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[Filed via email to EIA112@eia.gov]

August 16, 2024

Re: Notice and request for comments: Agency Information Collection Proposed New Survey

Mr. Harnish:

The undersigned associations appreciate this opportunity to comment on the Energy Information Administration's (EIA) Notice and Request for Comment: Agency Information Collection Proposed New Survey.¹ The members of the American Public Gas Association (APGA), American Public Power Association (APPA), and National Rural Electric Cooperative Association (Joint Commenters) are community-owned, cost-based, not-for-profit utilities. Each is directly answerable to these communities and the Joint Commentors are taking the positions expressed here because we believe they are in the best interest of the communities our members serve.

We believe that EIA's proposed annual Residential Utility Disconnections Survey is flawed. As described, the proposed data collection is unnecessarily burdensome on those required to participate, will not paint an accurate picture of energy assistance need, and will do little to inform or support federal or state energy assistance programs. EIA does not need to conduct another survey to conclude that the Low Income Home Energy Assistance Program (LIHEAP) is dramatically underfunded. For example, in 2023, Congress provided \$6 billion for LIHEAP – \$2 billion more than the \$4 billion that would have been otherwise provided under the regular appropriation. As a result, LIHEAP in 2023 was able to reach an

¹ Energy Information Administration, Notice and request for comments: Agency Information Collection Proposed New Survey, 89 Fed. Reg. 119 (51,182 -- 51,883) (June 20, 2024).

estimated 7 million households.² However, that was still a fraction of the 33 million households eligible for LIHEAP.³ Likewise, we already know what will happen if funding returns in 2025 to \$4 billion:

- A reduction in crisis assistance to families to help with remaining winter heating bills;
- A cut back on weatherization assistance; and
- Either a reduction or elimination of cooling programs.⁴

APGA is the trade association for more than 730 communities across the U.S. that own and operate their retail natural gas distribution entities. They include not-for-profit gas distribution systems owned by municipalities and other local government entities, all locally accountable to the citizens they serve. Public gas systems focus on providing safe, reliable, and affordable energy to their customers and support their communities by delivering fuel to be used for cooking, clothes drying, and space and water heating, as well as for various commercial and industrial applications.⁵

APPA is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. Public power utilities serve over 54 million people in 49 states (all except Hawaii and five U.S. territories, and account for 15 percent of all sales of electric energy (kilowatt-hours) to end-use consumers. Public power utilities are load-serving entities, with the primary goal of providing the communities they serve with safe, reliable electric service at the lowest reasonable cost, consistent with good environmental stewardship. This orientation aligns the interests of the utilities with the long-term interests of the residents and businesses in their communities.

NRECA is the national trade association representing nearly 900 local electric cooperatives and other rural electric utilities. America's electric cooperatives are owned by the people that they serve and comprise a unique sector of the electric industry. From suburbs to remote farming communities, electric cooperatives power 1 in 8 Americans and serve as engines of economic development for 42 million Americans across 56 percent of the nation's landscape. America's electric cooperatives serve 92% of all persistent poverty counties in the United States.

Industry's Long-Term Commitment to Providing Energy Assistance

Natural gas and electric providers (utilities) are obligated, in accordance with applicable state law and regulatory requirements, to provide uninterrupted, reliable, safe, and affordable service for human needs,

² Testimony of Mark Wolfe, Executive Director, National Energy Assistance Directors Association, before the House Subcommittee on Labor, Health and Human Services and Education and Related Agencies in support of FY 2025 funding for the Low Income Home Energy Assistance Program (May 3, 2024).

³ Administration for Children & Families, "LIHEAP Income-Eligible Households Based on Federal Maximum Guidelines – All Grantees Summed", https://liheappm.acf.hhs.gov/datawarehouse/custom_reports?years=2023|&grantees=AG&reportId=1 (last visited Aug. 12, 2024).

⁴ Wolfe, *supra* note 1, at 1.

⁵ For more information, please visit www.apga.org.

such as home heating and cooling and hot water. Central to this obligation is providing our low-income customers with as many options as possible to help them pay their bills. Utilities understand it may be difficult for customers to cut back on energy usage, which is why many utilities offer customers a variety of flexible billing and payment support programs including, but not limited to:

- *Service Curtailment Moratoria:* Curtailing service disconnections on low income and other vulnerable customers for the duration of the winter heating or summer cooling season.
- *Flexible Billing, Payment Plans:* Offering low-income customers a variety of billing adjustment programs, such as forgiving a portion of preexisting unpaid bills, bill assistance (percentage discounts, set dollar amounts, or percentage of income payment plans, etc.); allowing bill balances to be paid over a longer period of time; and allowing eligible customers the option to choose their billing date to help with their overall monthly budget.
- *Increased Fuel Fund Support:* Operating, partnering on, or contributing to “fuel funds,” independent low-income home energy assistance programs that provide financial support to those experiencing energy poverty that supplement federal programs like LIHEAP and related state and local government assistance. In the case of utility-run fuel funds, it's common for utility employees and customers to contribute.
- *Enhanced Community Outreach:* Targeted advertising, online, television, radio, social media, print, direct-mail, text, email, and community outreach (food banks, churches, clinics, etc.) to low-income customers promoting company low income assistance programs, local fuel fund and charitable services, and LIHEAP sign up support.
- *Customer Targeting Research.* Using available market, income, and demographic data to define and better target vulnerable populations with better utility low income and emergency service programming.
- *Low Income Self-Sufficiency Plans:* Allows eligible households to keep up with energy bills via fixed payment plans. This allows customers to learn budgeting, bill payment, and energy efficiency skills.
- *Weatherization and Home Assistance:* Utilities, either on their own or in partnership with local charities, organize to distribute smart thermostats, perform home weatherization inspections aimed at improving home efficiency, and for eligible homes, make appropriate building envelop repairs and replace old and inefficient heating equipment, which saves in recurring energy use costs on utility bills.

Disconnecting customers is always the utilities’ last resort for dealing with unpaid bills. Rigorous processes, determined by state and local regulations, are in place to provide customers with advance

notice of potential service disconnection and to educate them on the variety of resources (as described above) to remediate.

Furthermore, numerous regulatory bodies across the nation have established and enforce billing rules that provide customers' extensive protections from shut offs in certain scenarios. According to the LIHEAP Clearinghouse, 40 states and the District of Columbia have cold weather protections, 21 states and the District of Columbia have hot weather protections, two states have extreme weather protections, and 38 states and the District of Columbia have vulnerable population protections.⁶ An example of vulnerable populations includes customers who have medical conditions that require around the clock power to critical care equipment. Again, disconnects are a last resort after all other options are exercised.

Utility LIHEAP Support

The federal government provides energy-related assistance directly and through tax credits to households through a variety of ways, including hazard mitigation, weatherization, energy efficiency, and alternative energy generation. However, LIHEAP is the single largest source of energy assistance funding provided by the federal government to households for their electric and gas utility bills.⁷

LIHEAP is a block grant program administered by the Department of Health and Human Services (HHS) provided to states to assist low-income households, particularly those with the lowest incomes, and particularly those that pay a high proportion of household income for home energy.⁸ Under LIHEAP, states may set their own LIHEAP income-eligibility limits but must cap those limits at (1) no more than the greater of 150 percent of the Federal Poverty Guidelines (FPG) or 60 percent of the State Median Income, and (2) no less than 110 percent of FPG. They must also give higher benefits to households with the greatest home energy need in relation to household income and number of household members. Additionally, states must provide crisis energy assistance through at least March 15 and have the option to provide home cooling, weatherization, and/or low-cost home energy equipment repairs or replacements. LIHEAP administering agencies generally implement state LIHEAP programs through eligibility determination, application development and collection, energy affordability education, weatherization, crisis, and other programs.

Allocations to states of LIHEAP funds are set annually through the appropriations process, which in turn, relies on the underlying allocation mechanics of the authorizing statute.⁹ These calculations rely on several factors, but primarily are intended to reflect estimates of expenditures for home energy by low-

⁶ U.S. Department of Health and Human Services, Administration for Children and Families. LIHEAP Clearinghouse, [Disconnect Policies](#) (July 2024)

⁷ With its focus on disconnections due to nonpayment of bills, the “various assistance programs across the United States” referenced in the Notice would appear to refer to LIHEAP as administered by the states alongside other state-provided utility bill assistance.

⁸ 42 USC section 8621(a).

⁹ Congressional Research Service, The LIHEAP Formula, (RL33275) (May 2, 2019) at 2.

income households in the state.¹⁰ The allocation to states as described in the statute and in annual appropriations does not rely on disconnection data.

Currently funded at \$4.1 billion, LIHEAP has been effective for more than 41 years in helping nearly 6 million households annually with energy affordability.¹¹ The flexibility of a block grant helps states, tribes, and territory grantees craft energy assistance and efficiency programming that blends effectively with existing state and utility assistance resources to address vulnerable populations in energy crisis. All this said, while LIHEAP is a highly effective and critical tool in fighting energy poverty in America, it remains woefully underfunded, serving just one in five eligible households with current resources.¹²

Utility support of LIHEAP is multifaceted and significant. Utility partnerships with local community action agencies,¹³ low-income advocates, charities, and faith-based organizations, as well as state and local government low income, energy assistance, and affordable housing offices on energy assistance outreach programs designed to drive those in energy poverty to related financial assistance programs. Many of these partnerships span decades and utilities are committed to helping every customer manage through challenging times. The Joint Commenters, in coordination with their respective memberships, also have a long history of advocating for Congress to sufficiently fund LIHEAP.

Additionally, utilities also leverage multi-channel, multi-lingual communications (email, direct mail letters, bill inserts, website, educational videos, radio), virtual and in-person community outreach events, and other enrollment strategies to meet customers where they are and offer the most convenient way for them to understand their options and apply for LIHEAP. Increasingly, utilities have also invested in online portals and other data exchange methods to provide local LIHEAP grantee authorities and energy assistance entities secure access to customer bill information needed to complete LIHEAP applications.

Misalignment Between the Requested Data and Stated Purpose

Collecting national data on residential utility disconnections will not effectively advance the Administration's purpose of informing appropriate levels of budgetary support for energy assistance programs. In contrast to effective metrics that assess the energy use and cost for low-income Americans—which are already being collected and should be used to inform budgets for energy assistance programs—

¹⁰ Id.

¹¹ U.S. Department of Health and Human Services, Administration for Children and Families. LIHEAP Performance Management, [Custom Report, Number of LIHEAP Recipient Households by Type of Assistance - National - Fiscal Year 2021](#).

¹² National Energy and Utility Affordability Coalition. [Maximize LIHEAP Funding in 2024: United States by the Numbers](#). (2023)

¹³ National Community Action Partnership.

utility-level disconnections metrics are poor indicators of Americans' need for energy assistance because disconnections are not directly correlated with ability to pay.¹⁴

As noted above, LIHEAP is the program the federal government provides electric and gas utility assistance, and state allocations are based – generally – on estimates of energy expenditures and are not based on suspensions due to non-payment of bills. As a result, without a change to the underlying statute or to the usual method of providing ongoing annual appropriations, data from the proposed Residential Utility Disconnection Survey will not be used to decide LIHEAP allocations. More specifically, such state-level allocations do not under any circumstances need utility-level data – on disconnections or otherwise.

Instead, a more effective alternative to “inform appropriate levels of budgetary support for various assistance programs across the United States” would be to leverage the Low Income Home Energy Data that HHS already has available.¹⁵ The combination of information from EIA’s periodic Residential Energy Consumption Survey (RECS), which EIA is currently collecting for its next publication in early 2026, the Bureau of the Census’s Current Population Survey Annual Social and Economic Supplement, and the LIHEAP Reports to Congress, are used in the creation of the Low Income Home Energy Data report.¹⁶ This report presents data on residential household consumption, expenditures, and energy burden for low-income households by heating and cooling type. Metrics that assess the energy use and cost for low-income Americans is a far more direct and comparable metric to determine the need for assistance for programs such as LIHEAP than utility-level disconnection data, which does not correlate with nor express the degree to which support is needed.

Proposed Survey Is Unnecessary and Burdensome

In the Notice, EIA specifically requested comments on whether “the proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility.” EIA plays a critical role as our nation’s independent and impartial energy information agency. However, the proposed information request is not only unnecessary, but also burdensome.

The Notice explains that proposed Form EIA-112 would be “an annual survey that collects information on the number of monthly natural gas and electric service final notices, disconnections, and reconnections for bill nonpayment across residential customers.” The Notice further explains that the data collected in the proposed form “aims to better inform state and federal policy makers on utility disconnections by

¹⁴ While we recognize the Joint Statement of Managers for the Consolidated Appropriations Act, 2023, requested EIA to allocate \$3 million of its fiscal year 2023 appropriation to conduct a monthly survey of electric and heating service providers of final termination notices, the Notice does not reference that request and relies exclusively on the EIA’s general statutory authority (codified at 15 USC 772(b) and 42 USC 7101 *et seq*) for this proposed data collection.

¹⁵ U.S. Department of Health and Human Services, “Low Income Home Energy Data” (September 2021), [FY 2020 LIHEAP Home Energy Notebook \(hhs.gov\)](https://www.hhs.gov/energy/low-income-home-energy-data)

¹⁶ [Residential Energy Consumption Survey \(RECS\) - Energy Information Administration \(eia.gov\)](https://www.eia.gov/surveys/reports/).

providing reliable data that can help inform appropriate levels of budgetary support for various assistance programs across the United States.” As discussed in detail above, this misalignment of the proposed data collection and stated purpose makes the newly proposed data collection form unnecessary.

While Joint Commenters are supportive of ensuring policymakers, including those implementing LIHEAP, are well-informed on how best to disperse energy assistance program funds, the proposed data collection will not further that goal in any meaningful way. For this reason, Joint Commenters do not believe that the proposed information collection will have any practical application sufficiently distinct from other ongoing reporting, rendering it generally useless and therefore unnecessary.

Furthermore, in addition to publishing aggregated data at the national and state level, EIA states that it also intends to publish survey results at the utility level. However, public disclosure of this data with this amount of granularity does not provide demonstrable value in assessing assistance needs at the state and federal decision-making levels, similarly rendering the proposed data collection unnecessary. Congress does not allocate funding for LIHEAP based on disconnect data and even the income data that LIHEAP does leverage is not at the utility level. Funding decisions are instead supported by state level income data.

Joint Commenters are also concerned about the burden that such reporting would place on impacted utilities. In fact, the proposed survey is especially burdensome for smaller utilities that have limited staff and resources. EIA estimates that 1,130 entities will have to complete the survey. EIA intends for the proposed form to be completed by those residential-serving utilities that also file Form EIA-176 (Annual Report of Natural and Supplemental Gas Supply and Disposition) and Form EIA-861 (Annual Electric Power Industry Report). EIA argues that its proposed form will minimize the burden of reporting by only requiring completion of Form EIA-112 for utilities “above a certain size threshold,” such as exempting small electric utilities that receive Form EIA-861S (the short form of EIA-861). However, every single natural gas utility in the U.S. is required to complete Form EIA-176, meaning that no matter the size of the gas utility, including the hundreds of small, often community-owned utilities with 10 or less employees, all would be burdened with completing Form EIA-112. Similarly, some smaller public power and electric cooperative systems complete the Form EIA-861M and Form EIA-861 and would be impacted by this survey in both census and non-census years. The same applies for the hundreds of utilities impacted by this Notice that would be considered “small businesses” by size.

Survey Data Will Present Inaccurate Picture of Energy Assistance Need

In the proposed Form 112 survey, EIA seeks to collect final notices, disconnections, and reconnections for bill nonpayment across residential customers. However, the experience of the Joint Commenters’ members highlights that EIA (and others seeking to utilize the data such as policymakers or the public) will face significant challenges in interpreting and analyzing the data to make reasonable determinations regarding assistance need and appropriate policies to address that need. Additional pieces of data would be needed to add context to the data points sought by EIA in this proposed survey, if it decides to

continue collecting this data, before any meaningful analysis can be done – to include household income level and other economic data. Such additional data would need to be used in conjunction with the data collected as part of this proposed survey before sound conclusions about assistance need could be drawn as it pertains to utility final notices, disconnections and reconnections for bill nonpayment.

Simply put, there are a variety of non-utility and non-consumer variables that impact the on-time nature of bill payments and therefore the necessary data points for policymakers to potentially assess assistance need that EIA should thoughtfully consider as it determines the purpose and need of this survey. In our members' experience, final notices before a disconnection do not necessarily mean a consumer needs assistance. For example, the Joint Commenters' members highlight the following examples of non-utility and non-consumer variables that impact bill payments:

- There has been a notable uptick in recent months of U.S. Postal Service (USPS) delivery streams being interrupted, leading to delays in utilities receiving bill payments from consumers and in some cases, consumers are receiving their “final notices” before their original monthly bills arrive in their mailboxes. This trend has increased recently but historically has been observed by the utilities annually during the heightened holiday shopping season in November and December when mail delivery systems are inundated. These occurrences are outside the utilities' control, though they work diligently with USPS and their business vendors to investigate and correct these issues as quickly as possible.
- Some utilities serve territories with disproportionately high segments of transitory populations, which could include college campuses, military installations, and other facilities that yield high account turnovers. Disconnections and then subsequent reconnections of these accounts do not in and of themselves reflect assistance need.
- Similarly, some utilities may serve areas with a high percentage of vacation homes or residences only used on a seasonal basis. Our members' experience reflects that at the end of a season some of these consumers choose to simply let their accounts be disconnected rather than informing the utility ahead of time that they will not be utilizing service for a period. In these cases, disconnections (followed by reconnections the next season) do not reflect assistance need.

As these examples illustrate, there are a variety of factors that contribute to the reasons that consumers receive final notices, disconnections and reconnections and several of these are not related to financial need, which is a pre-requisite for LIHEAP and other energy assistance programs (as discussed in an earlier section).

On the other hand, states and utilities have a variety of seasonal disconnect policies, including moratoria during certain seasons for disconnections and protections for consumers with specific medical needs, and

these policies can mask the growing needs for assistance.¹⁷ For example, utility customers in Arizona are protected from disconnection between June 1 and October 15 and when the temperature exceeds 95 degrees Fahrenheit. New York, on the other hand, does not have any warm weather protections, but has cold weather protections from November 1 – April 15. This example illustrates the complexity of using the data as EIA proposes to inform assistance need.

Conclusion

In summary, we urge EIA to forgo the proposed survey because the data requested is unnecessary, burdensome, and does not align with the Notice's stated purpose of informing federal and state energy assistance programs. LIHEAP is a critical program for utility customers in need of bill assistance that is not adequately funded. The federal government has all the information it needs to assess energy assistance needs. The real issue is sufficient appropriations for LIHEAP.

Please reach out to the Joint Commenters with any questions you may have regarding our letter. We appreciate EIA's thoughtful consideration of our comments.

Sincerely,

The American Public Gas Association
The American Public Power Association
The National Rural Electric Cooperative Association

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¹⁷ U.S. Department of Health and Human Services, Administration for Children and Families. LIHEAP Clearinghouse, [*Disconnect Policies*](#) (July 2024)