

NP

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of Noranda Aluminum, Inc.'s)
Request for Revisions to Union Electric)
Company d/b/a Ameren Missouri's Large) Case No. _____
Transmission Service Tariff to Decrease its)
Rate for Electric Service)

RATE DESIGN COMPLAINT AND REQUEST FOR EXPEDITED REVIEW

COME NOW NORANDA ALUMINUM, INC. ("Noranda") and the individual electric service customers ("Individual Complainants") of Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"), and for their Complaint against Ameren Missouri under sections 393.130.1, 386.390, 393.260 and regulation 4 CSR 240-2.070(4) and (5) state as follows:

Parties

1. Noranda is a corporation duly authorized to conduct business in Missouri and has its corporate address at 801 Crescent Centre Drive, Suite 600, Franklin, Tennessee 37067. Noranda operates an aluminum smelter in Southeast Missouri located in the St. Jude Industrial Park near New Madrid, Missouri. Noranda produces various aluminum products at the smelter. The smelting process consumes large amounts of electricity at all times, with the cost of such electricity comprising approximately one third of the smelter's production costs. Noranda is by far Ameren Missouri's largest customer of electric power.

2. The Individual Complainants join in this Complaint. They are current electric service customers of Ameren Missouri and will benefit from the relief requested in this Complaint in that their rates will not increase as much as they would increase if Noranda is

forced to close the smelter. Their names, mailing addresses, and the addresses where Ameren Missouri rendered services to each complainant if different than the mailing address, are included on Exhibit A, attached hereto and incorporated herein. They can be contacted through the undersigned attorneys.

3. Ameren Missouri is an electrical corporation as defined in section 386.020(12) and public utility under the jurisdiction of this Commission and is the largest electric utility in Missouri. Ameren Missouri manufactures and sells electricity, at rates set by the Commission, to all of its customers, including Noranda and Individual Complainants, in Missouri. Ameren Missouri's main office address is 1901 Chouteau, St. Louis, Missouri 63166.

Jurisdiction

4. The Commission has jurisdiction of this Complaint under sections 393.130.1, 386.390, 393.260 and regulation 4 CSR 240-2.070(4) and (5).

5. Section 393.130.1 provides:

Every ... electrical corporation ... shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such ... electrical corporation ... for ... electricity ... or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for ... electricity ... or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

6. Section 386.390.1 provides:

Complaint may be made by ... any corporation or person ... by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any ... public utility, including any ... charge heretofore established or fixed by or for any ... public utility ...; provided, that no complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any ...electrical ... corporation, unless the same be signed by ... not less than twenty-five consumers or purchasers, or prospective consumers or purchasers, of such ... electricity ...

service.

7. Section 393.260.1 provides:

Upon the complaint in writing ... by not less than twenty-five consumers or purchasers, or prospective consumers or purchasers of such ... electricity ... as to ... price of electricity sold and delivered ... the commission shall investigate as to the cause of such complaint.

8. Regulation 4 CSR 240-2.070(4) and (5) provides:

(4) Formal Complaints. A formal complaint may be made by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any person, corporation, or public utility, including any rule or charge established or fixed by or for any person, corporation, or public utility, in violation or claimed to be in violation of any provision of law or of any rule or order or decision of the commission. The formal complaint shall contain the following information:

- (A) The name and street address of each complainant and, if different, the address where the subject utility service was rendered;
- (B) The signature, telephone number, facsimile number, and email address of each complainant or their legal representative, where applicable;
- (C) The name and address of the person, corporation, or public utility against whom the complaint is being filed;
- (D) The nature of the complaint and the complainant's interest in the complaint, in a clear and concise manner;
- (E) The relief requested;
- (F) A statement as to whether the complainant has directly contacted the person, corporation, or public utility about which complaint is being made;
- (G) The jurisdiction of the commission over the subject matter of the complaint; and
- (H) If the complainant is an association, other than an incorporated association or other entity created by statute, a list of all its members.

(5) No complaint shall be entertained by the commission, except upon its own motion, as to the reasonableness of any rates or charges of any public utility unless the complaint is signed by the public counsel, the mayor or the president or chairman of the board of aldermen or a majority of the council or other legislative body of any town, village, county, or other political subdivision, within which the alleged violation occurred, or not fewer than twenty-five (25) consumers or purchasers or prospective consumers or purchasers of public utility gas, electricity, water, sewer, or telephone service as provided by law. Any public utility has the right to file a formal complaint on any of the grounds upon which complaints are allowed to be filed by other persons and the same procedure shall be followed as in other cases.

9. This Complaint concerns the rate Ameren Missouri currently charges Noranda for the electricity and electrical service that Ameren Missouri sells to Noranda. Under the circumstances set forth below, that rate is now unreasonable. Electricity represents one third of the New Madrid Smelter's operating costs. Without the requested reduction in its electric rates, the New Madrid Smelter would have insufficient liquidity to remain viable and would be subject to closure **_____**, resulting in the loss of all jobs at the facility. This would be a tragedy for the 888 families who are supported by the stable and dependable employment offered by Noranda, and also a tragedy for the families whose livelihoods depend on the businesses supported by Noranda. Thus, this result would cause significant economic harm to the State of Missouri and to Ameren Missouri's other customers. In this Complaint, Noranda proposes an electric rate of \$30/MWh, which is the rate that will keep Noranda viable and sustainable for the future. Since that rate is higher than the variable cost incurred to serve Noranda and also higher than what Ameren Missouri can sell the power to others in the event that Noranda was subject to closure, Ameren Missouri's other customers will benefit from the relief requested in this Complaint. Since the rate relief requested in this Complaint will allow the smelter to remain viable, and the alternative would cause a significant negative economic impact to the State of Missouri in the form of lost taxes, lost gross domestic product, and higher unemployment benefit payments, the requested rate relief is in the public interest.

10. As required by the above authorities, attached hereto is a list of the 37 Individual Complainants, all Ameren Missouri customers, who join in this Complaint.

11. The Complainants' counsel has contacted Ameren Missouri about the requested relief in this Complaint.

Facts Relevant to This Complaint

12. Noranda is an integrated aluminum manufacturer. It manufactures aluminum products such as billet, rod, foundry products and primary ingots at its New Madrid, Missouri Smelter. The manufacturing process is energy intensive and capital intensive. Electricity is required to convert aluminum oxide into molten aluminum. The smelter produces 260,000 metric tons of aluminum products per year. Noranda is one of the largest aluminum foil producers in North America and a major producer of light gauge aluminum sheet products.

13. The cost of electricity currently represents approximately one third of the cost of production at the New Madrid Smelter. The smelter uses 485 MW of power, 24 hours a day, 7 days per week, 52 weeks per year, with a 98 percent load factor. The New Madrid smelter consumes about the same amount of electricity as the City of Springfield, Missouri, is Ameren Missouri's largest customer, and consumes approximately ten percent of the power that Ameren Missouri produces. Under its current electric rates, Noranda pays Ameren Missouri approximately \$160 million in base rates, plus charges under the Ameren Missouri fuel adjustment clause, each year, resulting in an effective rate of \$41.44/MWh. Since 2008, the New Madrid smelter's annual electric bills from Ameren Missouri have increased by approximately \$44 million.

14. The price that Noranda realizes for its aluminum products is largely set by the London Metals Exchange ("LME"). Currently, and for the foreseeable future, the LME price for aluminum is extremely depressed.

15. In response to the currently poor economic climate, and the low LME price for aluminum products, Noranda has aggressively cut its costs of operation. One cost that it has been unable to cut, a cost that has in fact increased dramatically, is its cost of electricity. Many

of Noranda's competitors have electric rates that are significantly lower than what Noranda now pays to Ameren Missouri and in fact lower than the rate requested in this Complaint. So while the price of aluminum on the LME is depressed, those competing smelters are able to remain viable because of their lower electric rates.

16. The New Madrid Smelter employs approximately 888 people and is one of the largest employers in Southeast Missouri. If the New Madrid Smelter were unable to remain viable, there would be a significant impact on the State of Missouri, both in terms of the State's gross domestic product ("GDP"), and in terms of taxes collected and other economic measures. Additionally, if the New Madrid Smelter were subject to closure, Ameren Missouri would in most hours have to sell, as off-system sales to other entities, the power Noranda otherwise would have purchased. The price per MWh that Ameren Missouri would realize on such sales would be less than the price per MWh that Noranda is requesting in this Complaint, and substantially less than the price per MWh that Noranda currently pays to Ameren Missouri under its existing tariffs.

17. If the rate charged by Ameren Missouri to Noranda for the New Madrid Smelter were reduced to \$30/MWh as requested herein, Ameren Missouri's existing ratepayers would necessarily see a modest increase in their electric rates in order to make Ameren Missouri whole, but that modest increase is less than the increase that would be required to make up for the loss of sales to Noranda should the New Madrid Smelter be subject to closure.

18. Without the relief requested in this Complaint, a reduction in the rate to \$30/MWh, Noranda's New Madrid Smelter will not be viable because of significant liquidity challenges that are beyond Noranda's control. Without the relief requested herein, the New

Madrid Smelter expects to reduce its workforce by 150-200 employees in 2014, and then would eventually be subject to closure ** _____ **, thus eliminating the smelter's workforce entirely.

19. It is in the best interests of the State of Missouri and its citizens, Noranda, Noranda's employees, the Individual Complainants, and Ameren Missouri's other ratepayers, that the New Madrid Smelter remain viable, something that can happen only if the New Madrid Smelter's electric rate is reduced to \$30/MWh or less. It is in the public interest to keep the New Madrid Smelter viable with the requested rate for the reason that: (a) rates of other Ameren Missouri ratepayers will increase by less than they would increase if the requested relief is denied; (b) the State of Missouri will incur a significant reduction in state GDP and tax collections if the requested relief is denied; and (c) Southeastern Missouri would incur economic hardship in the loss of jobs if the requested relief is denied.

20. In support of this Complaint, the Complainants incorporate the Direct Testimonies of Kip Smith, Maurice Brubaker, James Dauphinais, Henry Fayne, Dr. James Haslag, Representative Kent Hampton, Representative Todd Richardson, Representative Shelley Keeney, Representative Steve Hodges, Senator Gary Romine, Senator A. Wayne Wallingford, Senator Doug Libla, Congressman Jason Smith, Emil Ramirez, Glenna Shy, and Michelle Fayette filed herewith.

21. Under the circumstances set forth above, the current electric rate of \$37.94/MWh plus the fuel adjustment surcharge (currently \$3.50/MWh) for a total of \$41.44/MWh, is an unreasonable rate and should be adjusted to a reasonable rate of \$30/MWh for the New Madrid Smelter, under whatever conditions the Commission deems appropriate and in the public interest.

Request for Expedited Treatment

22. The Complainants request expedited treatment of this Complaint for the reason that without the requested relief, rendered on a timely basis, the New Madrid Smelter will have insufficient liquidity and be subject to closure ****_____****. Any such result would have dire consequences for the economy of the State of Missouri, Noranda, Noranda's employees, and Ameren Missouri's other ratepayers. As recognized in *State ex rel. Utility Consumers Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 48 (Mo. banc 1979), such an emergency need for rate relief is a basis for interim rates, and thus expedited relief. Complainants respectfully request that the Commission set the below procedural schedule within one week of the filing of this Complaint.

23. Complainants suggest the following expedited schedule for this Complaint:
- a. Intervention period closes—March 4;
 - b. Procedural schedule meeting—March 6;
 - c. Staff, Office of Public Counsel, Ameren Missouri, and other interested parties, file Answer to Complaint—March 28;
 - d. Rebuttal testimony of Staff, Office of Public Counsel, Ameren Missouri, and other interested parties—March 28;
 - e. Surrebuttal and cross rebuttal testimony—May 5;
 - f. Hearing—May 15-16;
 - g. Opening briefs—June 6;
 - h. Reply briefs—June 16;
 - i. Decision—July 7;
 - j. Effective date of decision—July 31, 2014.

WHEREFORE, Complainants respectfully request the Commission review this Complaint on an expedited basis, conduct whatever investigation or hearings it deems appropriate and required by law, and revise the electric rate charged Noranda for operation of the New Madrid smelter to \$30/MWh and adjust the electric rates of other ratepayers accordingly so that the relief requested herein is revenue neutral to Ameren Missouri.

Respectfully submitted,

BRYAN CAVE, LLP

By: /s/ Edward F. Downey

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Attorneys for Noranda Aluminum, Inc.
and Individual Complainants

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 12th day of February, 2014, to:

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<u>First Name</u>	<u>Last Name</u>	<u>Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
Don	Aubuchon	1415 E. Kenton Rd.	Dexter	MO	63841
Mark C.	Beavin	1232 Brookshire	Cape Girardeau	MO	63701
Jim	Bracey	188 W. State Hwy T	Portageville	MO	63873
Ricky	Brandon	2002 Ward Ave	Caruthersville	MO	63830
Kathee	Brown	1241 State Hwy HH	Sikeston	MO	63801
Dennis	Carden	108 Moore Place	Charleston	MO	63834
C. Dean	Carroll	908 Forrest St.	Dexter	MO	63841
Amy	Chalk	203 W. Main St.	Portageville	MO	63873
William	Cook	17314 Pond Ln.	Dexter	MO	63841
Greg	Craft	1831 Cypress Dr.	Cape Girardeau	MO	63701
William D.	Evans	236 S. Forester Dr.	Cape Girardeau	MO	63701
James R.	Fisher	301 W. State Hwy. 162	Portageville	MO	63873
Chris	Graves	1314 Riley Ln.	Dexter	MO	63841
S. Darin	Halter	1767 State Hwy. E	Benton	MO	63736
Joey	Kellams	106 Clover Ln.	Portageville	MO	63873
Judith M.	McGuire	1552 Lexington Ave.	Cape Girardeau	MO	63701
Shelly	Mize	201 E. 8th St.	Caruthersville	MO	63830
Mandy	Moore-Owens	101 Lombardy Dr. Apt. 4	East Prairie	MO	63845
Emily	Morgan	P.O. Box 393	Holcomb	MO	63852
Art	Murphy	536 Columbine St.	Cape Girardeau	MO	63701
Joseph	Niedbalski	1387 Foxridge Dr.	Cape Girardeau	MO	63701
Barbara	Phillips	242 Bristle Rdg	Cape Girardeau	MO	63701
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Christy	Vaughn	11335 Satmoore Rd.	Dexter	MO	63841
Jerry	Wilson	329 Wilkinson St.	East Prairie	MO	63845
Ryan J.	Niehaus	2037 Pear Tree Ct. Apt. 12	Cape Girardeau	MO	63701
Alisa A.	McFerron	2013 Beth Dr.	Cape Girardeau	MO	63701
Kim	Kasten	141 Ashley Dr.	Cape Girardeau	MO	63701
Mike	Murphy	4536 State Hwy. Y	Jackson	MO	63755
Jason	Crowell	146 Lake Shire Ct.	Cape Girardeau	MO	63701
Terry	Crowell	2140 Sussex Dr.	Cape Girardeau	MO	63701
Jonah T.	Yates	2952 Perryville Rd.	Cape Girardeau	MO	63701

We, the below ratepayers of Ameren Missouri, do hereby join in and sign the foregoing complaint.

Don AuBuchon
1415 E. Kenton Rd.
Dexter, MO 63841:

Don AuBuchon

Mark C. Beavin
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Amy Chalk

William Cook
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Dexter, MO 63841:

William Cook

Greg Craft
1831 Cypress Dr.
Cape Girardeau 63701:

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236 S. Forester Dr.
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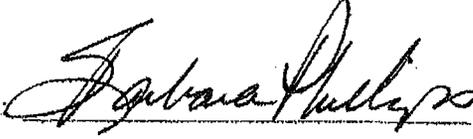
Christy Vaughn
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Ryan J. Niehaus
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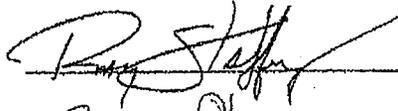
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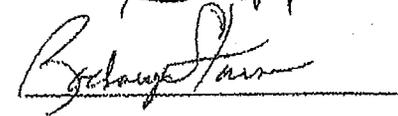
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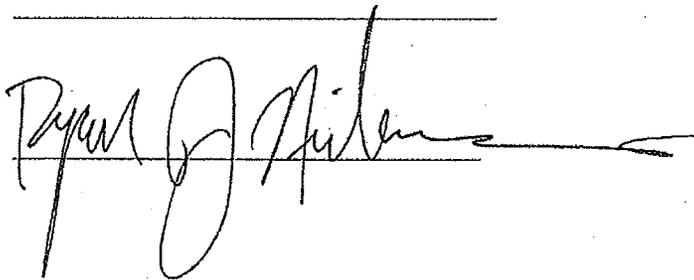
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