

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

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

**THE CONSUMERS COUNCIL OF MISSOURI, OFFICE OF THE PUBLIC COUNSEL,  
AARP, AND THE MISSOURI RETAILERS ASSOCIATION’S MOTION FOR  
RECONSIDERATION AND/OR CLARIFICATION OF  
THE ORDER REGARDING REQUEST TO SET TEST YEAR AND TRUE-UP**

**COME NOW** the Consumers Council of Missouri (“Consumers Council” or “CCM”), Office of the Public Counsel, AARP, and the Missouri Retailers Association (“MRA”), and pursuant to Rule 4 CSR 240-2.160, hereby moves for reconsideration and/or clarification of the Commission’s Order Regarding Test Year and True-up, that was issued on May 14, 2014. In support of this motion, the signatories state as follows:

1. In its May 14, 2014 Order, the Commission determined that the establishment of a test year and true-up period was unnecessary at this point in this proceeding. Regardless of whether that decision was reasonable, the reasoning of that Order contains misstatements of law regarding “general rate proceedings”:

The Commission establishes a test year at the start of a general rate proceeding to allow all parties to use a common frame of reference to analyze the utility’s expenses and revenues while considering all relevant factors in establishing a just and reasonable prospective rate for the utility. However, this is not a general

rate proceeding, rather it is a rate complaint.  
[Id., pp. 1-2.] [Emphasis added].

However, under Missouri law, a “general rate proceeding” is an umbrella term used to encompass *both* “file and suspend” rate increase cases filed by a regulated utility pursuant to Section 393.150 RSMo *and* rate complaint cases filed a party contending that a utility’s rates should be decreased pursuant to Section 386.390.1 RSMo.

2. Even though, a rate complaint case does not follow all of the same procedures as a “file and suspend” rate case (i.e., it lacks the 11-month statutory deadline for resolution), but both are “general rate proceedings” under the law and in both types of proceeding, the Commission has the authority to change utility rates based upon all relevant factors.

Missouri statutes use the term in contexts that make it clear that both types of cases are “general rate proceedings. For example, the use of the term in the Fuel Adjustment Clause Law explicitly mentions a rate complaint as being a general rate proceeding:

386.266.4 RSMo. The commission shall have the power to approve, modify, or reject adjustment mechanisms submitted under subsections 1 to 3 of this section only after providing the opportunity for a full hearing in a general rate proceeding, including a general rate proceeding initiated by complaint. [Emphasis added].

3. The Commission’s own Rules also contain definitions of “general rate proceeding” which clarify that the term includes both types of rate cases:

- The MEEIA Rule defines this term at 4 CSR 240-20-093(1)(X):  
"General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs or rates and charges of the electric utility are considered by the commission;"
- The FAC Rule defines this term identically at 4 CSR 240-20.090 (D)(1):

“General rate proceeding means a general rate increase proceeding or complaint proceeding before the commission in which all relevant factors that may affect the costs, or rates and charges of the electric utility are considered by the commission;”

4. The signatories to this motion are concerned that the Commission may have been confused by the Staff’s Response filed on May 2, 2014, which contained this statement:

The Commission may either conduct a limited investigation, with the aim of determining whether or not the allegations of the Complaint are true, or the Commission may conduct a full investigation in order to determine just and reasonable prospective rates for the service in question. [ibid. at p. 3].

The signatories do not agree that such a distinction exists between a so-called “limited investigation” rate complaint and a “full investigation” rate complaint. In its requested relief paragraph, the February 12, 2014 Complaint governing this proceeding asks the Commission to “revise Ameren Missouri’s electric rates to just and reasonable electric rates consistent with its cost of service and revenues.” [ibid. at 7]. If Complainants can meet their burden of proof, the Commission is clearly authorized to accordingly decrease Ameren Missouri’s electric rates in this proceeding.

5. There is no qualitative legal distinction between a rate complaint case filed by the Commission’s Staff and a rate complaint filed by any other entity authorized to do so under Section 386.390.1 RSMo. Any excess earnings rate complaint case qualifying under that law is a general rate proceeding with the potential to result in an order that reduces rates prospectively.

6. The Commission also stated at page 2 of its Order:

Their [Complainants] complaint and the direct testimony they filed along with that complaint identified the issues and timeframes presented. The established schedule does not allow for the presentation of additional direct testimony, so no new issues can be raised.

7. The Commission should clarify that only the Complainants can raise no new issues. Any other party is free to address any other relevant issue in its rebuttal testimony. Thus, the Commission will have the opportunity to consider all factors deemed relevant by the parties. Complainants will have the opportunity to address any of the evidence on any of the relevant factors raised by other parties in their surrebuttal testimony, as contemplated by the Commissions' rules. 4 CSR 240-2.130(7)(A) - (D).

WHEREFORE, the signatories respectfully request that the Commission reconsider or clarify its May 14, 2014 Order Regarding Test Year and True-up in a manner that assures consumers that a Report and Order will be issued on the anticipated decision date of September 26, 2014 which establishes new electric rates based on the competent and substantial evidence on the record of this rate complaint proceeding.

Respectfully submitted,



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Office of the Public Counsel

Dated: May 27, 2014

## CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been emailed to counsel for the parties in this proceeding on this 27<sup>th</sup> day of May, 2014.

/s/ Thomas R. Schwarz, Jr.

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