

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

Missouri Industrial Energy Consumers, <i>et al.</i> ,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-2016-0199</u>
)	
Union Electric Company, d/b/a Ameren Missouri,)	
)	
Respondent.)	

RESPONSE TO ANSWER

COMES NOW the Missouri Industrial Energy Consumers and for its Response to the Answer of Union Electric Company, d/b/a Ameren Missouri (Ameren) states as follows:

1. As ordered by the Commission, Ameren filed its Answer on February 9, 2016. According to Commission rule 4 CSR 240-2.080(13), responses are due no later than 10 days after the filing of any pleading. While the document that Ameren filed is simply styled “Answer,” it is arguably also a motion to dismiss the Complaint. Although very little of document addresses the issue of dismissal,¹ the MIEC files this Response to address the vague references to dismissal in the Answer.

2. The arguments that Ameren makes in its Answer are the same ones that it made in Case No. ER-2014-0258, when Ameren was trying so ferociously to deny Noranda any rate relief whatsoever. Ameren’s argument, although just loosely referenced in the Answer, is that the Commission is powerless to base its rate decision on anything other than cost of service studies. The Commission rejected Ameren’s arguments in Case No. ER-2014-0258, and approved the new IAS rate in its Report and Order in that case. And indeed the Commission was fully

¹ It is not even mentioned until the last numbered paragraph, and then is mentioned just twice more (in the “Relief Requested” section and in the “Wherefore” clause).

prepared to defend the lawfulness of those actions in the Western District Court of Appeals, until Ameren and its allies moved to dismiss their appeals just last week. The Commission in its briefs in that appeal (and Noranda and the MIEC in their briefs) fully and clearly established the lawful extent of the Commission's discretion in establishing rates. Nothing in the token request to dismiss in the Answer should make the Commission now question its authority.

3. In addition to briefly arguing that the Commission is without authority to grant the relief requested, Ameren urges the Commission to dismiss the Complaint because "the anticipated legislation"² will supposedly provide more certainty to Noranda's future electric prices than any action of the Commission. But no legislation to help Noranda has been filed as of the time of the filing of this Response, despite the fact that the legislative session is more than a third of the way through. The Commission should not avoid taking steps in this case to protect all ratepayers from the consequences of the loss of Noranda's load, simply in the hope that the Legislature might address the issue.

WHEREFORE, to the extent that the Commission determines to treat the Answer as a request to dismiss, the MIEC respectfully requests that the Commission deny that request.

Respectfully Submitted,

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² Answer, paragraph 4.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 19th day of February, 2016, to all parties on the Commission's service list in this case.

/s/ Diana Vuylsteke