

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

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

**APPLICATION FOR REHEARING OR RECONSIDERATION
OF THE CONSUMERS COUNCIL OF MISSOURI**

COMES NOW the Consumers Council of Missouri (“Consumers Council” or “CCM”), pursuant to Section 386.500 RSMo. and 4 CSR 240-2.160, and respectfully applies for a rehearing and/or reconsideration of the Missouri Public Service Commission’s (“Commission’s”) Order, issued in the above-styled matter on August 20, 2014 (“Order”).

Consumers Council requests the Commission rehear and reconsider the above-referenced matter because the Order misapplied and misstated the law resulting in an unlawful, unreasonable, arbitrary and capricious decision against the weight of the evidence. This resulted from the Commission’s refusal to consider the Non-unanimous Stipulation and Agreement filed by OPC, Noranda, Missouri Industrial Energy Consumers, the Missouri Retailers Association and Consumers Council (“Non-unanimous Stipulation”).

As a non-unanimous stipulation to which Ameren Missouri objected, Commission Rule 4 CSR 240-2.115(2)(D) mandates that it be considered as a joint position of the signatory parties. The Commission has the authority and discretion to adopt a joint position of the stipulating parties, if the record supports it. In this particular situation, the joint positions taken by the signatory parties in the Non-unanimous Stipulation are fully supported by substantial and competent evidence presented in the case.¹ Notably, the only objecting party to the final, amended Non-unanimous Stipulation is Ameren Missouri, a party which would be financially unaffected by the Non-unanimous Stipulation, were the Commission to enter an order consistent with its terms. The Order fails to even address the terms of the Non-unanimous Stipulation and the changed of positions of OPC, Noranda, Missouri Industrial Energy Consumers, the Missouri Retailers Association and the Consumers Council (who collectively represent the majority of Ameren Missouri's electric consumers, across the customer class spectrum, which will be impacted by the Commission's ultimate decision in this case).

Alternatively, the Order represents an unlawful, unreasonable, arbitrary and capricious decision against the weight of the evidence in that the Commission wrongly determined that the financial burden of any relief that it might afford Noranda could only be borne by Ameren Missouri's electric ratepayers. Noranda bore the burden of demonstrating its entitlement to relief from an unjust and unreasonable rate.² The complaint statute only contemplates relief coming from the party-respondent to the

¹ See *Staff Exhibits* 201HC, 202, 203HC, 204 and Tr. vol. 7, pp. 745:1-746:6; 747:1-18.

² See Mo. Rev. Stat. § 386.430; *Ag Processing, Inc. v. KCP&L Greater Mo. Ops. Co.*, 385 S.W.3d 511 (Mo. App. W.D. 2012).

complaint - Ameren Missouri.³ If the utility desires to avoid the financial impact to its revenue requirement that stems from Noranda being successful in its case-in-chief, the utility must demonstrate its continued entitlement to the revenue put at issue.⁴ Only if the utility does so, could remaining customers be required to make up the resulting revenue deficiency. Thus, in determining that the record and the law require that the financial consequences of any rate relief must be borne only by Ameren Missouri's other customers and not by Ameren Missouri, the Commission erred.

And ultimately, the Commission erred by unjustly and unreasonably failing to recognize that, based upon the weight of the competent and substantial record of evidence in this complaint case, including the testimony of the Commission's own Staff, the Non-Unanimous Stipulation would result in lower rates for all consumers over the next five years, than will otherwise occur if the Commission does not rehear and reconsider its decision in this matter.

WHEREFORE, Consumers Council respectfully asks the Commission to grant a rehearing and/or reconsider its refusal to consider the Non-Unanimous Stipulation and Agreement as to rate design in this matter.

Respectfully submitted,

/s/ John B. Coffman

John B. Coffman MBE #36591
John B. Coffman, LLC
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
Ph: (573) 424-6779
E-mail: john@johncoffman.net

³ Mo. Rev. Stat. § 386.390.1.

⁴ *Id.*, Mo. Rev. Stat. §§ 386.390.1, 393.130.1, 393.140(5); State ex rel. Mo. Gas Energy, et al. v. MoPSC et al., 210 S.W.3d 330, 334-35 (Mo. App. W.D. 2006)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all parties currently listed on the official service list of the above-styled case on this 12th day of September, 2014.

/s/ John B. Coffman
