

Detroit Water and Sewerage Department resumes shutoffs

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After a three-year pause, the Detroit Water and Sewerage Department (DWSD) declared this month that it will resume residential water shutoffs for households behind on their bills—a decision that will leave over 700 homes without water.

The temporary moratorium on the shutoffs was enacted in March 2020 as a response to the outbreak of the COVID-19 pandemic. It was extended in December 2020 through December 2022 with the claim by Detroit Mayor Mike Duggan that a solution would need to be in place by 2023.

Despite Duggan's claim in 2020 that "as long as COVID-19 remains a health concern, no Detroit residents should have concerns about whether their water service will be interrupted," the moratorium was allowed to expire on December 31, 2022, based on the false claim made by Democrats and Republicans alike that "the pandemic is over."

DWSD announced that the shutoffs will begin with residents who owe the most and who live in areas where middle- and high-income earners live, based on US Census data. This means over 700 households are at risk for losing access to water. DWSD has not determined which day next week that the shutoffs will begin.

In January of this year, federal judge Denise Page Hood heard arguments to extend the moratorium as plaintiffs sought a temporary injunction against lifting it. The class action lawsuit, *Taylor v. City of Detroit*, involves six named plaintiffs, against the city, the DWSD and its director, Gary Brown.

Opening arguments to extend the moratorium asserted that "COVID-19 has not vanished" and that in any case "[t]he concern regarding shutoffs pre-dates COVID-19." The suit made note of the implications of cutting off water access for households, including threats to health of affected families, dehydration, infectious diseases and inability to provide medically necessary meals or infant

formula.

The lawsuit stated that its aim was for the "specific purpose of permanently ending water shutoffs and to bring that into effect in a specific way—namely by making water rates affordable for all residential water customers." After the hearing, Judge Hood said she would announce her decision on whether DWSD can resume cutting off water to city residents by Friday, January 27. Seven months later, it appears that no ruling has been officially issued.

Judge Hood was nominated by President Bill Clinton to a seat on the United States District Court for the Eastern District of Michigan in 1994. She became Chief Judge on December 31, 2015, and served in that role until February 2022. She assumed senior status in May 2022 and was succeeded in March 2023 by Judge Jonathon J. C. Grey.

Prior to the shutoff freeze, DWSD had been cutting residents off from water due to lack of payment since 2014. From 2014 to 2019, over 141,000 households were disconnected. A six-month moratorium was sought and denied in 2014, with US bankruptcy Judge Steven Rhodes throwing out the motion declaring that city residents have no "fundamental right" to water services—setting a precedent that was cited in the 2023 lawsuit.

DWSD continued to charge for water during the emergency response to the pandemic. If residents could not pay, their service remained connected while they racked up debt. According to Brown, 60,000 Detroit households owe an average of \$700 each. Brown told the *Detroit News*, "Just in the last three days, we got 500 calls from households that have received final warnings."

The city's "affordability" plan, Detroit Lifeline or the 10/30/50 Plan, was launched in July 2022 as a means to ration water to the poorest residents while increasing monthly payments for most shutoff victims. These plans had little advertising, despite DWSD stating that they went door-to-door to register the eligible households.

Plaintiffs of the January lawsuit argued that many residents are not aware of the program or cannot apply due to barriers involving technology, internet access or required identification papers.

Of the 100,000 households that are apparently eligible for the program, just 14,000 had applied in January, leaving approximately 86,000 susceptible to service interruption. The remaining delinquent households qualify for the 10/30/50 program, which charges residents 10 percent of the overdue balance to get service restored instead of the regular 30 percent charge, and then 50 percent of any outstanding balance—in addition to arrears on any current bills. These residents still face the threat of service interruption in the future if they cannot pay a bill.

The American Civil Liberties Union of Michigan brought the lawsuit to a federal court. Mark P. Fancher, staff attorney for the Racial Justice Project of the ACLU in Michigan, told the *Michigan Chronicle*, “DWSD and the city, generally, have already taken steps in what we regard as the right direction.” Citing the Lifeline program, he said that the ACLU went forward with a preliminary injunction not because the group opposes the idea of the plan, but because the moratorium was scheduled to expire at the end of 2022.

Since the ruling that residents have no “enforceable right to free and affordable water,” the ACLU is now arguing that the return to water shutoffs is premature and the Lifeline program needs to be “refined” and its loose ends “tied up.”

Brown, the DWSD director, scapegoated the households behind on bills, telling the *Detroit Free Press* earlier this month, “When we don’t receive the amount of money that we budgeted for the year through collections, it becomes bad debt that gets passed on to rates in next year’s budget, so it exacerbates the increase in rates for the next year and that hurts everybody.”



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