

ARGUMENT

The Commission should grant Ormet's Motion to Intervene because Ormet meets the requirements for intervention as set forth in Ohio Revised Code 4903.221 and Ohio Administrative Code 4901-1-11.

Revised Code section 4903.221 provides, in part, that any person "who may be adversely affected" by a Commission proceeding is entitled to seek intervention in that proceeding. Ormet's interests may be adversely affected by the PIRR cases, especially if its interests are unrepresented in these proceedings. The various iterations of the PIRR filed to date would result in an increase of the GS-4 tariff rate applicable to Ormet in the range of \$8-10 million per year. This significant increase constitutes an adverse effect on Ormet which satisfies the first part of the intervention standard in Revised Code 4903.221.

Revised Code section 4903.221(A) requires that Ormet make its motion to intervene within the appropriate timeframe -- that is, where no specific deadline is set, at least 5 days before a scheduled hearing. Shortly after the initial application in this proceeding and prior to the establishment of an intervention deadline, this proceeding was consolidated with cases to which Ormet was already a party. Therefore Ormet did not burden the record with a separate intervention in this docket. However, in the Commission's March 7, 2012 Order in this proceeding, the Commission ordered that because it had disapproved of the Stipulation in the consolidated proceeding, all future filings should be made in the appropriate case dockets as the consolidated case matters would no longer be docketed in all of the cases. (March 7 Order at p. 5). Therefore, it is appropriate for Ormet to intervene in this proceeding at this time. The Commission's February 23, 2012 Entry on Rehearing in the captioned proceedings instructed the attorney examiners "to establish a new procedural schedule consistent with AEP-Ohio's notice along with a new intervention deadline to enable interested

persons who had not previously participated in this proceeding to intervene." Entry on Rehearing at Finding (21). Ormet's Motion to Intervene is timely because the attorney examiners have not yet set the intervention deadline, any scheduled hearing is at least 5 days away, and Ormet was involved in the prior, consolidated case. Ormet now submits the instant motion in the above-captioned cases to ensure its participation in this critically important proceeding.

Section B of 4903.221 requires the Commission to consider the following additional criteria in evaluating motions to intervene:

- (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 proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

Ormet addresses each of these factors in turn.

First, the nature and extent of Ormet's interest flows from the drastic increase in electric rates that it faces as a result of the PIRR, which will be decided in the instant proceeding. The economic viability of Ormet's Hannibal facility depends largely on Ormet's ability to secure reasonably priced electricity. An increase in Ormet's electric service rates adversely impacts Ormet's ability to preserve the nearly 1000 high-paying Ohio jobs at the Hannibal facility. The nature and extent of Ormet's interest therefore supports Ormet's intervention in these cases and dovetails with the Commission's public policy and economic development concerns.

Second, Ormet's legal position is directly implicated by the merits of the above-captioned case. Ormet's position is, broadly stated, that the deferred fuel charges to which it may be subjected as a result of this proceeding should be just and reasonable, based upon current economic conditions. In the formats presented by AEP Ohio thus far, the PIRR is not a just and reasonable recovery mechanism. Specifically, in designing a recovery mechanism, the Commission should take into account, at minimum, the state of the economy in Ohio (and as pertains to Ormet specifically) and the sudden rate increase already being experienced by many ratepayers due to the expiration of the caps on the FAC. The Commission should also reconsider the reasonableness of continuing to allow AEP Ohio to collect carrying charges of between 11 and 12 percent on the deferred costs based on AEP Ohio's weighted average cost of capital. Additionally, Ormet would urge the Commission to consider whether the balance of the deferral should be adjusted to reflect accumulated deferred income taxes. Each position is directly related to the merits of this proceeding as each directly impacts the price Ormet pays for electric service.

Third, Ormet's intervention will not unduly prolong or delay the proceedings. The Commission stayed these proceedings shortly after AEP Ohio's initial filing in September 2011 when it appeared that they could be resolved by a partial stipulation³ filed in the context of the Company's second ESP proceeding.⁴ The Commission recently rejected that Stipulation,⁵ and it now appears that the PIRR issue will be resolved in this proceeding. Ormet's intervention at the outset of this initial reset point will not unduly delay or prolong this proceeding. Further, Ormet's significant experience in similar proceedings, including the prior ESP cases, will facilitate the reasonable and efficient resolution of this action.

³ Entry (September 16, 2011) at 4.

⁴ ESP 2 Case, Stipulation and Recommendation (September 7, 2011) ("Stipulation").

⁵ Entry on Rehearing (February 23, 2012).

Fourth, Ormet's intervention and aforementioned experience will significantly contribute to the full development and equitable resolution of the factual issues. Ormet will obtain and develop information that the PUCO should consider in order to equitably and lawfully decide these cases in the public interest. Because Ormet's interests are not directly aligned with any other party, the facts it presents will be unique and otherwise likely unrepresented to the Commission. Without opportunity to test the economic impact that the proposed PIRR will have on Ormet, one of Ohio's largest employers, the Commission cannot adequately balance the public interest. Accordingly, for all the foregoing reasons, the Commission should grant Ormet's Motion to Intervene because Ormet satisfies the requirements of Ohio Revised Code 4903.221.

In addition to satisfying the statutory criteria for intervention, Ormet also satisfies the intervention criteria set forth in the Ohio Administrative Code. To intervene, a party should have a "real and substantial interest" according to Ohio Administrative Code 4901-1-11(A)(2). For the reasons stated above, the \$8-10 million increase in GS-4 tariff rates to which the various PIRR iterations would subject Ormet constitutes a "real and substantial interest." Indeed, any potential rate increase for Ormet is real and substantial in the current economic climate.

Ormet also meets the requirements of Ohio Administrative Code 4901-1-11(B)(1)-(4), which mirror the statutory criteria in Revised Code section 4903.221(B). For the same reasons Ormet satisfies the criteria in the Revised Code, it satisfies the criteria in Section 4901-1-11(B)(1)-(4) of the Administrative Code.

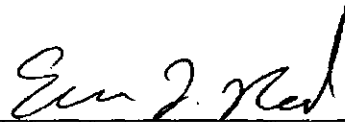
The Ohio Administrative Code further states in Section 4901-1-11(B)(5) that the Commission shall consider the "extent to which the person's interest is represented by

existing parties.” No other party to this case represents Ormet’s specific interests. Ormet’s interests will not and cannot be represented by other parties.

CONCLUSION

Accordingly, for the foregoing reasons, because Ormet meets the criteria set forth in Revised Code 4903.221 and Ohio Administrative Code 4901-1-11, the Commission should grant Ormet’s Motion to Intervene.

Respectfully submitted,



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Dan Barnowski (PHV-1356-2012)

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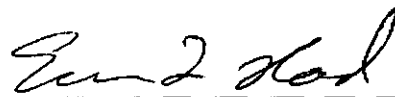
dan.barnowski@snrdenton.com

***Attorneys for Ormet Primary Aluminum
Corporation***

March 13, 2012

CERTIFICATE OF SERVICE

I hereby certify that a copy of Ormet's *Motion to Intervene* was served by U.S. Mail and email upon counsel identified below for all parties of record this 13th day of March, 2012.



Emma F. Hand

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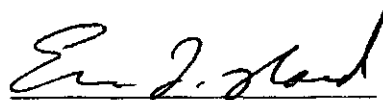
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Columbus Southern Power Company)	
for Approval of a Mechanism to)	
Recover Deferred Fuel Costs Ordered)	Case No. 11-4920-EL-RDR
Under Section 4928.144, Ohio Revised)	
Code.)	

**MOTION FOR PERMISSION TO APPEAR
PRO HAC VICE OF EMMA F. HAND**

Pursuant to Gov.Bar R. XII Section 2(A)(6), Emma F. Hand, attorney for Ormet Primary Aluminum Corporation ("Ormet"), hereby moves the Public Utilities Commission of Ohio to grant her permission to appear *pro hac vice* and participate as counsel in the above proceeding for Ormet, an industrial customer of Columbus Southern Power Company and Ohio Power Company, for the reasons contained in the Memorandum in Support attached hereto and incorporated herein.

Respectfully submitted,



Emma F. Hand (PHV-1353-2012)

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March 13, 2012

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Columbus Southern Power Company for Approval of a Mechanism to Recover Deferred Fuel Costs Ordered Under Section 4928.144, Ohio Revised Code.))))))	Case No. 11-4920-EL-RDR
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**MEMORANDUM IN SUPPORT OF
MOTION FOR PERMISSION TO APPEAR
PRO HAC VICE OF EMMA F. HAND**

Pursuant to Gov.Bar R. XII Section 2(A)(6), Emma F. Hand, attorney for Ormet Primary Aluminum Corporation ("Ormet"), hereby moves the Public Utilities Commission of Ohio ("PUCO") to grant her permission to appear *pro hac vice* and participate as counsel in the above proceeding for Ormet, an industrial customer of Columbus Southern Power Company and Ohio Power Company.

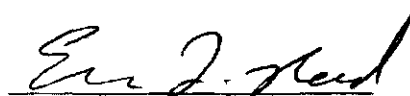
Movant represents that the following is a list of the jurisdictions in which she has ever been licensed to practice law, including dates of admission to practice, resignation, or retirement, and any attorney registration numbers: Virginia (#46272; admission date: 2001); and District of Columbia (#4760001; admission date: 01/11/2002).

Movant represents that she has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Gov.Bar R. XII Section 2(A)(5).

Art Beeman (#0032948; admission date 11/23/1982), an active Ohio attorney in good standing, has agreed to associate with Movant on this matter.

The affidavit required by Gov.Bar R. XII Section 2(A)(6) (Exhibit A), a copy of Movant's certificate of *pro hac vice* registration furnished by the Supreme Court of Ohio Office of Attorney Services (Exhibit B), and a certificate indicating service of this Motion on all known parties and attorneys of record are attached. Movant understands that, if this Motion is granted, Movant must file a *Notice of Permission to Appear Pro Hac Vice* and a copy of the Order granting permission with the Supreme Court of Ohio Office of Attorney Services within thirty days of the Order.

Respectfully submitted,



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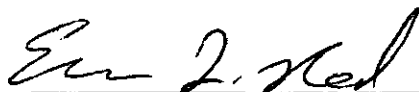
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Attorney for Ormet Primary Aluminum Corporation

March 13, 2012

CERTIFICATE OF SERVICE

I hereby certify that a copy of the instant *Motion For Permission to Appear Pro Hac Vice* of *Emma F. Hand* was served by U.S. Mail and email upon counsel identified below for all parties of record this 13th day of March, 2012.



Emma F. Hand (PHV-1353-2012)

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Exhibit A

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of)
Columbus Southern Power Company)
for Approval of a Mechanism to)
Recover Deferred Fuel Costs Ordered)
Under Section 4928.144, Ohio Revised)
Code.)**

Case No. 11-4920-EL-RDR

**AFFIDAVIT IN SUPPORT OF
MOTION FOR ADMISSION
PRO HAC VICE OF EMMA F. HAND**

Emma F. Hand, states as follows:

I have never been disbarred, I am not currently under suspension from any bar, nor have I ever resigned with discipline pending in any jurisdiction.

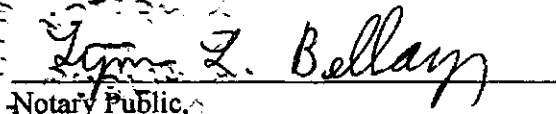


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Sworn to and subscribed

Before me

This 12 day of March, 2012



Notary Public

My Commission Expires: _____

**LYNN L. BELLAY
NOTARY PUBLIC
DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES FEB. 28, 2015**

Exhibit B

THE SUPREME COURT *of* OHIO
OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

Emma Hand

FOR PRO HAC VICE REGISTRATION

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of
PRO HAC VICE
REGISTRATION

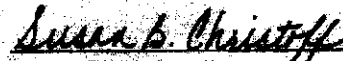
2012

Registration Number:
PHV- 1353-2012

Emma Hand

_____, having met the requirements of, and found to be in full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio.



Susan B. Christoff
Director, Attorney Services

Expires December 31, 2012

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

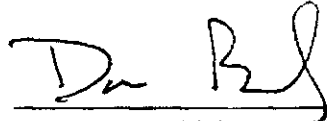
**In the Matter of the Application of
Ohio Power Company for Approval of
a Mechanism to Recover Deferred
Fuel Costs Ordered Under Section
4928.144, Ohio Revised Code.**

Case No. 11-4921-EL-RDR

**MOTION FOR PERMISSION TO APPEAR
PRO HAC VICE OF DAN BARNOWSKI**

Pursuant to Gov.Bar R. XII Section 2(A)(6), Dan Barnowski, attorney for Ormet Primary Aluminum Corporation ("Ormet"), hereby moves the Public Utilities Commission of Ohio to grant him permission to appear *pro hac vice* and participate as counsel in the above proceeding for Ormet, an industrial customer of Columbus Southern Power Company and Ohio Power Company, for the reasons contained in the Memorandum in Support attached hereto and incorporated herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dan Barnowski", written over a horizontal line.

Dan Barnowski (PHV-1356-2012)

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*Attorney for Ormet Primary Aluminum
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March 13, 2012

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of
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Fuel Costs Ordered Under Section
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Case No. 11-4921-EL-RDR

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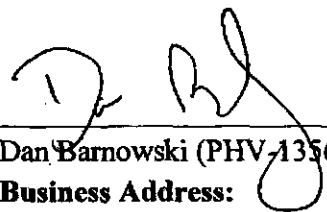
Movant represents that the following is a list of the jurisdictions in which he has ever been licensed to practice law, including dates of admission to practice, resignation, or retirement, and any attorney registration numbers: Arizona (#016364; admitted in 1995; currently inactive); District of Columbia (#457108; admission date: 01/15/1998; active).

Movant represents that he has not been granted permission to appear *pro hac vice* in more than three proceedings before Ohio tribunals in the current calendar year pursuant to Gov.Bar R. XII Section 2(A)(5).

Art Beeman (#0032948; admission date 11/23/1982), an active Ohio attorney in good standing, has agreed to associate with Movant on this matter.

The affidavit required by Gov.Bar R. XII Section 2(A)(6) (Exhibit A), a copy of Movant's certificate of *pro hac vice* registration furnished by the Supreme Court of Ohio Office of Attorney Services (Exhibit B), and a certificate indicating service of this Motion on all known parties and attorneys of record are attached. Movant understands that, if this Motion is granted, Movant must file a *Notice of Permission to Appear Pro Hac Vice* and a copy of the Order granting permission with the Supreme Court of Ohio Office of Attorney Services within thirty days of the Order.

Respectfully submitted,



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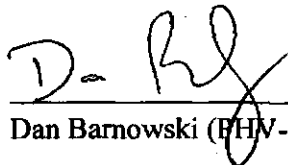
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*Attorney for Ormet Primary Aluminum
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March 13, 2012

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Dan Barnowski (PHV-1356-2012)

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Exhibit A

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

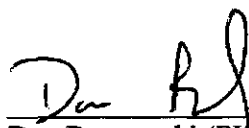
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Case No. 11-4921-EL-RDR

**AFFIDAVIT IN SUPPORT OF
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PRO HAC VICE OF DAN BARNOWSKI**

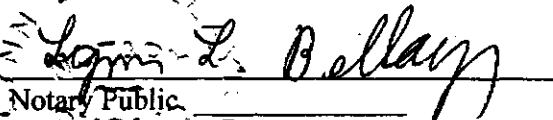
Dan Barnowski, states as follows:

I have never been disbarred, I am not currently under suspension from any bar, nor have I ever resigned with discipline pending in any jurisdiction.



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Sworn to and subscribed
Before me
This 12 day of March, 2012



Notary Public
My Commission Expires: _____

LYNN L. BELLAY
NOTARY PUBLIC
DISTRICT OF COLUMBIA
MY COMMISSION EXPIRES FEB. 28, 2015

Exhibit B

THE SUPREME COURT of OHIO

OFFICE OF ATTORNEY SERVICES

IN THE MATTER OF THE APPLICATION OF

Daniel Barnowski

FOR PRO HAC VICE REGISTRATION

per Gov. Bar R. XII, Section 2(A)(3)

Certificate of
PRO HAC VICE
REGISTRATION

2012

Registration Number:
PHV- 1356-2012Daniel Barnowski

_____ having met the requirements of, and found to be in full compliance with, Section 2(A)(3) of Rule XII of the Rules for the Government of the Bar of Ohio, is hereby issued this certificate of pro hac vice registration in the state of Ohio.

To receive permission to appear pro hac vice in an Ohio proceeding, a motion requesting such permission must be filed with the tribunal in accordance with Section 2(A)(6) of Rule XII of the Rules for the Government of the Bar of Ohio.

Susan B. Christoff
Director, Attorney Services

Expires December 31, 2012