

**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 Ameren Missouri's Large ) Case NO. EC-2014-0224  
Transmission Service Tariff to Decrease )  
its Rate for Electric Service )

**BRIEF OF MISSOURI RETAILERS ASSOCIATION**

Noranda Aluminum, Inc. and certain other Union Electric Company, d/b/a Ameren Missouri (Ameren) customers (“Noranda” or “Complainants”) filed this Complaint to have the Commission examine the rates by which Ameren’s customers, collectively, recompense Ameren for provision of electric service. It does not in any manner affect, implicate, or challenge the amount of revenue that Ameren requires; all such revenue factors and considerations are irrelevant and immaterial to the issues for decision in this case.

The Missouri Retailers Association (MRA) expects that at least three other parties (Complainants, the Commission Staff, and Ameren) to present technical, detailed and extensive briefs. MRA sees no reason to subject the Commission to another. MRA will address the technical issues raised by the other parties in its reply brief.

Noranda is sui generis in the Missouri regulatory landscape. No other customer - electric, natural gas or water – spends as much on regulated utility service as does Noranda. No other Missouri utility customer provides six percent of the revenues of the regulated utility. Because of the size and shape of its electric load, Noranda’s continued presence on Ameren’s system is relevant to Ameren’s other customers. In addition, the record demonstrates the disproportionate impact that Noranda’s business activities have on the economy of its region and the state..

Much has been made in prior pleadings and testimony about the Commission’s authority to address the issues raised, and the proper exercise of the Commission’s discretion in the

decisions it must make in this case. While the context of this case is different from earlier Commission cases, the public interest requires the Commission to address these issues head-on, in considering all relevant factors presented for decision, to resolve this case on its merits. The MRA asserts that on the evidence the public interest is best and reasonably served by granting Noranda the rates that it recommends. Ameren's other customers are better served by ensuring that Noranda remains a customer of Ameren for the foreseeable future.

Nor should the Commission consider that this case invokes something other than its general rate authority. The rates proposed are not "interim" or "emergency" as those terms have been used by the courts. *See, State ex rel. Fischer v. Public Service Commission*, 670 S.W.2d 24, 26 (Mo. App. W.D. 1984). The relief sought here is not ancillary to a general rate case, nor does it involve the survival of a utility facing exigent circumstances. If the nature of rates in this case must be pigeonholed, "experimental" is the best fit. *State ex rel. Washington University v. Public Service Commission*, 272 S.W. 971, 974 (Mo. banc 1925); *State ex rel. McKittrick v. Public Service Commission*, 175 S.W.2d 857, 866 (Mo. banc 1943).

In determining just and reasonable rates the Public Service Commission is not limited to consideration of only short-term cost effects nor technical formulas. *State ex rel. Associated Natural Gas Co. v. Public Service Commission*, 706 S.W.2d 870, 879 (Mo. App. W.D. 1985). Particularly in this case, the Commission should focus on long-term rate impacts, and rate stability. Should Noranda's 450 MW load, at a 98% load factor be lost, it is unlikely to be restored in the future. Remaining customers will be at risk for the loss of Noranda's contribution to Ameren's fixed costs of service – Ameren made that quite clear at hearing. On the other hand, if Noranda remains a viable customer of Ameren and on the system, the

Commission has the continuing authority and the duty to re-examine the experimental rate structure and to adjust rates if necessary to meet changing future conditions.

The Commission should give little if any weight to Ameren's purported interests in customer welfare. In recent rate cases, even though Ameren has submitted a class cost service study that indicated misallocation of revenues among customer classes, Ameren has consistently urged a pro rata, across-the-board increase for its customers. In discussing this case with Noranda prior to its filing, Ameren suggested conditions for its support which would preclude Noranda from advocating consumer positions both before this Commission and the General Assembly. This stands in stark contrast to the conditions endorsed by other parties to this case, as well as the conditions imposed by other states when providing similar relief, which were directed at additional assurances of public benefit.

### **CONCLUSION**

The evidence in this case establishes that the long-term interest of all Ameren ratepayers is for Noranda to remain a customer of Ameren Missouri, to continue to contribute to Ameren's fixed costs of service, and to continue to represent its own interests and those of all other Ameren consumers before this body and the General Assembly.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

By: /s/ Thomas R. Schwarz  
Thomas R. Schwarz, Jr., #29645  
Stephanie S. Bell, #61855  
308 East High Street  
Suite 301  
Jefferson City, MO 65101

(573) 634-2500  
(573) 634-3358 FAX  
[tschwarz@bbdlc.com](mailto:tschwarz@bbdlc.com)  
[sbell@bbdlc.com](mailto:sbell@bbdlc.com)

Attorneys for the Missouri Retailers Association

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the above Brief of Missouri Retailers Association have been emailed to counsel for the parties in this proceeding on this 8<sup>th</sup> day of July, 2014.

/s/ Thomas R. Schwarz, Jr.

---

Thomas R. Schwarz, Jr.