

**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.)	

INITIAL BRIEF OF THE CONSUMERS COUNCIL OF MISSOURI

COMES NOW the Consumers Council of Missouri (“CCM”), and hereby endorses and wholly concurs in the legal arguments contained in the Post-Hearing Brief of the Office of the Public Counsel, filed today in this complaint case.

CCM takes no position as to whether or not the Complainant Noranda Aluminum has met its burden in this case to show that it deserves a lower (“load retention”) rate. If the Commission determines Noranda Aluminum has made a compelling case for relief, sufficient legal authority does exist to provide the relief requested for the LTS class.

However, CCM wholly rejects the presumption made by some parties that any relief that may be justified by Noranda Aluminum in this case must necessarily be “revenue neutral” to Ameren Missouri, thereby requiring the rates of *other customer classes* to replace the resulting (so-called) “deficiency”. While a regulated utility’s approved rates may not be set so low as to be confiscatory overall, there is no statute, rule, or case law supporting the so-called assertion of a revenue neutrality requirement.

That is, there is no property right held by a regulated utility in maintaining a defined level of revenue. State ex. rel. Mo. Gas Energy, et al. v. Mo. Pub. Service Commission, et al., 210 S.W.3d 330, 334-35 (Mo. App. W.D .2006).

Ameren Missouri has not even raised an affirmative defense stating that its revenue requirement would be insufficient if, in fact, Noranda Aluminum is granted its requested lower rate. Perhaps the electric utility did not plead such an affirmative defense in this case due to the fact that it could not prove such an affirmative defense at the present time. No constitutional “takings” occurs if, in fact, the overall effect of an ordered rate change does not produce an unjust or unreasonable revenue requirement.

Ameren Missouri is already *over-earning* based on its currently approved rates, as documented in prepared testimony filed by Noranda Aluminum and by the Commission Staff in the ongoing rate complaint EC-2014-0223. Given the pending allegations of that separate rate case, it would be unjust and unreasonable to further raise the electric rates of residential ratepayers in this case. Any so-called “deficiency” that would be created by granting rate relief to Noranda Aluminum in this case should be considered in the context of the over-earnings at issue in Case No. EC-2014-0223.

Respectfully submitted,

/s/ John B. Coffman

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Dated: July 8, 2014

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing has been mailed, emailed or hand-delivered to the parties listed on the Missouri Public Service Commission's official service list of this proceeding on this 8th day of July 2014.

/s/ John B. Coffman
