

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Proposed Rules)	
4 CSR 240-3.162 and 4 CSR 240-)	EX-2008-0105
20.091, Environmental Cost Recovery)	
Mechanisms)	

COMMENTS ON SELECTED ISSUES BY
NORANDA ALUMINUM CO.

COMES NOW Noranda Aluminum Co. (Noranda), through its attorney, and submits these comments on the proposed Environmental Cost Recovery Mechanism (ECRM) Rule proposed in this matter.^{1/}

1. Noranda is the largest customer of AmerenUE and the largest consumer of electricity in Missouri. Noranda, therefore, continues to have significant interest in rules and regulations applicable to its supplier, Union Electric Company d/b/a AmerenUE. AmerenUE has supplied Noranda's electricity since June 1, 2005 under the Large Transmission Service rate schedule. Noranda, for its part, presents a load of 475 MW, day and night, 7 days a week and maintains over a 98% load factor.

2. As Missouri's only aluminum smelter, one of the few remaining aluminum smelters operating in the United States, and as a industrial consumer that is responsible for over 10% of the entire United States' aluminum production, Noranda must

^{1/} Noranda personnel expect to be available for additional comments or to respond to questions from the Commissioner at the time of the hearing on this matter.

continuously examine its own operations to extract additional efficiencies, and do so in compliance with applicable environmental regulations. Noranda must also remain continuously vigilant against cost increases in every aspect of its business including, of course, electricity. The market will penalize Noranda heavily if it fails in this objective. Noranda expects the same attention to efficiency and low costs in its suppliers, and regulation, as a substitute for competition, should do no less with respect to AmerenUE.

3. The proposed rule will implement provisions of Senate Bill 179, which was signed into law by Governor Blunt in 2005. At a very summary level, Noranda understands the applicable provisions of Senate Bill 179 to offer additional rate options for the recovery of AmerenUE's environmental costs. Any automatic pass-through of costs under a rider mechanism such as that under consideration is of concern to Noranda because, if implemented, AmerenUE would become more insulated from the economic consequences of its own decisions regarding environmental expenditures and be in a position to shift these costs to captive customers.

4. A provision that Noranda sees as a means of mitigating this downside is the provision in the proposed rule that the Commission may "determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates."^{2/}

^{2/} Proposed Rule 4 CSR 240-20.091(2)(D).

5. Noranda understands the proposed rule, therefore, as maintaining the Commission's ability to determine the portion of costs to receive the automatic rider treatment versus base rate treatment. Thus, if there is to be a rider at all, this approach ensures that the Commission can determine the extent to which portions of environmental costs will continue to be subject to the incentives inherent in base rates. Preservation of this option is desirable. Noranda encourages an approach that would maintain a healthy measure of the beneficial incentives inherent in base rates. Noranda understands that proposed rule (2)(D) provides for such an approach.

6. In addition, Noranda also understands that Senate Bill 179 provides for a cap on rate increases due to the ECRM. Although some aspects of the operation of this cap are unclear, the proposed rules carry rate cap provisions. Noranda supports the concept of rate stability and low rates. A rate cap can offer some protection to this end.

7. In further development of these points, proposed rule (2)(D) will have the Commission determine the extent to which eligible environmental costs are passed through to customers via the more or less automatic provisions of an ECRM and the extent to which the costs continue to be passed on through the traditional base rate mechanism. For example 50% of environmental cost changes might continue to receive base rate treatment and 50% might flow through the ECRM. Rule (2)(D) is an important provision because it provides the flexibility to maintain some of

the incentive inherent in the traditional base rate approach if it becomes necessary to establish an ECRM.

8. From an overarching perspective, incentives to efficient operation are an inherent part of the rationale for the existence of regulated investor owned utilities. As a result of the risk assumed by the utility investors, it is expected that utility management will have and respond to financial pressures by keeping operations efficient and costs low consistent with safe and reliable operations. The idea is that efficient operations and low costs translate into low rates. Thus, the interests of customers and investors are aligned inasmuch as efficient operations and low costs benefit both.

9. Regulation can and should work to keep the interests of customers and investors aligned, but there is a particular danger in automatic rate adjustment mechanisms such as the ECRM addressed in the proposed rules. The danger is manifest in that costs may be passed through more or less automatically - outside of the context of a base rate proceeding.

10. A defense often offered for automatic adjustment mechanisms is that periodic prudence reviews of the eligible costs provide adequate protection. In fact, these reviews offer only limited protection, and are no guarantee of the lowest or best cost. In another sense, after-the-fact prudence reviews are nothing more than an adjunct to the rate case process in which only prudently incurred costs can go into the rate equation.

11. While an after-the-fact prudence review is better than no review at all, it is not a substitute for the self-policing of financial incentives inherent in the traditional base rate approach.

12. Prudence reviews are required under the proposed rules, but such reviews are always difficult to conduct and evaluate. The reviewer has to gain access to all of the facts that were known or should have been known when the decision was made. Then there is typically a debate as to the standard by which prudence is to be judged. Some argue that all that is necessary to establish prudence is a showing that a decision was reasonable - not that it was the best decision. Of course, customers want to see the best of decisions and the lowest of costs consistent with safe and reliable operations. Unfortunately prudence reviews alone do not guarantee the best of decisions and the lowest of costs. There are limitations in the administrative process and in any event there will be those arguing for a weaker standard of review.

13. Something besides the periodic prudence reviews that would accompany any ECRM would be beneficial. That something is the possibility of continued reliance on the financial incentives that accompany a base rate approach. Under the proposed rules that remains possible for a portion of the environmental cost, even with the ECRM. The essential goal is to ensure utility attention to the best possible decisions and lowest possible costs. Section (2)(D) allows the Commission to


keep a portion of the environmental cost recovery in base rates, thereby preserving a measure of the alignment of interests that have served Missouri well. Section (2)(D) is salutary as proposed:

"(D) The Commission may, in its discretion, determine what portion of prudently incurred environmental costs may be recovered in an ECRM and what portion shall be recovered in base rates."

14. Representatives of Noranda may have additional comments or will be available to respond to questions from the Commissioners at the hearing on this matter. We trust that the advance submission of these comments will be helpful to the Commission in its undertaking.

Respectfully submitted,

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ATTORNEYS FOR NORANDA ALUMINUM CO.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Pleading by U.S. mail, postage prepaid or by electronic mail addressed to the Commission Staff attorney of record and the Missouri Public Counsel.



Stuart W. Conrad

Dated: January 3, 2008