

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service Commission held at its office in Jefferson City on the 19th day of February, 2009.

In the Matter of Union Electric Company, d/b/a)
AmerenUE's Tariffs to Increase Its Annual)
Revenues for Electric Service)

Case No. ER-2008-0318

**ORDER DENYING APPLICATIONS FOR REHEARING FILED BY
NORANDA, PUBLIC COUNSEL, AND AARP, AND DENYING
NORANDA'S MOTION FOR STAY**

Issue Date: February 19, 2009

Effective Date: February 19, 2009

On January 27, 2009, the Commission issued a Report and Order regarding Union Electric Company d/b/a AmerenUE's tariffs to increase its rates for electric service. That Report and Order became effective on February 6. On February 5, Noranda Aluminum, Inc., the Office of the Public Counsel, and AARP filed applications for rehearing.

The Commission established February 10 as the deadline for the filing of responses to the applications for rehearing. AmerenUE filed a response opposing the applications for rehearing.

Section 386.500.1, RSMo (2000), indicates the Commission shall grant an application for rehearing if "in its judgment sufficient reason therefor be made to appear." The applications for rehearing merely restate positions the Commission has previously rejected in its Report and Order. In the judgment of the Commission, Noranda, Public Counsel, and AARP have not shown sufficient reason to rehear the Report and Order. The Commission will deny their applications for rehearing.

Along with its application for rehearing, Noranda filed a motion asking the Commission to stay the effectiveness of its Report and Order while judicial review proceeds. Section 386.500.3, RSMo (2000), gives the Commission authority to stay the effectiveness of its orders while an application for rehearing is pending.¹ Since the Commission is denying Noranda's application for rehearing, there is no reason to stay the effectiveness of the Commission's Report and Order. The Commission will deny Noranda's motion for stay.

THE COMMISSION ORDERS THAT:

1. Noranda Aluminum, Inc.'s Application for Rehearing is denied.
2. AARP's Application for Rehearing is denied.
3. The Office of the Public Counsel's Application for Rehearing is denied.
4. Noranda Aluminum, Inc's Motion for Stay of Commission Order is denied.
5. This order shall become effective immediately upon issuance.

BY THE COMMISSION



Colleen M. Dale
Secretary

(S E A L)

Murray, C., concurs.
Davis and Jarrett, CC., concur, with
separate concurring opinions attached.
Clayton, Chm., and Gunn, C., dissent.

Woodruff, Deputy Chief Regulatory Law Judge

¹ The statute does not expressly give the Commission authority to stay the effect of its orders while judicial review is obtained. Indeed, it is difficult to see how judicial review of an order stayed by the Commission could proceed under those circumstances, since a reviewing court does not have jurisdiction until presented with a final Commission order, and a stayed order, by definition, would not be final. If Noranda wants to stay the effectiveness of the Commission's Report and Order during the judicial review process, it must present its arguments to the circuit court under the procedure established in Section 386.520.1, RSMo 2000.