Spicker, Dayton Daily News (July 28, 2021).

[31] WelfareInfo.org, "Poverty Rate in Ohio" (Exhibit D).

[32] *Id.*

[33] FeedingAmerica.org, "Food Insecurity Ohio" " (last visited July 27, 2021) (Exhibit D).

[34] Ohio Association of Foodbanks, "Ohio Food Insecurity Rates Nearly Double Since Start of COVID-19 (June 15, 2020) (Exhibit D).

[35] United States Census Bureau, Housing Table 1(b), Ohio tab (July 1, 2020) (Exhibit D).

[36] National Low Income Housing Coalition "Needs in Ohio" " (last visited July 27, 2021) (Exhibit D).

Therefore, these consumers need and will continue to need assistance. The harm from the pandemic is ongoing and so should be the consumer protections.

Protecting AEP Ohio's consumers from all disconnections for non-payment is a fit under the state's emergency statute, R.C. 4909.16. The emergency statute provides for the PUCO to act when "necessary to prevent injury to the business or interests of the public…in case of any emergency…." To prevent injury to the public, the PUCO should grant the Motion to suspend AEP's disconnections of consumers during an investigation of AEP.[37]

The PUCO should grant the Consumer Parties' Motion to suspend all AEP Ohio disconnections of consumers for non-payment.

C. As a secondary alternative to suspending all AEP Ohio disconnections of consumers, the PUCO should suspend AEP's use of smart meters for remote service disconnections at least during the investigation.

With the proliferation of advanced metering infrastructure and smart meters, disconnecting service to consumers is as easy for AEP Ohio as remotely flipping a switch. If the PUCO does not grant the above motion to suspend all AEP Ohio disconnections, then in the alternative the PUCO should suspend AEP's use of remote disconnections. The in-person notice to consumers before disconnection is more important than ever to prevent consumers from losing essential (and potentially lifesaving) utility service. As noted above, Ohio's poverty rate, food insecurity numbers and the financial challenges consumers face paying housing costs illuminate the hardship for maintaining essential utility services. These hardships that Ohioans face are real and should not be ignored by the PUCO. AEP Ohio's disconnections over the past year have far surpassed the number of disconnections performed by any other electric utility.

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[37] *See e.g. In the Matter of the Investigation into Long-term Solutions Concerning Disconnection of Gas and Electric Service in Winter Emergencies*, Case No. 83-303-GE-COI, *et al.* Entry (Feb. 22, 1989) (using emergency authority under R.C. 4909.16 to require utilities to continue percentage of income payment plan rules for low-income residential consumers.)

Protecting AEP Ohio's consumers from remote disconnections for non-payment is also a fit under the state's emergency statute, R.C. 4909.16. The emergency statute provides for the PUCO to act when "necessary to prevent injury to the business or interests of the public…in case of any emergency…." The PUCO should exercise its authority to prevent injury of the public by granting our Motion to suspend remote disconnections during the investigation.[38] Consumer Parties' Motion to suspend AEP Ohio's remote disconnections of consumers for non-payment during the investigation should be granted.

D. To protect consumers, the PUCO should suspend all electric and gas utility disconnections of consumers for non-payment, during the upcoming 2021-2022 winter heating season.

In a November 30, 1982 editorial, the Akron Beacon Journal described the PUCO's 1982-1983 winter disconnection moratorium as "humane, responsible."[39] That characterization of a PUCO disconnection moratorium 40 years ago is applicable today. Indeed, the PUCO just last year allowed for a moratorium on energy utility disconnections of consumers, given the pandemic emergency. And now government is expressing concern that another wave of the pandemic may be developing.[40]

The poverty rate in Ohio is approximately 14.9%, and nearly 1.7 million Ohioans have; reported income below the poverty line.[41] The poverty rate among African-Americans in Ohio is

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[38] *See id.*

[39] "PUCO winter shutoff ban is humane, responsible," Akron Beacon Editorial, p. A4 (Nov. 30, 1982). (Attached as Exhibit H).

[40] "Ohio records more than 1,000 COVID cases for 2nd day in a row," by K. Spicker, Dayton Daily News (July 28, 2021).

[41] WelfareInfo.org, "Poverty Rate in Ohio" (Exhibit D).

32%.[42] Food insecurity in Ohio is 16%.[43] Recently, over a half million Ohioans were unable to pay their rent.[44]

In light of the challenges faced by Ohioans due to the pandemic, more consumer protection is necessary. The traditional Winter Reconnect Order is helpful for consumers who've been disconnected. But more should be done.

Protecting Ohioans from disconnections during the upcoming 2021-2022 winter heating season is a fit under the state's emergency statute, R.C. 4909.16. The emergency statute provides for the PUCO to act when "necessary to prevent injury to the business or interests of the public…in case of any emergency…." The PUCO should exercise its authority to prevent injury to the public by granting the Consumer Parties' Motion to suspend utility disconnections during the upcoming 2021-2022 winter heating season.[45] At a minimum, the PUCO should ban the use of remote disconnections of consumers. The PUCO should grant the Consumer Parties' Motion to suspend all energy utility disconnections of consumers for non-payment.

E. If the PUCO does not suspend electric and gas utility service disconnections during the upcoming winter heating season, then the PUCO should continue and expand consumer protections in its future Winter Reconnect Orders, including by banning remote electric disconnections.

At-risk and low-income populations and the working poor in Ohio have been disproportionately affected by the pandemic, both financially and physically. And they will continue to need assistance. To further protect consumers from utility shutoffs, the PUCO should exercise all options for helping consumers pay their bills. Utilities should be encouraged to extend shareholder-funded bill payment assistance dollars to help consumers.

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[42] *Id.*

[43] FeedingAmerica.org, "Food Insecurity Ohio" " (last visited July 27, 2021) (Exhibit D).

[44] United States Census Bureau, Housing Table 1(b), Ohio tab (July 1, 2020) (Exhibit D).

[45] *See id.*

Under both recent PUCO and ODSA rulemakings, the PIPP payment amount is being lowered from six percent to five percent for gas and electric PIPP. The PUCO should require the reduced PIPP payment amount to be available by the beginning of the winter heating season. Further, the PUCO should consider providing a reasonable pathway to expunge customer debt, reduce barriers to participation in payment plans, and eliminate punitive provisions for missed PIPP payments.

Also, there is the matter of the $115 million penalty (half of the $230 million total penalty) that FirstEnergy is to pay to ODSA, per FirstEnergy's Deferred Prosecution Agreement with the United States Attorney.[46] There should be consideration (involving ODSA) of how FirstEnergy's penalty could be used, as applicable, for these consumer needs.

The PUCO should also act to expand and continue indefinitely the protections in its latest Winter Reconnect Order. The PUCO's most recent Winter Reconnect Order issued in Case No. 20-1252-GE-UNC provided important consumer protections for low-income consumers served under the Percentage of Income Payment Plan ("PIPP") program. Those protections should be continued.

Under the PUCO's gas and the Ohio Development Services Agency electric PIPP rules, customers can be removed from PIPP for missing payments at their anniversary date or for failing to re-verify their income.[47] The last Winter Reconnect Order waived these rules and provides that reconnection payments can be added to arrearages. To help those consumers who continue to struggle financially from the pandemic and those who may continue to be at risk of

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[46] *United States of America vs. FirstEnergy Corp.*, Case No. 1:21-cr-86 (S.D. Ohio), Deferred Prosecution Agreement at 4 (July 22, 2021); see Exhibit C attached hereto, the U.S. Attorney's press release.

[47] Winter Reconnect Order, at ¶¶22-23.

disconnection, these PIPP protections should be extended to the winter heating season of 2021-2022.

In addition, the Winter Reconnect Order provided additional protection to consumers by expanding the "winter heating season" from October 5, 2020 through April 15, 2021.[48] The PUCO's rules define the winter heating season as November 1 through April 15.[49] So the current Winter Reconnect Order protects consumers from disconnection for a longer period of time. The PUCO should continue this practice when it issues a winter reconnection order for the 2021-2022 winter heating season.

Other requirements that were included in the Winter Reconnect Order required utilities to provide information regarding the number reconnected customers, types of payment plans consumers entered into with utilities, and how long disconnections lasted should also be continued.[50] While this information may have been sufficient for pre-pandemic winter heating seasons, more information from utilities regarding payment plans should be required to prevent future disconnections.

Similar to the analysis Staff performed of the 2019-2020 Winter Reconnection Order and the impact on consumers,[51] an analysis of the 2020-2021 should be performed. Additional analysis and reporting about the number of customers on customized and PUCO-required payment plans would be useful. That will help determine whether such plans are in fact keeping

[48] *In re In the Matter of the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2020-2021 Winter Heating Season*, Case No. 20-1252-GE-UNC, Finding and Order (August 12, 2020) ("Winter Reconnect Order"), ¶6.

[49] O.A.C. 4901:1-18-01(V).

[50] Winter Reconnect Order.

[51] Case 20-1252-GE-UNC, Winter Reconnect Order, Finding and Order, Appendix B (August 12, 2020).

consumers connected and/or whether more assistance is required. The analysis and other information should be used to develop other protections for the Winter Reconnection Order.

Finally, in the event the PUCO does not ban disconnections of consumers during the Ohio winter, the PUCO should at least ban remote electric disconnections as part of the Winter Reconnect Order. The reasons for the ban on remote disconnections are explained earlier in this filing.

F. For energy justice, the PUCO should require electric and gas utilities to provide information about the disproportionate impacts of disconnections on diverse segments of the population, including but not limited to at-risk and minority communities and the working poor.

The gas and electric utilities provide monthly disconnection data to the PUCO Staff and publicly file annual disconnection reports. But the information that is provided lacks the details that enable an understanding of the demographics of Ohioans that face disconnection and the associated negative impacts. That information should be known to help the affected Ohioans and to avoid any unfair disparities.

The number of disconnections that are reported by zip code could provide needed information about particular communities and segments of communities that tend to be more at risk for disconnection. According to the report "State of Poverty in Ohio – 2020," Black and Hispanic Ohioans are substantially more likely to face poverty than non-Hispanic White Ohioans.[52] A 2020 CNN article references a 2017 report by the NAACP, which "found that utility shutoffs had a disproportionate impact on poor and Black communities."[53] Therefore, the PUCO should require electric and gas utilities to report the number of disconnections by zip

[52] "State of Poverty in Ohio – 2020," Ohio Association of Community Action Agencies.

[53] Duster, Chandelis, *Utility Shutoffs Threaten a Fresh Crisis for Low-income and Black Families as Covid Surges Again*, CNN (July 12, 2020).

code.[54] And requiring other utility reporting, based on other types of analysis including quantitative and qualitative analyses, should be considered.

This information will help the PUCO promote energy justice, an important issue that has been made even more important due to the pandemic. It has been reported that one in three "American households faces some sort of energy insecurity, such as a challenge affording their energy bills or trouble keeping their home a healthy temperature."[55] As the Rockefeller Foundation has reported:

> Across the U.S., low-income households are impacted by energy burden – that is, the high percentage of household income spent on gas and electricity. According to the U.S. Department of Energy, pre-pandemic 37 million households suffered from energy insecurity. This issue is particularly acute for Native American (60+%), Black (50%), and Latinx (40%) households. Low-income households typically pay more than three times their household income on utilities compared with higher-income households (7.2% vs. 2.3%).
>
> Black and Latinx households specifically spend disproportionate amounts of their income on energy – experiencing energy burdens 64% and 24% greater than white households, respectively.[56]

As a result of the energy burden, it has been reported that "[s]truggling families sometimes find themselves forced to choose between electricity and other basic necessities like groceries or healthcare."[57] It bears keeping in mind that reportedly "the cost of energy is regressive; low-income customers (those with a household income not exceeding 200% of the

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[54] *See e.g. In the Matter of the Investigation and Comprehensive Review of the Commission's Disconnection Rules and the Disconnection Policies of Public Service Corporations*, Arizona Corp. Comm'n, Docket No. E-00000A-19-0128, Dec. No. 77849 (Dec. 17, 2020), ¶20(i) (requiring quarterly reports from utilities through January 2023 of detailed information regarding residential consumer disconnections by zip code); *In the Matter of the Inquiry Into the Actions of Electric and Natural Gas Utilities in Light of the COVID-19 Pandemic Emergency*, Minnesota Pub. Utils. Comm'n., Docket No. E,G999/CI-20-375 (March 8, 2021) (adopting consumer advocates' recommendation to require utilities to report consumer disconnections by zip code).

[55] OurEnergyPolicy.org, "Energy Justice," (Exhibit E).

[56] Rachel Isacoff, The Rockefeller Foundation, "Texas Crisis Highlights U.S. Energy Justice Issues," (Exhibit F).

[57] *Id.*

federal poverty level) spend a larger share of their income on energy costs."[58] So the cost of energy hurts those that have difficulty paying for it the most.

The PUCO should assure energy justice. It should begin by granting the Consumer Parties' Motion and require electric and gas utilities to gather and report information to assist in promoting energy justice.

1. The PUCO's failure for energy justice in a 2015 disconnection complaint should not be repeated here.

The issue of excessive consumer service disconnections has been addressed before at the PUCO. For example, in 2015, OCC and Citizens United for Action ("CUFA") filed a complaint against Duke Energy Ohio ("Duke") at the PUCO under R.C. 4905.26.[59] One issue raised by OCC and CUFA involved a comparison of the data contained in the annual reports of service disconnections for June 1, 2014 through May 31, 2015. The data showed that Duke residential electric consumers were significantly more likely to be disconnected for non-payment than were residential customers of other electric utilities in the state.[60] Two years later, the PUCO dismissed the Complaint for failure to state reasonable grounds.[61]

The PUCO's process (or lack thereof) for consumer protection in the complaint was concerning. Despite R.C. 4903.082 (providing ample rights of discovery), efforts to use the discovery process were thwarted. OCC's Motion to Compel Discovery remained pending for nearly two years. Then the PUCO dismissed the Complaint.[62]

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[58] Colette Brashears, Talia Lanckton, Shalanda H. Baker, Initiative for Energy Justice, "Utility Shutoffs and the COVID-19 Pandemic," (Exhibit G).

[59] *OCC and CUFA v. Duke Energy Ohio*, Case No. 15-1588-EL-CSS, Complaint at 5 (September 15, 2015).

[60] *Id.* at 5.

[61] *Id.* Entry at 1 (October 11, 2017).

[62] *Id.* Entry at n. 3.

Then, on November 13, 2017, OCC and CUFA filed an Application for Rehearing. On December 13, 2017, the PUCO issued an Entry on Rehearing which granted rehearing for further consideration of the matters specified in the application for rehearing. *To this day a rehearing entry on the merits has never been issued by the PUCO, now four years later in that complaint case.*

In the interest of energy justice, the PUCO should address the Consumer Parties' motions, in this case and without delay. A PUCO response such as the Consumer Parties' motions should be refiled to be heard in another case (such as a complaint), is not an answer to the need for consumer protection. That is illustrated by the PUCO's inaction, delay and lack of justice for consumers in the disconnection complaint of *OCC and CUFA v. Duke Energy Ohio*.

IV. CONCLUSION

People need utility services to live. To protect Ohioans, the PUCO should grant the Consumer Parties' motions.

Respectfully submitted,

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Ohio Consumers' Counsel

WJM

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Motions was served on the persons stated below via electronic transmission, this 30th day of July 2021.

Williams J. Michael
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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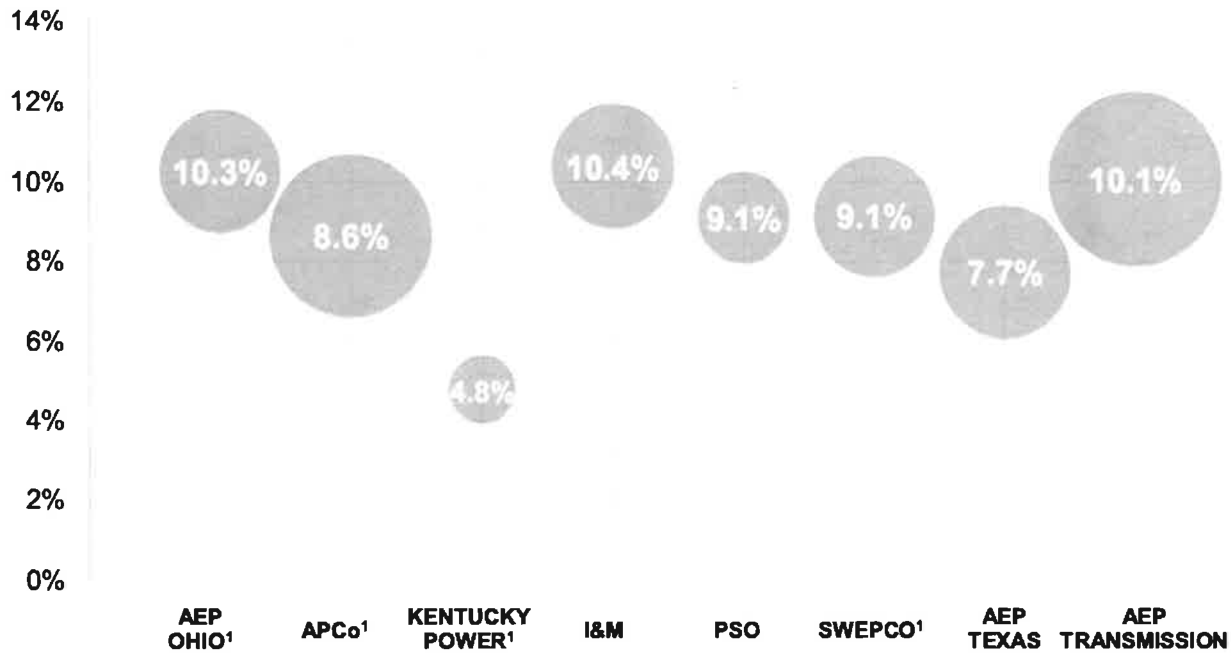
Regulated Returns and Authorized Equity Layers

Twelve Months Ended 3/31/2021 Earned ROE's
(non-GAAP operating earnings, not weather normalized)



Regulated Operations ROE of 9.1%
(as of March 31, 2021)

Authorized Equity Layers
(in whole percentages)

Operating Company	3/31/17	3/31/21	Improvement
AEP Ohio[2]	48%	54%	6%
APCo – VA	43%	50%	7%
APCo – WV	47%	50%	3%
PSO[2]	44%	53%	9%
SWEPCO – AR	46%	48%	2%
SWEPCO –LA[2]	47%	51%	4%
AEP Texas	40%	43%	3%
AEP Transmission	50%	55%	5%

Improving Our Authorized Equity Layers Over Time

[1] Base rate cases pending/order recently received

[2] 3/31/21 data represents equity layers as requested in pending base rate cases, except for PSO, which shows the equity layer as requested in a base rate case filed on 4/30/21

Sphere size based on each company's relative equity balance

Exhibit A

Graley, Connie

From:	Steven G Stewart [sgstewart@aep.com]
Sent:	Wednesday, April 22, 2020 3:49 PM
To:	Lane, Charlotte
Subject:	FW: NARUC letter in opposition to a federally mandated debt collection and disconnection moratorium
Attachments:	NARUC letter opposing Federally mandated disconnect & debt moratorium.pdf; Nebraska PUC opposing Federally mandated disconnection moratorium.pdf; 20200417_Covid19_Federal Legislation_Letter of Response_APCO_Clean.docx
Importance:	High

Confidential

APPALACHIAN POWER
STEVEN G STEWART | DIR EXTERNAL AFFAIRS
SGSTEWART@AEP.COM | D:304.696.1362 | C:304.633.5995
1122 SEVENTH AVENUE, HUNTINGTON. WV 25719-1897

From: Brad N Hall <bnhall@aep.com>
Sent: Wednesday, April 22, 2020 2:26 PM
To: Will Castle <wkcastle@aep.com>; John J Scalzo <jjscalzo@aep.com>; Noelle J Coates <njcoates@aep.com>
Cc: Steven G Stewart <sgstewart@aep.com>; Steven H Ferguson <shferguson@aep.com>; Larry E Jackson <lejackson@aep.com>; Ronald J Jefferson <rjjefferson@aep.com>; Anthony P Kavanagh <apkavanagh@aep.com>; Christian T Beam <ctbeam@aep.com>; Matthew J Satterwhite <mjsatterwhite@aep.com>
Subject: FW: NARUC letter in opposition to a federally mandated debt collection and disconnection moratorium
Importance: High

Will, Noelle, and John,

Please see Tony's note below. Tony is asking our team to communicate with our state commissions in regard to our concerns about a federally mandated debt collection and moratorium for utilities that is being considered for the next phase of the stimulus package. Last week Nick/Chris sent letters to our Federal delegation discussing our concerns. I am sharing the letter content Tony's team used for these letters for your reference as well as the letters Tony mentions in his note below.

Please contact our commissions as soon as possible to ask them to express their concerns with the idea of a federal moratorium. You may use these letters for your talking points or as you see fit.

We will need to take action quickly as the next phase of the stimulus package is being considered now and it could include this moratorium. Please respond back to this group with any feedback.

Thank you,

APPALACHIAN POWER

BRAD N HALL | VP EXTERNAL AFFAIRS
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40 FRANKLIN ROAD SW, ROANOKE, VA 24011

From: Taylor J Rymiszewski <tjrymiszewski@aep.com> **On Behalf Of** Anthony P Kavanagh
Sent: Wednesday, April 22, 2020 1:58 PM
To: Julio Reyes <jcreyes@aep.com>; Brian Bond <tbbond@aep.com>; Marc E Lewis <melewis@aep.com>; Cynthia G Wiseman <cgwiseman@aep.com>; Brad N Hall <bnhall@aep.com>; Thomas L Froehle <tlfroehle@aep.com>; Tiffini Jackson <tsjackson@aep.com>
Cc: Matthew J Satterwhite <mjsatterwhite@aep.com>; Charles Patton <crpatton@aep.com>; Lisa M Barton <lmbarton@aep.com>
Subject: NARUC letter in opposition to a federally mandated debt collection and disconnection moratorium

Please find attached an excellent letter from Brandon Presley, President of NARUC, to the Senate and House leadership, opposing a federally mandated debt collection and disconnection moratorium on utilities that are regulated by state public service commissions. (You may have already received this letter from Matt Satterwhite). I've also attached a similar letter from the Nebraska PUC to their House and Senate delegations that also opposes the proposed federal legislation.

As a follow up, can you please contact your public utility commissions and urge them to contact their Congressional delegations to oppose federal legislation calling for national debt and disconnection moratoriums?

The talking points that you received last week were tailored for that purpose, as they specifically reference each state and commission by name. The emails that you previously received included a brief version of the main points that you can utilize as well. If you need us to resend them, please let me know.

The Congress may consider these type of provisions in its next large legislative package, so it is therefore all the more important that we ask our Commissions to weigh in on this matter with their Congressional delegations.

Thank you for your attention to this matter.
Tony

AMERICAN ELECTRIC POWER
BOUNDLESS ENERGY

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United States Department of Justice

THE UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT *of* OHIO

Department of Justice

U.S. Attorney's Office

Southern District of Ohio

FOR IMMEDIATE RELEASE Thursday, July 22, 2021

FirstEnergy charged federally, agrees to terms of deferred prosecution settlement

CINCINNATI – FirstEnergy Corp. has been charged federally with conspiring to commit honest services wire fraud and has agreed to pay a $230 million monetary penalty. The company signed a deferred prosecution agreement that could potentially result in dismissal of the charge.

The charge and agreement stem from the U.S. Attorney's Office's ongoing public corruption prosecutions. In today's court filings, FirstEnergy Corp., an Akron, Ohio-based public utility holding company, admits it conspired with public officials and other individuals and entities to pay millions of dollars to public officials in exchange for specific official action for FirstEnergy Corp.'s benefit.

FirstEnergy Corp. acknowledged in the deferred prosecution agreement that it paid millions of dollars to an elected state public official through the official's alleged 501(c)(4) in return for the official pursuing nuclear legislation for FirstEnergy Corp.'s benefit.

The company also acknowledged that it used 501(c)(4) entities, including one it controlled, to further the scheme because it allowed certain FirstEnergy Corp. executives and co-conspirators to conceal from the public the nature, source and control of payments.

FirstEnergy Corp. further acknowledged that it paid $4.3 million dollars to a second public official. In return, the individual acted in their official capacity to further First Energy Corp.'s interests related to passage of nuclear legislation and other company priorities.

FirstEnergy Corp. has cooperated substantially with the government, and according to the deferred prosecution agreement, the company must continue to cooperate fully with the United States in all matters related to the company's conduct described in the agreement and other conduct under investigation by the government, among other obligations.

For example, within 60 days of today's filing, FirstEnergy Corp. must pay $115 million to the United States and $115 million to the Ohio Development Service Agency's Percentage of Income Payment Plus Plan, a program that provides assistance to Ohioans in paying their regulated utility bills.

Other terms in the agreement include publicly disclosing on its website any FirstEnergy Corp. contributions to 501(c)(4) entities and entities known by FirstEnergy Corp. to be operating for the benefit of a public official, either directly or indirectly, and making various provisions to improve corporate compliance moving forward.

As part of the agreement, FirstEnergy Corp. admitted to the facts alleged in the Information and outlined in the Statement of Facts, which detail actions by FirstEnergy Corp. executives to pay money to public officials in return for official action. As a corporation, FirstEnergy Corp. is responsible for the acts of its current and former officers, directors, employees and agents.

Vipal J. Patel, Acting United States Attorney for the Southern District of Ohio, and Chris Hoffman, Special Agent in Charge, Federal Bureau of Investigation (FBI), Cincinnati Division, announced the charge and agreement. Deputy Criminal Chief Emily N. Glatfelter and Assistant United States Attorney Matthew C. Singer are representing the United States in this case.

###

Topic(s):
Public Corruption

Component(s):
USAO - Ohio, Southern

Contact:
jennifer.thornton@usdoj.gov

Updated July 22, 2021

Poverty Rate → Ohio

Poverty in Ohio

What is the poverty rate in Ohio?

The poverty rate in Ohio is 14.9%. One out of every 6.7 residents of Ohio lives in poverty.

How many people in Ohio live in poverty?

1,683,890 of 11,289,161 residents reported income levels below the poverty lin in the last year.

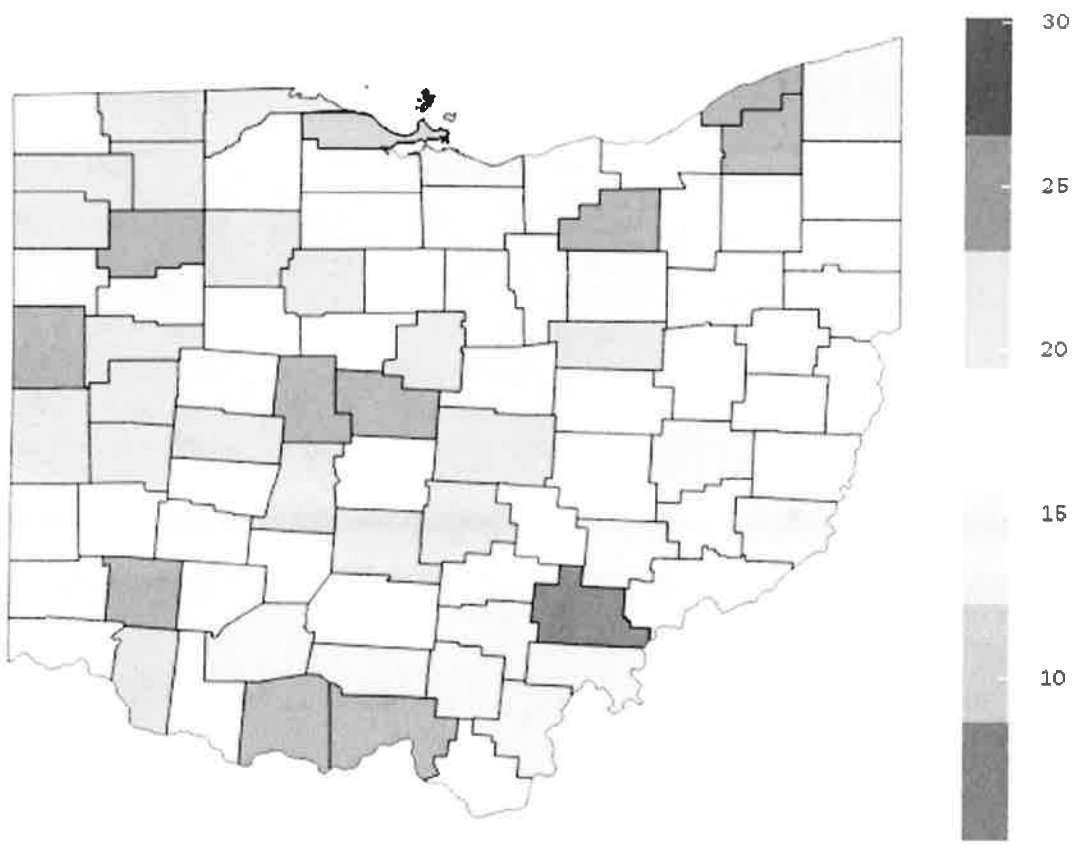
How does the Poverty Rate in Ohio compare to the national average?

Ohio ranks 32nd in Poverty Rat at 14.9%(poverty rankings by state).The Poverty Rate of Ohio is slightly high r than the national average of 14.6%.

f FACEBOOK   TWITTER

Ohio Poverty Rate County Map

Ohio Percent of Population Below Poverty Rate By County



Ohio Poverty Rate By Race

Race	Population	Poverty Rate	National Poverty Rate	Population
Black	1,366,363	32.0%	25.2%	11.8%
American Indian	20,908	26.5%	26.8%	0.2%
Asian	229,147	13.7%	11.9%	2.0%
Pacific Islander	3,351	24.3%	19.0%	0.0%
Other	100,917	26.0%	23.8%	0.9%
Two Or More Races	300,546	27.5%	18.4%	2.6%
White	9,014,254	11.5%	10.3%	77.6%
Hispanic	402,299	26.1%	22.2%	3.5%

What's the Poverty Rate in Ohio By Race?

32.0% of Black residents of Ohio live below the poverty line.

The Poverty Rate of black residents in Ohio is the same as than the na ional average. 437,788 of 1,366,363 black Ohioans live below the poverty line. Approximately 11.8% of the total population of Ohio are black.

13.7% of Asian residents of Ohio live below the poverty line.

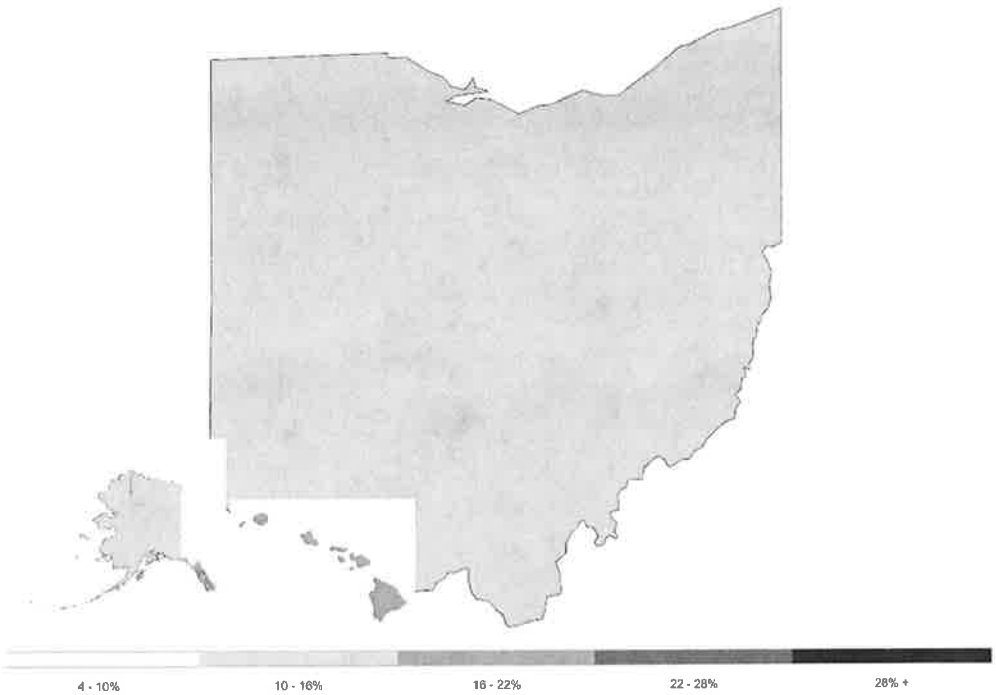
The Poverty Rate of asian residents in Ohio is the same as than the national average. 31,305 of 229,147 asian Ohioans live below the poverty line. Approximately 2.0% of the total population of Ohio are asian.

11.5% of White residents of Ohio live below the poverty line.

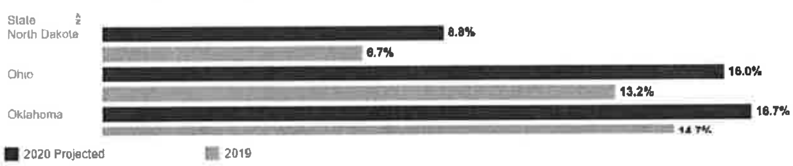
The Poverty Rate of white residents in Ohio is the same as than the na ional average. 1,037,150 of 9,014,254 white Ohioans live below the poverty line. Approximately 77.6% of the total population of Ohio are white.

26.1% of Hispanic residents of Ohio live below the poverty line.

2020 Projected Overall Food Insecurity Rate



2020 Projected Overall Food Insecurity Rate



OHIO
ASSOCIATION OF
FOODBANKS

FOR IMMEDIATE RELEASE: **June 15, 2020**

OHIO FOOD INSECURITY RATES NEARLY DOUBLE SINCE START OF COVID-19
Nearly 350,000 Ohio households have reported receiving free food from a food pantry, school program, or other source in the past week

COLUMBUS, OH – U.S. food insecurity and unemployment rates are at an all-time high due to the unforeseen effects of COVID-19, which have wreaked havoc all over the world since the beginning of 2020. In Ohio, more than one in seven workers remain unemployed, and recent polls show one in four Americans missed last month's rent or mortgage or have little to no confidence they can pay next month on time. Food insecurity rates have nearly doubled in Ohio from 13.9% to 23%, according to the Census Household Pulse Survey. The Census found that *just in the past week,* nearly 350,000 Ohio households have reported receiving free food from a food pantry, school or children's program, or other source, such as a neighbor.

"COVID-19 has created the perfect storm, releasing a downpour of difficulties on Ohio families," said Lisa Hamler-Fugitt, executive director of the Ohio Association of Foodbanks. "High unemployment rates and loss of income from jobs has led to a massive surge in demand at our foodbanks at a time when we're facing significant operational challenges, including declines in volunteers, fundraising revenue and donated foods."

Foodbanks across the country rapidly shifted operating models to meet skyrocketing demand while mitigating the spread of COVID-19, and they haven't seen demand ease off for three months. Meanwhile, disruptions to the supply chain have meant fewer retail donations and a surge in food prices putting additional pressure on family food budgets.

"Congress attempted to put an umbrella over families' heads by means of expanding SNAP aid and increasing unemployment benefits, but it hasn't been enough," said Hamler-Fugitt. "The increase in food prices makes the current SNAP benefit amounts even more inadequate to meet basic food needs. Our foodbanks simply cannot keep up with this level of demand – congressional action is needed now."

SNAP is America's most effective anti-hunger program and one of the best ways to stimulate the economy as people spend their benefits quickly and in their local communities. As Congress negotiates the next stimulus package, Ohio's foodbanks urge members to consider the following:

- A temporary 15% increase in the maximum SNAP benefit for all households must be included. This modest change would add just $25 per person per month, but this small increase will do a lot to address hunger and food insecurity.
- Congress must also consider the more than 30 million children across America who participate in school and summer meal programs and strengthen and extend the Pandemic-EBT program for them.

"The need for increasing SNAP benefits and ensuring the health and nutrition of Ohio and American families is urgent and it cannot wait," said Hamler-Fugitt. "The government must step in and do its job, particularly when the suffering is so great. Americans are drowning."

###

About the Ohio Association of Foodbanks
The Ohio Association of Foodbanks is Ohio's largest charitable response to hunger, representing Ohio's 12 Feeding America foodbanks and 3,600 member charities including food pantries, soup kitchens and shelters. In SFY 2019, the association and its member foodbanks were able to acquire and distribute 230 million pounds of food and grocery items. Follow the association on Twitter, stay connected on Facebook and visit them on the web at www.ohiofoodbanks.org.

Contact: Joree Novotny, Director of External Affairs for the Ohio Association of Foodbanks
614-273-5818 (cell) – or – jnovotny@ohiofoodbanks.org

Housing Table 1b. Last Month's Payment Status for Renter-Occupied Housing Units, by Sele

Source: U.S. Census Bureau Household Pulse Survey, Week 8.

Total Population 18 Years and Older in Renter-Occupied Housing Units

Select characteristics	Total	Occupied without rent
Total	2,369,021	89,278
Age		
18 - 24	244,054	48,324
25 - 39	1,016,992	1,741
40 - 54	426,985	1,384
55 - 64	280,232	25,132
65 and above	400,757	12,697
Sex		
Male	1,050,509	67,993
Female	1,318,512	21,285
Hispanic origin and Race		
Hispanic or Latino (may be of any race)	112,892	-
White alone, not Hispanic	1,535,379	69,828
Black alone, not Hispanic	556,970	19,451
Asian alone, not Hispanic	17,359	-
Two or more races + Other races, not Hispanic	146,422	-
Education		
Less than high school	237,731	9,589
High school or GED	884,458	40,611
Some college/associate's degree	837,988	22,706
Bachelor's degree or higher	408,843	16,373
Marital status		
Married	803,749	2,213
Widowed	171,353	2,475
Divorced/separated	352,525	24,084
Never married	1,037,166	60,506
Did not report	4,228	-
Household size		
1 person in the household	374,824	6,918
2 people in the household	607,813	31,711
3 people in the household	457,447	20,219
4 people in the household	501,952	30,430
5 people in the household	127,873	-
6 people in the household	66,995	-
7 or more people in the household	232,118	-
Presence of children under 18 years old		
Children in household	1,185,179	43,338
No children	1,183,842	45,940

Respondent or household member experienced loss of employment income		
Yes	1,219,013	72,872
No	1,150,008	16,406
Did not report	-	-
Respondent currently employed		
Yes	1,564,218	33,951
No	783,909	55,328
Did not report	20,894	-
Household income		
Less than $25,000	921,620	30,550
$25,000 - $34,999	452,736	-
$35,000 - $49,999	451,691	30,825
$50,000 - $74,999	197,632	26,683
$75,000 - $99,999	189,743	210
$100,000 - $149,999	54,795	-
$150,000 - $199,999	4,838	-
$200,000 and above	8,023	-
Did not report	87,942	1,011
Used in the last 7 days to meet spending needs*		
Regular income sources like those used before the pandemic	1,730,776	37,697
Credit cards or loans	407,463	21,752
Money from savings or selling assets	489,535	30,788
Borrowing from friends or family	620,847	-
Unemployment insurance (UI) benefit payments	205,798	-
Stimulus (economic impact) payment	615,670	57,932
Money saved from deferred or forgiven payments (to meet spending needs)	113,996	-
Did not report	26,526	-

* Totals may not sum to 100% as the question allowed for multiple categories to be marked.

ect Characteristics: Ohio

Last month's payment status			
Yes	No	Rent was deferred	Did not report
1,731,461	503,500	39,878	4,903
114,378	71,632	9,719	-
646,039	339,632	25,091	4,490
392,394	30,469	2,325	414
200,652	54,448	-	-
377,997	7,319	2,744	-
569,023	381,609	27,394	4,490
1,162,438	121,891	12,484	414
108,397	4,192	302	-
1,139,702	305,769	15,591	4,490
392,007	127,423	17,675	414
17,359	-	-	-
73,997	66,115	6,310	-
203,102	25,040	-	-
720,177	108,462	15,208	-
490,451	301,273	18,656	4,903
317,731	68,725	6,014	-
599,807	192,977	8,339	414
151,386	17,491	-	-
302,260	20,378	5,803	-
678,008	268,427	25,736	4,490
-	4,228	-	-
211,660	139,926	16,319	-
404,588	161,795	9,719	-
349,715	79,964	7,549	-
384,562	78,510	3,547	4,903
101,574	26,299	-	-
55,190	9,061	2,744	-
224,173	7,945	-	-
970,704	152,394	13,840	4,903
760,757	351,106	26,038	-

789,444	326,712	29,572	414
942,017	176,788	10,306	4,490
-	-	-	-
1,219,411	282,473	23,894	4,490
491,156	221,027	15,985	414
20,894	-	-	-
710,468	161,558	19,044	-
380,145	59,307	13,285	-
222,700	198,166	-	-
163,588	7,360	-	-
123,242	63,966	2,325	-
42,301	7,270	5,224	-
4,838	-	-	-
2,150	5,873	-	-
82,028	-	-	4,903
1,369,042	304,958	14,175	4,903
263,577	104,446	17,687	-
222,032	222,640	14,074	-
301,099	297,578	22,170	-
118,155	87,340	302	-
448,171	102,837	6,317	414
76,899	36,684	-	414
25,801	725	-	-

Did not report to tenure
1,092,042
169,641
304,871
213,229
157,843
246,459
573,819
518,222
29,249
839,738
151,128
15,404
56,522
142,940
559,847
202,554
186,701
505,307
36,484
138,795
405,410
6,045
70,904
256,480
319,541
199,166
166,002
26,178
53,770
416,208
675,834

432,695
642,820
16,527
624,577
462,958
4,506
280
-
-
2,122
-
9,550
-
1,233
1,078,856
704,116
272,300
242,695
45,290
47,101
207,219
68,225
78,698

Across Ohio, there is a shortage of rental homes affordable and available to extremely low income households (ELI), whose incomes are at or below the poverty guideline or 30% of their area median income (AMI). Many of these households are severely cost burdened, spending more than half of their income on housing. Severely cost burdened poor households are more likely than other renters to sacrifice other necessities like healthy food and healthcare to pay the rent, and to experience unstable housing situations like evictions.

KEY FACTS

436,611 OR **27%**	**$25,750**	**-252,027**	**$34,608**	**66%**
Renter households that are extremely low income	Maximum income for 4-person extremely low income household (state level)	Shortage of rental homes affordable and available for extremely low income renters	Annual household income needed to afford a two-bedroom rental home at HUD's Fair Market Rent.	Percent of extremely low income renter households with severe cost burden

Energy Justice

Posted by:
OurEnergyPolicy.org
Administrator
OurEnergyPolicy.org
Posted on:
November 2, 2020 at 12:07 PM

Energy justice was the topic of OurEnergyPolicy's October 28, 2020, webinar—focusing on energy affordability for low-income and marginalized communities. One in three American households faces some sort of energy insecurity, such as a challenge affording their energy bills or trouble keeping their home a healthy temperature. Michael Dorsey (Co-Founding Partner, IberSun Solar), Tony Reames (Assistant Professor at the University of Michigan in Ann Arbor and director of the Urban Energy Justice Lab), and Devra Wang (Program Director at the Heising-Simons Foundation)—with moderator Dan Kammen (Professor, UC Berkeley)—discussed these challenges and potential solutions.

Pandemic-specific solutions for energy insecure households could include aid through the HEROES Act and CARES Act [https://home.treasury.gov/policy-issues/cares] and continuing the state moratoria on electricity service shutoffs. Many states instituted these moratoria at the beginning of the pandemic to protect Americans under increased financial stress, but many moratoria are now being lifted. Viewing energy as a basic right might also be helpful in ensuring energy access for all people.

Current programs that could be expanded are weatherization programs—which reduce people's energy bills by making their homes more energy-efficient—and the Low Income Home Energy Assistance Program (LIHEAP)—a federal bill-payment assistance program implemented at the local level. Panelists mentioned the Energy Efficiency for All [https://www.energyefficiencyforall.org/] coalition, which focuses on energy efficiency retrofits, and Michigan Saves [https://michigansaves.org/] , which provides a finance infrastructure to drive efficiency and renewable projects. We could keep protections in government programs that prevent landlords from raising rent after home retrofits. In addition, state energy efficiency programs might be improved by updating outdated cost-benefit frameworks.

Panelists also mentioned investment, good data, renewable energy, and inclusion as factors to incorporate for energy justice solutions. A study found that a lack of investment from corporations in poor communities was one reason why LED light bulbs were less available and more expensive in those communities. Data may be the key to bringing problems to light, such as the frequency of utility disconnections. The low cost of solar power may provide a good opportunity to deliver Americans electricity that is affordable and also clean. Also, including people from marginalized communities on advisory boards and in decision-making roles is an important part of solving energy justice issues and making energy more affordable for all Americans.

BLOG/

Texas Crisis Highlights U.S. Energy Justice Issues

Rachel Isacoff — Manager, Economic Policy and Energy Justice, U.S. Equity and Economic Opportunity Initiative, The Rockefeller Foundation

4 MIN READTIME / 03.04.21

Texas, facing record-low temperatures this February, lost control of the power supply, leaving millions without access to electricity. But the crisis was not equally felt, exposing inequities in the energy system that disproportionately impact low-income Texans of color.

Black and Latinx communities were the first to face power outages and could be the last to be reconnected. Low-income households already spend a disproportionate amount of income on utilities, in part because their homes often lack good insulation. In the wake of the storm, they lack the financial resources to rebound, and rising energy prices due to Texas' deregulated electricity market will leave many families unable to pay their utility bills.

This issue is not limited to Texas. Across the U.S., low-income households are impacted by *energy burden* – that is, the high percentage of household income spent on gas and electricity. According to the U.S. Department of Energy, pre-pandemic 37 million households suffered from energy insecurity. This issue is particularly acute for Native American (60+%), Black (50%), and Latinx (40%) households. Low-income households typically pay more than three times their household income on utilities compared with higher-income households (7.2% vs. 2.3%).

Black and Latinx households specifically spend disproportionate amounts of their income on energy – experiencing energy burdens 64% and 24% greater than white households, respectively. Bringing low-income housing stock up to the efficiency level of the average U.S. home would eliminate 42% and 68% of the energy burden for Black and Latinx households respectively.

Struggling families sometimes find themselves forced to choose between electricity and other basic necessities like groceries or healthcare. Some, seeking high-interest short-term loans to avoid utility shutoffs, have fallen into debt. A 2015 Residential Energy Consumption Survey showed that of the 25 million households that reported forgoing food and medicine to pay energy bills, 7 million faced that decision nearly every month.

The pandemic is exacerbating these issues. Energy costs increase as family members staying home use more energy, and households lose their jobs and incomes during a public health crisis when shelter and sanitation are especially vital. Additionally, by the end of October, 82 million households had no shutoff protections – including 11 million living below the poverty line pre-Covid-19. Last year, between May to August alone, an estimated 3.8 million Americans could not pay their energy bill and 1.2 million had their electricity disconnected – the percentage was higher from respondents in households of color. As many utility shutoff protections expired over the summer, more families were pushed into energy insecurity. And even when shut-off moratoria keep the lights on in the short-term, neither the federal government nor most states have plans in place to address growing customer debt.

Preventing utility disconnections can decrease both Covid-19 infections and deaths. The National Bureau of Economic Research found that moratoria on utility disconnections reduced Covid-19 infections by 4.4% and mortality rates by 7.4% as housing stability (including utility shutoff protections) increases a person's ability to follow social distancing and hygiene recommendations. Had a federal policy on utility moratoria been in place from early March 2020, Covid-19 infections rates could have been reduced by 8.7% and deaths by 14.8%.

The pandemic also has highlighted the environmental justice crisis that is the result of decades of discrimination and environmental racism in the US. Black and Latinx communities have long been impacted by environmental racism, redlining, and poor housing conditions, and Black communities are disproportionally impacted by polluting facilities, including during the Texas storm. Air and water contamination caused by coal and natural gas is linked to breathing problems, neurological damage, heart attacks, cancer, and premature deaths. Respiratory conditions like asthma and lung disease increase susceptibility to the virus.

The racial, geographic, and income-based disparities in energy burden require fairer distribution of the benefits and burdens of energy production and consumption. In practice, this means reducing mounting energy costs so families can meet their basic needs, making homes and communities healthier by increasing access to energy efficiency and clean energy, and ensuring that energy policy reflects the needs of all communities.

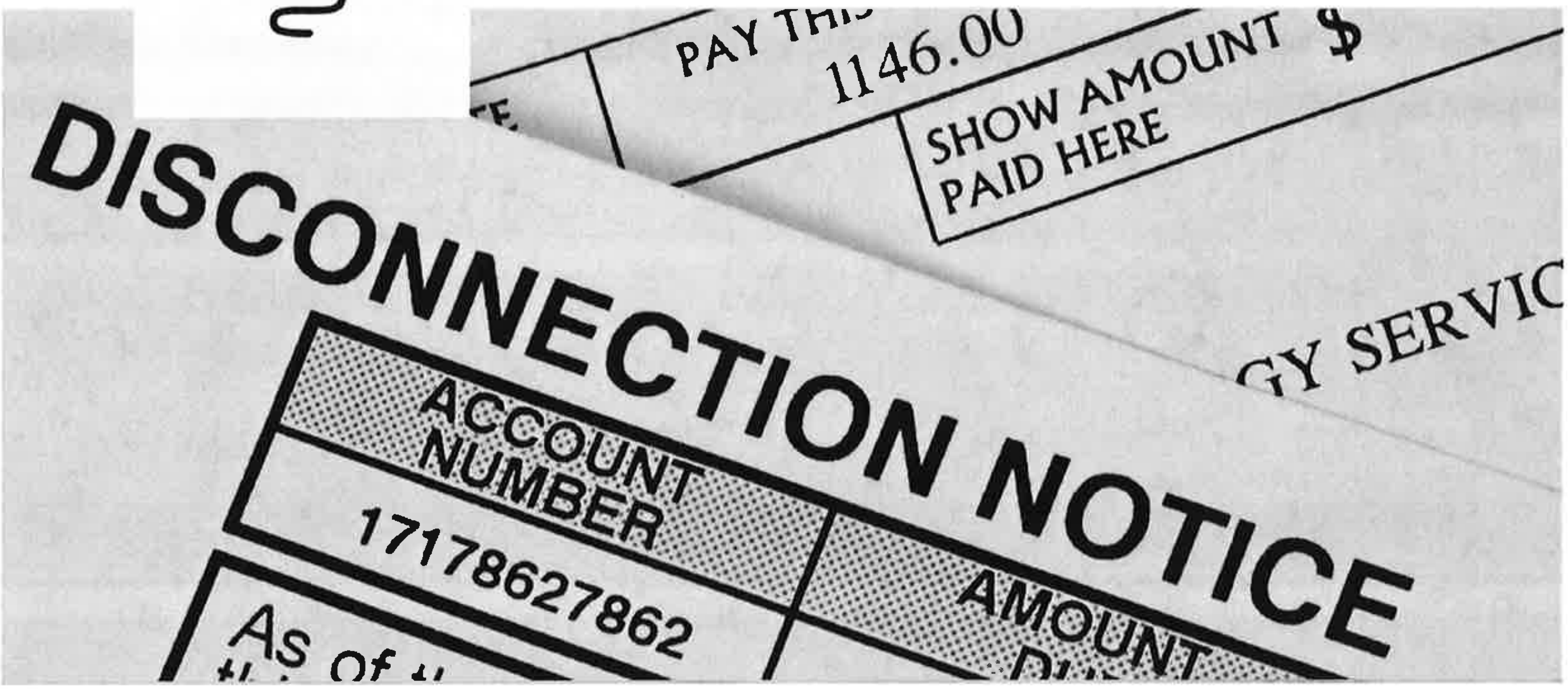
One interesting local model toward energy justice led by The Rockefeller Foundation grantee 9to5 is the Albany Coalition to Lower Utility Bills in Georgia, where electricity bills are often higher than rent and the utility company has implemented cut-offs during the pandemic. The Coalition connects citizens, faith leaders, and community leaders to support legislation to regulate public, private, and municipal utilities to relieve energy costs and allocate funds for weatherization practices. At the same time, they build community power for fair and transparent utility bills and resident-led solutions, while activating a base of voters to hold their elected officials accountable for corruption in utility bill costs and shut offs.

Other energy justice coalitions are focused on bringing energy resources under community ownership and/or governance and equitably distributing energy assistance and clean energy. This work includes creating local, high-quality jobs for a diverse workforce and also considering a just transition for workers and communities impacted by the phasing-down of fossil fuels.

The power outages in February were not limited to Texas. The impacts of extreme weather to America's aging infrastructure triggered blackouts in Oklahoma, Mississippi, and several other states. As climate change foreshadows more grid disasters across the country, we need greater transparency into how utilities decide who loses power during controlled blackouts, as well as policies to support historically marginalized communities in the equitable distribution of clean and renewable energy investments.

UTILITY SHUTOFFS AND THE COVID-19 PANDEMIC

COLETTE BRASHEARS, TALIA LANCKTON, SHALANDA H. BAKER



OVERVIEW

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

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

INTRODUCTION

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

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

This stilted and uneven recovery points to the need for on-going policy intervention to mitigate the impacts of the pandemic-induced economic crisis.

Energy costs aggravate the financial strain incurred by the inability to work and other challenges brought on by the pandemic, and poor people and people of color pay the most. Energy burden refers to the annual share of household income spent on home energy costs, including heating, cooling, and other energy needs.[5] A high energy burden is defined as utility costs that are at least 6% of the household income.[6] On average, U.S. households dedicate 3.1% of their income to their energy bills.[7] But the cost of energy is regressive; low-income customers (those with a household income not exceeding 200% of the federal poverty level) spend a larger share of their income on energy costs. Nationwide, low-income households spend 8.1% of their income on utility bills, which is more than 2.6 times greater than the median national energy burden of 3.1%.[8] Meanwhile, the poorest Americans (those with a household income below 50% of the federal poverty level) dedicate a staggering portion of their income to their utility costs, sometimes shouldering an energy burden as much as 75%.[9]

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

The racial disparities in energy burden are stark. Energy burden is 64 percent greater among African-Americans and 24 percent greater among Latinx households than that of white households. Researchers Sanya Carley and David Konisky conducted the "Survey of Household Energy Insecurity in Time of COVID," surveying more than 1,800 Americans at or below 200% of the federal poverty line. They found that during the 2020 summer—the second-hottest summer on record—20% of African-American households and nearly 33% of Hispanic households reported that they could not afford their energy bills, compared to 12% of White respondents.[10] In the context of the COVID-19 pandemic, when more individuals are asked to spend time inside the home, these consequences are particularly dire. This increase in energy demand, coupled with the economic hardship induced by the pandemic and pre-existing energy burden facing low- to moderate-income households, has left many unable to pay electric utility bills.

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

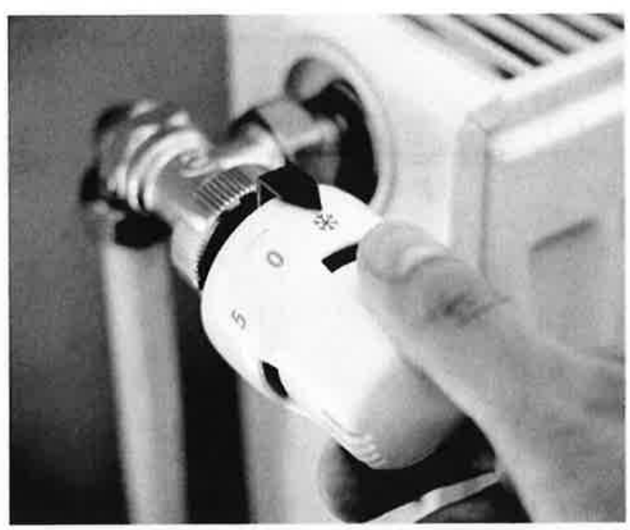
UTILITY SHUTOFF MORATORIA: STATE APPROACHES

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

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

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

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



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

Table 1 (See sources at Appendix A)

Now that the virus has begun to resurge, layoffs may accelerate as some businesses have been ordered to close again, and the expiration of government benefits, particularly the additional $600 per week provided to laid-off workers pursuant to The CARES Act, threatens to leave both workers and the economy as a whole in a precarious position.[21] Until treatment advances and a vaccine is available, Federal Reserve Chairman Jeff Powell predicts the economy will remain unstable.[22] The economic fallout caused by COVID-19 will outlast the states of emergency declared across the country and is expected to cause a $7.9 trillion loss in GDP. through 2030.[23] A failure to address the immediate and long term needs of those impacted will exacerbate the structural inequality which has resulted in higher unemployment among people of color, who often lack access to accumulated wealth to fall back on during an economic crisis.[24]

POLICY RECOMMENDATIONS

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

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

Structure and Design of Moratoria

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

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

When people cannot afford their energy bills, they cannot maintain a healthy home environment. The American Council for an Energy-Efficient Economy (ACEEE) reports that "experiencing high energy burdens can greatly affect the mental and physical health of families by increasing financial stress, cases of asthma, respiratory problems, heart disease, arthritis, and rheumatism."[26] In a 2016 study conducted by Diana Hernández on the health implications of energy insecurity, one customer described how they adapted to high gas costs that prevented them from turning on the heat in their home during the winter: "I turn the oven on, which is my electricity. The heat goes through the place like that, and then I cut it off."[27] Another customer related how she maintained fresh food when her utilities were disconnected: "all we did was took a bucket like we were having a cookout. You know those buckets that you use to put sodas and stuff. Put some ice in it, it lasted for a week. Eating sandwiches, takeout. My kids said, 'Mommy, when they gonna put the gas back so we cook the fish?' I finally got two checks and turned the lights back on. You gotta sacrifice."

Maintaining uninterrupted utility service will remain vital for public health and safety until a vaccine for COVID is widely disseminated. States must extend moratorium protection for impacted residents until the public-health crisis has passed. Several states such as Arkansas,[28] Hawai'i ,[29] and Maryland[30] tether their moratoria to the length of their governor's state of emergency, while New York's[31] moratorium expires 180 days after the state of emergency has been lifted. Finally, California maintains customer protections through April 16, 2021, when the public health crisis is expected to be abated.[32]

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

As the U.S. approaches the third peak in COVID cases,[33] the rise of unemployment across the nation rivals Great Depression-era trends. Utility moratoria are an extraordinary policy response to unprecedented pandemic-related hurdles to signal to customers experiencing hardship that they are not obligated to forgo essential needs—such as healthcare, groceries, and rent—to maintain their utility service. Yet, findings from the "Survey of Household Energy Insecurity in Time of COVID" by Carley and Konisky suggest that 2.8 million households received shutoff notices from their service provider between May and August of this year.[34] This messaging is confusing to customers and frustrates the moratoria's purpose to alleviate financial hardship when customers remain under the perceived threat of disconnection for their inability to pay. In a 2016 study conducted by Hernández, one customer expressed the difficulty of living with high energy security and the threat of an energy shutoff: "Stress. It adds stress. It's silly sometimes, but I think like, 'Geez. My lights are gonna shut off.' Even though I know they won't but even if I'm behind a few days a week I worry. I worry about a lot of things. I do. I mean, I know it won't happen but I worry about it ."[35]

In the nationwide "Survey of Household Energy Insecurity in Time of COVID," 19% of low-income respondents indicated that they reduced spending on basic household needs, including medicine or food, to pay an energy bill during the pandemic.[36] This pressure to pay might stem from ongoing notices concerning the threat of a shutoff. States must require utilities to cease disconnection correspondence until the moratoria are lifted to effectively implement customer protections. In Massachusetts, for example, the Department of Public Utilities prohibits regulated companies from sending "communications that threaten to shut off gas, electric, or water service to any of their customers for failure to pay a bill or any portion of a bill" until the Massachusetts state of emergency is lifted or until further notice from the Department.[37]

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

Structure and Design of Arrearage Management Programs

Recommendation: Establish flexible arrearage management programs.

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

Under AMPs, the current monthly charges at the new, levelized cost replace the past-due amounts. Over time, as the customer makes timely payments for their current usage under the pro-rated cost, a portion of the customer's past-due amount is canceled.[40] Typically, AMPs are structured for twelve months, at which time the customer's entire arrearage is forgiven.[41] The debt-forgiveness aspect of AMPs is unlike typical bill payment plans that tack the past-due amounts onto the current charges. Bill payment plans that charge simultaneously for past-due amounts and the customer's current usage respond to a low-income household's request for bill assistance with bills with even higher costs. As one customer under a typical payment plan stated, "the bill is at $7000. I told the representative to do a payment plan that is no more than $60, because I honestly can't pay any more than $60 plus the regular bill. It's too much for me."[42] Post-moratoria planning requires creating flexible AMPs, with generous debt forgiveness mechanisms and low levelized monthly payments, for the wide base of customers currently falling behind on their utility bills.

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

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

Existing AMPs are often targeted to recognized low-income customer classes. For example, customers in Maine must be eligible for LIHEAP assistance to qualify for AMP enrollment.[46] However, many new customers have unexpectedly experienced a sudden loss of livelihood, and they lack adequate documentation of their salary changes since the 2019 tax year to demonstrate their financial hardship and qualify for other assistance programs. Thus, states must reduce the administrative barriers to enrollment by allowing customers to self-certify their need. For example, in order to qualify for Alaska's COVID-19 customer protections, customers must only provide a signed statement to their utility provider that they are experiencing financial hardship related to the COVID-19 emergency.[47] California provides that, "all customers, even those who are not identified as low-income and have not self-certified that they are low income, should be offered payment plans that extend for at least 18 months" for post-moratoria collections.[48] States should adopt similar policies that expand the reach of AMPs by lowering administrative barriers to entry. This will allow for maximum protection of customers facing sudden economic hardship.

Recommendation: Remove punitive program terms for missed payments.

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

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

LOOMING CRISIS: THE PROJECTED FUNDING SHORTFALL FOR CUSTOMER PROTECTION PROGRAMS

The residential electricity sector alone could face as much as $18 billion in arrearages nationwide due to COVID-19.[52] The specter of lost revenue poses an extraordinary cost for utilities. Many state public utility commissions are buttressing the massive arrearage costs borne by service providers through emergency relief bills. The Missouri Public Service Commission has approved $3.5 million to Ameren Missouri, an investor-owned utility serving 1.28 million Missouri customers, to be allocated for low-income bills assistance.[53] Likewise, the New York Public Service Commission has approved New York City's $70.56 million emergency relief budget to support Con Edison, the largest investor-owned utility in the country, to bolster its existing low-income bill discount program.[54] Some utilities, such as FirstEnergy Corp., are relatively insulated from revenue shortfalls. In Ohio and Pennsylvania, for example, "FirstEnergy's companies have the ability to add riders to rates in order to charge all of its customers for what may become uncollectible expenses from unpaid bills during the pandemic." The utility's regulator in Maryland also issued an order allowing the company to "defer for future recovery all prudent, incremental COVID-19 related costs."[55]

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

CONCLUSION

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

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

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

Exhibit H

AKRON BEACON JOURNAL

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Editorials

PUCO winter shutoff ban is humane, responsible

THIS WEEK'S forecast for warmer temperatures will only briefly delay the long winter lurking around the corner. Heating bills already are rising; even people who have spent thousands of dollars to insulate homes have not escaped that sobering fact.

If Ohioans cannot count on staying toasty warm this winter, they can at least be assured that they won't freeze to death. The Public Utilities Commission of Ohio has barred utilities from stopping service to customers, beginning Wednesday.

The moratorium will stay in place until March 31. No Ohio family should be forced to move from an ice-cold house this winter because it cannot pay its heating bills.

There also are between 25,000 and 30,000 families whose heat previously had been disconnected. The PUCO has ordered utilities to restore service if customers pay at least one-third of their outstanding bills or $200, whichever is less.

In Northeast Ohio, Columbia Gas, East Ohio Gas and Ohio Edison already have started to reconnect service to many of these homes. The Home Energy Assistance Program, which provides a one-time payment of $200, is helping thousands of Ohioans regain heat in time for winter.

The PUCO action was taken to safeguard the health and welfare of Ohio residents. But this does not mean that families can get free service.

Balance-due notices will come as surely as spring. Customers will still be liable for their delinquent accounts; if they don't work out a repayment plan, they face utility shutoffs during warmer months.

In the long run, the PUCO order won't make it any easier to cope with soaring heating bills. As delinquencies grow, utilities will pass on the higher cost of doing business to their paying customers, who are already unhappy over rising prices.

For instance, in 1977, when the PUCO imposed a similar moratorium because of a record-cold winter, East Ohio delinquent accounts rose to $28 million. Every customer paid the price.

Thus, this four-month ban on utility shutoffs won't solve the spiraling cost of staying warm. State and federal legislators must come up with long-term solutions that guarantee profits for utilities and natural gas producers without forcing people to choose between heating and eating.

But the PUCO moratorium was a responsible decision for these extraordinary times. Nearly 700,000 Ohioans are unemployed. Providing basic necessities, such as food and warmth, have become severe — even life-threatening — problems for people who once regularly paid their bills.

The winter shutoff ban will do little to help the unemployed find work. But it is a humane action that will lessen an immediate hardship for thousands of Ohioans.