

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
June 23, 2014
Data Center
Missouri Public
Service Commission

Application of Union Electric Com-)
pany for a Certificate of Public)
Convenience and Necessity authoriz-)
ing it to construct, install, own,)
operate, control, manage and main-)
tain 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 certifi-)
cated area)

Case No. EA-2005-0180

NORANDA ALUMINUM, INC'S. PREHEARING BRIEF

COMES NOW Noranda Aluminum, Inc. (Noranda), pursuant to the Commission's Scheduling Order in this matter, and submits its Prehearing Brief.

I. INTRODUCTION.

This application was filed on December 20, 2004 by Union Electric Company d/b/a AmerenUE (UE) seeking two items of relief from the Commission. *First*, UE sought an expansion of its existing retail service territory so as to facilitate retail service to Noranda's aluminum reduction facility near New Madrid, Mo. (Smelter). *Second*, UE requested Commission approval of a new tariff, designated LTS, under which that service would be provided.

Because of conditions that UE sought on its obligation to serve Noranda, what one Staff witness characterized in his

UE Exhibit No. 126
Date 6-16-14 Reporter KF
File No. EC-2014-0224

deposition as a "normal certificate case"^{1/} became entangled with a controversial asset transfer case filed earlier by UE.^{2/} But that case has now been resolved after a Commission Order on rehearing.

As a result, the number of issues that were originally thought to be involved in this case was reduced. Further, at a February 17, 2005 conference of counsel meeting as directed by a February 15, 2005 Order, the Missouri Joint Municipal Electric Utility Commission (MJMEUC) who had raised "transmission" issues in the case, announced through their counsel that they would move on February 18, 2005 to withdraw their application and the testimony of their witness from this proceeding, thereby removing those issues.

Accordingly, it now appears that the only disputed issue remaining for hearing in this case is the so-called "tariff" issue on which this brief will focus. Should, however, the announced withdrawal not occur, or the withdrawal not be granted by the Commission,^{3/} Noranda respectfully reserves its right to briefly supplement this brief on the "transmission" issue.

Regardless of the narrowness of this issue, a brief background of Noranda's status may helpful to the Commission.

^{1/} Deposition of Robert Schallenberg, February 8, 2005, p. 20, l. 7.

^{2/} EO-2004-0108, also known as the "Metro East Transfer" case.

^{3/} Noranda does not oppose the withdrawal of MJMEUC's intervention and the withdrawal of the testimony of the MJMEUC witness.

II. ARGUMENT.

A. Factual Background.

1. Noranda's Unique Factual Background in Missouri.

Noranda Aluminum, Inc. is the major U.S. entity in the international group of operating companies headed by Noranda Incorporated of Toronto, Canada. Noranda was formed in 1968 as the Noranda Group's entry into the North American primary aluminum producing industry.

Noranda's Smelter is located on the west bank of the Mississippi River, five miles south of the City of New Madrid in Southeast Missouri. It is designed for annual metal production capacity of 250,000 metric tons. From New Madrid, Noranda's product is shipped to customers throughout the United States by truck and to Mexico and Canada by rail and truck.

The Smelter directly employs over 1,100 people with an annual payroll of over \$57 million. That payroll along with Noranda's continued operations, provide economic support, activity and stability to the six county area surrounding the Smelter and to the State of Missouri.

Noranda's electric service is unique. The Smelter presents a continuous load of roughly 475 megawatts. It represents the largest individual electrical load in the State of Missouri.

Noranda's Smelter presents a load of roughly 470 mW at roughly a 99 percent load factor. Noranda's Smelter requires a

highly reliable, low-cost, firm supply of power on a long term basis, for its continued operations to be successful. Following lengthy investigation, Noranda determined that AmerenUE was capable of supplying these needs and negotiations were begun resulting in AmerenUE's agreement to provide this supply as a regulated service offering leading to this Application.

2. Noranda's Products.

The plant produces four products: billet, rod, foundry products and primary ingots.^{4/} These products are sold into a world market. Noranda's Smelter tries to exploit both its abilities to serve niches and its mid-continent location to sell to regional customers within Noranda's market.^{5/} Importantly for the State of Missouri, Noranda is an export industry, meaning that revenue from products sold mostly outside of Missouri flows into the State.^{6/}

3. The Production Process.

The plant receives alumina via barge over the Mississippi river.^{7/} The alumina is offloaded from the barges and moved to the Smelter by conveyor.^{8/} There it is processed in one of the three production lines (pot lines) where electricity

^{4/} Swogger, Direct Testimony, p. 4.

^{5/} Swogger, Direct Testimony, p. 4.

^{6/} Swogger, Direct Testimony, p. 4.

^{7/} Swogger, Direct Testimony, p. 4.

^{8/} Swogger, Direct Testimony, p. 4.

is used to break the bond between aluminum and oxygen in the alumina.^{9/} Generally the finished products are shipped via truck and some by rail.

4. Power Supply History for Noranda.

Noranda's power supply history has also been unique. For roughly 30 years, the Smelter purchased electricity under cost-based contracts with the City of New Madrid and AECI. Supplies came from the coal-fired New Madrid plant owned in part by the City of New Madrid and operated by AECI with additional supplies provided by AECI.^{10/}

These contracts ended on May 31, 2003. Following on that, an indexed contract, supposedly to run to 2010, was implemented between the Smelter and AECI.^{11/} As 2003 approached, however, it became clear that the new price would be a burden for the Smelter and the contract was terminated and Noranda once again searched for a reliable and economical supply of electricity.^{12/} Moreover, some legal questions had arisen regarding direct sales of electricity to the Smelter by AECI was consistent with Missouri law and for financial and size reasons, the City of New Madrid was not able to supply the needed power.^{13/} For the

^{9/} Swogger, Direct Testimony, p. 4.

^{10/} Swogger, Direct Testimony, p. 9.

^{11/} Swogger, Direct Testimony, p. 9.

^{12/} Swogger, Direct Testimony, p. 9.

^{13/} Swogger, Direct Testimony, pp. 10-11.

two year period beginning June 1, 2003 and continuing through May 31, 2005 electricity is being supplied by an affiliate of Noranda, Brascan Energy Marketing, Inc. (BEMI). BEMI has no interest in continuing service beyond the contract period.^{14/}

**5. Need For Legislation Answered by
the Missouri General Assembly.**

Noranda has found that many suppliers were reluctant to deal with a retail customer such as Noranda because of the uncertain standing of the Smelter under Missouri law.^{15/} Although large loads are often thought desirable, a load as large as Noranda's proved very difficult to place.^{16/} It became apparent that legislation was needed to clarify the right of Noranda to negotiate for electricity supplies in more or less the same manner as had been followed historically. Noranda needed a straightforward legal basis to transact for power so suppliers and the Smelter would not face legal challenges to otherwise enforceable power supply contracts.^{17/}

In recognition of the major economic detriment to Missouri that the loss of the Smelter would have, the General Assembly responded to the call, passing what became Section 91.026.^{18/} This new legislation permitted Noranda to initiate

^{14/} Swogger, Direct Testimony, p. 9.

^{15/} Swogger, Direct Testimony, pp. 10-11.

^{16/} Swogger, Direct Testimony, pp. 10-11.

^{17/} Swogger, Direct Testimony, pp. 10-11.

^{18/} Swogger, Direct Testimony, p. 11.

the BEMI arrangement as a "bridge" and facilitated its negotiation with other suppliers eventually resulting in the selection of UE.^{19/}

B. Noranda's Criteria for Power Supply.

The nature of the production process for aluminum is the major driver for Noranda's power requirements. A supply must be

- *Reliable.* The smelting process is continuous and cannot be cycled on and off. Interruption of the supply beyond an hour is very serious and would likely cause extensive damage to the process and create a major capital expense to repair and rebuild. Indeed, the consequences of such an interruption could be so severe as to result in a permanent closure of the plant. Practically this means evaluation of the depth of production resources as well as the ability to deliver the power to the Smelter.^{20/} Similarly, the power supply must be

- *Firm.* For these same reasons, an interruptible power supply contract simply will not work for Noranda. This makes market-based power supplies difficult to obtain since the Smelter's load must be regarded as "base load."^{21/} Obviously a further factor is

^{19/} Swogger, Direct Testimony, p. 11.

^{20/} Swogger, Direct Testimony, p. 5.

^{21/} Swogger, Direct Testimony, p. 5.

• *Cost.* Electricity costs represent approximately 1/3 of the Smelter's operating cost and are the single largest operating cost. The Smelter's ability to remain viable depends on maintaining its ability to deliver a competitively priced product to its market. Though large, Noranda is not a "market maker" and confronts a world-wide market price structure. It is critical that all Noranda costs, and electricity in particular, remain economical and under control to the extent possible.^{22/} Finally, a supply must meet these criteria for the

• *Long Term.*^{23/} The presence of the Smelter represents a substantial capital investment by Noranda. Its continued operation also represents commitment of substantial corporate resources. Short term power supply arrangements and the resulting uncertainty provide insufficient security and support for the significant commitment that the continued operation of the Smelter represents.

C. Noranda's Selection of UE As Its Supplier.

Evaluation of these criteria resulted in Noranda choosing AmerenUE because it offers *firm, reliable* service from a supplier with relatively *low cost production* and a vested interest in the State of Missouri. Furthermore, the service is

^{22/} Swogger, Direct Testimony, pp. 5-6.

^{23/} Swogger, Direct Testimony, p. 6.

offered at a *reasonable price* that should remain relatively stable over many years.^{24/}

Regulated service is perceived to reinforce Noranda's service criteria. Regulation assures appropriate oversight of AmerenUE and as a customer of a regulated service, Noranda can reasonably expect to receive fair treatment in future rate proceedings with rates that reflect the *cost of the service* provided to Noranda.^{25/}

Reliability concerns are also addressed by AmerenUE and AECI being able to confirm that the transmission facilities and interconnections between the two companies enable the provision of reliable service as well as UE's ownership of ample base load generation assets.^{26/}

Noranda did not continue to pursue market based possibilities for reasons such as, higher prices, unpredictable long-term prices, volatility in price, and, in most cases, an undefined source of supply. The regulated service offered by AmerenUE substantially met Noranda's goal of a cost based supply.^{27/}

^{24/} Swogger, Direct Testimony, p. 6.

^{25/} Swogger, Direct Testimony, p. 6.

^{26/} Swogger, Direct Testimony, p. 6.

^{27/} Swogger, Direct Testimony, p. 7.

D. Future Pricing Concerns As A Retail Customer.

Since this application was filed, several parties have expressed concern that Noranda must realize that as a regulated customer its rate may increase as the overall cost of the utility increases. For example, a specific concern has been future environmental costs. Noranda has repeatedly confirmed that, while this risk remains troublesome, the Smelter is depending on future decisions that will not discriminate against Noranda. We expect fair regulatory treatment and, as seems to be confirmed by Staff witnesses, there is no reason to expect otherwise or that the Missouri Commission would depart from its long history of cost-based rate regulation. Noranda expects to pay its fair share of UE costs according to principles of cost causation. As Noranda's Electrical Procurement Manager, Mr. Swogger has stated:

While I would like to see a commitment to a specific rate level, I understand that part of accepting regulated service is accepting that rate levels may change as the overall costs for the utility change. Therefore, Noranda has not requested assurance of a particular rate.^{28/}

Moreover, Mr. Swogger, has testified in this proceeding that:

I understand that AmerenUE's costs will be reviewed in future rate cases as will the costs for each of the rates, including the rate paid by Noranda. Simply stated, when time comes to change the rates, I want the rate for Noranda to reflect costs on a basis

^{28/} Swogger, Surrebuttal Testimony, p. 5.

that is consistent with the approach used for other customers.^{29/}

E. The Tariff Issue -- Is the Proposed LTS Tariff Appropriate?

1. The LTS Tariff Is the Proper Tariff Selection.

Apparently the only remaining issue in this case is whether the LTS tariff, in the form proposed, should be approved for service to Noranda. Noranda believes it should.

The LTS tariff form was negotiated by UE and Noranda as appropriate for the type and characteristics of the service that Noranda would receive from UE. The only other tariff that might be used was existing tariff LPS.

Noranda continues to believe that the proposed form of **Large Transmission Service** tariff is a proper form to support Noranda's service. It is also clear that the Commission is entirely free in a future case when UE exits its current rate moratorium to direct another tariff form or to take any other action that the record in that future case might support regarding service categories and rates. There are, however, several reasons that proposed rate LTS is appropriate, both now and in the future.

First, Noranda is significantly **larger** than any other customer in the LPS service category, both as to load (475 mW) and load factor (99%). We are advised that Noranda may be as

^{29/} Swogger, Surrebuttal Testimony, p. 6.

large as the cities of Columbia and Independence combined. Indeed, Noranda is larger than all the existing LPS customers combined. Not only would inclusion of this size of a customer in that existing category distort future rate analyses for the LPS class, it would also make cost analysis of Noranda more difficult. Establishing an LPS tariff, for which we believe only Noranda presently would qualify, would address that potential problem.^{30/}

Second, unlike customers in the LPS class, Noranda's use of power is virtually **continuous**. This is indexed by load factor, which measures the relationship of average use to peak use. Noranda's average use is 470 mW which is one percent less than its typical peak of 475 mW. No other retail customer in UE's Missouri service territory has such a load characteristic.^{31/}

Third, unlike the customers on rate LPS, Noranda will receive **no distribution services** from UE.^{32/} Noranda has always bought power delivered at AECI's New Madrid transmission substation, not at its plant. And Noranda has always owned and maintained the 161,000 volt (161 kV) power lines that bring the electricity into the plant from the transmission substation and to Noranda's own distribution transformers. All costs associated with the AECI New Madrid substation, whether they are called

^{30/} Swogger, Surrebuttal Testimony, pp. 2-3

^{31/} Swogger, Surrebuttal Testimony, pp. 2-3.

^{32/} Swogger, Surrebuttal Testimony, p. 3.

transmission, distribution, or something else are also paid by Noranda, but paid to AECI, not to AmerenUE. This will include payment by Noranda to AECI for transmission service across the AECI transmission substation.^{33/}

Fourth, the proposed service is truly **transmission level service**. There is no "step down" of voltage before delivery to Noranda. UE's transmission system will only provide power at transmission voltage levels to AECI's transmission system and AECI will in turn deliver power to Noranda to a 161kV bus in the AECI New Madrid transmission substation. Noranda will take power off the 161kV bus in the substation and it will be then conducted to the Smelter's distribution system including the Smelter's static capacitor banks. Noranda is responsible for the maintenance as well as losses on all this system and any losses incurred at the transmission level through the interconnection with AECI are to be paid by Noranda by purchasing additional power from UE. In short, it is physically impossible for UE to provide Noranda with anything but transmission level service.^{34/}

These considerations make the service characteristics of Noranda unique. Since the service arrangements and usage characteristics are unique to Noranda the LTS rate proposed makes sense. Size is often used as a distinguishing factor between customers^{35/} and "Large" certainly fits the proposed service

^{33/} Swogger, Surrebuttal Testimony, p. 3.

^{34/} Swogger, Surrebuttal Testimony, p. 3.

^{35/} Johnstone, Surrebuttal Testimony, p. 3.

because it is for service to the largest customer, larger than all other LPS customers put together.^{36/} "Transmission" also fits because the power goes out from AmerenUE over transmission interconnections and no distribution services will be provided by UE.^{37/} The absence of distribution services is clearly a distinguishing characteristic in ratemaking.^{38/} Ease of administration and understanding is another factor. With a separate LTS rate schedule, when costs and rates are reviewed in future cases the analyses would be more straightforward as Noranda would in all likelihood be alone on the LTS rate.

2. The Proposal For Service Under a Cobbled-Up Version of the LPS Tariff Is Incorrect.

It has been proposed that rate LPS be used with a series of "credits" taken against that rate to reflect Noranda's unique service characteristics. This is like trying to obtain a hamburger bun by ordering a hamburger with everything, then asking the restaurant to "hold the hamburger, lettuce, tomato, pickles, onions, cheese, mayo and the 'special sauce.'" It would be simpler to simply order the bun.

There are certainly those to whom such complexity appeals, but a series of complex and complicated calculated credits is neither rational nor businesslike. Public utility

^{36/} Swogger, Surrebuttal Testimony, p. 3.

^{37/} Swogger, Surrebuttal Testimony, p. 3.

^{38/} Johnstone, Surrebuttal Testimony, pp. 3-4.

rates should be understandable. It is easier to understand and work with a rate that addresses the Noranda service characteristics straightaway and it is more sensible to establish a rate that is appropriate for Noranda in the first place.^{39/} Additionally, use of an appropriate form of rate for Noranda's service helps to confirm intentions that future rate adjustments will be cost-based. Mr. Swogger testified:

However, Noranda is very concerned that a cost based approach will be followed and would take establishment of the LTS rate schedule as a positive step in that direction.^{40/}

3. The Annual Contribution Factor Is Not Intended to Bind the Commission In Any Manner.

Concerns from at least one party have been raised regarding the Annual Contribution Factor (ACF). The ACF is simply a result of negotiations between Noranda and AmerenUE. Both sides agreed that the unique service characteristics of Noranda were not adequately addressed in the LPS rate and that led to the creation of the LTS rate. In particular, the costs associated with distribution needed to be removed from the rate for the purposes of serving Noranda.^{41/}

Another consideration was the initial price. \$32.50 was simply the initial price that both parties, for their own

^{39/} Swogger, Surrebuttal Testimony, p. 4.

^{40/} Swogger, Surrebuttal Testimony, p. 5.

^{41/} Swogger, Surrebuttal Testimony, p. 5.

reasons, could accept.^{42/} A key third point of agreement was that the Commission would determine rates in future rate proceedings. The way the contracting parties could put the separate agreements together was in the proposed LTS rate. Thus, the ACF is intended to reconcile the price to the agreed level until there is a proceeding where the Commission reviews and sets rates. AmerenUE will be filing a class cost-of-service study before rates are changed, the cost study results will be available for the consideration by the parties and the Commission at that time. Once that determination has been made, the ACF simply disappears and its initial acceptance confers no precedential value. Correspondingly, the Commission could preserve it if such decision were supported by the record in that future proceeding.^{43/}

F. OPC Proposals Are Not Workable In a Business Sense.

OPC's proposal seems to apply to both both costs that are incurred and costs that are not incurred. On the contrary, Noranda needs a stable and predictable basis on which to make its business plans. Stable and predictable rates that the plant needs are not possible if the rate is always subject to change based on off system sales that are not being made. Mr. Kind's proposal is potentially counter-productive because it seems to have the potential to artificially create a high price environ-

^{42/} Swogger, Surrebuttal Testimony, p. 5.

^{43/} Swogger, Surrebuttal Testimony, pp. 5-6.

ment without the benefit of the lows that ought to go with the highs. "Such a one sided approach could shut the plant down, to the detriment of stability for all concerned."^{44/}

G. An Exit Fee Is Not Workable and Also Introduces Discrimination.

Office of Public Counsel has proposed a different structure for the arrangement than that negotiated between UE and Noranda. Mr. Kind appears begin with an unwarranted assumption that Noranda will create stranded costs by purchasing electricity from suppliers other than AmerenUE. In evaluating this proposal it should be noted that OPC has taken the legal position that this is a transaction under Section 91.026 which the UE/Noranda agreement clearly disclaims (and to which only OPC believes this transaction is "pursuant to"). Noranda has agreed that it will not assert its right to make such purchases during the term of the contract and the initial contract term is 15 years. Moreover, after this initial term, the contract term will automatically extend one year at a time, but a five-year notice is always required to terminate the contract, even when it continues beyond the first 15 years.

Mr. Swogger testified:

In fact, the decision to give up the flexibility to change suppliers was a difficult one for me. However, I came to believe that an equitable provision that would allow early or abrupt departure from AmerenUE service would need to be tied directly to AmerenUE's costs or capacity requirements in ways that

^{44/} Swogger, Surrebuttal Testimony, p. 7.

would be extraordinarily complex and difficult to write down in a contract. Further, the rationale for a cost based rate might be undermined. Therefore Noranda ultimately agreed to the long term and notice provisions. Mr. Kind has not offered a workable definition for stranded costs, which may or may not exist. Likewise, there is no workable basis for the computation of a risk premium. His suggestions, while unreasonable and inappropriate in the context of the agreements and rate LTS, are, in my opinion, also practically unworkable.^{45/}

Under Public Counsel's proposal only Noranda would be subject to such a fee. Yet other customers depart for various reasons. Residential customers move from the service territory; businesses close or shut down their operations. Imposing a discriminatory rate device on one customer is the essence of discrimination.

III. LEGAL ISSUES.

A. **The Public Interest Has Already Been Determined by the General Assembly and Recognized by the Commission; No Party Contests This Issue.**

In passing Section 91.026 as law, the General Assembly determined that preserving the viability of Noranda through allowing Noranda to select electrical suppliers is clearly in the public interest.^{46/} Without unnecessarily extending the discussion on a point that no one disputes, the evidence in this case clearly supports such a determination in any event. Additional-

^{45/} Swogger, Surrebuttal Testimony, p. 9.

^{46/} *Order Directing Filing*, January 4, 2005, Case No. EA-2005-0180, p. 5.

ly, the Commission in an earlier order in this proceeding has recognized that the General Assembly determined the public interest to support this application. Noranda intends to provide this evidence for the benefit of the record, but does not expect that any party disputes that the public interest standard is satisfied.

Noranda expects that UE will provide additional briefing on the public interest test including relevant case citations. Rather than duplicate the substance of that discussion, we will rely on that effort.

B. Section 91.026 Does Not Preclude Noranda Choosing Regulated Service.

OPC alone argued that Section 91.026 wholly deprives Noranda of the ability to chose a regulated environment and a regulated service. This is simply incorrect. Section 91.026 gives Noranda the **right** to enter the unregulated marketplace to arrange supplies. But this is a **right**, not an obligation; a choice that was given by the legislation, but a choice **to be made by Noranda**. As with any right, it can be exercised or not.

Were this proposed transaction "pursuant to" Section 91.026, neither a change in service territory would be required to be approved, nor would approval of the contract terms required. But that is not this transaction. This transaction is not made "pursuant to" Section 91.026 because Noranda has not chosen to exercise its right under that statute to seek supplies from an unregulated source.

Missouri courts hold that proper statutory construction starts with the words of the statute. In most cases, it ends there, as well.^{47/} In construing statutes, words are given their plain and ordinary meaning whenever possible. A court will stray from this rule only when the words' meaning is ambiguous or leads to an illogical result defeating the purpose of the legislature.^{48/}

Following definitions, Section 91.026 gives Noranda (or any similarly situated aluminum smelter) the right to contract for its electrical supply from any provider without regard to its prior supply arrangements. The proposed supplier is, correspondingly, given the right to provide service to Noranda without regard to its regulatory status.

C. Section 91.026 Provides Noranda With An Option To Seek an Unregulated Supply.

Noranda was granted flexibility of supply by the General Assembly, but that the intended purpose of this grant was to support Noranda's continued operations in Missouri rather than to require that they be configured in a particular way. All canons of statutory construction are subordinate to the requirement that the court ascertain and apply a statute in a manner

^{47/} *In the Interest of M.D.R.*, 124 S.W.3d 469, 472 (Mo. 2004),

^{48/} *Spradlin v. City of Fulton*, 982 S.W.2d 255, 258 (Mo. en banc 1998).

consistent with the legislative intent.^{49/} And thus, in the contract negotiated with AmerenUE, Noranda agrees -- for the period of the contract term -- not to exercise this right, but does not renounce it nor waive it on any permanent basis. The proposed contract is not brought to the Commission as a "contract under" or "pursuant to" Section 91.026. Rather, it is presented as a proposed expansion of AmerenUE's service territory to include Noranda and a tariffed service under which Noranda would be served.

D. The Statutory Purpose Was to Expand Noranda's Supply Options, Not Contract or Restrict Them.

Noranda has already once exercised the right given under Section 91.026. Mr. Swogger described in his testimony that upon the expiration of the supply arrangement that existed when the statute was enacted, Noranda contracted with a market-based power supplier, Brascan, Inc., to provide a power supply for a two-year period while Noranda explored longer term options. That arrangement, unlike this one, was "pursuant to" Section 91.026. However, since Brascan acquired no rights of supply under Section 91.026, that section again operates to permit the change in supply from Brascan to UE.

Mr. Swogger's testimony, filed on December 21, 2004, expands upon the reasons underlying Noranda's choice of supplier.

^{49/} *Williams v. Nat'l Cas. Co.*, 132 S.W.3d 244, 249 (Mo. 2004), quoting from *Budding v. SSM Healthcare System*, 19 S.W.3d 678, 682 (Mo. banc 2000).

In so doing Noranda has chosen, for the duration of this arrangement, to accept a regulated price and regulated service under tariffs that (if approved) will be subject to this Commission's jurisdiction. Further, as Mr. Swogger has stated, Noranda will be treated as any regulated customer and would expect fair treatment in future AmerenUE rate cases regarding cost of service issues.

IV. CONCLUSION.

WHEREFORE, Noranda Aluminum, Inc. respectfully requests that this Prehearing Brief be considered by the Commission in its deliberations.

Respectfully submitted,

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ATTORNEYS FOR NORANDA ALUMINUM,
INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by electronic means or by U.S. mail, postage prepaid addressed to all parties by their attorneys of record as disclosed by the pleadings and orders herein.

A handwritten signature in black ink, appearing to read "Stuart W. Conrad", written over a horizontal line.

Stuart W. Conrad

Dated: February 18, 2005