

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of a Motion for an)
Emergency Order Establishing a)
Temporary Moratorium on Utility)
Discontinuances to Protect Public)
Health and Safety by Mitigating the)
Spread of the COVID-19 Pandemic.) Case No. AO-2021-0164

REPLY OF THE CONSUMERS COUNCIL OF MISSOURI

Several regulated utilities filed responses to Consumers Council of Missouri’s Motion for an Emergency Order and Request for Expedited Treatment (“Motion”) on Monday, December 14, 2020. Apart from an incorrect legal argument that the motion should be treated as a request for rulemaking¹, the responses *completely ignore the entire point of the Motion*. The utility responses largely discuss the availability of various energy programs and public assistance, a diversion from the main issue. The singular argument of the Motion is actually that the Commission has a once-in-a-lifetime opportunity to save many lives this winter if it orders a temporary, state-wide moratorium on involuntary utility disconnections with a consistent and transparent end date.

¹ The Response of Missouri-American Water Company argues on page 3 that Consumers Council’s Motion should be considered a request for an emergency rule and that the Commission must follow the state’s Administrative Procedures Act, under statutes Section 536.010(6) and Section 536.025, as was done in Case No. AX-2002-203. However, that is not the relief requested. Consumers Council is asking the Commission to invoke its power under Section 386.310.1 RSMo. to issue a “general order”, which is relief that is differentiated from a “rule” in that statute. The powers granted to the Commission by 386.310.1 RSMo. are clearly greater than its power to promulgate rules under those different statutory sections. In 2002-2003, the issue justifying emergency action by the Commission was the lack of sufficient energy assistance funds and a spike in natural gas prices; today the issue is the extreme pressure being felt by hospitals and health care workers due to an ever-worsening pandemic, and the remedy needed today is different. The issue in 2002-2003 was the protection of *consumers* who not able to access energy assistance. The instant case involves what the Commission can do to protect the *health and safety of the entire general public*.

This is an opportunity to meaningfully alleviate the pressure on hospitals and health care workers this winter and to statistically bend the curve of the COVID-19 pandemic during a time that is projected to be the most devastating period of this crisis yet.

None of the utility responses dispute the fact that the current COVID-19 pandemic qualifies as an “emergency” in Missouri. It also remains undisputed that the pandemic is growing exponentially worse as winter approaches. None of the utility responses dispute the Duke University research that proves this pandemic has been statistically worse at times and places in the United States when and where there has been no utility shutoff moratorium. It is thus an unchallenged fact that the Commission currently has in its hands the power to save untold lives by granting the requested emergency relief.

Moreover, the relief requested by the Consumers Council is reasonably narrow and limited in its intent to mitigate the ever-worsening pandemic. The Motion begs this Commission to merely issue an order for a temporary moratorium on the utility discontinuances of investor-owned electric, natural gas, and water utilities until at the date of March 31, 2021. This is requested to protect the health and safety of the general public. There is more than sufficient reason to believe that this simple relief **would mitigate the transmission of this disease, and thus alleviate the burden on hospitals and other medical caregivers, and would save lives.** A patchwork quilt of inconsistent voluntary moratoria will not adequately address the growth of the COVID-19 pandemic.

Missouri needs a clear and transparent state-wide standard on utility shutoffs during this extraordinary season.

It is important to realize that any financial impact from a winter-long moratorium on these regulated utilities would be negligible, as many days are already no-cut days due to the normal Cold Weather Rule² and also due to the rule-based virtual guarantee of utility recovery of any costs related to shut-off moratoria.³

The COVID-19 Winter is coming. Many other institutions, businesses, and individuals are currently making extraordinary sacrifices in an effort to help bend the curve of this pandemic. A winter-long shutoff moratorium is not much to ask of the regulated utilities, especially when it has been proven that it would save a significant number of lives. The Commission has a unique (and perhaps a once-in-a-lifetime) opportunity to join in with these other entities by issuing an emergency order that saves the lives of many Missourians.

Respectfully submitted,

Dated: December 15, 2020

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² 20 CSR 4240-13.055(5).

³ 20 CSR 4240-13.055(12).

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to the following persons on this 15th day of December, 2020. This list was derived from the Commission's EFIS contact query function. The intent was to reach as many potentially impacted utilities as possible with this courtesy service.

/s/ John B. Coffman

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