

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

In the Matter of Union Electric Company)
d/b/a Ameren Missouri's Tariff to Increase)
Its Revenues for Electric Service.)

Case No. ER-2014-0258

**STAFF'S OBJECTION TO NON-UNANIMOUS STIPULATION AND AGREEMENT
AND RESPONSE IN OPPOSITION TO
MOTION TO ADOPT JOINTLY PROPOSED PROCEDURAL SCHEDULE**

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Objection to Non-unanimous Stipulation and Agreement and Response in Opposition to Motion to Adopt Jointly Proposed Procedural Schedule*, states as follows:

1. Ameren Missouri initiated this general rate case by filing proposed tariffs, direct testimony and other required documents on July 3, 2014.
2. On October 10, 2014, the Office of the Public Counsel ("OPC") filed a *Non-unanimous Stipulation and Agreement* calling for certain beneficial rate changes for Noranda Aluminum, Inc. ("Noranda").
3. On July 3, 2014, two rate complaints brought by Noranda against Ameren Missouri were pending before this Commission, Case Nos. EC-2014-0223 and EC-2014-0224.
4. Since July 3, 2014, both of those rate complaints, after extensive evidentiary proceedings, have been resolved in Ameren Missouri's favor. Noranda had a full and fair opportunity in each of those cases to prove its entitlement to the relief it now seeks by a *Non-unanimous Stipulation and Agreement*. In fact, very similar *Non-unanimous Stipulations and Agreements* were filed in Case No. EC-2014-0224.

5. Staff notes that there has been no material change of circumstances since August 20, 2014, when the Commission issued its *Report and Order* in Case No. EC-2014-0224, determining that Noranda had failed to meet its burden of proof.

6. Staff objected on July 20, 2014, to the similar *Non-unanimous Stipulations and Agreements* filed in Case No. EC-2014-0224 and now renews its objection with respect to the present *Non-unanimous Stipulation and Agreement*. Like those filed in Case No. EC-2014-0224, the present *Non-unanimous Stipulation and Agreement* “presents [neither] a lawful [nor] appropriate resolution to this case.” Additionally, the *Non-unanimous Stipulation and Agreement* is premature. The work of this case has only just started. No testimony has been filed other than Ameren Missouri’s direct testimony. Additionally, the relief Noranda seeks is prohibited by § 393.130, subsections 2 and 3, RSMo.

7. Pursuant to Commission Rule 4 CSR 240-2.115(2)(D), “[a] nonunanimous stipulation and agreement to which a timely objection has been filed shall be considered to be merely a position of the signatory parties to the stipulated position, except that no party shall be bound by it. All issues shall remain for determination after hearing.” The *Non-unanimous Stipulation and Agreement* filed herein on October 10, 2014, is thus now a dead letter and no proceedings need be had on it at all.

8. On October 15, 2014, the Missouri Retailers’ Association (“MRA”) together with other supporters of Noranda filed a *Motion to Adopt Jointly Proposed Procedural Schedule for Consideration of Nonunanimous Stipulation and Agreement*, calling for expedited proceedings leading to evidentiary hearings on November 24 and 25, 2014.

9. However, there is already a procedural schedule in place in this case. On August 20, 2014, the Commission issued its *Order Adopting Procedural Schedule* in this case. That schedule was the product of discussions among all the parties and they generally concurred in it. That schedule calls for evidentiary hearings beginning on February 23, 2015. That schedule is an appropriate schedule for a general rate case, in which all relevant factors must be discovered, analyzed and presented. The schedule now proposed by Noranda and its supporters is not appropriate. The issues addressed by the *Non-unanimous Stipulation and Agreement*, while appropriately raised in this case, have not yet been fully analyzed and presented. The appropriate way to develop these issues is through the normal rate case process in which all relevant factors are brought to light and considered. The Commission and parties would do well to remember that Noranda's failure to carry its burden of proof in Case Nos. EC-2014-0223 and EC-2014-0224 was at least partly due to the expedited procedural schedules adopted, at Noranda's insistence, in those cases that prevented adequate consideration of the relevant factors. Now, Noranda and its followers again propose to litigate a general rate case on an inadequate, break-neck schedule. To do so would be detrimental to the interests of all parties and, particularly, to the public interest. Staff urges the Commission to **DENY** the *Motion to Adopt Jointly Proposed Procedural Schedule*. The ratepayers and other stakeholders deserve better, particularly since it is their money that Noranda seeks to subsidize its operations.

WHEREFORE, on account of all the foregoing, Staff **OBJECTS** to the *Non-unanimous Stipulation and Agreement* filed herein and prays that the Commission will **DENY** the *Motion to Adopt Jointly Proposed Procedural Schedule*; and grant such other and further relief as the Commission deems just in the circumstances.

Respectfully submitted,

/s/ Kevin A. Thompson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing has been served, by hand delivery, electronic mail, or First Class United States Mail, postage prepaid, to all parties of record on the Service List maintained for this case by the Data Center of the Missouri Public Service Commission, on this **16th day of October, 2014**.

/s/ Kevin A. Thompson