

**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-2007-0002
for Electric Service Provided to)
Customers in the Company's Missouri)
Service Area.)**

**PREHEARING BRIEF OF
NORANDA ALUMINUM, INC.**

COMES NOW NORANDA ALUMINUM, INC. ("Noranda") and through its counsel of record submits this Prehearing Brief on the issues and concerns presented in this matter at this time.

I. Introduction.

In developing this Prehearing Brief, Noranda has attempted to follow the numbering and wording of the most current listing of expected issues in the case. Because that listing has not yet been finalized and filed, it is possible that these references may change. However, the basic structure of this Prehearing Brief should be sufficiently close to any final listing that it will still be of aid of the Commission.

Noranda's focus in this case has been generally limited to issues of class cost of service, rate design, and certain aspects of the design of any rate adjustment mechanism that would impinge upon the continuation of Noranda's operations in Missouri. Accordingly, on many of the return, rate base and accounting

issues, Noranda has not taken an aggressive position while not waiving our right to participate in those aspects of the proceeding or to later comment on the evidence adduced in those proceedings as it is pertinent to those issues.

Noranda's positions and comments have also only been briefly summarized here and are more fully contained and explained in the prefiled testimony of the witnesses that have been submitted on its behalf. Because Missouri statutes specify that a post-hearing brief may be a substitute for full review of the entire record by a Commissioner, and evidence cannot be part of the record until it is introduced and accepted through the hearing process, this prehearing brief is intended only as a summary and not a substitute for post-hearing briefing consistent with the governing law. It is offered with that view in mind.

II. Presently Identified Issues.

1. **Overview and Policy:** In addition to "cost of service," what policy considerations should guide the Commission in deciding this case?

Given that AmerenUE operates a regulated utility and is charged with the responsibility of providing safe and adequate service at non-discriminatory rates, the overarching policy concern is that customers should be charged those costs, and only those costs, that they

cause. No customer or customer class should be required to subsidize another customer nor group of customers. Costs, as used here include the opportunity to earn a reasonable profit margin for the utility. However, that margin should not be recovered in a manner that departs from these cost of service principles.

There is, however, no guarantee that all "prudent" costs are recovered, nor, indeed, a guarantee of the recovery of any particular cost. There is, simply put, only an opportunity. Moreover, the policy of the State of Missouri in preserving its existing industrial base and attracting additional industry and employment should be considered. The best means to facilitate the policy in this matter is through properly designed cost-based rates.

2. **Pinckneyville and Kinmundy:** What amount should be included in rate base for AmerenUE's purchase of these CTG plants from affiliated companies?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate

witnesses on this issue during the hearing, should that be determined necessary.

3. **Peno Creek:** What amount should be included in rate base for AmerenUE's construction purchase of this CTG plant?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

4. **Return on Equity:** What return on equity should be used in determining revenue requirement?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

5. **Income Taxes:** Should net salvage be normalized?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate

witnesses on this issue during the hearing, should that be determined necessary.

6. **Metro East:** Should any adjustment to AmerenUE's revenue requirement be made for any alleged non-compliance with the conditions contained in the Commission's order approving the Metro East Transfer and if so, what should the adjustment be?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

7. **Callaway ~~Refueling~~ Non-Labor Maintenance Expense:** Should Callaway refueling non-labor maintenance expense be based on an average of the last three refuelings or on the most recent refueling as the appropriate level given Callaway's total operating and maintenance expenses?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

8. **Electric Energy, Inc.:** How should the expiration of the affiliate power supply agreement with EEInc. be treated for ratemaking purposes? Would it be lawful and proper for the Commission to impute to AmerenUE's revenue requirement the net effect on AmerenUE's variable production costs of power from EEInc.? Was the action taken by AmerenUE respecting the expiration of the affiliate power supply agreement with EEInc. prudent?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

9. **Off-System Sales:** How should off-system sales be recognized in AmerenUE's revenue requirement and what amount of off-system sales margin is appropriate for the test year? Should any tracking or sharing of changes in off-systems sales margins be implemented?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

10. **Fuel Adjustment Clause:** Should AmerenUE's proposed fuel adjustment clause be approved and, if so, with what modifications or conditions? In addition, If there is a fuel adjustment clause, should there be provisions to mitigate and limit retail rate impacts?

At the outset, Noranda's silence with regard to the asserted need for a FAC is simply that and no more. It should not be construed as support for a mechanism such as AmerenUE has proposed.

While not taking a position on AmerenUE's need for such a mechanism, one Noranda concern with the AmerenUE proposal is that the proposed mechanism does not provide protection against sharp or extraordinary increases that could be highly damaging to Noranda business operations in Missouri. Noranda's consultant, Mr. Johnstone recommends at least two changes in the structure of the AmerenUE proposal if the Commission were to approve such a mechanism:

First, a change in the recovery periods from quarterly to 12 month periods will smooth retail rate impacts from abrupt changes in the FAC levels and also provide other benefits to all affected retail customers.

Second, a 4% cap for FAC rate increases measured with respect to the LTS rate, and coupled with a one-year delay of excess costs will mitigate sharp or extraordinary retail rate increases. Neither proposal is seen to have adverse effects on AmerenUE.

Noranda is also concerned with the design of the AmerenUE-proposed FAC because it fails to correctly address the margin created by off-system sales. If off-system sales costs and revenues are treated differently in a FAC from how they are treated in the utility's base rates, serious unintended cost shifts among the classes can result and many of these could be detrimental to high load-factor customers such as Noranda. Mr. Johnstone proposes:

First, if included, the costs and revenues of off system sales must be allocated consistently on a demand basis.

Second, that the same method used in base rates to allocate off-system sales margins -- that used for demand-related production costs -- should be used in the design of the FAC.

11. **SO₂ Allowances/SO₂ Premiums/2006 Storm Costs:** Should revenues received from environmental allowance transactions be included in the revenue requirement and if so, what amount?

Should the Company establish a regulatory liability to account for sales of environmental allowances sold by the Company?

Should SO₂ premiums (net of discounts) be included in the regulatory liability account?

Should the balance of SO₂ allowances less SO₂ Premiums paid be used to offset 2006 storm costs? If so, what is the proper storm cost level to include in the cost of service?

At this time Noranda is not taking a position on these issues but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

12. **Fuel and Purchased Power:**

A. Diesel Fuel Hedge Costs: Should diesel fuel hedge costs be included in the cost of service?

- B. Nuclear Fuel Prices: Should nuclear fuel costs include the cost of new fuel assemblies which were purchased and delivered to the Callaway Plant site prior to January 1, 2007, but will not be loaded into the reactor until the next scheduled outage which begins in April, 2007 or used for generating electricity until the conclusion of the next scheduled outage which begins in April, 2007.
- C. Nuclear Fuel Inventory: What amount should be included in rates to reflect the unamortized balance of nuclear fuel assemblies in the reactor? Should this balance be based on an 18-month average for the period ending January 1, 2007, or should the balance be based on the 18 month average for the period ending October 2008?

At this time Noranda is not taking a position on these issues but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

13. **Depreciation:**

- A. 4 CSR 240-10.020: Does 4 CSR 240-10.020 require any adjustment in this case for return on depreciation

reserve? If so, what adjustment does 4 CSR 240-10.020 require? If AmerenUE is not in compliance with 4 CSR 240-10.020, what action should the Commission take as a consequence?

- B. Fossil-fueled and hydro powered generation plant depreciation rates: Should depreciation rates for the plant accounts for fossil-fueled and hydro powered generation plants be based on average service lives with no truncation or a service life that is truncated at an estimated future final retirement date of each generation plant (Life Span)?
- C. Should the Commission assume that the Callaway Plant will be relicensed for an additional 20 year term, or should the Commission assume that the Callaway Plant will not be relicensed for purposes of calculating depreciation rates for the Callaway Plant?
- D. Should terminal net salvage and inflation costs relating to the future retirement of the Company's generating plants be included in depreciation rates, and if so, how should such costs be calculated?
- E. In the calculation of the Distribution, Transmission and General Plant depreciation rates, should the esti-

mated Net Salvage Percents to be applied in the future determination of depreciation rates be calculated to reflect historic inflation rates based on analyses of historic net salvage percents or is an adjustment to such analyses required to reflect a different impact of cumulated historic inflation rates on historic net salvage as compared to the impact of cumulative expected inflation rates be reflected in the calculation on future net salvage.

- F. In the calculation of the Transmission, Distribution and General Plant depreciation rates should the net salvage percents applied in the determination of depreciation rates be based on actual net salvage expense?
- G. Is there a difference between the actual book accumulated depreciation and the theoretical accrued depreciation? If so, how should that difference be recovered from ratepayers?

At this time Noranda is not taking a position on these issues but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

14. **Wind Power:** Should AmerenUE include wind power in its generation portfolio? If so, how much?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

15. **Demand Side Management.**

- A. Should AmerenUE set megawatt and megawatt hour goals for Demand Side Management? If so, what should those goals be?
- B. Should AmerenUE fund Demand Side Management programs at minimum levels? If so, at what levels?
- C. How should DSM programs be selected?

At this time Noranda is not taking a position on these issues but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

16. **Low-Income Programs:**

- A. Should AmerenUE continue to fund its current low-income weatherization program? If so, how should the program be funded?
- B. Should AmerenUE fund low income programs at minimum levels? If so, at what levels?

At this time Noranda is not taking a position on these issues but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

17. **Voluntary Green Power Program:** Should AmerenUE's Voluntary Green Power Program be approved?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

18. **Class Cost of Service and Rate Design:**

Class Cost of Service Issues: What should be the increase or decrease in the revenue responsibility of each customer class?

AmerenUE provides firm service to Noranda under the LTS rate schedule. Noranda's load factor is roughly 98% and occasionally higher, resulting in a lower than average cost of electricity to Noranda.

Noranda should be charged the costs that its service causes AmerenUE to incur, but no more. Neither Noranda nor any other customer class should be charged costs that are incurred to serve other customers or groups of customers.

- A. To what extent, if any, are current rates for each customer class generating revenues that are greater or less than the cost of service for that customer class?

The principal tool that should be used to identify cost causation is a properly constructed and unbiased class cost of service study. Given the wide range of overall costs that the various parties assert are incurred by AmerenUE, it is not possible to determine a specific cost for Noranda at this time. Noranda's consultant, Mr. Johnstone,

has generally supported the methodology of the Class Cost-of-Service Study ("CCOSS") used by AmerenUE because it appears to properly treat the allocation of demand-related production costs, the allocation of off-system sales costs and revenues and it properly excludes Noranda from the allocation of distribution costs.

However, there are flaws in the AmerenUE study that should be corrected. It is important to align the allocations of the costs and revenues associated with off-system sales, but AmerenUE has not done this and has incorrectly used energy and demand allocators.

Inconsistent use of allocators for off-system sales results some classes receiving benefits at the expense of other classes for no reason. This must be corrected. Although AmerenUE originally proposed in its CCOSS to allocate costs of off-system sales on an energy basis and then inconsistently allocated the related revenue using a demand basis, Noranda understands that AmerenUE has now corrected this error. Correction may be effected by removing the cost and offsetting revenues that recover the cost of off-system sales

from the CCOSS and allocating the margins according to the production demand factor.

AmerenUE was not alone in this error. Staff's initial study also shares in this error and allocates an inappropriate \$5.5 million shift of costs to Noranda and the correction should be the same, *i.e.*, consistent treatment and allocation of the off-system sales margins using the production demand factor.^{1/}

Similar to AmerenUE, it is our understanding that Staff has now changed its study to conform to more consistent treatment of off-system sales margins using the production demand factor.

Although there appears to be broad agreement regarding the use of CCOSS to establish rates, there are multiple approaches. Noranda is concerned that off-system sales margins are treated consistently. However, neither the AmerenUE or Staff studies do this and both overstate the cost to serve Noranda by as much as \$6 million.

^{1/} It deserves brief note that because of other flaws in Staff's study to be addressed later, the difference between Staff's energy allocator and its production demand allocator is not large. This is, of course, a flaw in itself, but we will address that in a later portion of this prehearing brief.

Noranda is also concerned with how the fixed costs of generation is allocated among customer classes. Both Staff and Office of Public Counsel ("OPC") have proposed CCOS methods that are detrimental to high load-factor customers such as Noranda and would also harm Missouri's economic development efforts. Staff rebuttal of AmerenUE's CCOS methodology also contradicts Missouri's stated economic goals and discriminates against native load off-peak consumption in favor of off-system sales and results in a benefit to competing states. OPC's methods, are similarly biased. Unfortunately, Staff appears to become something other than a "neutral advisor" when it comes to these issues. Instead it appears to advocate a question-begging approach that it characterizes as "fair" and seeks to invade to province of the Commission to balance interests.

Yet, despite these significant problems, every submitted CCOS shows that existing Rate LTS (Noranda) is too high in comparison to Rate LPS. These studies all appear to recognize need to eliminate the "contribution factor" that is part of the current LTS rate. As noted earlier, Noranda takes its power at transmission voltages

directly from the transmission system. It receives no distribution service from AmerenUE. Accordingly, the original design of the LTS rate recognized that Noranda receives no distribution service from AmerenUE by removing an estimate of the distribution costs that are contained in the LPS rate. Because Rate LTS was established outside of a rate case proceeding, on an interim basis, a "contribution factor" was included to establish parity between the price between Rates LPS and LTS. That interim measure was, however, only intended to create that LTS/LPS price parity until the next rate case had been filed and an appropriate CCROSS had been performed.

Thus, all these studies still show that a downward adjustment to the revenues being provided by Noranda remains in order. Accordingly, by definition, the "contribution factor" in the current LTS rate has been providing revenue in excess of Noranda's cost of service. When Noranda's Rate LTS service is established at a cost-based rate, the need for the "contribution factor" comes to an end and it properly should be removed. Because the "contribution factor" represents roughly a \$9 million annual revenue contribution from Noranda,

all other things being equal, elimination of the "contribution factor" should result in the reduction of Noranda-provided revenues by at least \$9 million or 6.6% from their current levels.

- B. How should AmerenUE's cost of service be assigned to the customer classes?

AmerenUE's cost of service should be assigned to the customer classes based on the cost incurred by AmerenUE to provide service to those classes generally using the methodology employed by the AmerenUE CCOSS. No class should be required to pay more, or less, than its respective cost of service. Certainly no class should be required to subsidize service to another class.

- C. Should the Commission adopt AmerenUE's proposal to cap any residential class increase at no more than ten (10%) percent?

The short answer is no, not in the form that has been proposed by AmerenUE which would require other classes to provide a subsidy. While AmerenUE appears to propose a cost-based rate for Noranda, it then moves in the opposite direction

by proposing a non-cost-based residential subsidy that it proposes be paid by Noranda and other customers. The support -- more properly a rationalization -- offered by AmerenUE for its residential rate cap proposal support for this proposal is dubious because other customers share in the AmerenUE rate history and all of AmerenUE's customers function within the same economy. Indeed, there are competitive pressures for all customers including industrial customers that should be considered. Moreover, AmerenUE's proposal is inconsistent with Missouri's efforts to attract and retain an industrial employment base. While a rate cap might be useful if appropriate and properly designed, it should not be funded by charging its costs to other customers. Rather it could be addressed either by a phase-in of some portion of any rate increase thought necessary or by an absorption of certain costs by AmerenUE. AmerenUE's support of its proposed residential rate cap falls short and the proposal fails the same tests that its proponent employs to criticize others' subsidy proposals. As noted, the residential rate cap proposal runs counter to the economic development goals of the current administration. Missouri's concerns regarding economic

development can be accomplished by the use of cost-based rates.

- D. Should Staff's proposal to combine the Small Primary Service Class and the Large General Service Class in the Class Cost of Service Study be adopted?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- E. On what basis should production capacity be allocated to classes?

On the basis as employed by AmerenUE in its CCOSS. Proposals by Staff and OPC are not cost-based and should be rejected.

- F. On what basis should transmission costs be allocated to classes?

On the basis as employed by AmerenUE in its CCOSS. Proposals by Staff and OPC are not cost-based and should be rejected.

- G. On what basis should distribution costs be allocated to classes? Should the allocation of primary distribution costs include any customer-related component?

Noranda does not make use of any AmerenUE-provided distribution system. Please refer to the discussion concerning the "contribution factor" in the current LTS rate. Other than noting that any allocation of distribution costs to Rate LTS would be incorrect, Noranda takes no position on this issue regarding allocations to other classes save that such allocations should be on a cost of service basis.

- H. On what basis should non-fuel generation expenses be allocated?

On the basis as employed by AmerenUE in its CCOSS. Proposals by Staff and OPC are not cost-based and should be rejected.

- I. On what basis should off-system sales revenues be allocated among the customer classes?

Mr. Johnstone has testified that any allocation of off-system sales transactions should be focused on

the margin and that margin should be allocated on the basis of demand-related production costs.

- J. On what basis should credit and collection expenses be allocated?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

19. **Rate Design:** How should the Commission implement any revenue change it orders in this case and address proposed revisions to existing tariffs?

- A. Should the Commission adopt AARP's proposal to recover less of the Company's demand related costs in the summer, and more of the demand related costs in the winter?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- B. Should the Commission adopt the Missouri Association for Social Welfare's proposal to create an "essential service rate"?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- C. Should the Commission adopt AmerenUE's proposal for economic development and retention riders?

To the extent that such proposal is shown to be consistent with the stated goals of Missouri's economic development strategy, Noranda generally would favor such proposals. However, at this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- D. Should AmerenUE have an Industrial Demand Response program? If so, what should be the parameters of that program?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- E. Does the Large Power Rate need to be changed? If so, should the Commission adopt AmerenUE's proposal for changes to the Large Power Service Rate?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

- F. Does the Large Transmission Service Rate need to be changed? If so, should the Commission adopt AmerenUE's proposal for changes to the Large Transmission Service Rate.

The Large Transmission Service Rate should be changed to reflect and recover only those costs that are incurred by AmerenUE in providing service to Noranda. Please refer to our earlier discussion regarding the importance of class cost of

service principles and the selection of an appropriate class cost of service methodology.

- G. Should the Commission adopt AmerenUE's proposal for changes to miscellaneous tariff provisions?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

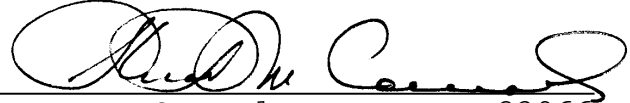
- H. Should the Commission adopt Staff's proposal for changes to miscellaneous tariff provisions?

At this time Noranda is not taking a position on this issue but reserves its right and ability to later assert a position and to cross-examine appropriate witnesses on this issue during the hearing, should that be determined necessary.

WHEREFORE Noranda respectfully prays a Commission decision consistent with its recommendations.

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: March 7, 2007