

# What Should Happen in the Wake of a Natural Disaster?

## Model Utility Consumer Protections When Natural Disasters Strike

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Severe hurricanes, floods, mudslides and wildfires can threaten life and property, displace families and devastate communities. Residents in areas experiencing natural disasters may find their homes are not be habitable for long periods of time resulting in temporary to permanent displacement of the families. Community recovery efforts could take time, leading to potential loss of income for some residents. One important area of consumer protections during times of disaster and recovery concerns the preservation of essential utility service to the home and minimization of financial harm. This issue brief draws from the work of consumer advocates in California and Texas<sup>1</sup> to secure utility consumer protections in the wake of devastating and natural disasters. The utility consumer protections discussed include:

- revised billing procedures,
- more flexible rules regarding initiation of utility service,
- more flexible payment plans,
- strong disconnection protections, and
- special help for low-income utility consumers.

Given the severity of hurricanes and wildfires in the recent past and the likelihood of similar disasters in the future, this issue brief can help consumer advocates on the frontlines respond in a timely fashion to secure utility consumer protections that preserve access to affordable utility service during the time takes for families and communities recover.

In addition to discussion of a body of emergency consumer protections that should go into effect after a disaster, cross-cutting issues that will also need to be decided in the development of disaster relief consumer protections is also discussed. Finally, it is important to keep in mind that not all utilities are regulated in the same manner. These distinctions, in the choice of a forum, are discussed at the end.

### NATURAL DISASTER EMERGENCY UTILITY CONSUMER PROTECTIONS

In natural disaster situations, homeowners may be displaced temporarily or permanently because the home is not habitable or the area is not safe. In response to the wildfires in California, the California Public Utilities Commission passed emergency resolutions that protect access to essential utility service and reduce the risk of financial harm for consumers living in disaster areas.

#### Emergency Rules to Help Consumers Reconnect Essential Utility Services

1. **Waive Deposits:** Utilities should be required to waive deposit requirements for residents in affected areas. This protection removes a major barrier to service for displaced residents who have been forced to seek temporary housing and/or relocate as they seek to reestablish essential utility service.<sup>2</sup>
2. **Provide Expedited Move-In and Move-Out Service Requests.** Given the potential for

households to be transitioning from temporary to more permanent housing situations as they recover from a natural disaster, the utilities should be required to expedite the move-in and move-out (sometimes referred to as “turn-on/turn-off”) processing time.<sup>3</sup>

3. **Offer More Lenient Payment Plans:** Households facing the challenge of recovering from a natural disaster will likely be facing numerous financial obligations (e.g., repairing a home, replacing a car and household goods). Some of these households may have already been struggling to pay their utility bills and owe the utility company for unpaid bills. Yet access to utility service is essential for habitable housing, so utilities should work with consumers and offer a payment plan where the initial payment is affordable, for example, no greater than 20% of the amount owed up front, with the balance to be paid over at least a year.<sup>4</sup>

### Emergency Rules to Help Consumers Maintain Essential Utility Services

1. **Disconnection Protections:** Utilities should suspend disconnection for non-payment following a natural disaster. It is foreseeable that consumers will fall behind on their utility bills as they face the financial challenges of rebuilding their homes and lives after a natural disaster. Yet access to utility service is essential for habitable housing, so this rule will help provide some stability for consumers as they rebuild their lives.<sup>5</sup>
2. **Waiver of Late Fees:** Similarly, utilities should be prohibited from assessing late payment fees on consumers after a natural disaster so that consumers, who are facing the financial challenges of rebuilding their lives, are protected from even larger debt due to fees during this fragile period.<sup>6</sup>
3. **Low-Income Assistance Programs:** To the extent that there are low-income utility consumer bill assistance programs, those program implementation rules should be reviewed to avoid inadvertent loss of benefits due to an inability to re-certify eligibility due to loss of access to documentation or change in address due to temporary or transitional housing situations. Community-based organizations should be enlisted to help increase enrollment in the low-income assistance programs as more households may now qualify due to the sudden drop in financial resources due to the natural disaster.<sup>7</sup>

### Emergency Rules Regarding Billing to a Household Hit by Disaster

Disasters often result in the displacement of households, sometimes for indeterminate periods of time. Household displacements can be caused by mandatory evacuation orders, damage to the home, loss of employment and other factors stemming from a disaster. Consumers will benefit from the following emergency billing rules:

1. **Discontinue Billing:** When a family is forced to relocate due to a natural disaster or the home is uninhabitable due to the disaster, the utility should discontinue billing and not charge the consumer a disconnection fee.<sup>8</sup> This protects the homeowner from being charged for services that were not used and from additional fees tied to discontinuance of service.<sup>9</sup>
2. **Adjust Estimated Billing:** In cases where a utility estimates a consumer’s bills, the utility should be prohibited from billing for energy usage estimates for the time the home was unoccupied due to the natural disaster.<sup>10</sup> This protects utility consumers by having bills that reflect reduced consumption stemming from the natural disaster.
3. **Adjust Minimum Bills:** In cases where utilities charge monthly access charges or minimum charges, utilities must prorate such charges to account for periods where the consumer’s home was unserviceable due to the natural disaster.<sup>11</sup> This protects consumers from paying utility charges when their home is without service due to the natural disaster.

### Obligation to Notify Consumers of these Emergency Protections

Utilities should be required to advertise these emergency protections and to work with other disaster relief agencies and community-based organizations to ensure affected consumers are aware of their rights under the emergency protections.<sup>12</sup>

## OVERARCHING DISASTER RELIEF DESIGN ISSUES

1. **What should trigger the emergency disaster relief consumer protections?** One of the issues in California's utility commission proceeding to develop disaster relief protection rules is defining a trigger for disaster relief. This is an ongoing rulemaking and one of the recommendations is to use a governor's state of emergency declaration in cases affecting the delivery or receipt of utility service or serious degradation in service quality.
2. **How long should the protections be in place?** Another cross cutting issue is the duration of the disaster relief protections. Consumer advocates in the California utility commission proceeding are advocating that emergency consumer protections be in effect for one year from the declaration of emergency, subject to flexibility to extend or shorten this period if circumstances warrant such modification.
3. **Who should be covered by these protections?** This is an issue of how you define the protected class of consumers. Consumer advocates in the California utility commission proceeding have argued that residential consumers and small businesses that have been affected by the disaster should be covered by the protections. The protections should cover residential consumers broadly, not just utility customers of record. For example, tenants in a master-metered building who have been displaced and need to start utility service should receive protections. Furthermore, consumers who may not live in the disaster area, but whose place of employment was destroyed or damaged, may fall behind on their utility bills and should be protected by the disaster relief rules (for example, more lenient payment plans).
4. **How should utilities implement the protections/demonstrate compliance?** The California Utility Commission Proceeding Rulemaking 18-03-011 will explore lessons learned from the utilities implementation of the emergency consumer protections required in Resolutions M-4833 and M-4835 and addresses these questions.
5. **How should the costs of these protections be recovered?** In California, the Commission allowed utilities to track the incremental costs from implementation of these consumer protections in Wildfire Customer Protections Memorandum Accounts or Catastrophic Event Memorandum Accounts for review in a General Rate Case or other proceeding.<sup>13</sup>

## PICKING A FORUM

In general, state utility commissions<sup>14</sup> have jurisdiction over the larger, investor-owned utilities (e.g., investor-owned electric and natural gas companies) in a state as well as smaller, investor-owned utilities (e.g., investor-owned water company). By seeking disaster relief consumer protections at the state utility commission, advocates can potentially protect a large number of consumers throughout the state. Some utilities are publically-owned and fall under the jurisdiction of a local government (e.g., municipal power or water service). Securing consumer protections with a muni will require a more local effort targeted to the local government entity with jurisdictional oversight. Some utilities are membership-based (e.g., an electric cooperative). With very few exceptions, it will be much harder to change the billing and termination rules if the utility (electric, gas, water) is a cooperative or municipally-owned and the protections will cover a smaller pool of consumers. Moreover, some utilities, such as voice and internet service are lightly regulated/ largely unregulated. Therefore, in practice advocates are most likely to succeed in getting disaster-related changes to rules if the utility is an electric, gas or water company regulated by a state utility commission.

## SAMPLE PETITIONS/LETTERS/RESOLUTIONS/DECISIONS

1. **Petition for Emergency Rulemaking to Provide Customer Protection Rules for Continuing Support of Victims of Hurricane Harvey**, Texas Legal Services Center, Texas Ratepayers ' Organization to Save Energy, City of Houston, AARP of Texas, One Voice Texas: Collaborative for Human Health and Human Services, Texas Association of Community Action Agencies, Public Utility Commission of Texas, Project No.47674 (October 4, 2017).
2. **The Utility Reform Network letter** to the Commissioners of the California Public Utility Commission requesting emergency consumer protections to assist wildfire victims (October 24, 2017).
3. **California Public Utility Commission Resolution M-4833** (November 9, 2017) providing emergency utility consumer protections in response to the 2017 wildfires in California.
4. **California Public Utility Commission, Decision 18-08-004**, Decision Affirming the Provisions of Resolutions M-4833 and M-4835 as Interim Disaster Relief Emergency Protections (passed August 9, 2018).

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1 On October 24, 2017 The Utility Reform Network (TURN) filed a letter with the California Public Utility Commission (CPUC) requesting emergency consumer protections to support the victims of the October 2017 wildfires. This request resulted in two CPUC resolutions, M-4833 and M-4835 which required regulated electric, natural gas, telecommunications and water utilities to take reasonable steps to help Californians affected by devastating wildfires. There is an open proceeding at the CPUC, Rulemaking 18-03-011, to develop permanent emergency disaster protections using the protections in these two resolutions as a starting point. Around the same time, advocates in Texas had filed a similar petition in response to hurricanes. They were not successful, but their petition provides a good template for disaster relief. See Texas Legal Services Center, Texas Ratepayers' Organization to Save Energy (Texas ROSE), AARP Texas Office, City of Houston, One Voice Texas and Texas Community Action Agencies, Petition for Emergency Rulemaking to Provide Customer Protection Rules for Continuing Support of Victims of Hurricane Harvey, Project No. 47674 filed with the Public Utility Commission of Texas on October 4, 2017.

2 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.5.

3 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.5.

4 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at pp.6-7.

5 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.7.

6 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.7.

7 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at pp.7-8.

8 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.6.

9 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.6.

10 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.6.

11 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at p.6.

12 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at pp. 32-33.

13 See e.g., CPUC Resolution M-4833 (Nov. 9. 2017) at pp.8 and 16.

14 These commissions have different names in different states (e.g., Public Utility Commission or Public Service Commission). For a list of state utility commissions, visit <https://www.naruc.org/about-naruc/regulatory-commissions/> .