

State Actions to Improve Utility Affordability

Summary

Utility costs are rising.¹ Families in most states are watching their home energy bills increase,² and some customers are seeing unaffordable spikes in their utility costs. More families than ever, including middle class families, are struggling with unaffordable utility bills.

When families struggle to pay utility bills, both the individual households and the broader community feel the impacts of this energy insecurity. For a family facing financial hardships, utility disconnections often lead to adverse health outcomes,³ safety risks as households resort to less safe sources of heat and light, loss of employment, missed school days, evictions, and heavier debt burdens. Discriminatory credit and collection practices and resulting disparate impacts drive higher rates of energy insecurity for Black and Latino families.⁴ Utility company resources, which could be better spent on energy affordability programs, are instead used to disconnect and reconnect customers, all at the expense of utility ratepayers. Unaffordable electricity bills also undermine efforts to transition to more efficient and cleaner home electrification and transportation electrification.

Policymakers must act now to adopt these best practices for utility affordability:

- Put affordability first.
 - Adopt programs to help struggling utility customers pay the bills. Eliminate utility junk fees. Use state supplemental funding to expand the reach of federally funded energy programs.
 - Stop harmful and wasteful disconnection practices by creating shut-off protections for at-risk families. End utility practices that increase rates of disconnections in historically under-resourced communities.
- Give families the tools they need to lower their bills.
 - Support energy efficiency programs. Provide extra help for low-income households. Help families lower their utility bills without worsening household debt burdens.
 - Improve energy efficiency programs by following best practices, including energy audits and housing repairs that are needed prior to installing energy efficiency upgrades and bulk purchasing to bring down costs.
- Empower utility commissions to keep utility profits in check.

- Increase public participation in utility commission proceedings. If there is no state ratepayer advocate, appoint one.
 - Keep utility profits within reasonable levels. Limit expenses that can be collected by utility companies in rate cases. Keep an eye on private equity ownership of public utilities. Expand public reporting of utility disconnections and debt.
- Create a cleaner and more affordable energy system.
 - Building more renewable energy on a large scale can save money for all ratepayers. End utility incentives for expanding the natural gas network, and limit cost recovery to necessary pipe repairs and replacements. Encourage managed EV charging with time varying rates.
- Make sure data centers pay their fair share and provide real benefits for their host communities. If a community doesn't want the data center built, listen to the community and do not build there.
- In deregulated (non-vertically integrated) states, rein in overpriced competitive supply and wholesale supply premiums, and support more representation of consumers before Regional Transmission Organizations (RTOs).

Steer clear of ideas that can worsen energy insecurity:

- Do not eliminate or shrink energy efficiency programs.
- Do not replace energy efficiency programs with more consumer debt.
- Do not impose “prepaid” electric service.
- Avoid overpriced retail competitive supply.
- Do not make it harder for low-income families to pay their bills -- adopt fair utility debt collection practices instead.

Measures that improve energy affordability can benefit all ratepayers. Everyone who pays a utility bill also helps to pay for the uncollectible utility bills or bad debt that utility companies accumulate as well as the costs of failed collection attempts. Policy makers and utility leadership could choose to do something positive with those funds. Instead of churning families through a cycle of disconnection and reconnection, we could support energy affordability programs that help struggling families to pay their bills, providing a more dependable stream of income for utility companies and reducing the utility company administrative costs of disconnecting and reconnecting customers who want to pay but simply cannot afford to do so.

In addition to energy affordability programs, other common-sense measures can help make utility bills more affordable. While there is no easy fix to bring down utility costs, a range of strategies can make a real difference for consumers. For instance, most states have experienced damage to the electric grid from wildfires, floods, or other extreme weather events that require expensive repairs. Some states are seeing a rise in speculation or actual building of

data centers and other big users of electricity, while other states are less impacted.⁵ Some states are partly deregulated and are experiencing price increases in wholesale markets for electricity, and others face challenges bringing sufficient generation and transmission onto the grid.⁶ Each state has its own utility regulatory landscape, and different legislative and regulatory tools can be used to promote utility affordability depending on the circumstances of the state.

States should consider the following measures, adopting those that fit within the state's utility landscape:

Adopt Programs to Help Utility Customers Pay the Bills

Low-Income Bill Affordability Programs

Low-income families experience the highest levels of energy insecurity.⁷ Utility affordability programs such as discount rates, Percentage of Income Payment Programs (or PIPPs), and arrearage management programs (AMPs) help low-income households to keep up with utility bill payments and avoid the hazards that can follow from utility disconnections. Affordability programs can help all ratepayers by providing a more steady stream of utility payments, reducing the administrative costs incurred when families churn through the cycle of disconnections and reconnections, and lowering the amount of uncollectible debt.

States that do not have these programs can create them. For example, Virginia⁸ adopted affordability programs with legislation in 2020, and a North Carolina⁹ utility introduced a new Customer Assistance Program for eligible households. States that have affordability programs already can improve them to bring more relief to struggling families.¹⁰

Keep Families Connected to Essential Utility Service

When families are unable to pay bills due to financial hardship, aggressive debt collection practices can lead to worsening poverty,¹¹ cutting back on basic necessities,¹² and harm to physical and mental health.¹³ For utility debt, service disconnection is often the first tool that utility companies use for collection, and millions of families are disconnected from utility service each year.¹⁴ The arbitrary and opaque nature of utility debt collection practices has led to life-threatening disconnections when only small amounts of money were at issue, and a legacy of disproportionate impacts on people of color.¹⁵

Measures such as disconnections, debt collection lawsuits and liens on family homes are punitive and harm low-income families the most. Affordability programs and emergency disconnection protections are proactive measures to reduce involuntary utility disconnections and protect families. States should adopt disconnection protections to shield older adults, people with medical conditions or disabilities, and families with small children. Pausing utility disconnections during heatwaves¹⁶ or other extreme weather events can help older adults, people with medical conditions,¹⁷ and families with young children to stay safe and connected to utility service when it is most needed. In addition to protecting health and safety, these safeguards can help reduce administrative costs of disconnections and reconnections, thereby reducing expenses that can contribute to rising energy bills.

When debt collection actions are used, fair, transparent and standardized utility debt collection practices are needed, not a patchwork of different rules that change based on the location and income level of the customer. For example, disconnection rules should be the same for all customers, regardless of household wealth. Utility commissions can also prohibit sales of utility debt to debt buyers, a harmful practice that is unnecessary because utility companies are made whole for unpaid utility debt during the utility ratemaking process. Public reporting of disconnections, listed by the customers' zip codes, can help advocates and policymakers to monitor rates of disconnection in different communities, and better address energy insecurity.¹⁸

Eliminate Utility Junk Fees

Late payment fees, utility security deposits, reconnection fees, and other punitive or excessive fees disproportionately harm low-income consumers and act as a tax for being poor. Security deposits can pose a barrier to getting utilities connected to a home in the first place. States should protect families by eliminating late fees and other excessive fees, or capping them at no more than the utility company's costs for disconnection and reconnection.

Before consumer advocates successfully intervened, one Louisiana utility charged struggling families with exorbitant late payment fees that were more than triple the national average.

Use State Supplemental Funding to Expand the Reach of the Federal Low Income Home Energy Assistance Program (LIHEAP)¹⁹ and Weatherization Assistance Program (WAP)

Federal energy assistance and energy efficiency dollars will go further to help keep bills affordable when states add additional funding to these important programs. Since there are already programs and delivery networks in place, supplementing these programs is an efficient way to help even more families. In addition, states with supplemental LIHEAP funding sources have more flexibility when creating eligibility rules, and could choose to help customers who are currently excluded because of their immigration status.

Support Energy Efficiency Programs

Energy efficiency measures help bring down utility costs for households, by reducing unnecessary energy usage and lowering bills. Energy efficiency is one of the most cost-effective ways to meet energy needs.²⁰

Help Households Improve Energy Efficiency

Energy efficiency programs, whether funded by state budgets, cap and trade revenues, or ratepayer funds, ultimately help save energy and lower utility costs.²¹

Extra Help for Low-income Customers Can Pay Off For All Ratepayers

Often, the housing that needs energy efficiency improvements the most is also the housing where low-income and moderate-income consumers are most likely to live. Energy efficiency programs are most effective when they include help to address housing conditions that need to

be fixed before efficiency measures can be installed. No-cost energy efficiency programs for low-income consumers have been successful in addressing the needs of disadvantaged consumers and communities, and can bring financial benefits to all ratepayers.²²

Support Energy Efficiency Upgrades Without Worsening Household Debt Burdens

Low-income families are often struggling with a larger household debt burden, and utilities are just one part of the picture along with medical debt, used car loans, student loan debt, and other debts. Financing programs (sometimes referred to as on-bill financing²³ or “inclusive utility investment”) are not a realistic solution for low-income consumers, since these loans risk adding further household debt for families with existing debt burdens. In addition, these financing programs, which are repaid through the utility bill, appear to be lending products subject to state and federal lending laws.

Even though she turned down the thermostat to an uncomfortably cold temperature, a single mom in the northeast received winter gas bills over \$500 per month for heat in her family's drafty apartment.

Follow Best Practices For Energy Efficiency Programs

Support energy audits and housing repairs that are needed prior to installing energy efficiency upgrades. Adopt strong energy efficiency building codes and standards for rental housing, new construction, and renovations. Adopt residential demand response programs only with opt-in and hold-harmless financial provisions for low-income consumers, to avoid worsening energy insecurity.²⁴

Explore Options to Lower the Costs of Energy Efficiency and Electrification Programs

Energy efficiency programs save money for participating and non-participating ratepayers, and can save even more money for households when designed and implemented in the most cost-effective manner. State bulk purchasing of energy efficiency and home electrification equipment, and batteries for energy storage, can reduce program costs. States can use resources efficiently by prioritizing energy-burdened and high-usage customers for energy efficiency programs.

Utility Commission Reforms

Utility commissions decide how much utility companies can charge for electric or gas service, and regulate the activities of the utility companies. Utility commission decisions affect our utility bills, disconnection rules, customer service, storm recovery, and more. Public participation in utility commission proceedings, and guardrails on utility commission decision making, can ultimately protect families and keep bills more affordable. States should consider the following measures:

Increase Public Participation in Utility Commission Proceedings²⁵

Utility commissions are government agencies, and their meetings and hearings are open to the public. Utility commissions can make sure that consumer voices are heard by improving outreach and education, providing more opportunities for input,²⁶ and making utility commission proceedings accessible.

Utility rates are set in periodic rate cases before the utility commission. Public participation in these cases is allowed, but most community organizations would need support to participate in a meaningful way. When states provide intervenor compensation in utility commission proceedings, this support encourages a wider range of perspectives and experiences in rate case proceedings and helps hold utility companies accountable to the communities they serve.²⁷

If There Is No State Ratepayer Advocate, Appoint One

In addition to energy and consumer advocacy organizations, most states have an official state ratepayer advocate. Ratepayer advocates challenge utility company demands for higher rates and have succeeded in saving millions of dollars for ratepayers. Georgia and Louisiana, for example, do not currently have state-appointed consumer advocates. Ratepayer advocates can help to create affordability programs that work for utility customers and utility companies.

In states that do have appointed advocates, attorney generals' offices can also intervene to help advocate for consumers, as the Attorney General of Arizona has done.²⁸ In the past, the Florida attorney general also intervened in rate cases, but has not done so in recent years.²⁹

Keep an Eye on Private Equity

Private equity acquisitions of utility companies could further drive up utility costs for families.³⁰ Utility companies are required to operate in the public interest, while private equity companies typically must prioritize maximizing returns for their investors. But a strategy to reap profits for investors could further compromise affordable utility service. Private equity investments in data centers complicate the picture further. Utility commissions must carefully scrutinize potential acquisitions of utility companies, rejecting deals unless permanent and enforceable consumer protections and affordability guarantees are part of the agreement.

Limit Expenses That Can Be Collected by Utility Companies in Rate Cases

Several states have already limited the expenses that utility companies can charge to ratepayers. For example, Massachusetts prohibits utilities from using ratepayer money for promotional and political advertising to their customers.³¹ The Maryland legislature recently passed a law limiting the amount of utility CEO pay that can be charged to ratepayers. Connecticut requires utilities to pay their own costs when they ask the state's public utility commission to increase rates, instead of passing those legal fees along to customers.

While savings from these changes alone are not enough to make utility bills more affordable, these laws also send a powerful message about holding utility companies accountable.

Stop Utility Profiteering

Utility companies earn a profit, called the rate of return or return on equity (ROE), when they recover their capital expenses in rate cases. Utility ROE awards have gradually crept higher in recent years, often exceeding 10%. This adds up to hundreds of millions of dollars for utility companies and their shareholders, and the cost is passed along to ratepayers. Many analysts and policymakers have argued that the level of ROE has become too high,³² and should be limited to a level that does not excessively reward utility companies. Regulators should use their authority to lower customer bills by keeping ROE at a reasonable level to compensate utility companies while keeping utility profiteering in check.

Renewable Energy on a Large Scale Can Save Money For All Ratepayers

Solar energy is one of the least expensive energy resources and among the quickest to deploy. Of the different types of solar installations, utility scale solar is the most cost-effective way to add more electricity generation.³³ Utility scale solar costs ratepayers less money than rooftop solar or community solar, without the predatory practices that have arisen in the rooftop solar market.

End Utility Cost Recovery For Building More Natural Gas Pipes, and Limit Cost Recovery For Pipe Repairs and Replacements

Gas utility service costs keep growing as the cost of gas goes up. Gas is also used to generate electricity in many parts of the country, so gas price increases lead to higher electricity costs as well. Experts predict that gas will only become more expensive in the future. The time to protect utility customers from gas price increases is now. Utility commissions, legislators, and other policymakers should limit the types of expenses that utility companies can recover for gas system repairs, replacements, and extensions.³⁴ Laws that directed utility companies to repair and replace aging gas pipes must be updated to remove incentives for utilities to over-invest or “goldplate” the gas system.

Time of Use Rates Can Be Challenging For Low-Income Households, But Consider Electric Vehicle Time of Use Rates

Time of use rates, or time-varying rates, are rates that increase at times of day when customer demand for electricity is high, and are lower during nighttime or other periods when demand is lower. While some customers may save money with these rates, low-income customers are at risk for higher bills.³⁵

However, time of use rates that are specifically used for charging electric vehicles may help lower electric bills without increasing the risks for low-income customers. Research has indicated that charging electric vehicles at night or when customers are using less electricity can help balance electrical load on the

Will it really reduce utility bills? The policy solutions proposed in this paper would put "downward pressure" on utility rates. Downward pressure would help to counteract factors that are putting upward pressure on rates.

grid, and can help to lower utility costs by using electric supply more efficiently.³⁶ When EVs charge at these off-peak times, their drivers are using and paying for electricity that otherwise could have been wasted. This dynamic can place downward pressure on electrical rates for all customers, even those who do not drive an EV.

Data Center and Large Load Considerations

States are scrambling to protect consumers and the energy system from harm as data centers line up to be connected to the electrical grid.³⁷ The large electrical loads used by data centers can drive up costs for other customers by dramatically increasing the demand for electric supply and straining an aging electrical grid.³⁸

Concerned about electricity usage, water usage, nuisance issues, and a lack of permanent jobs, some communities have determined that data center development would be harmful.³⁹ Many potential data center sites or existing data centers are located in Black and Brown communities as well as under-resourced rural communities, areas already overburdened with pollution or other environmental justice concerns. Leaders in many of these communities oppose data center development that would further harm their neighbors. States, utility commissions, and data center developers need to listen to community opposition and halt plans to build.

Where data centers already exist, or where communities have chosen to allow development to go forward, the data centers and other large users of electricity need to reach agreements with communities that will place the costs of data center development and operation squarely on the data centers and tech companies, and further should include transparency and community benefits. Models and best practices are emerging across the country, including:

- Community participation and decision-making,⁴⁰ particularly for siting decisions
- Bonds and fees to cover expenses if the large load customer leaves the market prematurely or never opens the data center
- Bonds and fees to cover unexpected costs
- Monitoring and accountability for increased consumer costs
- Community benefits agreements⁴¹
- No non-disclosure agreements (NDAs) allowed for the data center broker, data center operator, utility commission, state officials, and other entities

A separate utility rate class for data centers and other large load customers, or a large load tariff, is another measure to help ensure that the data center pays for its costs of operation and that residential utility customers are shielded from paying any costs associated with the data center's interconnection to the grid or ongoing operation.

Public Utility Commissions and Regulated vs. Deregulated States

Each state has unique circumstances that affect bill affordability. Broadly, states fall into two camps, regulated and deregulated states.⁴² Regulated states allow utility companies to own power plants and other generation sources. Electricity is more commonly deregulated, but some states also have deregulated gas. Deregulated states do not allow utilities to own power generation, and instead utility companies must purchase power in a wholesale market run by a regional transmission operator or independent system operator.⁴³ All of this happens out of view of most residential customers, and there are lots of regulations that still apply to all utility companies. Some of the affordability challenges and solutions will look different depending on whether the state is regulated or deregulated.

Strategies For Deregulated (Non-Vertically Integrated) States

Deregulated states can consider two measures that would almost immediately bring down electricity prices. Many states with retail choice markets are already considering additional consumer protections and guardrails for a market that has financially harmed residential electricity customers.⁴⁴ Measures such as Maryland's SB1 limited predatory practices in this market and have helped to protect households from signing up for overpriced electric service.⁴⁵

Predatory sales of competitive energy supply are rampant. One veteran's family found that they owed thousands of dollars to a competitive energy supply company after being promised a better price for their electricity.

A more comprehensive protection would be a pause on individual retail sales of competitive energy supply to residential customers. In this scenario, competitive supply companies could continue to serve commercial and industrial customers, as well as community choice aggregations. This change would come with little or no cost to the state, saving money for residential utility customers. Eliminating direct sales to households would conserve funds that have been allocated for energy assistance and affordability programs, as well as state funds that are currently expended for monitoring and enforcement of bad actors in this market.

In addition, states can investigate and address overcharges in wholesale electric supply markets.⁴⁶ Overcharges at the wholesale level drive up electricity costs for all customers. States can assign procurement of electricity to a public agency or power authority, or can institute or improve reconciliation mechanisms to make sure that overcharges are paid back to households.

What NOT To Do To Bring Down Utility Costs

- Do not eliminate or shrink energy efficiency programs that are funded by ratepayers. Any short term savings will be significantly outweighed by the money that will be lost over the long term by eliminating or weakening these programs.⁴⁷

- Do not replace energy efficiency programs with more debt. Consumers should benefit from energy efficiency programs that help provide savings for all, and these programs should not be replaced with debt and financing products that shift the financial burden and risk to the individual residential customer. Financing of energy products could increase some customers' utility bills and lead to additional utility debt and disconnections, further exacerbating affordability challenges and creating additional administrative burdens and expense.
- Do not impose "prepaid" electric service. These systems lead to additional costs for many customers, especially low-income customers, and can lead to cutting back on electricity use so much that the health and safety of the household is at risk.
- Avoid retail competitive supply. Years of research in deregulated states has shown that, on average, customers are significantly overcharged when they sign up for a non-utility electric supply company.⁴⁸
- Do not make it harder for low-income families to pay their bills. Customers who fall behind on utility bills may end up with bills in collection, which could lead to debt collection lawsuits or liens filed on family homes. Regulators should require fair and standardized utility debt collection practices that apply to all utility customers in the state, not a patchwork of different rules which change based on the location and income level of the customer.

Conclusion

States can act now to implement best practices to promote affordable home energy and utility service. The following measures can help states to protect all ratepayers, especially those who are struggling financially, to afford essential utility service:

- Put affordability first – adopt utility affordability programs, eliminate utility junk fees, and replace the overuse of utility disconnections with policies to help families stay connected.
- Support cost-effective energy efficiency programs to help lower bills for all ratepayers
- Utility commissions can do more to keep utility profits in check, and to make sure that residential utility customers are represented.
- Take steps to create a cleaner and more affordable energy system.
- Make sure data centers pay their fair share and provide real benefits for their host communities. If a community does not want the data center built, listen to the community and do not build.
- In deregulated states, rein in overpriced competitive supply and wholesale supply premiums, and support more representation of consumers before RTOs.

Steer clear of ideas that can worsen energy insecurity:

- Do not eliminate or shrink energy efficiency programs.
- Do not replace energy efficiency programs with more consumer debt.
- Do not impose “prepaid” electric service.
- Avoid overpriced retail competitive supply.
- Do not make it harder for low-income families to pay their bills -- adopt fair utility debt collection practices instead.

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