

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

In the Matter of Complainants' Request for        )  
Revisions to Union Electric Company d/b/a        )  
Ameren Missouri's Industrial Aluminum            )  
Smelter (IAS) Tariff to Decrease that Rate for    )  
Electric Service                                        )        Case No. \_\_\_\_\_

**RATE DESIGN COMPLAINT AND  
MOTION FOR EXPEDITED TREATMENT**

COME NOW the Missouri Industrial Energy Consumers ("MIEC") and the individual customers of Ameren Missouri identified in the signature pages attached hereto, and for their Complaint against Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri") under sections 393.130.1, 386.390, 393.260 and regulation 4 CSR 240-2.070(4) and (5) state as follows:

**Introduction**

1. This Complaint is unprecedented as far as complainants are aware. It seeks to have this Commission on a temporary and emergency basis lower the electric rate of Missouri's largest consumer of electricity, Noranda Aluminum, Inc., in order to keep it and its Missouri aluminum smelter viable and in business until the next Ameren Missouri rate case is decided. Complainants do so with the understanding that electric rates for customers other than Noranda likely will be higher as a result of this action. Complainants do so because of their belief that without emergency temporary rate relief, the smelter will close. If it closes, and ceases buying power at a rate above the incremental cost of power to serve the smelter, ratepayers will pay more for their power than they would as a consequence of the relief requested in this case. The Complainants believe that the smelter is likely to close because the price of Noranda's product, aluminum, reported as the Midwest transaction price, is below any "worst case" projection and

Noranda's liquidity was already in jeopardy. The price of aluminum has plummeted to the point where aluminum smelters in the United States are shutting down at an alarming pace. There were 8 such smelters in operation in March 2015, but only 4 are in operation now. By the end of 2017, it is expected that 2 more will close.

### **Parties**

2. Noranda is a corporation duly authorized to conduct business in Missouri and has its corporate address at 801 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067. Noranda operates an aluminum smelter (Smelter) in Southeast Missouri located in the St. Jude Industrial Park near New Madrid, Missouri. Noranda produces various aluminum products at the Smelter. Noranda sells its raw aluminum product at the Midwest aluminum transaction price. The smelting process consumes large amounts of electricity at all times, with the cost of such electricity comprising approximately one third of the Smelter's production costs during normal operation. During normal operation, Noranda is by far Ameren Missouri's largest customer of electric power. It buys its power under the Industrial Aluminum Smelter ("IAS") tariff, tariff 13(M).

3. The MIEC is a not-for-profit corporation that represents the interests of industrial consumers of utilities, including electricity. Although Noranda is normally a participant of the MIEC in actions before this Commission, Noranda is not a participant as complainant in this filing. The MIEC members purchase large quantities of utilities, including electricity from Ameren Missouri.

4. The individual complainants are all electric customers of Ameren Missouri and are affected by whether Noranda's New Madrid Smelter continues to buy electricity in large quantities from Ameren Missouri. The individual complainants are identified in attachments to this Complaint. They may be contacted through the below counsel for Complainants.

5. The interest of the Complainants here is in insuring that Noranda remains a customer of Ameren Missouri, because Noranda's continued existence as an Ameren Missouri ratepayer at any price of electricity above the incremental cost to serve it, even at discounted prices, benefits consumers by keeping their electric rates lower than they would be if Noranda failed and closed the New Madrid Smelter.

6. Ameren Missouri is an electrical corporation as defined in section 386.020(12) and a public utility under the jurisdiction of this Commission and is the largest electric utility in Missouri. Ameren Missouri produces and sells electricity, at rates set by the Commission, to all of its customers, including MIEC members, in Missouri. Ameren Missouri's main office address is 1901 Chouteau, St. Louis, Missouri 63166.

### **Jurisdiction**

7. The Commission has jurisdiction of this Complaint under sections 393.130.1, 386.390, 393.260 and regulation 4 CSR 240-2.070(4) and (5).

8. Section 393.130.1 provides:

Every ... electrical corporation ... shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such ... electrical corporation ... for ... electricity ... or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for ... electricity ... or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

9. Section 386.390.1 provides:

Complaint may be made by ... by the public counsel or any corporation... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any ... public utility, including any ... charge heretofore established or fixed by or for any ... public utility ...; provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any ...electrical ... corporation, unless the same be signed by the public

counsel or ... not less than twenty-five consumers or purchasers ... of such electricity[.]

10. Regulation 4 CSR 240-2.070(4) and (5) provides:

(4) Formal Complaints. A formal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person, corporation, or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. The formal complaint shall contain the following information:

- (A) The name and street address of each complainant and, if different, the address where the subject utility service was rendered;
- (B) The signature, telephone number, facsimile number, and email address of each complainant or their legal representative, where applicable;
- (C) The name and address of the person, corporation, or public utility against whom the complaint is being filed;
- (D) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;
- (E) The relief requested;
- (F) A statement as to whether the complainant has directly contacted the person, corporation, or public utility about which complaint is being made;
- (G) The jurisdiction of the commission over the subject matter of the complaint; and
- (H) If the complainant is an association, other than an incorporated association or other entity created by statute, a list of all its members.

(5) No complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel or... not less than twenty-five consumers or purchasers ... of such electricity. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

### **Additional Facts**

11. Noranda is an integrated aluminum manufacturer. It manufactures aluminum products such as billet, rod, foundry products and primary ingots at its New Madrid, Missouri Smelter. The manufacturing process is energy intensive and capital intensive. Electricity is required to convert aluminum oxide into molten aluminum. The smelter normally produces over 200,000 metric tons of aluminum products per year. Noranda normally is one of the largest aluminum foil producers in North America and a major producer of light gauge aluminum sheet products. However, because of the recent failure of a circuit, Noranda was required to close two of the three aluminum pot lines that produce aluminum. Because of the extremely depressed price of aluminum, and because of Noranda's compromised liquidity, it is unable to reopen the two closed pot lines at this time. Furthermore, it has indicated that without electric rate relief by March 12, 2016, it will be forced to curtail operation of the New Madrid Smelter entirely, severely curtailing how much power it buys from Ameren Missouri.

12. The cost of electricity normally represents approximately one third of the cost of production at the Smelter. The smelter at full production uses 485 MW of power, 24 hours a day, 7 days per week, 52 weeks per year, with a 98 percent load factor. At full production, the Smelter consumes about the same amount of electricity as the City of Springfield, Missouri, is Ameren Missouri's largest customer, and consumes approximately ten percent of the power that Ameren Missouri produces. Under its current electric rates, and normal operation of the smelter, Noranda pays Ameren Missouri approximately \$160 million for electric service, which includes charges under the Ameren Missouri fuel adjustment clause, each year, resulting in an effective rate of close to \$38/MWh.

13. The price that Noranda realizes for its aluminum products is largely set by the London Metals Exchange (“LME”) but also includes a Midwest premium. Currently, and for the foreseeable future, the LME price for aluminum is extremely depressed. In fact, because of this, the U.S. aluminum industry is in crisis. The price of aluminum is at a six year low. In November 2015 the price of aluminum, with the Midwest premium included, was \$0.7480/pound, down almost 30 percent since January 2015. That aluminum price recovered some in December 2015, to \$0.7675/pound, but then dropped in January 2016 to \$0.7617/pound. The reason for the low aluminum price is that Russian, Chinese and the Middle East producers, but mostly the Chinese producers, have ballooned their output of aluminum.

14. Bloomberg Business reported on November 3, 2015 that if the price of aluminum does not recover “almost all U.S. smelting plants will close by next year [2016].” As of March 2015, there were 8 smelters operating in the U.S. By the end of 2015, 4 of those ceased production. On Jan. 7, 2016, Alcoa Inc. announced by the end of the first quarter of 2016, it will close Warrick Operations in Evansville, Indiana, one of the biggest aluminum smelters in the U.S. By the end of the second quarter, Warrick will curtail production at its refining plant in Texas as well.

15. The New Madrid Smelter has until very recently employed over 850 people and was one of the largest employers in Southeast Missouri. If the Smelter were to close, there would be a significant impact on the State of Missouri, both in terms of the State’s gross domestic product (“GDP”), and in terms of taxes collected and other economic measures.

16. If the Smelter were closed, Ameren Missouri would sell, as off-system sales to other entities, the power Noranda otherwise would have purchased. The price per MWh that Ameren Missouri would realize on such sales would be less than the price per MWh that Complainant is requesting in this Complaint. The average price that Ameren Missouri realized

on its off-system sales in December 2015 was below \$20/MWh, and the average price so far in January 2016 is approximately \$21.50/MWh.

17. It is expected that Ameren Missouri will file a new rate case within 6 months. When rates are reset in that case, consumers' rates will be higher as a result of Noranda's financial issues based largely<sup>1/</sup> upon the difference between: (1) the market price per MWh realized by Ameren Missouri on the power sold to the grid instead of to Noranda; and (2) the price per MWh Ameren Missouri could realize on sales of that power to Noranda. The power rate for Noranda that is requested in this complaint is still well above any reasonable short-term projection of the incremental cost of that power.

18. Noranda's liquidity, and thus its ability to operate, has reached a crisis point. As of the close of its third quarter, Noranda's liquidity was \$113 million, which consisted of only \$9 million of cash and \$104 million of available borrowing. For a capital intensive business like Noranda's, that level of liquidity is of significant concern, particularly since Noranda's liquidity declined from \$159 million at the end of the second quarter. It is believed that Noranda's liquidity level currently is far below the liquidity level at the close of the third quarter 2015.

19. Noranda's stock price also reflects its tenuous financial condition. In August 2015, Noranda Aluminum Holding Corporation completed a 1 for 7 stock split, meaning that it combined 7 shares into 1. The stock price on December 9, 2015 was \$0.42 per share, or approximately \$0.06 per share on a pre-reverse stock split basis. Its 52 week high price was \$27.78 per share, or approximately \$3.97 per share on a pre-reverse stock split basis. Noranda Aluminum Holding Corporation stock traded on the NYSE but, because of its low share price,

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<sup>1/</sup> Complainants note that Ameren Missouri will avoid some costs to provide the power to Noranda in addition to the market price of power, but those costs are expected to remain below \$3/MWh until the next rate case is decided.

was recently delisted. On February 1, 2016, the stock price opened at \$0.32 per share, or slightly more than \$0.045 per share on a pre-split basis.

20. The average Midwest transaction price, the price that is critical to the survival of the New Madrid Smelter, for March 2015, when the trial of Case No. ER-2014-0258 occurred, was \$1.0045 per pound. That price has steadily dropped since then. The average November price was \$0.7480 per pound, far less than any “worst case” scenario contemplated in Case No. ER-2014-0258. With the glut of aluminum on the market, dominated by production from China, it is unlikely that the aluminum price will recover soon enough to save Noranda and the New Madrid Smelter. Experts do not expect the Midwest transaction price to recover in the near term. The reduction in revenue creates the current liquidity crunch that Noranda is now enduring.

21. Without the requested immediate emergency reduction in its electric rates, Noranda and the New Madrid Smelter will have insufficient liquidity to remain open, even in the short term, resulting in the loss of all jobs at the facility and Noranda’s significant payment of Ameren Missouri’s fixed costs of operation. Consequently, because the rate contemplated in this complaint is above incremental cost, closure of the New Madrid Smelter will cause ratepayers’ rates to increase by more than they would if the requested relief is granted.

22. In Case No. ER-2014-0258 this Commission correctly concluded that Ameren Missouri ratepayers were better off with Noranda remaining a customer of Ameren Missouri versus closing the New Madrid Smelter, so long as the rate Noranda paid for its electricity was greater than the incremental cost of Ameren Missouri to serve Noranda. In Case No. ER-2014-0258, this Commission determined that the incremental cost was at or below \$31.50/MWh. While the Midwest transaction price for aluminum has crashed, the market price for electricity has also fallen substantially as well. The current incremental cost of power to serve Noranda, calculated the way Staff witness Kliethermes calculated it in EC-2014-0224, is \$29.61/MWh.



The current incremental cost of power to serve Noranda, calculated the way witness James Dauphinais calculated it in EC-2014-0224, is \$ 27.50-28.15/MWh. Complainant requests that this Commission lower Noranda's electric rate to \$30/MWh, with no FAC payment, until the Commission resets all rates in Ameren Missouri's next rate case. Ameren Missouri has already provided notice of its intent to file such a case.

23. Complainants request that the difference between Noranda's current rate and the requested rate herein, multiplied by the number of MWhs of power that Noranda purchases under this emergency rate, be deferred and recorded in a regulatory asset for the Commission's future consideration.

24. Complainants request that the Commission conduct an expedited review of this complaint, and issue temporary rate relief in the form of a lower rate of \$30/MWh for Noranda until Ameren Missouri's next rate case.

25. The relief requested herein is not only in the best interest of Noranda and Ameren Missouri's other ratepayers, but in the best interest of Ameren Missouri as well. Should the New Madrid Smelter close, as will shortly be the case without this emergency rate relief, Ameren Missouri will sell the power that it planned to sell to Noranda for the market rate, which is even less than the incremental cost of power set forth above (and less than the rate requested herein), until Ameren Missouri's rates are reset in its next rate case. *See* Ameren Missouri tariff 73.4. The difference between the current and foreseeable market rate for power and Noranda's current rate is substantial. With the emergency rate relief requested herein, coupled with the deferred asset to record the difference between the emergency rate and the current rate, Ameren Missouri will be better off than if the New Madrid Smelter fails and closes in March.

26. It is in the best interests of the State of Missouri and its citizens, Noranda, Noranda's employees, and Ameren Missouri's other ratepayers, that the Smelter remain open,

something that can happen only if the Smelter's electric rate is reduced to \$30/MWh. It is in the public interest to keep the Smelter open with the requested rate for the reason that: (a) rates of other Ameren Missouri ratepayers will increase if the requested relief is denied and the New Madrid Smelter closes; (b) the State of Missouri will incur a significant reduction in state GDP and tax collections if the requested relief is denied; and (c) Southeastern Missouri would incur economic hardship in the loss of jobs if the requested relief is denied.

27. Under the circumstances set forth above, the current average annual electric rate of \$36/MWh plus the fuel adjustment surcharge (up to \$2/MWh) for a total of \$38/MWh, is an unreasonable rate and should be adjusted to a temporary emergency rate of \$30/MWh for the New Madrid Smelter, under whatever conditions the Commission deems appropriate and in the public interest.

#### **Motion for Expedited Treatment**

28. The Complainants request expedited treatment of this Complaint pursuant to 4 CSR 240-2.080(14) for the reason that without the requested relief, rendered on a timely basis, the New Madrid Smelter will shortly close. Any such result would have dire consequences for the economy of the State of Missouri, Noranda, Noranda's employees, and Ameren Missouri's other ratepayers. As recognized in *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 48 (Mo. banc 1979), such an emergency need for rate relief is a basis for interim rates, and thus expedited relief. This motion was filed as soon as possible after assessing the impact of the electrical circuit failure that caused closure of two of three production lines at the Smelter and the worsening outlook for aluminum prices. Complainants respectfully request that the Commission set an expedited procedural schedule within one week of the filing of this Complaint. Complainants respectfully request that the

procedural schedule adopted by the Commission culminate in a decision issued by the Commission on March 2, 2016.

WHEREFORE, Complainants respectfully request the Commission review this Complaint on an expedited basis, conduct whatever investigation or hearings it deems necessary and required by law, and revise the electric rate charged Noranda for operation of the Smelter to a rate of \$30/MWh and authorize Ameren Missouri to create a regulatory asset and to record to that regulatory asset the difference in revenue collected by Ameren Missouri during the period of the requested temporary rate relief and the amount that would have been collected under the IAS tariff rate for all power sold to Noranda during the period of the requested temporary rate relief.

Respectfully submitted,

**BRYAN CAVE LLP**

By: /s/ Diana M. Vuylsteke

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**ATTORNEY FOR MISSOURI INDUSTRIAL  
ENERGY CONSUMERS AND INDIVIDUAL  
COMPLAINANTS**

**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 1<sup>st</sup> day of February, 2016, to:

Wendy Tatro  
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PO box 66149  
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Morris Woodruff  
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*/s/ Diana M. Vuylsteke*

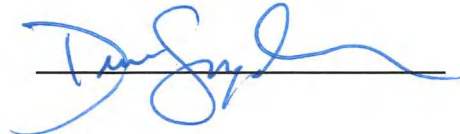
	First Name	Last Name	Address	City	State	Zip
1	Lucus	Welch	112 West Broadway	Ashland	MO	65010
2	Drew	Snyder	106 Sarah Drive	Ashland	MO	65010
3	Jessica	Counihan	409 Oak Street	Ashland	MO	65010
4	Craig	Middaugh	506 Caspian circle	Ashland	MO	65010
5	Richard	Blake	601 Caspian Circle	Ashland	MO	65010
6	Randy	Nichols	404 Oak Street	Ashland	MO	65010
7	Cheri	Ballard Buckner	16800 Old Hwy 63 S	Ashland	MO	65010
8	Sontra	Johnson	22530 S Coonce Ln	Hartsburg	MO	65039
9	Lynn	Facemyer	105 S Main Street	Ashland	MO	65010
10	Leah	Goudschalla	501 Caspian Circle	Ashland	MO	65010
11	Susan	Bauer	85 Center Street	Hartsburg	MO	65039
12	Lance	Fox	20570 S Route A	Hartsburg	MO	65039
13	Sharon	Basinger	10151 E Forsee Rd	Ashland	MO	65010
14	Kathy	Hake	303 E Liberty Ln	Ashland	MO	65010
15	Laura	Burkett	205 E Liberty Ln	Ashland	MO	65010
16	Kathy	Sherman	502 D Douglas Dr	Ashland	MO	65010
17	Bill	Molendorp	20 E Main	Hartsburg	MO	65039
18	Kaela	Bolerjack	504 B Pinto Pony Dr	Ashland	MO	65010
19	Rebecca	Cupp	600A Pinto Pony Dr	Ashland	MO	65010
20	Judy	Pope	19685 S Rte A	Hartsburg	MO	65039
21	John	McMillen	5250 E Ballard Rd	Ashland	MO	65010
22	Katy	Lammers	30 N 2nd Street	Hartsburg	MO	65039
23	Roberta	Vendsel	15 E Main Street	Hartsburg	MO	65039
24	Charles	Dorman	21933 Bush Landing Road	Hartsburg	MO	65039
25	Julie	Smallwood	18401 S Route A	Ashland	MO	65010
26	Arla	Stone	304 Amanda Drive	Ashland	MO	65010
27	Kent	Walker	303 Amanda Drive	Ashland	MO	65010
28	Ada	Gallup	202 Amanda Drive	Ashland	MO	65010
29	Dylan	Ross	504 Parkade	Columbia	MO	65202
30	Jim	Motter	22900 S Mt Pleasant	Hartsburg	MO	65039
31	Robert	Mathis	23250 Mount Pleasant Rd	Hartsburg	MO	65039
32	Angie	Begemann	100 N First	Hartsburg	MO	65039

We, the below ratepayers of Ameren Missouri, do hereby join in and sign the foregoing complaint.

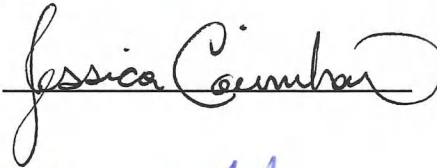
LUCAS T. WELCH  
118 WEST BROADWAY  
ASHLAND, MO 65016



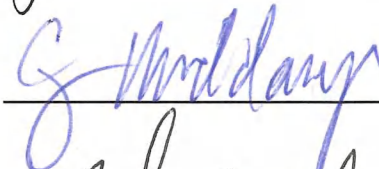
DREW A. SNYDER  
106 SARAH DRIVE  
ASHLAND, MO 65010



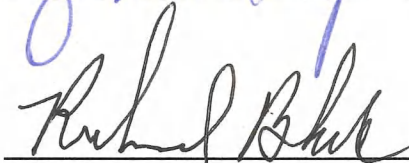
JESSICA B. COUNZHAN  
409 OAK ST.  
ASHLAND, MO 65010



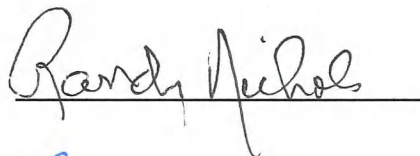
CRAIG K. MIDDAGH  
506 CASPIAN CIRCLE  
ASHLAND, MO 65016



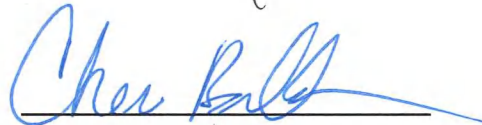
RICHARD L. BLAKE  
601 CASPIAN CIRCLE  
ASHLAND, MO 65010



RANDY R. NICHOLS  
404 OAK ST.  
ASHLAND, MO 65016



Cheri Ballard Budner  
11680 Old Hwy 63 S  
Ashland MO 65010



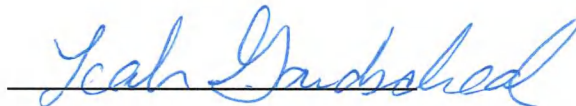
Sandra Johnson  
20530 S. Conner Ln  
Hartsburg MO 65039



Lynn Facemyer  
105 S. Main St  
Ashland, mo 65010



Leah Goudschaal  
501 Caspian Cr.  
Ashland, MO 65010



We, the below ratepayers of Ameren Missouri, do hereby join in and sign the foregoing complaint.

Susan Bauer  
85 Center Street  
Hartsburg, mo. 65039

Susan Bauer

LANCE FOX  
20570 S RT A  
HARTSBURG MO 65039

Lance Fox

SHARON BASINGER  
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Sharon Basinger

Kathy Hake  
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Kathy Hake

Laura Burkett  
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Laura Burkett

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Kathy Sherman

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Bill Molendorp

Karla Bolejack  
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Ashland MO 65010

Karla Bolejack

Rebecca Cuzzo  
600A Pinto Pony  
Ashland, MO


Rebecca Cuzzo

Judy Pope  
19685 S. RTE A.  
HARTSBURG, MO 65039

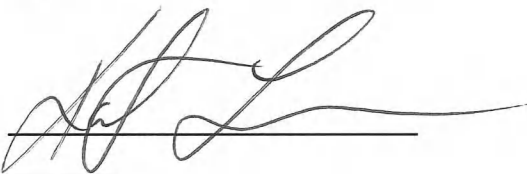
Judy Pope

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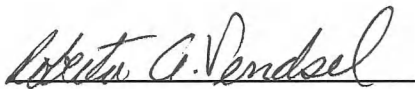
John McMillen  
5250 E. Ballard Rd  
Ashland MO 65010



Katy Lammers  
30 N 2nd Street  
Hartsburg MO 65039



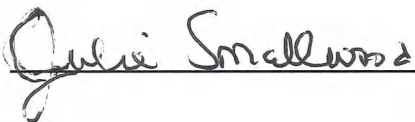
Roberta A. Vendsel  
15 East Main ST.  
Hartsburg, MO 65039



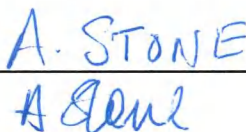
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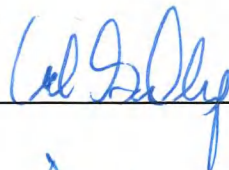
ARLA STONE  
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ASHLAND, MO. 65010



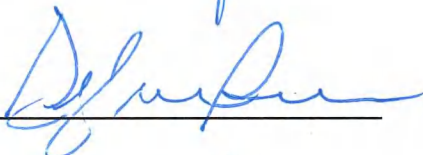
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Columbia, MO 65202



Jim Motter  
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