

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company))))))	Case No. 09-119-EL-AEC
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**MOTION OF
ORMET PRIMARY ALUMINUM CORPORATION
AND REQUEST FOR EXPEDITED RULING**

Ormet Primary Aluminum Corporation ("Ormet"), moves that the Commission require Ohio Power Company ("Ohio Power") to provide electric service to Ormet throughout the remainder of Ormet's bankruptcy proceeding.¹ Ormet believes that Ohio Power may soon be entitled to disconnect Ormet's electric service, and is concerned that doing so will inadvertently disconnect a third party, Hannibal Real Estate, Inc., and may also lead to significant environmental harm. In order to protect the third party, which has no relation to Ormet, from inadvertent disconnect, and the public from environmental harm, Ormet requests that Ohio Power be required to provide electric service to the Hannibal Facilities throughout the bankruptcy proceedings, subject to Ormet's ability to pay for such service, at the applicable tariff rate, weekly in advance. Ormet has gained consent from its lenders to pay for such service,

¹ *In re: Ormet Corporation*, Case No. 13-10334 (MFW) before the U.S. Bankruptcy Court for the District of Delaware.

pursuant to an approved budget,² at the applicable tariff rate weekly in advance, which will protect Ohio Power and other ratepayers from any further risk of nonpayment.

Ormet requests that service be provided under the applicable tariff rate, and seeks clarification that any minimum demand charge should be applied based upon its reduced level of usage under that tariff rate, rather than upon its prior levels of usage under the Unique Arrangement when the Hannibal Facilities were operational. Ormet also seeks expedited treatment of this motion.

The reasons supporting the requests in this motion are set forth in the accompanying Memorandum in Support. Good cause exists for granting the relief requested herein on an expedited basis.

Respectfully submitted,



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October 22, 2013

² Ormet believes that the necessary level of ongoing service will likely be in the 2.0-2.5 MW range, however, Ormet will adjust its usage so as not to exceed the level ultimately authorized in the approved budget.

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**MEMORANDUM IN SUPPORT OF MOTION OF
ORMET PRIMARY ALUMINUM CORPORATION
AND REQUEST FOR EXPEDITED RULING**

On October 2, 2013, the Commission issued an Opinion and Order ("October 2 Order") modifying and approving the application for a Unique Arrangement with Ohio Power Company ("Ohio Power") submitted by Ormet Primary Aluminum Corporation ("Ormet"). Unfortunately, although the purpose of Ormet's application was to permit Ormet to emerge from bankruptcy as a going concern and become viable on a long-term basis, the modifications made to the proposed relief in the Commission's October 2 Order rendered the relief insufficient to allow Ormet to emerge from bankruptcy. As a result, Ormet has initiated the shut down of the Hannibal Facilities in order to prepare for the disposition of Ormet's assets through the bankruptcy process. Due to environmental concerns and impact upon a third party's electricity supply, it is imperative that electric service to Ormet not be disconnected during the bankruptcy process. While Ormet is unable to continue meeting its obligations under the Unique Arrangement, it has received commitments from its lenders³ to pay electric bills weekly in advance under the applicable tariff

³ Ormet's lenders are Wells Fargo Capital Finance, LLC, its Revolving Loan Agent, and Wayzata Investment Partners LLC, its DIP Term Loan Agent.

rate, pursuant to an approved budget.⁴ Therefore, Ormet moves that the Commission require Ohio Power to serve Ormet under the applicable tariff rate until such time as the bankruptcy process has concluded, for which Ormet agrees to pay weekly in advance, subject to the terms of an approved budget. This would ensure an orderly transfer of the Hannibal Facilities with minimal harm to the environment and third parties. Due to the urgency of the situation, and in light of the fact that Ormet would receive no discount and therefore no subsidy from other ratepayers under this proposal, and prepayment for the electricity will protect Ohio Power from the risk of nonpayment, Ormet requests expedited treatment of this motion.

Ormet does not have the funds to make payments for the electric service provided prior to October 8, 2013. When Ormet was unable to obtain the requested modifications to the Unique Arrangement in the Commission's October 2 Order, the condition precedent to the sale to Smelter Acquisition was not satisfied, and the transaction has not closed. After the October 2 Order, the failure to satisfy the condition precedent, and the curtailment of operations at the Hannibal Facilities, Ormet received a letter dated October 8, 2013 from its Revolving Loan Agent notifying it of events of default under the Super-Priority Senior Secured Debtor-In-Possession Second Amended and Restated Loan and Security Agreement. Subsequently, on October 10, 2013, Ormet received a letter from the DIP Term Loan Agent notifying Ormet of existing events of default under the terms of the Senior Secured Super-priority Debtor-In-Possession Term Loan and Security Agreement. Accordingly, the Revolving Loan Agent has placed an individual on-site at the Hannibal Facility to oversee all disbursements by Ormet, and the Revolving Loan Agent has coordinated with Ormet on a daily basis, with respect to each and every disbursement that is being made. At the present time, pending finalization and approval of

⁴ Ormet believes that the necessary level of ongoing service will likely be in the 2.0-2.5 MW range, however, Ormet will adjust its usage so as not to exceed the level ultimately authorized in the approved budget.

a budget, only necessary payments are being made and numerous other obligations that accrued prior to the Notices of Event of Default are not being authorized for payment in the ordinary course of business.

Payment is due on Ormet's October 2, 2013 Ohio Power bill on October 23, 2013, and under the terms of the Unique Arrangement, if Ormet is not able to make payment by October 25, 2013 Ohio Power may declare an event of default and disconnect service to Ormet as early as October 30, 2013. Ormet is concerned that if it defaults on this bill, Ohio Power will terminate the Unique Arrangement and could proceed with a disconnection of service to Ormet, which could have a severe negative impact on parties other than Ormet. Even if Ohio Power does not terminate the Unique Arrangement, Ormet does not anticipate being able to continue to meet its obligations under the Unique Arrangement at this time. In order to protect other parties from the harm a disconnect could cause, Ormet now seeks an order from the Commission requiring Ohio Power to continue to provide electric service to the Hannibal Facilities at the applicable tariff rate until such time as the bankruptcy process has concluded, subject to Ormet's payment of the electric bills at the applicable tariff rate, weekly, in advance. Ormet has the commitment of its lenders that it will be authorized to make payments for power provided under these circumstances on an ongoing basis weekly in advance, subject to the terms of an approved budget, so that no additional burden would be placed upon Ohio Power or Ohio ratepayers.

If electric service to Ormet is discontinued, substantial harm could be done to Hannibal Real Estate, Inc. and to the environment. Hannibal Real Estate, Inc. has no corporate relationship to Ormet, but because it is located on the former Ormet rolling mill site, its electric service is provided through Ormet's system. Hannibal Real Estate, Inc. employs over two hundred people and provides materials and services for the oil and gas drilling and exploration

activities in the area. If service to Ormet is disconnected, it will also result in the inadvertent disconnection of service to Hannibal Real Estate, Inc.

In addition, Ormet operates and maintains a site listed by the U.S. Environmental Protection Agency ("EPA") under the National Priorities List (EPA ID# OHD004379970).

Under a consent decree with EPA and to protect human health and the environment, Ormet must undertake certain tasks to remediate the site and to minimize risk of release of hazardous substances. These tasks include in-situ flushing of soil in the former spent potliner disposal area, pumping of water from an onsite aquifer to the Ohio River, and operation of a landfill and storage cell, requiring the collection and treatment of leachate. All these activities require electricity to conduct. If service to Ormet is disconnected, Ormet will not be able to conduct these important activities, putting the public at risk and potentially resulting in additional liability to Ormet from noncompliance with the EPA order and any additional releases.

Ormet also operates a sewage treatment plant located on the Hannibal Real Estate, Inc. property which provides sanitary waste water treatment for both the Ormet and Hannibal Real Estate facilities. Electricity is also needed to run that plant, and a disconnection could result in the inability to treat waste water, further putting public health at risk and raising liability concerns. Finally, natural gas heating and control systems for both the Hannibal Facility and Hannibal Real Estate, Inc. require electric service to be operated safely.

In order to protect the environment and Hannibal Real Estate, Inc. from unintended damage due to a possible disconnection of electric service to Ormet, Ormet is requesting that Ohio Power be required to establish a new service account for the Hannibal facility under the existing applicable tariff, and that Ohio Power not be permitted to disconnect service to the

Hannibal Facility during the bankruptcy process, so long as Ormet makes advance weekly payments of such electric bills.

In light of the fact that this would be a new service under a different rate, and that Ormet will not be resuming its prior level of electric usage, Ormet would also request that the Commission clarify that any minimum demand charge applicable to Ormet should be calculated based on Ormet's reduced usage, and not upon Ormet's prior usage levels under the Unique Arrangement when the Hannibal Facilities were operational.

Ormet has not obtained the consent of the other parties in this proceeding to expedited treatment of this motion. Ormet has engaged in discussions of these issues with Ohio Power, and it is Ormet's understanding that Ohio Power is considering Ormet's proposal.

Conclusion

Wherefore, Ormet respectfully requests that the Commission require Ohio Power to provide electric service subject to Ormet's ability to pay for such electric service weekly, in advance, at the applicable tariff rate for the duration of the bankruptcy process, with a minimum demand charge based upon its reduced level of usage, and prohibit Ohio Power from disconnecting Ormet during that period.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document has been served upon the persons below via electronic mail this 22nd day of October 2013.



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Summary: Motion Motion of Ormet Primary Aluminum Corporation and Request for Expedited Ruling electronically filed by Ms. Emma F Hand on behalf of Ormet Primary Aluminum Corporation