

March 8, 2021

Charlotte Mitchell, Chair  
NC Utilities Commission

Attorney General Josh Stein  
NC Department of Justice

Chris Ayers, Executive Director  
NC Utilities Commission Public Staff

Secretary Mandy Cohen  
NC Dept. of Health and Human Service

**RE: Instituting a New Moratorium On Regulated Electric, Gas and Water Shutoffs to Protect Utility Customers and Public Health**

Dear Chair Mitchell and Mr. Ayers:

We, the undersigned racial justice, housing, low-income and conservation organizations, thank you for your many efforts to address the impact utility disconnections have on a resident's ability to shelter in place during the COVID pandemic. However, the number of coronavirus cases still represents a significant threat to public health especially with the emergence of new COVID strains, and new research from Duke University demonstrates that preventing evictions and utility shutoffs saves lives (as referenced in number 1 below).

**To that end, we are writing to request that you immediately institute a new moratorium on utility disconnections that extends at least through October 31st in order to protect utility customers and their families until rent and utility bill relief funding can be fully distributed and residents have time to get vaccinated.**

As North Carolina continues to experience significant COVID-19 infections and deaths, it is imperative that you take further action to protect public health by ensuring that North Carolinians have access to housing, water, electricity and heat in their homes during and until the negative economic impacts of this crisis are addressed. Without housing and these essential utility services, it is impossible for residents to preserve their health or improve their recovery from COVID-19 while sheltering in place. Further, in some federally subsidized housing cases, the failure to pay utilities is considered to be a minor violation of the lease agreement. However, it could lead to a material breach of the lease agreement and even eviction if the failure to pay utilities is repeated.<sup>1</sup>

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<sup>1</sup> 24 CFR 247.3

While we applaud your recent order requiring the largest regulated utilities to suspend disconnections through March 31 for households eligible to receive assistance from LIEAP, CIP, or NC HOPE, and requiring utilities to offer such customers a minimum 18-month Extended Special Repayment Plan, that order is still insufficient for addressing the ongoing threat of utility disconnections facing customers of regulated utilities. This is true for the following reasons:

1. Extending the moratorium until March 31 only provides struggling low-income customers with five more weeks to get back on their feet and earning an income sufficient for affording their utility bills after the moratorium ends, even if they are able to get approved as eligible for the listed programs. Additionally, many households behind on their bills fall outside of the income requirements for HOPE, LIEAP and CIP, and would remain unprotected from losing utility services during the ongoing crisis.
2. The long delays plaguing the distribution of assistance funds to households in need will likely continue, leaving those households without protection against disconnections after March 31. Five weeks is not enough time for (a) the remaining \$114 million of last year's allocation of HOPE funds to actually reach households;<sup>2</sup> (b) the ~\$700 million in federal Emergency Rental Assistance funds to be distributed to renters behind on their rent and/or utilities; and (c) newly proposed relief funding to also get to households in need.
3. Even those who have been deemed eligible for HOPE, for instance, have still had their services disconnected by Duke Energy<sup>3</sup> (and likely other utilities). Your order does not guarantee that other customers will not experience the same outcome.
4. The burden of proof remains on the customer to show that they are eligible for the listed programs, which can be a heavy burden for struggling customers. Other low-income programs should be included on your list, such as SNAP, TANF, SSI, CHIP, etc. Expanding the list of such programs would ease the burden of proof for customer seeking protection from utility disconnections through the end of March (or beyond) because they likely already have such proof on hand and will not have to take the extra steps to apply to an assistance program in order to prove they're eligible for the moratorium.
5. Utilities are not required to immediately reconnect income-eligible customers that were disconnected in the past several months and remain without service. Those customers should be immediately reconnected, as well as refunded any prior disconnection and/or reconnection fees that may have been imposed and paid (alternatively, such fees should be waived if they are currently on the customer's account).

At a minimum we request that you address the issues above and implement a revised order. **However, we maintain that the only appropriate solution is to re-institute a full moratorium on all utility disconnections that extends through October 31, 2021.**

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<sup>2</sup> 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/>

<sup>3</sup> Legal Aid of NC and NC Justice Center Consumer Statement of Position. NCUC Docket M-100 Sub 158. Feb 4, 2021.

<https://starw1.ncuc.net/NCUC/ViewFile.aspx?id=60faf83-88e1-4eb8-b5a5-d186795ddb6>

Such an action would be more than justified given the following evidence:

- 1. Utility disconnection moratoria directly reduce COVID-19 infection and death rates.** A January 2021 report found that “Moratoria on utility disconnections reduce COVID-19 infections by 4.4% and mortality rates by 7.4%.”<sup>4</sup> 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 the NCUC and Gov. Cooper’s moratoria on disconnections. Those deaths could have been prevented, and a new moratorium will literally save hundreds of lives in the coming months.
- 2. More than one million people remain at risk of losing utility services disconnected.** As of December 31st, with 40 regulated utilities reporting, more than 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.<sup>5</sup>
- 3. 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.<sup>6</sup>
- 4. Utility disconnections exacerbate racial and health inequities.** As compared to White households, Hispanic households were 15 times more likely to have their households disconnected for the first time since the beginning of the pandemic, and Black households were 6 times more likely.<sup>7</sup> At the same time, Black and Hispanic residents in North Carolina are contracting and dying from COVID-19 and disproportionately higher rates. Combined with the NBER/Duke University report, it is clear that a new and extended moratorium on utility disconnections would alleviate the racial disparities in COVID- and other health-related impacts.<sup>8</sup>

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<sup>4</sup> Housing Precarity & the COVID-19 Pandemic: Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties,” Kay Jowers, Christopher Timmins, Nrupen Bhavsar, Qihui Hu & Julia Marshall. Jan. 25, 2021. National Bureau of Economic Research. [https://www.nber.org/system/files/working\\_papers/w28394/w28394.pdf](https://www.nber.org/system/files/working_papers/w28394/w28394.pdf)

<sup>5</sup> 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>

<sup>6</sup> 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>

<sup>7</sup> 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>

<sup>8</sup> The health impacts of an utility shutoff, depending on the season, include increased risk for pneumonia, flu, bronchitis, colds, heat stroke, hypothermia and hyperthermia. This does not even take into account how utility shutoffs increase negative health outcomes of someone trying to recover from COVID-19 at home. Further, if a patient leaves a hospital with oxygen support, this person will need electricity at home in order to safely recover.

5. **Utilities play an important role in guaranteeing a safe and quality home environment, especially for Black and Brown children.** According to NC Child, “children’s health is influenced by where they live, play, and learn,” and “43% of children (in NC) live in poor or low-income homes...and from 2012-16, 13% of kids lived in high-poverty neighborhoods. Children living in families that cannot afford the basics in life often have reduced access to safe living conditions...which increase(s) their risk for poor health.”<sup>9</sup> The NCUC must ensure that our children are able to live in homes with running water, heat, air and electricity during a pandemic. Support is needed for working class families and their children, especially Black and Brown families most impacted by utility shutoffs and disconnects.
6. **Funding for utility bill assistance is still limited, and more moratorium protections are needed to provide time for additional funds to be deployed.** In addition to the aforementioned problems with how HOPE funding has been distributed, and how utilities have continued disconnection customers approved for HOPE funds, that funding was still insufficient for meeting the scale of need. Similarly, LIHEAP funding has also been exhausted across many parts of the state. More time is needed to allow existing and new funding to reach households that need it. Therefore, the NCUC should not only implement a moratorium on utility disconnections through the end of October, but develop more robust ways of addressing utility arrearages and repayment plans.
7. **Regulated utility responses are inadequate.** It is clear that most of the regulated utilities have failed to mitigate the impact of the crisis for their customers and minimize the loss of utility services for those struggling to afford their bills. In addition to continuing to disconnect customers at an appalling rate, even those who have been approved for assistance funds, the predominant approach taken toward customers struggling to pay their bills during the crisis has lacked any sense of empathy or understanding of the hardship so many households are facing. This is best illustrated by Duke Energy’s apparent guiding belief that struggling customers that have not responded to notices of disconnection have the financial security to “move” during the crisis.<sup>10</sup>

**Given the evidence and facts outlined herein, we strongly urge the Commission to immediately institute a new moratorium on disconnections for regulated utilities that extends, at a minimum, through October 31, 2020, and to require the immediate reconnection of any customers that have been disconnected and have yet to have their service restored.** Such action is urgent and imperative for protecting public health by reducing the spread of COVID-19 and avoiding further unnecessary deaths.

Thank you for your consideration.

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<sup>9</sup> NC Child. North Carolina Child Health Report Card 2019.

[https://26s2ndak0r928bmgj3q4eino-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/2018-NCreportcard-FINAL\\_low.pdf](https://26s2ndak0r928bmgj3q4eino-wpengine.netdna-ssl.com/wp-content/uploads/2019/02/2018-NCreportcard-FINAL_low.pdf)

<sup>10</sup> DEP & DEC Joint Response (to Question 7). NCUC Docket M-100 Sub 158. Jan 7, 2021.

<https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=fd2dfefc-77f6-4127-b5bb-6586916024c5>

Sincerely,

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