

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Columbus )  
Southern Power Company and Ohio Power )  
Company to Recover Commission-Authorized )  
Deferrals Through Each Company's Fuel )  
Adjustment Clause. )

Case No. 09-1094-EL-FAC

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**INDUSTRIAL ENERGY USERS-OHIO'S REPLY TO AEP-OHIO'S  
MEMORANDUM CONTRA INDUSTRIAL ENERGY USERS-OHIO'S  
MOTION TO SET MATTER FOR HEARING**

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December 15, 2009

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**REPLY OF INDUSTRIAL ENERGY USERS-OHIO**

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On November 13, 2009, Columbus Southern Power Company and Ohio Power Company (collectively, "AEP" or "Companies") filed an Application ("Application") to recover delta revenues related to serving Ormet Primary Aluminum Mill Products Corporation ("Ormet") under an interim reasonable arrangement approved by the Commission in Case Nos. 08-1338-EL-AAM and 08-1339-EL-UNC ("Interim Arrangement Case"). On November 25, 2009, Industrial Energy Users-Ohio ("IEU-Ohio") filed a Motion to Set Matter for Hearing ("Motion") in this proceeding, demonstrating that the Commission has already indicated that additional proceedings, including a hearing, are necessary to address the issues associated with the recovery of delta revenues stemming from the Interim Arrangement Case. The Companies filed a Memorandum Contra on December 9, 2009 addressing both IEU-Ohio's Motion as well as issues raised by the Ohio Consumers' Counsel ("OCC") in OCC's Motion to Intervene in this case. IEU-Ohio hereby files its Reply to the Companies' Memorandum Contra.

The Commission has now twice indicated a hearing in this proceeding is needed. In its Finding and Order in the Interim Arrangement Case granting the Companies the accounting authority to defer the delta revenues it now seeks to recover through this

proceeding, the Commission stated that it was not holding a hearing because the Commission was not granting revenue recovery in that case.<sup>1</sup> The Companies are now requesting to recover its delta revenues and thus a hearing is warranted. Additionally, in Case No. 09-119-EL-AEC, the Commission indicated that further proceedings are necessary regarding the recovery of Ormet-related delta revenues for calendar year 2009, including those associated with the Interim Arrangement Case.<sup>2</sup> Thus, holding a hearing would carry out the Commission's previous Orders regarding the delta revenue at issue in this proceeding.

The Companies indicate that a hearing is not necessary because Commission Staff can verify the accuracy of the numbers provided by the Companies and because intervenors can submit objections they might have regarding the Companies' Application.<sup>3</sup> However, there is no set objection or comment opportunity included in the Commission's rules or by Commission precedent that applies in this case.<sup>4</sup> A hearing is the most effective way for stakeholders to inform the Commission of their objections and to provide a thorough record for the Commission to review when considering the Companies' request.

Further, the Commission has not yet issued an Entry on Rehearing addressing the issues raised by OCC's Application for Rehearing in the Interim Arrangement Case. While the Companies note that they addressed OCC's concerns raised on rehearing

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<sup>1</sup> *In the Matter of the Joint Application of Columbus Southern Power Company and Ohio Power Company for Authority to Modify their Accounting Procedures*, Case Nos. 08-1338-EL-AAM, *et al.*, Finding and Order at 3 (January 7, 2009).

<sup>2</sup> *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-UNC, Opinion and Order at 5 (July 15, 2009).

<sup>3</sup> Memorandum Contra at 2.

<sup>4</sup> Rule 4901:1-35-09, Ohio Administrative Code ("O.A.C."), provides no set opportunity to comment or object to fuel adjustment clause ("FAC") filings of electric distribution utilities.

and that OCC's concerns are "nothing new", the Commission itself has not yet addressed OCC's concerns on rehearing and this fact creates uncertainty about the very matters at issue in this case and provides even more reason why the Commission should hold a hearing.<sup>5</sup>

Finally, as IEU-Ohio highlighted in its Motion, there are various interconnected issues from multiple cases related to this proceeding. On Friday, December 11, 2009, IEU-Ohio filed a Motion to Consolidate this proceeding with the Companies' filings to adjust their FAC and non-FAC rates in accordance with the revenue increase limitations contained in the Companies' approved ESP.<sup>6</sup> Additionally, on Friday, December 11, 2009, Ormet filed a Motion for Hearing in the Companies' proceedings to adjust their FAC and non-FAC rates in accordance with the revenue increase limitations contained in the Companies' approved ESP.<sup>7</sup> The Commission should grant IEU-Ohio's and Ormet's respective Motions in these interconnected cases inasmuch as the Companies have included the delta revenues from this case in the FAC recovery requested in Case Nos. 09-872-EL-FAC and 09-873-EL-FAC.

For the reasons described above, IEU-Ohio respectfully requests the Commission grant IEU-Ohio's Motion and hold a hearing on the Companies' Application.

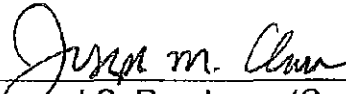
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<sup>5</sup> Additionally, a Motion is still pending in the Interim Arrangement Cases objecting to the booking of delta revenues after the Companies' ESP rates went into effect.

<sup>6</sup> Motion to Consolidate and Memorandum in Support of Industrial Energy Users-Ohio (December 11, 2009).

<sup>7</sup> See *In the Matter of the Fuel Adjustment Clauses for Columbus Southern Power Company and Ohio Power Company*, Case Nos. 09-872-EL-FAC, *et al.*, Ormet Primary Aluminum Company's Motion to Intervene and Set Matters for Hearing (December 11, 2009).

Respectfully submitted,



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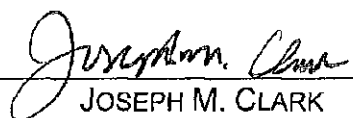
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Industrial Energy Users-Ohio's Reply to AEP-Ohio's Memorandum Contra Industrial Energy Users-Ohio's Motion to Set Matter for Hearing* was served upon the following parties of record this 15th day of December 2009, via first class mail, postage prepaid.

  
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