

## *Water Debt*

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Unpaid water bills lead to late fees and shutoffs, threatening financial security, housing stability, and family health. As with other utilities, inability to pay for water and sewer services can also result in bills being sent to debt collectors, harming an individual’s credit history and score. Also like other utilities, after a water shutoff a municipality may deem a home “uninhabitable” and force its occupants to move out. Unlike other utility services, however, most water service is provided by publicly owned utilities. Those utilities can not only perform shutoffs but also impose liens on homes for overdue bills, which can result in foreclosure for as little as a few hundred dollars in water debt. (See the Water Liens module for a detailed discussion.) In effect, an unpaid water bill of just a few hundred dollars can send families into a financial tailspin and turn their lives upside down.

Water debt is a looming crisis affecting cities nationwide. A 2020 review of data from 12 major cities found that more than 1.5 million households owed their local water utilities \$1.1 billion in overdue water bills.<sup>1</sup> In late 2020, California water utilities reported that residential customers owed more than \$1 billion in unpaid water bills.<sup>2</sup>

Water debt issues derive from unaffordable bills, chronic billing errors, and old debt accruing interest and penalties that far exceed the amount of the original bill. In some cases, when a homeowner dies and ownership of the home passes to a family member, old debt attached to a property is passed down (and continues to grow) from one generation to the next.<sup>3</sup> Furthermore, rising water prices have made water increasingly unaffordable for low-income households.<sup>4</sup> Worse yet, some municipalities have chronic problems with water billing that contribute to erroneous water debts and shutoffs.<sup>5</sup> Customers struggling with water debt often have few options. Local programs for debt relief are very limited. Until recently there had never been a federal emergency assistance program for households behind on their water bills. Congress funded water debt

relief on an emergency, temporary basis as part of a COVID-19 relief package.<sup>6</sup>

This module provides background on the causes of water debt and utility policies that exacerbate the problem. It then explores policies and programs that can be adopted at the local, state, and federal levels to avoid and reduce customer debt, particularly for households least able to pay.

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### **SOLUTIONS AND TOOLS EXPLORED IN THIS MODULE:**

- Elimination of punitive fees and penalties that cause debt to spiral upward
  - Temporary water debt forgiveness programs
  - Short-term “crisis assistance” grants
  - Arrearage management plans
  - Fair, reasonable deferred payment plans
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## QUESTIONS TO CONSIDER:

As you develop a water affordability advocacy plan, answering the following questions may help you identify issues to address concerning water debt:

- Is there any information available about the prevalence and extent of water debt in your community? (See the Data Collection and Transparency module for strategies to obtain this information from your utility.)
- How does the local utility collect water debt? Does it rely on punitive practices like liens and third-party debt collectors? (See the Water Liens module for a detailed discussion of liens.)
- What options, if any, does your water utility provide to help customers eliminate or manage their debt? Are the terms it offers to customers reasonable in light of their financial circumstances?
- If the utility has a water affordability or assistance program, does it include an arrearage management/debt relief component?

## UNDERSTANDING WATER DEBT

While a large body of data has been collected about other utility debts, information concerning water debt remains scant.<sup>7</sup> This lack of data and research is particularly alarming given that water debt is rising. However, the data available are clear: Water debt has become pervasive in many cities, exacerbating housing insecurity among the most cash-strapped households.<sup>8</sup>

A close examination of a couple of cities reveals the stark reality of these facts and the significant associated harms. In Chicago, for example, researchers examining water billing data found that in many neighborhoods, households at the 20th percentile for household income spend more than 8 percent of their income on water. Households in majority-Black census tracts were found to have water debt 10 times higher than that of households in majority-white neighborhoods; they also have the highest average water bills. In majority-Black neighborhoods, households at the 20th percentile for household income spend on average 19 percent of their income on water.<sup>9</sup> The same study also found that households in nonmetered properties pay significantly more every year than do customers in metered homes, which are located primarily in majority-white areas of the city.<sup>10</sup>

And the problems do not end there. The city of Chicago regularly turns delinquent water bills over to private debt collectors, who often use aggressive and punitive methods like wage garnishment to collect debts. Debt collectors there have garnished millions of dollars in wages for water debts.<sup>11</sup> In St. Louis County, Missouri, out of 647 debt collectors, the Metropolitan St. Louis Sewer District ranks second for the number of lawsuits filed.<sup>12</sup>

In Detroit, water debt became such a problem that in 2014 the city initiated a mass disconnection effort that garnered international attention.<sup>13</sup> The effort resulted in shutoffs to some 30,000 customers and eventually drew attention from the United Nations.<sup>14</sup> But even in cities that take a less extreme approach, the situation is grim for many in low-income communities. For instance, water debt has disproportionately hit Black and Latino communities in Philadelphia. That debt often accumulates, staying with the property as a home is transferred from family member to family member over time.<sup>15</sup> In Philadelphia, this accumulated (and sometimes intergenerational) water debt is an even bigger problem than unaffordable monthly water bills; legal services attorneys there have seen such debt go as high as \$50,000.<sup>16</sup>

## AN UNEQUAL DEBT BURDEN<sup>17</sup>

In Chicago, 60 percent of water debt is held by residents in majority-black zip codes—the South and West sides of the city.

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Punitive late fees and aggressive collection practices  
make it harder for households to pay off their water debt.

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## HARMFUL PRACTICES THAT EXACERBATE THE WATER DEBT CRISIS

There are systems and mechanisms that make it more difficult for households to pay off their water debt. These practices include levying punitive fees, penalties, and interest on unpaid water bills, requiring deposits to reconnect service after shutoff for nonpayment, using private debt collectors who engage in aggressive collection practices, and reporting unpaid water debts to credit bureaus. The amount due from these various charges can be much larger than the original water debt.

These practices are common and worsen the financial burden for many already cash-strapped customers. One study found that more than 70 percent of municipalities and more than 80 percent of counties in Maryland charge late fees, reconnection fees, or disconnection fees; reconnection fees were the most common and ranged from \$35 to \$90.<sup>18</sup> Elsewhere, some utilities reserve the right to remove the meter and charge a meter removal fee when a customer has not paid a bill.<sup>19</sup> Some states, like New Jersey, require some water and sewer utilities to charge 1.5 percent monthly interest on past-due bills—amounting to an annual interest rate of at least 18 percent.<sup>20</sup> Phoenix imposes a 3 percent monthly late fee on delinquent balances of bundled city service bills, which include water; the late fee compounds each month, as prior late fees are considered part of the delinquent amount, resulting in an effective 34 percent penalty on a balance carried for a year.<sup>21</sup> Chicago levied a \$350 fee on one customer's past-due bill to cover the cost of a private attorney that represented the city in a hearing on

the bill.<sup>22</sup> The city charged that same customer more than \$1,700 in penalties alone between 2011 and 2021.<sup>23</sup>

The city of Saginaw, Michigan, threatens customers whose water has been disconnected with fines for building code violations ranging from \$100 to \$400, potentially leading to condemnation of a home.<sup>24</sup> Renters in subsidized housing risk eviction if they are disconnected from utility service for an extended period of time where maintenance of utility service is a requirement in the lease.<sup>25</sup> This jeopardizes their ability to obtain affordable housing.

The situation becomes even more punitive if the city sends the debt to a collector.<sup>26</sup> In Chicago, which has outsourced its debt collection to private law firms, households with water debts face wage garnishment and worse from aggressive debt collectors. From 2013 to 2021, debt collectors in Chicago garnished \$8.8 million in wages.<sup>27</sup> Water debts can eventually affect consumer credit ratings, since debt collectors report this information to credit bureaus. Consumers with negative credit histories experience difficulty obtaining employment, apartment leases, auto loans, and other financial products.<sup>28</sup> For this reason, water debts can trap many individuals in a cycle of financial insecurity or poverty.

To restore service after a shutoff or to establish service at a new address, some utilities require customers with current or past water debt (or other utility or nonutility debt) to pay a deposit on future bills.<sup>29</sup> This deposit can be two or more times a typical monthly bill.<sup>30</sup>

### FEES, PENALTIES, AND INTEREST

Cities attach punitive fees (late fees, reconnection fees, disconnection fees, etc.), penalties, and interest that can be hundreds or thousands of dollars on top of the unpaid bill.

### TURNING OVER BILLS TO PRIVATE DEBT COLLECTORS

Private debt collectors use abusive practices, including harassing calls and letters and seeking court judgments for wage garnishment and home liens.

### CREDIT AGENCY REPORTING

Debts in collection show up on consumer credit reports and affect credit scores, harming the consumer in myriad ways.





## ELIMINATING POLICIES AND PRACTICES THAT CAUSE WATER DEBT TO BALLOON

In the investor-owned energy sector, numerous examples can be found of rules that eliminate or restrict late fees, deposits, and interest that cause water debt to balloon. A few examples can also be found that apply to water. Examples from both sectors are described below. Of course, there is no reason why the same policies cannot be applied to both energy and water utilities. Indeed, during the COVID-19 pandemic, some states barred all energy and water utilities from charging late fees, in connection with statewide utility shutoff moratoria.<sup>31</sup>

Utilities often argue that the purpose of late charges is to compensate the utility for expenses incurred as a result of late payment, or that a late charge provides an incentive for timely payment.<sup>32</sup> The wide variation in the size of late fees tends to undermine the assertion that the charges compensate the utility for expenses.<sup>33</sup> As to the incentive claim, utility consumer advocates have argued that imposing late fees just punishes households who simply cannot afford to pay their utility bill, making it more difficult for them to catch up.

San Francisco provides an example of a publicly owned water and sewer utility eliminating certain fees that made it harder for struggling households to get back on their feet. The city's utility eliminated a \$55 disconnection fee and \$55 reconnection fee because it came to realize that those fees were punitive.<sup>34</sup>

California appears to be the only state that limits any category of fees for all water utilities. The state's Water Shutoff Protection Act, which applies to all water utilities serving at least 200 customers, limits the amount of reconnection fees for customers who are at or below 200 percent of the federal poverty level or participate in certain benefits programs. These customers can also have interest charges waived once every 12 months.<sup>35</sup> Pending legislation would amend the law to require utilities to waive disconnection and reconnection fees for low-income customers.<sup>36</sup> (The Water Shutoff Protection Act and the pending legislation are explored in detail in the Water Shutoffs module.)

In Michigan, advocates are backing state legislation that would require municipal water and sewer utilities to waive late fees, reconnection fees, and deposits for households that have incomes under 200 percent of the federal poverty guidelines or participate in certain federal or state benefits programs.<sup>37</sup>

Some states have prohibited or restricted the use of late fees or deposits by investor-owned utilities (including, in some cases, investor-owned water utilities). For example, Illinois adopted legislation prohibiting investor-owned electric and gas utilities from imposing late fees and deposit requirements on low-income customers (defined by state law as customers whose income is at or below 80 percent of area median income or who are eligible for certain utility assistance programs).<sup>38</sup> A preexisting public

utility commission rule in Illinois prohibits investor-owned water utilities from subjecting low-income customers to late fees and deposit requirements.<sup>39</sup> In California the state utility commission, prompted by legislation directing it to develop rules or policies to reduce the number of electric and gas shutoffs, prohibited large investor-owned electric and gas utilities from charging deposits to start or restart service. In adopting that rule, the commission noted that “the utilities have failed to demonstrate that deposit requirements are beneficial” and that “reestablishment deposits make it increasingly difficult for households to have their utilities reconnected . . . [and] to catch up once they have fallen behind.”<sup>40</sup> In Massachusetts, investor-owned electric and gas utilities are prohibited from charging a deposit to start or continue service, although they are allowed to require customers to pay overdue bills before continuing service.<sup>41</sup>

## PROGRAMS AND POLICIES THAT HELP HOUSEHOLDS RESOLVE WATER AND SEWER DEBT

The best water utility debt relief programs combine a robust affordability element to address the ongoing, monthly unaffordability of water utility bills with a debt relief mechanism to eliminate existing water bill arrears (past-due amounts). Combining debt relief with an affordability program is essential to keep low-income households from accruing debt once again. Several of the debt relief programs profiled in this section take this approach. (For further discussion of programs designed to make monthly bills affordable for low-income households, see the Affordability and Assistance Programs module.)

As discussed below, various local, state, and federal programs have been offered, on a temporary basis, to address water debt that accumulated during the COVID-19 pandemic. But there are no permanent federal or state programs that help households address water or wastewater arrears. Legislation pending in California would create a statewide Water Rate Assistance Program, which includes “crisis assistance” (i.e., a one-time grant to pay an overdue bill, specifically to avoid a shutoff or restore service), as well as ongoing assistance to reduce future bills.<sup>42</sup>

Some individual utilities do have permanent debt relief programs. What is provided to water customers can be as minimal as a one-time grant to forestall shutoff or restore service after a disconnection for nonpayment. Most existing local programs likely fit that description.<sup>43</sup> More robust utility-run debt relief programs are designed to meet the needs of the individual customer. The most progressive model is an arrearage management plan that eliminates debt over time, provided that a customer makes future on-

time payments. Less favorable, but still valuable to many customers, are deferred payment plans under which the customer pays off arrears in installments over a period of months or years, in addition to timely payment of future bills. Both of these options are explored below.

### Temporary federal assistance for water arrearages

In 2020–2021, as part of the federal response to financial fallout from the COVID-19 crisis, Congress allocated \$1.1 billion for a temporary Low Income Home Water Assistance Program (LIHWAP).<sup>44</sup> Like the long-standing Low Income Home Energy Assistance Program (LIHEAP), LIHWAP is administered by states under broad federal program guidelines. Eligibility requirements and benefit levels vary by state. However, the priority use of funds is to pay arrears as necessary to restore service or prevent disconnection for nonpayment. Although states have until the end of 2023 to distribute their LIHWAP allotments, it is widely recognized that the available funding will meet only a fraction of the existing need.<sup>45</sup>

Other federal COVID-19 housing assistance programs also provided states the option to include water debt relief for participating renters and homeowners.<sup>46</sup>

### State and local COVID-19 arrears programs

Several states and municipalities across the country offered (or continue to offer) debt relief for customers that accrued water debt during the COVID-19 pandemic. Some examples of these programs, many of them supported by flexible American Rescue Plan Act (ARPA) funding, are described below:

- **California** allocated nearly \$1 billion of its flexible ARPA funding to water and wastewater debt in 2021. The state’s Water Resources Control Board offered two debt relief programs—one for water and another for wastewater agencies—for unpaid customer debt accrued between March 4, 2020, and June 15, 2021.<sup>47</sup>
- **The city of Buffalo, New York**, allocated \$13 million of its ARPA funds to create a COVID-19 water and sewer debt relief program to assist an estimated 30,000 households with significant arrearages. The Water and Sewer Amnesty program provided debt forgiveness to low-income households whose bills were either two quarters or more past due or \$300 in arrears and covered any interest or fees associated with late bills. Participating customers were then enrolled in the city’s low-income assistance program.<sup>48</sup>



- **The Greater Cincinnati Water Works** utility offered emergency financial assistance for residential customers who experienced economic hardship related to COVID-19 and were unable to pay their water bill without risking further hardship for their household.<sup>49</sup>
- **Virginia** dedicated more than \$200 million in federal COVID-19 relief funds to energy and water debt relief for households experiencing financial hardship due to the pandemic. Customers of publicly owned and investor-owned water and wastewater utilities were included.<sup>50</sup> (As discussed in the Data Collection and Transparency module, Virginia also required publicly owned utilities to submit data on customer arrears to inform distribution of these assistance funds.)

### Crisis assistance

As noted above, most permanent local programs to help customers with overdue water bills (i.e., programs not limited to the COVID-19 pandemic) are focused only on so-called crisis assistance. This approach offers a one-time grant to help a customer avoid shutoff. Some typical examples can be found in a 2016 EPA compendium of local water customer assistance programs.<sup>51</sup>

Depending on the program design, eligibility may be limited to low-income customers or may include others with a temporary inability to pay due to personal financial crisis (e.g., loss of job, unexpected medical bills). However, the maximum available grant is often set at an arbitrary level that may or may not be enough to meet a particular customer's immediate needs. Usually there is also a maximum number of times in a given period that a customer can receive this assistance.

Some municipal utilities rely entirely on liens, rather than shutoffs, as a primary approach to collecting on overdue bills. Consequences of liens can be severe, including permanent loss of one's home (see the Water Liens module). Therefore, crisis assistance programs should be available not only to help customers avoid shutoff for nonpayment but also to help them pay off liens based on water debt. The federal LIHWAP program, for example, allows funds to be used to pay off liens, even when the lien has been transferred to a third-party debt collector.<sup>52</sup>

### Arrearage management/debt relief programs

Arrearage management programs (AMPs) provide relief for low-income utility customers who have significant past-due amounts on their utility bills. Their availability tends to be limited—for example, once every set number of years, although utilities may have discretion to offer the AMP more frequently.<sup>53</sup>

AMPs differ from a deferred payment arrangement (traditional payment plan) in one important aspect, the treatment of the debt. With AMPs, the debt is set aside at the start of the program and does not grow due to interest or fees; instead, the debt shrinks with each on-time payment of the current bill. Ideally, AMPs apportion these reductions over a predetermined period of time, decreasing debt until it is completely eliminated.

To offer a realistic path out of debt for customers with large arrears, an AMP program should ensure complete elimination of outstanding debt within a reasonable time frame, such as one year (and no more than two). As noted previously, it is also important to combine AMPs with an effective, income-based affordability program that reduces the current bill to ensure that participants don't fall behind on new bills. Although not all existing AMPs include all of these best-practice elements, even programs that are less than ideal can help to reduce water debt burdens.

AMPs have been an important tool to respond to spiraling utility costs and the increasing numbers of utility customers who cannot afford to pay their bills.<sup>54</sup> In Massachusetts, for example, AMPs have been extremely effective in helping electric and gas utility customers minimize and eliminate arrearages, particularly during the COVID-19 economic fallout.<sup>55</sup> The California Public Utilities Commission (CPUC) recently ordered the four large investor-owned electric and gas companies to implement AMPs in a proceeding to consider new approaches to disconnections and reconnections. The CPUC AMP rules will sunset after four years unless the commission extends, reauthorizes, modifies, or rescinds its order.<sup>56</sup>

Data from energy utility AMPs show that they benefit not only individual customers but also other ratepayers and the utilities themselves. In Massachusetts, an AMP was shown to have a positive impact on utility revenues because customers in the plan made higher payments than they otherwise would have and continued to make higher payments even after completing the plan.<sup>57</sup> The utility's costs to administer the AMP were offset by reduced collection and termination costs, with these reduced costs leading to lower rates for all ratepayers.

Similarly, in Washington, D.C., very low income participants, including many whose service had already been disconnected, not only significantly reduced their arrears when they entered the program but were more successful at paying their monthly utility bills than comparably poor nonparticipants.<sup>58</sup>

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## ENERGY UTILITY TOUTS ARREARAGE MANAGEMENT PROGRAMS AS A “WIN-WIN” FOR THE CUSTOMER AND THE UTILITY

“Customers participating in arrears management programs receive clear benefits. Those participants gain the protection against service disconnections while on the program and can gain a fresh start by successfully completing an AMP with arrears that are totally canceled. . . .

Utilities gain several benefits, too. The costs associated with collection activities on these accounts are diminished as field visits and disconnections are avoided. In addition, AMP customers are paying more towards their bills.”

—PENNI MCLEAN CONNOR, EXECUTIVE VICE PRESIDENT OF CUSTOMER EXPERIENCE  
AND STRATEGY, EVERSOURCE (A MAJOR ELECTRIC AND GAS UTILITY IN THE NORTHEAST)<sup>58</sup>

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An AMP can also operate at the statewide level. Under New Jersey’s Fresh Start program, if an electric or gas customer participating in the state’s Universal Service Fund affordability program “pays current charges on monthly utility bills, in full, for one year, prior overdue balances are eliminated.”<sup>60</sup>

In the water sector, no states have laws requiring water utilities to offer an AMP. However, legislation proposed in California would require all water utilities to develop arrearage management plans that forgive all debt over a 12-month period if a residential customer stays current on new bills.<sup>61</sup>

In recent years, several municipal water utilities have developed their own AMPs, which incorporate some or all of the elements described above. Four such programs are described below. (The Philadelphia and Baltimore programs, which also include reductions in future bills, are discussed further in the Affordability and Assistance Programs module.)

- **Philadelphia’s Tiered Assistance Program (TAP)** is a strong example of a program designed to achieve *both* affordable bills and debt relief for low-income customers entering the program—a best practice for achieving long-term water affordability. TAP offers low-income customers monthly bills based on a percentage of household income.<sup>62</sup> Initially it offered a debt relief component that covered only late fees and interest. TAP was updated in 2020 to include an AMP that forgives any outstanding debt after full payment of 24 monthly TAP bills, which need not be consecutive.<sup>63</sup> Participants who become ineligible for the program due to a change in income before making 24 bill payments receive debt forgiveness in an amount pro-rated to the number of months enrolled.<sup>64</sup> As of spring 2022, the Water Department had agreed to make further changes to the program, according to local advocates.<sup>65</sup> Under the expected rules, the program will erase 1/24 of the

household’s debt each time a monthly TAP bill is paid. (Philadelphia also has a separate rule that all utility debt older than 15 years is automatically forgiven.<sup>66</sup>)

- **Baltimore City’s Water4All program**, launched in February 2022, is another example of a percentage-of-income water bill affordability program that incorporates an AMP. Every time a customer makes an on-time payment of a current bill under the Water4All program, an equivalent amount is credited toward the participant’s outstanding arrears.<sup>67</sup>
- **Chicago’s Utility Billing Relief (UBR) program** was launched in 2019, along with a moratorium on water shutoffs due to water debt.<sup>68</sup> The UBR provides LIHEAP-eligible customers with a 50 percent discount on water bills and an arrearage management/debt relief component.<sup>69</sup> Under the UBR, 1/12 of the customer’s arrearage is forgiven for every on-time (discounted) monthly bill payment.<sup>70</sup> Participants are given an additional opportunity for enrollment in the UBR should they default in their initial enrollment.
- **Pittsburgh’s Bill Discount Program (BDP)** is a less robust AMP than those found in Philadelphia, Baltimore, or Chicago. For low-income customers who enroll and agree to an active payment plan, a \$30 monthly credit is applied against the customer’s outstanding debt for each on-time payment.<sup>71</sup>

### Deferred payment arrangements

Deferred payment arrangement programs (DPAs), a less effective way than AMPs to help customers address debt, exist in both the energy and water utility sectors. DPAs allow customers to pay off overdue bills in multiple installments over time (months or even years) while protecting them from shutoffs, tax lien sales, or other adverse collection actions during the term of the DPA. However, DPA programs have a less than stellar track

record for success in retiring arrearages, for obvious reasons: DPAs require customers, many of whom continually struggle to afford their current utility bill, to pay an *additional* amount each month in order to retire the debt and remain connected to essential utility service.<sup>72</sup>

Where the utility has the discretion to determine the terms of the DPA, consumers can face very unreasonable payback time frames and high charges added to the regular bill due to the water debt. Consumers may feel desperate and accept any DPA terms offered by the utility to postpone a water shutoff. But because the underlying affordability problem has not been addressed, this can quickly lead to a shutoff and additional charges for late fees and deposits, thus growing the water debt.

Putting aside the inherent limitations of DPAs, requiring water utilities to offer standardized, default DPA terms, including certain best-practice provisions, can create a level set of consumer protections and mitigate some of the harm from the power imbalance between the utility and the consumer. These provisions include a zero or minimal down payment, a repayment period (and down payment amount, if any) based on the individual customer's financial circumstances, and an opportunity for a second chance if the customer experiences changed financial circumstances and misses one or more payments. For example, New York State requires investor-owned water utilities to offer DPAs incorporating all of these components.<sup>73</sup> Notably, during the COVID-19 pandemic, New York's DPA rules were extended to cover publicly owned utilities.<sup>74</sup>

At least one state has a permanent requirement for both commission-regulated and non-regulated water utilities to offer DPAs. California's Water Shutoff Protection Act, enacted in 2018, requires all water utilities with at least 200 connections to offer customers a DPA to avoid shutoff. The law does not, however, specify any minimum requirements for the terms of a DPA.<sup>75</sup>

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## KEY RESOURCES:

Circle of Blue, *Water Debt*, accessed May 19, 2022, <https://www.circleofblue.org/water-debt/>.

*The online water news website Circle of Blue has published a series of articles and investigative reports on the scale and impact of water debt in the United States.*



A graphic promoting the Philadelphia Water Department's (PWD) Tiered Assistance Program (TAP).

© Philadelphia Water Department

While standard minimum DPA terms are important to protect consumers, a recent study of programs offered by Louisville's water and sewer utilities suggests that utilities could improve the success rate of DPAs by allowing customers easily to customize their payment plans to fit their budgets.<sup>76</sup>

Finally, advocates should seek regular reporting of customer performance under DPAs in order to evaluate whether these agreements are helping customers bring their accounts up to date. For example, the California Public Utility Commission recently issued a ruling that will require investor-owned water utilities to regularly report data (on at least a quarterly basis) on the effectiveness of DPAs.<sup>77</sup> (For further discussion of utility data reporting requirements, see the module on Data Collection and Transparency.)

## UNAFFORDABLE WATER AND DEBT RELIEF—WHAT NOT TO DO

Some utilities' answer to unaffordability and water debt is to install water flow restrictors as the "humane" alternative to disconnections. This, however, amounts to second-class water service as the restrictor slows the flow of water to a trickle. (Issues with flow restrictors are discussed in the module on Water Shutoffs.)



## ENDNOTES

- 1 Brett Walton, “Millions of Americans Are in Water Debt,” Circle of Blue, August 5, 2020, <https://www.circleofblue.org/2020/world/millions-of-americans-are-in-water-debt/>; Brett Walton, “Chart: Customer Water Debt Data in 12 U.S. Cities,” Circle of Blue, October 15, 2020, <https://www.circleofblue.org/2020/world/chart-customer-water-debt-data-in-12-u-s-cities/>. Nearly all of these data were from the second half of 2019 or early 2020, prior to the COVID-19 pandemic.
- 2 Brett Walton, “California Households Owe \$1 Billion in Water-Bill Debt,” Circle of Blue, January 19, 2021, <https://www.circleofblue.org/2021/world/california-households-owe-1-billion-in-water-bill-debt>.
- 3 Municipal water and wastewater utilities commonly designate the property owner as the customer, with the debt remaining attached to the property even when ownership changes.
- 4 See the Background module for a discussion of increasing water rates and unaffordability.
- 5 See NAACP Legal Defense and Educational Fund, “Opposition to Lifting DeKalb County Water Disconnection Moratorium,” letter to Michael Thurmond, CEO of DeKalb County, Georgia, May 26, 2021, [https://www.nclc.org/images/pdf/energy\\_utility\\_telecom/water/Letter-Re-DeKalb-Water-Disconnection-Moratorium-5.26.21.pdf](https://www.nclc.org/images/pdf/energy_utility_telecom/water/Letter-Re-DeKalb-Water-Disconnection-Moratorium-5.26.21.pdf).
- 6 U.S. Department of Health and Human Services (hereinafter HHS), Office of Community Services, “Low Income Household Water Assistance Program (LIHWAP),” accessed May 11, 2022, <https://www.acf.hhs.gov/ocs/programs/lihwap>.
- 7 Brett Walton, “Lack of Utility Data Obscures Customer Water Debt Problems,” Circle of Blue, October 12, 2020, <https://www.circleofblue.org/2020/world/lack-of-utility-data-obscures-customer-water-debt-problems/>.
- 8 Walton, “Millions of Americans”; Walton, “Chart: Customer Water Debt Data.” A series of investigative articles and videos published by Circle of Blue illustrate the issue through data analysis and first-person narrative of people experiencing the impacts of water debt in many cities. See Circle of Blue, *Water Debt*, accessed May 19, 2022, <https://www.circleofblue.org/water-debt/>.
- 9 Anthena Gore, Louise Sharrow, and Justin Keller, *City of Chicago Water Affordability Analysis*, Elevate Chicago and Metropolitan Planning Council, January 18, 2022, <https://www.elevatenp.org/wp-content/uploads/City-of-Chicago-Water-Affordability-Analysis-1.pdf>.
- 10 The Chicago free meter installation program, MeterSave, notes that on average, homes with meters will save 25 percent on their bills, and two-unit houses will save more. Chicago Department of Water Management, “MeterSave Program,” accessed April 13, 2022, <https://www.metersave.org/MeterSave>.
- 11 María Inés Zamudio, “Drowning in Debt,” WBEZ Chicago, November 8, 2021, <https://interactive.wbez.org/waterdebt/>.
- 12 Debt Collection Lab, “Debt Collection Tracker: St. Louis County,” accessed May 13, 2022, <https://debtcollectionlab.org/lawsuit-tracker/missouri/st-louis-county>.
- 13 Patricia A. Jones and Amber Moulton, *The Invisible Crisis: Water Unaffordability in the United States*, Unitarian Universalist Service Committee, May 2016, <http://uswateralliance.org/sites/uswateralliance.org/files/Invisible%20Crisis%20-%20Water%20Affordability%20in%20the%20US.pdf>.
- 14 Walton, “Millions of Americans.”
- 15 Community Legal Services of Philadelphia, “The Dangerous Weight of Water Debt,” November 13, 2019, <https://clsphila.org/utilities/weight-of-water/>.
- 16 Robert Ballenger, Director, Energy Unit Community Legal Services of Philadelphia, personal communication, September 15, 2021.
- 17 Zamudio, “Drowning in Debt.”
- 18 Alexandra Campbell-Ferrari et al., *The Accessibility Trap: Maryland’s Invisible Water Crisis*, Center for Water Security and Cooperation, December 2018, [https://c5d63933-8ae9-4f33-bb98-7289974e9958.filesusr.com/ugd/5b69db\\_ec476217202a4eb29585cacada9363b2.pdf](https://c5d63933-8ae9-4f33-bb98-7289974e9958.filesusr.com/ugd/5b69db_ec476217202a4eb29585cacada9363b2.pdf).
- 19 Rules & Regs. for the Operation of the Water and Wastewater System of the City of Greensboro § G.5 (Discontinuance of Service), <https://www.greensboro-nc.gov/Home/ShowDocument?id=11420> (“After water has been cut for three (3) days at any occupied premises, the meter may be taken out and an additional fee for meter take out in accordance with Chapter 29-54 of the Greensboro Code of Ordinances imposed.”).
- 20 See N.J. Stat. Ann. §§ 40:14A-21 and 40:14B-41 (West), stating that 1.5 percent monthly interest must be charged until the bill is paid in full. The law provides an exception during states of emergency, when these utilities are allowed to waive interest.
- 21 Phoenix City Code, Ch. 37, Art. V, Section 37-88(A), <https://phoenix.municipal.codes/CC/37-88>.
- 22 Zamudio, “Drowning in Debt.”
- 23 Ibid.
- 24 Justin Engel, “As Saginaw Water Shutoffs Continue, Residents Face Dangers of Costly Fines and Condemned Homes,” *Saginaw and Bay City News*, June 24, 2021, <https://www.mlive.com/news/saginaw-bay-city/2021/06/as-saginaw-water-shutoffs-continue-residents-face-dangers-of-costly-fines-and-condemned-homes.html>.
- 25 National Housing Law Project, *HUD Housing Program: Tenants’ Rights*, section 11.2.4.2.6 (San Francisco: National Housing Law Project, 2018), <https://www.nhlp.org/products/green-book/>.
- 26 For example, a city ordinance in Phoenix stipulates that the water department “will send all delinquent accounts to a collection agency.” Phoenix City Code, Chpt. 37, Art. V, Section 37-88 (F), <https://phoenix.municipal.codes/CC/37-88>.
- 27 Zamudio, “Drowning in Debt.”
- 28 See, e.g., testimony of Chi Chi Wu, staff attorney, National Consumer Law Center (hereinafter NCLC), before the U.S. House of Representatives, Committee on Financial Services, Subcommittee on Oversight and Investigations, “Consumer Credit Reporting: Assessing Accuracy and Compliance,” May 26, 2021.
- 29 For example, the Louisville Water Company requires a deposit from new customers with prior bad debt on a water account, a low credit score, or a water service disconnection for nonpayment within the last three years. Louisville Water Co. Serv. Rules & Regs. § 1.14.1, [https://www.louisvillewater.com/sites/louisvillewater.com/files/user\\_uploads/2020%20Service%20Rules%20final%20w%20page%20%23.pdf](https://www.louisvillewater.com/sites/louisvillewater.com/files/user_uploads/2020%20Service%20Rules%20final%20w%20page%20%23.pdf). The city of Greensboro, North Carolina, requires a \$150 deposit from tenants seeking to open an account in their own name. Rules & Regs. for the Operation of the Water and Wastewater System of the City of Greensboro § G.2, <https://www.greensboro-nc.gov/Home/ShowDocument?id=11420>; Greensboro Code of Ordinances, § 29-54, [https://library.municode.com/nc/greensboro/codes/code\\_of\\_ordinances?nodeId=COOR\\_CH29WASEWADI\\_ARTIIIUSRACH\\_S29-54MIWASECH](https://library.municode.com/nc/greensboro/codes/code_of_ordinances?nodeId=COOR_CH29WASEWADI_ARTIIIUSRACH_S29-54MIWASECH).
- 30 NCLC, *Access to Utility Service: Disconnections, Metering, Payments, Telecommunications, and Assistance Programs*, section 5.2: “Utility Service May Be Made Contingent Upon Payment of a Security Deposit” (Boston: NCLC, 2018), <https://library.nclc.org/aus>.

- 31 Washington State offers one such example. Steve Gross, “Utility Late Fee/Shutoff Moratorium Expires September 30: Now What?,” *Municipal Research and Services Center of Washington Blog*, Sept. 7, 2021, <https://mrsc.org/Home/Stay-Informed/MRSC-Insight/September-2021/Update-On-Utility-Late-Fee-Shutoff-Moratorium.aspx>.
- 32 *Ibid.*, section 5.5: “Challenging Late Charges.”
- 33 NCLC, *Access to Utility Service*, sections 5.5: “Challenging Late Charges” and 5.6: “Are Utility Late Charges Fair?”.
- 34 For example, as described above, one study found that reconnection fees charged by water utilities across Maryland ranged from \$35 to \$90. A survey of 18 water utilities in California found that “cumulative fees associated with shutoffs, from late charges through termination and reconnection, totaled as little as \$12 or as much as \$166 per household.” Laura Feinstein and Abbey Warner, “Water Service Disconnections in California,” fact sheet, Pacific Institute, October 2018, <https://pacinst.org/wp-content/uploads/2018/11/Water-Service-Disconnections-in-California-Fact-Sheet-Pacific-Institute.pdf>. Similarly, a 34 percent compounded annual late fee, such as an example described earlier in this module, bears no conceivable relationship to the actual costs a utility incurs due to a late payment. See also NCLC, *Access to Utility Service*, section 5.6.2, “Late Charges Should Only Cover Reasonable and Legitimate Expenses.”
- 35 Cal. Health & Safety Code § 116914 (West), [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=-](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=-). For eligible customers, reconnection fees are capped at \$50 during business hours and \$150 if reconnection is outside of normal business hours, but fees cannot exceed the actual cost to the utility.
- 36 Cal. SB 223 (2021), [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20210220SB223](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB223).
- 37 Mich. SB 348 (2021), <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/htm/2021-SIB-0348.htm>. The bill would also, among other things, bar these utilities from assessing “penalties” to all residential customers.
- 38 220 ILCS 5/8-201.7 (deposits), <https://www.ilga.gov/legislation/ilcs/documents/022000050K8-201.7.htm>; 220 ILCS 5/201.8 (late fees), <https://www.ilga.gov/legislation/ilcs/documents/022000050K8-201.8.htm>.
- 39 Ill. Admin. Code tit. 83, § 280.65 (late fees), <https://www.law.cornell.edu/regulations/illinois/IL-Admin-Code-83-280-65>; Ill. Admin. Code tit. 83, § 280.45 (deposits), <https://www.law.cornell.edu/regulations/illinois/IL-Admin-Code-83-280-65>. The regulations define low-income customers as those who qualify for the Low Income Home Energy Assistance Program, with some caveats.
- 40 “Phase I Decision Adopting Rules and Policy Changes to Reduce Residential Customer Disconnections for the Larger California-Jurisdictional Energy Utilities,” Cal. PUC Decision 20-06-003 (June 11, 2020) in Rulemaking 18-07-005, 42, <https://docs.epuc.ca.gov/PublishedDocs/Published/G000/M340/K648/340648092.PDF>. The legislation has also prompted the commission to take other actions, documented in the same rulemaking docket, including creation of an arrearage management program, a pilot percentage-of-income payment plan, and a disconnections cap, as well as a critical look at ways to improve the existing low-income assistance programs.
- 41 220 Mass. Code Regs. 27 (2004), <https://www.mass.gov/regulations/220-CMR-2700-elimination-of-the-practice-of-gas-and-electric-companies-of-requiring-a-deposit-from-residential-customers-as-a-condition-to-furnishing-utility-service>.
- 42 Cal. SB 222 (2021–2022), [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=20210220SB222](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB222). The bill is intended to implement a program design developed by the California Water Resources Control Board, which envisioned annual crisis assistance funding of an estimated \$185 million to help an estimated 350,000 households per year, as part of a wider assistance program that would also provide ongoing bill discounts to low-income households. California State Water Resources Control Board, *Recommendations for Implementation of a Statewide Low-Income Water Rate Assistance Program*, 2020, 37–45, [https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/assistance/docs/ab401\\_report.pdf](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/ab401_report.pdf).
- 43 U.S. Environmental Protection Agency, *Drinking Water and Wastewater Utility Customer Assistance Programs*, April 2016, [https://www.epa.gov/sites/default/files/2016-04/documents/dw-ww\\_utilities\\_cap\\_combined\\_508.pdf](https://www.epa.gov/sites/default/files/2016-04/documents/dw-ww_utilities_cap_combined_508.pdf).
- 44 Congress allocated \$638 million to the states and Tribal lands through the Consolidated Appropriations Act of 2021 and additional \$500 million through the American Rescue Plan Act of 2021. See HHS, Office of Community Services, “LIHWAP Laws and Regulations,” March 1, 2021, <https://www.acf.hhs.gov/ocs/law-regulation/lihwap-laws-and-regulations>.
- 45 HHS, Office of Community Services, “Low Income Household Water Assistance Program (LIHWAP).”
- 46 Larry Levine and Olivia Wein, “Fact Sheet on Recent Federal COVID-19 Relief Funding to Help Consumers With Water and Sewer Bills,” NCLC and NRDC, last updated April 5, 2021, [https://www.nrdc.org/sites/default/files/media-uploads/fs\\_nrdc\\_covid\\_water\\_sewer.pdf](https://www.nrdc.org/sites/default/files/media-uploads/fs_nrdc_covid_water_sewer.pdf).
- 47 California State Water Resources Control Board, “California Water and Wastewater Arrearage Payment Program,” accessed May 19, 2022, [https://www.waterboards.ca.gov/arrearage\\_payment\\_program/](https://www.waterboards.ca.gov/arrearage_payment_program/) (see details found under the “Drinking Water Arrearage Program” subheading); California State Water Resources Control Board, “Wastewater Systems,” accessed April 12, 2022, [https://www.waterboards.ca.gov/arrearage\\_payment\\_program/wastewater\\_systems.html](https://www.waterboards.ca.gov/arrearage_payment_program/wastewater_systems.html); California State Water Resources Control Board, “Arrearage Relief to Water Systems for Customer Water Bill Debt,” accessed April 12, 2022, [https://www.waterboards.ca.gov/arrearage\\_payment\\_program/docs/211013-watersystemarrearagesprogram-app-phase.pdf](https://www.waterboards.ca.gov/arrearage_payment_program/docs/211013-watersystemarrearagesprogram-app-phase.pdf); California State Water Resources Control Board, “Wastewater Debt Assistance Information for Wastewater Agencies,” accessed April 12, 2022, [https://www.waterboards.ca.gov/arrearage\\_payment\\_program/docs/swb-arrearage-program-fact-sheet-wastewater-treatment-providers-2.pdf](https://www.waterboards.ca.gov/arrearage_payment_program/docs/swb-arrearage-program-fact-sheet-wastewater-treatment-providers-2.pdf). Under program rules, water and wastewater treatment providers and billing entities (such as counties, cities, and special districts) apply for funding; customers do not. Customers then receive written notice of a credit for eligible debt, including late fees and interest, from their wastewater agency within 60 days of the agency receiving funding. Residential and commercial debt, including debt transferred to a third-party collection entity, debt collected through property tax rolls, or debt offset by customer assistance programs, is covered in the program, according to the Water Boards. The program funded debt related to drinking water first. The Department of Community Services & Development also administered a Low-Income Household Water Assistance Program, as part of the temporary federal LIHWAP program, that provided emergency assistance to income-eligible Californians who needed additional relief for COVID-19 related water debt. The application window for drinking water agencies closed in December 2021. Wastewater agencies’ online application window ran from February 1 through April 1, 2022.
- 48 City of Buffalo, “Mayor Byron Brown Announces Continuation and Expansion of Water and Sewer Bill Amnesty Program,” press release, July 2, 2021, <https://www.buffalony.gov/CivicAlerts.aspx?AID=969>; Get Water Wise Buffalo, web home page, accessed May 20, 2022, <https://getwaterwisebuffalo.org/en/>.
- 49 Greater Cincinnati Water Works, “Help Is Available for Outstanding Water Bills as Utility Shutoffs Return May 2. Customers Can Sign Up for PromisePay & Emergency Utility Assistance,” March 10, 2022, <https://www.cincinnati-oh.gov/water/news/help-is-available-for-outstanding-water-bills-as-utility-shutoffs-return-april-4-customers-can-sign-up-for-promisepay-emergency-utility-assistance/>.

- 50 Virginia Department of Housing and Community Development, “Covid-19 Municipal Utility Relief Program,” accessed May 13, 2022, <https://www.dhcd.virginia.gov/utilityrelief>; Office of Former Virginia Governor Ralph S. Northam, “Governor Northam Signs Revised State Budget That Makes Key Investments, Provides Critical Relief During COVID-19 Pandemic,” press release, November 18, 2020, <https://www.governor.virginia.gov/newsroom/all-releases/2020/november/headline-861427-en.html>; Jackie DeFusco, “Most Virginia Utilities Can Resume Service Shut Offs Soon; New Debt Forgiveness Funding Available,” ABC 8 News Richmond, August 20, 2021, <https://www.wric.com/news/local-news/most-virginia-utilities-can-resume-service-shut-offs-soon-new-debt-forgiveness-funding-available/>.
- 51 US Environmental Protection Agency, *Drinking Water and Wastewater Utility Customer Assistance Programs*.
- 52 HHS, Office of Community Services, “LIHWAP IM-2022-02 Update to FAQs on LIHWAP FY2022,” information memorandum, January 13, 2022, <https://www.acf.hhs.gov/ocs/policy-guidance/lihwap-im-2022-02-update-faqs-lihwap-fy2022>.
- 53 For example, Pepco electric customers (in Washington, D.C.) can enroll every seven years. See DC Pepco AMP filing in DC PSC FC No.1119 (October 28, 2016). By contrast, the AMP run by California investor-owned energy utilities allows customers who successfully complete or fail to complete an AMP to re-enroll in a new AMP after a 12-month waiting period. “Phase I Decision Adopting Rules and Policy Changes,” Cal. PUC Decision 20-06-003, ¶¶ 63 and 66.
- 54 See Charlie Harak, *Helping Low-Income Utility Customers Manage Overdue Bills Through Arrearage Management Programs (AMP)*, NCLC, September 2013, 1, [https://www.nclc.org/images/pdf/energy\\_utility\\_telecom/consumer\\_protection\\_and\\_regulatory\\_issues/amp\\_report\\_final\\_sept13.pdf](https://www.nclc.org/images/pdf/energy_utility_telecom/consumer_protection_and_regulatory_issues/amp_report_final_sept13.pdf).
- 55 During the COVID-19 pandemic, all major electric and gas utilities increased the maximum amounts of debt that could be eliminated under their AMP programs. Ma. Dep’t Pub. Util. D.P.U. 20-58-B, “Inquiry of the Department of Public Utilities Into Establishing Policies and Practices for Electric and Gas Companies Regarding Customer Assistance and Ratemaking Measures in Connection to the State of Emergency Regarding the Novel Coronavirus (COVID-19) Pandemic” (July 31, 2020). See also Charlie Harak, “New D.C. Study Shows How Arrearage Management Programs Are a Win-Win for Utilities and Customers Alike,” *NCLC Utilities & Telecom Blog*, accessed April 13, 2022, <https://www.nclc.org/issues/energy-utilities-a-communications/nclc-energy-utilities-telecom-blog/new-d-c-study-shows-how-arrearage-management-programs-are-a-win-win-for-companies-and-customers-alike.html>.
- 56 “Phase I Decision Adopting Rules and Policy Changes,” Cal. PUC Decision 20-06-003, 156–64.
- 57 See Penni McLean-Conner, “Arrears Management Can Be a Win-Win,” *Power Grid International*, October 27, 2015, <https://www.power-grid.com/energy-efficiency/arrears-management-can-be-a-win-win/>.
- 58 Harak, “New D.C. Study.”
- 59 McLean-Conner, “Arrears Management Can Be a Win-Win.”
- 60 New Jersey Board of Public Utilities, “NJBPUE Expands Utility Assistance Programs to Help Residents Financially Impacted by Pandemic,” press release, June 24, 2021, <https://www.state.nj.us/bpu/library/pdf/Utility%20Assistance%20Press%20Release%20624.pdf>.
- 61 Cal. SB 223 (2021), [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=20210220SB223](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=20210220SB223). For a fact sheet on the bill, see Office of California Senator Bill Dodd, “SB 223 – Dodd: Strengthening Low-Income Residential Water Service Protections,” accessed May 13, 2022, <https://drive.google.com/file/d/1yD8cDcZc5FEt0NyGORMjlbJ7O6K-Er04/view>.
- 62 Community Legal Services of Philadelphia, “Saving Your Home and Water Service Through TAP,” April 12, 2019, <https://clsphila.org/utilities/saving-your-home-and-water-service-through-tap/>.
- 63 Phila. Water Dep’t Regs. Ch. 2 § 206.7(c), <https://water.phila.gov/pool/files/pwd-regulations-2021-08-27.pdf>; City of Philadelphia Department of Revenue, Water Revenue Bureau, “Tiered Assistance Program (TAP) Debt Forgiveness,” May 12, 2021, <https://www.phila.gov/media/20210514135633/What-is-TAP-debt-forgiveness-flyer.pdf>.
- 64 Phila. Water Dep’t Regs. Ch. 2 § 206.7(d), <https://water.phila.gov/pool/files/pwd-regulations-2021-08-27.pdf>.
- 65 Robert Ballenger, Director, Energy Unit Community Legal Services of Philadelphia, personal communication, April 27, 2022. Once finalized, the new rules will be available at: Philadelphia Water Department, “Regulations,” accessed May 18, 2022, <https://water.phila.gov/regulations/>.
- 66 Phila. Code § 19-1605(1) (2015), [https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia\\_pa/0-0-0-214398](https://codelibrary.amlegal.com/codes/philadelphia/latest/philadelphia_pa/0-0-0-214398); Phila. Water Dep’t Regs. Ch. 2 § 206.7(b), <https://water.phila.gov/pool/files/pwd-regulations-2021-08-27.pdf>.
- 67 Balt. City Code art. 24, § 2-13 (2022), <https://legislative.reference.baltimorecity.gov/city-codes>.
- 68 See Pascal Sabino, “Chicago Will Stop Shutting Off Water Service Due to Unpaid Bills: ‘Water Is a Basic Human Right,’” *Block Club Chicago*, November 1, 2019, <https://blockclubchicago.org/2019/11/01/chicago-will-stop-shutting-off-water-service-due-to-unpaid-bills-water-is-a-basic-human-right/>.
- 69 Utility Billing Relief Program, “Utility Billing Relief,” City of Chicago, accessed April 13, 2022, [https://chicago.docugateway.com/main/guest/billing\\_relief/](https://chicago.docugateway.com/main/guest/billing_relief/).
- 70 Ibid.
- 71 See Pittsburgh Water and Sewer Authority, “Customer Assistance Programs,” accessed April 13, 2022, <https://www.pgh2o.com/residential-commercial-customers/customer-assistance-programs>.
- 72 In a California utility commission proceeding, electric utility PG&E claimed its payment plan success rate increased from 20 percent in 2014 to 30 percent in 2015. Energy Division Workshop Report in Att. I, p. 8, of the “Administrative Law Judge’s Ruling Setting Workshops, Issuing Staff Reports and Questions Along With Other Data and Request for Comments and Reply Comments” (June 12, 2019), CPUC Rulemaking 18-07-005, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M299/K659/299659741.PDF>.
- 73 N.Y. Comp. Codes R. & Regs. Tit. 16 § 14.10. New York’s DPA rules are partly codified in statute but are elaborated further in state utility commission regulations. The statutory requirements were enacted as part of the state’s Home Energy Fair Practices Act (HEFPA), a law that was later extended to cover commission-regulated water utilities. N.Y. Pub. Serv. L. § 37 (DPA requirements); N.Y. Pub. Serv. L. § 50 (extending HEFPA to water utilities). Accordingly, the implementing regulations for water largely mirror those applicable to electric and gas utilities. The commission’s rules for water utilities stipulate that the utility must offer a DPA at least five days before disconnection for nonpayment. N.Y. Comp. Codes R. & Regs. Tit. 16 § 14.10(a)(1)(i). The utility must “negotiate in good faith with a customer or applicant in order to arrange a payment agreement that the customer or applicant is able to pay, considering his or her financial circumstances.” Ibid. § 14.10(a)(3). Where necessary to be affordable to the customer, the installments can be as low as \$10 a month, with no down-payment. Ibid. § 14.10(a)(3)(ii). Further, a utility must “renegotiate and amend a payment agreement if the customer or applicant demonstrates that his or her financial circumstances have changed significantly because of conditions beyond his or her control.” Ibid. § 14.10(a)(4). (For comparison, the DPA rules for electric and gas utilities appear at N.Y. Comp. Codes R. & Regs. Tit. 16 § 11.10.)

- 74 New York Department of Public Service, “DPS Details Consumer Rights, Protections and Programs to Help Pay Utility Bills and Avoid Shutoffs,” press release, December 20, 2021, [https://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/ArticlesByCategory/F6DC4624A258627E852587B10074FE03/\\$File/pr21130.pdf](https://www3.dps.ny.gov/pscweb/WebFileRoom.nsf/ArticlesByCategory/F6DC4624A258627E852587B10074FE03/$File/pr21130.pdf) (explaining that “municipal water providers . . . must continue to offer deferred payment agreements that comply with HEFPA to customers financially impacted by the COVID-19 pandemic until June 30, 2022”); N.Y. Dep’t of Pub. Serv., Matter 20-01676, “Notice of Updated Department of Public Service Guidance to Municipal Water Providers Relating to Service Disconnections, Liens, and Deferred Payment Agreements,” December 17, 2021, [https://www3.dps.ny.gov/W/AskPSC.nsf/f5a9d1c8d68336618525769c0066d27f/d3bb77afe92d6fff852585ee0051a13e/\\$FILE/20-01676%20DPS%20Moratorium%20Guidance%202021-12.pdf](https://www3.dps.ny.gov/W/AskPSC.nsf/f5a9d1c8d68336618525769c0066d27f/d3bb77afe92d6fff852585ee0051a13e/$FILE/20-01676%20DPS%20Moratorium%20Guidance%202021-12.pdf).
- 75 The California State Water Resources Control Board offers a plain-language summary of the Act. California State Water Resources Control Board, “Water Shutoff Protection Act FAQs,” accessed April 13, 2022, [https://www.waterboards.ca.gov/water\\_issues/programs/conservation\\_portal/assistance/docs/SB\\_998\\_FAQs\\_1.10.20.pdf](https://www.waterboards.ca.gov/water_issues/programs/conservation_portal/assistance/docs/SB_998_FAQs_1.10.20.pdf). The law is codified in Cal. Health & Safety Code §§ 116900–116926 (West), [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=12.&chapter=6.&article=).
- 76 Water Equity Network and U.S. Water Alliance, “Modern, Effective, and Compassionate Billing: How Louisville Made an Overdue Upgrade to Assistance Programs and Improved the Utility Customer Relationship,” 2021, <http://uswateralliance.org/sites/uswateralliance.org/files/FINAL%20Louisville%20case%20study.pdf>. Among other things, Louisville’s payment program allows customers to customize their payment plans. Customers are in control of how frequently they pay and can easily request an extension or change the payment due date without going through a utility customer service representative. Also, the initial payment was lowered to \$5 to make it easy for customers to enroll. The utilities reported that in the past only 20 percent of customers stayed current on their payment plan, but with the switch to the more flexible platform 93 percent of customers are able to stay current on their plan. Other program design features such as self-certification of income helped to streamline customer enrollment into debt relief programs.
- 77 “Assigned Commissioner’s Ruling Revising Monthly Reporting Requirements” (April 28, 2022) in Rulemaking 17-06-024, 12, <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M471/K485/471485733.PDF>. The order requires reporting on the number of customers with specialized payment arrangements to manage their debt and customers not on specialized payment arrangements; the dollar amount of debt for these two groups and the average and mean dollar amount of debt for these two groups; and the number of disconnections and reconnections for these two groups. The Commission noted, “These reporting requirements will communicate the effectiveness of an important protection: specialized payment arrangements. The resulting standardized reporting will allow for course correction as necessary.”