



June 09, 2021

The Honorable Gavin Newsom
Governor, State of California
1303 10th Street, Suite 1173
Sacramento, CA 95814

The Honorable Toni G. Atkins
President pro Tempore, State Senate
State Capitol, Room 205
Sacramento, CA 95814

The Honorable Anthony Rendon
Speaker, State Assembly
State Capitol, Room 219
Sacramento, CA 95814

**RE: Program Design for \$2 Billion in One-Time Funding To Address Direct Water and Power Utility
COVID-19 Debt Relief**

We, the undersigned organizations, commend the Governor and the Legislature on their commitment to addressing water and power utility debt, which is a growing crisis for low-income communities throughout the state. The proposed utility debt allocation can provide much-needed relief to those who have been the most impacted during the COVID-19 pandemic. But this **debt relief** must be **implemented** in a way that is expedient and reaches all Californians, especially those who have been disproportionately burdened by COVID-19.

In order for water and power **utility debt relief to reach low-income and Black, Indigenous, and People of Color (BIPOC)** customers who are experiencing utility burden and have been impacted by COVID-19, we urge the **following changes be made to the Energy Debt Relief Program, aka “CAPP,” and the the Water Debt Relief Program:**

1. Direct funding allocation to utilities in proportion to debt, to be applied to residential customer debt, independent of income qualifications.
2. Blanket shutoff moratorium extended through the end of the state of emergency; implement award terms for recipient water and energy utilities, such as automatic enrollment of customers into flexible repayment plans, and prohibition against reporting customers to credit agencies, late fees, liens due to unpaid balances.
3. Support for small at-risk systems to ensure services are maintained and customers access relief.
4. Promote long term affordability.

Program Design Concerns with California Arrearage Payment Program (CAPP)

We are concerned the Department of Community Services and Development (CSD) *proposal for \$1 billion to implement the California Arrearage Payment Program (CAPP)* for energy arrearages would leave behind many low-income Californians who have been impacted by COVID-19, as well as those who struggle with high bills on an ongoing basis. The CAPP faces the following **structural limitations** which are unacceptable to address the utility debt crisis in California:

1. **Benefits are provided only to customers currently enrolled in low-income programs¹:**
 - a. Low-income programs at publicly-owned utilities (POU) are limited in scope by Proposition 26, which prevents them from creating new discount programs or substantially changing existing ones. Customers in POU territory do not enjoy the same low-income program offerings and therefore are at a disadvantage under the current proposal. Any new requirements for income verification will be overly burdensome and will delay debt relief.
2. **The proposal relies on service contracts with the Low Income Home Energy Assistance Program (LIHEAP):**
 - a. This proposed administration process through LIHEAP raises concern because of the existing shortcomings surrounding the LIHEAP application, along with its eligibility requirements, which exclude undocumented ratepayers, among others.

¹ This requirement will exclude many ratepayers who are facing utility debt due to the fact these programs have historically faced an issue with under-enrollment and do not include many vulnerable customers.

1. Low Income eligibility limitations:

CAPP would be administered in two ways:

- a. A direct application process that facilitates the issuance of CAPP funds to state energy utility companies to streamline the delivery of financial assistance benefits directly to eligible low-income customer accounts; and
- b. Service contracts with the Low Income Home Energy Assistance Program (LIHEAP).

We are concerned that this proposed administration will exclude many customers including many who have been the most impacted by COVID -19. This is because **low-income programs have historically been under-enrolled, and are not sufficient mechanisms for identifying communities in need of assistance.** This will especially exclude many customers residing in publicly owned utility (POU) territory due to them offering less low-income programs overall. For example, the Los Angeles Department of Water and Power (LADWP) reported \$175 million in residential power debt (including pre-pandemic debt), **but only 10-15% of the total residential debt** is carried by **customers enrolled in a low-income program** that would be covered under the proposed eligibility requirements. Limiting relief to customers historically enrolled in these plans only exacerbates the burden of debt for those customers who have not been able to access limited low-income offerings previously.

2. LIHEAP limitations:

There are also shortcomings to the LIHEAP program, not addressed in the CAPP, that would present serious barriers to getting relief to vulnerable communities:

- a. **LIHEAP applications** are processed through third-party organizations throughout the state. With offices at limited capacity, the number of applicants is down in some locations even though many more ratepayers are eligible for LIHEAP given the massive unemployment filings.
- b. **Funding for undocumented ratepayers.** Undocumented Californians, some of whom have been the most impacted by COVID-19 and have received the least protections, are ineligible for LIHEAP benefits.

Program Design Recommendations for CAPP

We understand the complexity of administering a program to support California's recovery. We recommend the following program design solutions to ensure all Californians, especially communities who have borne the burden of systematic health inequities and disinvestment, can access the relief that is needed to support economic recovery for Californians most impacted by COVID.

1. Direct funding allocation to all utilities independent of income qualifications

Allocate funds directly to utilities in proportion to total debt. Utilities can then apply credits directly to customer accounts without the need for a cumbersome application process that puts the burden on customers and creates unnecessary barriers to accessing relief. To this point, distribution of relief funds should not rely on enrollment in existing low-income programs that may be inaccessible, undersubscribed, and unable to account for COVID-19 impacts.

Utilities should not rely on opt-in offerings, but rather automatically eliminate debt for all customers impacted by COVID-19 and those who have struggled with chronic energy burden. Utilities should therefore be required to that provide the following offerings to their customers:

- Direct customer bill credit without customer application and without income eligibility requirements;
- Enroll customers who have any history of shutoffs or debt accumulation with their utilities;
- Prioritize residential customers with severe debt (including those with pre-pandemic debt) if total arrearages can't be erased
- Automatically enroll customers in sustainable AMP along with debt forgiveness;
- Enroll customers who have (1) been on a discount rate or LIHEAP at any point since fall 2018 and/or (2) have arrearages high enough to warrant being disconnected; eligible for the funding assistance, and;
- Prohibit reporting customers to credit agencies, late fees, liens due to unpaid balances; and
- Prohibit requiring customers to demonstrate U.S. citizenship in order to be eligible for customer benefits or protections.

In addition, as a condition of receiving these funds, Publicly Owned Utilities (POUs) should provide a report to the State detailing how funds were distributed.

2. Blanket shutoff moratorium extended through the end of the state of emergency

The shut-off moratorium should be extended through the end of the state of emergency or Dec. 31, 2021, whichever comes first, followed by an additional 180 days beyond that for anyone who self-certifies they were financially impacted by the emergency. This will also prevent families from losing power, which is essential to the successful recovery and the prioritization of California residents' overall health and well being. In addition to the moratorium extension, we recommend adopting some provisions outlined in New York State Senate Bill 6362A, such as: no placement, sale, or enforcement (i.e., foreclosure) of liens on people's homes for non-payment of bills during the shutoff moratorium and the right to an extended payment plan for arrears (as little as \$10/mo) without late fees, penalties, or down payments.

What is more, all late fees should be waived even once the moratorium is lifted, and several points of contact should be made so that customers can avoid disconnection, even when they are facing financial troubles.

3. Promoting Long-Term Affordability

Low-income customers will continue to need relief beyond debt erasure and bill stabilization. In addition to short term approaches that will provide relief during the COVID-19 recovery period, we recommend relief fund allocation be contingent on improvements in arrearage management programs and offerings.

CSD should require utilities receiving relief funds to report data on the distribution of these funds to understand the impacts on Black, Latinx, and other high-priority communities of color. Even more so,

CSD should work with community advocates to analyze and interpret data for adequate assessment of the CAPP to ensure future program offerings provide long term solutions for impacted communities.

4. Improving Arrearage Management Plans

Finally, we recommend a robust arrearage management program (AMP) for any remaining utility debt. We recommend all utilities accessing funds for debt relief establish some of the following guidelines already set by the California Public Utilities Commission for investor-owned utilities, including the following:

- Automatic enrollment for all customers with arrearages in addition to relief;
- Erasing a customer's arrearages by 1/12th of their total balance each time they make a monthly payment so that their arrearages are completely erased by the end of one year.

Program Design Recommendations for Water Debt Relief Program

In addition to the proposed recommendations for the CAPP, we recommend that the State Water Resources Control Board (State Board) consider the following program design priorities to address water debt for the over 2,800 community water systems across the state.

1. Direct funding to utilities for residential customer debt

Relief funds should only be used for residential and multi-family customer debt – not commercial customers or lost sales revenue, except in limited instances as necessary to stabilize small water systems at high financial risk. The total amount of residential water debt should be eligible for funding, not just debt accumulated during the declared state of emergency. Reported residential arrearages are to include all arrearages for wastewater service that are payable on a combined water and wastewater bill. Finally, award debt relief funding proportional to residential customer debt, with the following allocation procedure:

- Water systems report their residential arrearages to the State Board.
- Water systems then receive the same percentage of their residential customer arrearages based on the total outstanding residential arrearages of all systems.
- Arrears must be exclusive of late fees and penalties.

2. Support for small and at-risk systems to ensure water services are maintained for customers

Customers of non-responsive water systems should not be denied assistance; rather the Board should take steps to identify and address these customers by targeting outreach and information (including through phone calls) to nonresponsive systems to increase response rate and if necessary develop tools to provide direct customer assistance (possibly through CSD and/or its local service providers). Development/coordination around targeted and direct customer assistance tools (such as through CSD's under-development water rate assistance program) may also be necessary to address customer debt in tribal water systems. The following category of systems should automatically be supported to receive and implement the water debt relief funding:

- Systems where the State Board is actively working to implement its Administrator authority;
- Systems on the State Board's HR2W list;
- Systems receiving technical assistance;

- Systems with appointed receivers; and
- Systems that serve disadvantaged and/or severely disadvantaged communities should also be prioritized for direct and repeated outreach to ensure they receive and implement the water debt relief funding.

In instances where the State Water Board has identified a small water system that is at high financial risk (for example, as identified in the Board's COVID-19 Drinking Water Survey), the State Water Board should take additional immediate steps as necessary and appropriate to ensure water services are maintained for customers.

3. Implement consumer protections and award terms for water systems

Significant debt is itself proof of economic burden, and analysis shows arrearages are concentrated in low-income communities of color. Therefore, we recommend the following terms for water systems receiving debt relief funding:

- Direct customer bill credits based on a percentage of the customer arrearage;
- Direct funds to customer bills without an application, without an income eligibility requirement, or attestation of COVID-19 impact;
- Utilities must waive all late fees and penalties that may have been applied to residential customer bills;
- Repayment plans: require automatic enrollment in interest-free repayment plans of at least 24 months for any residential debt that is not retired by program funding;
- No reporting customers to credit agencies, late fees, or liens; and
- Water systems must provide documentation to the State to establish that 100% of funds awarded for debt relief have been used to retire residential customer debt.

4. Blanket shutoff moratorium until relief funds are disbursed

Similarly to the recommendations for the energy debt relief program (CAPP), shutoff protections are necessary to prevent a wave of water shutoffs for low-income families who have been disproportionately impacted by the COVID-19 pandemic.

5. Promoting long term affordability

Similar to the stated CAPP recommendations, we propose that long term affordability measures be put in place to protect low-income ratepayers from future water debt. Passing SB 222, expanding SB 998 protections to very small water systems, and expanding programs like direct installation of efficiency retrofits will help prevent future utility debt crises.

Conclusion

In sum, we would like to reiterate that this debt relief must be implemented in a way that is expedient and reaches all Californians, especially those who have been disproportionately burdened by COVID-19. If the outlined concerns with the current program design for CAPP are not addressed, Californians who are in need may go without financial assistance. We urge the Governor, Senate, and Assembly to take

action in getting utility debt relief funding out to all Californians, and to do so while keeping the following asks in mind:

- Direct funding allocation to all utilities in proportion to debt, to be applied to residential customer debt, independent of income qualifications.
- Blanket shutoff moratorium extended through the end of the state of emergency.
- Support for small and at-risk systems to ensure customers can access relief funds and that water services are maintained.
- Implement award terms for recipient utilities, such as automatic enrollment of customers with remaining debt into flexible repayment plans, and prohibition against reporting customers to credit agencies, late fees, liens due to unpaid balances.
- Promoting long term affordability for both water and power services.

With our recommended program design above for distributing the \$2 billion in funding for water and power utility debt, we believe that all Californians will have access to receiving funding and gain the debt relief that they need.

Sincerely,

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CC:

The Honorable Gavin Newsom, Governor, State of California
The Honorable Toni G. Atkins, Senate President pro Tempore
The Honorable Anthony Rendon, Speaker of the Assembly
The Honorable Nancy Skinner, Chair, Senate Budget Committee
The Honorable Phil Ting, Chair, Assembly Budget Committee