BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

Noranda Aluminum, Inc. et al.	)	
	)	
Complainants,	)	
v.	)	File No. EC-2014-0223
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri	)	
Respondent.	)	

STATEMENT OF POSITION

COMES NOW Union Electric Company, d/b/a Ameren Missouri ("Ameren Missouri" or the "Company") and for its Statement of Position, states as follows:

1. Can and should the Commission order a reduction in Ameren Missouri's rates as proposed by Complainants, to apply to service rendered after the conclusion of this case?

No, the Commission cannot order a rate reduction based upon the abbreviated process Complainants are advocating for in this case. As the Missouri Supreme Court has recognized, the return a utility earns "will necessarily vary from time to time." *See, e.g, Straube v. Bowling Green Gas Co.*, 360 Mo. 132, 227 S.W.2d 671 (1950). As the Court also indicated, when the Commission sets rates, "[n]o maximum or minimum return was determined." *Id.* Despite these well-established legal principles, Complainants chose to pursue their Complaint based, essentially, on the flawed assumption that a utility necessarily "over-earns" and that its rates become unjust and unreasonable if the utility earns more than its last-authorized return. However, as the case law indicates, that is not the test for whether rates are just and reasonable. Not only does the Complaint rest on this flawed assumption, but it has been pursued by Complainants without any attempt to properly establish a revenue requirement (a proper matching of revenues, expenses, rate base, taxes and cost of capital during an appropriate test

year and true-up period) that is essential to develop a reasonable proxy for what the Company's revenue requirement would be in the future. Instead, Complainants rested their case largely on out-of-date historical per book results, and have made no showing that those primarily per book results (which include a very limited set of adjustments made by Complainants) are in fact representative of conditions that will exist on a going-forward basis when any new rates would be in effect. Indeed, Complainants do not even allege that this is the case.

These fundamental flaws in the Complaint preclude a proper consideration of all relevant factors having a bearing on rates, and fail to provide a basis for the Commission to determine if a the Company's rates are too high, too low or just and reasonable as-is. *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 33 P.U.R.4th 273, 585 S.W.2d 41 (Mo. *banc* 1979) (recognizing that rates can only be set based upon a proper consideration of all relevant factors).

Not only does the flawed process advocated for and pursued by Complainants in this case preclude any basis for a rate reduction, the record evidence cannot sustain such a result in any event. The undisputed evidence in this case is that any so-called "over-earnings" during a past period (2013) are both marginal in magnitude and transitory in effect. The ratesetting process is inherently prospective in nature; the Commission sets rates for the future, not the past. The Complainants cursory examination of 2013 earnings certainly does not establish any demonsterable trend that would enable the Commisison to find that Ameren Missouri's current rates would be prospectively unjust and unreasonable. For example, Complainants have totally ignored the significant rate base investments that are today in operation and serving customers, and additional significant rate base investments that will be operational and serving customers in just the next few months. Those investments cannot be ignored because the very significant

revenue requirement associated with them must be accounted for in any future rates that would be set by the Commission. Complainants also ignore the revenue requirement impact of the tens of millions of dollars of solar rebates the Company was required to pay by Missouri's Renewable Energy Standard. Indeed, those solar rebates alone (again, without accounting for the large rate base additions) more than offset even Complainants' "analysis" (ignoring its ROE adjustment, which we address below) and essentially offset the Staff's partial assessment of Ameren Missouri's 2013 results.

Finally, Complainants attempt to shore-up their flawed case by claiming that the Commission should in effect disregard the return on equity it used to set rates in the Company's last rate case by using an ROE that is 40 basis points lower in this case is inappropriate and not supported by the evidence. Even Complainants admit that the 9.8% ROE last used to establish the Company's rates remains reasonable. The evidence in this case shows that the 9.8% ROE in fact is lower than the average ROE authorized for vertically integrated utilities since January 2013. Moreover, as Ameren Missouri witness Robert Hevert indicates, a proper ROE for setting the Company's rates (if rates were to be reset) is in fact 10.4% based on accepted methodologies using current market data. There is simply no basis to conclude that within the short time frame between the last rate case and the present capital markets have changed so dramatically and fundamentally that a 40 basis point reduction is appropriate. Far from shoring-up the flawed case, the Complainants' reliance upon their assertions on ROE demonstrates the premise of the Complaint has more to do with a regurgitation of previously disregarded arguments than it does with setting rates in an accurate and prospective manner.

Respectfully submitted,

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

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ATTORNEYS FOR UNION ELECTRIC COMPANY d/b/a AMEREN MISSOURI

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 22nd day of July, 2014, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

Wendy K. Tatro

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