UTILITY REFORM

We must leverage the clean energy transition currently underway in Virginia to address inequalities baked into our current system by improving protections for households from utility disconnections, and ensuring public participation in decision-making about the source of power and its cost to consumers. We must also enable our energy regulators to manage a clean energy transition that is both effective at combating climate change and affordable.
ENSURING ACCESS TO ESSENTIAL SERVICES

Access to energy and water utilities is essential for the health and well-being of all Americans. And yet, thousands of households in Virginia face utility disconnections every year, including during the hottest days of summer or coldest days in winter. Even drinking water and wastewater management systems require electricity to operate. We must leverage the clean energy transition currently underway in Virginia to address inequalities baked into our current system by improving protections for households from gas and electricity disconnections, modeling policy approaches taken by other southeastern states. Ensuring access to energy services ensures that the lights are on, that clean water is available, and that waste management systems remain in operation for vulnerable households. We can achieve these ends through a coordinated policy effort that recognizes that all people have a right to these goods.

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REFORMING ELECTRIC UTILITY REGULATION FOR AN AFFORDABLE CLEAN ENERGY TRANSITION

The current laws regulating Virginia’s electric utility monopolies restrict the ability to manage a clean energy transition that is both effective at combating climate change and affordable for Virginians. The State Corporation Commission (SCC) is responsible for keeping electricity prices fair and reasonable, but current law restrictions, including an arbitrary cap on rate reduction and constraints to address key accounting matters, have limited the SCC’s ability to protect Virginians from excessive energy bills. In this upcoming legislative session, it is crucial to eliminate these restrictions and allow the SCC to set fair electricity rates so that Virginia’s transition to clean energy is just and affordable.

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ENSURING DEMOCRATIC PARTICIPATION AT COOPERATIVE & MUNICIPAL UTILITIES

To serve the public interest, our energy systems must enable public participation in decision-making about the source of power and its cost to consumers. Such participation is particularly appropriate for members of electric cooperatives and customers of municipally-owned electric utilities, but these utilities frequently limit or preclude opportunities for public engagement, effectively concealing important decisions related to the clean energy transition or the cost of power. Virginia must pursue policies that open deliberations to democratic participation at these utilities, provide a degree of public oversight, and promote fair board elections to create a framework for dialogue between the utilities and the people they serve.

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Morning Fog - Westmoreland Count, Va
Image credit: Katharina Bergdoll
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EXECUTIVE SUMMARY
Access to energy and water utilities is essential for the health and wellbeing of all Americans. And yet, thousands of households in Virginia face utility disconnections every year, including during the hottest days of summer or coldest days in winter. Even drinking water and waste-water management systems require electricity to operate. We must leverage Dye, energy transition currently underway in Virginia to address inequalities baked into our current system by improving protections for households from gas and electricity disconnections, modeling policy approaches taken by other southeastern states. Ensuring access to energy services ensures that the lights are on, that clean water is available, and that waste management systems remain in operation for vulnerable households. We can achieve these ends through a coordinated policy effort that recognizes that all people have a right to these goods.

CHALLENGE
Virginia currently has among the weakest disconnection protections for electric and gas customers of any state in the southeast. Utility disconnection policies vary among the 33 electric utilities and 8 gas utilities in Virginia, so Virginia residents are subject to very different disconnection policies based on their utility provider. During the state of emergency enacted by Governor Northam in response to COVID-19, Virginia established a limited disconnection moratorium which expires 60 days after the state of emergency ends on June 30, 2021. The state also addressed household inability to pay with a novel utility debt repayment program designed to help people resolve Covid-induced arrearages over time while maintaining electricity and gas services during the repayment period. Yet, the provision for payment plans does not apply to debt incurred outside of the circumstances of the pandemic. We must adapt the model approach taken while the state of emergency was in effect to secure the well-being of customers of electric and gas utilities over the long-term, and not merely during a time of global crisis.

Further, in February of 2021, the Virginia General Assembly recognized water as a human right and specifically stated that the state of Virginia recognizes that no household be “deprived of water because of inability to pay” and that disconnections are “contrary to promoting public health and welfare.” Though the resolution passed by the General Assembly recognizes the human right to water, there are no binding policies that specifically ensure water access following the end of the utility moratorium and in years to come. It is imperative to protect access to water services for our most vulnerable communities, as every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation purposes in times of crisis and at times of peace.

SOLUTION
We can address the lack of uniform disconnection policies across utilities in Virginia by establishing baseline standards for cooperative.

POD POLICY RECOMMENDATIONS
Establish seasonal limitations on utility disconnections that protect households from losing electricity, water, wastewater, or gas services during extreme temperature periods. Utilities must not disconnect customers in the coldest months (November through March) and warmest months (July through September) of the year.

Prohibit electric, water, wastewater, and gas utilities from disconnecting customers during a declaration of a state of emergency from either the federal or state government and during extreme weather events, including when a heat warning or winter storm warning has been issued by local or state authorities.

Prohibit utilities from assessing disconnection and reconnection fees to customers who do lose power, water, or wastewater services due to late bills or non-payment of bills.

Require utilities to offer customers who have accrued arrearages, or who have a demonstrated financial hardship, a repayment plan that is mutually agreed upon to be affordable and sustainable for the customer; does not require new deposits, down payments, late fees, interest charges or penalties; and that does not apply eligibility criteria such as installment plan history or credit rating, modeling such repayment plans after the Emergency Debt Repayment Plan which was included in the 2020 Special Session I Virginia State Budget.
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CHALLENGE
Virginia made history in 2020 with the Virginia Clean Economy Act, which puts the Commonwealth on a path to be 100% powered by clean energy. It is critical this transition does not burden families and small businesses with needlessly high bills especially as the cost of renewable energy falls daily nationwide. The rate case is the best tool to ensure that Dominion Energy and Appalachian Power Company, the utilities responsible for powering most of Virginia, do not exploit the climate crisis at the expense of ratepayers. During this regulatory process, the SCC establishes the rates a utility should charge to recover its costs and earn a fair profit.

As a result of more than 14 years of restrictions to adjust rates, Virginians are paying the sixth highest electricity bills in the nation, bills that are unaffordable for 75% of Virginia households. Because of legislation that allows Dominion Energy to essentially regulate itself, the utility has overcharged Virginians by $1.3 billion since 2015. These massive excess profits have real financial impacts for Virginians and hinder our ability to have a fair and affordable clean energy transition.

SOLUTION
The SCC must be able to ensure that electricity rates are reasonable and that electric utility monopolies, with captive customers and no competition, do not charge unfair prices at a time when Virginia is making massive investments in new clean energy and shuttering fossil fuel plants. In the last two years, a broad group of bipartisan advocates and legislators have proposed strong solutions to give back to the SCC tools to prioritize rate affordability.

POLICY RECOMMENDATIONS
Eliminate existing restrictions on the SCC to set future fair electricity rates using traditional cost-of-service methods. The SCC should be able to decrease rates when the current ones are likely to generate revenues above the authorized profit.

Remove all limitations on the SCC’s ability to set utilities authorized rates of return or profit, according to market conditions.

Authorize the SCC to terminate separate riders and opt to roll costs into base rates, if in the best interests of ratepayers. These riders, called Rate Adjustment Clauses, exempt utilities from risks associated with investments, placing disproportionate risk on customers.
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CHALLENGE
Consumers at electric cooperatives and municipal utilities in Virginia are subject to wildly varying opportunities for participating in decision-making at their utility, opportunities which are determined simply by who their utility is rather than by a statewide standard. Most of Virginia’s thirteen electric cooperatives do not meet the standards for democratic member control established by the electric cooperative’s trade association. For example, the National Rural Electric Cooperative Association recommends that, as democratic organizations, co-ops should permit members to actively participate in policy-setting and decision-making by interacting with their member-elected board of directors. And yet, many cooperatives in the Commonwealth do not permit members to attend board of directors meetings, nor do they make minutes from board meetings accessible to the public. Others even engage in the practice of proxy voting in board elections, a practice which provides a substantial—and insurmountable—advantage to an incumbent candidate.

Neither do the sixteen municipal utilities in Virginia adhere to uniform standards for public participation, nor are they regulated by the State Corporation Commission. Further, the methods for appointing utility directors vary by municipal utility and lack standard application and selection processes. Holding and exercising power over our energy systems, while operating in an opaque manner towards consumer stakeholders, is undemocratic.

SOLUTION
We can address divergent public participation policies across cooperative and municipal utilities in Virginia by establishing standards these utilities must satisfy to ensure that the households they serve have the opportunity to offer input into the management of their energy system. By requiring utility boards to allow members of the public to attend board meetings and mandating a full and fair selection process for governing officials, we can ensure that customers are kept informed of issues at their utility. By requiring minutes from utility board meetings to be made readily and publicly accessible, we can ensure that these utilities are operating in a transparent, responsive manner. Finally, by mandating direct, fair, and accessible utility board elections at each utility in the Commonwealth, we can ensure that interested members do have an opportunity to become more involved in the governance of their energy system.

POLICY RECOMMENDATIONS
Require electric cooperatives and municipal utilities to permit customers to attend meetings of the board of directors both in-person and virtually via livestreaming, and to ensure that all customers are informed about the date, location and agenda for these meetings at least 10 days in advance.

Require electric cooperatives and municipal utilities to make board meeting minutes publicly available by posting minutes in utility offices and online, and by posting any recorded videos from these meetings online, in a sincere effort to make meeting minutes available to all customers.

Require electric cooperatives and municipal utilities to fill board vacancies by holding fair, accessible, and direct board elections and prohibit the opaque practice of proxy voting in board of directors elections.

Migratory Birds
Image credit: Tori Kennedy
ENSURING ACCESS TO ESSENTIAL SERVICES


2 Ibid.


7 House Joint Resolution No. 538. (Number 4 and 8, respectively). https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+HJ538ER.


ENSURING DEMOCRATIC PARTICIPATION AT COOPERATIVE & MUNICIPAL UTILITIES

1 Reforms needed at Rappahannock Electric Cooperative, Rappahannock News (May 12, 2018). https://www.rappnews.com/opinion/columnists/reforms-needed-at-rappahannock-electric-cooperative/article_779aeee7-6b5a-5883-ae0b-c29a36ec0a29.html.


7 House Joint Resolution No. 538. (Number 4 and 8, respectively). https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+HJ538ER.


ENDNOTES