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# Utility Disaster Assistance Manual

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# Introduction

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Electric utility service is a necessity in the 21<sup>st</sup> century. Electricity is needed for light, communication, refrigeration, and cooling, as well as being the being the source of power for cooking and heating for many people. Loss of electric power clearly is a disaster for those who experience it. “No lights, no power for communication devices, no refrigeration, no air conditioning, as well as often resulting in loss of heating since most furnaces, regardless of energy source, use electric fans to circulate the air.”

Loss of electricity can be very dangerous and even fatal if it occurs during times of extreme heat or cold. Low-income people are especially vulnerable to loss of power because of their living situations, which may include poorly insulated and ventilated residences, as well as living in areas with aging infrastructure which are more likely to be vulnerable to the elements.

Other utilities also provide essential services including water and wastewater and natural gas. However, the focus of this guide is on electric utility service, on ways to help low-income Nebraskans keep the electricity on at their residences, as well as basic resources for attorneys and others who advocate for their interests.

Utility bills represent a major expenditure for low-income people, often the third greatest monthly expense after housing and car payments. During the winter and summer months, particularly if there are periods of extreme heat or cold, these costs can spike, putting even more pressure on already-stressed budgets at times when loss of electric power can be very dangerous.

As previously noted, it is a disaster to be without electricity. Loss of electricity is often a byproduct of other disasters, including downed

power lines from tree branches during summer storms or ice storms that cause power lines to snap. Heat waves also have the potential to cause loss of power due to all the demands on the energy grid from air conditioning and irrigation pumps.

Losing electric power due to inability to pay is also a disaster for low-income Nebraskans. Much of this manual provides descriptions of services that assist low-income people in paying their bills as well as links to several programs.

Lowering the electric bills of low-income Nebraskans is an important tool to help improve their lives and living situations. Many low-income people live in housing with high utility bills because of poor insulation, leaky windows and doors, as well as inefficient heating and cooling systems. Improvements such as weather stripping, insulation, and increased efficiency of heating and cooling systems not only lower electric bills, they make their residences safer and more comfortable. Having reduced electric bills means additional funds to pay for food, clothing, medications, and rent, which improves overall quality of life.

As noted throughout the guide, Nebraska has 100% publicly owned electric utilities which are political subdivisions of the State of Nebraska. This implies a duty to provide electricity to all Nebraskans, in much the same way that other political subdivisions provide police, firefighters, streets, education, and justice systems for the benefit of all.

The reality of 100% public power implies that public utilities have a duty to help their customers keep the power on. It also implies a duty to provide services to help their customers reduce their electric bills. This guide describes some of the wide variety of programs available either through the utilities or other service providers, while also noting that many utilities have few resources to assist their low-income customers and little acknowledgement of their concerns and needs.

Finally, it needs to be noted that none of the utilities surveyed indicated any planning involving the scientific evidence of climate change. Electrical utilities must engage in both long-range and short-term planning, both due to legal mandates and in order to make appropriate investment decisions. Failure to consider climate change in the planning process indicates a major gap in this process, since changes in temperature and meteorological conditions are some of the most important factors in determining utility usage.

# Overview

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**This manual is a product of the Disaster Relief Project of Legal Aid of Nebraska. It is intended to provide an easily accessible resource for both attorneys and customers of public power.**

Nebraska is the only state in which the electric utilities are 100% publicly owned. This has provided many benefits for the state, including a history of reliability and low prices in delivering electricity. Since the customers are the owners of public power, it also has the potential benefit of providing a means for the public to have input in the process by which their electricity is generated and delivered.

Creating a manual for attorneys to advise low-income clients about how to work with or respond to problems with their electric utility has numerous challenges. First and foremost is the diversity of public power entities. According to the Nebraska Power Review Board, there are 164 different public power entities in the state. Many of these entities are very small and several serve less than 100 customers in their small community. On the other end of the spectrum are the Omaha Public Power District (OPPD), Nebraska Public Power District (NPPD), and Lincoln Electric System (LES) which each serve more than 100,000 customers.

Further complicating the process is the fact there is very little statewide oversight of public power. As previously noted, each public power district is governed by a local board, which has governing authority over the operations of the

district. The benefit of this is local control of each power district. However, it means there are different policies and practices throughout the state and no standard operating procedure for advising low-income clients on how to deal with their electric utility. Therefore, this manual will primarily make general recommendations, with the overall caveat of suggesting that contact with the specific public power entity which serves the client in order to determine the actual policy that impacts him or her.

Electric utilities in other states are regulated by a Public Utilities' Commission or Public Service Commission. However, the Nebraska Public Service Commission has almost no authority over public power. The PSC does have regulatory authority over the for-profit gas utilities in the state but almost nothing regarding public utilities. The role of the Nebraska Power Review Board is primarily to authorize (or deny) generation or transmission projects and to act as a referee in disputes between power districts. Although there are statutes that imply the Power Review Board has authority to deal with customer rate issues, historically it has not engaged in such activities and standing is likely an issue that would need to be overcome in order to bring a case in that area.

In order to address the wide variety of potential utility policies and practices that may impact low-income Nebraskans, Legal Aid attempted to obtain information from Nebraska electric utilities' practices. In the 2018 spring semester, students from the Environmental Engagement 319 class at UNL put together a survey that was mailed to all 164 electric utilities. Although the information gathered was useful, there were several limitations in the information gathered. First of all, only 59 utilities responded to the survey. Neither NPPD nor OPPD responded despite repeated attempts to obtain information from them. Second, the responses were often brief or incomplete, shedding little light on processes or procedures for addressing shut offs, emergency assistance, or energy efficiency programs. Online information about utilities also varied widely, with extensive information available on the websites of larger districts such as LES, OPPD, or NPPD and little to no information on many smaller power providers.

However, only 42 of the 164 or 25% of the utilities had websites specifically dedicated to the electric utility. The amount of information on the websites varies greatly, with some having interactive, highly informative websites that provide information about many aspects of the utility and programs for their customer-owners. On the other hand, some websites only list a few brief details about rates and contact information. Many smaller municipalities that operate their own electric utility devote some portion of the community's website to the electric utility, and these tend to provide limited information about the utility.

Although the diversity of size and organizational structure of electric utilities makes it difficult to create accurate definitions that will describe each individual power district, it is useful to divide public power into three categories: the big three, NPPD, OPPD, and LES; rural electric power districts; and municipal power districts. NPPD is in a special category of its own, since it is the retail electric provider for 80 municipalities, provides wholesale electricity for another 46 communities, and is the wholesale electricity provider for 25 rural electric power districts.

## Disaster Relief Project

Legal Aid of Nebraska has a Disaster Relief Project which has many resources to guide attorneys and members of the public in the event of a disaster. See <http://disaster.legalaidofnebraska.org>. One of the most important resources developed by this project is the Disaster Guide which details resources available to attorneys and low-income Nebraskans in the event of a disaster: <http://disaster.legalaidofnebraska.com/handbook>. Legal Aid has also created an agricultural disaster guide, which is especially significant in Nebraska due to the importance of agriculture to our state: [http://disaster.legalaidofnebraska.com/?page\\_id=1136](http://disaster.legalaidofnebraska.com/?page_id=1136). Because these documents provide in-depth guidance for responding to a disaster they will not be re-created here.



## Power Outages

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It goes without saying that a person in a situation in which life or health is at risk should dial 911. Electricity can be very dangerous, including the potential of fatal injuries. Situations in which there are downed power lines or other unshielded electrical connections that could shock people or cause other harm should be brought to the attention of authorities immediately.

Lack of electrical power can also lead to dangerous situations, such as the potential of heat stroke during a heat wave or danger of freezing or other cold related injury when temperatures are below freezing. Once again, if a person is in immediate danger, he or she should call 911. If it is merely a matter of restoring electricity, that is a matter of contacting the utility directly.

As previously indicated, there is no statewide procedure or universal number to call and the method of contacting electric utilities varies widely. Therefore, the customer must find the number in the telephone directory or on the utility's website, if they have one. Complicating factors include the number of people who no longer keep telephone directories because they use a cell phone and the number of public power entities that do not have a website. If the city or village is their power provider, the customer needs to contact their municipal government. There are 33 rural electric utilities and their customers should also contact them directly. A list of websites and contact information is provided later in this guide.

## Assistance Paying Utility Bills

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### DHHS Assistance

The Nebraska Department of Health and Human Services (DHHS) is a state agency with offices across Nebraska. DHHS oversees a number of programs that assist low-income or vulnerable Nebraskans, including economic assistance, child welfare, and public health programs. For Nebraskans having difficulty paying their heating or cooling utility bills, DHHS offers energy assistance in the form of a program called LIHEAP, or Low Income Home Energy Assistance Program. Funded by the federal government, Nebraska's LIHEAP office is part of the Health and Family Services division of DHHS.

For more in-depth information about LIHEAP including FAQs, data and reports, and the laws and policies that govern LIHEAP you can visit the national website at <https://www.acf.hhs.gov/ocs/programs/liheap/about>. Keep in mind if you are searching for an answer to a question about LIHEAP in Nebraska, programs vary from state to state but some things are true for all LIHEAP programs and many of your questions will be answered there. The Frequently Asked Questions for Consumers page is a great resource for general questions about the program and can be found here: <https://www.acf.hhs.gov/ocs/resource/consumer-frequently-asked-questions>. To find information about Nebraska's LIHEAP program, you can view their webpage at [http://dhhs.ne.gov/children\\_family\\_services/Pages/fia\\_energy.aspx](http://dhhs.ne.gov/children_family_services/Pages/fia_energy.aspx) or simply follow the links from the DHHS homepage to Children and Family Services, Economic and Family Support, Financial Assistance, and finally Energy Assistance. From this webpage, Nebraskans seeking assistance can follow a link to the online application. To contact the Nebraska LIHEAP office directly please see information below:

### **Division of Children and Family Services Department of Health and Human Services**

c/o: Britton Gabel, LIHEAP and CSBG Program Manager  
301 Centennial Mall South  
Lincoln, Nebraska 68509

**Telephone:** (402) 471-9291

**Fax:** (402) 471-9286

**E-Mail:** Britton.Gabel@nebraska.gov

**Website:** [www.dhhs.ne.gov/children\\_family\\_services/Pages/fia\\_energy.aspx](http://www.dhhs.ne.gov/children_family_services/Pages/fia_energy.aspx)

**Public Inquiries:** (402) 471-3121

### Who is eligible?

The federal guidelines for LIHEAP state that benefits must be given to households with low incomes, particularly if households include elderly members, disabled members, and/or young children. The federal guidelines place the income-eligibility cap at (1) no more than the greatest of 150% of the Federal Poverty Guidelines (FPG) or 60% of the State Median Income, and (2) no less than 110% of FPG. The most current income limits for Nebraska are summarized in the table below.

Household Size	Maximum Annual Household Income
1	\$15,444.00
2	\$20,826.00
3	\$26,208.00
4	\$31,590.00
5	\$36,972.00
6	\$42,354.00
7	\$47,749.00
8	\$53,157.00
Each additional member add	\$5,408.00

### **What is covered by LIHEAP?**

While this varies state to state, all LIHEAP programs cover heating and cooling costs for eligible applicants. Most LIHEAP programs also include crisis assistance and weatherization services. LIHEAP does not cover utilities unrelated to heating or cooling such as water or sewage. In Nebraska, LIHEAP funds heating assistance, cooling assistance, crisis assistance, and weatherization. Please note that emergency assistance such as in the case of utility shut offs is a separate application process from general heating and cooling bill assistance. Emergency energy assistance can be applied for through several programs, including DHHS and utility programs. The following link provides a list of programs for such assistance: [https://www.needhelppayingbills.com/html/nebraska\\_utility\\_and\\_heating\\_a.html](https://www.needhelppayingbills.com/html/nebraska_utility_and_heating_a.html). While weatherization assistance is also covered by LIHEAP, this program is overseen by the Nebraska Energy Office and not the DHHS in Nebraska.

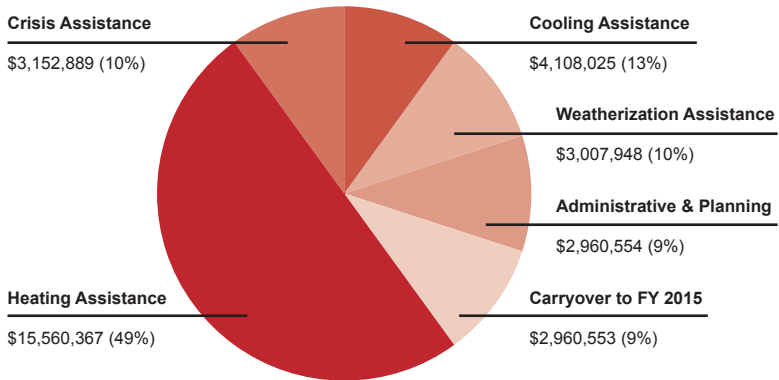
### **How can people apply?**

Individuals wishing to apply for any LIHEAP energy assistance program can do so online via the ACCESSNebraska website or in person at your local DHHS office.

### **What about people who already receive economic assistance from DHHS?**

Individuals who are already receiving benefits from DHHS automatically qualify for LIHEAP.

## Uses of Funds



(From Nebraska FY2014 LIHEAP State Profile)

## Weatherization Programs

The following material is based on information from the Nebraska Energy Office. The original materials are found at their website.

<http://www.neo.ne.gov/wx/wxindex.htm>

### What is weatherization?

Weatherization makes homes more energy efficient. Weatherization of a home typically involves the installation of attic, wall and floor insulation, and sealing holes and cracks with caulking, weather-stripping, and other types of materials. In addition, all furnaces, cooking stoves, and water heaters receive a safety inspection. Weatherization services do not include roof replacement, siding repairs, or replacement windows.

### **Low Income Weatherization Assistance**

Weatherization helps low-income Nebraska families reduce their energy bills by making their homes more energy efficient. Properly done, it reduces energy bills, makes homes safer and healthier, and improves the comfort of the home.

### **Who is eligible to receive weatherization services?**

An estimated 51,000 Nebraska households are eligible for weatherization assistance services. Preference is given to persons over 60, persons with disabilities, and families with children under six.

Eligibility is limited to households with incomes at or below 200% of the federal poverty level. Eligibility income levels rise based on the number of persons living in the home. Income guidelines are listed here. Households containing a member who is receiving either Aid to Dependent Children or Supplemental Security Income are automatically eligible to receive services.

### **Income Guidelines for No Cost Weatherization Assistance**

The following is from the Nebraska Energy Office website.

People whose income is below 200% of the federal poverty level are eligible for free weatherization assistance. Federal poverty guidelines are revised annually. *Note: Households with persons receiving either ADC (Aid to Dependent Children) or Supplemental Security Income (SSI) are automatically eligible for free weatherization.*

For more information see *Weatherization Program Notice 18-3*.

## 2018 Poverty Income Guidelines

200% of Poverty Level (Effective February 21, 2018)

Household Size	Maximum Annual Household Income
1	\$24,280
2	\$32,920
3	\$41,560
4	\$50,200
5	\$58,840
6	\$67,480
7	\$76,120
8	\$84,760
Each additional member add	\$8,640

## Types of Eligible Improvements

People who meet the income requirements and are approved for weatherization assistance services have their homes evaluated to identify the most effective energy and dollar saving improvements. The amount of money that can be spent on each home is limited, so not all eligible improvements may be made in each home.

- Add insulation to the attic, walls and/or floors in order to reduce heat lost through walls, ceilings, and floors.
- Perform efficiency inspections on natural gas, propane and fuel oil furnaces, and water heaters in order to provide more heat from the same amount of fuel.

- Replace broken glass or cracked glass in primary windows to keep outside air from coming in.
- Install or increase weatherstripping and caulking around doors and windows to keep outside air from coming in; cold air in the winter and hot air in the summer.

### **Air Leakage Control**

Reducing the leakage of outside air into the house is the most common type of weatherization improvement. Many low-income Nebraskans live in old, drafty homes that are both uncomfortable and expensive to heat and cool. Providing caulking and weatherstripping can make significant improvements at relatively low cost.

### **Insulation**

Insulation provides a barrier between the home and the outside. It is one of the most important ways to improve a home's energy efficiency. Increasing insulation is part of most weatherization projects.

### **Heating Efficiency and Health and Safety**

Heating systems that operate improperly may be wasting energy by failing to deliver heat effectively. They may also be dangerous if they leak fuel or emit carbon monoxide. Safety inspections are an important part of the weatherization process.

### **Client Education**

Client education is an important part of the process of weatherization. Lifestyle choices can play a major role in the amount of energy and money saved. Clients are given tips on saving energy and maintenance of the energy efficiency improvements.



## **Local Contacts**

Eight non-profit community action organizations provide local weatherization services. They are responsible for establishing eligibility, performing an energy audit on the residence, and scheduling the weatherization improvements. The number of weatherization projects depends on the amount of funds available. The Energy Office stresses that weatherization assistance is not an entitlement program, meaning that people are not guaranteed services just because they are eligible. The amount of money that Congress provides for weatherization services varies from year to year.

The following information is taken directly from the Nebraska Energy Office website:

## **Local Service Providers**

- Blue Valley Community Action Partnership
- Central Nebraska Community Action Partnership
- Northeast Nebraska Community Action Partnership
- Habitat for Humanity of Omaha
- Community Action Partnership of Lancaster and Saunders Counties
- Community Action Partnership of Mid-Nebraska
- Northwest Community Action Partnership
- Southeast Nebraska Community Action Partnership

## **More Information**

- Community Action of Nebraska
- U.S. Department of Energy Weatherization Assistance Program
- U.S. Department of Energy Weatherization Assistance Program Technical Assistance Center
- U.S. Department of Energy Weatherization and Intergovernmental Programs
- U.S. Department of Energy State and Local Solution Center

### **How can I receive home weatherization services?**

Eight non-profit organizations provide local weatherization services. They are responsible for establishing eligibility, performing an energy audit on the residence, and scheduling the weatherization work. Visit <http://www.neo.ne.gov/wx/wxindex.htm#contacts> to find the weatherization provider in your area.

Congress provides funds for weatherization assistance which varies from year to year. Please be patient if you are put on a waiting list. Your home will be weatherized as soon as possible.

### **Are renters eligible for weatherization services?**

Yes, both homeowners and renters are eligible, whether you live in a single-family home, multi-family housing complex, or a mobile home, you can apply for assistance. However, renters must receive written permission from their landlords to weatherize their homes or rental units.

### **Is there a charge for weatherization services?**

All weatherization services are provided at no cost. However, if a furnace or water heater in a rental home is found to be unsafe, it is the responsibility of the property owner to replace or repair the appliance before weatherization of the home can begin.

### **Can mobile homes be weatherized?**

Yes, typical improvements to mobile homes include underbelly insulation, storm windows, and sealing air leaks.

### **Does weatherization reduce heating bills?**

Weatherization reduces your energy bills for a long time. After a home has been weatherized, energy used for heating is often reduced by up to 25 percent. Some improvements, such as insulating your walls or attic, for example, will

continue to provide savings for the lifetime of the home—30 years or more. Other improvements, such as making heating or cooling equipment more efficient, will provide savings for 10 to 15 years. On average, the value of the weatherization improvements to a house is 2.2 times greater than the cost of the improvement itself.

### **Can a home receive weatherization services every year?**

A home may be weatherized only once, except for homes weatherized before October 1, 1993 may be reweatherized.

### **What are the alternatives to waiting for weatherization assistance?**

- The Low-Income Home Energy Assistance Program, or LIHEAP may be an option. You may be eligible for short-term assistance on your utility bill.
- Assistance to individuals in a natural disaster may be another, but limited, option. The Federal Emergency Management Agency, or FEMA, provides a number of services to assist individuals who are victims of a natural disaster. These services include low-interest loans, some cash grants, and links to assistance from other agencies such as the Internal Revenue Service and Farm Service Agency.
- Dollar and Energy Saving Loans may be an option for making home weatherization improvements. Any improvement that can be completed under the weatherization program can also be financed with loans from the Energy Office and participating lenders. There are no income restrictions for loans. Lenders determine an applicant's credit worthiness.

### **What happens to a home that is weatherized?**

Staff from your local or regional community action agency conducts an assessment or energy audit of the home. The agency is a non-profit local weatherization or regional agency trained in home weatherization. The energy audit is a computerized assessment of your home's energy use and an analysis of which energy saving improvements are best for your home.

Once the audit is complete, the auditor or weatherization staff member will meet with the homeowner or renter to explain how the work crews will conduct the work. Depending on the assessment, some homes will receive more work than others. The average value of weatherization services provided is \$6,500.

Throughout the weatherization process, the health and safety of a household is a priority. Following the weatherization, a Weatherization Assistance Program Inspector will visit to make certain that everything is working properly and that nothing was missed.

### **Other Impacts**

Energy expenses comprise an economic drain on low-income communities. Often, energy bills account for more than 20 percent of a family's gross income. Typically, more than 80 percent of this expense leaves the community.

In contrast, weatherization reduces this drain and keeps investments circulating in local economies. For individual families the gain is immediate—up to 18.7 percent in Nebraska, and an average annual savings on utility bills of \$146.

Weatherization investments in housing stock aid upkeep and increase the value of housing in these communities. By reducing long-term energy costs, weatherization makes these housing units more affordable. Energy savings resulting from the energy efficiency improvements typically last 20 years or longer.

Weatherization can also have an impact on low-income communities by stimulating the local home energy efficiency industry. The mainstay of this industry consists of the local service providers—mostly community action agencies in Nebraska—that make the improvements in the homes. These jobs represent a significant source of economic development through what economists call the “multiplier effect.” This effect describes the phenomenon whereby money circulates in local economies and is used to measure local economic development. The U.S. Department of Energy estimates conservatively an economic multiplier of three from the investment in weatherization services in the homes of low-income Americans.

## Utility Programs to Assist Low Income Nebraskans

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None of the public power districts surveyed indicated they had any programs specifically targeted toward reducing the utility bills of their low-income customer-owners. A review of public power district websites reveals very little recognition of the needs or interests of low-income Nebraskans. The big three, LES, OPPD, and NPPD specifically provide links to programs that assist with paying bills. LES and OPPD also have publicly documented their work with other agencies that assist low-income customers. Although LES and OPPD have publicly discussed low-income energy efficiency programs, a review of their websites does not provide links to programs currently being administered by the utilities.

**LES** <http://www.les.com/residential/payment-options/financial-assistance>

**OPPD** <https://www.oppd.com/residential/payment/assistance-programs/>

**NPPD** <http://www.nppd.com/my-account/pennies-for-power/>

OPPD also works with the Common Fund of the Heartland which helps low-income people access assistance programs. The following link to the Common Fund website provides a list of their goals: <http://commonfundoftheheartland.org/>

- Help customers with a history of instability make regular payments
- Reduce late fees, disconnections, and reconnections, and evictions
- Minimize reoccurrence of assistance requests decline

In the Lincoln area, a phone app has been developed to help low-income people access services. The myLNK app provides a mobile database of community services in Lincoln and Lancaster County. The app is free and is consistently updated with accurate information. The app was developed as a cooperative project by Prosper Lincoln and Don't Panic Labs. It combines information from handbooks and databases from the Center for People in Need and Health and Human Services.

Here are two ways the app can be accessed:

1. [https://play.google.com/store/apps/details?id=org.leadershiplincoln.mylnk&hl=en\\_US](https://play.google.com/store/apps/details?id=org.leadershiplincoln.mylnk&hl=en_US)
2. <https://itunes.apple.com/us/app/mylnk/id1336646522?mt=8>

If other public power districts provide their customers with connections to bill paying assistance programs, it is not apparent from their websites. Although several power district websites solicited customer contributions for other charitable funds, they appeared to be for general charitable purposes as opposed to being specifically dedicated to assisting customers in paying their bills. In addition, none of the survey responses except LES indicated support for low-income payment assistance programs.

## The 211 Program

211 is a program operated by United Way of the Heartland. 211 is a free, community resources hotline that is available to the public with multilingual access. A person dialing or texting 211 is connected with an operator who helps assess needs, provide information, and offer referrals to human services for both everyday needs and times of crisis. Current hours for 211 are 7 a.m. to 8 p.m. Monday through Friday and 8 a.m. to 5 p.m. on Sunday. The primary benefit of 211 is that it is a simple statewide number. Their website indicates there were 263 calls regarding utilities out of 971 calls, although it does not indicate the time period. Here is a link to their website: <https://www.heartlandunitedway.org/211-resource-hotline>

## Legal Issues Related to Utility Service

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### § 70-1101. Declaration of policy

“It is hereby declared to be the policy of the state to provide for dependable electric service at the lowest practical cost to all of the citizens of the state.”

There are similar statutory provisions in several other sections related to public power. This provision has traditionally been interpreted to mean the lowest practical electric rates. However, the statute uses the word “cost”, not “rates.” Focusing on cost leads to the conclusion that our public power districts may have a legal obligation to invest in energy efficiency, because it is a practical and well-known method of reducing energy costs for customers. This approach could have great benefits for low-income customers by reducing energy costs and making their homes safer and more comfortable.

To their credit, most public power districts offer programs for energy efficiency. These include a suite of programs under the Energy Wise banner of NPPD, <http://www.nppd.com/save-energy/for-your-home/>, LES’s Sustainable Energy Program, <http://www.les.com/savings-energy/sep>, and OPPD’s Residential Demand Side Management program, <https://www.oppd.com/environment/environmental-programs/>. NPPD’s programs are available to all 80 of its retail communities and are also utilized by many of their wholesale customers.

However, there are currently no utility energy efficiency programs focused on low-income customers. OPPD does provide a rate credit for low-income or low usage customers, but the program does not appear to have substantial utilization at this point in time. Both OPPD and LES have proposed low-income energy efficiency programs in recent years but neither appears to be in operation at the present time. A major stumbling block has historically been funding efficiency assistance for renters, since the benefit may go to the landlord.

The “lowest practical cost” mandate stated above would also seem to support the development of customer generation systems such as rooftop solar, since it would reduce the cost of energy to the customer. Solar generation systems

for low-income housing could substantially reduce the energy costs for such housing, enabling their limited incomes to be used in other ways such as food, clothing, and medicine.

The Legislature repealed the Low-Income Energy Conservation Act in 2017. This legislation, enacted in 2008, allowed public power districts to obtain funding from the state to support low-income energy conservation improvements. The legislation had broad support from public power, OPPD in particular. However, the program was never used because there were other energy efficiency programs such as the ReEnergize Program funded with federal ARRA funds that Lincoln and Omaha developed.

If other public power districts provide their customers with connections to these programs, it is not apparent from their websites. Although several power district websites described Goodwill Funds or other charitable funds, they appeared to be for general charitable purposes as opposed to being specifically dedicated to assisting customers paying their bills. In addition, as previously noted, none of the surveys indicated programs dedicated to assisting low-income customers.

Support for energy efficiency programs statewide appears to be inconsistent. A typical rural electric website will provide bill-paying options, directions on dealing with an outage, programs for irrigation or other large users, and a photo of their board and executive staff. It may or may not provide links to customer efficiency programs. Rural electric websites are also likely to have links to youth activities they sponsor and political messages representing a certain point of view.

## Rights of Electric Utility Customers

**Neb. Rev. Stat. § 70-655** provides that electric rates “shall be fair, reasonable and nondiscriminatory, and so adjusted as in a fair and equitable manner.” Although there does not appear to be any caselaw on the subject, one could argue that a rate system that has a disproportionately negative impact on low-income customers would violate this provision. In particular, fixed rate increases,



such as recently enacted by OPPD, appear likely to have a disproportionately negative impact on low-income customers. Whether it would be viable to bring a rate challenge based on this statutory provision would depend on the amount of the rate increase and the extent that it impacts low-income customers in comparison to other ratepayers.

**Neb. Rev. Stat. §§ 70-1601 to 1615** set out the rights and procedures of retail rate customers related to denial or discontinuation of service by public power districts. **§ 70-1601** provides that no one may be denied service because of unpaid bills for which the statute of limitations has run or the debt has been discharged in bankruptcy. **§§ 70-1603 and 70-1604** provide procedures for customers of villages that operate an electric utility, providing for seven days written notice for customers who are subject to disconnection and a “conference” with the village board if requested by the customer. The format and rules for the conference may be established by the village board.

**Neb. Rev. Stat. §§ 70-1605 to 70-1614** apply to disconnection procedures for other electric utility customers. **§ 70-1605** requires written notification and service may not be discontinued for at least seven days after notice is sent. **§ 70-1606** provides the requirements for notice, including the fact the customer has the right to request a conference, that service may not be discontinued pending the conference, and that customers who are able to provide medical documentation that he or she would suffer “an immediate and serious health hazard” due to disconnection are granted 30 days from the date of filing such documentation. **§ 70-1608** provides that a person may request a conference and the utility is to appoint an employee to hear and decide such matters. **§ 70-1609** allows the customer to submit a written statement contesting the reasons for disconnection and no disconnection shall occur until there is a conference addressing the dispute.

**§ 70-1610** sets out the procedure for the conference, specifically to notify the customer in writing of the time, date, and location of the conference and conduct the conference within 14 days of receipt of customer’s request. The procedure for the conference is informal, not governed by the rules of evidence, and provides that the conference may be recessed and continued if the employee determines the customer has not been “afforded his or her rights.”

**§ 70-1611** states that the employee shall decide the dispute solely on the evidence produced at the conference and shall allow termination of service “only as a measure of last resort when the utility has exhausted all other remedies less drastic than termination.”

**§§ 70-1612 to 70-1614** set out the rights of customers on appeal for disconnection as a result of nonpayment. **§ 70-1612** provides that a customer may appeal an adverse decision by its employee through the conference proceeding to the “management office designated by the utility or to the utility board.”

**Neb. Rev. Stat. §70-1613** provides the following rights for customers at an appeal hearing:

- Be represented by legal counsel or other representative or spokesperson;
- Examine and copy, not less than three business days prior to such hearing, the utility’s file and records pertaining to all matters directly relevant to the dispute or utilized in any way by the utility in reaching the decision to propose termination or to take other action which is the subject of the hearing;
- Present witnesses and offer evidence;
- Confront and cross-examine such other witnesses as may appear and testify at the hearing; and
- Make or have made a record of the proceedings at his or her own expense.

**§ 70-1614** requires the customer to be notified of the time, date, and place of the hearing. **§ 70-1615** provides that the disconnect provisions described in the previous paragraphs do not apply for reasons of maintenance or to protect the health and safety of the customer or the public.

The fact that the initial “conference” is conducted by an employee of the power district and the appeal is to either a “management office” of the power district or the power district board creates questions about whether the lack of an impartial fact finder negatively impacts or violates the rights of their customers. The fact there is no oversight body such as the Public Service Commission to review such orders means that a person aggrieved by the decision of the power district must

appeal that decision to the district court. There are very few reported cases in which retail customers have attempted to challenge public power districts in court over rate or disconnection issues. Public power officials would likely contend that the lack of such challenges is because the customers' rights are not violated in their hearing processes. Others may contend that the lack of challenges is due to the fact that the cost of litigating a rate increase or disconnection is prohibitive.

## Input into Public Power Decision-Making

One of the benefits of public power is the fact that they are governed by public officials rather than by for-profit corporations. This means that the public has the right to engage in contacting board members and staff about issues that concern them and appear and speak at board meetings. Recent decisions by OPPD to make major increases in renewable energy and retire coal units were preceded by active community involvement in these issues. Similarly, LES has responded favorably to community engagement by investing in renewable energy and supporting the Sustainable Energy Program. The lack of programs to assist low-income customers by many public power districts may be a reflection of the lack of input to power district boards about these issues. It certainly behooves low-income advocates to engage in supporting these issues with local power district boards and staff.

However, it is questionable how many members of the public are aware of either the process for input or the names of their representatives on public power boards. In addition, operating an electric utility includes numerous factors that can be complex, including generation, transmission, regulatory requirements, accounting, and management functions. As a result, public power boards generally rely heavily on staff in their decision-making process. For these reasons, public input into the decision-making process of public power has often fallen far short of its potential.

## Natural Gas Utilities

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Although the focus of this guide is on electric utilities, the following is a brief description of natural gas utilities in Nebraska. Unlike electric utilities which are entirely publicly owned, natural gas utilities in Nebraska are a mix of for-profit natural gas companies and public utilities. For-profit utilities, which include Black Hills Energy and Northwestern Energy, are regulated by the Nebraska Public Service Commission. This includes rate approval and disconnection policies.

The Metropolitan Utilities District (MUD), which provides gas and water service to customers in the Omaha metro area, is a separate political subdivision governed by its own elected board, <https://www.mudomaha.com/>, MUD. has established a Heat Aid Fund through the Salvation Army to help people in need of assistance pay their gas bills, <https://www.mudomaha.com/sites/default/files/New%20Customer%20Booklet%202016.pdf>. MUD has at least tacitly recognized climate change by stating the following: “Today everyone is trying to reduce their carbon footprint. One of the easiest ways is to choose natural gas for your energy needs.” Id at 20.

Several smaller communities provide natural gas service to their residents as a function of municipal utility service. These natural gas utilities are both governed and regulated by the local governing body, which provides the same benefits and challenges of public electric utilities. Benefits include public representation in the governance and operation of the utility. Challenges include lack of oversight over rates and procedures, including policies to protect low-income customers.

The Nebraska Public Service Commission regulates for-profit natural gas utilities in Nebraska. **Neb. Rev. Stat. § 66-1802** states: “Natural gas public utility does not mean a natural gas utility owned or operated by a city or a metropolitan utilities district.” **Neb. Rev. Stat. § 66-1805** provides the Commission with authority to adopt rules and regulations for disconnection and payment plans for delinquent bills.

The Commission has adopted Natural Gas and Pipeline Rules and Regulations found at Title 291, Chapter 9. Rule 012 sets out provisions regarding customer complaints. Rule 013 et seq sets out provisions regarding residential service disconnection. **Neb. Rev. Stat. § 70-1605** is cited as authority for its rule on residential winter disconnection (rule 013.05) and **Neb. Rev. Stat. § 70-1606** is

cited as authority for its rule (013.06) providing that a utility may not disconnect for a person with an existing illness or handicap that would cause the person to suffer an immediate and serious health hazard.

Rule 014 requires utilities under its jurisdiction to compile and make available to its customers a list of payment assistance programs within that utility's area of operation. The list "should include, but is not limited to: local, state, federal and other energy assistance programs and public/private charitable organizations offering or known to offer energy payment assistance."

## Surveys of Electric Nebraska Utilities

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Undergraduates from the Environmental Studies 319 class at UNL assisted in the distribution and collection of surveys sent to each of Nebraska's public power utilities in the spring of 2018. The purpose of this survey research was to gain an understanding of what services each of the 165 public utilities provided for their low-income residents in the form of subsidies, referrals to other organization, energy efficiency measures, and disaster relief. There were many challenges to the feasibility of this data collection, namely, incorrect or outdated contact information, low response rate, and incomplete responses to survey questions.

Of the 164 utilities contacted, responses were received from 59 utilities, a response rate of 36%. The fastest and most convenient available method of contacting providers proved to be the least effective: 28 out of 32 sent emails were left unanswered, with only 2 returned surveys with this method and 2 undeliverable addresses for a response rate of 6% for this method. Online information about utilities varied widely throughout the state, with extensive information available on the websites of larger districts such as LES, OPPD, or NPPD and little to no information on smaller power providers; only 42 of the 164 or 26% of the utilities had websites. 142 of the state's utilities had phone numbers listed, and 101 were called although only 27% were reached by this method. Surveys sent through the mail were the most effective being that 100% of the utilities had addresses listed. Only 19 of the 59 total received responses completed the survey. All others only included the number of customers served by the utility.

Each utility contacted received the following survey questions:

<p><b>1. How many customers does your utility serve?</b></p>
<p><b>2. What steps does your utility take to help low-income customers prevent loss of service due to inability to pay their bills?</b></p> <p>A. Refer to Health and Human Services B. Provide assistance through internal bill assistance fund C. Other; please describe</p>
<p><b>3. Did you track the number of customers who requested assistance described in question 2? If so, how many customers requested such assistance and what was the outcome of that request?</b></p>
<p><b>4. How do low-income customers become aware of programs to assist in paying their bills?</b></p> <p>A. Bill inserts B. Website C. Public service announcements D. Direct contact E. Other</p>
<p><b>5. Does your utility take proactive steps to help low-income customers avoid high electric bills?</b></p> <p>A. Does your utility have energy efficiency programs? B. If so, do you have programs targeted to helping low-income customers? C. Refer to other organizations</p>
<p><b>6. If your utility has energy efficiency programs, how many customers requested service through such programs?</b></p> <p>A. How many of these were low-income customers?</p>
<p><b>7. How do low-income customers become aware of energy efficiency programs?</b></p> <p>A. Bill inserts B. Website C. Public service announcements D. Direct contact</p>

<p><b>8. Are there other organizations in your area that offer weatherization or home energy efficiency upgrades for low-income recipients?</b></p> <p>A. Social service based, such as Community Action</p> <p>B. Charitable organizations, such as churches</p> <p>C. Do you work with such organizations?</p>
<p><b>9. What kind of weather-related emergency response plans does your utility have in place?</b></p> <p>A. Power outages due to storms?</p> <p>B. Impacts of extreme cold?</p> <p>C. Impacts of heat waves?</p> <p>D. Floods?</p> <p>E. Other impacts?</p>
<p><b>10. Does your utility take steps to make your customer-owners aware of weather-related emergency response plans?</b></p> <p>A. If so how do you communicate? For example, bill inserts, website, press releases?</p>
<p><b>11. Does your utility engage in outreach to customers during and after weather-related emergencies?</b></p>
<p><b>12. If so, what kind of outreach, for example, send out press releases, send emails, hold public meetings, or direct contact?</b></p>
<p><b>13. How are customers able to contact you during an emergency?</b></p>
<p><b>14. In the event of a weather-related emergency/disaster, what are your priorities?</b></p>
<p><b>15. Do you have policies to assist low-income, disabled or elderly customers in the event of a weather-related emergency?</b></p>
<p><b>16. Does your utility consider the impacts of climate change in its weather-response planning process?</b></p>

### Significance/Findings

Given the quality and incompleteness of the data, it is difficult to draw conclusions about the practices of all of Nebraska's public utilities. What is clear, however, is that many of the public power providers were difficult to reach and slow to respond to our requests for information. Barriers to communication between Nebraskans and public utility providers may disproportionately affect low-income, elderly, and other vulnerable populations. For example, if there is no clear policy or program with a dedicated staff member for vulnerable populations or accessible and correct contact information to reach the utilities provider, people are less likely to receive necessary help.

While the survey data failed to provide a reference point for how well Nebraska public power is currently serving the needs of low-income customers, the responses provide a snapshot of what is going on around the state.

**Table 1. “Question 2: What steps does your utility take to help low-income customers prevent loss of service due to inability to pay their bills?”**

Refer to Health and Human Services	Provide assistance through internal bill assistance fund	Other; please describe
18	1	9

Of the utilities that responded, LES were the only ones to provide assistance through internal bill assistance fund. All others made referrals to health and human services, a variety of other social service or charitable organizations, or allowed a bill pay plan or acceptance of late payments without shutoff, or a combination of these responses as outlined below in table 2.



**Table 2. Text from responses to question 2: “Other; please describe”**

<b>Utility Name</b>	<b>Response</b>
<b>Crete</b>	We also have Crete Cares and BVCA to assist w/bills
<b>Dawson Public Power District</b>	Refer to Salvation Army, MNCA, Jubilee Center Church Organizations
<b>Neligh</b>	Also refer to local church residences
<b>Plainview</b>	We give HHS number to them and NECAP number as well
<b>Sargent</b>	Give information of the groups that help pay bills
<b>Polk County Rural Public Power District</b>	Information for various assisting agencies is listed on bills with contact information. We work hard in helping [the] customer get assistance prior to disconnecting so long as they make an effort.
<b>Stuart (Village)</b>	Arrange a payment schedule
<b>Wahoo Utilities</b>	We also allow a one week extension on disconnect day.
<b>Wayne</b>	Refer to local minister and congregation association

Question 3 asks if numbers of customers who requested assistance are tracked and if so how many. Many utilities responded that they did not track this (14) and LES clarified that while they do not track how many customers request assistance they do track how many receive assistance. Since LES has a customer base of 136,540 customers, it is understandable why they are not able to track all requests they receive and choose to focus on those who are granted assistance. However, this highlights a potential wording problem for this question as we have no way of knowing if those who answered “no” were saying that they don’t track who gets assistance or that they don’t track who requests for assistance but maybe they do track who receives it. We do know that 4 utilities did not have exact numbers but knew anecdotally which of their customers were getting assistance. Their responses ranged from 0.1% to 2.5% of the total population of their districts. It is important to note that LES, OPPD, and NPPD are not represented in this data and provide service to over half of Nebraska’s population.

**Table 3. Providers who responded with an answer other than “No” to question 3: “Did you track the number of customers who requested assistance described in question 2? If so, how many customers requested such assistance and what was the outcome of that request?”**

Utility Name	Number Customers Requested Assistance	Percent of Total Customers
Oxford (Village)	<10	<2.5%
Plainview	Our town isn’t very big. So we can remember who gets assistance.	N/A
Sargent	5	1.2%
Polk County Rural Public Power District	5-7 (varies in colder months)	0.1%

Question 4 asks how customers requesting assistance are informed of programs that assist with bill paying. The most common answer was a) direct contact with the customer (89%). Many utilities had a combination of multiple different forms of contact (32%). Two sites responded exclusively with e) other: one site said “we give them information and numbers if they ask in the office” and another said “information is printed on our delinquent notes.” Four other sites responded with e) other in addition to some other methods. Specific elaboration about their answers included “referrals,” “most customers who can’t pay utilities already have contact numbers to see about assistance,” and “utility representatives refer customers to various community programs.”

**Table 4. How do low-income customers become aware of programs to assist in paying their bills?**

Bill inserts	Website	Public service announcements	Direct contact	Other
3	3	2	17	6

It is notable that none of the responding utilities consider the impacts of climate change in its weather-response planning process. LES elaborates saying, “No, this cannot be quantified in such a way that it plays into weather response planning.”

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