

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

In the Matter of Union Electric            )  
Company d/b/a AmerenUE for Authori-        )  
ty to File Tariffs Increasing Rates         )     ER-2008-0318  
for Electric Service Provided to            )  
Customers in the Company's Missouri        )  
Service Area.                                 )

RESPONSE OF NORANDA ALUMINUM, INC  
TO AMERENUE REQUEST FOR RECONSIDERATION OF SUSPENSION ORDER

COMES NOW Intervenor Noranda Aluminum Inc. and for its response to the AmerenUE Request for Reconsideration of the April 7, 2008 Suspension Order respectfully states the following:

1. The Commission in its April 7, 2008, Order Directing Notice, Suspending Tariff, Setting Hearings, And Directing Filings scheduled an evidentiary hearing for November 5 through 7, November 10, November 12 through 14, November 17 through 21 and November 24 through 26, 2008. Noranda notes that in AmerenUE's last general rate increase case, ER-2007-0002, the Commission scheduled and began evidentiary hearings roughly 248 days after AmerenUE filed its revised tariffs. Here, however, November 5, 2008 is 215 days after AmerenUE's initiating filing and December 1, 2008 is 241 days after AmerenUE's filing of revised tariffs. AmerenUE seeks, among other things, an adjustment of several dates set in that April 7, 2008 Scheduling Order.

2. In principle, Noranda does not object to moving the Early Prehearing Conference from May 27. The date suggested by AmerenUE, May 12, however, is the beginning day of the Empire District Hearing (ER-2008-0093) and perhaps another date could be selected that would not have this conflict.

3. Nor does Noranda object to "reserving," or more properly, **preserving**, the suggested December dates for a hearing in this matter. However, we do have objection to AmerenUE's proposal to "un-set" the present hearing dates because the absence of a set hearing date may be perceived as giving parties, including AmerenUE, a license to *ex parte* the members of the Commission under the perception that no hearing is "set." Therefore, the existing hearing dates should not be "un-set" and no hearing dates should be cancelled until the parties formally propose such a shift through the Early Prehearing Conference process.

4. Contingent on the shift to the December hearing dates, Noranda does not object to the proposed rescheduling of the deadline for recommending a test year/update period to May 14, 2008 and the proposed rescheduling the deadline for recommending a procedural schedule and local public hearing dates from June 3, 2008 to May 19, 2008. However, final confirmation of such dates should be reserved for the recommendation of the parties, including certainly Commission Staff, at the Early Prehearing Conference.

5. The balance of AmerenUE's pleading, however, is essentially irrelevant given the current status of this case and certainly premature. The date set for interventions is April 28 and AmerenUE submitted its concerns inside that deadline thereby precluding some timely intervenors from responding.<sup>1/</sup> The balance of AmerenUE's issues, if that they be, can and should certainly be discussed among the parties to the case at the Early Prehearing Conference, whether it occurs as presently set or at some earlier date.

6. AmerenUE criticizes current Commission practice of setting hearing dates in the suspension order. The Commission's current practice of controlling its own hearing schedule may not always work perfectly but is salutary. The Commission handles matters other than those involving AmerenUE and, without fear of dispute, has a busy schedule. Indeed, encouraging the Commission to control its own hearing schedule by setting hearing dates in the suspension order was suggested by undersigned and other counsel as a means of allowing the Commission to control its hearing calendar while still allowing the parties flexibility to develop the remaining schedule and make recommendations regarding any changes in hearing dates that may be needed. Undersigned counsel participates in numerous other Commission proceedings other than those involving AmerenUE and has appreciated this procedure. It should be continued.

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<sup>1/</sup> Because of its early intervention filing, this concern does not impact Noranda.

7. Finally, AmerenUE's criticism of the position taken by other parties in other cases regarding the approval of compliance tariffs is out of place, misshapen and misperceives the concern. A more rigorous analysis distinguishes disputes that concern whether what has been submitted by the utility as "compliance," in fact complies with the Report and Order. Not infrequently Staff rejects "compliance" tariffs, in one recent case four times. Occasionally Staff has sought clarification from the Commission of what was meant in portions of the Report and Order. These disputes or concerns are legitimate and are not the unique preserve of Staff and the utility. Sometimes disputes may arise between or among Public Counsel, intervenors and Staff regarding whether compliance tariffs are actually that. At the same time, neither intervenors nor Public Counsel may lawfully be excluded from the means of resolving those disputes either by intent or exigency. A means to timely resolve compliance disputes can be explored by the parties at the Early Prehearing Conference and recommended to the Commission if needed.

WHEREFORE, Noranda prays that its response be received and considered by the Commission in this matter.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.

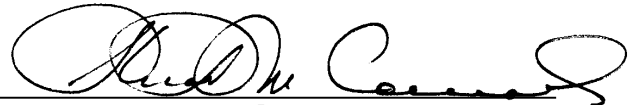


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CERTIFICATE OF SERVICE

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: April 23, 2008