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From utility disconnection to universal access

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ABSTRACT

By some estimates, 31% of Americans face some sort of ‘energy insecurity,’ but the full extent of the issue and the magnitude of its effect are often difficult to quantify. This case study examines disconnection policies primarily in Minnesota and attempts to extrapolate lessons learned for other states and the nation as a whole. The case study concludes with a discussion about the relevance of U.S. universal access to the utility shut-off challenge.

1. Introduction

1.1. Customer impacts

Analysts have argued that an “affordable” energy burden is 6% of overall income, where the amount spent on energy is 20% of housing costs and housing costs are 30% of income.¹ However, on average, low-income households pay far more than 30% on rent or mortgage and thus have little money available for energy costs or other basic needs like food, education, or medical bills. The lack of available budget puts low-income households at risk for having their utility accounts disconnected, resulting in temporary or permanent termination of those households’ access to energy.

In 2015, the U.S. Energy Information Administration found that one in three households faced challenges in paying energy bills, where 14% received a disconnection notice from the utility (Fig. 1). Some 7 million households (6% of the national total) experienced the inability to use heating equipment at some point in 2015 and 6 million (5%)

experienced the loss of air conditioning. Households with income under \$20,000 were almost three times more likely to experience energy insecurity² than households with income over \$60,000.³

The exact number of nationwide utility disconnections is not known because data is only collected in some states and is not aggregated at the national level. However, electricity companies in states such as California, Texas, and Minnesota file reports to their Public Utilities Commissions (PUCs) on how many customers are disconnected. The disconnections where data is collected seem to be increasing year over year. The number of disconnections in California rose from less than 450,000 to over 700,000 from 2010 to 2016 – an increase of 64% in five years. In Texas, 900,000 homes were shut off during summer 2016 due to unpaid bills, triple the amount of 10 years ago.⁴ The economic situation of low-income households has been exacerbated by slow wage growth in the last decade, compounded by rising housing costs. Since the Great Recession, wages have not grown significantly; an increase of 2.9% in January 2018 was the largest-year-over-year percentage increase since June 2009.⁵

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¹ Adam Chander, Where the Poor Spend More Than 10 Percent of Their Income on Energy, The Atlantic, June 8, 2016, <https://www.theatlantic.com/business/archive/2016/06/energy-poverty-low-income-households/486197/>.

² The IEA defines energy security as the uninterrupted availability of energy sources at an affordable price. Energy security has many aspects: long-term energy security mainly deals with timely investments to supply energy in line with economic developments and environmental needs. Source: 2018 www.iea.org/topics/energysecurity/.

³ EIA, One in three U.S. households faced challenges in paying energy bills in 2015, [https://www.eia.gov/consumption/residential/reports/2015/energybills/?src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20\(RECS\)-f1](https://www.eia.gov/consumption/residential/reports/2015/energybills/?src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20(RECS)-f1), Accessed March 30, 2018.

⁴ Jim Polson, More Americans Are Getting Their Electricity Cut Off, Bloomberg, Oct. 13, 2017, <https://www.bloomberg.com/news/articles/2017-10-13/in-great-american-blackout-millions-go-dark-due-to-unpaid-bills>.

⁵ Don Lee, U.S. economy creates 200,000 jobs in January, wages take off, <https://www.latimes.com/business/la-fi-jobs-report-20180202-story.html>, Accessed May 18, 2018.

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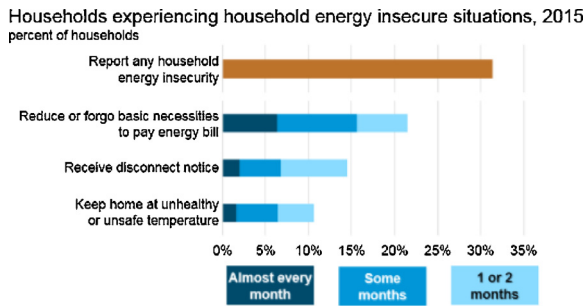


Fig. 1. Households experiencing household energy insecure situations, 2015. Source: EIA, *One in three U.S. households faced challenges in paying energy bills in 2015*, [https://www.eia.gov/consumption/residential/reports/2015/energybills/?src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20\(RECS\)-f1](https://www.eia.gov/consumption/residential/reports/2015/energybills/?src=%E2%80%B9%20Consumption%20%20%20%20%20Residential%20Energy%20Consumption%20Survey%20(RECS)-f1).

Electricity termination can endanger health and safety, cause social stigma, and reduce productivity.^{6,7} Space heaters, candles, and generators can emit carbon monoxide or cause fires.⁸ In fact, 32% of home heating fires involve space heaters, accounting for 79% of home heating fire deaths.⁹ Energy provides heating and cooling functions, a necessity for customers' wellbeing in the winter and summer months in many parts of the U.S. Cold- and heat-related deaths predominantly impact the elderly; in a 2014 report, the CDC found that cold- and heat-related deaths were significantly higher for persons aged 75–84 and even larger for persons aged 85 and over (Fig. 2).¹⁰

In addition to providing for heating and cooling needs, energy (and specifically electricity) is necessary for customers with conditions requiring medical equipment (i.e. ventilators, breathing monitors, or heart monitors). Electricity disconnection could also lead to homelessness because many landlords consider it grounds for eviction. For households with children, not being able to pay utility bills has been found to be the second leading cause for homelessness.¹¹

1.2. Overview of disconnection policies

Disconnection policies govern what kind of customers, and under what circumstances the customer can be disconnected by the utility. These rules vary significantly by state.¹² Disconnection policies also “consist of the justifications, procedures, and consumer protections with which a utility must comply before terminating service to a customer.”¹³ Depending on the type of utility (investor-owned utility (IOU), municipality or cooperative), the disconnection policies are either set by the regulator, the city council, or a governing board,

⁶ Day, R., G. Walker, N. Simcock. Conceptualizing Energy Use and Energy Poverty Using a Capabilities Framework. *Energy Policy* 2016. 93:255–264.

⁷ California Public Utility Commission, Division of Ratepayer Advocates. Status of Energy Utility Service Disconnections in California. March 2011.

⁸ NAACP, Lights Out in the Cold, March 2017, http://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.

⁹ Space Heaters Involved in 79 Percent of Fatal Home Heating Fires. Feb. 11, 2010, <http://www.nfpa.org/news-and-research/news-and-media/press-room/news-releases/2010/space-heaters-involved-in-79-percent-of-fatal-home-heating-fire>.

¹⁰ National Health Statistics Report, Deaths Attributed to Heat, Cold, and Other Weather Events in the United States, 2006–2010, July 30, 2014, <https://www.cdc.gov/nchs/data/nhsr/nhsr076.pdf>.

¹¹ Boyce, Dan Jordan Wirfs-Brock, High Utility Costs Force Hard Decisions for the Poor, Inside Energy, May 8 2016, Available at: <http://insideenergy.org/2016/05/08/high-utility-costs-force-hard-decisions-for-the-poor/>.

¹² NAACP, Lights Out in the Cold, March 2017, http://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.

¹³ NAACP, Lights Out in the Cold, March 2017, http://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf, page 2.

respectively.

Generally, disconnection protections fall in four categories: procedural protections, seasonal protections, payment assistance, and protections for vulnerable groups.¹⁴ While the list below is not exhaustive, it provides an overview of some of the most common protections in each of these categories.

1.2.1. Procedural protections

1.2.1.1. Notice. The U.S. Supreme Court has ruled that all customers have a constitutionally assured procedural right to be given notice prior to termination of utility service.¹⁵ Though a minimum level of notice is required, the length of notice and notice procedures vary widely in different states. Robust notice policies could protect customers from being disconnected and alert them of their duty to pay for utility service, but delivery is often complicated by factors such as language barriers, or an inability to reach a customer if a phone on record has been cut off. In addition, notices sent electronically might not reach the intended receiver and could be less reliable due to lack of internet access, especially in low-income households.

1.2.2. Disconnection limitations

1.2.2.1. Date-based protection. Date-based protection is often in place in states with heating needs in the winter months and usually covers a certain period between the fall and the spring (i.e., Oct. 15 – April 15 in Minnesota or Nov. 1 – May 1 in Connecticut). In most states, customers still have to enroll in a payment plan and pay a certain percentage of their income or utility bill to be guaranteed protection in the winter months. In Michigan, for example, the Winter Protection Plan requires low-income customers to pay “at least 7% of [the] estimated annual bill each month, plus 1/12 of any past due bills.”¹⁶ However, senior citizen customers are not required to pay anything during the winter months and receive protection from disconnection from Nov. 1 to March 31 in Michigan. While date-based protections that require no payment at all provide needed protection during the winter month, spikes in disconnection during the months leading up to winter months and after the protection ends can be observed (see Fig. 6 for the example from Minnesota). Additionally, pure date-based protection does not provide any financial assistance to low-income households.

1.2.2.2. Temperature-based protection. Temperature-based protection provides protection from disconnection during excessively cold or hot days. Some states base those protections on National Weather Service Heat Advisory or Excessive Heat Warnings, others protect against disconnection during days with set temperatures, such as below 32°F or above 95°F. However, those protections are not a permanent solution and often protect only during those days with excessive heat or cold. While some states include forecasted weather conditions (for example Maryland’s utilities cannot shut off service during the 72h after the temperature is either 32 °F or below or if temperature exceeds 95 °F at any time of year), utilities are usually able to shut off service in between excessively cold or hot days, leaving the disconnected customer exposed during the next extreme weather event.

1.2.2.3. Medical protections. Customers with medical problems often need medical equipment such as nebulizers, life support machines, and

¹⁴ NAACP, Lights Out in the Cold, March 2017, http://www.naacp.org/wp-content/uploads/2017/12/Lights-Out-in-the-Cold_NAACP.pdf.

¹⁵ See *Memphis Light, Gas & Water Div. v. Craft*, 436 U.S. 1, 98 S. Ct. 1554, 56 L. Ed. 2d 30 (1978) (“a utility may not terminate service “at will” but only “for cause,” and hence respondents assert a “legitimate claim of entitlement” within the protection of the Due Process Clause of the Fourteenth Amendment.”).

¹⁶ Michigan Gas Utilities, Winter Protection Plan, https://accel.michigangasutilities.com/home/winter_protection.aspx, Accessed March 30, 2018.

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