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**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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

**COLUMBUS SOUTHERN POWER COMPANY'S
AND OHIO POWER COMPANY'S
MEMORANDUM CONTRA APPLICATION FOR
REHEARING FILED JOINTLY BY
OHIO CONSUMERS' COUNSEL AND
OHIO ENERGY GROUP**

On August 14, 2009, the Ohio Consumers' Counsel (OCC) and Ohio Energy Group (OEG) jointly filed their application for rehearing. OCC/OEG argue that the Commission failed to specify how Columbus Southern Power Company and Ohio Power Company (AEP Ohio) should calculate the amount of Ormet's POLR payments that would be credited against recovery of delta revenues by AEP Ohio. Pursuant to §4901-1-35 (B), Ohio Admin. Code, AEP Ohio files this memorandum contra the OCC/OEG application for rehearing.

OCC/OEG's rehearing application is premised on the notion that AEP Ohio's recovery of delta revenues should be offset by the amount of POLR revenue Ormet would pay AEP Ohio under the Commission-modified reasonable arrangement.¹ The record in this proceeding reflects that AEP Ohio has consistently opposed any offset applied to reduce its recovery of delta revenue. By way of its own application for

¹ Ormet's filing was presented as a request for approval of a "unique arrangement" under §4901:1-38-05, Ohio Admin. Code. Ormet's arguments supporting its application suggest that the application should be viewed as an economic development arrangement under §4901:1-38-03, Ohio Admin. Code.

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rehearing, AEP Ohio has raised legal, policy and factual arguments to support the position that any such offset is unreasonable and unlawful. For the purpose of responding to the OCC/OEG application for rehearing, the arguments raised by AEP Ohio in its application for rehearing are incorporated into this memorandum contra. In addition, AEP Ohio presents the following response.

OCC/OEG argue that the amount of the discount to be received by Ormet

“should be applied uniformly off of the AEP’s total tariff rate, including all riders except the POLR rider. In effect, this should result in an equal percent reduction to all components of the tariff (except POLR), and AEP should be required to credit all POLR charges to the delta revenues – to ensure that AEP is not ‘compensated for a service it would not be providing’.” (OCC/OEG Memorandum in Support p. 6).

The OCC/OEG proposal is premised on nothing more than the baseless assumption that the percentage discount to which Ormet might be entitled applies to all rate components except one - - the POLR rider. There is no record support for such an assumption. It is proposed no doubt by OCC and OEG as the way to maximize the credit to delta revenue collection.

An assumption equally plausible to the OCC/OEG argument is that when considering an “all-in” rate, such as the Ormet rates approved by the Commission, it cannot be said with any degree of certainty how much money, if any, Ormet is paying for POLR service. It can just as easily be argued that none of the otherwise applicable POLR rate is being paid by an “all-in” rate as the OCC/OEG argument that all of the otherwise applicable POLR rate is being paid by the “all-in” rate.

There is, however, a more sustainable assumption to be made regarding how much POLR payment Ormet would make to AEP Ohio through the discounted rate. It reasonably can be assumed that all components of the tariff - - including *all* riders - - are

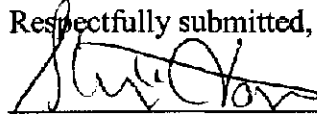
discounted by the percentage amount of the discount. There simply is no reason to think that the Commission would have intended to set a discount resulting in a percentage of "x" percent of the otherwise applicable rate (the tariff plus all riders), but then spread that discount over the tariff rate and some, but not all riders. Such a process would result in the discounted tariff and riders receiving a larger percentage discount than the Commission intended. By contrast, AEP Ohio's interpretation of the order -- in addition to being logical -- is confirmed by the language used by the Commission (at page 14) in providing that "*any* POLR charges paid by Ormet" are to be used to reduce the delta revenues paid by ratepayers. (*emphasis added*). If OCC/OEG were correct, this language would make no sense because Ormet would be paying the full POLR charge.

OCC's/OEG's proposal to not apply the rate discount to the POLR rate is not the only instance of overstating the amount of POLR revenue they would credit against AEP Ohio's recovery of delta revenue. At page 3 of the OCC/OEG memorandum in support, citing OCC's brief in this case as authority, they assert that for 2009, "the POLR credit expected is approximately \$15 million." (*Id.* at 3). Reviewing OCC's post-hearing brief (at p. 26), it can be seen that the \$15 million is greatly overstated because: OCC's calculation used the higher POLR rates that became effective with April 2009 billings as if they will have been in effect for the full year instead of the actual nine months of applicability; and it used Ormet consumption as if Ormet were operating at full load throughout 2009. Neither of these factors is accurate.

Adherence to the Commission's position that AEP Ohio's recovery of delta revenue should be offset by some amount characterized as POLR payments made by Ormet means that it should adopt the assumption that the tariffs and all riders, including

the POLR rider, are being paid at an amount reflecting the overall percentage discount to which Ormet would be awarded. To the extent OCC/OEG propose a calculation that would exacerbate the unlawful and unreasonable offset of AEP Ohio's delta revenue recovery, their application for rehearing should be denied.

Respectfully submitted,



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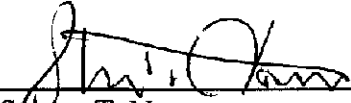
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Columbus Southern Power Company's and Ohio Power Company's Memorandum Contra Application for Rehearing Filed Jointly By Ohio Consumer's Counsel and Ohio Energy Group was served by U.S. Mail upon the individuals listed below this 24th day of August 2009.



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