

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

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| In the Matter of the Tariff Filings of Union |) | |
| Electric Company, d/b/a Ameren Missouri, to |) | Case No. ER-2012-0166 |
| Increase Its Revenues for Retail Electric Service. |) | |

**REPLY TO THE RESPONSE OF
THE MISSOURI INDUSTRIAL ENERGY CONSUMERS**

On October 1, 2012, the Missouri Industrial Energy Consumers ("MIEC") filed its response to the Motion to Compel Compliance with Order Resolving Issues and Request for Expedited Treatment, which Union Electric Company, d/b/a Ameren Missouri ("Ameren Missouri" or "the Company") filed on September 28, 2012. Ameren Missouri replies to that response as follows:

1. In paragraph 2 of its response, MIEC states that Noranda has no budgets for the New Madrid Smelter for any years other than 2012 and has no financial projections other than those that were provided to Ameren Missouri on September 28, 2012. A copy of the information that MIEC provided to the Company on September 28th, which MIEC designated as "Highly Confidential," is attached to this reply as Exhibit A. MIEC's response also includes the affidavit of Stacy Dean ("the Affidavit"), which purports to support MIEC's response.

2. A review of the Affidavit shows that the information that MIEC provided on September 28th does not match the information that Ameren Missouri requested in its data request MIEC-015. Similarly, it does not match the information that the Commission ordered MIEC was to produce in the "Order Resolving Issues Presented at Discovery Conference" ("the

Order”). Further, based on statements made by Noranda in publicly-available financial reports, the statements made in the Affidavit are not credible.

3. Consistent with the request made in Ameren Missouri’s data request MIEC-015, the Order required MIEC to “provide copies of all annual and multi-year budgets and financial projections that Noranda has prepared for the New Madrid smelter that encompass any or all of the years 2012 through 2015.” But the Affidavit states that the information that Noranda provided was limited to “its 2012 LME-adjusted budget.” The Affidavit further states that “no additional budget for any additional year has been prepared . . .” Ameren Missouri does not know what the phrase “LME-adjusted budget” means, and the Affidavit doesn’t describe or define that phrase. But Ameren Missouri did not ask for adjusted budgets. Instead, the Company’s data request clearly and unambiguously asked Noranda to provide copies of *all* annual and multi-year budgets for the New Madrid Smelter. So an adjusted budget, which may or may not cover the smelter, is not responsive to Ameren Missouri’s data request or to the Order. Moreover, the information provided by Noranda does not constitute a budget as that term is generally understood in the business world. In addition, the fact that the Affidavit states that the information provided to the Company on September 28th was an “adjusted” budget suggests that a larger, more comprehensive budget exists from which the adjusted budget was created. At a minimum, therefore, the Order obligated MIEC to provide a complete copy of that larger budget, without any adjustments or other edits.

4. But there are more serious concerns regarding the Affidavit. Because statements made there are inconsistent with other statements found in Noranda’s publicly-available financial reports, the credibility of the Affidavit is questionable, at best. For example, Noranda’s 2010 Annual Report states at page 5 that “[w]e derive many of our forward-looking statements

from our operating budgets and forecasts, which are based upon many detailed assumptions.” And Noranda’s 10Q report for the quarter ending June 30, 2012, states, at page 28, that the forward-looking statements contained there “reflect management’s current estimates, projections, expectations, and beliefs.”¹ Based on these statements, it is clear that Noranda has written operating budgets, that are based on detailed assumptions, and financial estimates and projections that it relies on both to prepare its financial reports and to operate its businesses. Some or all of those documents are responsive to Ameren Missouri’s data request, and the Order clearly requires Noranda or MIEC to provide the Company copies of all such documents.

5. It is obvious from its evasive and disingenuous responses to both Ameren Missouri’s data request and the Commission’s Order that MIEC does not intend to provide the documents the Company requested or to comply with the Order. And additional orders that seek to require MIEC to do what it so far has refused to do likely will prove fruitless. Therefore, rather than waste further time and effort trying to force compliance with the Order, the Commission should penalize MIEC’s recalcitrance by striking that portion of the testimony of its witness Kip Smith that prompted Ameren Missouri to serve data request MIEC-015 in the first place. That testimony, which appears at page 4 of Mr. Smith’s direct testimony, states as follows: “Ameren’s proposed rate increase threatens the viability of the New Madrid Smelter.”

WHEREFORE, for the reasons stated in its reply, Ameren Missouri requests the Commission to issue an order striking the sentence identified in the preceding paragraph from the direct testimony of MIEC’s witness Kip Smith, and providing the Company such other relief as the Commission deems appropriate.

¹ The same language appears in each of Noranda’s quarterly reports for 2010, 2011, and 2012.

Respectfully submitted,

/s/ L. Russell Mitten

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EXHIBIT A

NP

| | 2012B | 2013F | 2014F | 2015F | 2016F |
|--|-------|-------|-------|-------|-------|
| Production (million pounds) | | | | | |
| Cost (\$ in millions, except /lb data) | | | | | |
| Alumina | | | | | |
| Carbon | | | | | |
| Labor | | | | | |
| Maintenance | | | | | |
| Other | | | | | |
| Gross cost | | | | | |
| Fab premium | | | | | |
| Net cost | | | | | |
| Sustaining capital expenditures | | | | | |
| Total cost | \$ | \$ | \$ | \$ | \$ |
| Total cost (\$/lb) | \$ | \$ | \$ | \$ | \$ |

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via e-mail, on the following parties on the 2nd day of October, 2012:

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