

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held by telephone and internet audio conference on the 13th day of January, 2021.

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.)

File No. AO-2021-0164

ORDER DENYING REQUEST FOR EMERGENCY RULE

Issue Date: January 13, 2021

Effective Date: January 23, 2021

On December 16, 2020, the Commission issued its *Order Denying Motion*, which denied a motion filed by Consumer Council of Missouri (Consumers Council) that asked the Commission to issue an emergency order placing a moratorium on involuntary residential disconnections by water, electric, and gas corporations and a waiver of late fees through at least March 31, 2021. Consumers Council filed an *Application for Rehearing and/or Reconsideration* on December 26, 2020. On January 4, 2021, a group of utilities¹ filed a response in opposition to Consumers Council's request for rehearing.

In addition to asking for rehearing of the order denying its motion, Consumers Council's application requests the Commission issue an emergency rule that would temporarily prevent electric, natural gas, and water disconnections through

¹ Union Electric Company d/b/a Ameren Missouri, Evergy Missouri Metro, Inc. d/b/a Evergy Missouri Metro, Evergy Missouri West, Inc. d/b/a Evergy Missouri West, Spire Missouri, Inc., Missouri-American Water Company, and Liberty Utilities (The Empire District Electric Company, The Empire District Gas Company, Liberty Utilities (Missouri Water) LLC, and Liberty Utilities (Midstates Natural Gas) Corp.).

March 31, 2021, because of the COVID-19 pandemic. Under Section 536.025.1, RSMo, an emergency rule may be made only if the Commission:

- (1) Finds that an immediate danger to the public health, safety or welfare requires emergency action or the rule is necessary to preserve a compelling governmental interest that requires an early effective date as permitted pursuant to this section;
- (2) Follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances;
- (3) Follows procedures which comply with the protections extended by the Missouri and United States Constitutions; and
- (4) Limits the scope of such rule to the circumstances creating an emergency and requiring emergency action.

The Commission finds that the rulemaking requested by Consumer Council does not meet the criteria for the issuance of an emergency rule. At the beginning of the pandemic in this state, the large Commission-regulated utilities² each voluntarily placed a moratorium on residential disconnections. This action allowed the utilities time to take the necessary legal and organizational steps to revise their payment plans, collections processes, customer financial assistance programs, and other operations to better serve their customers during the pandemic. These utilities reported to the Commission that most of their repayment and financial assistance programs were still available and were funded. Additionally, stopping the regular disconnection processes may unintentionally harm customers by making them ineligible to receive financial assistance from the Low Income Home Energy Assistance Program (LIHEAP) because no disconnection was imminent. The utilities stated that customers often did not seek help with payment plans and financial assistance until prompted to do so by receiving a disconnection notice.

² Union Electric Company, d/b/a Ameren Missouri; Spire Missouri, Inc.; Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West (collectively referred to as “Evergy”); Summit Natural Gas of Missouri; The Empire District Electric Company, The Empire District Gas Company, Liberty Utilities (Missouri Water) LLC, and Liberty Utilities (Midstates Natural Gas) Corp. (collectively referred to as “Liberty”); Missouri-American Water Company (MAWC).

Further, placing a moratorium on disconnections may leave customers with insurmountable arrearages when the moratorium expires.

The Commission finds that the programs put in place by the utilities to avoid disconnections during the pandemic should be allowed an opportunity to work and have been working. The CSWR-Affiliated Utilities³ reported that it had very few customers requesting extended payment plans at the end of its voluntary moratorium and had not involuntarily disconnected any customers during the pandemic. Ameren Missouri reported that its current programs are working as the number of disconnections in August 2020 were lower than in August 2019. Evergy also reported that its programs are working as evidenced by the fact that the number of customers on pay arrangements at the end of November 2020 was greatly increased compared to the same period in 2019 but the average amount of arrears remains similar to pre-pandemic numbers. MAWC reported that since it resumed disconnections in September 2020, monthly disconnections have decreased compared to the pre-pandemic number.

Additionally, the Commission's Cold Weather Rule⁴ is in effect from November 1 to March 31 for electric and gas service. This will also decrease the amount of disconnections and increase the length of payment plans, alleviating some of the disconnection fears. Finally, several of the large utilities noted that they had additional voluntary moratoriums on disconnections for nonpayment and the waiver of late fees through the end of December 2020 and some into March 2021.

³ Confluence Rivers Utility Operating Company, Inc.; Elm Hills Utility Operating Company, Inc.; Hillcrest Utility Operating Company, Inc.; Indian Hills Utility Operating Company, Inc.; Raccoon Creek Utility Operating Company, Inc.; and Osage Utility Operating Company, Inc. (collectively referred to as the "CSWR-Affiliated Utilities").

⁴ 20 CSR 4240-13.055(6).

The Commission also finds that an emergency rule placing a moratorium on disconnections could have the unintended consequence of causing financial distress on some municipalities, such as City of St. Joseph and the City of Jefferson, because they rely on established contracts with regulated water utilities to disconnect water customers for non-payment of sewer services provided by the non-regulated utility. The municipalities stated that the voluntary moratoriums of the utilities at the beginning of the pandemic put an unintended financial strain on their public works systems and their ability to service municipal bonds.

Further, a blanket moratorium for all regulated water utilities no matter their size, may be too broad. The Commission Staff indicated that such a moratorium should not be applied to the small systems and the CSWR-affiliated utilities provided information that no such moratorium was necessary for its systems.

Based on Consumers Council's motion and its application for rehearing and the responses of Staff, the utilities, and other entities in support of and in opposition to the motion, the Commission finds that an emergency rule imposing a temporary moratorium on residential disconnections for regulated electric, gas, and water service in the state of Missouri is not necessary to protect the public from an immediate danger. Further, the Commission finds that such emergency action has not been calculated to assure fairness to all interested parties or that the scope of the requested action is appropriately limited so that it does not cause additional harm. Therefore, the Commission finds that the criteria for promulgating an emergency rule has not been met and that request is denied.

THE COMMISSION ORDERS THAT:

1. The request for an emergency rule is denied.

2. This order is effective January 23, 2021.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

Silvey, Chm., Kenney, Rupp, Coleman, and
Holsman CC., concur.

Dippell, Senior Regulatory Law Judge