

Noranda provided this exact information, pertaining to the cost of electricity, to Mr. Fayne. As he noted during cross-examination in the last case, the CRU data is extracted by Noranda and provided to Mr. Fayne. As such, Noranda is capable, when motivated, to provide the requested information without any burden. Certainly, information provided

3. Next, Noranda claims that it is bound, by contract, not to publish this information. MEUA is not asking Noranda to “publish” this material. Rather, much as it gave this information to its witness, MEUA is asking that it be provided the same information.

4. Finally, Noranda asserts that the information is publicly available and would require “extraordinary financial expense” to provide. Despite such claims, Noranda fails to document the “extraordinary financial expense” involved in providing this information. Rather, Noranda simply spouts platitudes in the hopes that it will relieve it of the need to provide information contrary to its position. It is apparent, from Mr. Fayne’s schedule, that Noranda has access to the CRU data and has provided that information to its witness. Such information should have been provided as a workpaper over two months ago. Absent making such information accessible through discovery, the Commission should strike the testimony of Mr. Fayne.

5. In Data Request Nos. 5 and 6, MEUA simply asks for the definition **used by Noranda’s witness Smith**. Now, Noranda claims that such a request is overly broad.

6. Throughout its testimony, Noranda claims it is at a cost disadvantage as it applies to the cost electricity. In Data Request No. 12, MEUA merely seeks to discovery if Noranda believes that it has offsetting cost advantages. Now, Noranda tries to shield such information simply because it was discussed with counsel. MEUA is not seeking to

breach the attorney / client privilege, but rather to seek Noranda's understanding of its competitive advantages. Under Noranda's attorney / client privilege, Noranda could shield itself from answering any discovery by simply discussing with counsel.

7. Data Request Nos. 13, 14, 15 and 17 all seek Noranda admissions regarding its stock price and the LME cost of alumina. Noranda claims that such requests are designed to harass. On the contrary, MEUA seeks information related to Noranda's stock price because the recent rapid escalation in that price is contrary to Noranda's current assertions that the New Madrid smelter is financially troubled by the price electricity. MEUA seeks information related to the LME cost of alumina because, as Mr. Fayne recognizes, alumina is a commodity with all smelters being price takers. As such, any increase in the LME price of alumina will directly result in an increased profit to Noranda. Furthermore, several of the domestic smelters mentioned by Mr. Fayne have a price of electricity that is tied directly to the LME price of alumina.

8. Finally, in order to avoid any further delays, MEUA asks that the Commission order Noranda to respond to each and every data request by the end of the day on Thursday, April 21.

WHEREFORE, MEUA respectfully requests that the Commission either compel responses to the discovery of strike the testimony of the Noranda witnesses.

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: April 19, 2011