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

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| Noranda Aluminum, Inc., et al., Complainants, v. Union Electric Company d/b/a Ameren Missouri, Respondent. | ) ) ) | File No. EC-2014-0223 |

**MISSOURI RETAILERS ASSOCIATION REPLY TO AMEREN MISSOURI'S RESPONSE TO NORANDA'S REQUEST FOR EXPEDITED REVIEW AND RELIEF**

**COMES NOW** the Missouri Retailers Association and for their Reply to Ameren Missouri's Response in Opposition to Noranda, et al.'s (Consumers) Request for Expedited Review and Relief state:

1. Ameren Missouri (hereafter "Ameren") suggests (¶ 2) that practical reasons preclude expedited treatment of this complaint. Ameren asserts "this [Complaint] 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." Ameren grossly overstates these matters. For instance, Consumers have already obtained expert witnesses and those expert witnesses have provided written testimony to support the complaint. Ameren has no need of "extensive" discovery – Ameren has all of the relevant and material information concerning its revenues and expenses at its fingertips. Ameren's concern about class cost of service matters is both curious and misplaced. Although Ameren has performed class cost of service studies for each of its rate increase cases, it has almost uniformly abandoned them and advocated *pro-rata*, across-the-board increases in its rates. Furthermore, and more importantly, intervenorrs, who represent a broad cross section of Ameren customers and whose interests in rate design are at odds with one another, will advocate

for an across-the-board application of any reduction in Ameren's revenue requirement. Ameren's point is not well taken. Moreover, Ameren's insistence that a full-blown rate design and class cost of service study must form the basis for rates set in this case is at odds with its insistence that such rates will only be in effect for a short period of time because of Ameren's stated intention to file a rate increase case sometime this year. The benefits to consumers of quickly recognizing Ameren's overearnings by reducing rates are so compelling that arguing for delay in order to exhaustively study class cost of service is, under these circumstances, contrary to the public interest.

2. Ameren suggests (¶ 3) that this case may take longer than a typical rate increase case. The basis for Ameren's supposition is that the information available to Consumers, and upon which Consumers rely, is not as extensive as that provided by a utility in a rate increase filing. Ameren's position has two glaring shortcomings. First, Ameren can propose any adjustments to the Consumers' filed case that it deems appropriate in its responsive testimony. Further, Ameren does not need any discovery from Consumers to provide additional data – it has all the information relevant and material to its revenue requirement available internally. As Ameren has noted elsewhere in these pleadings, it is already preparing a rate increase filing for some time in the second half of 2014, giving it a head start on presentation of this case. Consistent with longstanding Commission practice, Consumers cannot propose new adjustment in surrebuttal testimony; they are limited to issues raised in the initial testimony and to pointing out the flaws in adjustments proposed by Ameren. Any discovery that Consumers need for surrebuttal can be obtained in in an expeditious manner.

Importantly, Ameren's argument that surveillance data is legally insufficient to form the basis for a rate complaint creates a Catch-22 argument that would preclude customers from filing

rate complaint cases. Customers (other than Public Counsel) cannot obtain detailed information concerning Ameren's revenues and expenses prior to filing a rate case, but they cannot file that rate case based on the fuel adjustment clause surveillance data which is the only data available to them. Ameren cannot have it both ways.

3. Ameren suggests (¶ 4) that net fuel expenses and solar rebate costs have not been adequately addressed in Consumers' filed testimony. Ameren can address any appropriate issues in its responsive filing, for which it is apparently prepared at the present time without need for further discovery. Ameren's suggestion that its announced intention to file a rate increase perhaps as early as July, 2014, based on a plant not yet in service, is neither material nor relevant to its present cost of service. When Ameren proves that its new plant is used and useful will be the time to consider the impact of that new plant on revenue requirement. Until then, it cannot be considered. Section 393.135, RSMo

4. Ameren suggests (¶ 5) that Consumers' failure to request a specific date for relief and to caption its pleading in accord with the requirements of 4 CSR 240-2.080(14) are grounds for the Commission to refuse to treat this matter in an expedited manner. Ameren suggests as substantive reasons for such refusal that Consumers did not declare that the complaint was filed "as soon as it could have been" nor to explain why. The 90 days from November through February period includes three major holidays, Thanksgiving, Christmas and New Year's. Mid-February is as soon as the complaint could have been filed, and not unduly long. Furthermore, Consumers note that Ameren's December 31, 2013, quarterly surveillance data was not filed until March 13, 2014, in BFQR-2014-0760, and was not available at the time of filing.

Yet, even with these picayune defects, the pleadings were sufficient to inform both Ameren and the Commission of the need to expedite this case in order to provide just and

reasonable rates that permit customers to capture the benefits of regulatory lag before Ameren's already-announced next rate case.

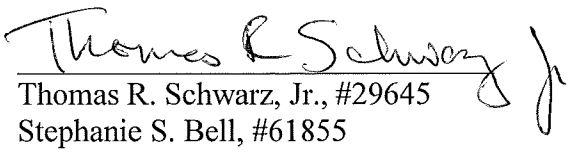
5. Ameren's suggestion (¶ 6) to delay consideration of a rate complaint until it files a rate case is disingenuous. Ameren has publicly announced that it will file a rate case when circumstances have changed by the addition of substantial new plant additions. Ameren's proposal to delay this proceeding until circumstances change provides no lawful or practical basis for delaying this case.

The statutes provide a mechanism for customers to challenge current rates for utility service. Customers do not have the same access to utility information as does the utility itself. To insist that a customer rate complaint contain the same level of detail, and for the same time periods as a rate increase complaint filed by a utility, is tantamount to writing Section 386.390, RSMo, out of the law.

Ameren has not yet propounded a single data request to Consumers, more than a month after this complaint was filed. While Ameren is entitled to be heard, it is not entitled to prevail by delay. The Commission has scheduled a pre-hearing conference on March 28, 2014, in this case. The parties should file their proposed procedural schedules by April 1, 2014, to permit the Commission to timely dispose of the procedural issues, and expeditiously dispose of the case.

Respectfully submitted,

BLITZ, BARDGETT & DEUTSCH, L.C.

By: 

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## CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing Application to Intervene were sent to each of the following via electronic transmission this 24th day of March, 2014:

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