TOPIC: Environment/Climate
LEVEL OF GOVERNMENT: Local, State

Limiting Water Shutoffs and Addressing Equity through Utility Regulation

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PROBLEM

The cost of drinking water in the United States has outpaced inflation over the last decade as deferred maintenance and infrastructure investments have driven up costs. As rates increase, low-income residents face a crisis of affordability that often culminates in the shutoff of water service for nonpayment. Shutoffs disproportionately affect Black communities, as utilities commonly disconnect homes with the largest unpaid bills and those nearby for efficiency. This results in low-income neighborhoods experiencing more shutoffs. Without access to water for cooking and sanitation, residents face severe health risks and the possibility of triggering child endangerment. When service is reconnected, residents incur a reconnection fee, any unpaid bills, and the cost of flushing their plumbing, while also being exposed to residual contaminants from stagnant water.

During the COVID-19 pandemic and the resulting economic crisis, residents are less able to pay water bills or access community resources, while the demand for water rises with the need for increased sanitation and cooking. Public health experts recommend utilities not disconnect during the pandemic because water service is a human necessity; however, no federal moratorium on shutoffs has been enacted, and state orders vary significantly. **Most states have allowed their shutoff moratoria to lapse during the pandemic.** In North Carolina, more than 770,000 people faced shutoffs when the executive order calling for a shutoff moratorium expired on July 29th. Utilities and states are under financial pressure to terminate shutoff moratoria and resume disconnections.

> The issue of shutoffs is not restricted to water alone; residents face a crisis with shutoffs related to unpaid electricity, water, and broadband bills and possible eviction due to unpaid utility bills, rents, and mortgages.

KEY STATISTIC

Only 3 out of 12 Southern states implemented a complete shutoff moratorium that covered public and private utilities at the beginning of the pandemic. Six others implemented a partial moratorium that covered private (regulated) utilities only. Of the nine state moratoria, two complete and four partial moratoria have already expired, **leaving only Kentucky with statewide protection for consumers from water shutoffs.**

SOLUTIONS

Statewide Regulatory Jurisdiction. In many states, Public Utility Commissions (PUCs) regulate only private utilities, meaning that shutoff moratoria for public utilities can only be mandated through emergency orders and rate increases face limited scrutiny, increasing the burden on low-income communities. To remedy this, states should mandate financial regulation of all water utilities by PUCs. States like Wisconsin, Indiana, and West Virginia provide templates for such a structure. On the opposite end of the spectrum, states like Georgia have no oversight of rate structures of public or private water systems, suggesting a greater need for reform.

ALTERNATIVES

Utility Payment Relief. Some cities, such as Gadsden, Alabama, are using CARES Act funding to offer utility payment assistance to residents, while other cities suspended disconnections temporarily and facilitated payment assistance either directly or through local nonprofits. Utility rate assistance programs, including ones offered through nonprofits, are grossly inadequate for the need. Despite their intuitive appeal, means-tested rate assistance programs are expensive to administer, have difficulty enrolling their target audience, and their effectiveness has not been systematically evaluated.

In a pilot study of 50 randomly selected water utility websites, only five utilities – all of them serving larger metropolitan areas – offered rate assistance programs for low-income customers. The remaining utilities either did not offer such programs or failed to highlight them on their websites. Even when available, rate assistance programs are notoriously under-subscribed or cater to a small section of the population, typically homeowners and seniors. Community advocates also describe concern among immigrant households about utilizing subsidy programs due to “public charge” rules that may affect their impending or future citizenship claims.

Throttling. Phoenix, AZ briefly tested the use of a throttling device to reduce flow instead of a complete shutoff to customers who are behind on payments, although the practice is relatively new and its effectiveness in maintaining public health and impact on consumer trust has not been evaluated.

BEYOND COVID

We believe shutoff moratoria should last until the public health and economic crises continue, but utilities will not remain financially viable if they are asked to write-off a key source of revenue. Currently, there is no federal assistance program that can cancel utility debt held by its customers. In the short-term, Congress must provide financial support to utilities and local municipalities along the lines of the House-approved HEROES Act, so they can weather the financial shock and continue to provide reliable services. In the long-term, financial support must be tied to structural reforms on rates such that low-income (who are often low-volume) consumers are protected from dramatic rate increases.

EQUITY FRAMEWORK FOR POLICYMAKERS

As legislators consider the expansion of PUC authority, they should ensure equity is central to the discussion by asking:

- Is rate-setting by local utilities a truly democratic process? What oversight is currently provided?
- Do public utilities have shutoff protection and affordability programs, and how inclusive are they? Do their rate structures prioritize the needs of low-income consumers?
- Does PUC oversight diminish local control and the representation of marginalized customers?
- Can PUCs be given more authority on equity issues, including requiring utilities to have rate assistance programs or to ensure equity analysis of any proposed rate increases?

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