

NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES

RESOLUTION 2011-1

ENCOURAGING STATE LEGISLATURES AND STATE PUBLIC UTILITY
COMMISSIONS TO INSTITUTE PROGRAMS TO REDUCE
THE INCIDENCE OF DISCONNECTION OF RESIDENTIAL GAS
AND ELECTRIC SERVICE BASED ON NONPAYMENT

1 *Whereas*, gas and electric service is a necessity of modern life, providing, among other
2 things, light, heat, cooling and refrigeration; and

3 *Whereas*, the financial difficulties faced by residential customers in paying gas and
4 electric bills on time have been exacerbated in recent years by deep recession and high
5 unemployment, higher levels of poverty, and rising costs, with millions of households
6 falling behind on their bills;¹ and

7 *Whereas*, for the first time in the history of the electric grid, state utility commissions
8 have authorized, or are or soon will be considering requests to authorize, the installation
9 of advanced metering infrastructure with the capability of disconnecting electric service
10 remotely, thus giving utilities an incentive to rely sooner and more often on disconnection
11 as means of addressing collection concerns;² and

12 *Whereas*, the disconnection of service, particularly at extreme temperatures, both cold
13 and hot, poses serious risks to the lives and health of members of affected households,
14 including such vulnerable populations as the young, the elderly, the infirm and the
15 disabled;³ and

16 *Whereas*, individuals whose service has been disconnected commonly turn to alternate
17 means of heating and lighting their homes, including candles, and members of their
18 households lose their lives to fire or carbon monoxide poisoning;⁴ and

19 *Whereas*, the disconnection of service results in high social costs, including health care
20 costs, such as hospital emergency room care, and credit and collection costs; and

21 *Whereas*, many customers who are disconnected are reconnected quickly, but are then
22 required to pay not only their arrearages but also reconnection fees and deposits, as well
23 as the costs, often more than the amount of the arrearages, of spoiled food, damaged
24 equipment and lost wages resulting from the service interruption; and

25 *Whereas*, solutions have been developed to assist customers in paying their bills before
26 being disconnected; and

27 *Whereas*, more widespread use of such solutions would help break the
28 disconnection/reconnection cycle and its associated harmful consequences; and

29 **Whereas**, premise visits prior to disconnection enable utilities to assess health and safety
30 risks at the home, identify previously unidentified individuals whose special needs
31 require continuous gas or electric service, educate customers about the serious safety
32 risks associated with alternative means of heating or lighting their homes, make sure
33 customers have received requisite notice of disconnection and are aware of an impending
34 disconnection, consider the customer's dispute allegations if made orally at the time, and
35 inform customers of payment options that will avoid disconnection; and

36 **Whereas**, payment extensions and arrearage amortization through multi-month payment
37 plans help customers who have fallen behind on utility bills avoid disconnection for
38 nonpayment; and

39 **Whereas**, requiring customers who have fallen behind on payments or experienced
40 disconnection for nonpayment to re-establish credit by paying a deposit to the utility
41 increases the risk and duration of disconnection; and

42 **Whereas**, the establishment of benchmarks or limits on the number of disconnections,
43 particularly of low-income customers, can help utilities focus on the need to assist
44 customers in finding ways to meet their payment obligations and the need to target their
45 credit and collection practices in such a way that disconnection is used only as a remedy
46 of last resort; and

47 **Whereas**, in 2010, the California Public Utilities Commission (CPUC) adopted arrearage
48 and disconnection reporting requirements, prohibited utilities in certain cases from
49 collecting deposits for the re-establishment of credit, required that customers at risk of
50 disconnection be offered a payment plan, and prohibited the disconnection of customers
51 with particular medical conditions without a premise visit;⁵ and

52 **Whereas**, following the implementation of these requirements in California, the number
53 of disconnections for nonpayment, for residential customers of the utilities subject to the
54 new requirements, dropped from 758,000 in 2009 to 586,000 in 2010, or by 22.7%,
55 reducing the annual disconnection rate, for such customers, from 4.75% in 2009 to 3.65%
56 in 2010, and for low-income customers from 6.94% in 2009 to 5.52% in 2010;⁶ and

57 **Whereas**, programs to reduce the incidence of disconnection for nonpayment should seek
58 to avoid a net increase in costs for ratepayers as a whole, with any unavoidable net
59 increase in cost being subject to normal ratemaking principles in a general rate case and
60 not made the subject of trackers or riders;

61 **Now, therefore, be it resolved**, that NASUCA encourages policymakers at all levels to
62 prioritize reducing the incidence of disconnection of residential gas and electric accounts
63 based on nonpayment, without increasing net costs to ratepayers as a whole, as a means
64 of minimizing both the harm to individuals and the social costs to the community of
65 households living without essential gas and electric service;

66 ***Be it further resolved***, that NASUCA encourages state legislatures and state public utility
67 commissions to institute specific programs to reduce the incidence of disconnection of
68 residential gas and electric accounts based on nonpayment, including the following
69 elements:

70 (1) The adoption, maintenance and enhancement of requirements regarding
71 opportunities to enter into and renegotiate payment plans and limits on deposits, choice of
72 billing date, and other such tools for increasing and maximizing customer ability to pay,
73 with disconnection limited to the tool of last resort;

74 (2) The adoption, maintenance and enhancement of customer protections regarding
75 bill issuance and billing disputes to prevent erroneous disconnections;

76 (3) The adoption, maintenance and enhancement of requirements regarding customer
77 notification of impending disconnection and available assistance;

78 (4) The adoption, maintenance and enhancement of premise visit requirements
79 associated with disconnection and remote disconnection for nonpayment to assess health
80 and safety issues at the home, educate customers, and provide opportunities to present
81 payment to avoid disconnection;

82 (5) The adoption, maintenance and enhancement of benchmarks to reduce
83 disconnection rates; and

84 (6) The adoption, maintenance and enhancement of reporting requirements relating to
85 disconnections, arrearages, and credit and collections activities;

86 ***Be it further resolved***, that NASUCA encourages state legislatures and state public utility
87 commissions, in instituting such programs, to seek to avoid a net increase in costs for
88 ratepayers as a whole, with any unavoidable net increase in cost being subject to normal
89 ratemaking principles in a general rate case and not made the subject of trackers or riders;

90 ***Be it further resolved***, that in order to enhance the likelihood that such programs will
91 achieve their objective, NASUCA encourages state legislatures and state public utilities
92 to take simultaneous action designed to secure the collection of data on arrearages and
93 disconnections and to address the problems posed by prepaid service and prepaid
94 metering, as detailed in companion resolutions;

95 ***Be it further resolved***, that NASUCA authorizes its Executive Committee to develop
96 specific positions and take appropriate actions consistent with the terms of this resolution.
97 The Executive Committee shall advise the membership of any proposed action prior to
98 taking action if possible. In any event the Executive Committee shall notify the
99 membership of any action pursuant to this resolution.

Submitted by Consumer Protection Committee

Approved June 28, 2011
San Antonio, Texas

¹These factors have combined to produce a record high number of applications under the Low Income Home Energy Assistance Program (LIHEAP). National Energy Assistance Directors' Association (NEADA), Press Release, "States Project Massive Cuts in LIHEAP Under Senate Appropriations Bill" (Nov. 29, 2010), available at <http://www.neada.org/communications/press/2010-11-29.pdf>; NEADA, Press Release, "Applications for Energy Assistance Again Reach Record Levels" (Feb. 8, 2011), available at <http://www.neada.org/communications/press/2011-02-08PressReleaseEnergyAssistance.pdf>. See also Deborah A. Frank *et al.*, "The heat or eat dilemma," *Boston Globe* (Oct. 21, 2007), available at http://www.boston.com/news/globe/editorial_opinion/oped/articles/2007/10/21/the_heat_or_eat_dilemma/; Children's Sentinel Nutrition Assessment Program (C-SNAP), "Fuel for Our Future" (Sept. 2007), available at http://www.childrenshealthwatch.org/upload/resource/fuel_for_our_future_9_18_07.pdf. Children in "energy insecure" households are more likely to be at risk for developmental delays, be in fair or poor health, or be hospitalized since birth. See Children's HealthWatch, "LIHEAP Stabilizes Family Housing and Protects Children's Health" (February 2011), available at http://www.childrenshealthwatch.org/upload/resource/energy_brief_feb11.pdf (defining household energy insecurity as households experiencing either a threatened or actual utility shut-off or refusal to deliver heating fuel, an unheated or uncooled day due to nonpayment of utility bills, or using a cooking stove for a heat source).

²According to a study by the California Division of Ratepayer Advocates, the rate of disconnection of residential customers increased in PG&E's service territory once the remote disconnection switch was used with the new metering system. The increase in smart meter shutoffs appears to be disproportionately large compared to shut-offs of homes with traditional meters. Division of Ratepayer Advocates, California Public Utilities Commission, "Status of Energy Service Disconnection in California" (November 2009), available at http://www.dra.ca.gov/NR/rdonlyres/2A0C5457-56FC-4821-8C4D-457F4CF204D1/0/20091119_DRADisconnectionstatusreport.pdf.

³Because the body's ability to endure long periods of exposure to cold is lowered with age, the elderly are especially vulnerable to hypothermia, with even mildly cold temperatures from 60 to 65 degrees potentially triggering this at times deadly disease process. U.S. National Institutes of Health, National Institute on Aging, "Hypothermia: A Cold Weather Risk for Older People," Press Release (Jan. 16, 2009), available at <http://www.nia.nih.gov/NewsAndEvents/PressReleases/PR20090115hypothermia.htm>. Children with sickle cell disease can experience intense pain crises in low temperatures. National Center for Medical-Legal Partnership, "Utility Access and Health" (June 2010), available at <http://www.kidscounsel.org/Utility%20Access%20and%20Health%20An%20MLPPatients-to-Policy%20Case%20Study.pdf>. The young, the elderly and the infirm, including those with heart disease or high blood pressure and those taking medications for depression, insomnia or poor circulation are especially at risk for potentially fatal heat-related illness, including hyperthermia and heatstroke, with air conditioning being the number one protective factor against such illness. National Safety Council, "Surviving the Hot Weather," Fact Sheet, available at http://downloads.nsc.org/pdf/factsheets/Surviving_the_Hot_Weather.pdf; Centers for Disease Control and Prevention, "Extreme Heat: A Prevention Guide to Promote Your Personal Health and Safety," available at http://www.bt.cdc.gov/disasters/extremeheat/heat_guide.asp.

⁴AARP, NCLC, NASUCA, Consumers Union and Public Citizen, "The Need for Essential Consumer Protections: Smart Metering Proposals and the Move to Time-Based Pricing" (Sept. 2010). p. 17 & n. 33 ("there are instances reported every year of the deaths of children and adults due to the use of a candle in a dwelling without electricity or heat"), available at <http://www.nasuca.org/archive/White%20Paper-Final.pdf>.

⁵Interim Decision Implementing Methods to Decrease the Number of Gas and Electricity and Electric Utility Service Disconnections, Rulemaking 10-02-005 (CPUC Feb. 4, 2010), pp. 1-4, 11, 12, available at <http://docs.cpuc.ca.gov/PUBLISHED/Graphics/113251.PDF>.

⁶Division of Ratepayer Advocates, California Public Utilities Commission, "Status of Energy Utility Service Disconnections in California" (March 2011), p. 25-A, available at http://www.dra.ca.gov/NR/rdonlyres/706C48B5-7B84-4707-8A3F-FCB86E8D35C8/0/20110317_DRADisconnectionstatusreportandappendix_VERSION26.pdf.