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August 17, 2010

#### **VIA FEDERAL EXPRESS**

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

Re: Enclosed Documents for Filing

Dear Sir or Madam:

Enclosed for filing in Case No. 10-1072-EL-RDR, please find an original and ten copies of the Motion to Intervene and Memorandum in Support of Ormet Primary Aluminum Corporation, and the Motion for Admission *Pro Hac Vice* of Clinton A. Vince, Douglas G. Bonner, Daniel D. Barnowski, and Emma F. Hand.

Also enclosed are two extra copies of each document 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 number above.

Sincerely,

Douglas G. Bonner

Parther

**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.

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# BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust Their Economic Development Cost Recovery Rider Rates	) ) Case No. 10-1072-EL-RDR )
·	)

#### MOTION TO INTERVENE OF ORMET PRIMARY ALUMINUM CORPORATION

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 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.

Respectfully submitted,

Clinton A. Vince, Counsel of Record

Douglas G. Bonner

Daniel D. Barnowski

Emma F. Hand

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Attorneys for Ormet Primary Aluminum Corporation

Dated: August 17, 2010

# BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbus	, )
Southern Power Company and Ohio Power Company to Adjust Their Economic	) Case No. 10-1072-EL-RDR
Development Cost Recovery Rider Rates	)
	)

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

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 among Ormet and 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,

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

any increase in that standard tariff rate will increase the rate that Ormet pays for power.

Furthermore, the application that AEP Ohio has filed in this case proposes to adjust their

Economic Development Rider rates based on unrecovered costs resulting in part from the delta revenues under AEP Ohio's Unique Arrangement with Ormet.

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 full development and equitable resolution of the factual issues.
- (5) The extent to which the person's interest is represented by existing parties.<sup>2</sup>

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.

<sup>&</sup>lt;sup>2</sup> Ohio Admin. Code 4901-1-11(B) (2007).

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

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Attorneys for Ormet Primary Aluminum Corporation

Dated: August 17th 2010

### **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 17th day of August, 2010.

Douglas G. Bonner

## **SERVICE LIST**

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