



VOTE SOLAR

# Principles for Protecting Electric Utility Customers in the **REGULATORY RESPONSE TO COVID-19**

As COVID-19's public health and economic crises change our communities, electric utilities across the country hold a unique responsibility to 'keep the lights on,' especially for their most vulnerable customers. Economically disrupted ratepayers are increasingly unable to pay their utility bills in a time when staying safe and secure at home remains a public health priority.

During the initial months of the crisis, states and utilities have generally responded by ensuring that customers can stay connected and instituting a moratorium on shutoffs. While shut off protection has kept the lights on for economically disrupted households across the country, these households are accumulating utility bill debt in the process (the subject of our recent [report on customer utility bill debt](#)), and moratoria across the country are expiring.<sup>1</sup> As states consider reopening and the economic crisis continues to unfold, utilities and public decision makers are now wrestling with what the next phase of the crisis looks like for utilities and their regulators. In particular, two issues are at stake: First, what measures of protection should be extended to ratepayers, and for how long? And second, what's the appropriate regulatory & accounting treatment of these unexpected changes to utility business practice for utility companies? Who bears the burden for increased and unexpected costs?

This document illustrates a few key principles of a just and reasonable response for regulatory decision makers, as well as some key policy recommendations. These recommendations were designed with utilities under regulation from public utility commissions (i.e. larger, investor-owned utilities) in mind; however, the same principles also apply to unregulated, non-profit utilities.

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## DATA COLLECTION & SHARING IS THE FIRST STEP.

Regulators and the public need visibility into customer and utility impacts.

Utilities across the country typically do not report timely, accurate, and publicly available data on the treatment of their most vulnerable customers. As long as this data remains unreported, utility and regulatory decision makers have no way of knowing how their decisions will affect people on the ground. In North Carolina, where Governor Roy Cooper asked for data reporting starting in April, utilities are now reporting nearly 1.4 million accounts with deferred disconnections. Thus, any decision to accelerate disconnections by allowing the existing moratorium to expire (on July 29) would have reverberating impacts for more than a million customer accounts across the state. Putting data into decision makers' hands is a critical prerequisite to any consideration of disconnections or treatment of Covid-19 related costs. Utilities should recruit and report data on unpaid charges that customers owe to utilities (called "arrearages"), disconnections, avoided disconnections, and any other relevant costs and benefits resulting from COVID-19 and the economic and public policy response. Executive agencies should coordinate data reporting to synchronize between utility companies and utility types (e.g. electricity, water, and gas).

### POLICY RECOMMENDATION:

Require utilities to recruit and report data on arrearages, disconnections, avoided disconnections, and all other relevant data now and on an ongoing basis. Data should be reported on a monthly basis at minimum, optimally by ZIP code, by income, and by race, as available. Each data point should be reported separately for general residential customers and identified low-income customers participating in a means-tested energy assistance or efficiency program. Data should be made available electronically in executable spreadsheet format. A selection of appropriate reporting characteristics, taken from the National Consumer Law Center's [data reporting template](#), is below:

- Number of customers
- Number of customers requesting a deferred payment agreement
- Total number of accounts past due
- Number of accounts past due by vintage
  - 60 - 90 days past due
  - more than 90 days past due
- Total dollar value of accounts past due
- Dollar value of accounts past due by vintage
  - 60 - 90 days past due
  - more than 90 days past due
- Number of disconnections avoided or deferred due to a moratorium
- Number of disconnections for nonpayment
- Number of accounts written off as uncollectible
- Dollar value of accounts written off as uncollectible

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### REFERENCE DOCUMENTS:

- National Consumer Law Center [Data Reporting Template](#).
- North Carolina Governor Roy Cooper's [Executive Order 124](#), which mandates utility deferred disconnection and arrearage reporting.

## **LOW-INCOME FAMILIES NEED MORE SUPPORT.** **Plan for an Extended Financial Crisis.**

It is tempting to believe that states' partial and considered reopenings may mean the end of economic disruption for many ratepayers, but economic projections<sup>2</sup> and utility reporting data<sup>3</sup> indicate that the economic crisis is still very real for millions of people, and this burden falls disproportionately on households of color<sup>4</sup>. These customers are still facing public health recommendations and requirements to be home, a loss of income due to unemployment or limited employment, a loss of health insurance, mounting utility bills and debt, and a bleak economic outlook. If disconnections resume without protections changing, many families will be thrust into a completely preventable crisis as a hot<sup>5</sup> and stormy<sup>6</sup> summer approaches.

Disconnection moratoria must be extended through the summer months, and in the face of unprecedented economic hardship, utilities should consider more expansive approaches to arrearage management plans and debt forgiveness. Although a common response to the extension of protections is that it will result in undue costs to the utility, we agree with the National Consumer Law Center: "The best available evidence is that [arrearage management plans] have a positive impact on utility revenues—customers in the plan make higher payments than if they were not in the plan and continue to make higher payments even after completing the plan."<sup>7</sup>

### **POLICY RECOMMENDATIONS:**

- Maintain a moratorium on utility disconnections until our most vulnerable neighbors are able to recover from the public health and economic crisis.
- Reconnect any customers who have been disconnected in the past year and are currently experiencing economic hardship or displacement.
- Remove punitive late fees, collection-related charges, and negative credit reporting that punish low-income consumers altogether.
- Re-examine rate design components, such as demand charges or high fixed charges, that may increase the burden on vulnerable and low-income customers.
- Require deferred payment agreements of at least 12 months in duration that may be renegotiated and for an increased repayment term in the event of changed household income or expense circumstances.
- For customers income-eligible to participate in the Low Income Home Energy Assistance Program (LIHEAP), provide meaningful bill payment affordability programming through implementation of a percent-of-income payment plan combined with arrearage forgiveness benefits applied as customers make timely payment on affordable current bills.

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### **REFERENCE DOCUMENTS:**

- NCLC [What States Can Do](#)
- NCLC [Program Design Template](#)
- NASUCA [Recommendations Concerning the Effects of the Public Health and Economic Crises Resulting from COVID-19 upon Utility Rates and Services Provided to Consumers by Public Utilities](#)
- Vote Solar [COVID-19 and the Utility Bill Debt Crisis](#)
- Illinois Citizens Utility Board's [Statement on Illinois Commerce Commission-Approved Consumer Protections](#)
- Indiana Utility Regulatory Commission's June 29 [Phase 1 and Interim Emergency Order](#), which extended disconnection moratorium 45 days

## BE CAUTIOUS WITH UTILITY COSTS.

Consider offsetting savings & strike a balance between ratepayer & shareholder burden.

As disconnection moratoria continue, utilities and their regulators face the decision of how to deal with COVID-19 impacts on regular utility business practices, and whether any special regulatory treatment is appropriate. In many jurisdictions, utilities and their regulators are considering ‘deferring’ costs related to COVID-19, which temporarily keeps the impacts of those costs off of utilities’ books and allows those companies to pay off those costs (through increased rates) over an extended period of time. Some utilities may also consider decreasing support for public benefits charges or energy efficiency projects. These treatments should be used with caution for COVID-19-related impacts. We note a few concepts to keep in mind:

**First**, any special regulatory treatment of COVID-19’s impacts needs to take a broad view of all of the impacts of the public health and economic crisis on utility business practice. An increase in arrearages may be the most visible impact, but it’s difficult to predict how much of those arrearages might eventually be repaid. At the same time, other COVID-related effects may also have a material impact on utility income statements. A reduction in total load will decrease revenues and costs, and a shift from commercial to residential load may actually result in a net increase of revenue. Jim Lazar of the Regulatory Assistance Project notes the need to synchronize responses to COVID-19 in his blog post on RAP’s site, linked below.

**Second**, while one-time, unexpected changes to costs and revenues are often designated for deferral treatment, the existence of those changes alone isn’t sufficient to justify deferral. We offer the following questions that should serve as criteria for determining whether deferral treatment is appropriate:

- Are the identified costs material to the utility’s operations and financial condition?
- Is the utility in a position to earn less than its approved rate of return?
- Is the utility already conducting all prudent actions to minimize costs, including arrearage management plans and customer support programs to minimize bad debt?

If the answer to any of these questions is “No,” then deferral of costs to a later time may not be appropriate. Regulators should carefully consider these questions and how to strike the appropriate balance of burden between ratepayers and shareholders through its treatment of COVID-related costs.

### POLICY RECOMMENDATIONS:

- Any decision to defer COVID-related impacts should include relevant, incremental costs netted against incremental benefits.
- Regulators should apply appropriate criteria to any petition for extraordinary regulatory treatment such as deferral of costs into a regulatory asset or eliminating support for public benefits and/or energy efficiency charges.

### REFERENCE DOCUMENTS:

- Jim Lazar, [Synchronizing the Regulatory Response to COVID-19](#)
- CLEO Institute and Vote Solar’s [Comments](#) at the Florida Public Service Commission
- Indiana Utility Regulatory Commission’s June 29 [Phase 1 and Interim Emergency Order](#)

## **BUILD BACK BETTER.**

**Use this opportunity to address the underlying drivers of energy bill unaffordability.**

While utility affordability has reached a critical point during the pandemic, utility bills have long been unaffordable for up to a third of all US households.<sup>8</sup> As households across the country struggle to get back on their feet and new economic investment is in short supply, utilities should use the recovery from this crisis as an opportunity to build back better and reduce customers' energy burdens for the long term.

A novel and creative solution is to match consumers who need debt relief with utility incentive programs for participating in energy efficiency or demand-side management (EE/DSM) programs. For purposes of illustration, say that a customer is \$700 in arrears to their electric utility. Through a Clean Relief for Energy Debt ("CRED") program, a customer would have the option to forgive the entire \$700 arrearage as an upfront incentive to participate in an approved energy efficiency or demand-side program (e.g., a smart thermostat program coupled with a time-of-use rate schedule and appropriate consumer protections). Through this program, a utility could forgive the \$700 in arrears and convert some portion or all into an incentive for participating in the applicable DSM program. This solution would give customers the option of an up-front forgiveness of past due amounts in consideration of their prospective participation in these programs. Any energy efficiency upgrades will reduce the customer's bills over the long haul. And expanding the demand response program benefits the utility and all ratepayers by reducing the peak load and allows the utility to avoid turning on expensive peaker plants. CRED programs would provide agency and savings options for customers, open an opportunity for utilities to recover arrearages without fees or shutoffs, and result in a new cohort of customers participating in a state-of-the-art demand response program.

### **POLICY RECOMMENDATIONS:**

- As part of doing their part to support ratepayers, utilities should double down on energy efficiency and demand-side management as a way to reduce the risk of arrearage permanently. Cost-effective EE/DSM programs should be part of any recovery plan, and utilities should pursue these programs to their maximum economic market potential.

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### **REFERENCE DOCUMENTS:**

- Vote Solar's [comments on impacts of COVID-19 in South Carolina](#)
- Vote Solar & CLEO Institute's comments on [Florida COVID-19 arrearage management](#)
- Vote Solar's Comments on COVID-19 regulatory treatment in Virginia ([Part 1](#), [Part 2](#))
- Southern Environmental Law Center, Partnership for Southern Equity, Vote Solar, & 29 other organizations' [letter](#) to the Georgia Public Service Commission regarding customer protection
- [Primer on demand response](#) from EnergySage

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## THANK YOU TO

*John Howat of the National Consumer Law Center,  
Rory McIlmoil from Appalachian Voices,  
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## ENDNOTES

- 1 Ryan, G. (2020, June). Expiring Electricity Shutoff Bans Could Leave Two Thirds of States with No Binding Protections by July, 88% by August. Center for Biological Diversity. Available at: [https://www.biologicaldiversity.org/programs/energy-justice/pdfs/June-23-2020-Issue-Brief\\_State-Moratoria-on-Electric-ShutOffs.pdf](https://www.biologicaldiversity.org/programs/energy-justice/pdfs/June-23-2020-Issue-Brief_State-Moratoria-on-Electric-ShutOffs.pdf).
- 2 Smialek, J., & Rappeport, A., (2020, June). “Fed Leaves Rates Unchanged and Projects Years of High Unemployment.” New York Times. Available at: <https://www.nytimes.com/2020/06/10/business/economy/federal-reserve-rates-unemployment.html>.
- 3 North Carolina Utilities Commission, (2020, June), “Re: Implementation by the North Carolina Utilities Commission (the Commission) of Executive Order No. 142 (Previously EO No. 124)”. Available at: <https://starw1.ncuc.net/NCUC/ViewFile.aspx?id=24043568-beb8-47e7-bf32-723aed9ca95f>.
- 4 American Hospital Association (2020, May). The Disproportionate Impact of COVID-19 on Communities of Color. Available at: <https://www.aha.org/testimony/2020-05-27-testimony-disproportionate-impact-covid-19-communities-color>.
- 5 Fountain, H, & Schwartz, J., (2020, June). “Scientists Predict Scorching Temperatures to Last Through Summer.” New York Times. Available at: <https://www.nytimes.com/2020/06/18/climate/summer-weather-prediction.html>.
- 6 Freedman, A, (2020, June);.l “NOAA predicts Atlantic hurricane season will be unusually active.” Washington Post. Available at: <https://www.washingtonpost.com/weather/2020/05/21/hurricane-season-forecast-2020/>.
- 7 Harak, Charlie, “Helping Low-Income Utility Customers Manage Overdue Bills through Arrearage Management Programs (AMP),” National Consumer Law Center (Sept. 2013), available at [https://liheapch.acf.hhs.gov/pubs/amp\\_report\\_final\\_sept13.pdf](https://liheapch.acf.hhs.gov/pubs/amp_report_final_sept13.pdf).
- 8 US Energy Information Administration, (2018).. “One in Three U.S. Households Faces a Challenge in Meeting Energy Needs.” <https://www.eia.gov/todayinenergy/detail.php?id=37072>.