

FILE

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**SUPPLEMENTAL  
PREPARED TESTIMONY  
of  
ROBERT B. FORTNEY  
Rates and Tariffs Division**

August 6, 2009

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1 1. Q. Please state your name and business address.

2 A. My name is Robert B. Fortney. My business address is 180 E.  
3 Broad Street, Columbus, Ohio 43215.  
4

5 2. Q. By whom are you employed and in what capacity?

6 A. I am employed by the Public Utilities Commission of Ohio (PUCO)  
7 as a Public Utilities Administrator 3 in the Rates and Tariffs  
8 Division of the Utilities Department.  
9

10 3. Q. Please outline your educational background and work experience.

11 A. I received a Bachelor of Science Degree in Business Administration  
12 from Ball State University, Muncie, Indiana, in 1971. I received a  
13 Master of Business Administration Degree from the University of  
14 Dayton, Dayton, Ohio, in 1979. I have been with the Commission  
15 staff for 23 years, involved in all aspects of electric utility rates,  
16 rules and regulations.  
17

18 4. Q. What is the purpose of your testimony in this proceeding?

19 A. On June 19, 2009, Eramet Marietta, Inc. (Eramet) filed an applica-  
20 tion for approval of a reasonable arrangement with Columbus South-  
21 ern Power Company (for convenience purposes, AEP). Eramet is  
22 requesting that the Commission approve an arrangement that will

1 ensure that its facilities will remain competitive in the marketplace  
2 and that will permit Eramet to upgrade its manufacturing facility  
3 through capital investments. On August 5, 2009, the staff and  
4 Eramet filed a Joint Stipulation and Recommendation (Stipulation)  
5 which was submitted as Joint Exhibit 1. The Stipulation addresses  
6 several of the issues and concerns related to the application through  
7 modifications to that application. The signatory parties recommend  
8 that the Commission approve the Stipulation and issue its Opinion  
9 and Order in accordance. The primary purpose of my testimony is to  
10 support that Stipulation. This testimony will demonstrate that: (1)  
11 the Stipulation is a product of serious bargaining among capable,  
12 knowledgeable parties; (2) the Stipulation does not violate any  
13 important regulatory principle or practice; and (3) the Stipulation, as  
14 a whole, will benefit customers and the public interest. I will also  
15 give staff's perspective on a few additional issues which are related  
16 to, but not specifically addressed, in the Stipulation.

17  
18 5. Q. Please describe the stipulation.

19 A. The Stipulation provides for a fixed rate through 2011 and thereafter  
20 the pricing mechanism converts to a declining percentage off the  
21 otherwise applicable total charge for the remaining years of the  
22 arrangement. The Stipulation allows the Commission to make

1 adjustments to the arrangement based on the levels of employment  
2 and capital investment. The Stipulation could be used in making  
3 those modifications. The Stipulation also includes minimum billing  
4 provisions to reduce the volatility of delta revenues and demand caps  
5 to incent Eramet to manage its consumption and demand. The  
6 Stipulation allows Eramet to continue participation in the PJM  
7 demand response program for the 2009-2010 planning year, but does  
8 not provide for their continued participation subsequently.

9  
10 6. Q. Does the stipulation represent a product of serious bargaining among  
11 capable, knowledgeable parties?

12 A. Yes. The Parties to the Stipulation include the Commission Staff  
13 and Eramet Marietta, Inc. The Parties were represented by  
14 experienced, competent counsel (McNees Wallace & Nurick on  
15 behalf of Eramet). The Parties to the Stipulation, or their represent-  
16 atives, regularly participate in rate proceedings before the Commis-  
17 sion and are knowledgeable in regulatory matters, the rate structure  
18 of Columbus Southern Power, and the operations of Eramet. The  
19 non-signing parties to the case were invited to attend, or participate  
20 by telephone, a settlement discussion regarding the application on  
21 Thursday, July 23, 2009. OCC and AEP were represented in person  
22 and OEG participated via a phone bridge at that discussion. Subse-

1 frequently, draft stipulations were provided to the parties via email.  
2 The parties were provided draft copies of the stipulation on Tuesday,  
3 August 4, 2009, at the hearing and discussions were held after the  
4 hearing adjourned that day. Many of the issues in the case were  
5 addressed during those meetings. Although Columbus Southern  
6 Power, OCC and OEG have not signed the Stipulation, several of the  
7 concerns that they expressed were incorporated into the Stipulation.  
8 Therefore, the Stipulation represents a product of capable, know-  
9 ledgeable parties.

10  
11 7. Q. How does the stipulation comply with important regulatory prin-  
12 ciples and practices?

13 A. Section 4905.31, Ohio Revised Code, and 4901:1-38, Ohio Adminis-  
14 trative Code, allow a mercantile customer of an electric utility to  
15 apply to the Commission for an arrangement with an electric utility.  
16 Eramet bears the burden of proof that the proposed arrangement is  
17 reasonable and has submitted information detailing the rationale for  
18 the arrangement. The Stipulation does not violate Sections 4905.33  
19 and 4905.35, Revised Code. The Stipulation facilitates Ohio's  
20 effectiveness in the global economy by encouraging job retention  
21 and capital investment at the Marietta facility and encourages energy  
22 efficiency.

1 8. Q. Does the stipulation benefit consumers and the public interest?

2 A. Yes. The Stipulation allows Eramet to invest the capital required to  
3 sustain its operations in Ohio. As provided in the Stipulation, the  
4 ability of Eramet to continue, or to expand its operations will ensure  
5 job retention (and, perhaps growth) and contribute to the regional  
6 economy through local and state tax dollars and related employment  
7 or business opportunities resulting from the viable operation of the  
8 facility.

9  
10 9 Q. Do you believe the stipulation meets the three-part test regarding  
11 consideration of partial stipulations and should be adopted by the  
12 Commission?

13 A. Yes, I do. Even without regard to the three-part test, a contract  
14 along the lines of the stipulation should be adopted because it  
15 reflects the recommendations staff made in my initial testi-  
16 mony.

17  
18 10. Q. Does the stipulation resolve all of the issues in this proceeding?

19 A. No. While I believe it resolves the rate-related issues regarding the  
20 rates which Eramet will pay, there are a few issues which were not  
21 resolved directly in the Stipulation.

1 11. Q. What are those issues?

2 A. Two of the issues which have been discussed are the mechanism to  
3 separately price a third party's usage that is currently included in  
4 Eramet's CSP price and the timing of the filing of a contract to  
5 implement the provisions of the Stipulation (should the Commission  
6 adopt the Stipulation or some modified version). I believe that all  
7 parties are in agreement that the demand and usage of Praxair must  
8 be removed or separated from Eramet in order to determine the accu-  
9 rate otherwise-applicable bill based on the GS-4 tariff for Eramet.  
10 But, the process for accomplishing that separation has not been  
11 determined. I also believe that all parties agree that there must be a  
12 document between AEP and Eramet which incorporates the provi-  
13 sions of the Stipulation. While I fully understand the saying that  
14 "nothing is ever easy," it seems that the contract would recognize the  
15 appropriate provisions approved by the Commission and state that  
16 the remaining rules and regulations and terms and conditions of the  
17 tariff, unless otherwise modified by the order, remain as is. I  
18 recommend that the Commission, if it adopts the Stipulation or a  
19 modified version, order Eramet and AEP to meet and provide within  
20 five business days a contract incorporating the terms of the Stipula-  
21 tion and a mechanism to separate the third party. (Or, perhaps the  
22 Commission could order that Mr. Randazzo and Mr. Baker be

1 locked in a room and not allowed to depart until such documents are  
2 produced).

3  
4 12. Q. Are there any other issues which need to be addressed?

5 A. Yes, the issue of delta revenue.  
6

7 13. Q. What is delta revenue?

8 A. "Delta revenue" is defined in 4901:1-38-01 as the deviation resulting  
9 from the difference in rate levels between the otherwise applicable  
10 rate schedule and the result of any reasonable arrangement approved  
11 by the Commission.  
12

13 14. Q. Does the stipulation address the issue of delta revenue recovery?

14 A. No. In Provision 6 of the application Eramet urges the Commission  
15 to address the subject and treatment of "delta revenue" in com-  
16 pliance with Section 4905.31, Revised Code, and Rule 4901:1-38-  
17 08, Ohio Administrative Code. But, the Stipulation remains silent  
18 on that issue.  
19

20 15. Q. Do you have a recommendation?

21 A. Yes, I, recommend that the Commission order AEP to recover 100%  
22 of the delta revenue through its Economic Development Rider, sub-




1           ject to the following. In the Ormet Case No. 09-119-EL-AEC the  
2           Commission found that under the terms of the Ormet arrangement,  
3           AEP-Ohio will be the exclusive supplier to Ormet. Therefore, since  
4           there is no risk that Ormet will shop for competitive generation and  
5           then return to AEP-Ohio's POLR (Provider of Last Resort) service,  
6           any POLR charges paid by Ormet must be used to reduce the AEP-  
7           Ohio's ratepayers' delta revenue obligations created by the arrange-  
8           ment. The contract contemplated for Eramet has differences from  
9           the contract contemplated in the Ormet case. Whether those differ-  
10          ences are sufficient to warrant a different outcome than in the Ormet  
11          case is an issue the Commission needs to decide, and Staff has no  
12          opinion.

13  
14    16.    Q.    Does this conclude your testimony?

15          A.    Yes, it does. However, I reserve the right to submit supplemental  
16          testimony, as described herein, as new information becomes avail-  
17          able or in response to positions taken by other parties.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the  
**Supplemental Prepared Testimony of Robert B. Fortney** was served this 6<sup>th</sup>  
day of August, 2009 by electronic mail or by regular U.S. mail, postage prepaid  
upon the following parties of record.

  
\_\_\_\_\_  
Thomas W. McNamee

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