

**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 OPPOSITION TO  
NORANDA ET AL.'S REQUEST FOR EXPEDITED REVIEW AND RELIEF**

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 residential customers who "can be contacted through" Noranda's attorneys ("Noranda et al.") filed a complaint (the “Complaint”) against Ameren Missouri, alleging that Ameren Missouri's current rates are unjust and unreasonable, and that Ameren Missouri’s rates should be reduced to prevent the Company from over-earning. As part of the Complaint, Noranda et al. requested expedited review and relief.

2. Noranda et al.’s request for expedited relief should be denied for several reasons, first and foremost for practical reasons. Noranda et al. are essentially requesting that the Commission initiate a full-blown rate case, where rates for all of Ameren Missouri's customers must be set based on the Commission's consideration of all relevant factors. *State ex rel. Utility Consumer’s Council vs. Public Service Commission*, 585 S.W.2d 41, 49 (Mo. banc 1979). This will require the Commission Staff, the Company and other interested parties to hire expert witnesses, conduct extensive discovery, develop cost of service studies, develop class cost of service studies, file testimony, file responsive testimony, participate in local public hearings,

challenge the pre-filed written testimony through live cross-examination at Commission hearings, and brief the contested issues. And the Commission itself will need time to process the extensive amount of information that will be presented and deliberate on the issues that are litigated to ensure that rates are properly set. As the Commission has implicitly recognized in every large utility rate complaint case or rate increase case that it has processed in the past 30 years, this is necessarily a complex and time-consuming procedure. Although Missouri statutes require rate increase cases to be "given preference to all other questions pending before [the Commission]," and to be decided "as speedily as possible" and in any event completed within the 11 month maximum statutory suspension period,<sup>1</sup> litigated rate cases for large utilities typically take the full 11 month period.

3. There are reasons to expect that this case will take longer to process than a typical rate increase case. At the outset of a rate increase case, the utility provides numerous "minimum filing requirements" as provided in the Commission's rules, a full cost of service study, a complete class cost of service study as well as extensive direct testimony supporting its request for increased rates. This robust filing provides a starting point for the Staff to conduct its audit (which then typically takes about 5 months), and allows other parties to intelligently analyze the basis for the utility's request to increase its rates and respond to it. Here, Noranda et al. have provided nothing even remotely comparable to support the Complaint. As explained in Ameren Missouri's Motion to Dismiss being filed concurrently with this filing, Noranda et al. witness Greg Meyer's slap-dash attempt to calculate a revenue requirement is so patently deficient that it provides no information at all as to whether Ameren Missouri's current rates are too high, too low, or just right. Without repeating all of the criticisms contained in our Motion to Dismiss,

---

<sup>1</sup> Section 393.150 RSMo. 2000. Although it may well be possible for the Commission to more quickly process rate cases, current procedures have not allowed that to take place.

Mr. Meyer's calculation is based on stale, unadjusted surveillance data, which is clearly not appropriate for rate setting; he utilizes numerous adjustments which consist of simply cutting and pasting Staff adjustments from a previous rate case (which are not tied in any way to the Company's current cost of service); and he doesn't even bother to make critical adjustments such as a weather normalization adjustment, or account for updated fuel, rate base or solar rebate costs. The filing reflected by the Complaint and the minimal supporting information filed with it is not sufficient to state a claim that the Company's current rates are unjust or unreasonable, let alone sufficient to justify expediting the processing of this Complaint.

4. Moreover, there are good reasons to believe that Ameren Missouri's rates are actually lower than its cost of service and that rates applicable to future periods should be increased. For example, the Company has experienced significant increases in net fuel expenses which will have to be included in base rates and which Mr. Meyer has not taken into account; the Company is currently in the process of paying \$92 million in solar rebates which Mr. Meyer has not taken into account; and the Company is currently paying for two huge capital projects—the installation of electrostatic precipitators at its Labadie Energy Center and the replacement of the reactor head at its Callaway Energy Center—which Mr. Meyer has not taken into account. Based on these factors, and others, Ameren Missouri has announced that it will be filing a rate increase request in July, 2014.

5. In addition to these practical considerations, the request for expedited treatment should be denied because it fails to comply with the Commission's rule governing requests for expedited treatment. It contains technical deficiencies,<sup>2</sup> and more importantly it contains more substantive deficiencies, most notably a complete failure to comply with 4 CSR 240-

---

<sup>2</sup> For example, Noranda did not state the date by which it requested relief, and did not caption its pleading in accordance with the requirements of the Commission's rule. 4 CSR 240-2.080(14).

20.080(14)(C), which requires that a party seeking expedited treatment state that the pleading was filed "as soon as it could have been" or provide an explanation of why it was not. Indeed, Noranda et al. clearly did not file their Complaint "as soon as it could have been." The Complaint is based on data contained in a Surveillance Report Ameren Missouri filed in November, 2013. Noranda et al. waited until February, 2014 to file their Complaint based on that data, showing that the complainants were in no hurry to get the Complaint filed. Moreover, virtually all of the information used to justify the Complaint is months or even years old, demonstrating it was available to the complainants well before the Complaint was filed. Where a complainant does not file its complaint as soon as possible and provides no explanation as to why it did not do so, it is inappropriate for the Commission to grant expedited treatment to its request.

6. Under the circumstances outlined above, there is no basis to grant expedited treatment to this unsupported complaint. As explained in Ameren Missouri's Motion to Dismiss, the Commission should dismiss the Complaint. However, if the Complaint is not dismissed, at this point the most the Commission should do is instruct its Staff to properly investigate Ameren Missouri's cost of service to determine whether, based upon current conditions and those reasonably expected to exist in the future, Ameren Missouri's rates are too high, too low, or just right. The Commission should not cut corners on this process. Indeed, if the Complaint is not dismissed the most sensible step is for the Staff to conduct its investigation and to then consolidate that investigation with the Company's upcoming rate case, at which time all of these issues and in fact all relevant factors necessary to make a proper determination of what rates are appropriate to constitute just and reasonable rates can be addressed in an orderly fashion.

WHEREFORE, for the reasons set forth herein, Ameren Missouri respectfully requests that the Commission deny Noranda et al.'s request for expedited review and relief.

Respectfully submitted,

UNION ELECTRIC COMPANY  
d/b/a Ameren Missouri

By Thomas M. Byrne  
Thomas M. Byrne, #33340  
Director & Assistant General Counsel  
Ameren Missouri  
One Ameren Plaza  
1901 Chouteau Avenue  
P.O. Box 66149 (MC 1310)  
St. Louis, MO 63166-6149  
(314) 554-2514  
(314) 554-4014 (FAX)  
AmerenMOService@ameren.com

SMITH LEWIS, LLP

/s/ James B. Lowery  
**James B. Lowery**, #40503  
Suite 200, City Centre Building  
111 South Ninth Street  
P.O. Box 918  
Columbia, MO 65205-0918  
Phone (573) 443-3141  
Facsimile (573) 442-6686  
[lowery@smithlewis.com](mailto:lowery@smithlewis.com)

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this 17<sup>th</sup> day of March, 2014, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

*James B. Lowery*

---

James B. Lowery