

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

In the Matter of Union Electric Company, d/b/a )  
Ameren Missouri's Tariff to Increase Its Revenues ) Case No. ER-2014-0258  
for Electric Service )

**INITIAL POST-HEARING BRIEF OF  
WAL-MART STORES EAST, LP, AND SAM'S EAST, INC.**

Wal-Mart Stores East, LP, and Sam's East, Inc., (collectively "Walmart") submit this initial post-hearing brief pursuant to the Order Adopting Procedural Schedule, Establishing Test Year, And Delegating Authority issued herein August 20, 2014. After the Introduction below, the specific issues addressed by Walmart and Walmart's positions are set forth in the same order as the First Amended List of Issues, List and Order of Witnesses, Order of Cross-Examination, And Order of Opening Statements previously filed herein. Note that Walmart does not take a position on the omitted issues.

**INTRODUCTION**

Walmart operates approximately 145 retail units and employs 40,011 associates in Missouri. In fiscal year ending 2014, Walmart purchased \$7.4 billion worth of goods and services from Missouri-based suppliers, supporting 50,662 supplier jobs.

Walmart has approximately 48 stores and a distribution center serviced by Ameren, primarily on the Large General Service ("LGS") and Small Primary ("SP") rate schedules. In addition, there are 10 Walmart stores and one Sam's Club within 50 miles of Noranda's Aluminum's smelter in New Madrid, MO, that could be impacted by the outcome of this docket. Ameren serves a portion of these facilities, while others receive electrical service from other utilities.

Walmart did not address every issue in this proceedings, but focused its efforts on a smaller number of issues. Steve W. Chriss submitted expert testimony on behalf of Walmart. Mr. Chriss submitted the following testimony and related filings:

1. Exhibit 750 – Direct Testimony And Schedules Of Steve W. Chriss – Revenue Requirements (filed Dec. 5, 2014) (hereinafter “Chriss RR Direct”).
2. Exhibit 751 – Direct Testimony And Schedules Of Steve W. Chriss – Cost of Service, Revenue Allocation And Rate Design (filed Dec. 19, 2014) (hereinafter “Chriss COS Direct”).
3. Exhibit 752 – Rebuttal Testimony And Schedules Of Steve W. Chriss – Cost of Service, Revenue Allocation And Rate Design (Jan. 16, 2015) (hereinafter “Chriss COS Rebuttal”).
4. Exhibit 753 – Surrebuttal Testimony Of Steve W. Chriss – Cost of Service, Revenue Allocation And Rate Design (filed Feb. 6, 2015).
5. Exhibit 754 – Amended Motion To Substitute Completed Schedules to Exhibit 751 (filed Jan. 6, 2015). These schedules should be substituted for the incomplete schedules inadvertently attached to Exhibit 751.
6. Exhibit 755 – Motion To Amend Exhibit 752 (filed Jan. 19, 2015). Amends Exhibit 752 to include affidavit required by the Missouri Public Service Commission’s Rules of Practice.

**WALMART’S POSITION ON SPECIFIC ISSUES**

As set forth in more detail below, Mr. Chriss’ testimony identifies a number of relevant factors suggesting that Ameren’s proposed return on equity (“ROE”) is excessive. Walmart respectfully requests that the Commission specifically consider these factors when establishing the Company’s ROE in this case.

With regard to the class cost of service and revenue allocation issues in this case, it is undisputed that the LGS/SP class has been paying significantly more than its cost of service since at least 2007. Further, every class cost of service study submitted

in this case show that the LGS/SP class is still paying significantly more than its cost of service. There is absolutely no evidentiary basis in this record for Ameren's proposed equal percentage revenue allocation.

As discussed in more detail below, Mr. Chriss' testimony proposes an alternative allocation that will move the LGS/SP class toward cost of service, while also limiting the impact on other classes. Walmart respectfully requests that the Commission reject Ameren's proposal and adopt Mr. Chriss' recommended revenue allocation methodology.

With regard to the rate design for the LGS/SP case, it is undisputed that Ameren's proposed rate design fails to reflect the class' underlying cost of service and shifts costs from lower load factor customers to higher load factor customers. The Company's proposal is contrary to cost of service principles and completely without evidentiary support. Consistent with Mr. Chriss' recommendation, Walmart respectfully requests that the Commission order Ameren to develop alternative rate designs for LGS/SP customers that more accurately reflect the class' cost of service, and to present those alternatives in its next general rate case.

With regard to Noranda's rate proposal in this case, that proposal has changed over the course of this case. That is, in its filed testimony Noranda proposed a seven-year rate plan under which it would receive an initial energy charge of \$32.50/MWh, with a 1% annual escalator. In a subsequent non-unanimous stipulation<sup>1</sup> ("NUS"), Noranda

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<sup>1</sup> Nonunanimous Stipulation And Agreement Regarding Economic Development, Class Cost Of Service, Revenue Allocation And Rate Design (Mar. 10, 2015).

seeks a ten-year rate plan under which it would receive a higher initial energy charge of \$34.00/MWh. However, the purported ten-year term is completely illusory, since Noranda retains a unilateral right to seek additional rate relief from Ameren's other customers at any time during the next ten years. In addition, the NUS also perpetuates the historic and current inequitable revenue allocation to the LGS/SP rate class.

It is unclear at this point whether Noranda has abandoned the position advocated in its testimony in favor of that set out in the NUS, or whether Noranda is now advocating both positions. Walmart is opposed to the rate relief originally proposed by Noranda, as well as to the rate relief proposed by the NUS. However, as set out in more detail below, Walmart is not opposed to allowing some rate relief to Noranda, but only if that relief is structured in the way recommended by Mr. Chriss' testimony.

#### **16. Return on Common Equity ("ROE")**

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A. *In consideration of all relevant factors, what is the appropriate value for Return on Equity ("ROE") that the Commission should use in setting Ameren Missouri's Rate of Return?*

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Mr. Chriss expressed concern that Ameren's proposed return on equity ("ROE") in this docket is excessive. Chriss RR Direct p. 9, ln. 11-16. Among the "relevant factors" that should be considered, are the following.

First, as Mr. Chriss pointed out, Ameren's requested increase in this docket would be the sixth rate increase to retail customers since Ameren's 2007 rate case. *Id.* p. 5, ln. 12 – p. 6, ln. 3. During that same time period LGS and SP customers have paid rates well in excess of Ameren's costs of serving those classes. *Id.* p. 6, ln. 4 – p. 7, ln. 6.

Despite these undisputed facts, in the instant case Ameren is proposing to burden the LGS/SP customer class with an additional 9.64% increase, which is approximately 8.5% above the Company's own cost of service study. *Id.* p. 7, ln.9-13. Stated in terms of dollars, Ameren is proposing that LGS customers pay approximately \$49.2 million more than the class' cost of service, while SP customers pay approximately \$19.4 than the class' cost of service. *Id.* p. 7, ln.14 – p. 8, ln. 3. As Mr. Chriss testified:

Electricity represents a significant portion of a retailer's operating costs. When rates increase, that increase in cost...puts pressure on consumer prices and on the other expenses required by a business to operate.

*Id.* p. 8, ln. 7-9.

Another relevant factor that the Commission should consider is how Ameren's requested ROE in this case compares with other ROEs. For example, Ameren's proposed ROE in this case exceeds its currently approved ROE by 60 basis points. The revenue requirement impact of this requested increase in ROE alone is approximately \$37 million, and constitutes nearly 14% of the Company's requested increase. *Id.* p. 9, ln. 1-10.

Another relevant factor to be considered is the ROE granted in the most recent Kansas City Power & Light and KCP&L Greater Missouri Operations rate cases. In those cases this Commission authorized an ROE of 9.7% for both utilities. See Case Nos. ER-2012-0174 and ER-2012-0175 (Jan. 9, 2013). Ameren's proposed ROE in this case exceeds 9.7% by 70 basis point. Chriss RR Direct p. 9, ln.17-21.

A final relevant factor to be considered is the ROEs granted by other state utility

commissions. During 2012, 2013 and through December 5, 2014, the average authorized ROE for vertically integrated utilities like Ameren was 10.02%, which is 38 basis points *below* Ameren's requested ROE. When those results are corrected to remove the effect of three Wisconsin cases, which tend to overstate the impact of that jurisdiction and skew the results upward, the average authorized ROE for vertically integrated utilities was 9.76%. *Id.* p. 11, ln. 1 – p. 12, ln. 4.

The Missouri Commission has recognized the use of national averages as a factor in the “zone of reasonableness” test for evaluating an applicant's proposed ROE. *Id.* p. 10, ln. 1-13. These undisputed national averages make it clear that Ameren's requested ROE in this case is contrary to broader industry trends.

Walmart respectfully requests that the Commission give due consideration to these “relevant factors” in determining Ameren's authorized ROE in this case.

## **19. Class Cost of Service, Revenue Allocation and Rate Design**

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*A. What methodology should the Commission use to allocate generation fixed costs among customer classes?*

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Walmart advocates that rates be set on the basis of a utility's costs of service. This produces equitable rates that reflect cost causation, send proper price signals, and minimize price distortions. The Commission determined in Case No. ER-2010-0036 that the Company's cost of service study was the “most reliable” of the studies submitted in that case. See Report and Order, May 28, 2010, Case No. ER-2010-0036, page 87.

Accordingly, Walmart respectfully requests that generation fixed costs be allocated among customer classes according to Ameren's class cost of service study in this case.

*B. How should the non-fuel, non-labor components of production, operation and maintenance expense be classified and allocated?*

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Walmart advocates that rates be set on the basis of a utility's costs of service. This produces equitable rates that reflect cost causation, send proper price signals, and minimize price distortions. The Commission determined in Case No. ER-2010-0036 that the Company's cost of service study was the "most reliable" of the studies submitted in that case. See Report and Order, May 28, 2010, Case No. ER-2010-0036, page 87.

Accordingly, Walmart respectfully requests that generation fixed costs be allocated among customer classes according to Ameren's class cost of service study in this case.

*C. How should any rate increase be collected from the several customer classes?*

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It is undisputed that the LGS/SP customer class has provided a rate of return significantly above its cost of service levels in every rate case back to, and including the Company's 2007 rate case. Chriss COS Direct p. 5, ln. 1 – p. 6, ln. 8. This fact is admitted by Ameren witness William R. Davis. See Tr. v. 23, 3/3/15, p. 1480, ln. 10-22. This fact is also undisputed by any other party to this case.

It is further undisputed that Ameren's class cost of service study in this case clearly shows that the LGS/SP customer class is currently providing above average rates of return. *Id.* p. 1479, ln. 6 – p. 1480, ln. 9. Specifically, Ameren's class cost of service study indicates that, at the Company's requested increase in revenue requirements, LGS/SP customers should receive a *reduction* of approximately \$59.8 million, or 7.44%. Chriss COS Direct p. 7, ln. 5-7. In fact, **every cost of service study**

*in this case shows that the LGS and SP customer classes are paying more than their cost of service.* See Direct Testimony Of Geoff Marke p. 31, ln. 1-14 (Dec. 19, 2014), Direct Testimony Of Michael S. Scherperle p. 9, ln. 4-7 (Dec. 19, 2014), and Direct Testimony And Schedules Of Maurice Brubaker p. 34, ln. 1-2 and Sched. MEB-COS-4 (Dec. 19, 2014).

In Case No. EC-2014-0224, Ameren witness and former Missouri Public Service Commissioner Terry M. Jarrett had this to say regarding the role of a class cost of service study in setting utility rates:

The class cost of service...study is an analytical tool that allocates each relevant customer classes with similar end uses and demand. The objective is to apportion the total utility costs among customer classes in a fair and equitable manner. This is frequently referred to as "cost causation," where the "cost causer" is the customer that receives the service and that causes the cost to be incurred.

....**Appropriate rate design makes each customer bear the costs it causes – everybody pays their fair share.** Appropriate rate design also sends the right price signals to all customers and acts as an administrative replacement for competitive market forces.

Rebuttal Testimony Of Terry M. Jarrett On Behalf Of Union Electric Company d/b/a Ameren Missouri p. 5, ln. 6-19 (May 9, 2014) (emphasis added).

Mr. Jarrett also testified as to the appropriate use of cost of service information by regulators:

Therefore, it is incumbent upon the Regulator to get the rate "right" according to sound cost-of-service ratemaking principles, so that some customers do not pay to subsidize other customers. **Every customer should pay for the costs it causes.**

*Id.* p. 17, ln. 9-11 (emphasis added).



At the outset of the evidentiary hearing in the instant case, Ameren's President and Chief Executive Officer echoed Mr. Jarrett's testimony regarding cost of service principles:

Well, again, I think cost of service principles, the ratemaking process would say, you know, cost causation, those customers should pay the cost. And so I think in general ***the class of customer that's incurring the cost should pay the cost.....I believe that's really the foundation of the regulatory compact.***

Tr. v. 14, 2/23/15, p. 211, ln. 18 – p. 212, ln. 1 (emphasis added).

And yet, Ameren's proposed allocation ignores these espoused principles, as well as the results of its own class cost of service study. Instead, the Company is proposing an across-the-board, equal percentage increase for all rate classes. Tr. v. 23, 3/3/15, p. 1481, ln. 21 – p. 1482, ln. 1.

On cross-examination, Ameren's witness William R. Davis admitted that such an equal percentage increase will simply perpetuate the current inequitable treatment of LGS/SP customers. *Id.* p. 1482, ln. 6-10. Mr. Davis also admitted that an equal percentage increase will not result in *any* movement toward cost of service rates for LGS/SP customers. *Id.* p. 1482, ln. 11-14.

The proposed equal percentage allocation is completely contrary to Ameren's professed allegiance to cost of service principles and to the results of its own costs of service study. In sharp contrast, the recommendation of Walmart's witness Steve Chriss offers a modest movement toward cost of service for LGS/SP customers, while also recognizing the need to mitigate the impact on other customer classes.

Specifically, Mr. Chriss recommends that the Commission allocate any revenue increase in this docket using the following steps:

1. Apply a 25 percent revenue neutral movement towards cost of service, per the Commission's approved cost of service study results, to the revenue requirement for each rate class;
2. Allocate the approved overall revenue requirement increase on an equal percent basis to all customer classes; and
3. If the difference between the Company's proposed revenue requirement and the Commission's approved revenue requirement results in steps a) and b) assigning a rate class an increase above 9.65 percent, mitigate that increase so that no class receives a rate increase in excess of 9.65 percent.

Chriss COS Direct p. 9, ln. 17 – p. 10, ln. 16.

Walmart respectfully requests that the Commission reject Ameren's proposed equal percentage increase to all customer classes and adopt Mr. Chriss' allocation recommendation.

*E. Should the Commission approve Wal-Mart's proposed shift to increase the demand component of the hours-use rate design for Large General Service and Small Primary Service?*

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Yes. As Walmart's witness Steve Chriss testified, Ameren's rate design proposal for LGS/SP does not reflect the underlying intraclass cost of service and shifts cost responsibility within the rate class to higher load factor customers by recovering demand-related costs through energy charges. Chriss COS Direct p. 11, lines 10-12. This testimony was not disputed by other witnesses, and remains undisputed.

Specifically, Mr. Chriss testified that Ameren's class cost-of-service study indicates that approximately 66.1% of the non-energy efficiency base revenues for LGS/SP are demand-related, while approximately 31.7% are energy-related. However,

under the Company's proposed "hours-use" intraclass rate design structure, a large portion of the class' demand-related costs are collected through energy charges. This is contrary to cost of service principles and unfairly shifts demand cost responsibility from lower load factor customers to higher load factor customers. *Id.* at p. 11, ln. 17 – p. 17, ln. 2.

Again, this testimony remains undisputed. Instead, Ameren attempts to justify the proposed "hours-use" LGS/SP rate design by pointing to a 24-year old Commission order in Case No. EO-87-175. Contrary to the implications in Ameren's testimony, however, this order does **not** reflect a finding by the Commission that the "hours-use" rate design properly reflects cost of service principles, nor does the order rebut Mr. Chriss' testimony or his recommendations for LGS/SP rate design.

All that the cited order does is adopt a stipulation between the parties to the case. A review of the order shows only the following Commission finding:

The Commission concludes that the matters agreed upon by the parties to this case **are reasonable** and the Stipulation And Agreement will be adopted.

Report And Order, Case No. EO-87-175, p. 5, Conclusions of Law, second paragraph (Nov. 16, 1990) (emphasis added).

Importantly, the Commission makes no finding that the rate design embodied by the Stipulation And Agreement properly reflects cost causation within the LGS/SP class or otherwise properly reflects cost of service principles. Neither does the Commission make any finding that the Report And Order, or the adopted Stipulation And Agreement are to have any precedential impact in future proceedings. In fact, the adopted

Stipulation And Agreement contains the following language making it clear that the agreement is *not* to have future precedential effect:

This Joint Stipulation and Agreement represents a negotiated settlement for ***the sole purpose*** of disposing of all of the issues in Case No. EO-87-175. Except as specified herein, the parties to this Joint Stipulation and Agreement shall not be prejudiced, bound by, or in any way affected by the terms of this Joint Stipulation and Agreement...in any future proceeding....

....Because this is a negotiated settlement, the lack of cross examination and the lack of reference in this Joint Stipulation and Agreement shall not be taken as acquiescence by any of the parties to the positions taken by other parties in the testimony.

...None of the parties to this Joint Stipulation and Agreement shall be deemed to have approved of or acquiesced in any ratemaking principle or any method of cost of service determination, or cost allocation underlying any of the issues for which provision is made in this Joint Stipulation and Agreement.

*Id.* Attachment A, p. 5, ¶¶ 9-11 (emphasis added).

This language makes it clear that the “hours-use” rate design methodology is nothing more than a negotiated methodology among specific parties to settle the specific facts and circumstances of a specific case, a case that occurred 24 years ago. It is not reflective of any particular cost of service methodology and is not binding or even persuasive in the present case.

Further, to the extent that the Report And Order and the Stipulation And Agreement ever had any precedential impact, there is undisputed testimony record in this case that the “hours-use” rate design methodology does not reflect the current intraclass costs of the LGS/SP class and unfairly penalizes higher load factor customers. See Chriss COS Direct p. 11, ln. 10 – p. 17, ln. 2. If the “hours-use”

methodology ever correctly reflected costs of service principles, there is no dispute that it does not do so now.

Ameren's witness William R. Davis attempts to rebut Mr. Chriss' testimony on the issue by offering two charts using test year data. He concludes: "The charts show customers with lower load factors will be negatively impacted relatively more than higher load factor customers." Davis COS Rebuttal p. 9, In. 7-8 (Jan. 16, 2015). Far from rebutting Mr. Chriss' testimony, Mr. Davis' conclusion validates Mr. Chriss' conclusion that the "hours-use" methodology penalizes higher load factor customers.

That is, Mr. Davis' conclusion is nothing more than a sophisticated and misleading way of saying that under the "hours-use" methodology, lower load factor customers within the LSG/SP class pay less than it costs to serve them, which necessarily shifts costs to higher load factor customers. When lower load factor customers are paying less than their cost of service, moving those customers towards cost of service – as recommended by Mr. Chriss – will necessarily impact them "relatively more than higher load factor customers," as Mr. Davis testifies. This is because under the "hours-use" methodology higher load factor customers are paying "relatively more" than their costs of service, while lower load factor customers are paying "relatively less" than their cost of service.

Mr. Chriss' recommendation recognizes the impact of this cost shifting to lower load factor customers. Rather than recommending an immediate shift to full intraclass cost of service, his rate design recommendation reflects gradualism, lessening the impact on lower load factor customers. Chriss COS Direct p. 17, In. 13-19.

For these reasons, Walmart respectfully requests that the Commission design rates for the LGS/SP class as follows:

1. Maintain the second and third block energy rates at their current rates and increase the customer charges by the customer class percent revenue increase; and
  2. Apply half of the remaining increase to the first block energy charge and the other half of the remaining increase to the demand charge.
- F. Should the Commission approve Wal-Mart's recommendation to require the Company to present analyses of alternatives to the hours-use rate design in its next rate case?*
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Yes. As discussed in response to Issue No. 19.E., *supra*, the "hours-use" rate design structure is not a Commission ordered and approved rate design. Rather, it is simply a negotiated settlement among certain parties 24 years ago, a settlement that did not include Walmart and which clearly is not precedential. As demonstrated by Mr. Chriss' undisputed testimony, the hours-use structure does not accurately reflect current intraclass costs of the LGS/SP class, and unfairly shifts costs from lower load factor customers to higher load factor customers.

In addition, as Mr. Chriss testified, the hours-use structure is difficult for customers to administer as it requires the analyst to have more than a basic understanding of the rate structure to understand the interplay of the energy rate and load factor. Further, it lacks transparency. That is, in addition to the underlying demand-related cost issue discussed above, the hours-use methodology does not provide customers with clear energy and price signals, as changes in billed demand and energy have impacts that are not easily calculated without a copy of the tariff and a spreadsheet. Chris COS Direct p. 17, ln. 3-12.

Given these shortcomings, Walmart respectfully requests the Commission to order Ameren to develop alternative rate designs for LGS/SP customers that more closely reflect the Company's cost of service and which do not use the hours-use rate design for the energy charge. Walmart respectfully requests that the Company be directed to present those alternatives in its next base rate case.

**31. Noranda Rate Proposal**

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- A. *Is Noranda experiencing a liquidity crisis such that it is likely to cease operations at its New Madrid smelter if it cannot obtain relief of the sort sought here?*
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Walmart takes no position on whether Noranda is experiencing a liquidity crisis, nor on whether Noranda is likely to cease operations if it does not obtain some sort of rate relief. Walmart does take a position on whether Noranda should be granted the relief it requests in this docket.

As pointed out previously, however, Noranda now has two requests for relief pending before the Commission. That is, Noranda filed testimony seeking one form of rate relief, but also filed a subsequent NUS requesting another form of relief. Walmart will address the relief requested in both Noranda's prefiled testimony and the NUS below.

1. *If so, would the closure of the New Madrid smelter represent a significant detriment to the economy of Southeast Missouri, to local tax revenues, and to state tax revenues?*
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Noranda has presented evidence regarding the impact on Southeast Missouri's economy in the event the New Madrid smelter should close. Of particular note to Walmart is the potential loss of the smelter's annual payroll of \$95 million. Chriss COS

Rebuttal p. 8, In. 17-20. There are 10 Walmart stores and one Sam's Club within 50 miles of Noranda's New Madrid smelter that could be impacted by the outcome of this docket. Ameren only serves a portion of these facilities, while others receive electrical service from other utilities. Chriss COS Rebuttal p. 9, In. 1-6.

2. *If so, can the Commission lawfully grant the requested relief?*

Walmart believes the Commission can lawfully grant Noranda relief consistent with the conditions regarding the structure of the requested relief outlined in Walmart's testimony.

3. *If so, should the Commission grant the requested relief?*

Walmart advocates that rates be set on the basis of a utility's cost of service. This produces equitable rates that reflect cost causation, send proper price signals, and minimize price distortions. Under normal circumstances, the rate relief requested in Noranda's filed testimony would be both out of the ordinary and inappropriate. However, the specific and extraordinary circumstances of this docket warrant the Commission's consideration of whether movement away from cost-based rates for Noranda is in the public interest. Chriss COS Rebuttal p. 9, In. 16 – p. 10, In. 2.

Noranda has advocated two different forms of rate relief in this docket. Initially, Noranda recommended the relief set forth in its filed testimony in this case. Subsequently, and in conjunction with other parties, Noranda recommended adoption of the NUS filed March 10, 2015. These two requests for relief will be addressed in order.

**Noranda's Filed Testimony**

With regard to the rate relief initially requested in Noranda's filed testimony,



Walmart does not oppose granting some rate relief for Noranda, so long as that relief is subject to the structure and conditions outlined in Walmart's testimony. Specifically, if the Commission approves rate relief for Noranda, the Commission should reject the 10(M) schedule proposed in Noranda's testimony and, instead, should implement any relief in the form of an economic development. Chriss COS Rebuttal p. 14, ln. 13 – p. 16, ln. 10.

As explained by Mr. Chriss, base rates such as those proposed by Noranda are essentially permanent until new rates are approved in a general rate case. Base rate tariffs should transparently reflect Ameren's cost of service for each separate customer class and should not change between rate cases. Noranda's proposal violates these principles.

In addition, Noranda's proposed 1% annual escalator would effectively modify Ameren's base rates on an annual basis, and require the Company to file annual general rate cases during the seven-year term of the relief. Noranda's proposal would also pose the risk of benefitting Ameren's shareholders at the expense of its customer in the event that Noranda's smelter shuts down between general rate cases. Chriss COS Rebuttal p. 12, ln. 16 – p. 13, ln. 17.

For these reasons, the Commission should reject Noranda's proposed relief. Instead, the Commission should implement any rate relief using an economic development rider. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. Chriss COS Rebuttal p.

12, ln. 6 – p. 16, ln. 10.

The rider should be structured as follows:

1. Terms and conditions governing the application of the rider should be made explicit, including a description of when and how the rider is calculated, reconciled from period to period, updated with new rates, and the expiration date of the rider;
2. If the Commission chooses to set a \$/MWH rate for Noranda, a calculation should be made of the rate to be charged to Noranda in any given year, as well as a calculation of the base rate revenue requirement shortfall for that year to be allocated to the other rate classes;
3. If the Commission instead chooses to set a \$/year of revenue requirement relief for Noranda, that revenue requirement should be used as the revenue requirement for a surcredit to be applied to Noranda's bills and for the surcharge revenue requirement to be allocated to the other rate classes;
4. A calculation should be made of the allocation of the revenue requirement shortfall by rate class;
5. A determination should be made of the surcharge base rate multipliers, as approved by the Commission, for each customer class;
6. Any low-income provisions as determined by the Commission to be appropriate should be taken into account;
7. A provision should be included terminating the rider if Noranda's smelter closes, and delineating the process for Ameren to seek recovery of any uncollected amounts that have been credited to Noranda, but not collected from customers at that time; and
8. Any other necessary provisions.

*Id.* p. 15, ln. 1 – p. 16, ln.1.

An example of the type of relief proposed by Walmart is AEP Ohio's Economic Development Cost Recovery Rider, which recovers AEP Ohio's costs for the subsidies paid to Ormet Primary Aluminum Corporation, Eramet Marietta, Inc., Globe

Metallurgical, Inc., and the Timken Company, uses a base rate multiplier as a surcharge. The surcharge is set periodically by the Public Utilities Commission of Ohio, most recently in Case No. 14-1329-EL-RDR. *Id.* p. 12, ln. 6 – p. 16, ln. 10.

**Noranda's NUS**

Walmart urges the Commission to reject the NUS in total. The NUS wholly and completely fails to diminish the longstanding and ***undisputed*** subsidies flowing from the LGS/SP customer class to other customer classes. See Walmart's response to Issue No. 19.C., *supra*. In addition, the NUS would unfairly lock all other Ameren customers into providing significant relief to Noranda for 10 years, while allowing Noranda to come to the Commission at any time during that term to seek even more relief.

Specifically, the undisputed evidence in this case shows that rates for the LGS/SP class have been set well in excess of cost of service since at least 2007. Chriss COS Direct p. 7, Table 1. Further, it is undisputed that all of the cost of service studies filed in this case show that the LGS/SP customer class is paying rates above cost of service. Chriss COS Rebuttal p. 5, Table 1R.

Despite this undisputed evidence, the NUS would allocate both Noranda's below cost rate, as well as any revenue requirement increase granted to Ameren in this case, to all customer classes on an equal percentage basis. NUS ¶ 3. This allocation completely ignores the undisputed and compelling evidence in this case, and would perpetuate the longstanding subsidy from the LGS/SP class to other customer classes.

In addition to perpetuating interclass subsidies, the NUS would lock all customers into providing Noranda with below-cost rates for 10 years (NUS ¶ 6), while leaving

Noranda free to seek additional subsidies from other customers during that term:

Notwithstanding any provision of this Stipulation to the contrary, [Noranda] shall retain all rights and standing to seek redress from the Commission, ***including but not limited to rate relief,...and nothing herein shall bar or prejudice [Noranda] from seeking additional rate relief from the Commission in any future proceedings....***

NUS p. 10, last unnumbered paragraph – p. 11, first unnumbered paragraph (emphasis added).

This lack of symmetry is unfair to all of Ameren's other customers and effectively shifts Noranda's business risk over the next 10 years to those customers. While the NUS would allow opposition to Noranda's requests for future relief (NUS p. 11, first unnumbered paragraph), this effectively saddles other customers with the risks and costs of monitoring and litigating Noranda's actions for the next 10 years, in addition to subsidizing Noranda's rates.

For all the above and foregoing reasons, Walmart respectfully requests that the Commission reject the rate relief requested in Noranda's filed testimony. In addition, Walmart respectfully requests that the Commissions reject the NUS in its entirety. If the Commission believes that any rate relief should be granted to Noranda, Walmart respectfully requests that the relief be structured as recommended by Walmart's witness Steve Chriss.

*B. Would rates for Ameren Missouri's ratepayers other than Noranda be lower if Noranda remains on Ameren Missouri's system at the reduced rate?*

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Noranda has provided a range of estimates of the annual revenue requirement impact of the lost smelter load. All of the values in the range exceed Noranda's stated impact of their proposed relief. However, when the potential impacts of Ameren's base rate revenue requirement increase in the instant case are considered, it is unclear whether the lost load impact exceeds the cost of Noranda's proposed relief. Chriss COS Rebuttal p. 10, ln. 3-12.

Noranda's load constitutes approximately 11.3 percent of Ameren's load on an energy basis, so the smelter's closing or otherwise leaving Ameren's system will certainly constitute a significant reduction to Ameren's load. Additionally, usage by all other customers on Ameren's system declined by 0.68 percent a year on average from 2004 to 2013. As the result, there appears to be little to no new load to "pick up the slack" for cost recovery if the smelter is shut down. *Id.* p. 10, ln. 13-19.

*C. Would it be more beneficial to Ameren Missouri's ratepayers other than Noranda for Noranda to remain on Ameren Missouri's system at the requested reduced rate than for Noranda to leave Ameren Missouri's system entirely?*

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See Walmart's response to Issue No. 31.C., *supra*.

*D. Is it appropriate to redesign Ameren Missouri's tariffs and rates on the basis of Noranda's proposal, as described in its Direct Testimony and updated in its Surrebuttal Testimony?*

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No. The Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. If the Commission approves rate relief for Noranda, the Commission should implement the rate relief using an economic development rider as recommended

by Mr. Chriss. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. Chriss COS Rebuttal p. 12, ln. 6 – p. 16, ln. 10.

The rider should be structured as follows:

1. Terms and conditions governing the application of the rider should be made explicit, including a description of when and how the rider is calculated, reconciled from period to period, updated with new rates, and the expiration date of the rider;
2. If the Commission chooses to set a \$/MWH rate for Noranda, a calculation should be made of the rate to be charged to Noranda in any given year, as well as a calculation of the base rate revenue requirement shortfall for that year to be allocated to the other rate classes;
3. If the Commission instead chooses to set a \$/year of revenue requirement relief for Noranda, that revenue requirement should be used as the revenue requirement for a surcredit to be applied to Noranda's bills and for the surcharge revenue requirement to be allocated to the other rate classes;
4. A calculation should be made of the allocation of the revenue requirement shortfall by rate class;
5. A determination should be made of the surcharge base rate multipliers, as approved by the Commission, for each customer class;
6. Any low-income provisions as determined by the Commission to be appropriate should be taken into account;
7. A provision should be included terminating the rider if Noranda's smelter closes, and delineating the process for Ameren to seek recovery of any uncollected amounts that have been credited to Noranda, but not collected from customers at that time; and
8. Any other necessary provisions.

*Id.* p. 15, ln. 1 – p. 16, ln.1.

An example is AEP Ohio's Economic Development Cost Recovery Rider, which recovers AEP Ohio's costs for the subsidies paid to Ormet Primary Aluminum Corporation, Eramet Marietta, Inc., Globe Metallurgical, Inc., and the Timken Company, uses a base rate multiplier as a surcharge. The surcharge is set periodically by the Public Utilities Commission of Ohio, most recently in Case No. 14-1329-EL-RDR. *Id.* p. 12, ln. 6 – p. 16, ln. 10.

4. *If so, should the resulting revenue deficiency be made up by other rate payers in whole or in part?*

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If the Commission approves rate relief for Noranda, the Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. Instead, any rate relief for Noranda should take the form of an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

5. *If so, how should the amount of the resulting revenue deficiency be calculated?*

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If the Commission approves rate relief for Noranda, the Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. Instead any rate relief for Noranda should take the form of an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No.

31.D., *supra*.

6. *If so, can the resulting revenue deficiency lawfully be allocated between ratepayers and Ameren Missouri's shareholders?*

If the Commission approves rate relief for Noranda, the Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. Instead any rate relief for Noranda should take the form of an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

i. *How should the revenue deficiency allocated to other ratepayers be allocated on an interclass basis?*

If the Commission approves rate relief for Noranda, the Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. Instead any rate relief for Noranda should take the form of an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

ii. *How should the revenue deficiency allocated to other ratepayers be allocated on an intra-class basis?*

If the Commission approves rate relief for Noranda, the Commission should reject both Noranda's proposed 10(M) schedule and its proposed NUS. Instead any rate relief for Noranda should take the form of an economic development rider as described



above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

*7. If so, what, if any, conditions or commitments should the Commission require of Noranda?*

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If the Commission approves rate relief for Noranda, the Commission should reject Noranda's proposed 10(M) schedule and instead implement the rate relief using an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

*F. Should Noranda be served at rate materially different than Ameren Missouri's fully distributed cost to serve them? If so, at what rate?*

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Given the specific and extraordinary circumstances of this docket, Walmart does not oppose the Commission granting some rate relief for Noranda, subject to the conditions regarding the structure of the requested relief outlined in Walmart's testimony. See Walmart's response to Issue No. 31.D., *supra*.

*G. Is it appropriate to remove Noranda as a retail customer as proposed by Ameren Missouri in its Rebuttal Testimony?*

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The Commission should reject Ameren's proposed wholesale solution with Noranda.

**INITIAL POST-HEARING BRIEF OF  
WAL-MART STORES EAST, LP,  
AND SAM'S EAST, INC.,  
Case No. ER-2014-0258**

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3. *If the Commission grants Ameren Missouri's proposal, should the costs and revenues flow through the FAC?*

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No. If the Commission approves rate relief for Noranda, the rate relief should be implemented using an economic development rider as described above. The rider should be applied to all rate classes, with either a \$/MWH relief rate or some form of surcredit, as approved by the Commission, for Noranda, and surcharge rates or base rate multipliers for the other classes. See Walmart's response to Issue No. 31.D., *supra*.

Dated this 31st day of March, 2015.

Respectfully submitted,

By /s/ Rick D. Chamberlain

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on March 31, 2015, a true and correct copy of the foregoing was served by U.S. mail, postage prepaid, or by electronic mail addressed to all parties by their attorneys of record.

/s/ Rick D. Chamberlain