

allows for either a rulemaking or a general order or otherwise. To the extent that the Administrative Procedure Act would limit orders of general applicability, then 386.310.1 RSMo. overrides any such legalistic qualms.

More curious is the fact that the Commission denied the Motion because it was not a request for a rulemaking, and yet has not initiated an emergency rulemaking. Facing a different crisis involving utility disconnections in 2003, the Commission originated an emergency rulemaking on its own motion. As of yet, Consumers Council is unaware of any action that the Commission has taken on its own motion this entire year to help bend the curve of the COVID-19 pandemic. Missouri remains one of only 15 states in this country that has not taken any official action to pause utility disconnections this year in the face of a once-in-a-lifetime public health crisis.

If the Commission's true concern with an emergency remedy to reduce the impact of the pandemic is merely a concern that the remedy requested by the Consumers Council is not legal, then we would suggest taking some other action, *any action*, that might help save lives this winter. One option, which the Commission does recognize as being authorized is an emergency rulemaking. The Commission should act with expediency and issue an emergency rule on its own motion under Sections 536.021 and 536.025 RSMo. Moreover, as the Commission's own rules go, there are liberal provisions that allow for variance and waiver of its rules for good cause shown.² The Commission could then hold a rulemaking hearing within an appropriate time to allow hospitals, health care

¹ Order Denying Motion, p. 5.

² Rule 20 CSR 4240-2.205.

workers, and public health officials to provide evidence of how a utility shutoff moratorium would alleviate the transmission of COVID-19 and save lives.

An action that is also open to the Commission, or to any individual commissioner, is the issuance of a public statement praising utilities such as Evergy, which have recognized the severity of the COVID-19 pandemic heading into this winter and has voluntarily committed to forgo discontinuances until March 1, 2021, and urging other regulated utilities to follow Evergy's example.

WHEREFORE, Consumers Council respectfully requests that the Commission reconsider its December 16, 2020 Order Denying Motion, or in the alternative:

A. On its own motion, issue an emergency rule for public health and safety that would temporarily prevent electric, natural gas, and water discontinuances through the current end of the State of Emergency in Missouri on March 31, 2021, or

B. Issue a public statement encouraging such utilities to voluntarily stop all discontinuances this winter, in an effort to bend the curve of the COVID-19 pandemic and thus save lives.

Respectfully submitted,

Dated: December 26, 2020

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the official service list for this matter on this 26th day of December, 2020.

/s/ John B. Coffman
