

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

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

In its Motion filed today, AmerenUE complains that the Order establishing this case^{1/} does not allow it sufficient time to review and object to data requests.^{2/} Among other things, AmerenUE seeks different rules for discovery from parties other than Commission Staff. At the same time, AmerenUE requests that the Commission "take up" its motion at the Commission's agenda session on May 18, 2006, ***less than 24 hours after serving the motion upon other counsel, before pending applications to intervene have been ruled and before the time for interventions has passed.***

The plain language of the Commission's May 11 order emphasizes the need to allow other interested entities access to

^{1/} Order Directing Staff to Investigate Union Electric Company d/b/a AmerenUE, Setting Intervention Deadline, and Establishing Protective Order, Case No. EO-2006-0430, May 11, 2006.

^{2/} AmerenUE Motion, p. 4.

the tools of discovery.^{3/} Regardless, AmerenUE appears to already have its arsenal of objections at the ready when parties other than the Commission Staff seek to employ those tools.^{4/} Given that many of the Staff inquiries have doubtless been informal and may be unwritten, AmerenUE's offer to provide others with copies of its responses to Staff data requests, though a good start, is likely to be insufficient. It also overlooks the differing interests of other parties.

But regardless of the substance of AmerenUE's motion, it would be reasonable to permit others at least the time provid-

^{3/} "Based on requests from interested persons and the need to discuss and protect proprietary and confidential information, the Commission hereby directs the Staff of the Commission to conduct a formal investigation of Union Electric Company d/b/a AmerenUE"

May 11 Order, p. 1 (slip opinion). Further,

"The issuance of a protective order in this case will allow the parties to provide highly confidential and proprietary information to the Commission and appropriate parties with the assurance that it will be treated according to the terms of the protective order.

Id. at 2.

Commissioner Murray's dissent confirms the Commission's motivation: ". . . on allegations by industrial consumers that AmerenUE is over-earning The instigation of a formal investigation appeases only those industrial consumers that want access to AmerenUE records now as opposed to sixty days from now."

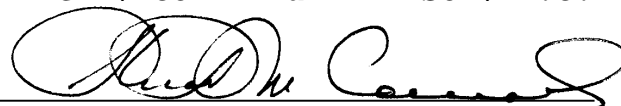
Murray Dissent, May 12, 2006, pp. 1-2 (emphasis in original).

^{4/} "The legislature did not vest potential parties to potential rate cases with investigatory powers, including discovery rights. Potential parties may be curious about a utility's earnings situation, but that is not a basis to allow unlimited discovery by non-Staff parties" AmerenUE Motion, p. 2.

ed by Commission rule to respond to that motion, particularly since AmerenUE asserts that a much larger amount of time is inadequate to permit its personnel to review and object to data requests. Further, any time for responses should be tolled until pending (and perhaps timely but yet-to-be-filed) applications to intervene have been ruled.

Respectfully submitted,

FINNEGAN, CONRAD & PETERSON, L.C.




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ATTORNEYS FOR NORANDA ALUMINUM,
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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: May 17, 2006