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BEFORE RECEIVED-DOCKETING DIV
THE PUBLIC UTILITIES COMMISSION OF OHIO 2009 AUG -5 PM 1:00

In the Matter of the Application for
Establishment of a Reasonable
Arrangement between Eramet
Marietta, Inc. and Columbus Southern
Power Company.

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Case No. 09-516-EL-AEC

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JOINT STIPULATION AND RECOMMENDATION

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THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Establishment of a Reasonable)	Case No. 09-516-EL-AEC
Arrangement between Eramet)	
Marietta, Inc. and Columbus Southern)	
Power Company.)	

JOINT STIPULATION AND RECOMMENDATION

I. BACKGROUND

On June 19, 2009, Eramet Marietta, Inc. ("Eramet"), a mercantile customer as defined by Section 4928.01, Revised Code, and a producer of manganese alloys that strengthen and improve the properties of steel at its facility in Marietta, Ohio, filed an application for establishment of a reasonable arrangement between Columbus Southern Power Company ("CSP") and Eramet. Eramet currently directly employs approximately 230 people at its plants and facilities located in Washington County, Ohio ("Marietta Facility"). Eramet is within the certified service area of and obtains electricity from CSP, an electric distribution company as defined by Section 4928.01, Revised Code.

Eramet is evaluating opportunities to make capital investment in its current manufacturing operation at the Marietta Facility. Access to and successful deployment of capital at this location are, in part, predicated on Eramet's ability to secure a reliable supply of electricity pursuant to terms and conditions that will provide it with a reasonable and predictable price over a term that will allow the investment of approximately \$40 million in capital investments to upgrade the Marietta Facility.

Successful capital investment is required to enable Eramet's ongoing operation in Southeastern Ohio and allow for operational and environmental performance improvements at its facilities. Eramet is hopeful that the reasonable arrangement discussed herein will also place it in a position to focus its energies on planning for longer-term investments at the Marietta Facility that will facilitate its competitiveness in the global economy in furtherance of Ohio's policy in Section 4928.02, Revised Code.

II. INTRODUCTION

Rule 4901-1-30, Ohio Administrative Code ("O.A.C."), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. Pursuant to Rule 4901:1-10(C), O.A.C., the Staff of the Public Utilities Commission of Ohio ("Staff") is considered a party for the purpose of entering into a stipulation under Rule 4901:1-30, O.A.C. The purpose of this document is to set forth the understanding and agreement of the parties who have signed below ("Signatory Parties") and to recommend that the Public Utilities Commission of Ohio (the "Commission" or "PUCO") approve and adopt this Stipulation and Recommendation ("Stipulation") as part of its Opinion and Order in this proceeding, resolving all of the issues in this proceeding.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of issues in this proceeding; violates no regulatory principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable parties in a cooperative process and undertaken by the parties representing a wide range of interests to resolve the aforementioned issues. In accordance with Commission precedent, this Stipulation is entitled to careful

consideration. For purposes of resolving the issues raised by this proceeding, the Signatory Parties stipulate, agree and recommend as set forth below.

III. DISTRIBUTION TO PARTIES

This Stipulation has been distributed to Staff, Eramet, the Ohio Energy Group ("OEG"), the Office of the Ohio Consumers' Counsel ("OCC"), and CSP (hereinafter collectively referred to as the "Parties").

IV. RECITALS

Section 4905.31, Revised Code, permits the Commission to enable a reasonable schedule or arrangement between a mercantile customer such as Eramet and a public utility such as CSP upon application by a mercantile customer. Eramet filed such an application with the Commission in this proceeding on June 19, 2009 requesting that the Commission enable a schedule or arrangement that will permit Eramet to make necessary capital investments at its Marietta Facility and successfully operate manufacturing facilities in Southeast Ohio.

The Signatory Parties agree and recommend that the Commission approve the June 19, 2009 Application in this proceeding and enable the reasonable arrangement requested therein subject to the modifications contained herein, all of which are set forth below:

A. Plant Facilities and Equipment

Under the proposed arrangement, Eramet shall continue to be responsible for all on-premise electrical facilities as well as all customer substation requirements necessary to receive electric service at 138 kV and CSP shall continue to be responsible for, in accordance with applicable rules or tariff provisions, the installation of

all upstream facilities, plant and equipment that may be reasonably required to reliably supply Eramet with electricity. The arrangement shall, unless otherwise specified, require that CSP's Electric Service Regulations, as modified from time to time, apply to Eramet as such Regulations would apply to Eramet pursuant to CSP's otherwise applicable standard rate schedule applied to the installation and use of electric service furnished pursuant to this schedule. In the event of a conflict between such Electric Service Regulations and the reasonable arrangement, the reasonable arrangement shall control.

B. Term

The term of the arrangement shall be ten (10) years commencing with its effective date provided that at any point during such term, Eramet shall be entitled to seek to reopen and modify the rates and conditions of such arrangement in conjunction with its effort to secure corporate approvals required to make a total capital investment of approximately \$100,000,000 as discussed in Section IV.D. below. The effective date shall be the date upon which the Commission issues an order permitting the arrangement to become effective. No modification or extension shall become effective without the Commission's approval.

C. Quality of Service Under the Arrangement

Unless otherwise agreed by CSP and Eramet, CSP shall supply and deliver to Eramet electric service having the same quality as service that CSP is obligated to provide to Eramet under CSP's GS-4 rate schedule and successors thereto. CSP shall supply and deliver electricity in such amount as may be sufficient to meet Eramet's full requirements and Eramet shall consume and purchase such delivered supply to the

same extent as would otherwise be the case if Eramet were served by CSP under the otherwise applicable tariff and did not obtain supply from a competitive retail electric service supplier.

D. Pricing

Under the reasonable arrangement, the applicable price for electricity supplied and delivered to Eramet shall include all generation, transmission and distribution charges plus any surcharges, riders or other adders (the "all-in price") as applied to a base level of usage ("Base Usage") as such Base Usage may be modified. The price applied to Eramet's Base Usage shall be differentiated over time during the ten-year term as stated herein. During the term of this arrangement, the Base Usage shall not exceed 38,000,000 kWh per month¹ at a maximum demand level of 65 MVA² unless otherwise stated herein or unless otherwise modified with the approval of the Commission.

In the event that Eramet's North Side facility resumes operations other than for temporary purposes and Eramet so notifies CSP in writing, the Base Usage quantity shall be set at 46,000,000 kWh per month at a maximum demand level of 78 MVA. In the event Eramet should resume operations of its existing three furnaces other than for temporary purposes and so notifies CSP in writing, the Base Usage quantity shall be set at 48,000,000 kWh per month at a maximum demand level of 81 MVA. In the event Eramet should resume operations of both the North Side facility and its three existing furnaces for other than temporary purposes and so notifies CSP in writing, the Base

¹ This amount and the other Base Usage amounts set forth herein reflects the amount of electricity consumed directly by Eramet and excludes electricity used by third parties located on Eramet's premises.

² Based upon an 85% load factor and a 95% power factor.

Usage quantity shall be set at 56,000,000 kWh per month at a maximum demand level of 95 MVA.

For service rendered by CSP on or after the effective date and for all service rendered through December 31, 2011, the Base Usage all-in price shall be \$.04224 per kWh, exclusive of any charges for Ohio's kWh tax³ (hereinafter referred to as the "Initial Price") provided that CSP's minimum monthly bill during this period shall be equal to 60 percent (60%) of Eramet's highest monthly kVA usage in the six-month period preceding each monthly bill. For any service rendered in excess of such Base Usage by CSP on or after the effective date and through December 31, 2011, the price (exclusive of self-assessed kWh tax) shall be computed by CSP in accordance with the rate schedule that would otherwise apply to Eramet but for this arrangement and using Eramet's actual demand and energy consumption for each month in which Eramet's usage exceeds the Base Usage.

Beginning with service rendered on or after January 1, 2012, the price applied to Eramet shall be computed pursuant to the otherwise applicable rate schedule as applied to Eramet's actual monthly demand and usage with such adjustments to such otherwise applicable rate schedule as may be reasonably required to produce a total monthly bill that is 20 percent (20%) less than such monthly bill would be but for such adjustments.

Beginning with service rendered on or after January 1, 2013 and continuing thereafter through December 31, 2018, the price applied to Eramet shall be computed pursuant to the otherwise applicable rate schedule as applied to Eramet's actual monthly demand and usage with such adjustments to such otherwise applicable rate

³ Eramet is a self-assessor under Ohio's kWh tax provisions.

schedule as may be reasonably required to produce a total monthly bill that is: 18 percent (18%) less than such monthly bill would be but for such adjustments in 2013; 16 percent (16%) less than such monthly bill would be but for such adjustments in 2014; 14 percent (14%) less than such monthly bill would be but for such adjustments in 2015; 12 percent (12%) less than such monthly bill would be but for such adjustments in 2016; 8 percent (8%) less than such monthly bill would be but for such adjustments in 2017; 4 percent (4%) less than such monthly bill would be but for such adjustments in 2018; and, 0 percent (0%) less than such monthly bill would be but for such adjustments in 2019.

During the period commencing on the effective date, through December 31, 2018, Eramet shall have the right to, without prejudice, propose for the Commission's consideration and potential approval such modifications to the reasonable arrangement as Eramet may judge are reasonably necessary to secure corporate approvals associated with the design, construction and operation of a new electric submerged arc furnace with support and logistics systems (raw material and liquid metal handling, casting system and finished goods handling systems) that are capable of producing manganese alloys at Eramet's Marietta Facility (estimated capital expenditure of \$100 million). Such reasonable arrangement modifications may include, but are not limited to, increasing the percentage differential between Eramet's Base Usage price and the price established by the otherwise applicable tariff, changes to the Base Usage quantity, changes to the remaining term of the reasonable arrangement, annual adjustments to the percentage differential between the Eramet Base Usage price and the price established by the otherwise applicable tariff and such other modifications as Eramet

may judge are reasonably necessary to secure corporate approvals to invest the capital required to design, construct and operate a new electric submerged arc furnace with support and logistics systems.

E. Commitments

1. Capital Improvements

During the initial pricing period ending December 31, 2011, Eramet shall make capital investment in its current Ohio manufacturing operations of at least \$20,000,000. Thereafter and before December 31, 2014, Eramet shall make an additional capital investment in its current Ohio manufacturing operations of at least \$20,000,000 for a total investment over the combined periods of at least \$40,000,000. The projects outlined in Mr. Bjorklund's testimony and such projects as Eramet shall identify in the reports it shall submit pursuant to this section as specified below shall be eligible projects for purposes of measuring Eramet's compliance with these investment commitments. Compliance with these commitments shall be documented annually through the process described below in IV. E.3.

2. Jobs

Eramet shall maintain a minimum average annual employment of 200 people during the term of its reasonable arrangement.⁴ Compliance with this commitment shall be documented annually through the process described below in Section IV.E.3.

3. Reporting

Subject to such confidentiality requirements as Eramet may reasonably require and commencing January 31, 2010, Eramet shall provide to the Signatory Parties

⁴ For example, a reduction in the employment level may allow the Commission to reduce or eliminate the discount.

annual documentation of its compliance with the above commitments. Information furnished to the Commission's Staff by Eramet in accordance with this reporting requirement shall be treated as information that the Staff has obtained in its investigatory capacity and subject to the same protections as called for pursuant to Section 4901.16, Revised Code. Eramet's annual reports shall not be filed with the Commission unless otherwise directed by the Commission.

4. Commission's Jurisdiction

The Signatory Parties understand and agree that the Commission has and shall have the ability to, at any time and after notice and an opportunity to be heard, consider and make modifications to Eramet's reasonable arrangement in the event that the Commission determines that Eramet has not satisfied its commitments in Sections IV.E.1 and IV.E.2 or made reasonable progress with regard to the effort described in Section IV.B to secure corporate approvals to make a total capital investment of approximately \$100,000,000 and that modifications are thereby necessary.

F. Service Quality

In addition to the other commitments identified herein, Eramet shall work in good faith with CSP to determine how and to what extent Eramet's customer-sited capabilities might be committed to CSP for integration into its portfolio for purposes of complying with Ohio's portfolio requirements. Among other items that may be identified, Eramet's good faith efforts shall include consideration of the following:

- Eramet's potential capability to introduce efficiencies of its electric furnaces;
- Eramet's capability to introduce more efficient lighting;

- Eramet's participation in a CSP demand response program providing Eramet with an opportunity that is equivalent to the opportunity available as a result of the PJM demand response programs referenced herein;
- Eramet's opportunity to replace various continuously operating motors with high efficiency motors including applications of variable frequency drives ("VFD's");
- Eramet's potential installation of substation capacitor upgrades;
- Eramet's consolidation or relocation of work areas due to restructuring;
- Such other of Eramet's customer-sited capabilities that may exist or arise during the term of the arrangement.

The Signatory Parties understand and agree that Eramet has already registered and is committed to participation in PJM's Reliability Pricing Model – Interruptible Load for Reliability ("ILR") Program for PJM's 2009-2010 planning year and recommend that the Commission authorize Eramet to continue its participation in PJM demand response programs without penalty for the 2009-2010 planning year.

G. Expectations

The Commission's approval of this Stipulation is predicated upon Eramet successfully maintaining operations in Southeast Ohio, including meeting the capital investment and employment commitments described herein. The Signatory Parties agree and recommend that, subsequent to the approval recommended herein, the Commission retain jurisdiction over the arrangement. In the exercise of its continuing jurisdiction the Commission may, for good cause shown, amend, modify or terminate the arrangement or schedule if Eramet's performance relative to such commitments is not substantially aligned with such commitments.

H. Miscellaneous

For purposes of enabling the reasonable arrangement requested in Eramet's Application, the Signatory Parties recommend that the Commission direct CSP to adopt and execute an arrangement with Eramet in compliance with this Stipulation and Recommendation and that the Commission direct the complete and unredacted version of such arrangement be filed in this proceeding while affording protection for any proprietary, confidential or trade secret information as may be appropriate. The Signatory Parties further recommend that the Commission permit such arrangement to become effective for service rendered on and after the date such arrangement is filed with the Commission.

Numerous issues and concerns raised by the parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Signatory Parties, and is not intended to reflect the procedural or substantive views or proposals which any individual party may have advanced acting unilaterally. Accordingly, this Stipulation represents a proposal by the Signatory Parties that they believe provides an accommodation of the diverse interests represented by the Signatory Parties, and is entitled to careful consideration by the Commission.

The Signatory Parties stipulate, agree and recommend that the Commission approve this Stipulation and Recommendation and issue its Opinion and Order in accordance herewith as soon as reasonably possible.

This Stipulation is submitted for purposes of this proceeding only, is not deemed binding in any other proceeding, except as expressly provided herein, and shall not be offered or relied upon in any other proceedings, except as necessary to enforce the terms of this Stipulation. The agreement of the Signatory Parties reflected in this document is expressly conditioned upon its acceptance in its entirety and without alteration by the Commission. Any Party to this Stipulation has the right to withdraw and terminate the Stipulation and Recommendation if the Commission or any court of competent jurisdiction rejects all or any part of the Stipulation and Recommendation or otherwise modifies its terms or provisions. The Signatory Parties agree that if the Commission or any court of competent jurisdiction rejects all or any material part of this Stipulation, or otherwise materially modifies its terms, any adversely affected Party shall have the right to file an application for rehearing or a motion for reconsideration. If such application or motion is filed, and if the Commission or court does not, on rehearing or reconsideration, accept the Stipulation without material modification, the adversely affected Party may terminate its Party status without penalty or cost by filing a notice with the Commission within ten (10) days of such order.

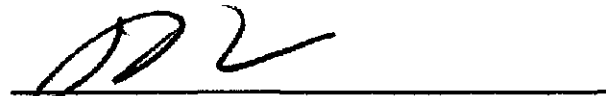
This Stipulation and Recommendation has been signed as of this 5th day of August, 2009. The Signatory Parties respectfully request the Commission to issue its Opinion and Order in accordance with the terms of this Stipulation.

On behalf of Eramet Marietta, Inc.:



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