



N A R U C
National Association of Regulatory Utility Commissioners

November 10, 2024

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(Submitted to www.reginfo.gov/public/do/PRAMain)

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RE: EIA-112 Residential Utility Disconnections Survey Instructions

Department of Energy, Energy Information Administration, Notice and Request for Comment, 89 Federal Register 51882 (June 20, 2024).

Department of Energy, Energy Information Administration, Notice (Agency Information Collection Proposed New Survey), 89 Federal Register 82598 (October 12, 2024).

Mr. Pick:

In a June 20, 2024, [Federal Register Notice](#), the Energy Information Administration (EIA) proposed “an annual survey that collects information on the number of monthly natural gas and electric service final notices, disconnections, and reconnections for bill non-payment across residential customers” through [Form EIA-112](#). The form is intended “to better inform state and federal policymakers on utility disconnections by providing reliable data that can help inform appropriate levels of budgetary support for various assistance programs.” *Id.* The initial comment cycle ended in August. However, on October 11, 2024, EIA published another [Federal Register Notice](#) again requesting “[w]ritten comments and recommendations for the proposed information collection by November 12, 2024.

The notices seek comment on how to improve the quality, utility, and clarity of the information it will collect, and the National Association of Regulatory Utility Commissioners (NARUC) is uniquely positioned to provide insights on these issues. NARUC is a quasi-governmental nonprofit District of Columbia corporation founded in 1889. For the last 135 years, NARUC has represented the interests of public utility commissioners from agencies in the fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands. NARUC's members are charged with regulating the rates and terms and conditions associated with the intrastate operations of electric, natural gas, water, and telephone utilities.

NARUC is recognized by Congress in several statutes¹ and consistently by the Courts² as well as a host of federal agencies,³ as the proper entity to represent the collective interests of State utility commissions. Among the critical issues NARUC members must address are affordability, and the impacts of income-qualified energy assistance programs such as the federally funded Low Income Energy Assistance Program (LIHEAP), as implemented by individual states, and utility-provided programs such as rate discounts and percentage of income payment plan (PIPP) programs.

On November 19, 2019, NARUC passed a ***Resolution on Best Practices in Data Collection and Reporting for Utility Services Delinquencies in Payments and Disconnections of Service***, attached as Appendix A. The resolution urges NARUC state commission members to consider requiring utilities to collect monthly data that tracks utility uncollectibles, payment arrangements, defaults, duration and frequency of disconnections, and other relevant data points. The resolution is directed specifically at encouraging State actions and discusses the likely

¹ See 47 U.S.C. §410(c) (1971) (Congress designated NARUC to nominate members of the Federal Communication Commission's Federal-State Joint Board to consider issues of common concern); See also 47 U.S.C. §254 (1996); See also *NARUC, et al. v. ICC*, 41 F.3d 721 (D.C. Cir 1994) (where this Court explains "Carriers, to get the cards, applied to...(NARUC), an interstate umbrella organization that, as envisioned by Congress, played a role in drafting the regulations that the ICC issued to create the "bingo card" system).

² See, e.g., *U.S. v. Southern Motor Carrier Rate Conference, Inc.*, 467 F. Supp. 471 (N.D. Ga. 1979), *aff'd* 672 F.2d 469 (5th Cir. 1982), *aff'd en banc on reh'g*, 702 F.2d 532 (5th Cir. 1983), *rev'd on other grounds*, 471 U.S. 48 (1985) (where the Supreme Court notes: "The District Court permitted (NARUC) to intervene as a defendant. Throughout this litigation, the NARUC has represented the interests of the Public Service Commissions." 471 U.S. 52, n. 10. See also, *Indianapolis Power and Light Co. v. ICC*, 687 F.2d 1098 (7th Cir. 1982); *Washington Utilities and Transportation Commission v. FCC*, 513 F.2d 1142 (9th Cir. 1976); *Compare, NARUC v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *NARUC v. DOE*, 851 F.2d 1424, 1425 (D.C. Cir. 1988); *NARUC v. FCC*, 737 F.2d 1095 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 1227 (1985).

³ Compare, *NRC Atomic Safety and Licensing Board Memorandum and Order* (Granting Intervention to Petitioners and Denying Withdrawal Motion), LBP-10-11, *In the Matter of U.S. Department of Energy (High Level Waste Repository)* Docket No. 63-001-HLW; ASLBP No. 09-892-HLW-CABO4, mimeo at 31 (June 29, 2010) ("We agree with NARUC that, because state utility commissioners are responsible for protecting ratepayers' interests . . . these economic harms constitute its members' injury-in-fact.")

utility of harmonizing existing state data collections of the same or similar information and promotes best practices among States. The National Association of State Consumer Advocates (NASUCA) filed a similar resolution the same month. NASUCA has already submitted comments supporting collections using Form EIA-112;

The proposed EIA form would support the goals of both NARUC's and NASUCA's resolutions. Greater attention to disconnection data can be used to identify patterns, such as recurring arrearages or disconnections, that may indicate energy burdens or instability. Such information can also help with outreach for and enrollment in energy assistance programs, which can be promoted through partnerships with neighborhood organizations. Moreover, increased data granularity would promote opportunities to budget for federal, state, and local energy assistance; allow for disconnection policy and practice comparisons across entities; enable quicker responses for outreach or funding reallocation where many customers are falling into arrears; and promote more culturally tailored outreach to at-risk neighborhoods.

Continuous, standardized data collection across states and utilities can help identify policy impacts, such as infusions of federal assistance funds or applications of hot or cold weather moratoriums, and also have the following benefits:

- Reducing the labor of state agency staff to develop standardized reporting requirements, and to collect and process data;
- Simplifying general data collection, which would allow state-level efforts to focus on identifying the longitudinal customer impacts of disconnections and better targeting assistance based on customer vulnerability;
- Creating opportunities to compare data across utilities or jurisdictions, and thus to identify trends that may relate to how policies around disconnections are implemented;
- Enabling prioritization of assistance funding across states and utilities; and
- Filling data gaps for utilities not regulated by PUCs, such as municipal utilities or rural electric cooperatives;

Other metrics, in addition to disconnection notices, disconnections, and reconnections, can provide valuable information to utilities, public utility commissions, and assistance providers.

For example, many more customers may be in arrears than are actively at risk of disconnection. Arrearage data can help reveal the magnitude of potential energy assistance needed, which would further support the intent of the survey to inform providers about the level of budget need. Presenting arrearage data by vintage (e.g., 1-30 days, 31-60 days, 61-90 days past due) can provide clues as to future levels of disconnections. Understanding the vintages of arrearage data and customers who are repeat participants in arrearage management programs

can reveal potential increases in uncollectibles, which may be recovered from all ratepayers. Understanding how arrearages and disconnection notices convert into disconnections and bad debt can help gauge the effectiveness of outreach around energy assistance.

Many utilities offer options for payment plans, in which customers pay a portion of their arrears each month along with future bills. Understanding how often these plans are used, and if they are effective, can shed light on energy assistance needs. A growing number of states are promoting interconnections across programs to improve the customer experience and to better leverage funds. Understanding the number of customers who are entered into LIHEAP energy assistance programs and utility bill assistance programs, the overlap with payment plans, and the level of disconnections that result even with these options being in place, will help identify the most impactful assistance options. There are precedents for collecting data on arrearages and disconnections due to nonpayment with a refined spatial dimension.

Annual reporting may be sufficient for energy assistance programs awarded on an annual cycle, many utility and state-led programs operate on more frequent funding cycles. Moreover, disconnections can be seasonal based on weather trends and, generally, customers are not disconnected until a certain period after their bills have become past due, depending on state consumer protection policies. Accordingly, for those states that have a more frequent funding cycle, monthly data may be generally more useful than annual data.

NARUC thanks EIA for its development of proposed Form 112. The metrics proposed in EIA-112 as a good initial step in increasing access to standardized utility shutoff data. Additional metrics and increased temporal granularity of data would greatly improve the usefulness of the EIA form, and help energy assistance providers, regulatory commissions, and utilities work together to more proactively identify trends in energy insecurity. Form EIA-112 should:

- Collect additional metrics, namely arrearages, payment plan participation, energy assistance enrollment, and uncollectible accounts that are written off, to enable more robust assessments of energy burdens and forecasting of energy assistance needs; and
- Collect data more frequently than annually. Monthly data allows for more proactive planning and response, and thus it is more useful to assistance providers and regulatory commissions. However, NARUC would support the evaluation of bi-monthly or quarterly reporting.

When arrearage data are presented, the EIA technical documentation should clarify whether numbers of customers in arrears are intended to be unique customers, bills past due by vintage (a customer may have multiple past-due bills), or some combination. The complexities of refining data collection to meet widely varying needs, suggests that a detailed scope for the pilot, together with incremental steps like implementing “best efforts” requirements, may be prudent to consider for subsequent comment.

If you have any questions about these comments, please do not hesitate to contact the undersigned at jramsay@naruc.org or 202.257.0568.

Respectfully submitted,

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Appendix A

Resolution on Best Practices in Data Collection and Reporting for Utility Services Delinquencies in Payments and Disconnections of Service

Whereas services from public utility companies including providers of electricity, heating fuels, water and wastewater, are vital and necessary to modern life;

Whereas many utility customers have chronic difficulties paying their utility bills in full, which can result in disconnection of service by the utility for nonpayment;

Whereas these difficulties have been of concern for State regulatory agencies and other interested parties for at least 50 years;

Whereas these difficulties have persisted or are worsening despite protracted and ongoing efforts to provide direct financial support from federal and State tax dollars and customer donations, plus financial assistance and programming provided by social services agencies, religious institutions, and other community-based organizations;

Whereas disconnection during either cold or hot temperature extremes in weather can prove dangerous and potentially life-threatening;

Whereas many electric customers rely on continuous service to power medical care devices that are essential for their health, the disconnection of which can be life-threatening;

Whereas almost half of all residential energy consumption is devoted to heating and cooling of homes, with these services being essential to maintaining health, safety, and welfare of ratepayer households;

Whereas the large number of disconnections of utility service jeopardizes the health and safety of many households and the safety of many communities and leaves vulnerable households subject to risk of harm;

Whereas households with seniors and infants and very young children are particularly at risk if utility services are disconnected as all are more susceptible to hypothermia if there is no heat and heat stress when there is no air conditioning;

Whereas seniors on fixed incomes, in particular, may face challenges in not only affording service, but also in accessing assistance for paying utility bills, due to mobility limitations or other age-related disabilities;

Whereas households with annual incomes at or below \$30,000 have “energy burdens” two to four times as large as households that make in excess of \$30,000 (with “energy burden” defined as the percent of income spent on energy costs);

Whereas funding to assist lower-income households pay their energy bills is insufficient to meet the need, with funding available from the federal Low Income Home Energy Assistance Program (“LIHEAP”) able to assist only about 6.1 million or about one-fifth of eligible households, with an average annual grant of \$458, during federal fiscal year 2018;

Whereas low-income households often postpone other important purchases, even in some cases going without food, or foregoing medical or dental care, in order to pay utility bills, or suffer illness in an effort to lower those bills by reducing their usage of heating and cooling energy to what can be unhealthy levels;

Whereas States vary widely in the protections against disconnection available to customers and to households with persons who have a serious illness or who are otherwise vulnerable, including additional procedural delays, or disconnection stays of limited or unlimited duration, with some States having no protections;

Whereas both the National Association of Regulatory Utility Commissioners (“NARUC”) and the National Association of State Utility Consumer Advocates (“NASUCA”) have revisited related concerns about low-income utility services in recent years and have passed at least a dozen related resolutions on this topic;

Whereas NARUC and NASUCA recognize the value of evidence-based policy making to improve outcomes for both utilities and customers; *and*

Whereas data collection and sharing plays an integral role in providing information for developing evidence-based policies; *now therefore be it*

Resolved that the National Association of Regulatory Utility Commissioners, convened at its Annual Meeting in San Antonio, Texas encourages all interested parties to study and consider implementing best practices to help reduce the incidence of and minimize the negative impacts on utility services payment delinquencies and disconnections and take into consideration and explore the following actions:

- work to standardize the terms used to discuss delinquencies and disconnections and definitions of those terms including, at a minimum, the terms: disconnection; reconnection; displacement (meaning a customer once disconnected who does not ever reconnect to service at the same address); vulnerable customers; and critical medical needs customers;
- work to standardize the data collected, insofar as that is practicable, in order to facilitate State comparisons and track progress towards reducing these problems;

- describe and implement best practices related to data collection regarding delinquencies and disconnections;
- seek input regularly from consumers, and the agencies and organizations that work with consumers, so that utility companies and regulators continue to be apprised of evolving customer needs and preferences;
- consider implementing quality audits and data-governance practices to ensure the information collected and reported is valid and reliable;
- to the extent permissible under federal and State laws, collect and share data for research purposes, while ensuring privacy of personally identifiable information;
- work to identify and share best practices that demonstrate promise to reduce delinquencies and disconnections, with the explicit goal of increasing customers capabilities to pay utility bills over time including best practices that identify and highlight access to helpful programs and services, including bill affordability programs such as discount rates or percentage of income payment plans, energy efficiency programs and services, weatherization, consumer education, expanding existing shutoff protections, custom payment plans that reflect the ability of the customer to successfully complete the payment plan, and flexible bill due dates;
- train employees of utilities and service agencies to assess and work with customers on sustainable solutions to avoid arrearages and maintain utility services;
- work with all stakeholders, including utility companies, to collect and share data on arrearages and disconnections;
- share information about best practices with all interested parties; and,
- work on continuous improvements in policies and programs designed to help reduce delinquencies and disconnections; *and be it further*

Resolved that States should consider requiring utilities to (1) collect monthly data that tracks uncollectibles, number of payment arrangements, number of payment arrangement defaults, number of revised payment arrangements, disconnections, reconnections, duration and frequency of disconnections, and other relevant data points; (2) make the data publicly available on a monthly basis, delineated by general residential customers and those receiving low-income assistance; and (3) file the data with State public utility commissions to be published on the public utility commission's website so that policy makers might have

access to sufficient, objective and granular data for forming public policy aimed at protecting the public health, safety and welfare.

*Passed by the NARUC Committees on Consumers and the Public Interest
Adopted by the NARUC Board of Directors, November 19, 2019*