

While Noranda may be unique in the amount of electricity it uses, Noranda is not unique in that all of Ameren's commercial and industrial customers must compete based upon costs, including electric costs. The Commission will likely find, when presented in future cases, that it can save as many or more jobs with a much smaller bailout than the one granted to Noranda. Specifically, the Commission granted approximately \$25 million of rate relief to Noranda in order to save 800 Missouri jobs. This amounts to approximately \$31,250 for each Noranda job allegedly saved by this bailout. It is likely, given the much smaller electric usage of other Ameren customers, that the Commission could save exponentially more jobs for a much smaller amount of rate relief. That said, some commissioners have apparently prejudged their willingness to even consider rate relief for these other Missouri companies and their employees.

3. In its attempt to convince the Commission that it was suffering from a liquidity crisis, Noranda repeatedly referenced its belief that its liquidity (defined as cash and available borrowings) would continue to decline. (See Exhibit 532). On May 6, 2015, Noranda issued its earnings report for First Quarter 2015. Interestingly, in that report, Noranda revealed that, contrary to its previous claims to the Commission, liquidity has actually increased. Specifically, liquidity has increased from \$158.3 million to \$165.4 million.

Section 386.500.4 allows the Commission to consider facts outside of the record evidence in determining whether to grant rehearing.

If, after a rehearing and a consideration of the facts, ***including those arising since the making of the order or decision***, the commission shall be of the opinion that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change or modify the same.

Recognizing that facts have developed that cast further doubt on Noranda's claimed liquidity crisis, the Commission should grant rehearing to consider its decision granting Noranda unwarranted rate relief.

4. Throughout this proceeding, parties and the Commission have noted that Noranda has routinely told the Commission one story while saving another story for its investors.

I think it is without a doubt fact that there is a difference between what you are telling investors and what you are telling us here today. Now, I'm not telling you that it is my belief that there is not a way to find some consistency but the verbiage, the definitive nature is different between the two and what I'm asking for you, from you, is to explain to me why there might be that discrepancy. Now, you can say there's no discrepancy, I'm telling you I don't believe that. There is a difference.¹

Over the past year, Noranda has routinely cried for rate relief. While Noranda's claimed need for rate relief has remained consistent, Noranda's requested relief has repeatedly changed. At the beginning of this case, Noranda claimed that it must have a rate of at least \$32.50 / MWh. By the time of the evidentiary hearing, Noranda claimed that it must have the \$34.00 / MWh rate contained in the Non-Unanimous Stipulation. In its Report and Order, the Commission granted Noranda an effective rate of \$38.00 / MWh (\$36.00 of base rates and \$2.00 of exposure to the fuel adjustment clause). Much like its differing statements to the Commission and Wall Street, it is now apparent that Noranda didn't need a rate of \$32.50 / MWh or \$34.00 / MWh. Specifically, after the Commission issued its Report and Order, Noranda reported:

"Securing a reduced rate for our single largest cost is an important milestone in our on-going journey to structurally improve our cost profile," said Layle K. "Kip" Smith, Noranda's President and CEO. "At full production, the new rate is expected to reduce New Madrid's annual power cost by approximately \$17 to \$25 million or \$0.03 to \$0.04 per

¹ Tr. 2546-2547 (emphasis added).

pound of primary aluminum sold. As part of our comprehensive productivity program, we expect these structural savings to make a meaningful contribution to our near-term performance and cash flow, and to enhance our ability to operate the business sustainably across the aluminum cycle."

Clearly, Noranda was misleading the Commission when it previously professed the absolute need for a rate of \$32.50 - \$34.00 / MWh. Given this, one must necessarily wonder whether Noranda actually needs a rate of \$38.00 / MWh.

Throughout its deliberations in this case it was clear that the Commission was blindly trying to decide on the extent of any rate relief that it would grant Noranda. Certain commissioners sought to provide a rate of \$34.00 / MWh while others sought to provide a rate of \$38.00 / MWh. Ultimately, without any record evidence or any discussion in the Report and Order, the Commission arbitrarily decided on a rate of \$36.00 / MWh with limited \$2.00 / MWh exposure to the fuel adjustment clause. Rather than engaging in arbitrary decision-making, the Commission should grant rehearing for purposes of determining the true extent of Noranda's need for rate relief. Given Noranda's more recent comments, it is apparent that the necessary rate would be something in excess of \$38.00 / MWh.

5. In its Report and Order, the Commission limited Noranda's exposure to the fuel adjustment clause to \$2.00 / MWh. In its decision, however, the Commission fails to address the method by which any future FAC adjustments should be calculated.

Historically, off-system sales are credited to customers. This is done to reflect the fact that customers are paying the return on and return of costs associated with the production plants used to make these off-system sales. When customers are paying rates

that are based upon embedded cost, it is appropriate that those customers receive credit for off-system sales.

At the hearing, Staff witness Kliethermes pointed out that customers that pay rates that are based upon incremental cost should not receive an allocated share of these off-system sales.

Q. And would such a rate exempt Noranda 14 from application of the FAC?

A. Only to the extent that it will -- a rate that low, I believe it would probably be more appropriate to at least consider going to a market indexing mechanism, because that type of rate Noranda would not be contributing to fixed costs. They're -- they would not be providing a positive rate of return to the company if you did a cost of service study. And so giving them participation in the benefits the company has for its ratepayers through off-system sales, I'm not sure of the equity of that. So at a rate much below their current rate, I would look very strongly at indexing that to market.²

Recognizing that Noranda would not be fully contributing to fixed costs, it is inequitable for Noranda to subsequently claim a share of the off-system sales made from the generation plants paid for by all other ratepayers. Instead, Noranda's \$2.00 exposure to the fuel adjustment clause should be completely calculated by the difference between its fuel costs included in rates and that which Ameren actually incurs in providing Noranda service. Noranda's future FAC adjustments should not be netted against any future increases in off-system sales that are made by the production plants that are now paid for by the other Ameren customers.

WHEREFORE, MEGC respectfully requests that the Commission rehear its decision regarding the Noranda rate subsidy and issue a new Report and Order denying Noranda's requested relief.

² Tr. 3009-3010 (emphasis added).

Respectfully submitted,



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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: May 8, 2015