

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

Application of Union Electric Com-)
pany for a Certificate of Public)
Convenience and Necessity authoriz-)
ing it to construct, install, own,)
operate, control, manage and main-)
tain electric plant, as defined in)
§ 386.020(14), RSMo. to provide)
electric service in a portion of)
New Madrid, County, Missouri, as an)
extension of its existing certifi-)
cated area)

Case No. EA-2005-0180

**RESPONSE BY NORANDA ALUMINUM, INC. TO
STAFF'S PROPOSED PROCEDURAL SCHEDULE**

Comes now Intervenor NORANDA ALUMINUM, INC.

("Noranda"), and responds to the December 27, 2004 Proposed Procedural Schedule by Missouri Public Service Commission Staff ("Staff") as follows:

1. AmerenUE filed its Motion for Adoption of Procedural Schedule and Motion for Expedited Treatment ("Motion") on December 20, 2004. One day later, Noranda responded and confirmed AmerenUE's statement that time is of particular concern because Noranda's present electrical supply arrangements expire on May 31, 2005. AmerenUE had proposed that an order be issued by March 21, 2004.

2. In its December 21, 2004 Response, Noranda stated that it would take at least several weeks to arrange alternatives supplies should the Application not be approved. The arrangement

before the Commission took nearly 12 months to bring together.

Thus, from Noranda's perspective

it is most important that this matter is expeditiously processed **so that Noranda may know not later than late March of 2005** whether it may confidently expect to move forward with the transaction that has been arranged . . . or whether Noranda must begin to make alternative arrangements . . . [for] service to Noranda beginning June 1, 2005. (emphasis added).

3. While we appreciate efforts to expedite Commission consideration of this matter, despite Noranda's concerns, on December 27, 2004, Missouri Public Service Commission Staff ("Staff") proposed a procedural schedule suggesting that an order issue by April 12, 2004.^{1/}

4. Noranda does not question the need for Staff and Public Counsel to inquire regarding the proposed transaction, nor for the Commission to have adequate time to thoughtfully consider the matter. Hence Noranda was agreeable to the adjustments that Staff proposed to AmerenUE's proposed schedule through the recommendation of an post-hearing oral argument on March 17, 2005. However, Staff's proposal takes this time (roughly 3 weeks) from the **back end** of the proposed schedule and thus from the time that Noranda would need to make alternative power arrangements to continue its operations.

^{1/} Noranda does not object to Staff's included request to permit late-filing. Indeed, Noranda counsel was on the telephone with Staff counsel at 4:00 p.m. yesterday seeking, albeit unsuccessfully, to resolve our concerns. Staff should not be penalized because of its counsel's diligence in seeking accommodation.

5. Although Noranda had originally urged March 21, 2004 as a date for an order, at some risk, we sought compromise by offering to move this date back 10 days to March 31, 2005. But then we were confronted with a request for what Staff characterizes as an "Update of Pre-Hearing Brief" on March 22, 2005, pushing the proposed order date to April 12, 3 weeks after the original March 21 date we originally had urged. Regardless of the label applied, the request is for a **post-hearing brief** which is entirely unneeded when an oral presentation or argument (proposed for March 17 and to which Noranda was agreeable) was stated to be "in lieu" of post-hearing briefs as a means of accelerating presentation of the matter to the Commission for decision.

6. This is **not** a complex case. It is an application to add a small area to AmerenUE's already large service territory to facilitate regulated service to Noranda. There is a request for approval of a tariff (for which only Noranda presently would qualify) which charges Noranda at the same rate as existing approved AmerenUE tariffs, but with recognition for the size of Noranda's load, its exceptionally high load factor, its transmission voltage service and the absence of a distribution system for the service.

7. It is apparent that Staff (and perhaps others) wish to further investigate matters involved in the "Metro East Transfer" case, but in the context of this Application and at Noranda's risk. That matter has been fully litigated and is

before the Commission on Applications for Rehearing. Certainly, acceptance by AmerenUE of a Commission order concerning that transfer is a **contractual condition precedent** to AmerenUE providing service to Noranda under the negotiated agreement. But other than that, Noranda does not "have a dog in that fight" in the context of the instant proceeding. Noranda needs to know, and at the earliest possible date, whether **this** Application is to be approved by the Commission. If the Commission determines that it does **not** wish to approve the transaction, Noranda needs all possible time to reengage its efforts in the power market. Power contracts to serve 500 mW, 98 percent load factor loads at rate levels that are commercially viable do not grow on a tree in Noranda's back yard. The time that Staff requests for its "Update of Pre-Hearing [read: Post-Hearing] Brief" is time that is precious to Noranda, made all the more precious because of our agreement to slip the order date to March 31, 2005.

8. And there has been no showing by Staff of a need for **both** oral argument "in lieu" of post-hearing briefs, **followed** by a round of post-hearing briefs (by whatever name) which will doubtless turn into a further round of "replies," "counter-replies," and perhaps even "counter-counter replies." Noranda seeks to be reasonable and has sought to accommodate **reasonable requests** from Staff and the Office of Public Counsel. Thus we agreed to Staff's proposed schedule through the proposed Oral

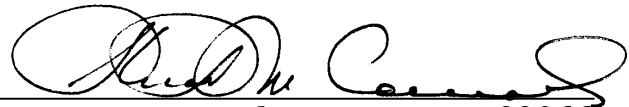
Argument on March 17, 2005.^{2/} But we cannot agree to further erosion of the time we need to seek alternative arrangements that could easily determine whether our plant survives beyond our present May 31, 2005 power contract expiration.

9. We are willing to accommodate Staff and Public Counsel information needs with an oral argument on March 17, 2005 and an order date of March 31, 2005. The proposed order date of April 12, 2005 appears proposed to accommodate a redundant post-hearing brief and takes critical time that Noranda needs to make alternative arrangements if this transaction is disapproved. Should the Commission seek additional explanation of the transaction following the March 17, 2005 oral argument, that can certainly be accommodated.

WHEREFORE Noranda Aluminum, Inc. respectfully requests that these comments be considered in setting a procedural schedule for further proceedings in this case.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.



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ATTORNEYS FOR NORANDA ALUMINUM,
INC.

^{2/} Noranda takes no position on the suggested cut-off date for discovery.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means or by U.S. mail, postage prepaid addressed to all parties and pending Applicants for Intervention by their attorneys of record as disclosed by the pleadings and orders herein.



Stuart W. Conrad

Dated: December 29, 2004