THE CENTER FOR WATER SECURITY AND COOPERATION

BLUE PAPER

The COVID-Water Disconnect: How Statewide Moratoriums Are Leaving People Behind

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Introduction

Out of 50 states, only 13 states and the District of Columbia issued state-wide moratoriums on water shutoffs in response to the COVID-19 pandemic that include every person. While the crisis continues, one of these statewide moratoriums has been allowed to expire and several are due to expire shortly. These comprehensive, statewide moratoriums provide certainty for citizens fighting overwhelming economic uncertainty. While these moratoriums are a step in the right direction, most fail to include basic protections that will preserve water access until the pandemic ends. This brief Blue Paper lays out the strengths and weaknesses of the current approaches, and highlights the need for stronger, more coordinated action at the state level or for a federal government-led approach if states do not act.

What we looked at

This Blue Paper examines the water shutoff moratoriums issued by 13 states and the District of Columbia. We ask whether they go far enough to protect households facing pre-existing or new financial hardships, particularly those who might struggle to pay their water bill because of COVID-related closures. We considered only statewide moratoriums which act on *all* utilities, both public and investor-owned, and which create *mandatory*, not voluntary, obligations.

Specifically, we asked four questions:

1. *Did states require water service reconnection only for shutoffs that occurred during COVID's spread?*

2. *Did states require reconnection of water service for water shutoffs prior to COVID's spread, as well as shutoffs during the emergency?*

3. *Are states allowing late fees and other fees to accrue during COVID-related periods of non-payment?*

4. *Have states proactively established a post-moratorium grace period before bills must be paid?*

The first question identifies moratoriums that are more focused on the economic impacts of COVID. Handwashing and hygiene with water are critical to stopping the spread of the disease. Where a state issued a moratorium that required reconnection only for those who might have been impacted by the emergency, it was clear that these moratoriums were designed to counter economic hardship and not for handwashing and hygiene. The second question captures those moratoriums that have a greater impact,

Fig. 1: Statewide moratoriums: *this figure presents the different moratorium approaches taken by states, with start and end dates and a review of four specific factors. Green indicates a measure that protects water users, red represents a measure that does not fully protect water users. All data is accurate as of May 14, 2020, though is subject to change due to the evolving nature of the crisis.*

			Restoration		**Fees**	
State	***Moratorium Start Date***	***Moratorium End Date***	***For All***	***Post-COVID Only***	***Late Fees Accrue***	***Payment Grace Period***
California	April 2, 2020	Not Specified	N	Y	Y	N
Delaware	March 24, 2020	End SOE, but no later than May 15, 2020	N	N	N	N
District of Columbia*	March 11, 2020	End SOE plus 15 days	N	N	Y	Y
Indiana	March 19, 2020	June 4, 2020	N	N	Y	N
Maine	March 16, 2020	Not Specified	N	N	Y	N
Maryland	March 16, 2020	End SOE but no later than June 1, 2020	N	N	N	N
Michigan	March 28, 2020	End SOE	Y	N	Y	N
Mississippi	March 15, 2020	May 14, 2020 (60 days)	N	N	Y	N
Montana	March 30, 2020	April 24, 2020	N	N	N	N
New Hampshire	March 17, 2020	End SOE	N	N	N	Y
North Carolina	March 31, 2020	May 30, 2020 (60 days)	N	N	N	Y
Ohio	March 31, 2020	End SOE but no later than December 1, 2020	N	Y	Y	N
Washington	March 23, 2020	May 31, 2020	N	N	N	N
Wisconsin	March 25, 2020	End SOE	Y	N	N	N

N.B. "SOE" in the chart above stands for legally declared, state-level "State of Emergency."

ensuring access to water for all, and addressing the public health necessity of handwashing and hygiene. The second question identifies only those moratoriums which are blind to when the water was shut off, which separates them from those that focus on moratoriums connected to COVID-related economic stressors.

The third and fourth questions address how much these moratoriums are protecting citizens from the economic impacts of COVID. Because of the pandemic, many households are newly unable to pay for water service. We asked if fees are accruing on unpaid bills during the temporary shutoff moratorium that might increase the overall financial burden of families once the moratoriums are lifted. Finally, we asked if states have created certainty and protections for households in paying these deferred bills. Even in the best models, many jobs are projected to be lost permanently because of COVID. Are states protecting their residents from these rising costs and economic uncertainties?

We felt this factor was even more important for two reasons: first, these accrued water bills could have a severe financial impact on a household's finances if they come due all at once; and, second, once a moratorium is lifted, these accrued bills could lead to an immediate and high rate of water shutoffs. We looked for any terms that would reduce the financial burden of low-income households or would reduce the likelihood that their water would be shutoff due to an inability to pay. This could include requirements that payment plans be offered or service costs for basic levels of water access be waived.

These moratoriums should not make it more difficult for families experiencing financial hardship to retain access to water once the moratoriums expire. The information collected here provides critical insight into how well the moratoriums protect access to water in the home, both in the short- and long-term.

Findings

Thirteen states and the District of Columbia issued statewide moratoriums on water shutoffs.

Thirteen states--California, Delaware, Indiana, Maine, Maryland, Michigan, Mississippi, Montana, New Hampshire, North Carolina, Ohio, Washington and Wisconsin--and the District of Columbia issued statewide moratoriums on water shutoffs.[1]

The expiration date and duration of these moratoriums vary depending on the state. Twelve of the 13 moratoriums are still in effect as of the publication of this Blue Paper, though several moratoriums will expire in the next few days unless they are extended. While several states listed specific dates for expiration of these protections, others tied the expiration of their moratoriums to the end of the state-level state of emergency. Some moratoriums, like California's, are silent on duration and expiration. Others, like Maine, are more vague, extending the moratorium "until further notice." At least one state, Montana, allowed its moratorium to expire on April 24, 2020.

While many states adopted the more ad hoc approach, the District of Columbia took more permanent action. The D.C. Council, the District's legislative body, amended the District of Columbia Public Emergency Act of 1980 and prohibited the shutoff of water to any property for nonpayment of a bill or fees when a public health emergency has been declared. For now and for the future, the prohibition on water shutoffs is automatically in place whenever a public health emergency has been declared.

These statewide moratoriums, where they exist, cover all residents of a state. While other states beyond these thirteen have instituted partial moratoriums, these partial moratoriums have usually focused on either municipal or regulated utilities only. Because of the possibility that municipal utilities and regulated utilities may have different policies in emergencies just as they do during non-emergencies, these partial moratoriums are not ideal responses to a pandemic like COVID where certainty and clarity is necessary to protect public health. Partial moratoriums help, but the lack of a clear and coordinated statewide approach and the potential for inequality means partial moratoriums are not a strong or effective enough mechanism.

Fewer than half of state moratoriums require water access to be restored if it has been disconnected.
Even though most statewide moratoriums have broad shutoff prohibitions, reconnection rules are much more fractured. Only two states, Michigan and Wisconsin, require water to be restored to homes that had been disconnected for nonpayment prior to the pandemic *and* to homes disconnected during the pandemic before the issuance of the moratorium. Two other states, California and Ohio, only require water services to be restored to homes disconnected for nonpayment during the pandemic. California requires water to be restored for disconnections since March 4,2020 and Ohio requires water to be restored for any disconnection executed on or after January 1, 2020. Washington's moratorium does not require reconnections, but prohibits utilities from refusing to reconnect any residential customer who has been disconnected due to nonpayment. Ohio and Washington also stipulate that no connection or reconnection fees can be charged during the emergency. In North Carolina, utility service providers are *encouraged* to reconnect services, but are not required to do so.

Moratoriums that do not require reconnections for all fall short of ensuring the access to water necessary to weather stay-at-home orders and to fight the pandemic. As access to water is critical in reducing exposure to COVID, temporary prohibitions on water shutoffs do not sufficiently address the new reality of families forced to remain home and to practice frequent handwashing. The various approaches by states mostly fail to account for the public health need for handwashing and self-quarantining, even as they address potential disconnections due to the economic emergency.

Consumers will be spared late fees in just over half of moratorium states.
Seven states, Delaware, Maryland, Montana, New Hampshire, North Carolina, Washington and Wisconsin, have temporarily waived late fees for water bills. In a time of economic uncertainty, late fees can exponentially increase the cost of water service at exactly the wrong time. Six states still allow late fees for unpaid bills to accrue, meaning that the financial hole created by unpaid water bills is getting larger. Post-pandemic, these additional costs could burden

De Facto Moratorims: Not the Same

Two states, instead of using executive power to write moratoriums, leveraged that power to achieve similar goals and create *de facto* moratoriums. These two states, New Jersey and Colorado, secured voluntary commitments from all in-state utilities to suspend water shutoffs.

In Colorado, Governor Jared Polis directed the state's regulatory body, the Public Utilities Commission (PUC), "to work with all public utilities in the State to suspend service disconnections for delayed or missed payments from residential and small business consumers related to the impacts of COVID-19."[2] The Governor also directed the PUC to work with public utilities to reconnect customers disconnected for nonpayment related to the impacts of COVID and to suspend late fees. According to the PUC, 100% of municipal and regulated water utilities have committed to suspending service disconnections for nonpayment, waive reconnection fees, and reinstate service to previous disconnections.[3]

In New Jersey, the Lieutenant Governor, the Commissioner of the Department of Environmental Protection and the President of the Board of Public Utilities issued a joint statement requesting that public and private utilities suspend water shutoffs, reconnect customers previously disconnected and suspend the use of liens as a collection practice "until the outbreak of COVID-19 has subsided." [4] Governor Phil Murphy announced on March 31, 2020 that all 379 community water systems had voluntarily committed to not execute water shutoffs during the pandemic.[5]

While these two states successfully encouraged voluntary commitments to prohibiting water shutoffs, a statewide moratorium would have guaranteed that all utilities operated under the same rules, restrictions, and deadlines. This approach would have ensured a more consistent approach across the state that would have reduced potential inequities created by different utilities' distinct approaches and protections.

families already buffeted by economic headwinds. Late fees also can increase customer water services debt, leading to higher bills and even more shutoffs for nonpayment in the future.

Only three states protect residents from "immediately due" water debt.

Only three states have created post-moratorium grace periods. In the District of Columbia, the water shutoff moratorium stays in place for 15 additional days after the end of the public health emergency, adding a buffer to allow customers time to pay. The moratorium requires that customers in New Hampshire and North Carolina with arrearages accrued during the state of emergency be allowed to set up a "reasonable" payment plan over a period of no less than six months. These efforts do not remove the obligation to pay for water. They do alleviate some of the financial stress of having multiple bills come due all at once.

Conclusions & Recommendations

No state has gone far enough to protect households' access to water during the pandemic, nor have they put in the necessary protections in spite of the financial hardships that are likely to be felt at the conclusion of the moratorium. In the midst of a pandemic or natural disaster, no household should be concerned about where it is going to get water. Households should not face mounting debt and water shutoffs at the end of these moratorium as a result of the economic consequences of a public health emergency. There are several steps that states can take to ensure access to water during the public health emergency and to limit the financial fallout.

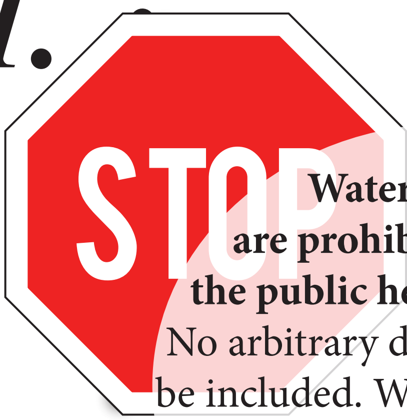
States must do more. If States cannot or do not act, a nationwide approach should be adopted.

States have not gone far enough to ensure public health needs are met and to limit the financial impact of the pandemic. With the country still in the midst of the pandemic, states still have the opportunity to issue stronger moratoriums. To better account for the public health needs and financial impacts, state-wide moratoriums should include the elements discussed below. Should states choose not to act, Congress should adopt a moratorium.

States should have a pre-set response that is triggered during a public health emergency.
When a pandemic strikes, certain responses should be prepared in advance. Access to water is critical for health, handwashing, and hygiene. Therefore, access to water in the home should be guaranteed, regardless of households' ability to pay, as soon as a public emergency like COVID is declared. The pre-set response should be set forth in law and include a comprehensive approach to guaranteeing access to water.

The following elements should be included in state moratoriums

1.



Water shutoffs are prohibited during the public health emergency.
No arbitrary deadlines should be included. Water shutoff moratoriums should extend for the duration of the public health emergency.

2. **Water service will be restored to homes whose water has been disconnected for nonpayment pre- and post-public health emergency and will remain restored until the emergency declaration is terminated.**
While a prohibition on water shutoffs may protect certain households, reconnections of all shutoffs, pre-emergency and post-emergency, are necessary to protect access. Therefore, all households to which water services have been disconnected for nonpayment should have their services restored for the duration of the emergency, regardless of when their water was shut off.

6. Costs of water service during the emergency should not immediately become due. One of the following two options should be offered:. The first is to offer payment plans for the unpaid water service fees incurred during the duration of the emergency extended over at least a period of six months. Water shutoffs on the basis of these costs accrued during the public health emergency should be prohibited. The second option is to waive service fees for the cost of providing sufficient water to meet daily human needs during the public health emergency with only service fees for the remaining volume to be paid.

5. Late fees shall not accrue for two months following the termination of the public health emergency declaration.

Public health emergencies have varying levels of impact on the economy. Families who have experienced financial hardship as a result of the public health emergency should not have their water shut off immediately following the emergency. Furthermore, the moratorium should provide for a brief grace period during which late fees will not accumulate on unpaid water bills which would only further frustrate the ability to pay and retain access to water.

4. Late fees shall not accrue during the public health emergency.

Families who cannot pay for water during the emergency should not be punished for having access to water during an emergency. As has been seen during COVID, the country will be better positioned to weather pandemics when people can shelter-at-home and can wash their hands frequently. Therefore, fees associated with having access but not being able to pay should be waived during the duration of the emergency.

3. No reconnection fees will be assessed for reconnection during the emergency.

Many utilities typically charge fees for reconnecting service, particularly when water is shut off for nonpayment. However, during the emergency no fee should be charged, especially when the fee could place future financial burdens on those already experiencing financial hardship.

Endnotes

1. We abided by our bright line rule that moratoriums needed to apply to both public and regulated or investor-owned utilities and did not include in the list of states issuing statewide moratoriums. Kansas Governor Laura Kelly issued a moratorium on water shutoffs on 17 March 2020 that did not cover both public utilities and regulated utilities governed by the Kansas Corporation Commission (KCC). We made this decision even though the water utilities overseen by the KCC provide water services to less than 10,000 people in total. That said, it appears as though the Executive Order prohibiting shutoffs, initially set to expire on 1 May 2020, was extended to May 31, 2020. See, Executive Order 20-28 (April 30, 2020), https://governor.kansas.gov/wp-content/uploads/2020/04/EO-20-28-Reissuing-and-Extending- Certain-EOs.pdf (extending Executive Order 20-05 (March 17. 2020), https://governor.kansas.gov/wp-content/uploads/2020/03/20-05-Executed.pdf).

2. Colorado Executive Order D 2020 012, 20 March 2020, page 4.

3. PUC Notifications Regarding COVID-19, available at https://puc.colorado.gov/puc_covid19 (last accessed 12 May 2020).

4. *All Water Providers Asked to Suspend Water Shutoffs During COVID-19 Outbreak*, 20 March 2020 available at https://www.nj.gov/dep/watersupply/pdf/dep-dca-bpu-ask-water-suppliers.pdf (last accessed 12 May 2020).

5. *No one in N.J. will have their water shut off during coronavirus, state announces*, 31 March 2020, https://www.nj.com/news/2020/03/no-one-in-nj-will-have-their-water-shut-off-during-coronavirus-State-announces.html (last accessed 12 May 2020).

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