

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 16th day of
April, 2014.

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

ORDER ESTABLISHING PROCEDURAL SCHEDULE

Issue Date: April 16, 2014

Effective Date: April 16, 2014

On February 12, 2014, Noranda Aluminum, Inc. and 37 other individual customers filed a complaint against Union Electric Company, d/b/a Ameren Missouri, alleging that the rate Noranda currently pays to Ameren Missouri for electricity is now unreasonable. The complaint alleges that because of low aluminum prices and other business conditions, Noranda must have a rate reduction for its aluminum smelter to remain financially viable. The complaint asks the Commission to reduce the rate Noranda pays to \$30.00/MWh and to increase the rate paid by Ameren Missouri's other customers to make the adjustment revenue neutral for Ameren Missouri. In response to that complaint, the Commission directed Ameren Missouri to file its answer by March 17. Ameren Missouri filed its answer on March 17, and on the same date filed a motion asking the Commission to dismiss this

complaint. In a separate order, the Commission has denied that motion. The Commission must now establish a procedural schedule to consider the complaint.

The Complainants, Consumers Council, MIEC, Missouri Retailers, the Cities of O'Fallon and Ballwin, and Public Counsel propose an expedited procedural schedule that would include an evidentiary hearing in late May and would anticipate a decision from the Commission by July 30. The Commission's Staff concurred in that expedited schedule but explained that the complainants have the burden of proving their complaint and emphasized that Staff would not be able to undertake any audit, cost of service study, class cost of service study or other extended or exhaustive analysis to support or refute the complaint. Ameren Missouri opposed the procedural schedule proposed by the Complainants and argued that the complaint should be dismissed. Ameren Missouri proposed that if the complaint was not simply dismissed, it should be considered along with the rate case it promises to file no later than July 15.

At its agenda meeting on April 8, the Commission discussed the possibility of combining this complaint and another complaint into a rate case to allow for full consideration of Ameren Missouri's rates, with this complaint being treated as a request for interim relief within that larger case. The Commission invited the parties to respond to that option by April 10. While Ameren Missouri was receptive to the general idea, the Complainants rejected the proposal and reiterated their request that the complaint proceed on an expedited schedule. The Complainants acknowledge that they bear the burden of proving their complaint and want to have their complaint heard quickly enough to avoid adverse impacts on the Noranda plant. They say they are not asking for interim relief and argue that treating their complaint in that manner would be unlawful.

After considering the arguments of the parties, the Commission concludes that the Complainants should be allowed to present their complaint in the time of their choosing. They have the burden of proof and if they believe they can prove their complaint in a short amount of time, the Commission will allow them to proceed. Ameren Missouri is concerned that it be allowed enough time to prepare a defense to the complaint but the schedule proposed by the Complainants is not so short as to deny the company a full opportunity to respond. Staff indicates it will not have enough time to undertake any audit, cost of service study, class cost of service study or other extended or exhaustive analysis to support or refute the complaint. The Commission directs Staff to perform an analysis and investigation, the parameters of which will be more fully defined by the Commission as the case progresses. The Commission expects Staff to comply with the procedural schedule.

THE COMMISSION ORDERS THAT:

1. The following procedural schedule is established:

Rebuttal Testimony	-	May 2, 2014
Surrebuttal/Cross Surrebuttal Testimony	-	May 23, 2014
List of Issues, Order of Witnesses, etc.	-	May 27, 2014
Statements of Position	-	May 29, 2014
Hearing	-	June 4 through June 6, 2014, beginning each day at 8:30 a.m.
Initial Briefs	-	June 27, 2014
Reply Briefs	-	July 7, 2014
Anticipated Decision	-	July 30, 2014, effective August 13, 2014

2. The Commission establishes the following provisions to guide discovery:
 - (A) All parties shall provide copies of testimony (including schedules), exhibits, and pleadings to other counsel by electronic means and in electronic form, essentially concurrently with the filing of such testimony, exhibits, or pleadings where the information is available in electronic format. Parties are not required to put information that does not exist in electronic format into electronic format for purposes of exchanging it.
 - (B) The parties shall make an effort to not include highly confidential or proprietary information in data request questions. If highly confidential or proprietary information must be included in data request questions, the highly confidential or proprietary information shall be appropriately designated as such pursuant to Commission Rule 4 CSR 240-2.135.
 - (C) Each party serving a data request on another party shall provide an electronic copy of the text of the “description” of that data request to counsel for all other parties contemporaneously with service of the data request. Regarding Staff-issued data requests, if the description contains highly confidential or proprietary information, or is voluminous, a hyperlink to the EFIS record of that data request shall be considered a sufficient copy. If a party desires a copy of the response to a data request that has been served on another party, the party desiring a copy of the response shall request a copy of the response from the party answering the data request. Thus, if a party desires a copy of a response by another party to a Staff-issued data request, the party desiring the copy should ask the party to whom the request was issued, not the Staff, for a copy of the data request response, unless there are appropriate reasons to direct the discovery to the party originally requesting the material. Data requests, objections to data requests, and notifications respecting the need for additional time to respond to data requests shall be sent by e-mail to counsel for all parties. Counsel may designate other personnel to be added to the service list for data requests, but shall assume responsibility for compliance with any restrictions on confidentiality. All data request responses shall be served on counsel for the requesting party and on the requesting party’s employee or representative who submitted the data request. Data request responses shall be served electronically, if feasible and not voluminous as defined by Commission rule.
 - (D) The response time for all data requests shall be ten calendar days, with five calendar days to object or notify the requesting party that more than ten calendar days will be needed to provide the requested information.
 - (E) Workpapers that were prepared in the course of developing a witness’ testimony shall not be filed with the Commission, but, without request, shall be submitted to each party within one calendar day after the

particular testimony is filed. Workpapers containing highly confidential or proprietary information shall be appropriately marked. Workpapers, or complete sets of workpapers do not need to be submitted to those parties indicating that they are not interested in receiving workpapers or a complete set of workpapers. If there are no workpapers associated with testimony, the party's attorney shall so notify the other parties within the time allowed for providing those workpapers.

- (F) Where workpapers or data request responses include models, spreadsheets, or similar information originally in a commonly available format where inputs or parameters may be changed to observe changes in inputs or outputs, the party providing the workpapers or responses shall provide such information in original format with formulas intact, if available.
- (G) If a data request has been responded to, a copy of such response shall be provided to another requesting party in the case, unless the responding party objects to providing the response to such requesting party. All parties in the case shall submit their responses to Staff-issued data requests in the Commission's Electronic Filing Information System (EFIS). If submission of responses to a Staff-issued data request in EFIS is infeasible, the parties shall submit responses to Staff in electronic form, on compact disc, or by other means agreed to by Staff counsel. If a data request has not yet been responded to, a copy of such response shall be provided to a requesting party in the case within the response time set for such underlying data request, unless the responding party objects to providing the response to such party.

3. The parties shall comply with the following procedural requirements:

- (A) Testimony shall be prefiled as defined in Commission Rule 4 CSR 240-2.130. All parties must comply with this rule, including the requirement that testimony be filed on line-numbered pages.
- (B) The parties shall agree upon and Staff shall file a list of the issues to be heard, the witnesses to appear on each day of the hearing, the order in which they will be called, and the order of cross-examination for each witness. The list of issues should be detailed enough to inform the Commission of each issue that must be resolved. The Commission will view any issue not contained in this list of issues as uncontested and not requiring resolution by the Commission.
- (C) Each party shall file a simple and concise statement summarizing its position on each disputed issue.
- (D) All pleadings, briefs, and amendments shall be filed in accordance with Commission Rule 4 CSR 240-2.080. Briefs shall follow the same list of issues as filed in the case and must set forth and cite the proper portions of the record concerning the remaining unresolved issues that are to be decided by the Commission.

- (E) All parties shall bring an adequate number of copies of exhibits that they intend to offer into evidence at the hearing. If an exhibit has not been prefiled, the party offering it must bring, in addition to the copy for the court reporter, a copy for each Commissioner, the Presiding Judge, and all counsel.

4. The hearing shall be held at the Commission's office at the Governor Office Building, Room 310, 200 Madison Street, Jefferson City, Missouri. This building meets accessibility standards required by the Americans with Disabilities Act. If you need additional accommodations to participate in this hearing, please call the Public Service Commission's Hotline at 1-800-392-4211 (voice) or Relay Missouri at 711 before the hearing.

5. This order shall become effective upon issuance.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff". The signature is written in a cursive, flowing style.

Morris L. Woodruff
Secretary

R. Kenney, Chm., Stoll, W. Kenney,
Hall, and Rupp, CC., concur.

Woodruff, Chief Regulatory
Law Judge