

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

Kyland Powell, )  
 )  
 Complainant, )  
 )  
 Vs. )  
 )  
 )  
 Spire Missouri Inc. d/b/a Spire, )  
 )  
 Respondent )

**File: GC-2025-0021**

**STAFF’S MOTION TO DISMISS**

**Introduction**

The Staff of the Missouri Public Service Commission ("Staff"), by and through counsel, respectfully requests that the Commission dismiss the complaint filed by Kyland Powell on the basis that it fails to state a claim upon which relief can be granted. Kyland Powell's complaint does not allege any violation of Commission rules, regulations, or any matter over which the Commission has jurisdiction. This motion is supported by the Commission's recent decision in *Ragland v. Spire*, GC-2024-0314, and by the arguments laid out in Staff's report and recommendation in that case.

**Background**

Kyland Powell's complaint alleges that Spire has violated various federal laws, the Uniform Commercial Code (UCC), and other statutes by refusing his payment. The complaint references several purported violations without demonstrating how these relate to the jurisdiction of the Missouri Public Service Commission.

## **Legal Standard**

Under Commission Rule 20 CSR 4240-2.070(7), the Commission may dismiss a complaint for failure to state a claim upon which relief can be granted or for failure to comply with any provision of these rules or an order of the Commission. Section 386.390.1, RSMo, provides that the Commission shall hear complaints regarding "a violation of any provision of law, or of any rule or order or decision of the Commission."

### **Applicable Regulation on Qualified Payments**

Commission Rule 20 CSR 4240-13.015(1)(V) defines the forms of payment acceptable to utilities. It states: "An acceptable utility bill payment is defined as cash, draft of good and sufficient funds, or electronic transfer."

### **Identified Statutes, Regulations, and Alleged Facts**

Kyland Powell's complaint cites the following statutes and regulations:

1. Missouri Revised Statutes, Chapter 407 - Missouri Merchandising Practices Act (MMPA)
  - Kyland Powell alleges Spire violated this statute by not providing full disclosure to consumers of their rights and security interests related to their accounts.
2. Truth in Lending Act (TILA)
  - Kyland Powell claims Spire violated this federal statute by engaging in deceptive practices and failing to provide necessary disclosures.
3. Fair Credit Reporting Act (FCRA)
  - Kyland Powell alleges Spire violated this federal statute through lack of disclosure and deceptive practices.

4. Missouri Revised Statutes, Chapter 400 - Uniform Commercial Code (UCC)
  - Kyland Powell claims Spire did not honor negotiable instruments (Chapter 403) and denied a secured transaction (Chapter 4).
5. Federal Trade Commission Act (FTC Act)
  - Kyland Powell alleges Spire engaged in unfair and deceptive practices, causing substantial injury.
6. Uniform Commercial Code, Section 400.3-603
  - Kyland Powell claims Spire violated this section by not honoring his tender of payment.
7. Other Federal Provisions Cited:
  - 15 U.S.C. 1692
  - 18 U.S. Code 1951

### **Alleged Facts**

- Kyland Powell claims he has sent Spire "Registered Secured Instruments" as payment.
- Kyland Powell alleges Spire accepted his first instrument but denied subsequent payments.
- Kyland Powell claims Spire's refusal to accept these instruments constitutes a breach of trust and various legal violations.
- Kyland Powell asserts he has demanded full control and security interest over his account and seeks reversal of equity and interest paid to the account.

## **Analysis and Conclusion**

The Staff of the Commission has reviewed the statutes, regulations, and federal laws cited in Kyland Powell's complaint, as well as the specific facts he alleges. Based on this thorough review, the Staff concludes that:

1. The Commission does not have jurisdiction to enforce the federal statutes cited by Kyland Powell (TILA, FCRA, FTC Act, 15 U.S.C. 1692, 18 U.S. Code 1951).
2. Kyland Powell's allegations under Missouri's UCC and MMPA do not demonstrate any violation of the rules or orders of the Commission or any other matter over which the Commission has jurisdiction.
3. The document Kyland Powell tendered does not qualify as a "draft" under Missouri law, as it lacks essential elements such as a bank as the drawee, a proper signature by the drawer, and identification of any drawee.
4. Kyland Powell has not alleged any facts which, if true, would trigger the Commission's jurisdiction or authorize the Commission to grant Kyland Powell the relief he seeks or any other relief.

Therefore, for the reasons stated above, Staff respectfully requests that the Commission dismiss Kyland Powell's complaint in its entirety for failure to state a claim upon which relief can be granted. Kyland Powell's allegations do not fall within the scope of the Commission's jurisdiction, and the purported draft does not meet the legal standards of a negotiable instrument under Missouri law. Furthermore, pending the Commission's disposition of this motion, Staff recommends that the Commission suspend Spire's obligation to file any reply to the complaint.

**WHEREFORE**, Staff prays that the Commission grants its motion to dismiss the complaint filed by Kyland Powell.

Respectively Submitted,

/s/ Paul T. Graham

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Missouri Public Service Commission

**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 as reflected on the certified service list maintained by the Commission in its Electronic Filing Information System on this 22<sup>nd</sup> day of July, 2024.

/s/ Paul T. Graham