

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

Noranda Aluminum, Inc. et al.,	)	
	)	
Complainants,	)	
v.	)	File No. EC-2014-0224
	)	
Union Electric Company, d/b/a	)	
Ameren Missouri	)	
Respondent.	)	

**AMEREN MISSOURI REQUEST TO AMEND PROCEDURAL SCHEDULE**

**COMES NOW** Union Electric Company, d/b/a Ameren Missouri (Ameren Missouri or the Company) and for its request to Amend the Procedural Schedule, states as follows:

1. On April 16, 2014, the Missouri Public Service Commission (Commission) issued its *Order Establishing Procedural Schedule*. This procedural schedule was extremely aggressive, especially given the significant rate shift and policy implications of the request made by Complainants. It was also incredibly short given that the Company had submitted 127 data requests to Complainant Noranda Aluminum (Noranda) and only yesterday received the last of the responses to them. The responses fill thirteen large binders. The data requests were specifically prepared to allow the Company, and ultimately the Commission, to examine the validity of Noranda’s claims made in the Complaint, including to provide information to the Commission through rebuttal testimony to be filed in this docket.

2. Despite the fact that discovery remains underway, the procedural schedule requires rebuttal testimony to be filed just 16 days after issuance of the *Order* – 14 days from now, and the Company is not asking the Commission to change that aggressive schedule for filing rebuttal testimony.

3. For the reasons discussed below, however, the Company is requesting some slight changes in the remainder of the schedule. As the Commission is aware, Complainants have pending a companion complaint, filed on the same date as the complaint at issue in this case. Also on April 16, the Commission On the same date, the Commission issued an identifiably titled procedural order in that case (File No. EC-2014-0223) that also reflects a very aggressive procedural schedule, with much of the work and many of the procedural deadlines occurring concurrently with work and deadlines applicable to this case.

3. In order to properly address both cases while respecting the Commission's decision to substantially expedite both cases, the Company's employees, attorneys and experts must, as applicable, review discovery received thus far, prepare testimony, conduct further discovery as needed to prepare for evidentiary hearing, and otherwise prepare for those hearings – in both cases. Given the substantial overlap between the schedules of the two cases, the undersigned counsel for Ameren Missouri is primarily responsible for this case. However, the undersigned counsel had long ago scheduled her family's only family vacation this year, which coincides with her oldest child's graduation from college. The trip is largely paid for, and non-refundable. Counsel will be out of town from the 2<sup>nd</sup> through the 9<sup>th</sup> of June.

4. To allow the undersigned counsel to properly perform her duties to her client, while respecting the Commission's desire for a very expedited procedural schedule, the Company requests the following slight modifications to the procedural schedule:

Surrebuttal testimony	May 19 <sup>th</sup>
List of Issues, Witnesses	May 21 <sup>st</sup>
Position Statements	May 23 <sup>rd</sup>
Hearing dates	May 28 <sup>th</sup> through the 30 <sup>th</sup>

5. These changes are minor. The deadline for surrebuttal/cross-surrebuttal testimony is shorted by four days, from 21 days to 17 days. That still gives parties filing surrebuttal/cross-surrebuttal<sup>1</sup> more time to file surrebuttal/cross-surrebuttal than exists between the date the original procedural schedule was adopted and May 2, when rebuttal testimony is due. The next deadlines only move the original dates by two and four days, respectively, and the hearing dates are only accelerated by one week.

6. Ameren Missouri consulted with counsel for Complainants within 24 hours after the *Order* setting the original schedule was issued seeking Complainants' agreement for these minor changes to the schedule. Complainants' counsel indicated that "due to Noranda's witness schedules" Complainants would not agree.

7. As noted, the Company respects the Commission's decision to substantially expedite this case and is not re-arguing the reasons why the Company had previously recommended a two alternative schedules that it believed were more reasonable. However, a complainant – whether at the Commission or in a trial court as plaintiff – is typically not afforded the right to insist upon a particular timeline for resolution of the case. Indeed, typical practice in the courts is for the presiding judge to solicit conflict dates from counsel for all parties and to schedule the trial on dates when both the court's and counsels' calendars are open.<sup>2</sup> This routinely includes accommodating legitimate vacation schedules of counsel. And lest Complainants argue that Ameren Missouri has "vast resources" and can assign anyone it wants to have primary responsibility for this case, it is worth noting that courts do not typically tell

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<sup>1</sup> Principally Complainants, who have advocated for this extremely compressed schedule.

<sup>2</sup> In practice, the same thing almost always occurs at the Commission when parties develop procedural schedules. While the parties were at odds over the appropriate schedule for this and the companion complaint case, even once the Commission decided to expedite the schedules no party was afforded any opportunity to raise legitimate conflicts that would only affect the Commission's preferred schedule in a minor way.

litigants to assign different attorneys or hire more of them. A client's right to choose its counsel for a particular case is an important one.

8. If indeed Complainants have legitimate conflicts with this slightly revised schedule – just as Ameren Missouri has a legitimate conflict with the original schedule – then the hearings could be moved to the next week, on June 10, 12-13,<sup>3</sup> and then make changes to the rest of the schedule that would have it end approximately two weeks later. There is no evidence in this case that Noranda has to have an order (which may or may not be to its satisfaction) by July 30. Indeed, the only factual allegation is that employee layoffs could occur sometime later in 2014, and that the the smelter is “subject to” closure long after that. A couple of weeks has no impact on these bare allegations, even if they were true, or even had Noranda said and proved that certain things absolutely would happen on the time frames they have alleged.

9. As discussed earlier, this request is not being made to prejudice any party or the Commission, nor is being made to unduly delay the timely and indeed extremely expedited resolution of this case. The Company appreciates the Commission's consideration of this request.

**WHEREFORE**, Ameren Missouri respectfully requests the Missouri Public Service Commission grants its request to amend the current procedural schedule as set forth above or, alternatively, to reset the evidentiary hearings to the dates specified the week of June 9, 2014 and to make other corollary adjustments to the other procedural schedule dates.

Respectfully submitted,

UNION ELECTRIC COMPANY  
d/b/a Ameren Missouri

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<sup>3</sup> The Commission has an evidentiary hearing scheduled in another case on June 11.

By Wendy K. Tatro

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

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this 18<sup>th</sup> day of April, 2014, served the foregoing either by electronic means, or by U. S. Mail, postage prepaid addressed to all parties of record.

Wendy Tatro

Wendy Tatro