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FAX

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Fuel Adjustment  
Clauses for Columbus Southern Power  
Company and Ohio Power Company

Case Nos. 09-872-EL-FAC  
and 09-873-EL-FAC

In the Matter of the Application of  
Columbus Southern Power Company and  
Ohio Power Company to Modify Their  
Standard Service Offer Rates

Case No. 09-1906-EL-ATA

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**ORMET PRIMARY ALUMINUM CORPORATION'S  
MOTION TO INTERVENE AND SET MATTERS FOR HEARING**

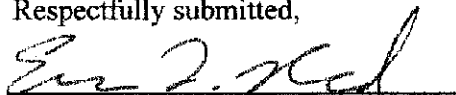
Ormet Primary Aluminum Corporation ("Ormet") hereby respectfully moves to intervene in the above-captioned matter pursuant to Ohio Revised Code Section 4903.221 and Section 4901-1-11 of the Commission's Code of Rules and Regulations, with full powers and rights granted by the Commission specifically, by statute, or by the provisions of the Commission's Code of Rules and Regulations to intervening parties. The reasons for granting this motion are contained in the memorandum attached hereto and incorporated herein.

Moreover, for the reasons set forth below, it appears that the proposals in the applications in these proceedings may be unjust or unreasonable. Accordingly the commission should set

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these matters for hearing.

Respectfully submitted,



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*Attorneys for Ormet Primary Aluminum  
Corporation*

Dated: December 11, 2009

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**MEMORANDUM IN SUPPORT OF  
ORMET PRIMARY ALUMINUM CORPORATION'S  
MOTION TO INTERVENE AND SET MATTERS FOR HEARING**

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**I. Motion to Intervene**

Ormet Primary Aluminum Corporation ("Ormet") should be permitted to intervene in these matters pursuant to Section 4903.221, Ohio Revised Code and the Commission's Rules and Regulations contained in Section 4901-1-11 of the Ohio Administrative Code. The outcome of these proceedings could impact a power agreement with the Applicants, Columbus Southern Power co. ("CSP") and Ohio Power Co. ("OP") (collectively "AEP Ohio") that determines the rates Ormet pays for electricity.

Under Section 4903.221, any person who may be adversely affected by a Commission proceeding may intervene in such proceeding. The Commission's Rules state that any person shall be permitted to intervene in a proceeding upon a showing that:

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.<sup>1</sup>

Ormet has a real and substantial interest in this proceeding. Under the Unique Arrangement Ormet has with AEP Ohio, approved in Commission Case No. 09-119-EL-AEC, the rates Ormet pays are discounted against the standard tariff rate applicable to Ormet. Thus, any increase in that standard tariff rate will increase the rate that Ormet pays for power.

In deciding whether to permit intervention under Section 4901-1-11(B) of the Ohio Administrative Code, the Commission considers:

- (1) The nature and extent of the prospective intervenor's interest.
- (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 the full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.

Ormet's unique relationship with AEP Ohio under its Commission-approved power agreement will assist in the full development and equitable resolution of the factual issues and indicates that no other party can adequately represent Ormet's interest in these proceedings. Ormet's intervention is timely and will not unduly prolong or delay the proceedings.

## **II. Motion to Set Matters for Hearing**

AEP Ohio has not adequately supported its treatment of the rate for Ormet in these proceedings, and has not developed a consistent treatment for Ormet. There is cause for concern that the rates proposed by AEP Ohio for Ormet could cause AEP Ohio to overcollect. For example, in the December 1, 2009 proposal filed in Case Nos. 09-872-EL-FAC and 09-873-EL-FAC, on Page 2 of 2 of the Workpaper to Schedule 4 for CSP and Page 2 of 3 of the Workpaper

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<sup>1</sup> Ohio Admin. Code § 4901-1-11(A)(2) (2007).

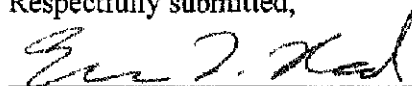
to Schedule 4 for OP, AEP Ohio sets forth the figures pertaining to Ormet in the first column labeled "Joint S.T.". Ormet is concerned that while lines 1 through 18 of that column represent figures specific to Ormet, line 19, the figure used for the FAC Rate @ Meter, Secondary, is the same as for GS-4. Using Ormet-specific numbers at the top of the column and the general GS-4 number in line 19 produces a higher rate and greater revenues for AEP Ohio than either (1) simply eliminating the separate column for Ormet and including Ormet's numbers in the GS-4/IRP-D column on Page 1 of the same Workpapers or (2) using an Ormet-specific number in line 19 would produce. It also produces a 6.6% CSP rate increase and a 8.6% OP rate increase for Ormet, well above the 6% CSP increase and 7% OP increase allowed under the Commission's orders in AEP's Electric Security Plan Case.<sup>2</sup> AEP Ohio has offered no justification for this treatment of Ormet. If the standard tariff rate set for Ormet is too high, then AEP Ohio will overcollect either from Ormet or from other customers during periods where Ormet is receiving a discounted rate under its Unique Arrangement with AEP Ohio. Unexplained inconsistencies such as this exemplify the need to set these proceedings for hearing so that the Commission and the parties may examine AEP Ohio's filing in detail and assure themselves that it is just and reasonable.

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<sup>2</sup> See *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets, et al.*, Case Nos. 08-917-EL-SSO and 08-918-EL-SSO, Opinion and Order, at p.22, filed Mar. 18, 2009.

WHEREFORE, Ormet respectfully requests that the Commission grant its motion to intervene in these proceedings and set these matters for hearing.

Respectfully submitted,



Clinton A. Vince, Counsel of Record

Douglas G. Bonner

Daniel D. Barnowski

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*Attorneys for Ormet Primary Aluminum  
Corporation*

Dated: December 11, 2009

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of Ormet Primary Aluminum Corporation's Motion to Intervene and Memorandum in Support were served by U.S. Mail upon counsel identified below for all parties of record this 11<sup>th</sup> day of December, 2009.



Emma F. Hand

**SERVICE LIST**

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Columbus OH 43215

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**MOTION FOR ADMISSION *PRO HAC VICE* OF  
CLINTON A. VINCE, DOUGLAS G. BONNER, DANIEL D. BARNOWSKI  
AND EMMA F. HAND**

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Pursuant to Section 4901-1-08(B) of the Ohio Administrative Code, Keith C. Nusbaum (#0082745), an attorney licensed to practice law in the State of Ohio in good standing, respectfully petitions the Public Utilities Commission of Ohio ("Commission") to permit Clinton A. Vince, Douglas G. Bonner, Daniel D. Barnowski, and Emma F. Hand to practice *pro hac vice* before the Commission in the captioned proceedings. Mr. Vince, Mr. Bonner, Mr. Barnowski and Ms. Hand represent Ormet Primary Aluminum Corporation, an industrial customer of Columbus Southern Power Company and Ohio Power Company.

Mr. Vince was graduated from the Georgetown University Law Center in 1974. Mr. Vince is an active member in good standing of the District of Columbia Bar (#223594) and the New York Bar (#3805892), and has been admitted to the Supreme Court of the United States, the United States Courts of Appeal for the First, Second, Fourth, Fifth, Eighth, Tenth, Eleventh and D.C. Circuits and the District of Columbia and New York federal district courts. Mr. Vince has practiced energy law continuously since being admitted to the New York Bar in 1975.



Mr. Bonner was graduated from Catholic University Law School in 1983. Mr. Bonner is an active member in good standing in the District of Columbia Bar (#384060) and the Florida Bar (#376825), and has been admitted to the United States Courts of Appeal for the Fifth, Ninth, Eleventh, and D.C. Circuits and the District of Columbia and Southern and Middle District of Florida federal district courts. Mr. Bonner has practiced law continuously since being admitted to the Florida Bar in 1983, and has over 16 years experience representing regulated utilities in administrative and litigation matters.

Mr. Barnowski was graduated from the University of Michigan Law School in 1995. Mr. Barnowski is an active member in good standing of the District of Columbia Bar (# 457108) and an inactive member of the Arizona Bar (# 16364), and has been admitted to the United States Courts of Appeal for the Fifth Circuit and the District of Columbia and District of Arizona federal district courts. Mr. Barnowski has practiced law continuously since being admitted to the Arizona Bar in 1995, and has experience representing regulated utilities in administrative and litigation matters.

Ms. Hand was graduated from the Georgetown University Law Center in 2001. She is an active member in good standing of the Virginia Bar (#46272) and the District of Columbia Bar (#4760001), and is admitted to the United States Courts of Appeal for the Fourth, Ninth and D.C. Circuits and the United States District Court for the District of Columbia. Ms. Hand has practiced energy law continuously since she was admitted to the Virginia Bar in 2001.

WHEREFORE, Keith C. Nusbaum respectfully requests that Clinton A. Vince, Douglas G. Bonner, Daniel D. Barnowski and Emma F. Hand be permitted to practice before the Commission in the aforementioned proceedings.

Respectfully submitted,

*Keith C. Nusbaum / SNR*

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Dated: December 11, 2009

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Motion to Admit *Pro Hac Vice* has been served upon the below-named persons via regular U.S. Mail Service, postage prepaid, this 11<sup>th</sup> day of December, 2009.



Emma F. Hand

Attorney for Ormet Primary Aluminum Corporation

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