

16th JUDICIAL CIRCUIT COURT, JACKSON COUNTY, MISSOURI. 01/16/2025

AT INDEPENDENCE

FILED

4:00 pm, Jan 16, 2025

MISSOURI COURT OF APPEALS

WESTERN DISTRICT

Case Number:

KYLAND LAMONT POWELL ESTATE, PLAINTIFF

Vs.

WD87769

PUBLIC SERVICE COMMISSION & SPIRE MISSOURI d/b/a SPIRE, Respondent

NOTICE OF APPEAL for WRONGFUL DENIAL, INVALID HEARING

Pursuant to MISSOURI REVISED STATUTES SECTION 386.390,386.410, 386.500,386.510,
42 U.S.C. § 1983

INTRODUCTION:

COMES NOW, Kyland-Lamont: POWELL a Living Breathing Free Spirit Man of Sound Mind and Good Faith, who is competent and is the Age of Majority Operating only under the Jurisdiction of God in Full Faith and Credit, I Reserve All Rights and Waive None. I am the **Trustee / Attorney in Fact** for **KYLAND LAMONT POWELL ESTATE AND TRUST**. As the Estate holds Legal Title Beneficial Ownership and Property Rights over names KYLAND L POWELL, KYLAND POWELL, KYLAND LAMONT POWELL(**Legal Fictions**) who is a **Beneficiary** of the Trust, I hereby respectfully, request that the Courts go over the PSC "Staff" Decision to Dismiss My Complaint as it was a matter within the Commission's Jurisdiction that could have been redressed to the Estate as **SPIRE** is suppose to be in Compliance with **PSC** and **SEC** regulations, and any violation of **SEC** regulations does indirectly affect the rates and services practices which is regulated by PSC. As property of the Estate, a Social Security Number was Utilized to Open the account For **SPIRE GAS** Services, which is Considered under **RSMO's Article 9-103 "Secured Transaction"** is an Asset to Secure an Obligation.

1.

BACKGROUND AND AUTHORITY:

A. I am the duly appointed Power of Attorney (POA) for the Estate Trust authorized to act on behalf of the Estate in all legal and financial matters. Attached hereto as **Exhibit A** is a true and correct copy of my POA documentation.

B. I have filed this affidavit in response to actions and omissions by the Missouri Public Service Commission (Case Number GC-2025-0021) that violated statutory provisions under **RSMo Chapter 386**, my constitutional due process rights, and **RSMo 107.010.2**.

C. The Estate holds a secured party interest in its property and financial instruments, evidenced by a properly filed **UCC-1 Financial Statement**. This establishes the Trust's priority over debts or obligations connected to its assets. As a fiduciary representative of the Trust, I have a duty to ensure its assets are not unlawfully encumbered, misused, or diminished by external parties, including public utilities or state regulatory bodies.

2.

FACTUAL BACKGROUND:

- **PSC Jurisdiction and Regulations:**
- **The Missouri Public Service Commission ("PSC")** regulates public utilities in Missouri, including **SPIRE GAS**, under **Chapters 386, 392, and 393 of the Revised Statutes of Missouri (RSMo)**.
- The PSC has the authority to ensure that public utilities provide fair, just, and reasonable rates and services to customers.
- **My complaint requested the following:**
 - A thorough investigation of SPIRE for alleged violations of state and federal law.
 - Proper acknowledgment of the Estate's secured party interest as documented in the UCC filing.
 - Access to PSC commissioners' surety bonds, per **RSMo 107.010**, to confirm compliance with statutory obligations.
 - Despite the seriousness of the allegations and evidence provided, the PSC denied my complaint without a proper hearing or meaningful acknowledgment of my legal standing as POA for the Estate.

3.

Allegation Of Violation:

- **Despite** the Estates status as an "Customer", Spire had improperly charged rates and interest as though the Estate is a typical consumer of their gas services. This practice is not only unfair but also constitutes a violation of PSC regulations which mandate that rates charged to customers must be just and reasonable.
- **SPIRE** had Claimed Their "Utility Bill" is not a Form of Payment, When According to the **Bill of Exchange Act Section 3 and 83**, Any "Bill" that has a unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or

determinable future time a sum certain in money, is in fact a bill of exchange which is also known as A "Draft".

- **SPIRE** dishonored its duty to uphold its Oath to the **RSMO's** Statutes and Codes by Enforcing a Policy that is not in accordance with Missouri's Constitution.
- **Under** the law governing **bills of exchange** (such as the Uniform Commercial Code), the drawee (Spire) must honor the bill if it is presented in proper form and all conditions are met. A company policy cannot override these legal obligations.
- **As previously** stated in the formal complaint, SPIRE had accepted and honored the first original tender of payment which was a registered security instrument that was processed and credited to the account, which is the correct and lawful way to perform bills of exchange. I had demanded that Spire would continue to honor my performance, which they went ahead and dishonored all other tender of payments made to them.
- Under **Chapter 386** and **Chapter 393 of the Revised Statutes of Missouri (RSMo)**, which govern public utilities, SPIRE is required to maintain fair and reasonable practices concerning payment acceptance, billing, and customer service. The abrupt refusal of a previously accepted form of payment without prior notice or a valid reason is deemed as a violation of the consumer protections afforded under these statutes.
- **SPIRE** response had requested the Commission to "Deny" the complaint without rebutting any of the claims. SPIRE counsel of record demonstrates a lack of gravitas and fail to recognize the full magnitude of the circumstances.
- **By accepting** the tender of payment in one billing cycle and dishonoring the same payment method in the following cycle, SPIRE appeared to be engaging in inconsistent billing practices. As a regulated public utility, Spire is required to follow transparent, fair, and consistent billing practices. Arbitrarily refusing a payment method that was previously accepted without giving adequate notice or rationale is a violation of the principles of good faith and fair dealing, which are embedded in utility law and the regulatory framework governing public utilities in Missouri.
- **The refusal of payment after it had been previously accepted may also constitute** a violation under the **Uniform Commercial Code (UCC)**, which governs commercial transactions. Under **UCC Article 3**, a party that dishonors a negotiable instrument without proper cause may be subject to legal liabilities for breach of contract or improper rejection of payment.
- **The utility** service account was established by a beneficiary of the Estate (hereinafter "Beneficiary") with Spire.

- **The Estate** holds a secured interest over the Beneficiary's financial obligations via a properly filed UCC financial statement, which establishes the Estate as the priority creditor over the Beneficiary's debts.
- **The Missouri Public Service Commission ("PSC")** has failed to uphold its statutory obligations to the Estate, resulting in financial harm and inconsistent billing practices that negatively impact the Estate.

4.

COMPLAINT FILED WITH THE PSC AND RESPONSE:

A. On 07/17/2024, I filed a formal complaint with the PSC, alleging improper billing practices by SPIRE, as well as violations including securities fraud and misrepresentation of billing amounts that harm the Estate.

- While the Missouri PSC does not have direct jurisdiction over securities fraud, the fraudulent activities of a utility company, when tied to its financial practices and resulting in harm to consumers through increased rates or diminished service quality, fall squarely within the PSC's regulatory purview. Securities fraud may be handled by the **Missouri Secretary of State's Securities Division** or the **Securities and Exchange Commission (SEC)**, but the impact of such fraud on utility rates and services is a matter for the PSC to address.
- I respectfully requested for PSC to Review all rate adjustments tied to any financial misconduct and disallow the recovery of any costs that were not prudently incurred.
- I furthermore requested PSC to Take corrective action, including ordering refunds, imposing sanctions, and ensuring future compliance with PSC standards and regulations.

B. In the complaint, I requested the PSC's thorough investigation into SPIRE's actions and demanded access to records, including oath of office and bond documents for PSC officials, to validate compliance with RSMo 107.010.

C. The PSC denied the complaint and rejected my request for rehearing, stating that no investigation or corrective action would be taken.

5.

LEGAL VIOLATIONS AND HARM DONE TO THE ESTATE:

A. Violation of RSMo 107.010: The PSC failed to provide oath of office and bond records as requested, in violation of **Missouri Revised Statutes Section 107.010**, which requires documentation of official bonds and oaths for transparency and accountability.

B. Violation of RSMo 386.410 – Public Hearings Requirement

Under RSMo 386.410, the PSC is required to conduct public hearings when complaints are filed. The statute mandates that complainants be given the opportunity to present evidence, cross-examine witnesses, and make their case in a transparent and fair setting.

The PSC failed to hold any hearing, depriving me and the Estate of the opportunity to be heard and to substantiate our claims. This omission constitutes a clear violation of the statutory mandate.

C. Violation of RSMo 386.310 – Duty to Investigate Complaints

Under RSMo 386.310, the PSC is obligated to investigate all complaints regarding public utilities. The PSC arbitrarily denied my complaint without conducting any investigation into the allegations of inconsistent billing practices, securities fraud, and injury to the Estate. This failure to investigate is a dereliction of statutory duty and has caused harm to the Estate, which continues to suffer financial injury.

D. Violation of due process rights under the Fifth and Fourteenth Amendments

- Denying a proper hearing in which the Trust could present evidence and arguments.
- Arbitrarily dismissing the Trust's complaint without investigation, as required under **RSMo 386.310** and **RSMo 386.410**.

E. Failure to Protect Secured Party Rights: By disregarding the Estate's secured position as evidenced in the UCC filing, the PSC permitted SPIRE to apply billing charges and practices that improperly burden the Estate with debt associated with the Beneficiary's utility account, a clear violation of my secured rights and interests on behalf of the Estate.

F. Failure to Investigate Alleged Fraud and Inconsistent Billing: The PSC neglected its duty to investigate claims of inconsistent billing practices, securities fraud, and improper application of charges, thereby allowing potentially fraudulent actions to harm the Estate.

6.

REQUEST FOR JUDICIAL REVIEW:

A. Based on the PSC's failure to fulfill its statutory duties, I respectfully request that the Court grant a judicial review of the PSC's decision.

B. I seek the Court's intervention to:

- Direct the PSC to provide documentation of oaths and bonds per **RSMo 107.010**.
- Compel the PSC to conduct a thorough investigation into SPIRE billing practices and any alleged securities violations.
- Confirm the Estate's priority as a secured creditor in connection to the Beneficiary's utility account, as established by the UCC filing, and direct the PSC to enforce this priority.
- Order any other relief the Court deems just and necessary to protect the Estate from further harm.

7.

STATEMENT OF DAMAGES AND INJURIES TO THE ESTATE:

A. Due to the PSC's inaction and failure to uphold statutory obligations, the Estate has suffered financial injury in the form of "over-billing, unauthorized charges, and increased administrative costs due to improper account assignments".

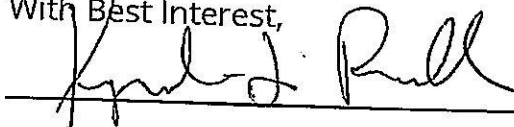

B. These damages directly impact the Estate's assets, diminishing its value and threatening its ability to meet its obligations to its beneficiaries.

CONCLUSION

In light of the above facts, I respectfully request that the Court grant a judicial review of the PSC's decision, and I respectfully request that the Court:

- Declare the actions of the Missouri PSC in this matter unlawful and invalid.
- Order the PSC to provide a public hearing in compliance with **RSMo 386.410**, allowing the Estate to present its evidence and arguments.
- Require the PSC to disclose commissioners' surety bonds as mandated under **RSMo 107.010**.
- Recognize the Trust's status as a secured party with priority over debts or claims related to its assets.
- Grant any other relief the Court deems just and proper to protect the Trust from further harm.

With Best Interest,

(Kyland-L: POWELL)

(Plaintiff/Trustee)

Supporting Documentation

- Attached as **Exhibit A:** Trust documentation, including the trust agreement and my authority as its representative.
- Attached as **Exhibit B:** UCC-1 Financial Statement demonstrating the Trust's secured party interest.
- Attached as **Exhibit C:** Correspondence with the PSC, including denial of the complaint and request for bonds.

IN WITNESS WHEREOF, the said party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Signature

Kyland-L. Powell

STATE OF MISSOURI
COUNTY OF JACKSON

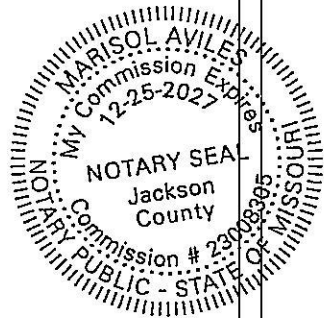
I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared (Kyland-L. Powell) who is personally known to me or who has produced Driver License as identification and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same.

WITNESS my hand and official seal in the County and State aforesaid this 16th day of January 2025.

Notary Public

Printed Name: Marisol Aviles

Marisol Aviles
My commission expires: 12-25-2027



DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTHCARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

I, KYLAND POWELL of 5916 Sterling Avenue, Raytown, Missouri, 64133, appoint Kyland-L Powell of 1004 Quindaro Boulevard, Kansas City, Kansas, 66104, and a 2nd Agent known as

Lamont Bey of 1004 Quindaro Boulevard, Kansas City, Missouri, 66104,

as my agent(s) (attorney-in-fact(s)) to act for me in any lawful way with respect to the following initialed subjects:

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS. TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING. TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT. YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD.

INITIAL

- _____ (A) Real property transactions.
- _____ (B) Tangible personal property transactions.
- _____ (C) Stock and bond transactions.
- _____ (D) Commodity and option transactions.
- _____ (E) Banking and other financial institution transactions.
- _____ (F) Business operating transactions.
- _____ (G) Insurance and annuity transactions.
- _____ (H) Estate, trust, and other beneficiary transactions.
- _____ (I) Claims and litigation.
- _____ (J) Personal and family maintenance.
- _____ (K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service.
- _____ (L) Retirement plan transactions.
- _____ (M) Tax matters.
- VP _____ (N) ALL OF THE POWERS LISTED ABOVE.

YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

In addition to the above-stated powers, the Principal authorizes the Agent to the following special instructions: Agents will have full access to handle all Legal Affairs, Private and Public, Will also act as Trustee's and manage Bank Accounts Connected to the Trust

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

This Durable Power of Attorney SHALL NOT terminate upon my subsequent incapacity.

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED.

EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

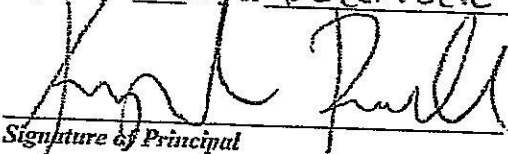
I have designated more than one agent, the agents are to act SEPARATELY.

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE. IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY", THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER.

I agree that any third party who receives a copy of this document may act under it.

Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 11 day of December, 2024.


Signature of Principal

514.98.3177
Principal's Social Security Number

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which the certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of Missouri)

County of Jackson)

On 11th of December, 2024, before me, Jessica Renee McElwaine,
a Notary Public in and for the State of Missouri, personally appeared
Killard Piwell who