

Are There Alternatives to Discontinuance of Water Service for Nonpayment Policies?

Because water and sanitary services are lifeline issues, water and wastewater utilities in the United States have a public health obligation to find a way to provide services to all customers, including low-income customers who may have difficulty paying water rates. However, there is a competing priority of maintaining sustainable finances. Aging infrastructure, regulatory obligations, rising costs, and increasing economic segmentation in the United States have adversely affected both water utilities and the low-income customers who are most vulnerable to water rate increases. According to the [Water Research Foundation](#), low-income households are three times more likely to have their water service disconnected than other households. Some households that may have difficulty paying their water and sewer bills include those on fixed incomes or lower incomes, as well as households that face a temporary crisis such as a job loss, illness, or other domestic situation. For these households, there is a risk of disconnection due to extended non-payment for service.

Utilities have generally considered disconnecting water service to non-paying households as an essential tool for maintaining financial health and most water utilities have established policies and procedures for discontinuing water service for non-payment. The business of running a drinking water or wastewater utility is complex, with a variety of fixed costs associated with providing public services. Utilities must cover the cost of daily operation and maintenance expenses (including energy, labor, chemicals, and other supplies) to ensure continuous service that meets applicable federal and state public health and environmental standards.

A high delinquency rate would affect the utility's ability to meet its service levels.

While utilities wish to provide water service to all customers, as it is their fundamental, core business, and necessary for public health protection and a good quality of life, they may struggle with how to reach this goal while maintaining financial sustainability. To address these competing interests, some utilities have developed household affordability programs that focus on an individual customer's ability to pay for drinking water and wastewater services. These customer assistance programs (CAPs) are innovative ways to meet specific customer needs, while also meeting the utility's financial needs and obligations. These programs are not a one-size-fits-all approach. Utilities have developed and adapted their own programs to the needs and structures of their local communities. These programs help households address issues with affordability and help protect public health throughout the community. In its 2016 report, [Drinking Water and Wastewater Utility Customer Assistance Programs](#), the EPA conducted a survey of 795 utilities, finding that nearly 30% had some form of CAPs. The survey found that of 365 identified CAPs, low-income residents were the beneficiaries of the most programs, with seniors, disabled individuals, military, and individuals facing specific hardships also eligible for some programs.

The topic of affordability is associated with the service shut-off issue due to default on payments. Utilities have established shut-off procedures to provide sufficient notice, sometimes up to 90 days, to allow customers to maintain service without having their water shut off. The [American Water Works](#)

[Association](#) (AWWA) recommends that “discontinuance of water service for nonpayment is considered a final phase of a collection procedure and should be instituted with sufficient notification when all other reasonable alternatives, such as payment plans or specific customer assistance programs, have been exhausted.” AWWA also points out that certain circumstances may require some flexibility because water service is a necessity in maintaining sanitary conditions in the home, and may be required for life-sustaining equipment, or for other critical purposes. According to a 2019 [AWWA report](#), the loss of water services may in turn result in the loss of the habitability of their home or apartment. This could lead to increased homelessness in the community and add costs not only to the utility but also to the community’s social service network in general.

There is no federal statute that ensures water access for low-income residents. There are also no national standards to protect vulnerable populations (children, the elderly, disabled, the ill, and pregnant women) against the termination of water services due to default on payments. Moreover, no national legislation prohibits water utilities from disconnecting water service for non-payment, nor any legislation that requires utilities to provide a restricted level of water service that is sufficient to maintain sanitary purposes. However, as a result of the COVID-19 emergency, two bills were introduced in the House of Representatives in 2020 that prohibit water utilities from shutting off water service for non-payment during the COVID-19 public health emergency.

- H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions (Heroes) Act, would prohibit water utilities that receive such funds from shutting off water service for non-payment. It stops just short of a mandate, saying that utilities should “to the maximum extent practicable, establish or maintain in effect policies to ensure that no home energy service or public water system service” remains disconnected or interrupted during the public health emergency for non-payment and all reconnections be done in a manner that “minimizes risks to the health of the individuals receiving such service.”
- H.R.6552, the Emergency Water is a Human Right Act, creates a grant program, administered by the Department of Health and Human Services, to provide funds to states and Indian tribes to assist low-income households that pay a high proportion of household income for drinking water and wastewater services. Any entity receiving financial assistance under this grant program must ensure that no home energy service or public water system service is or remains disconnected or interrupted during the COVID-19 public health emergency.

Although these house bills are not yet enacted as national legislation, several States have issued public health orders that prohibit water utilities from shutting off water service for non-payment during COVID-19. Based on research from the Center for Water Security and Cooperation (CWSC), thirteen states and the District of Columbia ordered a statewide or district-wide ban on shutting off water during the COVID-19 pandemic. Two other states

secured voluntary commitments from all water utilities within their borders not to shut off water. Some states extended the repayment period for overdue bills. Others suspended fees charged for late payment. The [CWSC report](#) argues that prohibitions on shutoffs and financial penalties end too soon and do not acknowledge the potentially long-lasting economic vulnerabilities for many households. There are also differences in state policies. Michigan and Wisconsin required utilities to restore water service to homes that had been disconnected both before and during the pandemic. California ordered utilities to reconnect water to homes that had been disconnected after March 4, 2020. Seven of the 13 states temporarily waived late fees, while six are still allowing utilities to charge for late payment. Only three states have created post-moratorium grace periods.

Although the United States has not enacted legislation, countries in Europe and Oceania have enacted legislation that would prohibit or provide guidance on restricting water service for non-payment of service.

Oceania Requirements

In New Zealand, local government is organized under the [Local Government Act 2002](#). This national legislation was amended in 2006 and 2008 stating that water supply to a person's land or building may be restricted by a local government organization in any manner consistent with

the local authority bylaws. However, the restriction of the water supply must not create unsanitary conditions in, or associated with, the land or building. Moreover, water supply restrictions are subject to section [69S of the Health Act 1956](#) which states that despite any non-payment, the networked supplier, bulk supplier, or water carrier must continue to provide an adequate supply of drinking water. Hence the water restriction requirements allow for domestic purposes, food preparation and sanitary purposes, so that the house does not become unsanitary.

Auckland, NZ provides a good example of how this regulation is implemented. Watercare, the water utility in Auckland, stipulates their water restriction procedures in their Customer Contract. Section 3.2 states that Watercare may respond to unpaid bills by restricting water supply (while maintaining an adequate supply for ordinary domestic, food preparation and sanitary purposes as required by law). The restriction remains in place until the customer pays the amount due or agrees to a payment plan. With a restriction in place, the supply of water is reduced from 1 liter per second to 1 liter per minute which is enough to maintain sanitary conditions. However, Watercare will not restrict in situations that would cause unsafe conditions or extreme hardship.

Like most utilities in New Zealand, Watercare provides options to customers

Is there a relationship between utility shutoff policies and customer behavior?

Seattle Public Utilities provides a good example of the impact of service shut-offs on delinquent accounts. In 2016, the utility implemented a new billing system and during the early months of the new system, it decided to suspend shut offs (even if customers were late) so that it could ensure that there were no billing errors during the transition between systems. It did not announce this policy publicly. During this time, debt for accounts that were 91 days past due more than doubled when shutoffs were suspended.

before the utility attempts to recover any outstanding payment. Watercare's debt management code of practice specifies that customers can enter into a payment arrangement plan. Residential customers that meet certain financial conditions may apply to the Water Utility Consumer Assistance Trust for financial support. By registering with the Trust, the customer would be exempt from the debt collection process.

Australia is a Federation with a national government as well as state and territory governments. The federal legislature has the power to pass laws with respect to a number of express areas, which apply to the whole of Australia. However, beyond those express areas the States' legislatures generally have plenary power to enact laws on any subject, such as water supply restrictions for non-payment. In most cases, these States have enacted customer water service codes that specify the conditions in which a water provider can disconnect or restrict service for non-payment. As an example, the South East Queensland Customer Water and Wastewater Code specifies that a service provider may restrict (reduce) the flow of water to a customer's property if they have not paid a charge for the water service. A service provider may also restrict the water supply to a property if a customer fails to comply with a payment plan two or more times within a 12-month period, e.g., the customer has not paid an installment by the agreed time. While service providers may reduce the flow of water to a customer's property, they must not reduce the flow below the prescribed minimum flow rate or completely shut off the property's water supply. Water supply flow cannot be restricted if 1) the property is registered as a special needs property, 2) the

customer has been identified as experiencing financial hardship or is being assessed under the provider's hardship policy and/or is negotiating with the provider regarding payment options, or 3) the property is tenanted and the owner has not paid a charge for the water service.

In reviewing large water providers in four States (Victoria, Queensland, South Australia, New South Wales), water supply restrictions are typically found in the Customer Charter, Customer Contract, Operating License, or in the Financial Hardship policy. The approach for water restrictions for non-payment is fairly consistent in these States. If a customer is unable to pay the water bill, the utility will offer flexible and affordable payment plans, referrals to free community financial counselling or services, and water conservation and efficiency advice. The Financial Hardship Policy provides the procedures to support customers when they are experiencing financial hardship and difficulty paying their bill. Customers that meet hardship policy qualifications will be exempt from water supply restrictions. The hardship policies and early intervention strategies to manage customers in financial hardship has been instrumental in reducing the number of restrictions for non-payment.

In Sydney, New South Wales, if a customer fails to pay a water bill and is not entered into payment arrangement, the utility may restrict or disconnect the supply of water to the property. If the customer enters into a payment plan and complies with the agreed terms of a payment arrangement, the utility will not restrict or disconnect water supply. If water is restricted, there will be sufficient flow for health and hygiene purposes.

European Requirements

In many European countries, disconnections are generally allowed if consumers do not pay their bills. If citizens (domestic households) cannot afford to pay their bill, laws or contract agreements provide measures to allow both customers and water services to maintain the service provided. Generally, the disconnections last for few days as it is a strong incentive for

customers to pay their bill. However, disconnections are means of last resort and the letters sent prior to disconnection are generally enough to make consumers rectify their situation. In a few countries, legislation prohibits water disconnection for non-payment. In Hungary, flow reduction is the only option allowed. Table 1 provides a summary of the various policies in countries that prohibit disconnection of water service.

Table 1: Description of Policies Prohibiting Water Disconnection

Country	Policy / Law
Austria	The water supplier may not cut off water supply to a domestic customer for non-payment. The flow might be reduced to the daily human need.
France	Disconnections for unpaid bills by households are prohibited for their main residence since the “Brottes” law of 2013. Since 2013, the amount of unpaid bills has tripled.
Hungary	Disconnection of domestic costumers for the non-payment of arrears is permitted and the utility company can restrict water consumption (tighten water flow at the tap for example) if the basic subsistence and sanitarian needs of the customer can be satisfied. The water supplier is obliged by law to send at least two formal notices. The provision of water in order to satisfy the basic public health requirements can be considered to be fulfilled if at least 20 liters/person/day is provided by the utility company for examples from public hydrants, fire hydrants or water tanks. (Some utility companies use water flow reducer at the property of the customer to provide the prescribed 20 liters/person/day.
Ireland	Incorporated in July 2013 as a company under the Water Services Act 2013, Irish Water brought water and wastewater services of the 31 local authorities together under one national service provider. Irish Water is responsible for water and wastewater connections to homes and businesses throughout the country. Irish Water is prohibited from disconnecting any domestic property. Non-domestic premises must pay water charges or be disconnected from water supply.
United Kingdom	Pursuant to the Water Industry Act 1999, it is illegal to disconnect domestic customers. It also applies to hospitals, old people homes, nursing homes, children’s homes, schools, police stations, fire brigade barracks and prisons. Disconnection of non-domestic customers is legal and practiced by water companies. The ban of domestic disconnection extends to any “limiting devices” which could be used to reduce the flow of water to a property.

Summary

In first-world countries, utilities generally have policies to either shut off customers for non-payment of water service or restrict water flow to only essential sanitation needs. Prior to taking either of these actions, utilities generally provide many opportunities for the customer to resolve their unpaid balance through payment plans and/or customer assistance programs. Legislation

or policy that prohibits water disconnections for non-payment could be a benefit to low-income households. However, the financial consequences to water utilities must be considered, as a suspension of water shut-offs may increase the number of delinquent accounts. The current COVID-19 pandemic brings into sharp focus the need to look for new ways to address the priorities of: providing water service to all customers and maintaining financial sustainability. These priorities may at first appear to be competing, but in the long run the best approach would be one that seeks to satisfy both objectives in the best way possible.