

FILE

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV
2009 JUL -1 PM 4:36
PUCO

In the Matter of the Application For)
Establishment of a Reasonable Arrangement) Case No. 09-516-EL-AEC
Between Eramet Marietta Inc. and)
Columbus Southern Power Company)

**COLUMBUS SOUTHERN POWER COMPANY'S
MOTION TO INTERVENE
AND COMMENTS**

On June 19, 2009, Eramet Marietta, Inc. (Eramet) filed an application for establishment of a reasonable arrangement between Eramet and Columbus Southern Power Company (CSP). Pursuant to §4901:1-38-05 (F), Ohio Admin. Code, CSP files this motion to intervene and comments regarding the application.

CSP respectfully requests that it be permitted to intervene in this proceeding. Section 4901-1-11 (A) (2), Ohio Admin. Code, provides:

- (A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:
- (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

Further, §4901-1-11 (B), Ohio Admin. Code provides:

- (B) In deciding whether to permit intervention under paragraph (A) (2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner shall consider:
- (1) The nature and extent of the prospective intervenor's interest.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician GF Date Processed 07/01/2009

- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.¹

Regarding these criteria, CSP's interest is unique as the other party to the proposed contract. CSP's intervention will not prolong or delay this proceeding. Further, as the other party to this proposed contract CSP will be in a unique position to contribute to the full development and equitable resolution of factual issues that might arise in the proceeding.

Based on S.B. 221, CSP submits that if the Commission approves Eramet's proposed arrangement CSP is entitled to recover all tariff delta revenue² resulting from Eramet's proposed arrangement through the Economic Development Rider approved in CSP's ESP case.

Based upon its review of Eramet's proposed arrangement, CSP offers the following comments.

1. Related to the proposed 10-year term if the arrangement, Eramet proposed that upon receiving written notice from Eramet of its desire to commence good faith negotiations to modify or extend the arrangement, CSP will be required to participate in those good

¹ Factors (B) (1) – (4) are consistent with §4903.221 (B), Ohio Rev. Code.

² "Delta Revenue" is defined in §4901:1-38-01 (C), Ohio Admin. Code, as the deviation resulting from the difference in rate levels between the otherwise applicable rate schedule and the result of any reasonable arrangement approved by the commission."

faith negotiations. CSP does not need to be ordered to negotiate issues in good faith with any customer. CSP notes, however, a degree of irony that the idea of compelling good faith negotiations is proposed by a customer who at the same time is also attacking the very ESP rates it proposes to avoid.

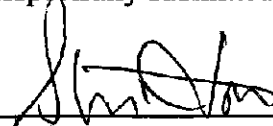
2. Regarding the proposed pricing provisions, CSP will leave to the Commission to determine the extent of discount it believes would be fair to Eramet and CSP's other customers and the extent to which Eramet should be shielded from the operation of "any surcharges, riders or other adders," except that CSP would like to register its position regarding the rate matters addressed in paragraph 3 through 7 below.
3. CSP notes that in other cases parties have raised as an issue a proposed discount that would allow a customer to avoid nonbypassable riders or exceed CSP's variable cost of production.
4. To the extent the Commission authorizes any delta revenue associated with the proposed arrangement, CSP is entitled to full recovery of that revenue foregone, pursuant to §4905.31 (E), Ohio Rev. Code.
5. In Eramet's Footnote No. 1 it states its belief that another producer of manganese ferroalloys which is served by an affiliate of CSP in West Virginia purchases electricity at a price that is lower than Eramet's current price. Such comparisons can be misleading

without a full review of the operating companies' relative costs, the relative timing of rate cases, an examination of all of the rates and riders are being included in the comparison and the terms and conditions of the operating companies' other rates and contracts. In sum, rates effective in another jurisdiction are not relevant to rates in this jurisdiction.

6. The proposed "energy only" rate structure is of concern to CSP. In paragraph 5.B. of the application, Eramet states that their proposed rate structure "shall not include any demand charges" and "pricing shall be structured to establish a fixed per kWh price for all base level of kWh consumption." CSP submits that an energy only rate for a load Eramet's size may undermine the intended purpose of CSP's GS-4 tariff approved by the Commission because the current rate design takes into account customers' capacity and infrastructure requirements, peak demand and load factor. Further, the inherent rate design of CSP's GS4 tariff schedule embeds a financial incentive for industrial customers, such as Eramet, to manage both consumption (kWh) and demand (kVa). An energy only rate structure, as proposed by Eramet, removes this incentive and CSP believes such a rate is inconsistent with the peak demand reduction provisions of §4928.66 (A) (1) (b), Ohio Rev. Code.
7. In Paragraph 9 of the application, Eramet states "there are no CRES providers currently offering to serve customers in CSP's

territory.” There are, in fact, CRES providers that currently serve CSP customers as well as parties offering to be Curtailment Service Providers inside of AEP Ohio footprint within PJM. To the extent Eramet intended to limit its statement to industrial customers, CSP is without knowledge of whether that more limited statement is accurate.

Respectfully submitted,




Marvin I. Resnik, Counsel of Record
Steven T. Nourse
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
Telephone: (614) 716-1606
Fax: (614) 716-2950
Email: miresnik@aep.com

Counsel for Columbus Southern Power
Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Columbus Southern Power Company's Motion to Intervene and Comments was served by U.S. Mail upon counsel identified below this 1st day of July, 2009.


Steven T. Nourse

Samuel C. Randazzo Thomas L. Froehle McNees Wallace & Nurick, LLC 21 East State Street, 17 th Floor Columbus, Ohio 43215-4228	Duane Luckey Office of the Ohio Attorney General Public Utilities Section 180 East Broad Street, 9 th Floor Columbus, Ohio 43215
Gregory Poulos Assistant Consumers' Counsel Office of the Ohio Consumers' Counsel 10 West Broad Street, Suite 1800 Columbus, Ohio 42315-3485	