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Submitted via Email

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Re: Comments re: Federal Register Notice Request for Comments on the Proposed Collection of Information in the Residential Utility Disconnections Survey (Form EIA-112)

The National Consumer Law Center, Center for Biological Diversity, Citizens Action Coalition of IN, City of Portland, Oregon, eFormative Options, LLC, Georgia Watch, National Community Action Foundation, National Community Action Partnership, New Hampshire Legal Assistance, North Carolina Justice Center, NW Energy Coalition, Oregon Citizens' Utility Board, Pennsylvania Utility Law Project, Liz Robinson, Public Citizen, Quaker Action Mid-Atlantic Region, Texas Utility Law Project, TURN-The Utility Reform Network, Virginia Citizens Consumer Council, Washington State Community Action Partnership, and Wildfire: Igniting Community Action to End Poverty in AZ, Michael O'Brien, Annie Harper, and Eric Jernigan ("Consumer Commenters"), heartily applaud the Energy Information Administration ("EIA") for publishing in the Federal Register its notice of the proposed Residential Utility Disconnections Survey.¹ The survey as proposed would require certain electric and gas distribution utilities to annually provide for each calendar month residential customer counts, the number of final disconnection notices issued, the number of involuntary service disconnections, and the number of reconnections subsequent to involuntary disconnection.²

It is widely understood that involuntary loss of home energy service brings dire financial, health, and housing stability consequences to households. Research has linked utility shut-offs to poor respiratory health, poor sleep, food insecurity, and adverse mental health outcomes, at times with fatal consequences. Nonpayment also has economic impacts: it can lead to evictions and foreclosures, low credit scores, and the inability to establish future service accounts.³

¹ Federal Register / Vol. 89, No. 119 / Thursday, June 20, 2024, pp. 51882 – 51883.

² EIA-112 Form Draft, Version 2, Schedule 2.

³ See, e.g., Hernández, D., & Laird, J. (2022). Surviving a Shut-Off: U.S. Households at Greatest Risk of Utility Disconnections and How They Cope. *American Behavioral Scientist*, 66(7), 856-880. <https://doi.org/10.1177/00027642211013401>. This article was summarized by Urban Institute at <https://housingmatters.urban.org/research-summary/which-americans-face-greatest-risk-utility-shut-offs-and-how-do-they-cope>.

Question A: Is the proposed collection of information necessary for the proper performance of agency functions, including whether the information will have a practical utility?

Yes. The EIA website states the following:

The U.S. Energy Information Administration (EIA) collects, analyzes, and disseminates independent and impartial energy information to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment.⁴

The proposed reporting protocol would provide critical energy information to inform and promote sound policy-making to ensure uninterrupted access to basic home energy services. While utility disconnections and their consequences are matters of great public policy importance, there is currently only limited capacity in the U.S. to gain a clear, data-driven understanding of the number of households that lose access to vital home energy services. There is a pressing need for a consistent, national electric and gas utility disconnections data reporting protocol, such as that proposed by EIA, to better understand utility access and affordability challenges and to inform the design and implementation of programs and policies to mitigate the threats to health, safety, and well-being posed by shut-offs and related credit and collection outcomes. Adoption of the proposed protocol, modified as recommended below, is not only consistent with EIA's mission, but it is also needed to fill critical informational gaps that currently exist.

It should be noted that results of the EIA's Residential Energy Consumption Survey ("RECS") does provide invaluable information needed to understand patterns of household home energy usage, expenditures, and energy insecurity. This essential content is particularly relevant now as electricity system economics and technologies are undergoing rapid change. Despite the richness of the RECS database, its usefulness in responding quickly to energy insecurity developments in the field is limited by infrequent panels and lack of geographic granularity. The survey is currently conducted every four years and results released at least two years later. Effective affordability program design, outreach, and implementation requires geographically-granular monthly time-series data that is reasonably current. Thus, as described more fully below Consumer Commenters recommend that electric and gas utilities report on final notices, shut-offs, and reconnections at the zip code level.

State utility consumer advocates and state utility regulators recognize the need for utility reporting of key credit and collections data points, including numbers and rates of issuance of disconnection notices, involuntary shut-offs, and reconnections after shut-off. In fact, in 2019 the National Association of State Utility Consumer Advocates ("NASUCA") and the National Association and Regulatory Utility Commissions ("NARUC") jointly adopted a resolution calling for that States to consider requiring utilities to

- (1) collect monthly data that tracks uncollectables, number of payment arrangements, number of payment arrangement defaults, number of revised

⁴ <https://www.eia.gov/about/>.

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.⁵

While the above referenced Resolution provided a sound data-reporting framework, the reporting that does occur in states is not uniform and in many cases does not adequately portray and make public the extent to which utility customers struggle to stay connected to service. Consistent with EIA's mission, a national reporting protocol is needed to cure this shortcoming.

Question B: Is EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, accurate?

While Consumer Commenters are not able to attest to the extent which EIA's burden estimate is accurate, we note that detailed credit and collections data reporting is already underway in several states. For example, Illinois investor-owned utilities currently report shut-offs at the zip code level with results posted to a public dashboard.⁶ This example demonstrates that while reporting may require some time (burden) initially, it is feasible for utilities to deliver credit and collections data reports.

Question C: Can EIA improve the quality, utility, and clarity of the information it will collect?

Yes. As indicated above, Consumer Commenters recommend that *the survey data points proposed by EIA – residential customer count, number of final disconnection notices rendered, number of involuntary shut-offs, and number of reconnections subsequent to involuntary shut-offs – be reported at the zip code level.*

Known disparities in shut-offs by race raise profound racial and energy justice concerns and highlight the importance of obtaining utility-specific disconnections data at the zip code, or even Census tract level. Geographically granular disconnections data may be matched with U.S. Census Bureau American Community Survey data on race to identify disparities and inform targeting of energy affordability, efficiency and other program resources to address and, ideally reverse, existing inequities.

National Consumer Law Center has examined zip code level disconnections and race data in several Public Utility Commission proceedings and found stronger correlations between

⁵ <https://www.nasuca.org/2019-07-nasuca-data-collection-resolution-joint-with-naruc/>.

⁶ <https://www.icc.illinois.gov/industry-reports/credit-collections-and-arrearages-reports/monthly-dashboard>

disconnections and race than disconnections and income.⁷ In addition, recent scholarly research has concluded that (in Illinois) Black and Hispanic zip codes were about 4 times more likely than “expected” to be disconnected for nonpayment.⁸

National data sets, including EIA’s RECS, show significant energy insecurity disparities by race. The table below, a crosstabulation the 2020 RECS energy insecurity variables⁹ and the race of householder.

| Householder (respondent)race - public file variable * Any Home Energy Insecurity Crosstabulation | | | | | |
|---|---|--|-------------------------------|------------|-------------|
| | Householder (respondent)race - public file variable | | Any Home Energy Insecurity | | Total |
| | | | No | Yes | |
| | White Alone | Count | 76,766,412 | 23,222,939 | 99,989,351 |
| | | % within Householder (respondent)race - public file variable | 76.8% | 23.2% | 100.0% |
| | Black or African/American Alone | Count | 6,206,074 | 6,744,076 | 12,950,150 |
| | | % within Householder (respondent)race - public file variable | 47.9% | 52.1% | 100.0% |
| | American Indian or Alaska Native Alone | Count | 524,309 | 558,257 | 1,082,566 |
| | | % within Householder (respondent)race - public file variable | 48.4% | 51.6% | 100.0% |
| | Asian Alone | Count | 4,517,453 | 1,541,348 | 6,058,801 |
| | | % within Householder (respondent)race - public file variable | 74.6% | 25.4% | 100.0% |
| | Native Hawaiian or Other Pacific Islander Alone | Count | 190,900 | 159,258 | 350,158 |
| | | % within Householder (respondent)race - public file variable | 54.5% | 45.5% | 100.0% |
| | 2 or More Races Selected | Count | 1,663,715 | 1,434,282 | 3,097,997 |
| | | % within Householder (respondent)race - public file variable | 53.7% | 46.3% | 100.0% |
| Total | | Count | 89,868,863 | 33,660,160 | 123,529,023 |
| | | % within Householder (respondent)race - public file variable | 72.8% | 27.2% | 100.0% |

⁷ See., e.g., Connecticut Public Utilities Regulatory Authority Docket 17-1203RE11, Direct Testimony of John Howat on Behalf of the Office of Education, Outreach and Enforcement, April 26, 2021.

⁸ Cicala, S., “The incidence of extreme economic stress: Evidence from utility disconnections,” Journal of Public Economics, June 2021. <https://www.sciencedirect.com/science/article/abs/pii/S0047272721000979>.

⁹ RECS energy insecurity variables include those related to forgoing necessities such as food or medicine to pay for home energy bills, maintaining unhealthy indoor temperatures, receipt of disconnection notices, loss of heating or cooling because of inoperable equipment, and loss of heat or cooling because of electric or gas disconnection.

The table above illustrates that about 23% of white survey respondents reported experiencing energy insecurity in 2020 in contrast to about 52% of Black respondents.

Zip code level utility level credit and collections data reporting is not unprecedented. For example, investor-owned utilities in Illinois and California report disconnections and related metrics by zip code.¹⁰ Data-driven analysis at the zip code level is needed to design and deliver effective, targeted programs and policies to reverse existing electricity system inequities and historical discrimination.

It should be noted that while involuntary loss of service is arguably the key indicator of home energy affordability and insecurity challenge and should be reported at the zip code level, consistent reporting of additional variables is also needed to better inform the design and funding of affordability programs and evaluation of the effectiveness of existing consumer protections and utility credit and collection protocols. Therefore, *Consumer Commenters recommend that EIA's proposed survey template be modified to include monthly service territory level (rather than zip code level) reporting of the average duration of involuntary disconnections, number and dollar value of residential accounts past due by more than 30 days, the number of new deferred payment agreements entered into, and the number of successfully completed payment agreements.* Consumer Commenters, while arguing that reporting of these additional data points is essential to gaining a clearer understanding of affordability challenges in utility service territories, recommend service territory level reporting of them as a means of limiting the burden on respondents and the volume of data transferred.

Question D: Can EIA minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology?

Consumer Commenters have no recommendations on this matter.

In conclusion, Consumer Commenters appreciate the opportunity to comment on the Form EIA-112 proposal, and we support the Department's work to collect and report this important data.¹¹

¹⁰ Illinois Commerce Commission -- On Its Own Motion: In the Matter of Moratorium on Disconnection of Utility Services during the Public Health Emergency Declared on March 9, 2020 pursuant to Sections 4 and 7 of the Illinois Emergency Management Agency Act, ICC Docket No. 20-0309, Order of June 18, 2020, Appendix 1, p. 7, 16. <https://www.icc.illinois.gov/docket/P2020-0309/documents/300566>;

Decision 18-12-013 (Dec 13, 2018), in CPUC R. 18-07-005, Order instituting Rulemaking to Consider New Approaches to Disconnections and Reconnections to Improve Energy Access and Contain Costs. See Ordering Paragraph (OP) 6 and Appendix B. <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M252/K025/252025563.PDF> (zip code directions are on the last page of App B). See also D.20-06-003 (June 11, 2020) in CPUC R. 18-07-005, Order instituting Rulemaking to Consider New Approaches to Disconnections and Reconnections to Improve Energy Access and Contain Costs at p.36 (IOUs shall not exceed a disconnection rate of 30 percent in any zip code). In both Illinois and California, zip code level data is available on Commission websites and subject to public review and analysis.

¹¹ EIA clearly has broad authority to collect data relevant to the formulation of energy policy. ("The [EIA] Administrator shall...collect...related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs." 42 U.S.C. §7135(a)(2). Such information is intended to be freely available to the public. 42 U.S.C. §7135(g). The fact that other agencies may use data collected by EIA for other purposes does not undermine EIA's authority to collect the data. See, e.g., *Shell Oil Co. v. Dep't of Energy*, 631 F.2d 231, 232-233 (3rd Cir. 1980) (the fact that Federal Trade Commission and Department of Justice were involved in devising the challenged EIA data form, and

Respectfully submitted,

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might use such data for antitrust enforcement, does not undermine EIA's authority to collect the data). Moreover, the collection of such data is consistent with the mission of the Department of Energy, in which EIA is housed. *See* 42 U.S.C. §7112(16) (Congressionally-mandated purposes of DOE include: "To create an awareness of, and responsibility for, the fuel and energy needs of rural and urban residents as such needs pertain to home heating and cooling, transportation, agricultural production, electrical generation, conservation, and research and development.")

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