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BEFORE THE
PUBLIC UTILITY COMMISSION OF OHIO

In the Matter of the Application of Ormet
Primary Aluminum Corporation for
Approval of a Unique Arrangement with
Ohio Power Company and Columbus
Southern Power Company

Case No. 09-119-EL-AEC

PUCO

MEMORANDUM CONTRA OF ORMET PRIMARY ALUMINUM CORPORATION

On February 17, 2009, Ormet Primary Aluminum Corporation ("Ormet") filed an application ("Application") with the Commission for approval of a unique arrangement with Ohio Power Company and Columbus Southern Power Company (collectively "AEP Ohio") that is intended to allow Ormet to remain solvent during periods when aluminum prices are low and to provide sufficient long-term predictability that Ormet can attract the necessary capital to keep its aluminum smelter in Hannibal, Ohio ("Hannibal Facilities") operating ("Unique Arrangement"). On March 3, 2009, the Ohio Energy Group ("OEG") filed a motion to intervene and memorandum in support and on March 9, 2009, the Industrial Energy Users-Ohio ("IEU-Ohio") filed comments. On March 13, 2009, the Office of Consumers Counsel ("OCC") filed a motion to intervene and a motion to shorten discovery response time. While Ormet does not oppose the participation of any of these parties in this proceeding, Ormet does oppose certain suggestions made by OEG and IEU-Ohio. Ormet also opposes OCC's request for an expedited ruling on its motion to shorten discovery response time. Ormet has not even been served with the discovery that is the subject of OCC's motion, and therefore the scope and burdensomeness of OCC's discovery requests are entirely unknown.¹ Therefore a motion for shortened response time on unknown discovery requests, not to mention an expedited ruling on such a motion, is

¹ As of noon, March 18, 2009, Ormet counsel had not received any proposed discovery requests from OCC, notwithstanding its filing of a motion to shorten time.

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premature at this time until Ormet and AEP Ohio can at least evaluate the discovery that OCC intends to serve.

The Unique Arrangement proposed by Ormet is not intended to provide a windfall gain, or even a return to Ormet's investors. The Unique Arrangement is intended only to ensure that Ormet maintains sufficient cash flow to cover its bills; therefore any less of a discount than what Ormet has proposed in this proceeding would likely result in the insolvency and the consequent shutdown of the Hannibal Facilities.

I. There is a Lower Limit on Ormet's Discount.

Under the Unique Arrangement, Ormet cannot simply take free power indefinitely, as is suggested by OEG.² Ormet recognizes that its discount cannot be unlimited. Under the mechanism proposed in Paragraph 2.03 of the Unique Arrangement, the Commission may step in and adjust the contract as necessary if Ormet's net cumulative discount exceeds 50% of what Ormet would have paid under the AEP Ohio Tariff Rate. This mechanism is superior to a hard floor, because it allows Ormet to weather temporary reductions in the price of aluminum. Moreover, it ensures that the Commission has appropriate discretion to determine whether or not a more substantial discount is in the public interest. London Metal Exchange ("LME") price cycles can be extreme and a hard floor could force Ormet to curtail the Hannibal Facilities based on a single month's price of aluminum. Once an aluminum production potline has been curtailed, Ormet cannot simply flip a switch to bring it back on line. It can take several months and millions of dollars to restart a curtailed potline. Therefore, it is vital that the Unique Arrangement be stable enough to avoid the effects of a short-term price shock. The mechanism in Section 2.03 of the proposed Unique Arrangement is designed to prevent a short disruption in the price of aluminum from causing an extended curtailment of the Hannibal Facilities. OEG's

² OEG Memorandum in Support at 4-5.

suggestion of a firm, fixed floor for the Unique Arrangement would not be sufficient to meet this need. Even with the Unique Arrangement, longer-term disruptions in the price of aluminum, such as those feared by OEG, are more likely to cause Ormet to have to curtail the Hannibal Facilities -- as IEU-Ohio notes, this was recently the case for Century Aluminum in West Virginia -- than to result in Ormet taking electricity at no cost for an extended period of time.

II. OEG's Projection of the Impact of the Unique Arrangement is Speculative.

OEG's argument that the Unique Arrangement would result in Ormet getting free electricity in 2010 and result in delta revenues of \$179 million for that year is speculative at best. OEG's argument is based on the assumption that the current LME futures price is an accurate prediction of prices in 2010. LME price cycles, however, can be extreme. For example, even though the current LME futures price for mid-2010 is approximately \$1,460/tonne, just a few months ago, the price was trading over \$3000/tonne. The recent collapse in commodity prices is unprecedented and symptomatic of the global financial crisis. Today, at least 75% of the world's aluminum capacity is losing cash. Countries such as China have taken aggressive steps to reduce power rates to smelters and to buy aluminum to shore up prices. This activity in China is aimed at protecting jobs. Ormet is competing against this type of foreign governmental financial support in difficult times. The longer-term value of and need for aluminum has not changed and is centered on the growth of emerging economies, primarily led by China, Russia, India and Brazil.

III. Ormet Would Not be Able to Set Its Own Rate.

OEG argues that the proposed Unique Arrangement would effectively allow Ormet to set its own electric rate. This is incorrect. The Unique Arrangement provides that Ormet's schedules may be audited by an independent third party. Ormet intends to provide any such independent party full access to its books and records so that the reasonableness of its estimated

revenues and expenses can be validated. The phrase "sufficient cash flow" is intended to create the result that where there is a discount, it is only so deep as to allow Ormet to pay its bills and to keep the plant operational -- essentially to produce zero free cash flow. Ormet is struggling to keep its Hannibal Facilities operating, bringing jobs and income to Ohio. It is not seeking to gain a windfall, but merely to pay sustainable power rates depending on the short term price of aluminum.

Ormet has a very lean management with Sales General & Administrative costs at about 4% of total costs, which is in line with Ormet's U.S. competitors, and has consistently worked to minimize its costs. More importantly, however, Ormet expects that the independent party would review the projected costs used to develop the LME-indexed rate schedule to ensure that the cost levels are reasonable.

IV. The Only Way to Prevent West Virginia from Benefitting From the Unique Arrangement is to Deny All Benefits to Ohio As Well.

Although the benefits of the Hannibal Facilities are spread across Ohio and West Virginia, only Ohio has the ability to provide the relief that Ormet needs from high electricity rates in order to remain solvent. Electricity costs are one-third the total cost of producing aluminum, and aluminum production survives on extremely thin margins. Because West Virginia does not have jurisdiction over Ormet's electricity rates, it cannot provide electric rate relief to Ormet to keep the Hannibal Facilities in operation. Although OEG argues that the Commission must consider only the impact on Ohio's economy, there is simply no way to maintain the benefits to Ohio without also benefiting West Virginia. Also, Ormet's employees purchase products and services on both sides of the Ohio River, regardless of where they reside. The substantial economic benefit of keeping Ormet's Hannibal Facilities in operation will be felt

in both Ohio and West Virginia. The only way to avoid providing any benefits to West Virginia is also to deny any benefits to Ohio.

V. Relieving Ormet of the Deposit Requirement Reduces the Discount Ormet Will Receive.

IEU-Ohio objects that Section 6.03 of the Unique Arrangement, which relieves Ormet of the obligation to provide a deposit to AEP Ohio as long as AEP Ohio is permitted to treat any actual default amounts as delta revenue, effectively places other AEP Ohio customers as involuntary financial guarantors for Ormet. This provision does, however, reduce the amount of the discount Ormet receives under the Unique Arrangement and thus reduces delta revenues. The requirement of a cash deposit reduces Ormet's cash flow, and therefore increases the Target Price and the Index Price under the Unique Arrangement. While Section 6.03 does create the risk that AEP Ohio ratepayers may be burdened with additional costs in the event of a default by Ormet, requiring a deposit from Ormet creates the certainty that Ohio ratepayers will have to pay increased delta revenues to AEP Ohio.

CONCLUSION

WHEREFORE, Ormet respectfully requests that the Commission (1) consider this response and approve the proposed Unique Arrangement proposed in its February 17, 2009 application in this proceeding, and (2) OCC's Motion to Shorten Discovery Response Time and Request for an Expedited Order on its Motion for Shortened Time.

Respectfully submitted,



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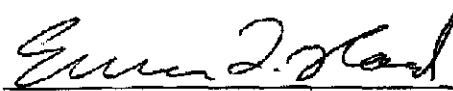
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Dated: March 18, 2009

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Application has been served upon the below-named persons via regular U.S. Mail Service, postage prepaid, this 18th day of March, 2009.



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