

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

**BRETT FELBER,**

Complainant,

v.

**UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI,**

Respondent.

Case No. EC-2026-0004

**SUPPLEMENTAL LEGAL MEMORANDUM IN OPPOSITION TO THE  
SHOW CAUSE ORDER AND REQUEST FOR FULL COMMISSION  
REVIEW**

**I. INTRODUCTION**

Complainant, Brett Felber, respectfully submits this Supplemental Memorandum in further opposition to the Missouri Public Service Commission's ("Commission") Show Cause Order dated October 23, 2025, and renews his request for Full Commission Review under 20 CSR 4240-2.160(1). The Order is defective on both procedural and jurisdictional grounds, violates the Missouri and California Right to Financial Privacy Acts, and demonstrates a fundamental denial of due process through obstruction of EFIS access and improper delegation of quasi-judicial functions.

**II. DEFECTIVE NATURE OF THE SHOW CAUSE ORDER**

**1. Failure to Provide Minimum Notice Period**

Under 20 CSR 4240-2.116(3), the Commission must provide at least ten (10) days' written notice before any dismissal. The Order of October 23, 2025, afforded only four (4) days (October 23–27), rendering it procedurally void. *See State ex rel. Noranda Aluminum v. PSC*, 24 S.W.3d 243 (Mo. App. 2000).

**2. Improper Delegation of Judicial Authority**

The Order was issued "by delegation pursuant to §386.240 RSMo." However, §386.240(2) RSMo permits delegation only for ministerial or clerical functions, not quasi-judicial actions such as dismissal or sanctions. *See State ex rel. Deffenbaugh Industries v. PSC*, 894 S.W.2d 268 (Mo. App. 1995).

### **3. Absence of Findings and Conclusions**

The Order fails to include written findings of fact or conclusions of law, violating §536.090 RSMo and 20 CSR 4240-2.115(1). *See* AG Processing Inc. v. PSC, 120 S.W.3d 732 (Mo. App. 2003).

### **4. Denial of Due Process**

Blocking the Complainant's EFIS access violates 20 CSR 4240-2.135(2) and §386.500 RSMo, denying meaningful participation. *See* Goldberg v. Kelly, 397 U.S. 254 (1970); Mathews v. Eldridge, 424 U.S. 319 (1976).

## **III. DEFECTIVE SUBPOENAS AND VIOLATIONS OF PRIVACY STATUTES**

### **1. Missouri Right to Financial Privacy Act (MRFP)**

§408.680.1 RSMo expressly prohibits any government agency from obtaining financial records from a bank unless pursuant to a judicial subpoena or customer authorization.

§408.680.2 RSMo explicitly bars administrative subpoenas directed to financial institutions. Serving joint account holders without notice violates §408.690 RSMo, which mandates written notice at least ten (10) days prior to disclosure.

### **2. Federal Right to Financial Privacy Act (FRPA), 12 U.S.C. §§3401–3422**

§3402(1) provides that financial institutions may disclose records only upon receipt of a judicial subpoena or customer consent. Discover Bank, as a federally chartered FDIC-insured bank, is governed by FRPA and thus cannot respond to administrative subpoenas issued by state agencies. *See* Anderson v. Laurel Bank, 849 F.2d 111 (4th Cir. 1988).

### **3. California Right to Financial Privacy Act (CRFPA)**

Cal. Gov. Code §7470(b) forbids out-of-state agencies from compelling California financial institutions to disclose records without a Superior Court order. §7473(a) requires judicial authorization and customer notice before any disclosure. Cal. Civ. Proc. Code §§2029.100–2029.900 (UIDDA) require that any foreign subpoena be domesticated through the California Superior Court.

## **IV. EFIS ACCESS OBSTRUCTION AND CONSTITUTIONAL DUE PROCESS**

Complainant's inability to view or file documents in EFIS contravenes §536.067 RSMo and 20 CSR 4240-2.135(2), violating his constitutional rights to be heard and to present evidence. *See* Goldberg v. Kelly, 397 U.S. 254 (1970); Mathews v. Eldridge, 424 U.S. 319 (1976).

## **V. COMMISSION'S FAILURE TO CORRECT KNOWN ERRORS**

Under 20 CSR 4240-2.130(3) and §536.140.2 RSMo, the Commission must ensure that orders are supported by competent and lawful evidence. The Commission's continued inaction after

being notified of these defects constitutes administrative abuse. *See* State ex rel. Office of Public Counsel v. PSC, 236 S.W.3d 632 (Mo. App. 2007).

## **VI. RELIEF REQUESTED**

Complainant respectfully requests that the Commission:

1. Vacate the October 23, 2025 Show Cause Order as procedurally void under 20 CSR 4240-2.116(3) and §386.240 RSMo;
2. Quash all defective subpoenas directed to Discover Bank and other financial institutions for violations of MRFPA, CRFPA, and FRPA;
3. Restore EFIS access consistent with 20 CSR 4240-2.135(2);
4. Correct all jurisdictional errors under §536.140.2 RSMo; and
5. Grant Full Commission Review under 20 CSR 4240-2.160(1), staying all enforcement actions pending compliance.

Respectfully submitted,

**/s/ Brett Felber**

Complainant

[REDACTED]

[REDACTED]

Email: [REDACTED]

Phone: [REDACTED]

Dated: October 23, 2025

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Supplemental Legal Memorandum in Opposition to the Show Cause Order was served on October 23, 2025, via electronic mail and/or U.S. Mail upon:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]