

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

In the Matter of Noranda Aluminum, Inc.’s	)	
Request for Revisions to Union Electric	)	
Company d/b/a Ameren Missouri’s Large	)	Case No. EC-2014-0224
Transmission Service Tariff to Decrease its	)	
Rate for Electric Service	)	

**COMPLAINANTS’ RESPONSE TO AMEREN MISSOURI’S PROPOSED  
PROCEDURAL SCHEDULE AND REPLY TO AMEREN MISSOURI’S RESPONSE**

COME NOW Complainants, and for their Response to Ameren Missouri’s Proposed Procedural Schedule and Reply to Ameren Missouri’s Response, state as follows:

1. By Order of this Commission, the parties met on March 28, 2014 on this case and Case No. EC-2014-0223. Ameren Missouri appeared but objected to participating in such a conference because of its belief that the cases should be dismissed. Shortly after the judge overruled its objection, Ameren Missouri left the conference so as “not to waste the parties time.” By further Order of this Commission, the parties were to file a proposed procedural schedule by April 1, 2014. After conferring without Ameren Missouri, the other parties either agreed (Complainants, the Office of Public Counsel (“OPC”), Staff, Consumers Council of Missouri (“CCM”), the Missouri Retailers Association (“MRA”), the Missouri Industrial Energy Consumers (“MIEC”) and the Cities of O’Fallon and Ballwin) to the jointly proposed schedule in this matter, or expressed no opposition to the jointly proposed schedule (River Cement Company, Continental Cement Company, Wal-Mart East, LP, and Sam’s East, Inc.). That schedule was submitted on April 1.

2. As the complaint, Smith affidavit, and direct testimonies in this case demonstrate, without the requested relief in this matter, rendered quickly, Noranda will be soon be forced lay off 150-200 employees, and will suffer the substantial likelihood of imminent closure of the New

Madrid smelter. The complaint alleges that the negative impact to Ameren Missouri's ratepayers from such a closure would be greater than the impact to them from granting the relief requested herein. This is truly a case of justice delayed is justice denied. The Staff, Public Counsel and other consumer representatives either support the schedule or do not oppose it. The only party that does not have a financial interest in the outcome of this case is Ameren Missouri, yet it is the party seeking delay, and enough delay so that Complainants are effectively denied "their day in court."

3. Ameren Missouri's response to the Commission's order on April 1 again opposed setting any schedule in this matter but nevertheless proposed a schedule that assumes consolidation of this case, Complainants' earning complaint in EC-2014-0223, and a yet-to-be filed Ameren Missouri rate case. It proposes that such a case be decided in May 2015, presumably after the date on which it believes that it will no longer be overearning and after this complaint has become moot due to Ameren Missouri's requested delay. Complainants incorporate by reference the Joint Response of MIEC, OPC, and MRA in response to Ameren Missouri's proposed schedule.

4. Complainants also reply to Ameren Missouri's "Response in Opposition" filed today. As in its other pleadings, Ameren Missouri is not shy about arguing facts that are not in the complaint. It is essentially seeking to deny Complainants' day in court on the basis of assertions of fact that are not part of the pleadings or testimony. See paragraphs 9-12. Its arguments are not well taken.

5. Ameren Missouri rehashes, for the third time, its arguments in support of its Motion to Dismiss. That is not relevant to the schedule, as the judge has already determined.

6. Ameren Missouri claims that the proposed schedule deprives this Commission of its right to make an "all relevant factors" determination. Section 393.270.4 provides:

In determining the price to be charged for ... electricity ... the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard, among other things, to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. (emphasis added)

It is this Commission that ultimately determines which factors are relevant to its decision in this case, whether those factors are set forth in the complaint or not. It is this Commission, not Ameren Missouri (or complainants for that matter), that makes this determination. In a general rate increase case filed by a utility, the consideration of all relevant factors necessarily involves a complete determination of revenue requirement and cost of service. In contrast, the present case involves a rate design complaint. It seeks to reallocate rates across the customer classes. The interested parties are the ratepayers in those classes. If the allegations presented by the complaint are true, the requested relief is in the financial interest of ratepayers and is in the public interest because it will result in lower rates than if the requested relief is denied: -- better to see a 1.8% rate increase than a 2.4% increase. Ameren Missouri's assertion that a full rate case is required would result in a delay that would, in effect, sentence ratepayers to a higher rate increase than that proposed in the complaint.

7. Ameren Missouri argues that Noranda has not shown that it is suffering an emergency. Ameren Missouri's arguments are hard to swallow given the pleadings, the Smith affidavit, and the direct testimonies filed to date. Those filings allege the substantial likelihood of imminent closure of the smelter, and resulting in rate increases on other ratepayers greater than the rate shift sought in the complaint.

8. Ameren Missouri cites its extensive discovery served on Noranda. It notes that no answers have yet been filed, but fails to note that none are yet due. Noranda has every intention of

fully responding to Ameren Missouri's discovery requests and Ameren Missouri has no reasonable basis to argue otherwise. Ameren Missouri claims that because it must read the responses to its extensive discovery, the schedule proposed by most parties in this case is inadequate. Complainants have no doubt that Ameren Missouri can and will adhere to whatever schedule this Commission sets. Indeed, in Ameren Missouri's last rate case it had no trouble proposing an entirely new rate mechanism, a transmission tracker, at the eleventh hour. Ameren Missouri admits that its experts have already been on retainer for over three weeks, and provides no reason why it cannot respond within the time provided by the jointly proposed schedule.

WHEREFORE, Complainants pray the Commission adopt the jointly proposed procedural schedule.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 7th day of April, 2014, to all counsel of record.

*/s/ Edward F. Downey*