## BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the matter of Union Electric Company,	)	
d/b/a AmerenUE's Tariffs to Increase Its	)	Case No. ER-2011-0028
Annual Revenues for Electric Service	)	

## SUPPLEMENTAL RESPONSE TO MOTION FOR RECONSIDERATION

COMES NOW the Midwest Energy Users' Association ("Applicants"), and for its Supplemental Response to the April 22 Motion for Reconsideration filed by MIEC and Noranda Aluminum ("Noranda"), respectfully state as follows:

- 1. On April 25, 2011, MEUA filed, consistent with the Presiding Officer's Order Directing Filing, its Response to Noranda's Motion for Reconsideration. During the course of its preparations for the evidentiary hearing on this matter, MEUA became aware of additional information that is relevant to the Commission's decision to require Noranda to disclose CRU cost data. Specifically, based upon public filings, and contrary to its current pleadings, it is apparent that Noranda routinely releases data from the CRU database.
- 2. On April 20, 2011, Noranda held its First Quarter Results Conference Call. In preparation for that conference call, Noranda prepared and circulated a slide show presentation. Noticeably included in that slide show were two slides that expressly note that they are based upon CRU data. (See Appendix 1 and Appendix 2).
- 3. Still again, on March 7, 2011, Noranda filed its Form 10-K Annual Report with the Securities Exchange Commission. On at least 6 separate occasions (pages 6, 7, 8, 12, 31 and 33) in that Annual Report (Appendix 3), Noranda disclosed data derived from the CRU database.

- 4. Finally, in its May 14, 2010 Prospectus (Appendix 4) filed with the SEC, Noranda provided at least <u>58</u> separate references to specific CRU cost data. (See, pages 4, 7, 9, 10, 11, 12, 13, 29, 33, 61, 100, 101, 102, 103, 104, 105 and 115).
- 5. In each of these cases, the CRU data released by Noranda went well beyond the cost of electricity data that it claims it is allowed to disclose in this case. Clearly, Noranda routinely relies upon and releases CRU data when it suits their position. By the underlying Motion to Compel, MEUA asks that the Commission order Noranda to disclose two other portions of that same study which will likely undermine Noranda's position in this case. It has been demonstrated that the information sought (cost of alumina and cost of labor) are two portions of the same overall CRU analysis. It is improper to allow Noranda to rely upon portions of an analysis and subsequently shield other portions of that same analysis from discovery. In light of the fact that Noranda routinely discloses other aspects of this same analysis in public filings, the Commission should require Noranda to produce this information immediately.

WHEREFORE, MEUA respectfully requests that the Commission deny MIEC / Noranda's Motion for Reconsideration and order Noranda to immediately provide its response to Data Request Nos. 2, 3 and 12.

Respectfully submitted,

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**ENERGY USERS' ASSOCIATION** 

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

David L. Woodsmall

Dated: April 25, 2011