

EXHIBIT NO.:  
ISSUE: POLICY  
WITNESS: TERRY M. JARRETT  
SPONSORING PARTY: UNION ELECTRIC COMPANY  
TYPE OF EXHIBIT: DIRECT TESTIMONY  
CASE NO.: EC-2014-0224  
DATE TESTIMONY PREPARED: MAY 9, 2014

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

Noranda Aluminum, Inc., et al.,	)	
Complainants,	)	Case No. EC-2014-0224
	)	
v.	)	
	)	
Union Electric Company d/b/a Ameren	)	
Missouri,	)	
	)	
Respondent.	)	

**REBUTTAL TESTIMONY OF  
TERRY M. JARRETT  
ON BEHALF OF  
UNION ELECTRIC COMPANY D/B/A AMEREN MISSOURI  
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1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 **Q 1: Please state your name, position and business address.**

3 A: My name is Terry M. Jarrett. I am an attorney and consultant specializing in the energy,  
4 utilities, and regulatory sectors. My business address is 514 East High Street, Suite 22,  
5 Jefferson City, MO 65101.

6 **Q 2: Please describe your experience and qualifications.**

7 A: I served as a Commissioner on the Missouri Public Service Commission for six years,  
8 from September 2007 to September 2013. During my tenure as Commissioner, the  
9 Commission issued decisions in twenty-six (26) major rate cases of which I was  
10 involved—thirteen (13) electric, eleven (11) natural gas, and two (2) water. I was also  
11 involved in numerous small water and sewer rate cases decided by the Commission from  
12 2007-2013.

13 I have also completed specialized training in utility ratemaking. In 2007, I completed the  
14 National Association of Regulatory Utility Commissioners (NARUC) Utility Rate  
15 School. It was a five day program. The basics of utility ratemaking are presented by  
16 program faculty members from state public utility commissions, utility companies, and  
17 the legal, consulting, and academic communities. NARUC Rate School emphasizes the  
18 fundamentals of the utility rate setting process, including how to establish revenue  
19 requirements and the basic concepts of rate design. Participants work in teams to learn  
20 the fundamentals of establishing revenue requirements and setting rates by working  
21 through a hypothetical rate case for a water utility. The program also provides insight  
22 into current issues affecting the water industry and other public utilities. By featuring a  
23 carefully crafted mock rate case and a team approach, Rate School provides an intensive  
24 “hands-on” learning experience appropriate for anyone involved with utility rate setting.

1 Rate School is relevant to anyone interested and involved in utility ratemaking.  
2 Specialists across all sectors – water, natural gas, and electricity – have actively  
3 participated and benefited from the School and are encouraged to attend. Although the  
4 program centers on a mock water rate case, the emphasis is actually on the core  
5 principles, concepts, and tools of rate-base/rate-of-return regulation and ratemaking—  
6 particularly accounting, finance, and economic analysis. While water and energy  
7 demonstrate technical distinctions, they have more in common than not when it comes to  
8 ratemaking. Both water and energy rate cases deal with revenue requirements, what is  
9 reported on a balance sheet and income statement, what is included in the rate base, and  
10 how the rate of return is determined. Balance sheets, income statements, taxes,  
11 depreciation, capital structure, cost of capital, cost allocation, and rate design are  
12 common considerations for all regulated utilities. Rate School also includes a special  
13 session on energy issues.

14 In 2008, I completed the New Mexico State University Center for Public Utilities’ five-  
15 day course, “The Basics: Practical Skills for the Electric Industry.” This comprehensive,  
16 hands-on training included: The nature of public utilities and statutory foundations of  
17 utility regulation; overview of a rate case (under the rate-base, rate-of-return paradigm);  
18 overall cost-of-service/revenue requirements; Components of Revenue Requirements:  
19 Rate Base, Expenses, Taxes, Depreciation and Net Operating Income; determining the  
20 components of the weighted average cost of capital, test year, revenue requirements  
21 determination, class cost of service (including conducting a mock class cost of service  
22 study); Dividing the Overall Cost of Service – Prerequisites for Rate Design; and the  
23 step-by-step procedures in a rate case.

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**Q 3: On whose behalf are you appearing in this proceeding?**

A: I am appearing on behalf of Union Electric Company d/b/a Ameren Missouri.

**Q 4: Please describe the scope and purpose of your testimony.**

A: The purpose of my testimony is to respond to the testimonies of the Complainants' witnesses in this case, who ask for a special, below cost-of-service rate for Noranda based on Noranda's contention that it needs this low rate to keep its New Madrid aluminum smelter financially viable. In particular, I provide information and insight on the role of a Commissioner in a traditional cost-of-service ratemaking jurisdiction like Missouri in light of the request made in this case.

**Q 5: How is the remainder of your testimony organized?**

A: The next section describes traditional cost-of-service regulation and the role of the regulator in that type of regulatory structure. Section III discusses how the consideration of affordability in setting rates undermines the regulator's responsibility to make sure that cost causers pay for the costs they cause. Section IV discusses regulatory vs. political (social or economic development) problems. Section V discusses the problems that occur when a regulator goes beyond the proper role of setting appropriate cost-based rates. Section VI discusses proper actions that regulators can take to make services more affordable within the context of traditional cost-of-service ratemaking principles. Section VII discusses why Missouri's legal framework is not the same as other states that have approved special deals for aluminum smelters. Section VIII includes some concluding thoughts.

1 **II. TRADITIONAL COST-OF-SERVICE REGULATION AND THE ROLE OF THE REGULATOR**

2 **Q 6: Please describe traditional cost-of-service regulation and the role of the regulator.**

3 A: Cost-of-service regulation determines rates based on costs that a utility has actually  
4 incurred or expects to incur, including both fixed costs (transformers, poles, equipment,  
5 land) and variable costs (fuel, labor, taxes). In cost-of-service regulation, the regulator  
6 determines the revenue requirement—also known as the “cost of service”—that reflects  
7 the total amount that must be collected in rates for the utility to recover its costs and earn  
8 a reasonable return. A basic ratemaking formula is described as follows:

9           Rate Base  
10 x Allowed Rate of Return  
11 = Required Return  
12 + Operating Expenses  
13 = Revenue Requirement

14 The rate base is the net amount of investment, funded by investors, in utility plant and  
15 other assets devoted to supplying utility service to customers. Allowed rate of return  
16 means the rate established by the regulator designed to allow a utility an opportunity to  
17 earn on the rate base. The allowed rate of return consists primarily of two components—  
18 the cost of debt and the cost of equity, the latter of which is often referred to as the return  
19 on equity or “ROE” (sometimes the ROE is referred to as the utility’s profit).

20 Multiplying the rate base by the allowed rate of return produces the required return.

21 Operating expenses include operation and maintenance costs, depreciation, and taxes.

22 Adding the required return to the operating expenses produces the revenue requirement,  
23 which is the amount of money that a utility must receive from its customers to cover its  
24 costs, operating expenses, taxes, interest paid on debts owed to investors and, if

1 applicable, a reasonable return (profit). In summary, the regulator identifies prudent  
2 costs, decides a reasonable rate of return, and then determines the revenue requirement.

3 Once the revenue requirement has been determined, the regulator's next step is to design  
4 rates to produce the revenue requirement. Appropriate rate design makes each customer  
5 bear the costs it causes.

6 **Q 7: How does a regulator determine the appropriate rate design?**

7 A. The class cost of service (CCOS) study is an analytical tool that allocates each relevant  
8 component of cost on a suitable basis to determine the relative costs to serve various  
9 customer classes with similar end uses and demand. The objective is to apportion the  
10 total utility costs among customer classes in a fair and equitable manner. This is  
11 frequently referred to as "cost causation," where the "cost causer" is the customer that  
12 receives the service and that causes the cost to be incurred.

13 The class cost of service study is a basic issue in rate cases. Each of the cost components  
14 of the revenue requirement is allocated to customers using some basic criteria: (1) similar  
15 customers are grouped in classes; (2) costs are allocated to the classes on the basis of how  
16 the costs are caused; and (3) the rates are designed to recover the costs from each class.

17 Appropriate rate design makes each customer bear the costs it causes—everybody pays  
18 their fair share. Appropriate rate design also sends the right price signals to all customers  
19 and acts as an administrative replacement for competitive market forces.

20 **III. DESIGNING RATES BASED ON "AFFORDABILITY" UNDERMINES THE RATEMAKING**  
21 **PROCESS**

22 **Q 8: Please describe the role of "affordability" in setting rates.**

23 A: In effect, the request made in this case is based on the claim that Noranda cannot afford  
24 cost-of-service-based rates. Using "affordability" as a criterion in setting rates

1 undermines the regulator's responsibility. None of the steps identified above—prudent  
2 cost identification, revenue requirement computation, or cost allocation—involve  
3 affordability. Affordability only becomes a factor if the regulator adjusts the numbers to  
4 lower rates for some by raising rates for others.

5 **Q 9: Why is this a problem?**

6 A: Achieving affordability through rate design, whether for Noranda or other customers,  
7 means compromising cost causation to redistribute wealth. If a regulator focuses on  
8 affordability, that regulator is picking winners and losers—one class subsidizing another  
9 class—and that is not a regulator's job. The regulator's job is to make sure the rates are  
10 fair according to the cost of service for each class. While a regulator may feel  
11 compassion for those who are affected by rates that are not affordable, unfortunately that  
12 is beyond the scope and authority of the regulatory process. Instead, it is a political  
13 (social or economic development) problem that is the responsibility of the legislative  
14 branch of government.

15 **IV. REGULATORY VS. POLITICAL (SOCIAL OR ECONOMIC DEVELOPMENT) PROBLEMS**

16 **Q 10: You explained that affordability is a political problem, not a regulatory problem.**  
17 **Can you elaborate?**

18 A: Yes. If a rate has not been determined based on sound cost-based principles, that is a  
19 regulatory problem because some cost causers are not paying their cost of service, while  
20 others are paying more than their cost of service. If a customer cannot afford a properly  
21 determined cost-based rate, it is a political (social or economic development, or in  
22 Noranda's case, economic retention) problem.



1 **Q 11: Who is responsible for addressing political problems?**

2 A: The responsibility of addressing political problems lies in the legislative process, not the  
3 regulator. The Legislature can pass legislation to address social or economic issues.

4 **Q 12: Are there examples where the Legislature has addressed these types of political**  
5 **issues in Missouri?**

6 A: Yes. For example, the Missouri General Assembly established a program called  
7 “Utilicare.” Sections 660.100 to 660.136, RSMo., authorized the Missouri Department of  
8 Social Services to establish a plan for providing financial assistance to elderly  
9 households, disabled households and qualified individual households for the payment of  
10 charges for the primary or secondary heating or cooling source for the household.  
11 Another program to assist low income customers in paying their utility bills is the  
12 LIHEAP program. Established by the federal government, the Missouri Low Income  
13 Home Energy Assistance Program (LIHEAP) has two components: Energy  
14 Assistance/Regular Heating (EA) and Energy Crisis Intervention Program (ECIP). EA is  
15 designed to provide financial assistance to help pay heating bills for Missourians during  
16 the months of October, November, December, January, February, and March. Eligibility  
17 requirements for EA are based on income, household size, available resources and  
18 responsibility for payment of home heating costs. Eligibility for EA may also qualify  
19 individuals for additional financial assistance through ECIP. The LIHEAP program is  
20 administered by the Missouri Department of Social Services.

21 **Q 13: Those programs are for individuals. Are there any examples where the Legislature**  
22 **provided incentives to businesses?**

23 A: Yes, although not in the context of assistance for utility rates. In December, 2013, the  
24 Missouri General Assembly passed a bill, signed by the Governor, to provide up to \$1.7  
25 billion in tax credits to Boeing in an attempt to lure a massive new plant to build

1 Boeing's new 777X passenger jet. Also, Missouri offers several tax incentive programs  
2 to encourage businesses to locate in Missouri or to remain in Missouri. Below are some  
3 of the tax incentive programs offered by the state of Missouri through the Missouri  
4 Department of Economic Development (DED):

5 --Business Facility Tax Credit Program--Provide tax incentives to facilitate the expansion  
6 of new or existing businesses in Missouri that occurred prior to 1/1/2005.

7 --Enhanced Enterprise Zone--Provides state tax credits to new or expanding businesses in  
8 a Missouri Enhanced Enterprise Zone.

9 --Sales Tax Exemption--Machinery and equipment used to establish a new manufacturing  
10 facility or expand an existing manufacturing facility is exempt from local and state  
11 sales/use tax, provided such machinery/equipment is used directly to manufacture a  
12 product ultimately intended for sale.

13 --Enhanced Enterprise Zone--Provide tax incentives to facilitate the expansion of new or  
14 existing businesses in Missouri that occurred prior to 1/1/2005.

15 While these tax incentive programs may not apply to Noranda's situation, these examples  
16 show that the Legislature—not the Missouri Public Service Commission—is the  
17 appropriate place for businesses to obtain incentives to locate to or remain in Missouri.

18 **Q 14: Are there any examples where the Legislature passed legislation to help aluminum**  
19 **smelters in Missouri?**

20 A: Yes. Section 91.026, RSMo., was enacted in 2003. It specifically provides that “any  
21 aluminum smelting facility shall have the right to purchase and contract to purchase  
22 electric power and energy and delivery services from any provider, wherever found or  
23 located, at whatever rates or charges as contracted for, and such periods or times as is  
24 needed or necessary or convenient for the operation of such aluminum smelting facility

1 and for no other purpose, notwithstanding any past circumstances of supply.” This means  
2 that Noranda does not have to buy its power from Ameren. Rather, it can shop around  
3 for the best price from any power provider. My understanding is that for a time shortly  
4 after this law was enacted, Noranda did buy its electricity from a power marketer.

5 However, in 2005, Noranda signed a 15-year contract with Ameren for power, and agreed  
6 to subject itself to cost-of-service-based rates. Ameren witness William Davis discusses  
7 this in further detail in his testimony.

8 **Q 15: Are you aware of any business in Missouri asking the Public Service Commission**  
9 **for the type of relief Noranda is requesting in this case?**

10 A: No. To my knowledge, no business or entity has ever come to the Commission asking  
11 for the type of relief being requested by Noranda in this case. I am not aware of any  
12 cases like this ever being filed in Missouri.

13 **V. CONSEQUENCES OF DEPARTING FROM COST-OF-SERVICE RATEMAKING**

14 **Q 16: Do you see any problems if the Commission were to depart from cost-of-service**  
15 **ratemaking to lower rates for one customer?**

16 A: Yes I do.

17 **Q 17: What problems do you anticipate?**

18 A: I would expect that every struggling business in Missouri would have an incentive to file  
19 a complaint for rate relief just like Noranda has done. Unfortunately, businesses struggle  
20 and go out of business every day in Missouri for any number of reasons. Every business  
21 with either real or imagined financial difficulties would flock to the Commission for  
22 relief. And, this problem would not be limited to just businesses. I would expect low  
23 income customers, senior citizens on fixed incomes, and other residential customers and  
24 their advocacy groups to line up to file complaints too. The potential is there for literally  
25 hundreds of cases to be filed. It would be an administrative nightmare. The Commission

1 would cease to be a rate regulator and would instead become an agency picking winners  
2 and losers to address any number of social or economic issues of particular persons,  
3 entities or groups, which is a role that should be left to the General Assembly.

4 **Q 18: Do you see any other problems?**

5 A: Yes.

6 **Q 19: What kind of other problems?**

7 A: When the Commission determines rates, it evaluates the financial position of the utility it  
8 regulates. It has the statutory authority and tools to inspect and evaluate the company's  
9 books and records, perform detailed audits, subpoena records and witnesses, even  
10 between rate cases. In fact, the Commission requires utilities to submit regular  
11 surveillance reports so that it can monitor a utility's financial condition. The Commission  
12 has staff that are experts in evaluating every aspect of a utility.

13 In this case, the Commission is being asked to evaluate the financial position of a  
14 customer, not a utility. The same tools that the Commission has to evaluate a utility  
15 cannot be used to evaluate a customer. The Commission can't go out and regularly  
16 monitor and audit a customer's financial condition. The Commission can't compel a  
17 private business that it does not regulate to turn over all its books and records for  
18 inspection, or require the customer to submit regular surveillance reports. The  
19 Commission has no experience in evaluating a customer's financial position. To my  
20 knowledge, the Commission staff has no one who is an expert on how aluminum smelters  
21 operate or how they are financed or managed. Commission staff were hired and trained  
22 to evaluate utilities, not other kinds of businesses.

1 Moreover, even if the Commission or its staff had the ability to evaluate the financial  
2 condition of individual customers, the inquiry would not end there. The Commission (or  
3 staff) would also have to determine the cause of any financial problems that an individual  
4 customer faced. The Commission would not want to make other customers bail out a  
5 private business for financial problems that were caused by the misfeasance or  
6 malfeasance of the business. Again, the Commission and its staff are not equipped to  
7 perform such evaluations.

8 And finally, before granting special rate treatment to one customer, the Commission  
9 would have to compare the financial condition of the customer seeking a subsidy to the  
10 financial conditions of the other customers who would be expected to provide the subsidy  
11 to see if they could afford to pay a higher rate. This would not be an easy task. For  
12 example, comparing the needs of a business to those of residential customers who cannot  
13 afford food or medicine is a difficult undertaking. The bottom line is that the  
14 Commission is not equipped to evaluate the financial needs of all of a utility's customers  
15 to enable it to pick winners and losers. It is the elected officials in the Legislature, not the  
16 Commission, who are properly charged with that responsibility.

17 **Q 20: Are you saying that it is never appropriate for a regulator to deviate from cost-of-**  
18 **service-based rates?**

19 A: No, not at all. I believe that in certain, specific, and limited instances, the Commission  
20 can consider programs that do not adhere strictly to cost-of-service-based rates. There  
21 are examples in rate cases where the parties will agree to settle many disputed issues,  
22 including rate design, to get an overall settlement. A negotiated compromise on rate  
23 design may deviate slightly from pure cost-of-service based rates for some classes of  
24 customers, but the overall settlement on that and other issues is in the public interest. I

1 am also aware that the Commission has approved pilot projects that have provided  
2 assistance to low income customers, and also has approved economic development riders  
3 to provide some incentives for business attraction and retention. These were approved in  
4 the context of agreements between all parties (or no one objected). Most of these types of  
5 programs were of limited scope and duration, and monitored carefully by staff and the  
6 other parties.

7 **Q 21: Are there tools a Regulator can use to make utility services more affordable within**  
8 **the traditional cost-of-service ratemaking paradigm?**

9 A: Yes. There are many things a regulator can do in Missouri to make utility services more  
10 affordable without violating traditional cost-of-service ratemaking principles. One  
11 important way is to encourage and approve plans to reduce usage and use electricity more  
12 efficiently. Regulators can approve energy efficiency, demand response programs and  
13 incentives, for example. In 2009, the Missouri General Assembly passed Senate Bill 376,  
14 The Missouri Energy Efficiency Investment Act, with the support of consumer advocates,  
15 environmental groups, and investor-owned utilities. It is a monumental piece of  
16 legislation that paves the way for advances in utility-designed energy efficiency  
17 programs. The law will increase investment into energy efficiency, and decrease  
18 Missourian's energy bills over time. Furthermore, Missouri's Integrated Resource  
19 Planning requires utilities to evaluate and incorporate into its planning demand side  
20 resources. Resource planning for electric utilities is addressed in Commission rule 4 CSR  
21 240-22. Plans are filed every 3 years, with a 20-year forecasting horizon. 4 CSR 240-  
22 22.050 requires that demand-side resources are evaluated with a goal of achieving all  
23 cost-effective demand-side savings, which will lower energy bills.

1 There are other ways the Commission can take action to make energy bills more  
2 affordable. The Commission can encourage and approve energy conservation programs,  
3 and provide education and information to consumers on how to use less electricity more  
4 efficiently. In fact, the Commission already does this. The “Bee Energy Efficient,” or  
5 BEE, is aimed at helping consumers remain in control of their energy bills. As it states  
6 on the BEE website, there are steps every household can take to minimize energy use and  
7 stabilize related costs. Conservation is an all season opportunity. Energy saving tips for  
8 both the cooling and heating seasons can be found in this website. A co-initiative of the  
9 Missouri Public Service Commission and the Division of Energy, BEE is also supported  
10 by many organizations and utilities serving the state of Missouri. From the Commission’s  
11 website, one can link to BEE’s web site, [www.beenergyefficient.org](http://www.beenergyefficient.org) , to learn about  
12 energy conservation.

13 The Commission can also streamline regulatory processes to reduce regulatory costs,  
14 which savings would be passed on to the consumer resulting in lower rates. Regulators  
15 can also advocate for policies that make consumption less costly, like updating building  
16 codes to make all buildings more energy efficient, whether they are residential,  
17 commercial or industrial. And, a regulator also promotes affordability when he or she  
18 ensures that rates are set based only on prudently incurred costs. A regulator can do all of  
19 these things without violating the traditional cost-of-service ratemaking method.

20 **VI. OTHER STATES WHERE REGULATORS HAVE APPROVED SPECIAL DEALS FOR**  
21 **ALUMINUM SMELTERS DO NOT HAVE THE SAME LEGAL FRAMEWORK AS MISSOURI**

22 **Q 22: Are you aware of other states that have given the type of relief being requested by**  
23 **Noranda?**

24 A: Yes.

1 **Q 23: Then why can't it be done in Missouri?**

2 A: The reason is because those states have a different statutory framework than Missouri. In  
3 those states, the state legislatures have made the policy decision (that is theirs to make)  
4 that the public utility regulatory process ought to be used under specific, defined  
5 circumstances to aid particular businesses. The Missouri General Assembly has made no  
6 such determination and has given the Commission no such authority. Below I summarize  
7 what has happened in other states:

- 8
- 9 • Ohio—Section 4905.31, Revised Code and Rule 4901:1-38-05(B), O.A.C,  
10 provides that a mercantile customer of an electric utility may apply to the  
11 Commission for a unique arrangement with the electric utility. Under Rule 4901:1-  
12 38-05(B)(1), O.A.C, a customer applying for a unique arrangement bears the  
13 burden of proof that the proposed arrangement is reasonable and does not violate  
14 the provisions of Sections 4905.33 and 4905.35, Revised Code. Ormet Primary  
15 Aluminum Corporation utilized this statute to enter into a unique arrangement  
16 with Columbus Southern Power Company (CSP) and Ohio Power Company (OP)  
17 for electric service to Ormet's aluminum-producing facility located in Hannibal,  
Ohio. Missouri has no law similar to Ohio's.

18 It is important to note that the Ohio Legislature passed this legislation shortly  
19 before the Ohio Commission acted, and the legislation was passed precisely to  
20 enable the Ohio Commission to act as it did, which is not the case in Missouri.

- 21
- 22 • West Virginia—W.Va. Code 424-2-1j authorizes and empowers the Commission  
23 to consider, and, if appropriate, to approve special rates for energy intensive  
industrial consumers of electric power. There, the West Virginia Public Service



1 Commission, pursuant to the above-referenced statute, did grant some, but not all,  
2 of the relief requested by Century Aluminum of West Virginia, Inc. As in Ohio,  
3 the law was enacted by the West Virginia Legislature shortly before the West  
4 Virginia Commission acted, and the legislation was passed precisely to enable the  
5 West Virginia Commission to act as it did. Furthermore, the West Virginia  
6 statute provides for a partial offset of the subsidies to the smelter's from coal  
7 severance tax revenues. Missouri does not have a law similar to West Virginia's.

8 The Ohio and West Virginia cases of taking the question to the legislature is  
9 consistent with my position that Noranda's situation should be addressed by the  
10 Missouri General Assembly, not the Commission.

- 11 • Kentucky—the Kentucky cases involved multiple contractual agreements for  
12 electric service. Kenergy Corp. ("Kenergy") and Big Rivers Electric Corporation  
13 ("Big Rivers") (collectively "Applicants") jointly filed an application for approval  
14 of certain new contracts for electric service to Century Aluminum Sebree LLC  
15 ("Century Sebree") commencing on and after January 31, 2014. The application  
16 included the Applicants' direct testimony, as well as new contracts, to replace the  
17 existing 2009 contracts with Century Sebree. The 2009 contracts with Century  
18 Sebree were entered into upon the July 16, 2009 closing of Big Rivers' unwind  
19 transaction whereby Big Rivers re-acquired operational control of its generating  
20 plants. The arrangement in Kentucky appears to involve bilateral power contracts  
21 rather than the setting of rates, making it different from Missouri's statutory  
22 framework, and the Kentucky situation in no way compares with what Noranda is  
23 seeking in this case.

- 1           • New York— this case involved a long-term power purchase agreement instead of  
2           retail rates. In 2009, Alcoa Aluminum reached a hydropower supply contract  
3           with the New York Power Authority for 478 MW of power in exchange for  
4           keeping its workforce at 900 employees. Later, Alcoa decided to close its two  
5           potlines at its East Plant in Messina anyway. Then, in April, 2014, New York  
6           Governor Cuomo announced a new deal had been struck allowing Alcoa to keep  
7           its low-cost power plant and lower its workforce to 750, provided there will be no  
8           involuntary layoffs, and Alcoa proceeds to build a new potline at the East plant.  
9           The New York situation in no way compares to how ratemaking is done in  
10          Missouri.

11 **Q 24: Are there any other differences between Missouri and these other states?**

12  
13          A: Yes. In all the states listed above, in exchange for special rates, the other Commissions  
14          (Ohio, Kentucky, and West Virginia) or the Governor through a public power authority  
15          that was not regulated by the state utility commission (New York) imposed on the  
16          smelters some or all of the following conditions: (1) guaranteed amounts of additional  
17          capital investment in the smelters; (2) guarantees that employee levels would be  
18          maintained; (3) guarantees that no involuntary layoffs would occur; (4) financial  
19          guarantees from the smelter’s owners to cover the subsidies provided by other ratepayers;  
20          (5) and premium rates (rates above the tariffed rate) in the event the London Metal  
21          Exchange (LME) price of aluminum exceeded a baseline amount. Noranda has not  
22          proposed any of these, or any other, conditions as part of its special rate proposal.

1 VII. CONCLUSION

2 Q 25: Do you have any concluding comments that would assist the Commission in  
3 deciding this case?

4 A: Yes. In a competitive (restructured) market, customers have retail choices. They can  
5 shop between several electricity providers for the best deal. In a traditional regulated  
6 market like Missouri, customers are captive and the utility has an obligation to serve  
7 them, which is unlike almost any other business that can choose who it decides to serve,  
8 or to whom to sell its goods. Regulation serves as the proxy for competitive markets.  
9 Therefore, it is incumbent upon the Regulator to get the rate “right” according to sound  
10 cost-of-service ratemaking principles, so that some customers do not pay to subsidize  
11 other customers. Every customer should pay for the costs it causes.

12 In their widely-cited treatise, *Principles of Public Utility Rates*, James C. Bonbright,  
13 Albert L. Danielsen, and David R. Kamerschen describe the cost-based standard in this  
14 manner:

15 In fact, the golden rule of socially optimal ratemaking is that, whenever possible,  
16 prices should track all the identifiable (marginal private and social) costs  
17 occasioned by a service’s provision...A cost standard of ratemaking has been  
18 most generally accepted in the regulation of the levels of rates charged by private  
19 utility companies...[S]ervices now called public utility services belong in that  
20 great class of economic products, including both commodities and services, that  
21 best can be offered for sale instead of being supplied without charge, **and that**  
22 **can best be sold on the general principle of service at cost rather than at**  
23 **prices designed by a legislature or public service commission to accomplish**  
24 **some specific objective deemed by it to be in the public welfare.** The Supreme

1 Court put it this way: ‘The Court has never before confided to our regulatory body  
2 the reshaping of our national economy.’ (Justice Jackson, dissenting, *New York v.*  
3 *United States*, 331 U.S. 284, 362, 1947).<sup>1</sup>

4 **Q 26: Does this conclude your rebuttal testimony?**

5 A: Yes it does.

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<sup>1</sup> Bonbright, James C.; Daniels, Albert L.; and Kamerschen, David R. *Principles of Public Utility Rates, Second Edition*. Arlington, VA: Public Utilities Reports, Inc., pp. 109-10, 177-78 (1988)(emphasis added).

CURRICULUM VITA

TERRY M. JARRETT

ADDRESS: 514 East High Street, Suite 22  
Jefferson City, MO 65109

PERSONAL DATA: Date of Birth: October 10, 1959  
MARITAL STATUS: Married (Joan)  
CITIZENSHIP: United States

EDUCATION: Juris Doctor, University of Missouri-Columbia School of Law,  
Columbia, MO (1996);  
B.S., University of Central Missouri, Warrensburg, MO (1982)

PROFESSIONAL EXPERIENCE:

Attorney and Consultant, Healy & Healy Attorneys at Law, LLC (September 2013-  
Present)

Commissioner, Missouri Public Service Commission (September 2007-September 2013)

Chairman, Missouri Universal Service Fund Board

Member, Advisory Board for 9-1-1 Service Oversight

Member, National Association of Regulatory Utility Commissioners (NARUC)

Board of Directors, NARUC

Chairman, NARUC Committee on Critical Infrastructure

Member, NARUC Committee on Natural Gas

Member, NARUC Subcommittee on Clean Coal and Carbon Sequestration

Advisory Board, New Mexico State University Center for Public Utilities

Member, National Regulatory Research Institute (NRRI) Research Advisory  
Committee

Presiding Commissioner, Missouri Administrative Hearing Commission (April 2006-  
September 2007)

General Counsel, Missouri Governor Matt Blunt (January 2005-April 2006)

General Counsel, Missouri Secretary of State Matt Blunt (January 2001-January 2005)

Attorney, Husch & Eppenberger (July 1997-January 2001)

Judicial Law Clerk, Honorable Duane Benton, Supreme Court of Missouri (August 1996-  
July 1997)

MILITARY EXPERIENCE

Judge Advocate, United States Army Reserves and Missouri Army National Guard  
(December 2002-December 2010)

## PROFESSIONAL MEMBERSHIPS

Energy Bar Association  
The Missouri Bar  
The American Bar Association  
Cole County Bar Association

### *Speaking Engagements*

Missouri Public Utility Alliance Annual Conference, “Effective Approaches to Cyber Security for Utilities,” (2013);

Bipartisan Policy Center, “Protecting the Electric Grid from Cyber Attacks,” (2013);

National Association of Regulatory Utility Commissioners Annual Meeting, “Review of ‘Bound to Fail: Why Cyber Security Risk Cannot Simply Be Managed Away,’” (2013);

New Mexico State University Center for Public Utilities’ Current Issues Conference, “Infrastructure Investments by Utilities,” (2013);

USAID/NARUC Georgia-Kentucky International Partnership Exchange, Kutaisi, Republic of Georgia, “Net Metering,” “Green Certificates,” and “Investment in the Renewables Sector,” (2012);

National Association of Regulatory Utility Commissioners Summer Meetings, “State-Level Cybersecurity,” (2012);

Energy Central Webinar, “New Thinking in Grid Security,” (2012);

Electric Utility Consultants, Inc. (EUCI) Demand Response Conference 2012, “Demand Response: The Missouri Experience,” (2012);

Boone County, Missouri, Muleskinners Club, “Report on Renewable Energy in Missouri,” (2012);

Jefferson City Evening Rotary Club, “The Missouri Public Service Commission—an Overview,” (2012);

New Mexico State University Center for Public Utilities’ Current Issues Conference, “Major Wow Factor! Emerging Technologies in the Utility Sector” (2012);

National Association of Regulatory Utility Commissioners Winter Meetings, “40 for 40: Reflecting on EPRI’s 40-Year Relationship with NARUC, and Predicting What’s Coming,” (2012);

National Association of Regulatory Utility Commissioners Winter Meetings, “Natural Gas Demand Response and Smart Technology,” (2012);

USAID/NARUC Moldova-Missouri International Partnership Exchange, Chisinau, Republic of Moldova, “Case Studies in Incentives and Penalties,” and “Integrated Resource Planning, RTOs, and other Planning Entities and Requirements,” (2011);

New Mexico State University Center for Public Utilities’ Current Issues Conference, “Do Not Pass Go - Building a Regulated Monopoly in a Recession” (2011);

Missouri Bar, “Practicing Before the Missouri Public Service Commission” (2011);

National Association of Water Companies (NAWC) Annual Conference, “Update on the Activities of the NARUC Critical Infrastructure Committee,” (2010);

AGA Rates School, “The Future of the Natural Gas Industry,” (2010);

Mid-America Regulatory Conference, “Energy Efficiency and Demand Response,” (2010);

New Mexico State University Center for Public Utilities Current Issues Conference, “It’s Not Your Father’s Industry . . . It’s Your Twelve Year Old’s, But Is She Ready?” (2010);

National Association of Regulatory Utility Commissioners Winter Committee Meetings, “The Graying of the Energy Workforce,” (2009);

National Association of Regulatory Utility Commissioners Annual Conference, “How Should Energy Efficiency Be Measured?” (2009);

Missouri Energy Development Association, “Regulation in an Uncertain World,” (2009);

Missouri Industrial Energy Consumers, “Regulation in an Uncertain World,” (2009);

Missouri Bar CLE, “Employment and Reemployment Issues of Reserve and National Guard Employees,” (2009)

Panelist, Missouri Chamber of Commerce and Industry Meeting on Energy Issues (2009);

Missouri Bar CLE, “Legal Issues with Military Deployments,” (2008);

Missouri Telecommunications Industry Association, “The Challenge Ahead: A Policymaker’s View,” (2008);

State Emergency Management Agency Committee Meeting, “Protecting Utilities’ Critical Infrastructure: The PSC’s Role,” (2008);

Missouri Chamber of Commerce Leadership Missouri 2008, “Keeping Missouri Rates Competitive,” (2008);

*Publications*

“Who's in Charge? Cybersecurity: State vs. Federal Roles,” *EnergyBiz*, (November 2013);

“Building Up Security,” *EnergyBiz*, (July/August 2012)



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

In the Matter of Noranda Aluminum, Inc.'s Request )  
For Revisions to Union Electric Company d/b/a ) **File No. EC-2014-0224**  
Ameren Missouri's Large Transmission Service )  
Tariff to Decrease its Rate for Electric Service. )

**AFFIDAVIT OF TERRY JARRETT**

**STATE OF MISSOURI** )  
 ) ss  
**COUNTY OF Miller** )

Terry M. Jarrett, being first duly sworn on his oath, states:

1. My name is Terry M. Jarrett. I am an attorney and consultant specializing in the energy, utilities, and regulatory sectors. My business address is 514 East High Street, Suite 22, Jefferson City, MO 65101.

2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony on behalf of Union Electric Company, d/b/a Ameren Missouri, consisting of 22 pages (and Schedules <sup>N/A</sup> through <sup>N/A</sup> if any), all of which have been prepared in written form for introduction into evidence in the above-referenced docket.

2. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.

  
\_\_\_\_\_  
Terry M. Jarrett

Subscribed and sworn to before me this 8 day of May, 2014.

  
\_\_\_\_\_  
Notary Public

My commission expires: 4/16/17

**EMMA CALL**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
County of Miller  
My Commission Expires 4/16/2017  
Commission # 13757277