

March 8, 2021

To: NC Governor Roy Cooper
Office of Governor Roy Cooper
1 E. Edenton St.
Raleigh, NC 27601

Attorney General Josh Stein
NC Department of Justice

Secretary Mandy Cohen
NC Dept. of Health and Human Services

RE: Instituting a New and Extended Moratorium On Evictions and Utility Disconnections, and Ensuring the Rapid and Efficient Allocation of New Federal Rent and Utility Assistance Funds

Dear Governor Cooper:

We, the undersigned racial justice, housing, low-income and conservation organizations, would like to thank you for your previous efforts in addressing the impact evictions and utility disconnections have on a resident's ability to shelter in place during the COVID pandemic. Since the expiration of the prior utility shut off moratorium, coronavirus cases continue to represent a significant threat to public health, regulated utilities have disconnected more than 50,000 households, eviction proceedings have continued, and new research from Duke University demonstrates that preventing evictions and utility shutoffs saves lives.

Therefore, we request that you immediately institute a new moratorium on utility disconnections that extends at least through October 31st, extend the eviction moratorium to be in place for the same time period, and expand the scope of the eviction moratorium.

We also request that you rapidly and equitably roll out the low-income water and wastewater customer assistance program created by the most recent federal COVID-19 relief legislation, and work to streamline and expedite the distribution of federal Emergency Rental Assistance and HOPE funds in a more rapid and efficient manner than has occurred thus far.

As North Carolina continues to experience COVID-19 infections and deaths, it is imperative that you take action to protect public health by ensuring that North Carolinians have access to housing, water, electricity and heat in their homes until the harmful economic impacts of this crisis are resolved. Without housing and these essential utilities, it is impossible for residents to preserve their health or improve their recovery from Covid-19 while sheltering in place.

While we appreciate the political challenges, we ask that you do everything in your power, *including working diligently with the NC Council of State as necessary*, to get a new combined eviction and utility disconnection moratorium in place immediately, for the following reasons:

- 1. Eviction and utility disconnection moratoria directly reduce COVID-19 infection and death rates.** A January 2021 report found that “policies that limit evictions are found to reduce COVID-19 infections by 3.8% and reduce deaths by 11%,” and that “moratoria on utility disconnections reduce COVID-19 infections by 4.4% and mortality rates by 7.4%.”¹ It can be inferred that potentially hundreds of North Carolina residents have died as a direct result of having their utilities disconnected for non-payment since the expiration of your prior moratorium on disconnections. Those deaths could have been prevented, and a new moratorium will literally save hundreds if not thousands of lives.
- 2. Evictions and utility disconnections exacerbate racial and health inequities.** “Just as communities of color have seen higher infection and death rates from the virus, they have also been more vulnerable to job and income losses from the ensuing economic crisis,” and as a result, “the majority of the up to 17 million households [nationally] at risk of losing their homes this winter are comprised of people of color.”² Additionally, nationally one in four Black renters lived in a county where the Black eviction rate was more than double the white eviction rate.³ In regard to utilities, a September 2020 national survey showed that, as compared to white households, Hispanic households were 15 times more likely to be disconnected for the first time, since the beginning of the pandemic, and Black households were 6 times more likely.⁴ At the same time, Black and Hispanic residents in North Carolina are contracting and dying from COVID-19 at disproportionately higher rates. *Combined with the NBER/Duke University report, it is clear that a new and extended moratorium on evictions and utility disconnections would alleviate the racial disparities in COVID-related health impacts.*
- 3. More than one million people remain at risk of having their utility services disconnected.** As of December 31st, with 40 regulated utilities reporting, ~654,000 residential utility accounts (many representing families) remained past due on their bills, owing \$152 million (up from \$148 million in November). Only 31% of those had yet to be placed on an extended repayment plan, representing less than half of the total amount owed. This crisis has only marginally improved since the moratorium expired.⁵

¹ Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties. National Bureau of Economic Research. Jan. 25, 2021. https://www.nber.org/system/files/working_papers/w28394/w28394.pdf

² 'The most lopsided economic event imaginable': Wave of evictions threatens Black, Latino tenants. Politico. Dec. 15, 2020. <https://www.politico.com/news/2020/12/15/the-most-lopsided-economic-event-imaginable-wave-of-evictions-threatens-black-lati-no-tenants-445387>

³ Hepburn, Louis and Desmond. Racial and Gender Disparities among Evicted Americans. Dec.16, 2020. www.evictionlab.org

⁴ Memmott, T., Carley, S., Graff, M. *et al.* Sociodemographic disparities in energy insecurity among low-income households before and during the COVID-19 pandemic. *Nat Energy* 6, 186–193 (2021). <https://doi.org/10.1038/s41560-020-00763-9>

⁵ NCUC COVID-19 State of Emergency Monthly Reporting Form Data for August - December, 2020. <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=1064cfb9-7c65-4edc-8cd0-0fcafede5d6e>

4. **Regulated utilities have been disconnecting customers for non-payment during the crisis at a rate similar to, and in the case of gas utilities, worse than prior to the pandemic.** There were more than 50,000 reported residential electric and gas service disconnections from November through January combined, which was only 15% lower than for the same months in 2019/2020, despite the ongoing public health and economic crisis. Disconnections performed by Duke Energy Progress were actually 4% higher, while disconnections by regulated gas utilities were 21% higher.⁶
5. **Hundreds of thousands of renters remain at risk of being evicted from their homes, which will result in more COVID-related deaths.** An estimated 310,000 to 400,000 renters in North Carolina remained at risk of being evicted due to not being able to afford their rent last fall⁷, and it is expected that a similar number will still be at risk when the moratorium on evictions ends at the end of March. Being evicted will place those residents at greater risk of contracting and dying from COVID, adding to the estimated 15,690 extra infections and 304 deaths resulting from evictions estimated to have occurred in North Carolina from June 20 to September 3, 2020.⁸
6. **There remains a lack of uniformity in the way the CDC Eviction Moratorium and Executive Orders 171, 184, and 191 are being applied throughout the state.**^{9,10,11,12,13} Unfortunately, the Administrative Office of Courts has not issued any new guidance to court officials, so officials are conferring amongst themselves about what to do when faced with a non-payment of rent case which has led to the lack of uniformity.

⁶ Monthly regulated utility disconnection reports. Docket M-100 Sub 61A.

<https://starw1.ncuc.net/NCUC/page/docket-docs/PSC/DocketDetails.aspx?DocketId=b21e697f-0e60-4de0-96d0-a7e6b9e77049>

⁷ Analysis of Current and Expected Rental Shortfall and Potential Evictions in the U.S. Sept. 25, 2020.

https://www.ncsha.org/wp-content/uploads/Analysis-of-Current-and-Expected-Rental-Shortfall-and-Potential-Evictions-in-the-U-S_Stout_FINAL.pdf

⁸ Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality. Nov. 30, 2020. <https://ssrn.com/abstract=3739576>

⁹ Many county clerks are still issuing writs despite the current bans on evictions, while some believe they must issue a writ if they receive a judgment from a magistrate or judge. Some clerks are reporting that magistrates are continuing cases beyond March 31, 2021 instead of outright dismissing eviction actions for non-payment of rent where a CDC Eviction Moratorium declaration is in the court file. Also, some are still issuing writs where the declaration has been filed but where the tenant has not paid the amount needed to stay the writ execution. Arguably, the writ shouldn't be issued at all in applicable cases during the period of the moratoriums.

¹⁰ Attorneys representing landlords continue to appear in court on nonpayment of rent and late rent payment cases, seeking "possession only" as a means of getting around the moratorium. Landlord attorneys argue that as long as they are *not seeking to enforce* the eviction judgment, they are in compliance. Some clerks have reported they are holding these judgments and writs will be executed after the March 31st date if the moratoriums are not extended.

¹¹ Landlords are also using other means to evict tenants behind on their rent. For example, some landlords use "holdover" as means for seeking eviction, arguing that the tenant's lease term has expired, but often these same tenants are behind on their rent. So despite the CDC Eviction Moratorium and the recent Executive Order 191, tenants are still being evicted and this is contrary to the expressed public policy that raises evictions as contributing to the spread of COVID-19, and the current health pandemic.

¹² Landlords are seeking evictions for other reasons, where the tenant is behind on their rent. For example, in some cases a landlord may pursue an eviction if the lease agreement has expired. Instead of renewing the lease agreement, as they had in other times, landlords now are seeking evictions of tenants who have fallen into economic hardship due to COVID-19.

¹³ In some federally subsidized housing cases, the failure to pay utilities is considered to be a minor violation of the lease agreement that could lead to an eviction if the failure to pay utilities is repeated. The minor violation then would become a material non-compliance of the lease agreement that could lead to an eviction of the tenant.

- 7. New federal funding for rent and utility bill assistance is now available but will take considerable time to deploy, and even prior funding through NC HOPE has yet to reach approved households.** So far the NC HOPE funding has been plagued by long delays in the distribution of assistance funds to households in need, and this will likely continue. It will take considerable time for the remaining \$114 million of last year's allocation of HOPE funds to actually reach households,¹⁴ for the ~\$700 million in new federal Emergency Rental Assistance to be distributed to renters behind on their rent and/or utilities, and for new relief funding for low-income water and wastewater bill assistance to reach households in need. Additionally, LIHEAP funding for utility bill assistance has also already been exhausted across many parts of the state.

Based on the above evidence, it is clear that urgent and sustained action is needed to stem the rise in COVID-related infections and deaths in North Carolina by ensuring access to housing and critical utility services for all North Carolinians. With that critical objective in mind, we ask you to immediately order the following:

1. Institute a new moratorium on evictions and utility disconnections that extends at least through October 31st, and expand the ban on evictions to include "holdover tenants," or those tenants whose lease agreements have expired. .
2. Require the immediate restoration of utility service for any residential account that has been disconnected since August 1st, 2020 and which has not had their service restored.
3. Direct the Administrative Office of Courts to provide written guidance on the prohibition of evictions that aligns clearly with the current CDC Eviction Moratorium and Executive Orders 171, 184, and 191.
4. Direct the Department of Housing and Human Services and NC Office of recovery and Resiliency, as well as the NC Utilities Commission, in consultation with key stakeholders, to develop an action plan for the new low-income water and wastewater customer assistance funds and Emergency Rental Assistance funds the state received under the December COVID-19 relief legislation so that those funds are distributed in a rapid and efficient manner. North Carolina does not currently have a state water assistance program. Therefore, the state must quickly create a structure to administer these new funds, in a manner that ensures customers of all publicly-owned and investor-owned water and wastewater utilities can participate. (HHS has asked all states to designate a lead agency for this program by March 8, 2021.¹⁵)

Thank you as always for your consideration.

¹⁴ Fain, Travis. WRAL. Meant to offer 'HOPE,' state rental assistance program has been slow to pay. Feb 22, 2021. <https://www.wral.com/coronavirus/meant-to-offer-hope-state-rental-assistance-program-has-been-slow-to-pay/19536354/>

¹⁵ https://neada.org/wp-content/uploads/2021/03/LIHWAP_AT022621.pdf

Sincerely,

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