

FILE

SULLIVAN &  
WORCESTER

Sullivan & Worcester LLP  
1666 K Street, NW  
Washington, DC 20006

T 202 775 1200  
F 202 293 2275  
www.sandw.com

7

March 20, 2008

Public Utilities Commission of Ohio  
Docketing Division  
180 East Broad Street  
Columbus, Ohio 43215-3793

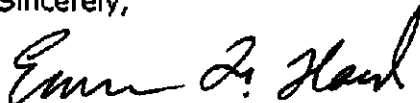
Re: Enclosed Document For Filing In Case Nos. 07-1132-EL-UNC et al.

Dear Sir or Madam:

Enclosed for filing in Case Nos. 07-1132-EL-UNC, 07-1191-EL-UNC, 07-1278-EL-UNC and 07-1156-EL-UNC, please find an original and 15 copies of Ormet Primary Aluminum Corporation's Memorandum Contra Columbus Southern Power Company's and Ohio Power Company's Motion to Strike Ormet's Reply Memorandum.

Also enclosed are two extra copies of each document to be date-stamped and returned to me in the enclosed, self-addressed Federal Express envelope. Thank you for your assistance in this matter, if you have any questions please contact me at the number below.

Sincerely,



Emma F. Hand

Direct line: 202 775 6819  
ehand@sandw.com

RECEIVED-DOCKETING DIV  
2008 MAR 21 AM 9:43  
PUCO

THE PUBLIC UTILITIES COMMISSION OF OHIO

Case No. 07-1132-EL-UNC

Case No. 07-1191-EL-UNC

Case No. 07-1278-EL-UNC

Case No. 07-1156-EL-UNC

Pursuant to Rule 4901-1-12, Ohio Administrative Code, Ormet Primary Aluminum Corporation (“Ormet”) respectfully submits this Memorandum Contra Columbus Southern Power Company’s and Ohio Power Company’s (collectively, “AEP-Ohio”) Motion to Strike Ormet’s Reply Memorandum in the captioned proceedings.

AEP-Ohio's Motion to Strike is without grounds and should be denied. Ormet is entitled to file a memorandum in reply to AEP-Ohio's memorandum contra Ormet's motion to intervene. The Public Utility Commission of Ohio's ("Commission") rules permit a party to file a memorandum in reply to a memorandum contra a motion. *See*, Ohio Admin. Code 4901-1-12 (2008). AEP-Ohio would have the Commission apply its rules regarding rehearing applications to Ormet's motion to intervene, rather than applying its rules regarding motions – notwithstanding AEP-Ohio's contention that Ormet's motion to intervene should be denied based on Ormet's legal position with regard to rehearing (see AEP-Ohio's memorandum contra at page 6) – so as to prohibit Ormet from responding to the substance of AEP-Ohio's memorandum contra Ormet's motion. AEP-Ohio's argument, in its essence, is that the Commission should change its rules for the sake of Ormet's motion to intervene in order to prevent Ormet from being heard in this proceeding.

Futhermore, Ormet's motion to intervene is not "part and parcel" of its application for rehearing, as AEP-Ohio argues. Ormet filed its motion to intervene in order to become a party to the captioned proceedings. Ormet does not need to become a party to the docket in order to file its Application for Rehearing – the Ohio Administrative Code, at 4901-1-35, provides that "Any party or any affected person, firm, or corporation may file an application for rehearing. . . ." (Emphasis added). *See also*, Ohio Rev. Code § 4903.10 (2008). Ormet is an "affected corporation" – the application of the Commission's order to Ormet imposes \$4 million in costs upon Ormet in calendar year 2008. Thus, Ormet's application for rehearing is not dependent upon the granting of Ormet's motion to intervene. Nevertheless, Ormet deemed it advisable to file a motion to intervene in addition to its application for rehearing in order to participate fully in any further proceedings in these dockets and to gain the rights of a party to the case.

AEP-Ohio's alternative request that the Commission strike large portions of Ormet's memorandum in reply is also without merit and should be denied. AEP-Ohio contends that Ormet's arguments do not reply to the arguments that AEP-Ohio made at page 6 of its memorandum contra, but rather reply to arguments made in the section of AEP-Ohio's memorandum contra regarding Ormet's application for rehearing. However, at page 6 of AEP-Ohio's memorandum contra, in the first sentence under AEP-Ohio's heading "2. Ormet's legal position is insufficient to warrant intervention at this time," AEP-Ohio states that "Ormet's legal arguments are set out in its application for rehearing and are addressed in the Companies' response to that application. While the Companies disagree with Ormet's legal analysis. . . ." Thus, on page 6, AEP-Ohio has invoked its arguments against Ormet's legal position within the section of its memorandum contra responding to Ormet's motion to intervene, and Ormet should be entitled to respond to those arguments in its memorandum in reply regarding that motion.

#### Conclusion

WHEREFORE, Ormet respectfully requests that the Commission deny AEP-Ohio's Motion to Strike Ormet's Reply Memorandum.

Respectfully submitted,



Clinton A. Vince, Counsel of Record

[cvince@sandw.com](mailto:cvince@sandw.com)

Emma F. Hand

[ehand@sandw.com](mailto:ehand@sandw.com)

Nicole M. Crum (# 0077123)

[ncrum@sandw.com](mailto:ncrum@sandw.com)

Sullivan & Worcester LLP

1666 K Street, NW, Suite 700

Washington, DC, 20006

202-775-1200

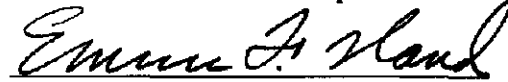
202-293-2275 (fax)

*Attorneys for Ormet Primary Aluminum  
Corporation*

Dated: March 21, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Memorandum Contra Columbus Southern Power Company's and Ohio Power company's Motion to Strike Ormet's Reply Memorandum was served by U.S. Mail and electronic mail upon counsel identified below for all parties of record this 21st day of March, 2008.

A handwritten signature in cursive script, reading "Emma F. Hand".

Emma F. Hand

Marvin I. Resnik  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
[miresnik@aep.com](mailto:miresnik@aep.com)

Daniel R. Conway  
Porter, Wright, Morris & Arthur LLP  
41 S. High Street  
Columbus, Ohio 43215  
[dconway@porterwright.com](mailto:dconway@porterwright.com)

Samuel C. Randazzo, Esq.  
Lisa G. McAlister  
Daniel J. Neilsen  
Joseph M. Clark  
McNees Wallace & Nurick LLP  
21 East State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215-4228  
[sam@mwncmh.com](mailto:sam@mwncmh.com)  
[lmealister@mwncmh.com](mailto:lmealister@mwncmh.com)  
[dneilsen@mwncmh.com](mailto:dneilsen@mwncmh.com)  
[jclark@mwncmh.com](mailto:jclark@mwncmh.com)

Thomas McNamee  
Attorney General's Office  
Public Utilities Commission of Ohio  
180 East Broad Street, 8<sup>th</sup> Floor  
Columbus, Ohio 43215  
[Thomas.mcnamee@puc.state.oh.us](mailto:Thomas.mcnamee@puc.state.oh.us)

Ann M. Holtz  
Jackie Roberts  
Assistant Consumers' Counsel  
Ohio Consumers' Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
[holtz@occ.state.oh.us](mailto:holtz@occ.state.oh.us)  
[Roberts@occ.state.oh.us](mailto:Roberts@occ.state.oh.us)

Richard L. Sites  
General Counsel  
Ohio Hospital Association  
155 East Broad Street – 15<sup>th</sup> Floor  
Columbus, Ohio 43215-3620  
[richs@ohanet.org](mailto:richs@ohanet.org)

David C. Rinebolt  
Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
P.O. Box 1791  
Findlay, Ohio 45839-1793

David F. Boehm, Esq.  
Michael L. Kurtz, Esq.  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
[dboehm@bkllawfirm.com](mailto:dboehm@bkllawfirm.com)

Michael R. Smalz  
Joseph V. Maskovyak  
Ohio State Legal Services Association  
555 Buttlers Avenue  
Columbus, Ohio 43215-1137  
[msmalz@oslsa.org](mailto:msmalz@oslsa.org)  
[jmaskovyak@oslsa.org](mailto:jmaskovyak@oslsa.org)