

FILE

Sonnenschein
SONNENSCHN NATH & ROSENTHAL LLP

RECEIVED-DOCKETING DIV

2009 DEC 14 PM 4:25

Emma F. Hand
202.408.7094
ehand@sonnenschein.com

PUCO

December 11, 2009

VIA FEDERAL EXPRESS

Public Utilities Commission of Ohio
Docketing Division
180 East Broad Street
Columbus, Ohio 43215-3793

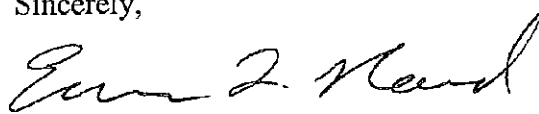
Re: Enclosed Documents for Filing in Case Nos. 09-872-EL-FAC, 09-873-EL-FAC
and 09-1906-EL-ATA

Dear Sir or Madam:

Enclosed please find an original and twenty (20) copies each of Ormet Primary Aluminum Corporation's ("Ormet") Motion to Intervene and Set Matters for Hearing in Case Nos. 09-872-EL-FAC, 09-873-EL-FAC and 09-1906-EL-ATA and the Motion for Admission *Pro Hac Vice* of Clinton A. Vince, Douglas G. Bonner, Daniel D. Barnowski and Emma F. Hand in the same proceedings. These documents were originally filed by facsimile on December 11, 2009. Two additional copies of each Motion are enclosed to be date-stamped and returned to me in the enclosed, self-addressed Federal Express envelope.

Thank you for your assistance in this matter. If you have any questions please contact me at the telephone number above.

Sincerely,



Emma F. Hand

Enclosures

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 DLN Date Processed 12/14/09

ORIGINAL

**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**
)
)
)

RECEIVED-DOCKETING DIV
2009 DEC 14 PM 4:25
PUCO

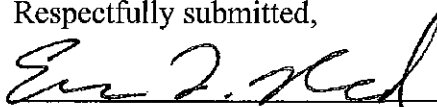
**ORMET PRIMARY ALUMINUM CORPORATION'S
MOTION TO INTERVENE AND SET MATTERS FOR HEARING**

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

these matters for hearing.

Respectfully submitted,



Clinton A. Vince, Counsel of Record

Douglas G. Bonner

Daniel D. Barnowski

Emma F. Hand

Keith C. Nusbaum (#0082745)

Sonnenschein Nath & Rosenthal LLP

1301 K Street NW

Suite 600, East Tower

Washington, DC 20005

202.408.8004 Telephone

202.408.6399 Facsimile

cvince@sonnenschein.com

dbonner@sonnenschein.com

dbarnowski@sonnenschein.com

ehand@sonnenschein.com

knusbaum@sonnenschein.com

*Attorneys for Ormet Primary Aluminum
Corporation*

Dated: December 11, 2009

**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**
)
)
)

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

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.¹

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

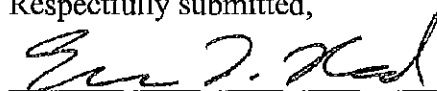
¹ Ohio Admin. Code § 4901-1-11(A)(2) (2007).

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.² 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.

² 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
Emma F. Hand
Keith C. Nusbaum (#0082745)
Sonnenschein Nath & Rosenthal LLP
1301 K Street NW
Suite 600, East Tower
Washington, DC 20005
202.408.8004 Telephone
202.408.6399 Facsimile
cvince@sonnenschein.com
dbonner@sonnenschein.com
dbarnowski@sonnenschein.com
ehand@sonnenschein.com
knusbaum@sonnenschein.com

*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 11th day of December, 2009.

A handwritten signature in black ink, appearing to read "Emma F. Hand", written over a horizontal line.

Emma F. Hand

SERVICE LIST

Columbus Southern Power Company
Ohio Power Company
Selwyn J. R. Dias
Suite 800 88 E. Broad Street
Columbus OH 43215-3550

Marvin I. Resnik
American Electric Power Company
1 Riverside Plaza, 29th Floor
Columbus OH 43215

Michael Idzkowski
Ohio Consumers' Counsel
10 W. Broad Street Suite 1800
Columbus OH 43215-3485