

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Approval of an)
Additional Generation Service Rate Increase) Case No. 07-1132-EL-UNC
Pursuant to Their Post-Market Development)
Period Rate Stabilization Plan.)

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Approval of an)
Additional Generation Service Rate Increase) Case No. 07-1191-EL-UNC
Pursuant to Their Post-Market Development)
Period Rate Stabilization Plan.)

In the Matter of the Application of)
Columbus Southern Power Company and)
Ohio Power Company for Approval of an)
Additional Generation Service Rate Increase) Case No. 07-1278-EL-UNC
Pursuant to Their Post-Market Development)
Period Rate Stabilization Plan.)

In the Matter of Application of)
Columbus Southern Power Company and)
Ohio Power Company to Update Each) Case No. 07-1156-EL-UNC
Company's Transmission Cost Recovery)
Rider.)

**COLUMBUS SOUTHERN POWER COMPANY'S AND OHIO POWER COMPANY'S
REPLY MEMORANDUM IN SUPPORT OF THEIR MOTION TO STRIKE
ORMET'S MARCH 17, 2008, REPLY MEMORANDUM**

On March 19, 2008, Columbus Southern Power Company (CSP) and Ohio Power Company (OPCO), collectively referred to as "the Companies", filed their Motion to Strike the Memorandum in Reply that Ormet Primary Aluminum Corporation (Ormet) filed on March 17, 2008, in response to the Companies' (and IEU-Ohio's) memoranda contra Ormet's motion to intervene and application for rehearing in the above-referenced cases. The Companies pointed out in their Motion to Strike that because Ormet's Memorandum in Reply is part and parcel of its

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Application for Rehearing, it should be subject to the bar against reply memoranda that Rule 4905-1-35 establishes for rehearing applications. The Companies also noted that large sections of the reply memorandum were specifically directed at arguments that the Companies made at pages 7-13 of their Memorandum Contra that addressed the merits of Ormet's Application for Rehearing. Accordingly, the Companies argued that even if the rule against reply memoranda were not applied to the entirety of Ormet's Memorandum in Reply, at a minimum, those portions of Ormet's Memorandum in Reply that were specifically directed at the Companies' arguments at pages 7-13 of their Memorandum Contra should be stricken.

On March 21, 2008, Ormet filed a memorandum contra the Companies' Motion to Strike. Ormet's argument appears to be that, because the intervention motion includes as one of its elements a discussion of the legal sufficiency of the rehearing request, Ormet is entitled to file a reply memorandum that addresses the merits of its rehearing application. This proves the point the Companies made in their Motion to Strike that the Motion to Intervene is part and parcel of the Application for Rehearing and, thus, should be subject to the same procedural rule that applies to rehearing requests, i.e., no reply memoranda.

The argument that Ormet makes in response to the second point of the Companies' Motion to Strike is equally flawed. Ormet notes that in the section of the Companies' Memorandum Contra Ormet's Motion to Intervene, at page 6, that deals with the sufficiency of Ormet's legal position to support intervention, the Companies pointed out that they address the legal arguments Ormet makes in support of its rehearing request in the portion of their Memorandum Contra that responds to the rehearing request. Then, Ormet contends that by pointing that out, the Companies incorporated those arguments into their arguments in opposition to the Motion to Intervene. Consequently, Ormet argues, it should be able to reply to those

arguments in their reply to the Motion to Intervene. That is a misrepresentation of the Companies' argument at page 6 of their Memorandum Contra the Motion to Intervene. The Companies did not incorporate into their discussion of intervention their arguments regarding the merits of Ormet's rehearing request by their reference to them. In fact, they did the opposite: They explained, at page 6 of their Memorandum Contra the Motion to Intervene that they made their merit arguments regarding Ormet's rehearing request in that portion of their Memorandum Contra, at pages 7-13, that addresses the rehearing request, and that they were not making or repeating those arguments, let alone incorporating them by reference, in the portion of the Memorandum Contra, at page 6, that addressed Ormet's Motion to Intervene.

Frankly, Ormet's efforts to shoehorn their reply arguments in support of their rehearing request into a purported reply memorandum in support of their Motion to Intervene illustrate why the Commission should strike the entire pleading.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Reply Memorandum in Support of Their Motion to Strike Ormet's March 17, 2008 Reply Memorandum was served by U. S. Mail and electronic mail upon counsel identified below for all parties of record this 25th day of March, 2008.


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