

In Re: Union Electric Company's)
2008 Utility Resource Filing pursu-) EO-2007-0409
ant to 4 CSR 240 - Chapter 22.)

COMES NOW Noranda Aluminum, Inc. (Noranda) by its attorney of record, provides these comments regarding the March 10, 2009 Response by Public Counsel to the earlier Application for Rehearing by AmerenUE:

On February 19, 2009 the Commission issued its Final Order in this case. Among other things, the Commission ruled that AmerenUE had not resolved the deficiencies in its Integrated Resource Plan (IRP) that was the subject of this case. The Commission directed AmerenUE to submit its next IRP filing by April 1, 2010.

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B. Summary of Noranda's Continuing Concerns.

Noranda participation in the IRP was for the purpose of pursuing a cost effective result. That quest continues. Noranda needs a power supply consistent with the global competition it (and many other Missouri industries) must confront.

Circumstances have changed dramatically since this case was submitted for decision in at least three important ways.

First, in the course of its legislative proposals, AmerenUE has now stated that it intends only to take a 900 mW share of what was originally proposed to be a 1600 mW nuclear plant, AmerenUE has also confirmed that, contrary to earlier assertions, by seeking repeal of Section 393.135 and proposing numerous other changes to Missouri's regulatory framework, it intends to shift the construction risk to its captive ratepayers. *Second*, the Off-System Sales Settlement in Case No. ER-2008-0318 disclosed that the Meramec Plant (with roughly equivalent size to the now-proposed nuclear addition) had a lower generation cost than several other AmerenUE coal plants, had been proposed for shut-down in AmerenUE's IRP, but without the required life extension study. *Third*, the dramatic economic changes throughout the United States have significantly reduced projections for load growth on the AmerenUE system.

These three factors combine to affect the asserted urgency associated with the proposed Callaway 2 plant addition. While Public Counsel is entirely correct to insist on general rejection of the AmerenUE rehearing request, much if not all of

the scheduling predicate for AmerenUE's "decision time" with respect to the Callaway 2 plant addition has changed. There is no urgency to begin construction of a plant if it is not needed.

The timing of the next IRP and the process for Commission review of it are both important. OPC accepts AmerenUE's October 1, 2011 decision date as a predicate and presumes the Commission's IRP rule will play a role in the process. We view the matter from a somewhat different perspective. We question the October 1 decision date.

C. AmerenUE Claims That A Decision to Build Callaway 2 Is At AmerenUE's Risk Are Belied By AmerenUE Positions Taken Regarding the CWIP Proposals in the Legislature.

Only a few months ago, on October 7, 2008, AmerenUE's attorney stated to the Commission that AmerenUE would bear the risk of a wrong construction decision pursuant to its IRP - subject to its burden of prudence throughout the planning and construction process.^{1/} AmerenUE's attorney could not have been aware, we suppose, of SB554 and HB228 that will, if passed (with the benefit of AmerenUE's encouragement and support), for most practical purposes shift the risks of expenditures on Callaway 2 to ratepayers at an early date. Setting aside for a moment the radical restructuring of ratemaking in Missouri that would result

^{1/} Case No. EO-2007-0409, Transcript, Vol. 2, p. 131 (10-7-08):

7 All the risk here is on UE. Right? The risk --
8 if we make a bad decision, then it doesn't get put
9 into rates. The risk sets [sic] with us.

from the approval of these bills, the proposed legislation would provide the Commission with merely 30 days to reach a decision upon AmerenUE's request for a project development order that would decide rate relief of several hundred million dollars. Yet an IRP was nowhere in the list of information to be provided for consideration in the proceeding. But whether or not the legislation passes, AmerenUE has spoken plainly before Senate and House committees that it has no intent to accept the risk in the manner suggested by its attorney last October. Transactions do not occur in a vacuum. This, we believe, casts an entirely new light on the IRP process and its importance.

D. AmerenUE Claims Regarding the Urgency of A Callaway 2 Decision Must Be Revisited.

Another consideration is the current estimated timing of the need for Callaway 2. In due course Callaway 2 may or may not become a cost effective option worthy of support. However, based on what is presently known Noranda continues to hold the opinion that the revenue requirements in the IRP nuclear scenarios were seriously understated in the early years, and Noranda also continues to be concerned about the assumed retirement of the Meramec Plant. The Meramec life extension study required by the IRP rule, if it exists, was never provided by AmerenUE.

As a frame for reference in this matter, the Commission should consider the approved settlement of the fuel cost and off-system sales issues in ER-2008-0318. As shown by the support that was submitted with that settlement, Meramec is far from the

most costly coal plant in the AmerenUE fleet. The cost per mWh generated at the Meramec plant (\$15.76) is less than the costs at both the Sioux Plant (\$17.45) and the Rush Island Plant (\$16.88). The capacity factors of the four Meramec units range from 72% to 87%, which favorably compare to the range of capacity factors at AmerenUE's Sioux and Rush Island plants.^{2/}

According to AmerenUE presentations at the legislature, the AmerenUE share of Callaway 2 has now been revised significantly downward and is now estimated at 900 mW while the Meramec Plant represents essentially the same -- nominally 850 mW -- capacity.

Without question, Meramec is different than the proposed Callaway 2, but one must wonder whether the timing of the need for Callaway 2 is as urgent as it was made to appear during the last IRP "snapshot" wherein the demise of Meramec was summarily assumed as fact without the analysis that a life extension study would have provided.

E. Current Economic Conditions Have Altered Load Growth Assumptions.

Another consideration is the international monetary and economic crisis that has reversed the course of economic growth and replaced growth with economic contraction. We do not see how

^{2/} See Appendix A to the Off-System Sales Stipulation and Agreement, that was filed for approval on December 11, 2008 and approved on December 30, 2008. For simplicity, we have averaged the generation costs of the several units at each plant using the RealTime models shown on Appendix A of the Stipulation and Agreement.

Missouri and AmerenUE can escape this reversal. Rather, the current questions are how deep is this reversal and how long will it last. While hope for a short duration, pressing forward on a schedule that is now more likely to be early offers a risky and expensive proposition for ratepayers -- and it is most certainly AmerenUE's intent to place ratepayers, not investors, at risk. These changed circumstances should trigger a thoughtful review.

F. Timing -- Another "Snapshot" Is Needed.

This then raises the important question of timing. It is apparent that the timing of the asserted need for Callaway 2 may change. In consideration of current circumstances this question must be asked anew. What is the earliest date for a decision on a new base load plant? The answer is of significant importance in the context of the scheduling dilemma that faces the Commission.

AmerenUE has stated that planning is a continuous process and that the IRP filing is merely a "snapshot." What would a current snapshot tell AmerenUE and its ratepayers? The Commission may find the answer helpful as it deliberates the schedule. AmerenUE can illuminate the parties by providing a current "snapshot" consistent with the 900 mW Callaway 2 scenario, the changes in economic conditions, and the current status of work on the Meramec life extension study.

G. **Adequate Time for Commission Review of Any Construction Decision is Critical; Large Expenditures Ahead of That Decision Should Not Be Permitted Because They Will Distort The Decisional Process.**

Absent new information being revealed, the proper course with respect to the next IRP is to ensure time appropriate for careful review of a multi-billion dollar capital decision. Meanwhile, we lament the absence of a deeper look into the deficiencies of the 2008 IRP. At a minimum, hundreds of millions are at state as AmerenUE continues its plan to spend and maintain the current Callaway 2 option. Prudence demands answers at an early date. The IRP schedule cannot be allowed to become a foil for millions being spent unnecessarily between filings or for permitting an argument that "we've spent so much, we must be allowed to go on," or "we cannot afford to cancel or abandon this plant at this point." A current, careful, and robust analysis ***ahead of significant expenditures*** might well show that any real "decision date" on proceeding with additional base load capacity such as Callaway 2 is further away than is suggested by AmerenUE.

Therefore, while not disagreeing with the position expressed by the Public Counsel, Noranda also encourages the

Commission to persevere in requiring a robust and thorough current assessment of the earliest date that a base load power plant decision will be required.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

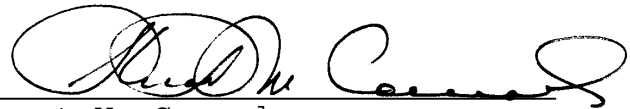


Stuart W. Conrad 23966
3100 Broadway, Suite 1209
Kansas City, Missouri 64111
(816) 753-1122
Facsimile (816) 756-0373
Internet: stucon@fcplaw.com

ATTORNEY 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 in this matter by their attorneys of record as disclosed by the pleadings and orders herein.



Stuart W. Conrad

Dated: March 16, 2009