

FILE

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of Ormet :
Primary aluminum Corporation for Approval of :
a Unique Arrangement with Ohio Power : Case No. 09-119-EL-AEC
Company and Columbus Southern Power :
Company :
:

Rebuttal Testimony
of
Robert B. Fortney
Rates and Tariffs Division

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REBUTTAL TESTIMONY OF ROBERT B. FORTNEY

- 3 1. Q. Please state your name and business address.
4 A. My name is Robert B. Fortney. My business address is 180 E. Broad
5 Street, Columbus, Ohio 43215.
6 2. Q. By whom are you employed and in what capacity?
7 A. I am employed by the Public Utilities Commission of Ohio (PUCO) as a
8 Public Utilities Administrator 3 in the Rates and Tariffs Division of the
9 Utilities Department.
10 3. Q. Are you the same Robert B. Fortney who previously submitted testimony in
11 this case?
12 A. Yes, I am.
13 4. Q. What is the purpose of your rebuttal testimony in this proceeding?
14 A. On April 10, 2009, Ormet Primary Aluminum Corporation (Ormet) filed an
15 amended application for approval of a unique arrangement with Ohio
16 Power Company and Columbus Southern Power Company (collectively,
17 AEP Ohio). The intent of the application is that the rates provided in the
18 arrangement would be the lesser of the AEP Ohio GS-4 tariff rates or the
19 all-in rates proposed in the application. Section 2.03 of the proposed Power
20 Agreement reads (in its entirety) as follows: "Section 2.02.
21 notwithstanding, the Parties agree that the Commission may, upon petition
22 or *sua sponte*, require modification of this Power Agreement upon a finding
23 that the rates produced under this Power Agreement are no longer just and
24 reasonable. The Parties further agree that, subject to Section 3.01, such
25 modification (i) may not be effective earlier than January 1, 2016 unless the
26 cumulative net discount from the AEP Ohio Tariff Rate exceeds 50% of the
27 amount Ormet would have been required to pay under the AEP Ohio Tariff
28 Rate, and (ii) shall not go into effect between the Parties until the later of
29 the beginning of the next calendar year or 120 days." On April 30, 2009,
30 Ormet witness Henry Fayne, under cross examination of Mr. Kurtz,
31 representing the Ohio Energy Group, and also responding to a series of
32 questions from Examiner Price (April 30, 2009 transcript beginning at page
33 231) described how this provision would work and what he believed was
34 the intent of the provision. In response to Examiner Price's question "So it
35 is possible that Ormet could receive a credit for twelve months and be
36 well below the 50% threshold before the Commission could actually
37 change the contract?" Mr. Fayne responded "That is correct" (Transcript,
38 pgs. 233-234). Mr. Kurtz later asked "But is it the intent of the contract to
39 ensure that Ormet will pay at least the equivalent of 50%?" Mr. Fayne
40 responded "That was the expectation because it presumed, and I must admit
41 it did not take in the added detail that was just suggested in terms of the
42 limitation in timing, but it was basically designed – presumed that the
43 Commission would act and would act promptly, an if, in fact, it was

1 approved, it could be a discount larger than 50 percent, the Commission
2 had the option to do that.” Mr. Kurtz further asked “So if that was the
3 intent and the Commission felt that the language did not effectuate that
4 intent, then the solution would be for the Commission to modify the
5 language.” Mr. Fayne responded “That would certainly be within their
6 prerogative” (Transcript, pgs. 234-235). The purpose of my rebuttal
7 testimony is to provide the Commission with staff’s recommendation as to
8 what the modified provision should be.

9 5. Q. What is that recommendation?

10 A. For clarification purposes, staff has already recommended on cross
11 examination that the Commission approve the proposed arrangement as it
12 pertains to 2009. Therefore, this recommendation pertains to 2010 – 2018,
13 years 2 through 10 of the proposed arrangement. Staff agrees that there
14 should be a “price floor,” or a rate below which the amount Ormet pays
15 cannot go. But, this rate should be predetermined and should be a
16 provision in the contract. The Commission should not have to reopen the
17 contract to effectuate the provision.

18 6. Q. What should be considered in setting the floor?

19 A. There are two considerations in setting the price floor. One is the rate that
20 Ormet should pay. The other is the level of delta revenues that the other
21 customers of AEP Ohio (i.e. the customers of Columbus Southern Power
22 Company and Ohio Power Company) will be required to pay. Staff
23 suggests that the two are intertwined.

24 7. Q. What are “delta revenues?”

25 A. “Delta revenue” is defined in 4901:1-38-01, OAC, as the deviation
26 resulting from the difference in rate levels between the otherwise applicable
27 rate schedule and the result of any reasonable arrangement approved by the
28 Commission. AEP proposes to spread the delta revenue among its other
29 customers through its Economic Development Rider.

30 8. Q. Why does staff view the price floor and the delta revenues as intertwined.

31 A. Staff recommends that the Commission set a delta revenue cap for years
32 two through twelve in this proceeding. That revenue cap should then be the
33 basis for determining the price floor. In other words, the delta revenues
34 created by the price floor should equal the delta revenue cap.

35 9. Q. Can you give an example to quantify this recommendation?

36 A. Yes. Unless modified by the Commission, approval of this arrangement
37 would grant AEP Ohio 100% recovery of any delta revenues. Attachment
38 A contains the quantification of different scenarios. If the delta revenue cap
39 was set at \$54,000,000, then the resulting price floor at the full Ormet
40 operations (i.e. 6 pot lines) would be 3.252 cents/kWh. At the same cap
41 (\$54,000,000) at 2/3 of the full Ormet operations (i.e. 4 pot lines) the
42 resulting price floor would be 2.67 cents/kWh.

- 1 10. Q. Why did you use \$54,000,000 as the delta revenue cap?
- 2 A. There is no clear-cut technical, fact-based rationale to make this
3 determination. It is, to a great degree, subjective. However, there is a
4 combination of circumstances which makes that number seem reasonable.
5 (a) That number is approximately Ormet's annual wages as described in the
6 application. Staff believes that a 25% discount given to a customer is a
7 reasonable maximum incentive to promote economic development which
8 will be funded by other ratepayers. (c) AEP has approximately 1.5 million
9 customers. The \$54,000,000 represents \$36/year per customer, or
10 \$3/month per customer. An extra \$3 per month represents an additional
11 3+% increase to an average residential customer on top of the three-year
12 increases they will already see as a result of the AEP ESP. That cost per
13 customer per month represents an amount that Staff finds to be a maximum
14 subsidy for other customers to pay. While staff is recommending the
15 \$54,000,000 as an annual cap for years 2010 through 2018, it also
16 recommends that the Commission consider adjusting that number
17 proportionately based on either the level of operations at Ormet (e.g. a
18 reduced cap if Ormet does not continue its 6 pot line operations) or on the
19 level of employees retained (e.g. a reduced cap if employees are laid off).
20 In addition, the Commission should consider a "phase-in" approach in
21 which the level of the delta revenue cap is reduced in subsequent years such
22 that, in the end, Ormet is paying full tariff rates.
- 23 11. Q. How would the floor price work?
- 24 A. The rate Ormet pays would be based on the higher of the price-of-
25 aluminum based calculation in the application or the floor price. It could be
26 predetermined in the agreement or a conference could be set for each
27 October to determine a reasonable cap which reflects the current
28 circumstances for the following year by a working group composed of
29 Ormet, AEP, Commission staff, and the other intervening parties to this
30 case.
- 31 12. Q. Does this conclude your testimony?
- 32 A. Yes, it does.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Testimony of Robert B. Fortney was served via electronic mail, postage prepaid upon the following parties of record this 15th day of June, 2009.



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Assumptions :

Average AEP Ohio All-In GS-4 Rate = \$.04417

6 pot lines = 540,000 kW

4.6 pot lines = 414,000 kW

4 potlines = 360,000 kW

Ormet operates 365 days/year, 24 hours/day at a 98% load factor

Example 1

Delta revenue cap = \$54,000,000, 6 pot lines

kW	days	hours	load factor	tariff price	price floor	delta revenue
540000	365	24	0.98	0.04417	0.03252	\$ 54,006,977

Example 2

Delta Revenue cap = \$54,000,00,4 pot lines

360000	365	24	0.98	0.04417	0.02669	\$ 54,022,429
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Example 3

Delta revenue cap = \$54,000,00, 4.6 pot lines

414000	365	24	0.98	0.04417	0.02897	\$ 54,022,429
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Example 4

Delta Revenue Cap = \$41,400,400, 4.6 pot lines

414000	365	24	0.98	0.04417	0.03252	\$ 41,405,349
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Example 5

4 pot lines, price of \$.034

360000	365	24	0.98	0.04417	0.034	\$ 31,430,670
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Example 6

6 pot lines, price of \$.038

540000	365	24	0.98	0.04417	0.038	\$ 28,602,837
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Example 7

6 pot lines, floor price = \$.02402

540000	365	24	0.98	0.04417	0.02402	\$ 93,411,209
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Example 8

6 pot lines, floor price = 0

540000	365	24	0.98	0.04417	0	\$ 204,762,933
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Example 9

6 pot lines, floor price = 50% of .04417 = .022085

540000	365	24	0.98	0.04417	0.022085	\$ 102,381,466
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