

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

In the matter of Union Electric Company,)
d/b/a Ameren Missouri's Tariff to Increase)
Revenues for Electric Service) Case No. ER-2014-0258

MOTION TO COMPEL

COMES NOW the Midwest Energy Consumers Group (“Applicants” or “MECG”), pursuant to 4 CSR 240-2.090 of the Missouri Public Service Commission’s Rules of Practice and Procedure, and files this Motion to Compel responses to Data Requests issued by MECG to MIEC / Noranda on September 15, 2014. In support of this Motion, MECG respectfully states as follows:

1. In Docket No. EC-2014-0224, the Commission considered a complaint by Noranda seeking certain regulatory concessions designed to reduce Noranda’s cost of electricity. Following an evidentiary hearing, the Commission deliberated Noranda’s request on July 23, 2014. Unanimously the Commission directed the Administrative Law Judge to draft an order rejecting Noranda’s request.

2. Undoubtedly based upon the Commission deliberations, several parties executed a Non-Unanimous Stipulation designed to reduce the magnitude of Noranda’s request. That Stipulation was filed the week of July 29, 2014.

3. On August 20, 2014, the Commission issued its Report and Order. In that Order, the Commission unanimously rejected Noranda’s requested rate relief. Moreover, in footnote 87, the Commission acknowledged the receipt of the late-filed Non-Unanimous Stipulation. While finding that stipulation “intriguing,” the Commission noted that it should be properly considered in the context of the pending rate case.

4. Given the possibility that this issue would be considered in the pending rate case, MECG issued Data Request No. 2 to MIEC / Noranda on September 15, 2014. In that Data Request (Attachment 1), MECG asked MIEC / Noranda to provide all data requests and responses issued in Case No. EC-2014-0224. Furthermore, MECG sought copies of all highly confidential testimony filed in that case.

5. On September 25, 2014, MIEC objected to MECG's data request (Attachment 2). In that objection, MIEC claimed that the data requests "seek irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence."

6. Pursuant to 4 CSR 240-2.090, on September 29, 2014, undersigned counsel held a telephone call with counsel for MIEC / Noranda. On that call, MIEC / Noranda counsel claimed that the requests were irrelevant in that they "didn't know if they would raise the issue."

7. On October 10, 2014, despite previous claims that it didn't know if it would raise the issue again, Noranda and several other parties executed a Non-Unanimous Stipulation designed to effectuate certain rate concessions for Noranda. Despite raising this issue, Noranda / MIEC have still failed to respond to MECG's discovery.

8. On October 13, 2014, counsel received an email and a voice mail indicating that Noranda would respond to the data requests "shortly." That said, as of the time of filing, such responses have not been received. To date, those responses are eight

days late. Certainly, given that these responses are readily available, it should not be difficult for Noranda to provide responses in a timely fashion.¹

9. Noranda's refusal to respond to discovery on this issue is not new. In Case No. ER-2010-0036, Noranda also failed to respond to legitimate discovery on a previous request for regulatory concessions. In that case, after holding a hearing on the matter, the Commission issued an order (March 3, 2010) ordering Noranda to respond to the data requests.

10. Noranda's continued refusal to respond to discovery is made more worrisome given the request for expedited treatment contained in the October 10, 2014 Non-Unanimous Stipulation. Specifically, the signatories ask that the Commission approve the Non-Unanimous Stipulation by December 31, 2014. Despite this, Noranda has not offered an expedited schedule for responding to data requests nor has it even responded to the data requests it has already received.

WHEREFORE, MECG respectfully requests that the Commission issue its Order compelling Noranda to respond MECG's Second Set of Data Requests.

¹ Counsel notes that the Commission had scheduled a Discovery Conference for October 15, 2014. Counsel intended to raise this matter at that Discovery Conference. On October 14, 2014, the Commission cancelled that Discovery Conference on the basis that no parties had raised a discovery issue within two business days of the scheduled date. Counsel could not meet this two business day requirement. Specifically, given Noranda's claims that it did not know if it would raise this issue, counsel did not want to chase discovery that would be irrelevant. Upon the filing of the Non-Unanimous Stipulation, those data requests became patently relevant. However, given the intervening holiday weekend, counsel could not inform the ALJ of the discovery issue within the two business day requirement. As such, the Discovery Conference was cancelled prior to counsel being able to notify the Commission of the discovery dispute.

Respectfully submitted,



David L. Woodsmall, MBE #40747
308 East High Street, Suite 204
Jefferson City, Missouri 65101
(573) 797-0005
Facsimile: (573) 635-7523
Internet:
david.woodsmall@woodsmalllaw.com

ATTORNEY FOR THE MIDWEST
ENERGY CONSUMERS GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



David L. Woodsmall

Dated: October 14, 2014

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MECG's Second Data Requests to MIEC

1. Please provide a copy of all data requests issued to and responses provided by Noranda in Case No. EC-2014-0224. Please include both public and highly confidential requests and responses.
2. Please provide copies of all highly confidential testimony and briefs filed in Case No. EC-2014-0224 by Noranda and all other parties.



Diana M. Vuylsteke
Direct: 314/259-2543
Fax: 314/552-8543
dmvuylsteke@bryancave.com

September 25, 2014

VIA E-MAIL (DAVID.WOODSMALL@WOODSMALLLAW.COM)

David Woodsmall, Esq.
Woodsmall Law Office
308 E. High Street, Suite 204
Jefferson City, MO 65101

Re: MECG 2nd Data Requests to MIEC in EC-2014-0258

Dear David:

This letter provides Missouri Industrial Energy Consumers' (MIEC)/Noranda Aluminum's objections to Midwest Energy Consumers' Group's (MECG) 2nd Data Requests in Public Service Commission case number ER-2014-0258. Our objections are set forth below.

OBJECTION

We object to the requests in that they seek irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. MECG generally requests Highly Confidential testimony, and all DRs and information produced in response to them by an MIEC member, namely Noranda Aluminum, including Highly Confidential information, in a separate unrelated case, EC-2014-0024. We do not believe MECG can meet its burden established under MRCP 56.01(b)(1), and request a showing of relevancy before producing the requested information.

Sincerely,

Diana M. Vuylsteke

DMV

Bryan Cave LLP
One Metropolitan Square
211 North Broadway
Suite 3600
St. Louis, MO 63102-2750
Tel (314) 259-2000
Fax (314) 259-2020
www.bryancave.com

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David Woodsmall, Esq.
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Bryan Cave LLP