

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

Brett Felber,)	
)	
Complainant,)	
)	
v.)	<u>Case No. GC-2018-0345</u>
)	
Spire Missouri Inc. d/b/a Spire,)	
)	
Respondent.)	

MOTION TO CHANGE STATUS OF COMPLAINT AND TO DISMISS

COMES NOW the Staff of the Missouri Public Service Commission and for its *Motion to Change Status of Complaint and to Dismiss* states as follows:

1. On May 16, 2018, Brett Felber (“Complainant”) made a filing with the Commission which was docketed as a complaint against Spire Missouri Inc. d/b/a Spire (“Respondent”). On May 17, 2018, the Commission issued, by delegation of authority, an *Order Giving Notice of Contested Case, Directing Answer and Directing Staff Investigation* (“Order”) which ordered Respondent to file an answer to the complaint no later than June 18, 2018, and ordered Staff to investigate the complaint and file a report no later than July 18, 2018. The Order also indicated that the complaint will be treated as a small formal complaint case under Commission Rule 4 CSR 240-2.070(15) unless otherwise ordered.

2. 4 CSR 240-2.070(15)(D) provides that “Staff shall not advocate a position beyond reporting the results of its investigation” in a small formal complaint case. 4 CSR 240-2.070(15)(B) provides that if “any party believes that a complaint should or should not be handled as a small formal complaint, that party may file a motion with the

commission requesting that the status of the complaint be changed.” Since the instant complaint ignores the Commission’s orders in a prior case, Case No. GC-2018-0199 (as discussed in more detail below), and does not comply with the Commission’s rules, Staff requests the status of the case be changed to allow Staff to seek dismissal.

Background

3. On December 6, 2017, Mr. Felber’s wife filed a complaint against Respondent concerning ** _____
_____.** Her complaint was docketed as Case No. GC-2018-0159 and is currently pending before the Commission¹.

4. On January 19, 2018, in the name and on behalf of the Church of Jesus & Hope, Mr. Felber filed a complaint against Respondent concerning ** _____
_____.** That case was docketed as Case No. GC-2018-0199. On January 22, 2018, the Commission issued a *Notice of Deficiency* (“Notice”) in Case No. GC-2018-0199 in which the Commission stated that documents filed with that complaint indicated that the church is a nonprofit corporation²; that the complaint was signed by Mr. Felber who is not identified as an attorney licensed to practice law; pursuant to Commission Rule 4 CSR 240-2.040(5) pleadings must be signed by a licensed attorney unless the entity signing the pleading is a natural person representing only himself; and since the church’s complaint was not signed by a Missouri-licensed attorney the filing was deficient. The Notice allowed the case to

¹ On June 7, 2018, Mr. Felber’s wife made a filing in Case No. GC-2018-0159 to inform the Commission that on May 31, 2018, she and Mr. Felber filed for bankruptcy and listed the debt that Spire claims is owed in the bankruptcy. See EFIS entry number 13 in Case No. GC-2018-0159.

² **

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remain open until February 19, 2018, to allow the church to correct the deficiency by having a licensed attorney file an entry of appearance on its behalf. No such filing having been made by that date, on February 21, 2018, the Commission issued an *Order Rejecting Complaint and Closing File* which rejected the complaint.

The Complaint

5. ** _____

_____ .** As was the situation with the complaint in GC-2018-0199, the instant “complaint” was not signed by a licensed attorney – in fact, it wasn’t signed at all. Therefore, like Case No. GC-2018-0199, the Commission should dismiss or reject the instant complaint.

6. In addition, the instant complaint should be dismissed / rejected for multiple other reasons, such as failure to state a claim on which relief may be granted; failure to allege a violation of any provision of law or of any rule or order or decision of the Commission as required by 4 CSR 240-2.070(4) [see *also* Section 386.390.1, RSMo. and 4 CSR 240-2.070(1)]; failure to include the signature, phone number, facsimile number, and email address of complainant or complainant’s legal representative as required by 4 CSR 240-2.070(4)(B); and failure to include the relief requested as required by 4 CSR 240-2.070(4)(E).

7. 4 CSR 240-2.070(7) provides that “[t]he commission, on its own motion or on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or

an order of the commission, or may strike irrelevant allegations.” Staff requests that the filing and other requirements set forth in the Commission’s Order issued May 17, 2018, be suspended while the Commission gives Complainant notice and an opportunity to respond to this motion.

WHEREFORE, Staff moves the Commission for an order changing the status of this complaint and then dismissing / rejecting this complaint for the reasons stated above after giving Complainant notice and an opportunity to respond hereto, and in the interim to suspend all filing and other requirements set forth in the Commission’s Order issued May 17, 2018.

Respectfully submitted,

/s/ Jeffrey A. Keevil

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, or transmitted by facsimile or electronic mail to counsel of record this 11th day of June, 2018.

/s/ Jeffrey A. Keevil