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Proctor, Kind, LaConte and
Gorman
Witness: Craig D. Nelson
Sponsoring Party: Union Electric Company
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Case No.: EA-2005-0180
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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. EA-2005-0180

SURREBUTTAL TESTIMONY

OF

CRAIG D. NELSON

ON

BEHALF OF

UNION ELECTRIC COMPANY

d/b/a AmerenUE

FILED

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**Missouri Public
Service Commission**

**St. Louis, Missouri
February, 2005**

Exhibit No. 102
Case No(s). EA-2005-0180
Date 2-22-05 Rptr KF

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

Application of Union Electric Company)
for a Certificate of Public Convenience and)
Necessity authorizing it to construct, install,)
own, operate, control, manage and maintain)
electric plant, as defined in § 386.020(14), RSMo.)
to provide electric service in a portion of)
New Madrid, County, Missouri, as an)
extension of its existing certificated area)

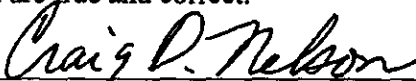
Case No. EA-2005-0180

AFFIDAVIT OF CRAIG D. NELSON

STATE OF MISSOURI)
) ss
CITY OF ST. LOUIS)

Craig D. Nelson, being first duly sworn on his oath, states:

1. My name is Craig D. Nelson. I am employed by Ameren Services Company as Vice President – Strategic Initiatives.
2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of Union Electric Company, d/b/a AmerenUE, consisting of 15 pages, all of which have been prepared in written form for introduction into evidence in the above-referenced docket.
3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct.



Craig D. Nelson

Subscribed and sworn to before me this 14th day of February, 2005.



Notary Public

My commission expires: 4-1-2006

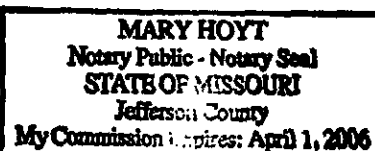


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1 than not serving Noranda. Dr. Proctor is not explicit, but he does examine what he calls "the
2 economics of AmerenUE serving the Noranda load" from several perspectives, and he finds no
3 likelihood of a detriment from any of those perspectives, subject to a few qualifiers that I will
4 address below.

5 His examination of the economics consists of the following: He noted AmerenUE's
6 intent to serve the Noranda load is premised on completion of the Metro East transfer, and he is
7 correct. Next, he offers that given the Metro East transfer condition for serving Noranda is met,
8 the costs per megawatt hour ("MWH") to AmerenUE will be lower with the addition of Noranda
9 than without the addition of Noranda, and again he is correct. Dr. Proctor then states the
10 incremental cost to serve Noranda is less than the incremental revenues AmerenUE will receive
11 under the LTS rate for 2005 and 2006 but thereafter, he concludes that the situation could be
12 reversed. However, Dr. Proctor is of the opinion that using his incremental cost methodology,
13 which he indicates will produce a more accurate estimate, there will likely be no reversal, but
14 rather, the incremental cost of serving Noranda would be less than the 3.25 cents per kilowatt
15 hour ("kWh") charged to Noranda under the LTS tariff.³ I will address this later, but briefly, this
16 "incremental cost" analysis employed by Dr. Proctor is not an appropriate method because it
17 assumes the Company's rates will remain the same for the next 15 years even though Dr. Proctor
18 himself assumes that the Company's costs (independent of serving Noranda) will increase. The
19 assumption that rates will remain the same if costs increase is simply not valid but, in the end, it
20 does not matter for purposes of this case whether Dr. Proctor's incremental cost analysis is or is

³ I also understand, based upon Dr. Proctor's deposition testimony given in this case on February 8 (and based upon his draft supplemental rebuttal testimony provided to the parties on February 11), that Dr. Proctor has updated his incremental cost/incremental revenue analysis as a result of additional information he considered in making certain filings in Docket No. EO-2004-0108 (the Metro East docket). His deposition testimony and updated rebuttal testimony indicates that his updated analysis reaches the same conclusions and that in his view the incremental cost of serving Noranda is substantially less than the incremental revenue to be generated under the LTS tariff.

1 not valid because at the end of the day his analysis, the invalid assumption notwithstanding,
2 shows revenues from Noranda cover the incremental costs.

3 **Q. What other concerns or comments did Dr. Proctor raise?**

4 A. Dr. Proctor suggests there could be higher costs to AmerenUE customers if
5 Noranda leaves the system but concludes that this risk is adequately mitigated by AmerenUE's
6 opportunity to sell energy into the off system market and by the five year notice of termination
7 Noranda is required to give under the LTS tariff as well as AmerenUE's Agreement with
8 Noranda, and I agree with his summation. I also agree with Dr. Proctor that there is no need for
9 additional transmission upgrades and, therefore, no additional transmission costs would be borne
10 by other ratepayers, an issue addressed in more detail by AmerenUE witness Edward Pfeiffer.
11 Finally, Dr. Proctor expresses concern about the reliability of the interconnected power system
12 and while I disagree that there is any reason for concern, I outline below how Dr. Proctor's
13 concern will be fully addressed in any event.

14 In summary, Dr. Proctor's rebuttal testimony supports the conclusion that serving
15 Noranda is in the public interest so long as, to be fair about the qualifiers he would put on that
16 conclusion, AmerenUE addresses what he characterizes as a "resource adequacy" or reliability
17 issue, and so long as the approval of AmerenUE's Application in this case does not somehow
18 limit the Commission's authority in setting future rates for Noranda and all other AmerenUE
19 customers at an appropriate level. With regard to the last point, Dr. Proctor, in his deposition,
20 was clear that he does not believe the Company's Application places any limit on the
21 Commission's authority in setting future rates. And in deposition as well as in his draft
22 supplemental rebuttal testimony that he shared with the parties on February 11 he clarifies that
23 his testimony in regard to future Noranda rates was simply intended to be advisory for Noranda.

1 **Q. With respect to Dr. Proctor's discussion of an "incremental cost" analysis, he**
2 **indicates he was "perplexed" that AmerenUE did not mention what he says is a "similar"**
3 **analysis done by the Company. Please comment on Dr. Proctor's statement.**

4 **A. Dr. Proctor's statement is incorrect. Dr. Proctor's suggestion is that AmerenUE**
5 **should look at incremental costs and incremental revenues over a long period – here, 15 years.**
6 **As I noted earlier, the problem is that no one knows what the tariffed rates will be post-2006.**
7 **Dr. Proctor simply held the rate constant while also assuming that overall costs (unrelated to the**
8 **addition of the Noranda load) will be increasing. I do not understand how one can reasonably**
9 **hold rates constant and at the same time believe costs will go up. The Company did not do that**
10 **type of analysis. Instead, what the Company did was to examine incremental costs versus**
11 **incremental revenues for *one year* – 2005. That analysis is a better approach because there is**
12 **some certainty and ability to project costs and revenues over this period of time and the**
13 **Company knew with certainty what Noranda's rate would be under the LTS tariff.**

14 **Q. Do you have an opinion as to whether this 15-year incremental cost analysis**
15 **is a "necessary analysis," as suggested by Dr. Proctor.**

16 **A. It is not necessary both because it is speculative as it is based upon an invalid**
17 **assumption about future rates, and because it ignores the fact the Commission retains the**
18 **authority to set those future rates, based upon changing costs, over the next 15 years. If rates**
19 **need to be adjusted, the Commission can adjust them, a fact Dr. Proctor himself recognizes at**
20 **pages 21-22 of his rebuttal testimony.**

21 **Q. What is Dr. Proctor's stated concern about the interconnected power**
22 **system?**

1 A. He discusses this issue starting at page 28 of his rebuttal testimony. He states the
2 “Ameren system” will be short of capacity if AmerenUE serves the Noranda load, and ultimately
3 states AmerenUE should provide evidence to this Commission of its ability to satisfy these
4 system needs and should do so by June 1, 2005.

5 **Q. Do you agree this is a valid concern?**

6 A. No, not as far as AmerenUE is concerned. There is no dispute the Metro East
7 transfer and the Pinckneyville and Kinmundy combustion turbine generators (“CTG”) transfers
8 will provide sufficient capacity by which to serve AmerenUE’s needs, including the Noranda
9 load. I therefore question the need for Commission review and scrutiny of the “Ameren system”
10 needs. Aside from this questionable jurisdictional assertion by Staff, Ameren has every intent of
11 ensuring that it has secured the needed power and energy to serve its utilities’ bundled customers
12 and meet the requirements of its contractual obligations. AmerenUE therefore agrees to provide
13 the Commission with evidence the “Ameren system” has the capacity to meet the 15% reserve
14 requirement referenced by Dr. Proctor by June 1, 2005. As a matter of fact, Ameren Energy
15 Marketing Company has already secured more than half of the small shortfall for the “Ameren
16 system”, and as stated, AmerenUE will provide documentation to the Commission that the
17 difference has been secured by June 1, 2005. Regardless of whether I agree with the validity of
18 Dr. Proctor’s concern, AmerenUE agrees to address his concern which will then become moot
19 because the “Ameren system” will have sufficient capacity.

20 **Q. A number of parties have suggested modifications to the LTS tariff, that**
21 **Noranda take service under the LPS tariff, or that the Commission consider the agreement**
22 **and tariff to be a “special contract.” How do you respond?**

1 A. AmerenUE has an agreement with Noranda whereby it agreed, along with
2 Noranda, to propose the form of the LTS tariff as attached to the Agreement. AmerenUE will
3 not breach that agreement with Noranda in the face of these objections or recommendations.
4 Moreover, as also explained by AmerenUE witness Wil Cooper, it should be understood that the
5 Commission retains its authority to modify or change the LTS tariff in the next rate proceeding.
6 Therefore, these parties' concerns that there are any negative consequences associated with the
7 current rate design are short sighted at best. Not only are rates frozen, but it is undisputed that
8 unless and until the Commission changes the LTS tariff – and that will not happen until and
9 unless all rates are reviewed - the revenues from Noranda under the LTS tariff will be virtually
10 the same as the revenues would be under the LPS tariff. The LTS rate and its design cannot
11 therefore result in a detriment to other ratepayers. The Commission's authority to determine a
12 just and reasonable rate for Noranda in the next rate case is not affected by this filing and indeed
13 cannot be prejudged just as all other rates cannot be prejudged.

14 **Q. Is this issue of the LTS rate somehow related to Dr. Proctor's comments to**
15 **the effect that lower AmerenUE costs on a dollar per MWh basis does not necessarily mean**
16 **other retail customers will benefit from serving Noranda?**

17 A. No, I do not believe it is. From my reading of Dr. Proctor's prefiled rebuttal
18 testimony I thought he could be implying that this Commission might not fairly adopt rates and
19 rate classes in a future rate case based upon the class cost of service study that the Commission
20 would have to approve in a future rate case. Now, based on Dr. Proctor's deposition, I
21 understand that Dr. Proctor in fact intends no such implication and agrees that the Commission
22 will have authority to set appropriate rates and rate classes in future rate proceedings.

1 **Q. Turning now to Public Counsel witness Ryan Kind, is the Noranda LTS rate**
2 **more properly a “special contract”, as suggested by Mr. Kind?**

3 A. No. Mr. Kind’s characterization of the proposed service to Noranda as a “special
4 contract” is mistaken because Noranda will take service under a regulated tariff – as a regulated
5 customer – and not “under” an arrangement where the Commission cannot change the rate
6 components, terms or conditions,. The agreement between AmerenUE and Noranda – the
7 December 14, 2004 Agreement attached to my testimony as Schedule CDN-1 -- has two main
8 operative points. First, it reflects what the Company and Noranda agreed to propose to the
9 Commission for its approval and it reflects what they are to ask the Commission to do with that
10 proposal. That is really quite simple: grant AmerenUE a certificate so that it can serve Noranda
11 and approve the LTS tariff so that Noranda can take service under it, assuming the conditions
12 that must be satisfied for service to begin are met. Second, the Agreement gives Noranda one
13 thing another retail customer would not have – the ability, no earlier than 15 years from when
14 service commences -- to use the rights the legislature gave Noranda under S.B. 555 to change
15 suppliers. Once the first step – approval of the certificate and the tariff -- is complete, the
16 Agreement has no effect and does not specify or control or prescribe the terms and conditions of
17 the service to be provided to Noranda. Rather, Noranda will be obligated to take regulated
18 service and AmerenUE will be obligated to provide regulated service pursuant to the Company’s
19 tariffs, whatever those tariffs may be as determined by the Commission. Mr. Cooper also offers
20 perspective on whether the LTS rate is a special contract as proffered by Mr. Kind.

21 **Q. Does approval of the LTS tariff in this case mean that the same rate and**
22 **same terms and conditions will exist for an LTS customer as a result of the next rate case?**

1 A. No. At the least, the specific Annual Contribution Factor in the proposed LTS
2 tariff will be eliminated, as stated in the LTS tariff, but even that could be reinstated if the record
3 supported such a decision. In any event, the future rate components of the LTS tariff will result
4 from a future rate case, subject to a future class cost of service study approved by the
5 Commission. Having said this, I presently would expect that AmerenUE would suggest to the
6 Commission that there will be continuing merit to the 15 year contract term for a customer taking
7 service under the LTS rate, as well as the stated credit terms and conditions, and perhaps other
8 rate components that exist in the LTS tariff as proposed in this case given the unique
9 characteristics of the service to be provided to Noranda. What others, such as Staff, Public
10 Counsel, or the industrials (e.g. MEG or MIEC) might propose is unknown. I note that one
11 industrial intervention group, MIEC, agrees that a separate rate class is appropriate for Noranda,
12 whereas another one (MEG) doesn't address the tariff issue, Staff suggests use of the existing
13 LPS rate while acknowledging that the Staff can make recommendations regarding rates and rate
14 design in the next rate case, and Public Counsel, as discussed above, suggests yet a different
15 mechanism for serving Noranda.

16 **Q. Dr. Proctor comments at length as to the history surrounding when**
17 **AmerenUE first became aware of Noranda's interest in being a customer, and suggests it**
18 **would have been beneficial if Staff could have considered Noranda in the context of the**
19 **Metro East case. How do you respond?**

20 A. First, let's be sure the history is clear. Noranda first indicated some interest in
21 AmerenUE serving it in early 2003. AmerenUE was not interested in entering into some
22 undefined agreement at that time because of unresolved capacity issues. AmerenUE was in no
23 position to take on the Noranda load at that time given that it did not even know if it would file

1 the request to transfer the Metro East service territory. Also, whether or not the Pinckneyville
2 and Kinmundy CTG transfers would occur was unknown at that time. When AmerenUE
3 proceeded with the Metro East transfer case and had obtained approval of the Pinckneyville and
4 Kinmundy CTG transfers from the FERC, AmerenUE was then in a position to begin
5 considering Noranda as a customer, though it still lacked the necessary capacity (no party
6 disputes that AmerenUE needs both the Metro East capacity and the Pinckneyville and
7 Kinmundy capacity to serve Noranda). AmerenUE filed the Metro East transfer case in late
8 August, 2003, and asked for expedited treatment. The case was not tried until late March/early
9 April 2004. Briefs were later filed and while we still hoped for a Commission order in the first
10 half of 2004, the order was not entered until October 2004. Of course Noranda was getting
11 impatient as we had told them in late 2003 and early 2004 that while AmerenUE interested in
12 serving them, we could not proceed with serious discussions until the Metro East case was
13 resolved. With the Summer of 2004 approaching, Noranda pushed AmerenUE to proceed with
14 making a firm proposal even if that proposal would need to contain conditions relating to Metro
15 East. I was asked by Mr. George Swogger to submit a proposal in June, 2004 and in response,
16 AmerenUE proposed a letter of intent to Noranda outlining the basic terms of the proposal. Over
17 the next three to four months, we worked with Noranda and ultimately AmerenUE and Noranda
18 signed a letter of intent (on or about October 14, 2004). That letter of intent provided, among
19 other considerations, that AmerenUE would proceed to make the regulatory filings to serve
20 Noranda but it had to be assured the Metro East transfer was approved on conditions that were
21 acceptable. The definitive Agreement attached to my Direct Testimony was signed on December
22 14, 2004, and this case was filed six days later, on December 20. AmerenUE would have filed
23 the "Noranda" case as soon as possible after the Metro East transfer was approved with

1 acceptable conditions which, we hoped, would have occurred in the summer of 2004, however,
2 that was not to be. The Commission has now approved the Metro East transfer and it appears, as
3 of the time I am submitting this testimony, that the Metro East transfer can now be completed in
4 a timely fashion, that the Pinckneyville and Kinmundy CTGs can also now be acquired, and that
5 therefore AmerenUE can serve Noranda starting June 1, 2005, if the Commission approves the
6 Company's request for a certificate and approves the LTS tariff as requested in this case.

7 **Q. Is the fact that you did not proceed with any serious discussions to serve**
8 **Noranda until after the Metro East case was submitted to the Commission, the reason**
9 **AmerenUE did not inject the possibility of service to Noranda during the pendency of the**
10 **Metro East case?**

11 **A.** In part, yes. During the pendency of the Metro East case, AmerenUE had not
12 done any real substantive analysis of the Noranda arrangement. We did not know what the price
13 might be, what the load was, or what the term of a deal might be. A transaction of this
14 magnitude and importance can not be analyzed and then negotiated without working parameters.
15 Was AmerenUE supposed to interject into the Metro East case a possible agreement with
16 Noranda where the terms and conditions had not been finalized? Even if we had known the
17 necessary terms and conditions, which we did not, Dr. Proctor himself recognizes it takes
18 substantial time to perform an economic evaluation of serving the Noranda load and there was no
19 time, or opportunity, within the context of the Metro East case to actually do such an analysis.
20 Again, these "Metro East" issues are now moot in any event given the Commission's February
21 10 Order in the Metro East case.

1 **Q. Dr. Proctor suggests that one could view this situation as one where the**
2 **Metro East load is being swapped for the Noranda load. What is your reaction to that**
3 **suggestion?**

4 A. Dr. Proctor is largely correct because the Company can only serve one load or the
5 other, but not both. The Metro East transfer was proposed without any thought of serving
6 Noranda (as I testified in that case, the Metro East transfer has been proposed no less than three
7 times now), and as all of the many analyses we have filed show, the Metro East transfer is a good
8 deal for ratepayers. The Commission in the final analysis now obviously agrees given its
9 February 10 order. It was Staff, among others, who for its reasons continued to seek to thwart
10 the Metro East transfer which in turn would have had the result, intentional or not, of thwarting
11 service to Noranda as well. The Metro East transfer stood on its own, without consideration of
12 Noranda, as the various analyses submitted so demonstrate. The Noranda transaction stands on
13 its own as well, though it depended on the Metro East transfer from a capacity perspective. If
14 Staff wants to view the two transactions as a load swap, Staff may do so given that those
15 analyses have been done. Whether or not the Commission desires to view the two transactions
16 as a load swap is entirely up to the Commission, though now that Metro East will be transferred,
17 as a practical matter a load swap will occur.

18 **Q. Dr. Proctor addresses the need for Staff to have all relevant information about**
19 **the current filing, and makes the case for information pertaining to Noranda? Do you**
20 **agree with his comments?**

21 A. To a point. Just a few weeks after the Letter of Intent was signed and even before
22 AmerenUE had reached a definitive agreement with Noranda, AmerenUE engaged Staff, OPC
23 and the other parties in rather extensive discussions about Noranda. AmerenUE shared its data

1 and analyses with these parties weeks before the case was filed. There were multiple face to face
2 meetings, telephonic meetings, and data was requested and provided. As Dr. Proctor notes, there
3 was a back and forth exchange which AmerenUE found useful. Even so, it was December 2004
4 before AmerenUE and Noranda had agreement on all material terms and conditions, such as the
5 contract term, the final price, the LTS rate structure, the notice of termination provision, among
6 others.

7 **II. Response to Other Rebuttal Witnesses.**

8 **Q. MEG witness LaConte concludes more analyses are needed and in the**
9 **interim, AmerenUE should agree to serve Noranda on short term basis. Is this acceptable?**

10 **A.** No, and for several reasons. First, a number of the analyses she suggests be made
11 have nothing to do with Noranda but only Metro East. MEG is a party to the Metro East case,
12 submitted no testimony in that case, and did not participate in the evidentiary hearings in that
13 case. If MEG had believed more analyses should be done, it could have sought relief in that
14 docket, though I believe it is fair to say that more than enough analyses were already being done
15 in that case. Next, the analyses in this docket are more than sufficient to justify AmerenUE
16 serving Noranda is in the public interest. Notably, Ms. LaConte offers little in the way of
17 challenge to these analyses. Finally, the agreement between AmerenUE and Noranda calls for
18 the 15 year term and the LTS tariff, not something on an interim basis. Apparently Ms. LaConte
19 has ignored the testimony of Mr. Swogger and his position that Noranda needs a long term
20 arrangement. Her proposal has no merit in substance or application, and is nothing more than a
21 request that the Commission kick the can down the road while Noranda sits by without a long-
22 term, reliable supply of energy.

1 **Q. MIEC witness Gorman suggests or implies that Noranda should not be**
2 **treated like any other regulated AmerenUE customer? Do you agree?**

3 A. No. As I said relating to the LTS tariff, AmerenUE has an agreement with
4 Noranda to provide regulated utility service. Noranda is a key Missouri-based company with a
5 need for that service, and prefers that service. As Mr. Swogger has testified, Noranda has not
6 been able to obtain the long-term, cost-based power contract it needs from a different supplier.
7 AmerenUE is willing to provide this service and indeed believes doing so makes economic sense
8 for AmerenUE and all of its ratepayers. However, if AmerenUE is to do so, then AmerenUE and
9 Noranda are not intending to put themselves in the position of obligating themselves, in
10 AmerenUE's case, to serving Noranda and in Noranda's case, to taking service from AmerenUE,
11 without both companies having the benefit of having the service treated like any other regulated
12 service. What Mr. Gorman is suggesting is that his clients, one or more of whom could go out of
13 business at some point leaving other customers to cover any costs that were incurred to have the
14 necessary energy capacity and energy to serve them, should enjoy regulated, cost-based service
15 while Noranda should not, or at least should not on terms similar to the terms used to serve Mr.
16 Gorman's clients. Like Dr. Proctor, I am not suggesting that Noranda will go out of business nor
17 am I suggesting that one of Mr. Gorman's clients will go out of business. And, also like Dr.
18 Proctor, I agree that load growth and the opportunity to temporarily sell energy and capacity that
19 Noranda might have formerly used off-system (while the system grows back into the then
20 available supply) would mitigate the effect on the Company and other customers even if Noranda
21 did go out of business. The same would be true for any of Mr. Gorman's clients.

1 **Q. You made mention above of Public Counsel witness Kind's contention that**
2 **the Agreement between AmerenUE and Noranda amounted to providing service under a**
3 **"special contract." Do you have any other comments on Mr. Kind's rebuttal testimony?**

4 **A. Yes.** For all of the reasons I have already addressed, most notably, the fact that
5 this Commission in future rate proceedings has full control over the rates and terms and
6 conditions under which Noranda will take service, Mr. Kind's long description of an "alternative
7 set of terms and conditions" is unnecessary. Even more fundamental is the fact that an
8 alternative set of terms is not the agreement AmerenUE has with Noranda, and AmerenUE is not
9 going to break that deal.

10 **Q. Please provide some examples of why Mr. Kind's criticisms of the LTS tariff**
11 **are unfounded.**

12 **A. First,** as I have already explained, Noranda will not "take service under" the
13 Agreement with Noranda. Noranda will take service under the LTS tariff. Second, the LTS
14 tariff will not cause any other customer an "adverse rate impact". The specific ACF in the LTS
15 tariff will end when new rates are set at a just and reasonable level in a future rate case. Finally,
16 Mr. Kind makes a point similar to Mr. Gorman's; that is, that Noranda should not obtain the
17 benefit of regulated public utility service and be treated like other customers because Noranda
18 could leave the system at some point. The only additional capacity needed relating to Noranda is
19 600 MW to be added in 2006. The Company's normal load growth will use up that capacity in
20 about 6 years, by 2012. Noranda is committed to take service from AmerenUE until 2020. If
21 Noranda exercises its right to utilize an alternate supplier starting in 2020, Noranda will not
22 "potentially impose costs" on anyone.

23 **Q. How do you view OPC's position in the case?**

1 A. Mr. Kind's proposal appears to be yet another example of a party wanting all of
2 the benefits of a transaction, with none of the attendant risks. As Mr. Voytas' direct testimony
3 explains, a key reason that service to Noranda lowers AmerenUE's costs on a dollar per
4 megawatt hour basis versus the case where AmerenUE does not serve Noranda is that Noranda is
5 able to utilize unused, baseload energy that the Company cannot sell in the off-system market.
6 Noranda, with a 98-99% load factor, also provides more MWh sales over which to spread
7 AmerenUE's fixed costs. If, as Dr. Proctor points out, AmerenUE ends up incurring substantial
8 capital expenditures relating to more stringent environmental requirements – i.e., more fixed
9 costs – Noranda will be using capacity over which those costs can be spread. Does Mr. Kind
10 propose to give Noranda a refund or rate credit equal to the fixed costs its presence on the system
11 allows AmerenUE to cover? I seriously doubt he would support such a proposal. Nor should he
12 propose imposing a penalty on Noranda, any more than he should propose a penalty on MIEC's
13 or MEG's clients if one of them for some reason leaves the system.

14 **Q. Does this conclude your surrebuttal testimony?**

15 A. Yes, it does.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served on the following parties of record by e-mail this 14th day of February, 2005, at the e-mail addresses set forth below:

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
gencounsel@psc.mo.gov

Office of the Public Counsel
P.O. Box 7800
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Robert C. Johnson
Lisa C. Langeneckert
The Stolar Partnership LLP
911 Washington Avenue
St. Louis, MO 63101
rjohnson@stolarlaw.com
llangeneckert@stolarlaw.com

Paul M. Ling
Great Plains Energy Services
1201 Walnut, 20th Floor
Kansas City, MO 64106-2124
paul.ling@kepl.com

Diana M. Vuylsteke
Bryan Cave, LLP
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

Duncan Kincheloe
Missouri Joint
Municipal Electric Utility Commission
2407 W. Ash
Columbia, Missouri 65203
(573) 445-3279
(573) 445-0680 (fax)

Mark W. Comley
Newman, Comley & Ruth P.C.
601 Monroe, Suite 301
P.O. Box 537
Jefferson City, Missouri 65102-0537
Telephone: 573-634-2266
Fax: 573-636-3306
dkincheloe@mpua.org
comleym@ncrpc.com

/s/James B. Lowery
James B. Lowery