

**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.)	

**AMEREN MISSOURI'S RESPONSE IN SUPPORT OF
PUBLIC COUNSEL'S MOTION TO MAKE PUBLIC CERTAIN DOCUMENTS
REGARDING AMEREN MISSOURI'S EARNINGS**

COMES NOW Union Electric Company, d/b/a Ameren Missouri (“Ameren Missouri” or the "Company") and states as follows:

1. On February 12, 2014 Noranda Aluminum, Inc. and 37 individual customers ("Noranda et al.") filed a complaint (the “Complaint”) against Ameren Missouri alleging its existing rates are unjust and unreasonable and should be reduced. Portions of the Complaint and the accompanying testimony of witness Greg Meyer were designated as Highly Confidential because they contained information from, or derived from, a Surveillance Monitoring Report filed on November 22, 2013 by Ameren Missouri. As required by the Commission’s rules, the Surveillance Monitoring Report was filed as Highly Confidential. *See* 4 CSR 240-3.161(6).

2. On March 12, 2013 the Office of the Public Counsel ("OPC") filed a Motion to make the information cited above public. OPC points out that the Commission rule requiring Highly Confidential treatment can be waived upon a showing of good cause. OPC states that Highly Confidential information cannot be disseminated to the public. In this case, OPC argues, the public has an interest in seeing this information so that they can understand the allegations being made in the Complaint. Also, OPC argues that other entities will be either severely

hampered or completely unable to communicate with their counsel and experts regarding their interests in this proceeding if they do not have access to this information. OPC's Motion, p. 4.

3. Because of the pendency of the Complaint, which is largely premised on the Surveillance Monitoring Report at issue, Ameren Missouri agrees that under these circumstances there is good cause to make the information cited by OPC public so that parties can effectively participate in the case, and so that the public can understand the issues raised by Noranda et al., and Ameren Missouri's response to those issues.

4. Ameren Missouri notes, however, that the underlying purpose of the rule's requirement that Surveillance Monitoring Reports be filed as Highly Confidential remains valid. The Commission itself recognized as much when less than one year ago it denied a motion to make a Surveillance Monitoring Report public which had been filed by OPC, the Missouri Industrial Energy Consumers and Consumers Council of Missouri. *See Order Denying Motion for Waiver*, 2013 Mo. PSC LEXIS 775 (File No. EO-2013-0413, issued Aug. 21, 2013) (the "Order"). In denying that motion, which sought to make a Surveillance Monitoring Report public under circumstances having nothing to do with the need for parties to communicate with their clients about a rate case where the report was at issue, the Commission noted that when it adopted the fuel adjustment clause rules and, specifically, 4 CSR 240-3.161(6), it made the policy decision that such reports should be filed as Highly Confidential. The Commission made clear that it "does not intend to revisit that prior policy decision." *Order*, 2013 Mo. PSC LEXIS at p. *6. Ameren Missouri would point out that the Highly Confidential designation facilitates the free exchange of information between utilities and the Commission, which is critical to effective regulation, as the rule recognizes. However, in cases such as this, where surveillance

data is being relied upon to support a complaint requesting a rate adjustment, it is appropriate for the Commission to find good cause to make this information public.

5. As Ameren Missouri has stated in previous pleadings filed in this docket, it does not believe that the information shown in its Surveillance Monitoring Reports suggests that its rates should be reduced. Unadjusted historical book earnings are not the basis on which rates are, or should be set. For example, in Ameren Missouri's most recent rate case, the unadjusted surveillance reports showed book earnings in excess of the Commission's authorized return on equity, even though the Company's revenue requirement showed a significant revenue deficiency, and the Commission ultimately ordered a rate increase of approximately \$260 million.

6. Nonetheless, since Noranda et al. have made surveillance data the centerpiece of their Complaint, Ameren Missouri agrees that the Surveillance Monitoring Report filed on November 22, 2013 should be available to the public and other entities that wish to participate in this case.

WHEREFORE. Ameren Missouri respectfully requests that the Commission grant the waiver of its rule as requested by the Office of the Public Counsel.

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 19th day of March, 2014, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

Thomas M. Byrne

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