

Affordability and Essential Utility Service



National
Consumer Law
Center

*Fighting Together
for Economic Justice*

Community Lawyering for Environmental Justice
Part 15: Building an Energy Future That Leaves No
One “Energy Poor”

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National Consumer Law Center (NCLC)

- Since 1969, the nonprofit National Consumer Law Center® (NCLC) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the U.S.
- NCLC's expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.

Outline

- The need for affordability measures/disconnection protections remains great:
 - The financial risk imbalance
 - Delivery service rates have skyrocketed
 - 2024 EIA RECS data – latest analysis
 - Affordability is a racial justice issue.
 - LIHEAP/PIPP isn't enough
- **Affordability: A Critical Component of the Clean Energy Transition**
 - Game changer: Low-Income Discount Rates/PIPPs
 - Tiered discount rates
 - PIPPs
- **More work to do:**
 - Extreme heat protections
 - Moratorium on shutoffs for vulnerable populations all-year-long
 - More consumer-oriented credit and collection rules
 - Increased investment in zero-cost weatherization in utility energy efficiency programs

The Financial Risk Imbalance

- **The regulatory framework that permits rider recovery of expenses and investments (gas company infrastructure riders), formula rates, and other alternative rate-setting structures eliminated virtually all financial risk for regulated utilities.**
 - For example, in Illinois, PBR framework allows for 105% reconciliation of the revenue requirement each year of the PBR plan (See Sec. 16-108.18(f)(6)(A)(ii))
 - Exclusion of multiple expenses as part of the reconciliation (recovered separately – (See Sec. 16-108.18(f)(6)(A)(ii))
 - Decoupling
 - Now sunsetted bill riders like QIP allowed gas utilities to assess monthly surcharges for new infrastructure investments with assumed prudence, created significant and regular rate increases, putting consumer advocates at a disadvantage (having to prove imprudence on the backend).
 - Expense riders, including uncollectible riders, renewable energy subsidies, energy efficiency riders, zero emission credits (nuclear subsidies)
- **Bottom line: the utilities have little to no risk of under-recovery of their set revenue requirement.**

Delivery Service Rates Have Skyrocketed

- Increases in major electric and gas utility delivery rates significantly exceed the rate of inflation. One example: Illinois
 - **ComEd: 65% increase over 2012-2024;**
 - **Ameren Electric: 47% increase over 2012-2024;**
 - **Ameren Gas: 36% increase over 2018-2025**
 - **Nicor: 57% increase over 2021-2025**
 - **PGL: 44% increase over 2023-2025**

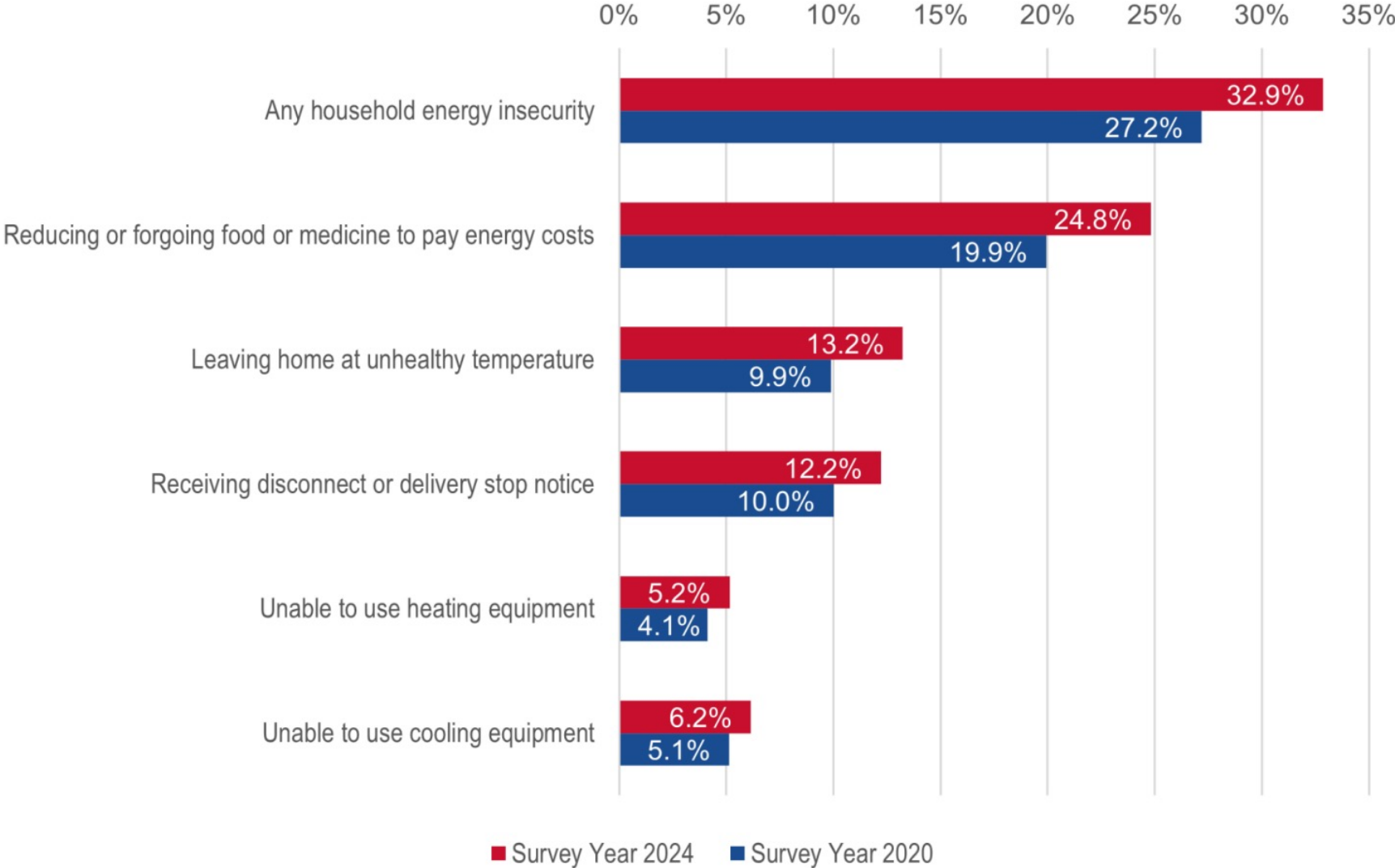
New EIA Data Shows Alarming Rise in Unaffordability

Key findings from NCLC's (J. Howat) analysis of the preliminary 2024 Residential Energy Consumption Survey (RECS) data include:

- *U.S. households experiencing energy insecurity rose from 27% in 2020 to 33% in 2024.*
- *Nearly 25% of households reported reducing or forgoing food or medicine to pay their energy bills.*
- *Energy insecurity continues to disproportionately impact households of color. Native American and Black households reported insecurity at nearly twice the national average.*
- *Every region in the U.S. saw an increase in energy insecurity between 2020 and 2024, with the highest rates found in the South*

See <https://www.nclc.org/new-data-shows-alarming-rise-in-home-energy-insecurity/>
https://www.eia.gov/consumption/residential/data/2024/hc/pdf/HC11.1_2024.pdf

Reported U.S. Energy Insecurity - 2024 and 2020 Residential Energy Consumption Survey Results

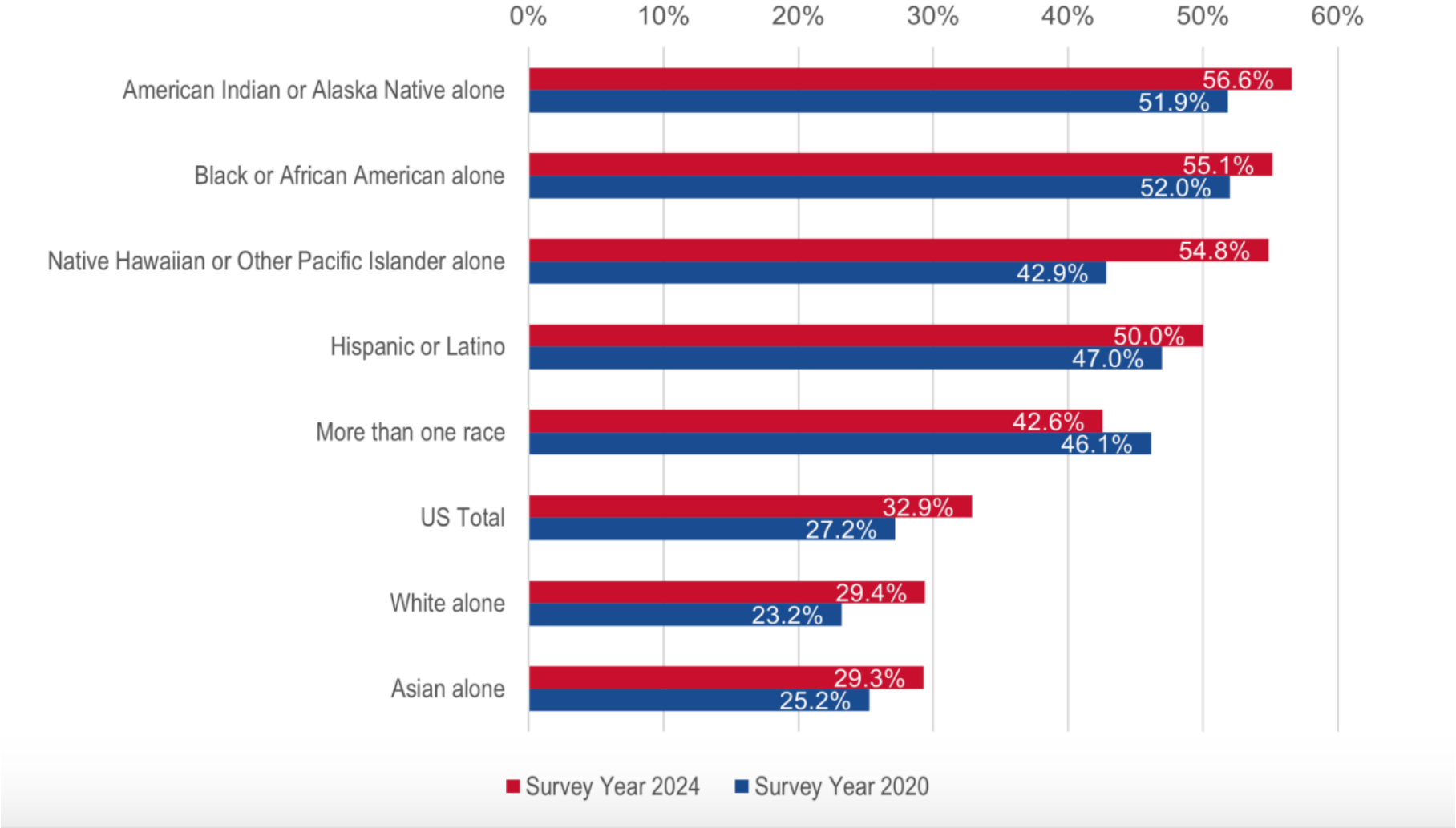


Source: J. Howat, *Energy Insecurity on the Rise: Preliminary Findings from the 2024 Residential Energy Consumption Survey*, March 2026



2024 RECS DATA

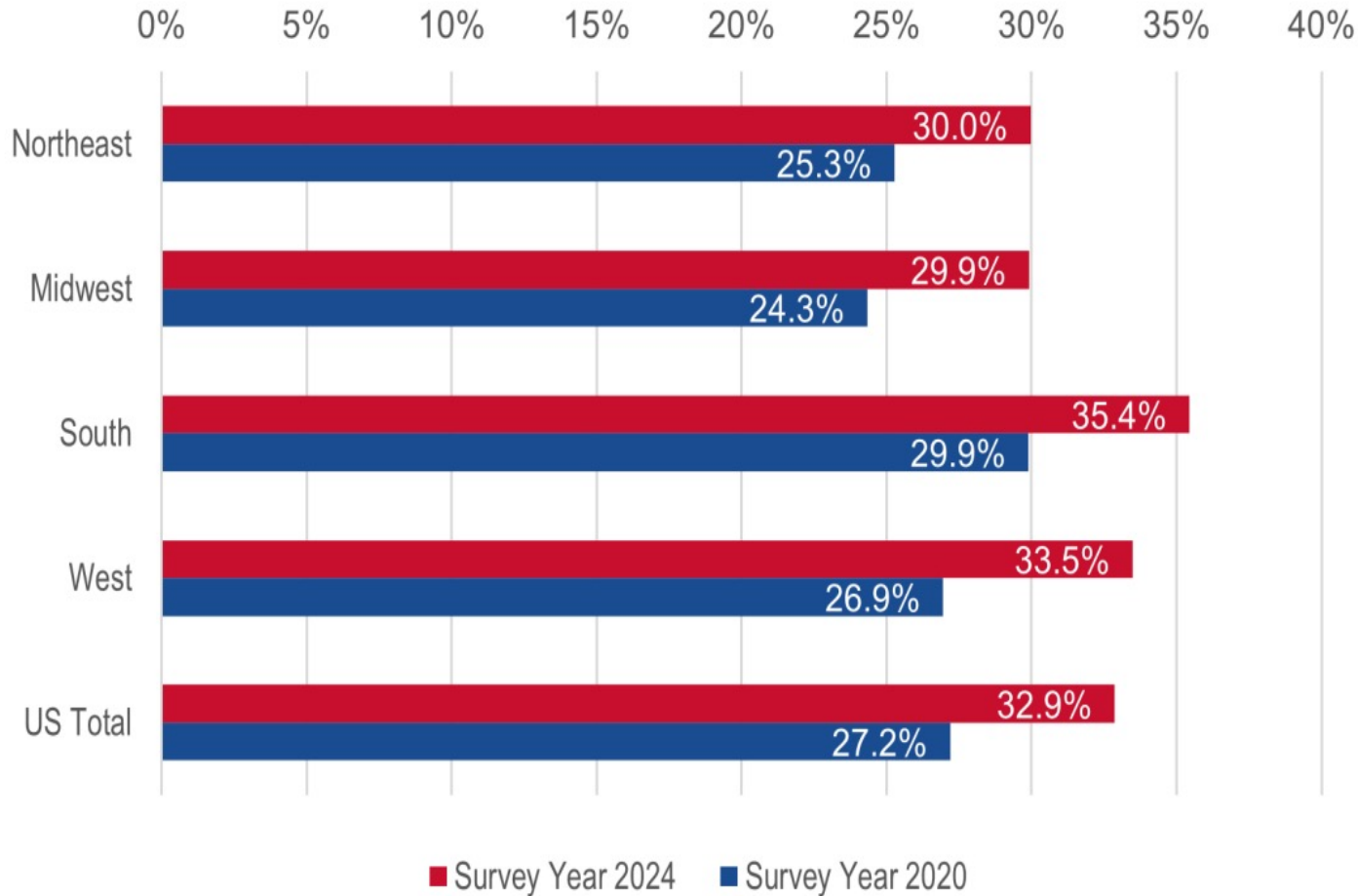
2024 and 2020 Energy Insecurity by Race or Hispanic/Latino Ethnicity



Source: J. Howat, *Energy Insecurity on the Rise: Preliminary Findings from the 2024 Residential Energy Consumption Survey*, March 2026

2024 EIA RECS DATA

2024 and 2020 Energy Insecurity by Census Region



Source: J. Howat, *Energy Insecurity on the Rise: Preliminary Findings from the 2024 Residential Energy Consumption Survey*, March 2026

Utility bill affordability is a racial justice issue.

- **Data shows that communities of color are disproportionately impacted by utility disconnection policies:**
- **Ameren Electric:** In unrebutted testimony filed July 22, 2025 in an Illinois Commerce Commission proceeding establishing performance-based metrics for Ameren Illinois Electric Company, NCLC found that Ameren customers living in the top 20 disconnection zip codes have disconnection rates about 3½ times higher than that for households living in all other Ameren zip codes. The data further demonstrated that the percentage of non-white households in the top 20 zip codes is over 4 times higher than in the remaining Ameren zip codes, and that median household income in these zip codes is about ½ that of the remaining zip codes.
- **Commonwealth Edison:** In unrebutted testimony filed July 28, 2025, in a similar proceeding, NCLC found that the percentage of non-white households in the top 20 zip codes with the highest disconnection ratios is about twice that of the remaining ComEd zip codes. The weighted average non-white population in the top 20 zip codes was nearly 93 percent.
- **ICC: Metric that requires reductions in disconnects in top 20 zip codes with highest disconnection rates re-adopted.**

NEADA Report – Unaffordability of Home Heating Cost Increasing

National Energy Assistance Directors Association (NEADA) 2/12/26 projections:

- U.S. home heating costs are projected to rise by 11.0 percent up from earlier estimate of 9.2 percent this winter, more than four times the rate of inflation, driven by higher electricity and natural gas prices and colder-than-average weather.
- Several factors contributing to higher retail electricity prices across much of the country:
 - Higher interest rates have increased the cost of financing power plants and transmission projects. Rising natural gas prices are pushing up electricity generation costs.
 - Electricity demand is growing rapidly, driven in part by the expansion of data centers.
 - Aging grid infrastructure and regional capacity constraints are adding further system costs.
 - Reduced federal incentives for renewable energy have slowed new clean energy investment.
- Natural gas prices surge: Natural gas prices have risen by about 60 percent over the past year, driven in part by the expansion of liquefied natural gas exports, which increasingly link U.S. natural gas prices to global markets.

Energy Price Unpredictability

- Unrelenting data center growth – see Public Citizen filing w/ FERC: <https://www.citizen.org/wp-content/uploads/Level3Alert.pdf>
- LIHEAP is not enough to serve the increased number of electric and gas customers in need of assistance and protection from disconnection.
- Without additional financial assistance, like whole-bill, low-income discount rates, customers can't keep up in terms of affording bills;



One state's experience: Illinois Customer Arrearages, February 2026

Utility	No. of Customers	Arrearages (January 2026)	Failed DPA %
ComEd	3.7M	\$69.83 million	31%
Ameren Electric	1.2M	\$ 62.6 million	36.4%
Ameren Gas	811,380	\$27.9 million	36.6%
Peoples Gas	830,770	\$87.8 million	28.2%
Nicor	2.1M	\$44.2 million	41%

See: Illinois Credit & Collections Dashboard, available at:
<https://icc.illinois.gov/industry-reports/credit-collections-and-arrearages-reports/monthly-dashboard>

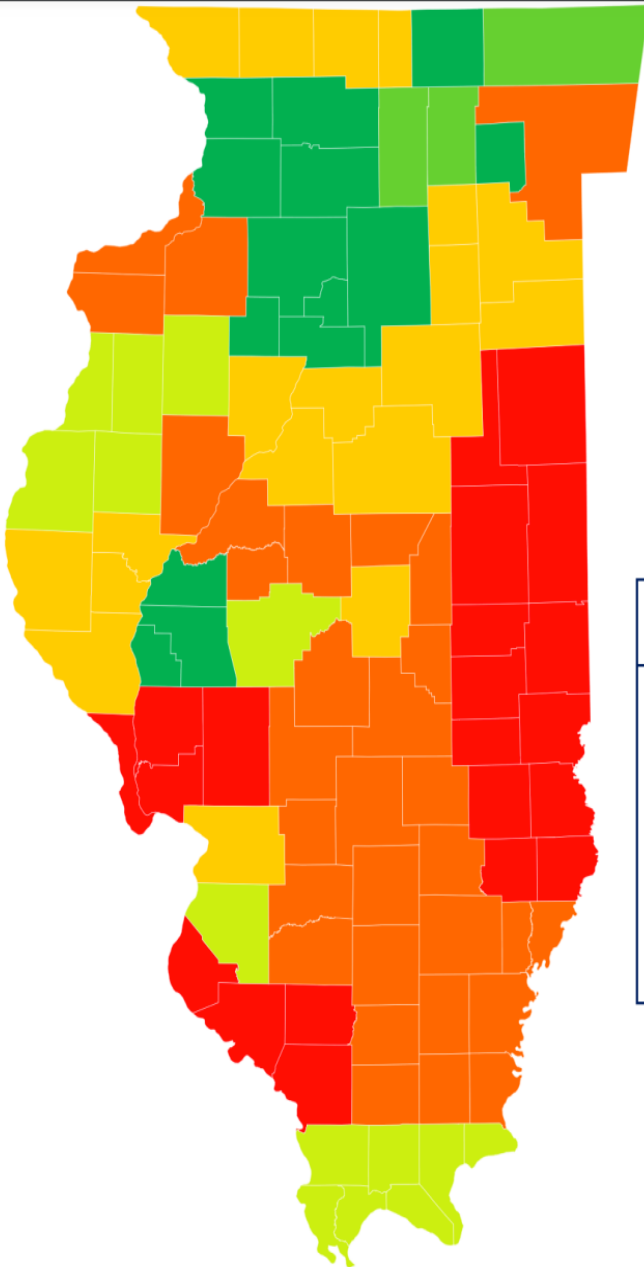
LIHEAP Assistance Isn't Enough

One example: As COVID era supplemental LIHEAP appropriations ended, Illinois' energy assistance budget for both programs (LIHEAP and PIPP) are significantly reduced.

Program Year	Budget	Households Served	Average Annual Benefit
2023	\$350,431,015	324,271	\$966
2024	\$276,520,252	333,747	\$744
2025	\$233,225,301	318,463	\$665
2026 (forecasted)	\$257,430,430	360,000	\$565

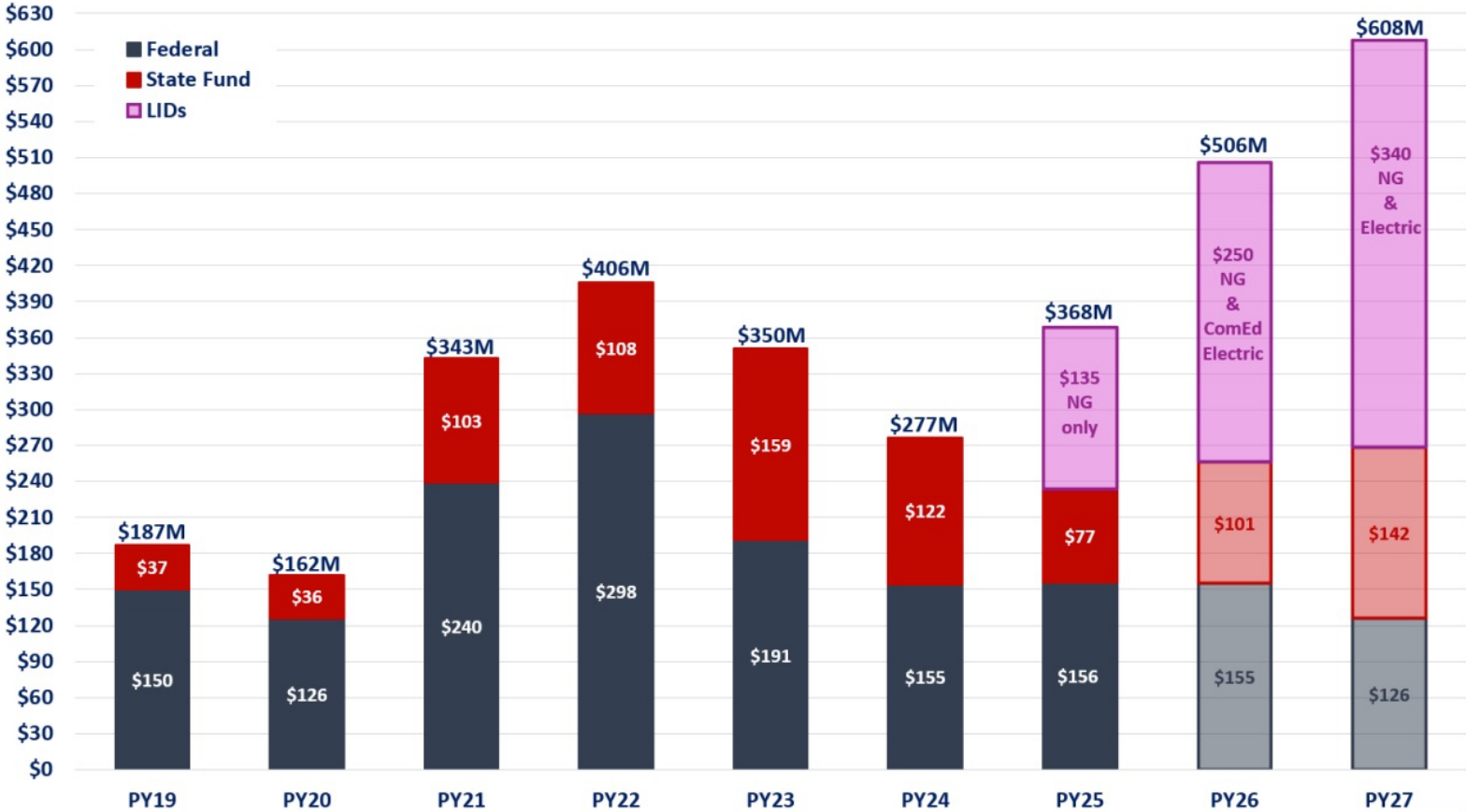
PY25 LIHEAP Outlook

Expected Time to Exhaust Funding



April	May	June	July	August	Not Expected to Exhaust
Champaign East Central ERBA Illinois Valley Western Egyptian	BCMW CEFS CAPCIL CEDA Crosswalk Fulton Co Project Now Wabash Area	Decatur/Macon Co Kankakee Kendall-Grundy Madison Co Northwestern Illinois Peoria Rockford Tazwood Two Rivers Will County	St. Clair Sangamon Shawnee Western Illinois	CAPLake Community Contacts	DuPage Co McHenry Co Morgan/Cass/Scott Tri-County

IL Energy Assistance sources



Total Energy Assistance To Clients - Sources



Affordability: A Critical Component of the Clean Energy Transition

- The required transition to clean energy, as reflected in new ratepayer-funded programs, points to the need for continued affordability measures to ensure an equitable transition.
 - **Discount rates/PIPPs help ensure the transition is affordable**
 - Clean energy commitments come with surcharges:
 - Heading toward a billion annually in ratepayer funded energy efficiency programs beginning in 2026 (nearly \$800 million/yr now in IL)
 - Renewable energy and nuclear subsidies
 - Net metering credits
 - Beneficial electrification programs

Essential Gas Discount Rates Now Available in Illinois

UTILITY	0-50% FPL	51-100% FPL	101-150% FPL	151-200% FPL	201- 300% FPL
Peoples Gas	83%	68%	45%	20%	5%
North Shore Gas	79%	68%	36%	12%	5%
Nicor Gas	77%	57%	27%	12%	5%
Ameren Illinois Gas	84%	52%	19%	5%	5%

Electric Discount rates

ILL. C. C. No. 10

Commonwealth
Edison Company

ELECTRICITY 2nd Revised Informational Sheet No. 73
(Canceling 1st Informational Sheet No. 73)

LOW-INCOME DISCOUNT

Supplement to Rider LID (1)

Discount Tier Household Income as a Percentage of Federal Poverty Level (FPL)	Percentage Discount Applicable for the January 2026 Monthly Billing Period (2) (3) (4)			
	SFNH	MFNH	SFH	MFH
Tier 1: 0% – up to 50% FPL	81%	67%	76%	59%
Tier 2: Over 50% - up to 100% FPL	61%	23%	54%	8%
Tier 3: Over 100% - up to 150% FPL	32%	5%	26%	5%
Tier 4: Over 150% - up to 200% FPL	8%	5%	5%	5%
Tier 5: Up to 300% FPL	5%	5%	5%	5%

Discount Tier Household Income as a Percentage of FPL	Percentage Discount Applicable Beginning with the February 2026 Monthly Billing Period and Extending Through the December 2026 Monthly Billing Period (2) (3) (4)			
	SFNH	MFNH	SFH	MFH
Tier 1: 0% – up to 50% FPL	80%	67%	76%	58%
Tier 2: Over 50% - up to 100% FPL	60%	21%	53%	6%
Tier 3: Over 100% - up to 150% FPL	31%	5%	25%	5%
Tier 4: Over 150% - up to 200% FPL	6%	5%	5%	5%
Tier 5: Up to 300% FPL	5%	5%	5%	5%

Ameren Electric Discount PIPP

- Starting October 1, 2026, Ameren to offer PIPP electric discount program
- Eligible customers: Households at 0% to 300% of federal poverty level
- Energy burden set at 3% of monthly income
- No bill will be more than 3% of monthly income

Fighting the discounted rates = “discrimination” argument

- Best practice: States should include references to discounted rates (tiered discounts or PIPPs) in anti-discrimination provision of a state’s Public Utilities Act as authorized commission activity.
- 1979 CO Supreme Court ruling (*Mountain States Legal Foundation v. Public Utilities Commission*, 197 Colo. 56, 590 P.2d 495 (1979)) was a setback for discount rate programs
- Later, in In 2000, *before* the passage of S.B. 07-022 that created specific authorization for a low-income discount rate, CO PUC distinguished the 1979 Mountain States ruling by concluding that a program or rate that has an economic justification is lawful.
- IL – conflicting appellate court rulings: one distinguishes “reasonable” discrimination for a particular purpose as lawful (*Coalition to Request Equitable Allocation of Costs Together v. Commonwealth Edison Co.*, 2015 IL App (2d) 14020228, 28 N.E.3d 223 (March 2015))
- 2025 Ameren appeal of 2023 gas discount rate case calls discount rates unlawful, notwithstanding specific authority in Section 9-241 for ICC to implement discount rates. See 220 ILCS 5/ 9-241(d)
- Stay tuned! Remand decision due April 30. In the meantime, advocates should make the business and monopoly service provider cases for assistance programs to protect access to essential utility service if lacking specific statutory authority.

Moratoriums on Disconnections: A Lifeline

- Heating affordability in the winter has always been a challenge;
- Essential winter disconnection moratorium (typically 12/1 through 3/31) provides a respite for those who can't afford those bills;
- But disconnections loom come April 1st
- **Needed now: Seasonal and calendar-based shutoff moratoriums**

Extreme Heat

- Extreme heat is the leading cause of weather-related deaths
- Nearly a quarter of people in the U.S. are vulnerable to extreme heat.
- According to the Centers for Disease Control and Prevention, approximately 1,220 people in the United States are killed by extreme heat every year.
- One estimate pegs the cost of heat events in the U.S. at \$1 billion in excess health care costs each year and if unaddressed, could cost the U.S. economy \$14.5 trillion over the next fifty years.

Utility bill assistance is a recognized part of the heat mitigation strategy

Extreme heat caused more emergency department visits in 2023*

Health departments, prevent heat-related illnesses (HRI):



Track heat forecasts



Monitor HRI trends among groups sensitive to heat



Prepare and inform communities about cooling stations



Promote home energy assistance programs



bit.ly/mm7315a1

APRIL 18, 2024

*Compared to 2018–2022; National Syndromic Surveillance Program data

MMWR

Disconnection protections for vulnerable populations

- Customers can't participate in clean energy programs if they are disconnected.
- Extreme heat is the #1 weather-related cause of death.
- No customer should be disconnected due to inability to pay
- Needed now:
 - At a minimum, year-round disconnection protections for vulnerable populations, including income-qualified disabled and medically-certificated persons, households with children under 6, and older adults;
 - Winter and summer, calendar- and temperature-based moratoriums on shutoffs.

Protections from Disconnection During Extreme Heat

- Calendar-based *AND*
- Weather-based shutoff moratoriums
- (In many states, both already exist for winter weather protections, but not summertime.)

Protections from Utility Disconnection in Extreme Heat

Temperature-based restriction: Illinois

220 ILCS 5/8-205(b):

If gas or electricity is used as the only source of space cooling or to control or operate the only space cooling equipment at a residence, then a utility may not terminate gas or electric utility service to a residential user, including all tenants of master metered apartment buildings, for nonpayment of bills:

- (1) on any day when the National Weather Service forecast for following 24 hours covering the area of the utility in which the residence is located includes a forecast that the temperature will be 90 degrees Fahrenheit or above;
- (2) on any day preceding a holiday or weekend where National Weather Service for the following 24 hours covering the area of the utility in which the residence is located includes a forecast that the temperature will be 90 degrees Fahrenheit or above during the holiday or weekend; or
- (3) when National Weather Service issues an excessive heat watch, heat advisory, or excessive heat warning covering the area of the utility in which the residence is located.

Protections from Utility Disconnection in Extreme Heat

Calendar-based restriction: Arizona

A. Restrictions on termination of service; recordkeeping and repayment requirements. . . .

11. A utility shall adopt only one of the following conditions under which it shall not terminate residential service:

a. During any period of time for which the local weather forecast, as predicted by the National Weather Service, indicates that the weather in the area of the customer's service address:

- i. Will include temperatures that do not exceed 32° F;
- ii. Will include temperatures that exceed 95° F; or
- iii. Will include other weather conditions that the Commission has determined, by order, are especially dangerous to health; or

b. During the calendar days of June 1 through October 15 of each year, which shall be specified as non-termination dates in a utility's tariffs.

Ariz. Admin. Code R14-2-211; ACC Docket No. RU-A-19-0132, Decision 78316 (Nov. 9, 2021)

Credit & Collections Changes Needed

- Eliminate late fee and deposit requirements for residential customers
- Revise medical certification process to acknowledge the length of chronic illness and expand certified health care provider access
- Minimize down-payments for, and extend the length of, DPAs
- Increase disconnection “trigger” amounts

Require Maximized Investment in Zero-Cost Weatherization

- Ratepayer funded energy efficiency programs should prioritize investment in zero-cost weatherization for low-income populations. The cheapest kilowatt/therm is the one not used...

The challenge for advocates: Utility interest in cheaper measures to achieve profit bonuses for exceptional annual energy savings goals performance. (Zero-cost Wx programs are expensive.)

- Requiring electric and gas utilities to prioritize investment in robust, zero-cost weatherization programs as part of the utility energy efficiency program portfolios
- Ensuring these programs mirror the quality and robustness of whole-home treatment required in the states' federally-funded weatherization program, WAP. (No "weatherization-lite")
- Need to push back against tariff on bill financing programs like PAYS for low-income populations that place customers at risk for disconnection.

How to Engage?

- Join forces with the state-sponsored consumer advocate or other low-income and environmental advocates
 - Offer to bring individual voice experiences to litigation
 - Rate cases usually lack the low-income customer voice
- Intervenor compensation statutes help cover costs of litigation

Questions?

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Since 1969, the nonprofit **National Consumer Law Center® (NCLC®)** has worked for consumer justice and economic security for low-income and other disadvantaged people in the U.S. through its expertise in policy analysis and advocacy, publications, litigation, expert witness services, and training. www.nclc.org