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## VIA E-MAIL AND US MAIL

David L. Woodsmall  
Finnegan, Conrad & Peterson L.C.  
1209 Penntower Office Center  
3100 Broadway  
Kansas City, MO 64111

Re: Objections to MEUA's First Data Requests

Dear David:

This document provides the Missouri Industrial Energy Consumers' ("MIEC") Objections to the Midwest Energy Users' Association's ("MEUA") First Data Requests dated January 27, 2010.

### **GENERAL OBJECTIONS**

1. MIEC and its constituent members object to each data request to the extent that the response sought is overly broad, unduly burdensome, oppressive, and compliance with the request would be cost-prohibitive, impracticable, and/or impossible.

2. MIEC and its constituent members object to each data request to the extent that the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in case number ER-2010-0036.

3. MIEC and its constituent members object to each data request to the extent that the request seeks information and documents protected from discovery by the attorney-client privilege, the attorney work-product doctrine, or any other privilege or doctrine. Nothing contained in these Objections is intended as a waiver of any applicable privilege or doctrine.

4. MIEC and its constituent members object to each data request to the extent the request seeks information that is a trade secret, commercially-sensitive, or confidential financial information, the release of which may be injurious to MIEC or any of its constituent members.

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5. MIEC and its constituent members object to each request to the extent the request is vague, ambiguous, confusing, or fails to describe the information sought with sufficient clarity or specificity to enable MIEC to provide responsive answers.

6. MIEC and its constituent members object to each request to the extent that the request calls for information or documents already in the MEUA's possession or which is readily obtainable from another source that is equally available to MEUA.

7. MIEC and its constituent members object to each request to the extent that the numerous requests are not truly designed for legitimate discovery but are rather intended for an improper, ulterior purpose. Accordingly, MIEC objects to each data request to the extent that the request causes the MIEC undue harassment.

8. The MIEC is an association and positions asserted on behalf of the MIEC in this case are set forth in case filings made on behalf of the MIEC by its counsel and the MIEC's expert witnesses. The individual company members to whom MEUA's First Data Requests to MIEC are directed are not witnesses in this case and have not provided individual company testimony or asserted individual company positions. Accordingly, the MIEC and its constituent members object to each data request seeking information from individual companies in MEUA's First Data Requests to MIEC, as these requests are not reasonably calculated to lead to the discovery of admissible evidence.

9. These General Objections are applicable to, and incorporated in, each of the Objections below as if specifically set forth therein. The failure to repeat, renew or reassert any of the General Objections or the assertion of other objections in no way implies a failure to assert each and every General Objection in any way.

### **SPECIFIC OBJECTIONS**

#### **MEUA-1.1:**

Does U.S. Silica believe that electric rates should be based on cost?

#### **Objection:**

In addition to the General Objections, U.S. Silica objects that the request is vague and fails to describe the information sought with sufficient clarity. Furthermore, U.S. Silica objects on the grounds that the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

#### **MEUA-1.2:**

Under what circumstances would U.S. Silica agree that a below cost rate is appropriate for a particular class or customer?

**Objection:**

In addition to the General Objections, U.S. Silica objects as the request is speculative. Moreover, U.S. Silica objects on the grounds that the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

**MEUA-1.3:**

Please identify the individual at U.S. Silica that is most knowledgeable to testify on U.S. Silica's position on class cost of service/rate design.

**Objection:**

In addition to the General Objections, U.S. Silica objects to this request as seeking information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

**MEUA-1.4:**

Please identify all cases (jurisdiction and case number) in which U.S. Silica has advocated for a below cost rate for a particular class or customer.

**Objection:**

In addition to the General Objections, U.S. Silica objects that the request is overly broad and burdensome. Furthermore, U.S. Silica objects as this request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

**MEUA-1.5:**

Please provide all documents, emails, or notes within U.S. Silica's control or possession which discuss the arrangement reached between MIEC and Noranda regarding Noranda's inclusion in MIEC.

**Objection:**

In addition to the General Objections, U.S. Silica objects that, to the extent that these materials exist, the materials are privileged pursuant to the attorney work-product doctrine, the

attorney-client privilege, and the common interest privilege. U.S. Silica also objects that the term “arrangement” is overly broad and is not adequately tailored to produce useful information. Further objecting, U.S. Silica objects as this request seeks information neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

**MEUA-1.6:**

What is U.S. Silica’s position regarding the appropriate rate for the AmerenUE LTS class?

**Objection:**

In addition to the General Objections, U.S. Silica objects that the request is not reasonably calculated to lead to the discovery of admissible evidence.

**MEUA-1.7:**

Please identify the individual at U.S. Silica that is most knowledgeable regarding any arrangements made between MIEC and Noranda regarding the inclusion of Noranda within MIEC.

**Objection:**

In addition to the General Objections, U.S. Silica objects as the term “arrangements” is vague and overly broad. Further objecting, U.S. Silica objects as the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence.

**MEUA-1.8:**

Please identify all jurisdictions in which U.S. Silica receives electric service. Please identify the service provider in each jurisdiction from which U.S. Silica takes service.

**Objection:**

In addition to the General Objections, U.S. Silica objects that the request is overly broad and burdensome. Furthermore, U.S. Silica objects on the grounds that the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this matter.

**MEUA-1.9:**

Please identify the rate schedule under which U.S. Silica takes electric service from AmerenUE.

**Objection:**

In addition to the General Objections, U.S. Silica objects as the request seeks information which is proprietary and confidential. Furthermore, U.S. Silica objects as the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this matter.

**MEUA-1.10:**

Has U.S. Silica, as an individual entity or as a part of a group, ever filed testimony or taken a position regarding the appropriate electric rate for an aluminum smelter? If yes, please identify every jurisdiction and case number in which it has taken such a position?

**Objection:**

In addition to the General Objections, U.S. Silica objects to the extent that the request is overly broad and burdensome. Further objecting, U.S. Silica objects as the request seeks information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this matter.

**MEUA-1.11:**

Please provide all documents, e-mail, or notes within U.S. Silica's control or possession which discuss the positions to be taken in this case by MIEC or Noranda.

**Objection:**

In addition to the General Objections, U.S. Silica objects that, to the extent that these materials exist, the materials are privileged pursuant to the attorney work-product doctrine, the attorney-client privilege, and the common interest doctrine. Further objecting, U.S. Silica objects to this request as seeking information that is neither relevant, material nor reasonably calculated to lead to the discovery of admissible evidence in this action.

The MIEC reserves the right to revise, correct, add to, or clarify any of the Objections set forth above.

Sincerely,



Diana M. Vuylsteke  
Attorney for the MIEC