BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of an Investigation of Union Electric Company d/b/a AmerenUE	)))	**EO-2006-0430**

SUPPLEMENTAL RESPONSE TO AMERENUE
MOTION FOR RECONSIDERATION OR CLARIFICATION
BY NORANDA ALUMINUM, INC.

COMES NOW Noranda Aluminum, Inc. ("Noranda") and supplements its May 17 Preliminary Response and otherwise responds in opposition to AmerenUE's May 17, 2006 Limited Motion for Reconsideration or Clarification of Discovery Deadlines and Motion for Expedited Treatment ("May 17 Motion") as follows:

Given that the Commission's May 11, 2006 Order ("Order") was intended to establish a formal proceeding so that other parties could intervene and obtain discovery and access information, the May 17 Motion's discriminatory request to limit "non-Staff parties" in their participation in the proceeding and their access to data upon request is misdirected and should be rejected. Trying to create at least two classes of parties ("Staff" and "non-Staff parties") would violate the law and deny other parties due process.[1/]

[1/] Public Counsel asserts that neither it nor Staff is constrained in their respective abilities to propound data requests to utilities. *Public Counsel's Opposition*, May 18, 2006, p. 4. Other parties' rights may be dependent upon a showing of interest through the intervention process, but once shown, they are for most purposes, equal.

First, the May 17 Motion seems to suggest that "non-Staff" parties should be discriminated against in two particulars. The May 17 Motion suggests that "non-Staff parties" are not invested with "investigatory rights"[2/] and should not be granted "unlimited discovery." Neither argument has merit.

Commission rules provide for parties and entities to intervene in proceedings upon a proper showing of interest. On May 23, the Commission found Noranda's showing sufficient and granted its pending Application to Intervene. As a party, Noranda is entitled to discovery on a similar basis to that in actions at law or equity in Missouri Circuit Courts.[3/]

Arguing about "unlimited discovery" is a red herring. The broad standards that apply to discovery in circuit court proceedings[4/] are reasonable boundary conditions.

Second, the May 17 Motion complains of the shortened time requirements for responses or objections.

This complaint also lacks merit. While standard response and objection times of 20 and 10 days respectively generally pertain, the Commission is free under its own rules to shorten those times, has done so numerous times both with and without agreement, and upon the request of individual parties, all where good cause is shown. Here speedy turnaround is needed,

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[2/] May 17 Motion, paragraph 4.

[3/] 4 CSR 240-2.090.

[4/] Mo.R.Civ.Proc. 56.01 and Commission Rule 4 CSR 240-2.090(1).

resulting in good cause for the shortened time periods. Utilities in other jurisdictions successfully deal with time limits substantially less than 20 days and cases proceed in those jurisdictions without difficulty and we doubt that AmerenUE has fewer resources. Moreover, should AmerenUE be unable to comply with a data request in 10 days, it can certainly ask for additional time from counsel.

And it makes no difference who tenders the data request. If AmerenUE can respond to a data request from Staff in 10 days it can respond to a data request from others in 10 days. The question turns on the data sought rather than the identity of the requestor.

Third, the May 17 Motion questions how the five days for objections is counted. Public Counsel correctly cites the answer. Missouri Rule of Civil Procedure 44.01 instructs as to counting time. In cases of less than seven days, Saturdays, Sundays and Holidays are excluded. This results in five "business" days for objections. By its terms, this rule does not apply to the 10-day period.

Fourth, the May 17 Motion suggests that "Staff is the only party ordered to file a report [by July 11]." Reasoning in reverse, the May 17 Motion concludes that only Staff is entitled to the shortened time and thus "non-Staff parties" should be the subject of discriminatory treatment. The May 17 Motion even

asserts, without citation, that the Order ". . . ***does not allow*** any intervenor to file a report."[5/]

This argument is a *non sequitur*. It does not follow from the Commission's directive to its Staff that other parties are thereby precluded from filing a "Report" or any other pleading however titled.

Diligent search of the text of the Order has not identified any prohibition on other parties filing Reports or any other reasonable and proper pleading in this proceeding whether on, before or after July 11.

Such discriminatory treatment would run contrary to the intent and purpose of the Order. Other parties are neither directed to file, nor precluded from making a filing.[6/]

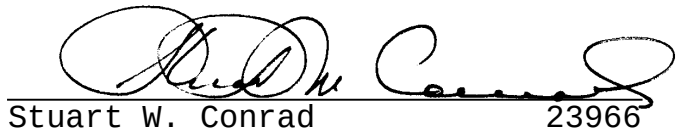
[5/] May 17 Motion, p. 3, paragraph 6 (emphasis added). This phrasing even suggests that the May 17 Motion is attempting to establish a third class of litigants, namely: Staff, Public Counsel, and "intervenors." Understandably the May 17 Motion cites no authority for this suggestion.

[6/] It should not be presumed that Noranda intends to file a "Report" or any other pleading. Nor are we precluded from so doing if we choose.

WHEREFORE, for the foregoing reasons, the May 17 Motion should be denied.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

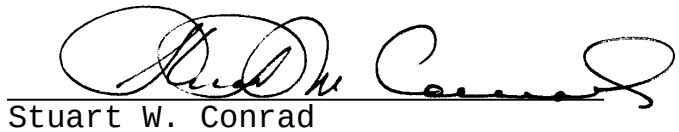


Stuart W. Conrad 23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816)756-0373
Internet: stucon@fcplaw.com

ATTORNEYS FOR NORANDA ALUMINUM, INC.

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 by their attorneys of record as disclosed by the pleadings and orders herein.



Stuart W. Conrad

Dated: May 25, 2006