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COVID-19 Electric Utility Disconnections

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SUMMARY

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COVID-19 Electric Utility Disconnections

In response to the COVID-19 pandemic, many utilities, local governments, and state governments have implemented policies to suspend disconnections for nonpayment, known as disconnection moratoria. The exact number of moratoria is unknown. CRS has identified 1,055 electric distribution utilities that had implemented a moratorium as of May 7, 2020. Approximately 88% of residential utility customers in U.S. states, U.S. territories, and the District of Columbia are served by one of these utilities. Research by other entities indicates that the actual number of moratoria (and covered customers) is higher.

Electricity disconnection moratoria vary in scope, duration, and related provisions such as whether utilities may charge late fees or restore power to previously disconnected customers. These differences influence the potential impacts for customers and utilities. Many moratoria have been revised or extended (sometimes multiple times) throughout the course of the COVID-19 pandemic, creating challenges for assessing potential impacts.

Few moratoria create universal bans on disconnection for nonpayment, so customers whose utility has a moratorium in place might still lose power if they do not pay their bills. Some moratoria cover a subset of electricity customers, such as residential customers, low-income customers, or senior citizens. Others require customers to take certain actions to prevent disconnection, for example by arranging a payment plan with the utility. Some of these moratoria are set to expire before the summer, causing some to raise concerns that disconnected vulnerable populations may be unable to cool their homes during the summer heat.

Pursuant to the Federal Power Act, utility disconnection policies are not in federal jurisdiction. Utility policies affecting customers, such as procedures for disconnecting consumers who do not pay their bills, are approved at the state or local level, depending on utility ownership type. Under the Public Utility Regulatory Policies Act (PURPA; P.L. 95-617), state regulatory authorities are required to consider the implementation of certain standards (16 U.S.C. §2623, Adoption of certain standards). Among these standards are "Procedures for Termination of Electric Service" (16 U.S.C. §2625(g)), which allows state regulatory authorities to establish utility disconnection policies for electricity consumers.

Several bills introduced in 2020, including H.R. 6800 (The Heroes Act), would effectively establish a national disconnection moratorium. These bills would not directly alter existing utility disconnection policies, which the Federal Power Act delegates to the states. Instead, collection procedures by customer billing departments of electric utilities may be included under the suspended actions by "debt collectors" as defined by the bills. The moratorium in these bills would apply to electric utilities, as well as other utilities (e.g., natural gas, telecommunications, and water).

Some utilities may face a revenue shortfall (i.e., insufficient revenue to recover costs) as a result of disconnection moratoria and other factors arising from the COVID-19 pandemic. Some of those utilities may seek to address revenue shortfalls by increasing future electricity rates. Investor-owned utilities may be in a relatively better position to survive a period of revenue shortfalls, given that they are generally larger and well-financed. In contrast, publicly owned utilities and electric cooperatives may have fewer financing options and face greater challenges.

The economic relief laws passed in response to COVID-19, particularly the CARES Act (P.L. 116-136), may reduce cases of utility bill nonpayment, thus avoiding cases where disconnections might otherwise take place. The CARES Act included several provisions that either directly or indirectly provided financing that customers could use to pay utility bills. Relevant provisions include the 2020 recovery rebates ("stimulus payments") to individuals; Paycheck Protection Program (PPP) loans that businesses could use to cover utility expenses; and supplemental appropriations for the Low Income Home Energy Assistance Program (LIHEAP), a federal grant program for states, tribes, and territories to operate home energy assistance programs for low-income households.

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Introduction

To limit the spread of COVID-19 in the United States, many state and local governments required or encouraged residents to stay at home as much as possible during March, April, and May 2020.[1] These actions increased interest in residential utility service access, especially water and electricity.[2] Many utilities, local governments, and state governments have implemented policies to suspend disconnections for nonpayment (i.e., when utility service is stopped after customers fail to fully pay a utility bill). These policies are known as disconnection moratoria. These policies do not relieve customers of the requirement to pay their utility bills (i.e., they are not bill forgiveness policies). They are designed to ensure that customers continue receiving electricity service even if they cannot pay their electricity bill.[3]

The COVID-19 emergency and state stay-at-home orders have led to decreasing demand for electricity from commercial and industrial customers. While residential demand may have increased due to workers and children staying home, the result for many utilities has been a net decrease in demand that generally results in decreased revenues. Disconnection moratoria might further reduce utility revenues if customers stop paying their bills. The potential impacts on electric utilities of not being able to collect amounts owed from consumers would likely vary based on the type (i.e., investor-owned, publicly owned or cooperative), the size of utility, and the regulatory environment.

This report discusses the status of electric utility disconnection moratoria during the COVID-19 emergency, and potential policy considerations that could arise, especially if moratoria remain in place for an extended period of time. The focus of this report is implications for residential customers and utilities.

Background

Types of Electric Utilities

According to the U.S. Energy Information Administration (EIA), 2,938 electric utilities operate in the United States, including U.S. territories.[4] Electricity distribution utilities (herein, utilities) deliver power directly to most residential electricity consumers in the United States.[5] Utility ownership structures and regulatory frameworks vary. There are three main types of electric utilities, briefly described below.

- **Investor-owned utilities**, or IOUs, are privately owned companies that issue stock to shareholders. They are typically large, in terms of customers and service territory. Almost three-quarters of U.S. utility customers (residential, commercial,

[1] For background on COVID-19, see CRS Report R46319, *Novel Coronavirus 2019 (COVID-19): Q&A on Global Implications and Responses*, coordinated by Tiaji Salaam-Blyther.

[2] This report focuses on electricity service. Water service is discussed in CRS Insight IN11338, *COVID-19 and Public Water Service Continuity*, by Elena H. Humphreys and Mary Tiemann.

[3] Many consumers also have access to bill assistance programs that help avoid disconnections by providing funds for bill payment. One of these is the Low Income Home Energy Assistance Program (LIHEAP), discussed in CRS Report RL31865, *LIHEAP: Program and Funding*, by Libby Perl.

[4] U.S. Energy Information Administration (EIA), "Investor-Owned Utilities Served 72% of U.S. Electricity Customers in 2017," August 15, 2019, https://www.eia.gov/todayinenergy/detail.php?id=40913.

[5] Some large electricity consumers can purchase power directly from electricity generators in some regions of the country, but this does not typically apply to residential customers.

and others) get their electricity from these companies. IOUs are most prevalent in heavily populated areas on the East and West coasts. IOU customer rates are set and regulated by states through a public process that includes some customer participation. Utility rates are set to recover costs and earn a reasonable return as profits for investors in return for the risk they bear for investing in new facilities.

- **Publicly owned utilities**, or POUs, include state-run utilities, municipal-run utilities, and public utility districts—utilities that residents vote into existence that operate independently of city or state governments. Many POUs have relatively few customers, but some, such as the state-run Puerto Rico Electric Power Authority (PREPA) and the municipal utility Los Angeles Department of Water and Power, have more than 1 million customers. POU customer rates are set by each utility's governing body—a board or local government in a public forum. Municipal utilities may return a portion of net income to the general fund of the local government. Rates are set to recover costs and earn additional return to maintain bond ratings and invest in new facilities. POUs are owned by a local government body and/or customers or members of the utility.
- **Electric Cooperatives**, or co-ops, are not-for-profit member-owned utilities. Co-ops are located in 47 states, but are most prevalent in the Midwest and Southeast. Co-ops' rate-setting policies are similar to POUs. Any revenues in excess of the cost of providing service are returned to the members. As nonprofit entities, they are required to provide electric service to their members at cost. Co-ops are owned by the consumers they serve.

POUs are the most common type of utility in the United States, with the smallest average number of electricity customers. In 2017, 1,958 POUs served an average of 12,100 customers each; 812 co-ops served an average of 24,500 customers each; and 168 IOUs served an average of 654,600 customers each.[6]

Utility policies affecting customers, such as procedures for disconnecting consumers who do not pay their bills, are approved at the state or local level depending on utility ownership type. State regulatory bodies generally must approve policies for IOUs. POUs and co-ops often set their own policies. Utility customers generally agree to these policies when they agree to be interconnected (i.e., receive electricity service).

Utilities have some financial incentive to avoid disconnecting a customer, even for nonpayment. Disconnections come at a cost to the utility, for example, the staff time required to disconnect a customer. In many cases, disconnection requires a utility worker to visit the customer's residence, and utilities may prefer to limit such instances as part of their COVID-19 social distancing plans to protect their workers. Utilities generally benefit when customers utilize financial assistance programs, because the utility continues earning revenue for electricity sold and avoids disconnection costs.

Current Federal Law Regarding Utility Disconnections

Under the Public Utility Regulatory Policies Act (PURPA; P.L. 95-617), state regulatory authorities are required to consider the implementation of certain standards (16 U.S.C. §2623, Adoption of certain standards). Among these standards are "Procedures for Termination of Electric Service" (16 U.S.C. §2625(g)), which allows state regulatory authorities to establish

[6] U.S. Energy Information Administration (EIA), "Investor-Owned Utilities Served 72% of U.S. Electricity Customers in 2017," August 15, 2019, https://www.eia.gov/todayinenergy/detail.php?id=40913.

utility disconnection policies for electricity consumers, if they chose to, in accord with the section:

> The procedures for termination of service referred to in section 2623(b)(4) of this title are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—
>
> (1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and
>
> (2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or (B) he is able to pay for such service but only in installments, such service may not be terminated.
>
> Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

How Many Utilities Have a Disconnection Moratorium in Place?

CRS is not aware of a comprehensive tally of disconnection moratoria for all 2,938 U.S. utilities. Any such tally would require frequent updating, because state, local government, and utility responses to COVID-19 continue to change.

CRS researched disconnection moratoria that were publicly announced as of May 7, 2020. To identify utilities with disconnection moratoria, CRS confirmed statewide policies compiled by the National Association of Regulatory Utility Commissioners (NARUC).[7] CRS additionally reviewed individual utility websites for utilities in U.S. states, U.S. territories, and the District of Columbia. For U.S. states, CRS reviewed websites for utilities serving at least 70,000 residential customers.

CRS identified that as of May 7, 2020, there were at least 1,055 utilities that had publicly announced disconnection moratoria. Of these, 708 utilities were under a mandatory order to do so, and 347 were voluntary.[8] These moratoria cover utilities serving approximately 88% of U.S. residential customers.[9] These statistics are summarized in **Table 1**.

[7] The State Response Tracker, hosted by the National Association of Regulatory Utility Commissioners (NARUC), lists executive orders, public utility commission orders, and related press releases concerning utility actions in response to COVID-19. CRS confirmed the scope and extent of disconnection moratoria by reviewing these documents. See https://www.naruc.org/compilation-of-covid-19-news-resources/state-response-tracker/.

[8] Mandatory orders were issued by governors or utility commissions. In some cases, utilities may have implemented voluntary policies before mandatory orders came into effect. In this report, voluntary policies refer to those made in absence of a mandatory order. Most voluntary policies identified by CRS were implemented by POUs or co-ops.

[9] CRS estimated the number of residential customers covered by a moratorium using EIA electricity sales data for 2018, the latest year available. EIA reports electricity sales data by customer class (e.g., residential, commercial). EIA does not report electricity sales data with the detail needed to match the exact number of customers covered by a given utility moratorium. Additionally, a residential electricity customer is typically one household. The number of individuals affected by disconnection moratoria is likely larger than the number of customers, because many

Other research suggests the actual number of utilities with moratoria is higher. For example, the American Public Power Association (APPA), a trade association representing POUs, reported at least 1,700 POUs had moratoria in place.[10] This exceeds the 368 POU moratoria identified by CRS using the methodology previously described. Additionally, some utilities that have not publicly announced moratoria may nonetheless be delaying or suspending disconnections. Not all moratoria apply to all customers (e.g., some include a maximum income threshold below which the moratorium applies); CRS did not identify the scope of coverage for disconnection moratoria.

Table 1. CRS-Identified Utilities with Disconnection Moratoria

As of May 7, 2020

Utility Type	Mandatory	Voluntary	Total	Residential Customers
Investor-owned	186	69	255	86,706,233
Publicly owned	226	142	368	14,894,801
Cooperative	296	136	432	11,356,148
Total	**708**	**347**	**1,055**	**112,957,182**

Source: CRS assessment of utilities in U.S. states, U.S. territories, and the District of Columbia, using the National Association of Regulatory Utility Commissioners' State Response Tracker, state government documents, and utility websites.

Notes: "Mandatory" means that a utility is required by a state authority to suspend disconnections for some period of time in response to the COVID-19 emergency. Voluntary means a utility announced a suspension in absence of a state requirement. Some utilities under mandatory orders to suspend disconnections may have also voluntarily done so before the requirement took effect. Utilities (other than those represented here) may have voluntarily suspended disconnections. The information in this table does not consider the duration of disconnection moratoria. Policies included in this count may not be in effect after May 7, 2020. The number of residential customers is based on 2018 data from the U.S. Energy Information Administration (EIA). EIA reported 127,717,773 U.S. residential utility customers (including U.S. territories and the District of Columbia) in that year. Utility customers are typically reported as accounts (e.g., household). The number of individuals affected by disconnection policies is likely larger than the number of customers, because many households have multiple individuals living in them.

The disconnection moratoria identified by CRS cover different time periods. For example, some are in effect for as long as a state of emergency is in place. Many states have extended their declarations of a state of emergency in response to COVID-19, so those moratoria time periods would also have automatically been extended. Some disconnection moratoria cover a specific time period, such as "through the end of the month" or "until June 1." Others are in place "until further notice." Many moratoria have been extended past the originally announced end date. State officials and utilities may continue to extend moratoria in response to local conditions. These changing conditions make it challenging to assess the duration of disconnection moratoria at a national level.

Some disconnection moratoria include related provisions, such as a ban on collecting late fees or restoration of electricity service to previously disconnected customers.

Some disconnection moratoria's expiration dates arrive with the summer season, a time of year when electricity demand typically peaks because of air conditioning use. Concerns have been

households have multiple individuals living in them.

[10] Arianna Skibell, "Public Utilities to Congress: Give Us $4.3B to Keep Lights On," *E&E News*, May 11, 2020.

raised that disconnections for nonpayment may return, with potential health impacts to vulnerable populations from the summer heat.[11]

Do Moratoria Stop All Disconnections?

Anecdotal information, such as news reports, indicates that some utilities are disconnecting some customers for nonpayment during the COVID-19 emergency.[12] CRS has not identified any utilities publicly announcing that their disconnection procedures would continue unchanged throughout the COVID-19 emergency. CRS has identified some utilities with no publicly announced disconnection moratorium in place. In these cases, the utility encouraged customers to contact the utility to establish payment plans or for assistance with accessing financial assistance programs. This suggests that even utilities with no announced moratorium may, in fact, be taking action to prevent disconnections.

Some of the moratoria included in **Table 1** allow for disconnections for nonpayment under certain circumstances. For example, some of the suspensions cover a subset of electricity customers, such as residential customers, low-income customers, or senior citizens. Customers that do not meet relevant criteria might still be disconnected for nonpayment. Other moratoria require customers to take certain actions to prevent disconnection, for example by arranging a payment plan with the utility.

Revenue Shortfall

Utilities have reported mixed cost impacts related to COVID-19. Some operating costs, such as protective equipment for employees, have gone up. Other costs, such as for fuel, have gone down for some utilities. Lost revenue associated with disconnection moratoria represent an additional cost for utilities.

Utilities typically recover all their costs through revenue (i.e., electricity sales). Total electricity use (and utility sales) has declined since COVID-19 began impacting the United States, though different regions of the country have been affected differently.[13] Many observers expect electricity use to remain below 2019 for the remainder of 2020, and some expect low electricity use to persist beyond that.[14]

Utilities have different options to address the difference between their costs and revenue (i.e., their revenue shortfall). The ownership structure and regulatory framework described in the section "Types of Electric Utilities" affect utilities' options.

IOUs may be in a relatively stronger position to survive a period of revenue shortfalls given that they are generally larger and well-financed. IOUs can also often address shortfalls by increasing

[11] Jeffrey Tomich, "A Second Wave of Pain: Looming Utility Shut-Offs," *E&E News*, May 21, 2020, https://www.eenews.net/energywire/stories/1063189771.

[12] For example, Juan Pablo Garnham, "Texas Utility Regulators Have Programs to Prevent Shutoffs During the Pandemic. But Some Texans Are Falling Through the Cracks," *The Texas Tribune*, April 18, 2020, and Alexander C. Kaufman, "She's a Furloughed Single Mom of 3. The Utility Is Shutting Off Her Power Anyway," *HuffPost*, April 11, 2020.

[13] EIA, "Daily Electricity Demand Impacts from COVID-19 Mitigation Efforts Differ by Region," May 7, 2020, https://www.eia.gov/todayinenergy/detail.php?id=43636.

[14] For example, Mark Watson, "Analysis: Recession Forecast Brings Grim Outlook for Power Demand, Prices: Observers," *S&P Global Platts*, May 15, 2020.

future electricity rates (which requires state approval). Some state regulators are already establishing processes for IOU revenue shortfall cost recovery. For example

> FirstEnergy Corp. is navigating the coronavirus pandemic without the liquidity problems some utilities are facing…. FirstEnergy is also insulated over the long term from declines in revenues in at least three of the states where it operates, [CEO Charles] Jones said. In Ohio and Pennsylvania, 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. And in Maryland, the Public Service Commission earlier this month issued an order authorizing the company to defer for future recovery "all prudent, incremental COVID-19 related costs."[15]

Smaller utilities generally do not have the cash reserves of the larger IOUs, with POUs and co-ops generally setting rates based on costs without typically having the recourse to submit rate cases to state regulatory commissions to collect revenue shortfalls. Some co-ops are already reporting revenue shortfalls and strains on operations. For example

> Electric cooperatives talked … about the lost revenue they face as restaurants and other commercial and industrial businesses are closed to maintain social distancing. For the Cherryland Electric Cooperative in Michigan, seven or eight revenue contributors of the utility's top 10 commercial accounts temporarily stopped operating. "That's at least a half-million in revenue that I won't see," said Tony Anderson, Cherryland Electric's general manager. "It's going to hit every aspect of that co-op." … Electric cooperatives typically serve rural areas of the state. The coronavirus has spread faster in cities, but rural areas typically have less resources, which means the virus could pack a bigger punch in those places. Co-ops also don't have corporate shareholders to help absorb the revenue losses. That money must be made up another way, typically by raising everyone's rates down the road.[16]

Legislation

Several bills introduced in 2020 would effectively establish a national disconnection moratorium. These bills would not directly alter utility existing disconnection policies, which the Federal Power Act delegates to the states.[17] Collection procedures by electric utility customer billing departments would likely be included under the suspended actions by "debt collectors" as defined by the bills.

- H.R. 6379, the Take Responsibility for Workers and Families Act, introduced in March 2020, includes a provision (Section 110) that would prevent debt collectors from disconnecting utility services during the national emergency relating to COVID-19, among other actions.
- H.R. 6800, The Heroes Act, passed by the House in May 2020, includes a similar provision (Section 110402). The provision in this bill would prevent disconnections during the national emergency relating to COVID-19 and for 120 days afterward.

[15] John Funk, "FirstEnergy's 'Bullet-Proof' Pandemic Strategy: $3.5B in Liquidity, Favorable Rate Structure," Utility Dive, April 27, 2020, https://www.utilitydive.com/news/firstenergys-bullet-proof-pandemic-strategy-35b-in-liquidity-favorab/576765/.

[16] Edward Klump and Kristi E. Swartz, "Coronavirus and Electricity: 3 Issues to Watch," *E&E News*, April 9, 2020, https://www.eenews.net/energywire/stories/1062824045.

[17] 16 U.S.C. §824.

The economic relief laws passed in response to COVID-19, particularly the CARES Act (P.L. 116-136), may reduce cases of utility bill nonpayment, thus avoiding cases where disconnections might otherwise take place.

- Many Americans received 2020 recovery rebates ("stimulus payments") pursuant to the CARES Act.[18] Utility customers could have chosen to use some of those payments to pay utility bills.
- Many businesses received loans through the newly established Paycheck Protection Program (PPP).[19] The law specifies expenses that may be covered by PPP loans—utilities are an included expense. Many disconnection moratoria implemented as of May 7, 2020, did not include business customers; however, utility revenue shortfall may be less if businesses continue paying utility bills.
- The CARES Act provides $900 million in supplemental appropriations for the Low Income Home Energy Assistance Program (LIHEAP). Many states that experience their highest use of electricity in the summer allow recipients to use LIHEAP funds for cooling expenses (e.g., electricity bills).[20]

In the weeks following passage of the CARES Act, some stakeholders raised concerns that POUs and co-ops, because of their not-for-profit status, might not have access to the same economic relief programs that other businesses have.[21] On May 19, 2020, the Small Business Administration addressed one of these concerns by stating that co-ops are eligible for PPP loans.[22]

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[18] For further discussion, see CRS Insight IN11282, *COVID-19 and Direct Payments to Individuals: Summary of the 2020 Recovery Rebates/Economic Impact Payments in the CARES Act (P.L. 116-136)*, by Margot L. Crandall-Hollick.

[19] For further discussion, see CRS Insight IN11324, *CARES Act Assistance for Employers and Employees—The Paycheck Protection Program, Employee Retention Tax Credit, and Unemployment Insurance Benefits: Overview (Part 1)*, coordinated by Molly F. Sherlock.

[20] For further discussion, see CRS Report RL31865, *LIHEAP: Program and Funding*, by Libby Perl.

[21] For example, April 1, 2020, National Rural Electric Cooperative Association (NRECA) letter to Treasury Secretary Steven Mnuchin, available at https://www.cooperative.com/programs-services/communications/Documents/NRECA%20Letter%20to%20SBA%20and%20Treasury%20on%20Paycheck%20Protection%20Program.pdf, and May 8, 2020, American Public Power Association (APPA) letter to Congressional leadership, available at https://www.publicpower.org/system/files/documents/APPA%20LTR%20to%20Leadership%20on%20COVID-19%20Legislation%20%28May%208%2C%202020%29.pdf.

[22] U.S. Small Business Administration, "Business Loan Program Temporary Changes; Paycheck Protection Program—Eligibility of Certain Electric Cooperatives," 85 *Federal Register* pp. 29847-29849, May 19, 2020.

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