



03:40 PM OCT 26 2012 PSC EXEC SEC DIV

CONSUMER ADVOCATE DIVISION
STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
700 Union Building
723 Kanawha Boulevard, East
Charleston, West Virginia 25301
(304) 558-0526

September 26, 2012

Sandra Squire
Executive Secretary
Public Service Commission of West Virginia
201 Brooks Street
Charleston, West Virginia 25301

RE: CENTURY ALUMINUM OF WEST VIRGINIA, INC.
CASE NO. 12-0613-E-PC

Dear Ms. Squire:

Enclosed for filing in the above-styled and numbered case, please find an original and 12 (twelve) copies of the *Joint Motion for Clarification of the Consumer Advocate Division and the West Virginia Energy Users Group*. Copies Have Been Served Upon All Parties Of Record.

Very truly yours,

A handwritten signature in black ink, appearing to read "JLR", written over the typed name.

Jacqueline Lake Roberts
Counsel for Consumer Advocate
State Bar No. 11756

JLR/cf

Enclosures

cc: James V. Kelsh, Esq.
William C. Porth, Esq.
Wendy Braswell, Esq.
Webster J. Arceneaux, III., Esq.
Damon E. Xenopoulos, Esq.
Susan J. Riggs, Esq.
Derrick P. Williamson, Esq.
Barry A. Naum, Esq.
Leonard Knee, Esq.

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CENTURY ALUMINUM OF WEST VIRGINIA, INC.
Petition for consent and approval of
A special rate for purchase of electricity.

CASE NO. 12-0613-E-PC

**JOINT MOTION FOR CLARIFICATION
OF THE
CONSUMER ADVOCATE DIVISION
AND THE
WEST VIRGINIA ENERGY USERS GROUP**

The Consumer Advocate Division of West Virginia (CAD) and the West Virginia Energy Users Group (WVEUG) move this Commission for clarification of its October 4, 2012 Order in this case (Order) as it relates to one specific point: whether the Commission intended that excess funds in the Tracking Account should first be refunded to ratepayers before being used to reduce LME-based rates for Century Aluminum (Century). This issue is more fully described below.

CENTURY RATE LIABILITY AND THE REDUCTION OF LME RATES

The Commission ruled that Century would be liable for the price of electricity that it would otherwise pay under traditional ratemaking. The Commission stated:

The Commission has further determined that Century will be liable for a total bill that is no lower than a bill calculated at a rate that is based on a more traditional cost of service ratemaking approach (Minimum Cost-based special rate or Minimum Rate).¹ (emphasis added).

As contrasted with the electricity rate for which Century will be liable, the electricity rate

¹ Order at 30.

Century will pay each month for its electricity may be lower or higher than the Minimum Rate, which will create either revenue shortfalls or excess revenue.² These revenue shortfalls and excess revenues will be subject to a tracking mechanism that will compare each month the rate for which Century is liable under traditional ratemaking – the Minimum Rate – to the rate Century will pay – the LME rate. At the conclusion of the contract, the Tracking Account is closed. Any revenue shortfalls in the Tracking Account are the responsibility of Century.³

Excess revenues will be credited:

first to other customers to offset the fixed costs that would have been paid by Century under a traditional ratemaking approach⁴

The Commission defines the fixed cost credit as an annual \$20 million credit representing:

***fixed costs currently paid by other customers that, under a traditional ratemaking approach, would be spread over a larger consumption base so that a portion would be paid by Century.⁵

To the CAD and WVEUG, the Order seems clear that the electricity rate for which Century is liable is the rate based upon traditional cost of service ratemaking, including the \$20 million fixed cost credit. Accordingly, Century would remain liable for paying any revenue shortfall produced by comparing that rate with the LME rate, which would include the annual \$20 million fixed cost credit.

The Order, however, also implies that there could be some form of sharing, if the Tracking Account holds excess revenues, as between ratepayers and the reduction of LME rates for Century, which would not necessarily maintain repayment of ratepayers as the first priority:

If aluminum prices increase as fast and move as high as projected by Century's witness, particularly in the upside case and the base case, the Commission will consider an adjustment that will begin the sharing of excess revenue before the end of the contract

² Id.

³ Id at 32.

⁴ Id.

⁵ Id.

period. If the Commission makes such an adjustment, Century will continue to receive credit for LME payments in excess of the target rate even if the cash associated with a portion of those payments has been taken from the Tracking Account and used to reduce rates for other customers or to reduce the LME rates payable by Century.⁶

Both the CAD and WVEUG believe strongly that there should be no reduction in LME rates until after ratepayers receive a payback of the annual \$20 million fixed cost credit. While the underscored language does not explicitly state that the \$20 million fixed cost credit would be repaid *before* excess revenues were used to reduce LME rates, it does seem clear from the rest of the language in the Order, cited above, that this would be the result.

In an abundance of caution, the CAD and WVEUG request the Commission clarify that this is the Commission's intention and eliminate any potential disagreements in the future as to the meaning of the Commission's language. Accordingly, the CAD and WVEUG move the Commission to clarify its Order and language in this regard.

CONCLUSION

The CAD and WVEUG request the Commission to clarify its Order in this case that Century will remain liable for the annual fixed cost credit of \$20 million and that any excess revenues in the Tracking Account will not be used to reduce LME prices until the fixed cost credit is repaid.

Respectfully submitted,



Jacqueline Lake Roberts
Deputy Consumer Advocate
State Bar No. 11756

⁶ Order at 58, footnote 14 (emphasis added).

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Counsel to the West Virginia Energy Users
Group

CERTIFICATE OF SERVICE

I, Jacqueline Lake Roberts, counsel for the Consumer Advocate Division of the Public Service Commission of West Virginia, hereby certify that I have served a copy of the foregoing *Joint Motion for Clarification by the Consumer Advocate Division and the West Virginia Energy Users Group* upon all parties of record by First Class, U.S. Mail, postage pre-paid.



Jacqueline Lake Roberts
Deputy Consumer Advocate
State Bar No. 11756

Dated: October 26, 2012