

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Ormet Primary Aluminum Corp.,)	
)	
Complainant,)	
v.)	
)	Case No. 13-2206-EL-CSS
)	
Ohio Power Company,)	
)	
Respondent.)	

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene in this case where Ohio Power Company¹ ("OPC" or "Ohio Power") and Ormet Primary Aluminum Corp. ("Ormet") are seeking approval from the Public Utilities Commission of Ohio ("Commission" or "PUCO") of a Stipulation and Recommendation that may increase the rates that residential and other customers of Ohio Power pay for electric service. The reasons the PUCO should grant OCC's Motion are further set forth in the attached Memorandum in Support.

¹ Effective at the end of 2011, OPC and CSP (both of which were operating companies of AEP Ohio) merged, with OPC becoming the successor in interest to CSP. See *In re: AEP Ohio ESP Cases*, Case No. 11-346-EL-SSO, et al. ("ESP 2 Case"), OPC Application for Rehearing (January 13, 2012) at 2.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady
Maureen R. Grady, Counsel of Record
Edmund J. Berger
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (Grady) (614) 466-9567
Telephone: (Berger) (614) 466-1292
maureen.grady@occ.ohio.gov
edmund.berger@occ.ohio.gov

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Ormet Primary Aluminum Corp.,)	
)	
Complainant,)	
v.)	
)	Case No. 13-2206-EL-CSS
)	
Ohio Power Company,)	
)	
Respondent.)	

MEMORANDUM IN SUPPORT

In this proceeding, OPC and Ormet ask the PUCO to confirm that OPC has the right to collect from customers, through its EDR, delta revenues of \$49.2 million for funding electricity discounts to Ormet.² Included in the \$49.2 million delta revenues are revenues related to Ormet’s unpaid bills, an issue that OCC raised on rehearing with the PUCO.³

The delta revenues refer to the difference between the discounted rate that Ohio Power charged to Ormet and the Ohio Power tariffed-rate that would otherwise apply. Additionally in this case, under prior PUCO decisions, delta revenues for the OPC/Ormet reasonable arrangement include certain of Ormet’s electric bills that it was permitted to defer payment on.⁴ OCC has authority under law to represent the interests of all Ohio

² *Ormet Primary Aluminum Corporation v. Ohio Power Company*, Case No. 13-2206-EL-CSS, Stipulation and Recommendation at 6 (Feb. 3, 2014).

³ See *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-AEC, OCC Application for Rehearing (Nov. 1, 2013).

⁴ See, e.g., *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-AEC, Entry (Oct. 17, 2012); Entry (Aug. 21, 2013).

Power's 1.2 million residential electric distribution customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential customers may be "adversely affected" by this case, especially if the customers were unrepresented in a proceeding where one of the issues is how much customers will pay for the subsidy that funds Ormet's electricity bills. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Commission to consider the following criteria in ruling on 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.

First, the nature and extent of OCC's interest is representing the residential customers in this case involving the request that they (customers) pay (delta) revenues to Ohio Power for the reasonable arrangement. This interest is different than that of any other party and especially different than that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that utility rates should be no more than what is reasonable and lawful under

Ohio law. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case involving the issues as to who should pay for the \$49.2 million in delta revenues. This could affect the rates residential customers pay for electric service.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the Commission shall consider the "extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it

uniquely has been designated as the state representative of the interests of Ohio's residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.⁵

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the Commission should grant OCC's Motion to Intervene.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Maureen R. Grady _____

Maureen R. Grady, Counsel of Record
Edmund J. Berger
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
Telephone: (Grady) (614) 466-9567
Telephone: (Berger) (614) 466-1292
maureen.grady@occ.ohio.gov
edmund.berger@occ.ohio.gov

⁵ See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20 (2006).

CERTIFICATE OF SERVICE

I hereby certify that a copy of this *Motion to Intervene* was served on the persons stated below via electronic transmission, this 10th day of February 2014.

/s/ Maureen R. Grady
Maureen R. Grady
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Fl.
Columbus, OH 43215
William.wright@puc.state.oh.us

Steven T. Nourse
Yazen Alami
American Electric Power Service Corp.
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
stnourse@aep.com
yalami@aep.com

Emma F. Hand
Dentons US LLP
1301 K Street NW
Suite 600, East Tower
Washington, DC 20005
emma.hand@dentons.com

Attorney Examiner:

Attorney for Ormet Primary Aluminum
Corporation

Sarah.parrot@puc.state.oh.us

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/10/2014 11:19:02 AM

in

Case No(s). 13-2206-EL-CSS

Summary: Motion Motion to Intervene by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.