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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

APPLICATION FOR REHEARING AND MEMORANDUM IN SUPPORT
OF ERAMET MARIETTA, INC.

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November 16, 2009

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APPLICATION FOR REHEARING

Pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code ("O.A.C."), Eramet Marietta, Inc. ("Eramet") respectfully submits this Application for Rehearing of the Opinion and Order ("Order") issued by the Public Utilities Commission of Ohio ("Commission") on October 15, 2009 on Eramet's request for approval of a reasonable arrangement with Columbus Southern Power Company ("CSP"). The Order urges Eramet and CSP to work in good faith to determine how and to what extent Eramet's customer-sited capabilities can be committed to CSP and permits Eramet to continue its participation in the PJM Interconnection, LLC ("PJM") demand response programs ("DRPs"), specifically, PJM's Interruptible Load for Reliability ("ILR") program, for the 2009-2010 planning year. Order at 9-10. The Order then states, "Thereafter, however, Eramet must make its demand response capabilities available to CSP in order to reduce peak demand reduction compliance costs." *Id.* at 10.

Eramet agrees to work in good faith with CSP to determine how and to what extent its demand response capabilities may be committed to CSP to count towards CSP's peak demand reduction requirements and to reduce compliance costs. In fact, the Stipulation

and Recommendation filed by Eramet and the Commission Staff ("Staff") on August 5, 2009, specifically states:

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 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....

Stipulation at 9-10.

Eramet believes that the Commission's Order is consistent with the letter or intent of the Stipulation. Eramet will commit its peak demand capabilities to CSP and does not intend to seek a reduction to the amount it pays through the energy efficiency rider as a result of contributing those capabilities to CSP for the purpose of helping CSP meet its peak demand reduction requirements. However, the details of how a customer may integrate its capabilities are yet to be defined and worked out between Eramet and CSP, in part, because the rules defining such a process are not yet effective. Moreover, the opportunity to commit its capabilities to CSP to count towards CSP's peak demand reduction requirements may be created either by Eramet's continued participation in PJM's DRP or through an equivalent program offered by CSP. CSP does not currently have any demand response programs equivalent to PJM's DRPs.

While Eramet is willing to participate in a CSP DRP that is capable of providing it with opportunities equivalent to those resulting from participation in PJM's DRPs, time is of the essence because customers must commit to PJM's DRPs for the next planning year (2010-2011) in February 2010 (in three months). Although Eramet is hopeful that

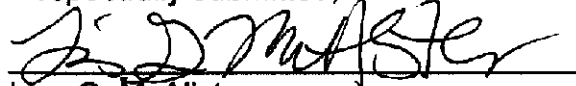
CSP can develop DRPs equivalent to PJM's and that the Commission can initiate a proceeding to resolve the issues raised regarding customer's ability to continue participation in PJM's DRPs, given the holidays and other important cases pending before the Commission, it seems unlikely to have resolution of these issues by the time Eramet must make a commitment to PJM's DRPs.

Eramet does not believe it was the Commission's intent to foreclose Eramet's opportunity to participate in a DRP that provides it equivalent opportunities to those of participating in PJM's DRP. Nor does Eramet believe that it was the Commission's intent to require Eramet to commit its customer-sited peak demand reduction capabilities to CSP through a yet-to-be determined process by forcing Eramet to participate in programs that, by CSP's own admission, are inferior to that in which it currently participates. Such a result would be unreasonable at best.

Accordingly, and because of the uncertainties described above and the short time in which they would need to be resolved in proceedings unrelated to this one, Eramet respectfully requests that the Commission grant rehearing for the purpose of confirming that it approved the Stipulation, including, without modification, the provision of the Stipulation in which Eramet committed to work in good faith with CSP to determine how and to what extent Eramet's customer-sited capabilities, specifically including Eramet's participation in a CSP DRP providing Eramet with an opportunity that is equivalent to the opportunity available as a result of the PJM demand response programs referenced herein, might be committed to CSP for integration into its portfolio for purposes of complying with Ohio's portfolio requirements.

In the alternative, to the extent that the Commission's Order requires Eramet to commit its customer-sited peak demand response capabilities to CSP by participating without compensation, through an undefined process, the Order is unreasonable and, at this juncture, unworkable. Therefore, and to the extent necessary, Eramet respectfully requests that the Commission affirm its decision permitting Eramet to participate in either a DRP that offers opportunities equivalent to those of PJM's DRP to be developed and offered by CSP if such a program becomes available by February 2010 or PJM's DRP until CSP's equivalent program becomes available, with the understanding that Eramet will work with CSP to contribute its peak demand reduction capabilities to CSP for the purpose of helping it meet its requirements without an offset to the recovery mechanism for energy efficiency and DRPs for its contribution.

Respectfully submitted,



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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Pursuant to Section 4905.31, Revised Code, and Rule 4901:1-38-05, Ohio Administrative Code ("O.A.C."), Eramet sought approval of a reasonable arrangement that will help it rationalize the capital investments that must be undertaken to secure and sustain the operation of Eramet's plant in Southeast Ohio and to enable it to compete both with other companies in the manganese division under Eramet's parent company umbrella and globally. Eramet and the Commission Staff ("Staff") filed a Joint Stipulation and Recommendation ("Stipulation") on August 5, 2009, that modified Eramet's Application. On October 15, 2009, the Commission approved the Stipulation with minor modifications. The Order directed Eramet and CSP to provide a contract that implements the reasonable arrangement within 14 days of the Order. On October 28, 2009, after a prompt and cooperative effort with CSP, Eramet filed a contract for electric service that reflects the Order and the Stipulation.

II. ARGUMENT

As the Commission noted in its Order, in both its Application and the Stipulation, Eramet referred to its commitment to work with CSP to determine how and to what

extent Eramet's customer-sited capabilities might be committed to CSP for assistance in meeting its statutory energy efficiency requirements. In the Stipulation, Eramet and Staff noted that Eramet has already registered and is committed to participate in PJM's ILR program for PJM's 2009-2010 planning year. Staff and Eramet recommended, and CSP did not oppose, that the Commission authorize Eramet to continue its participation in PJM's ILR program, without penalty, for the 2009-2010 planning year. However, for the period beyond the 2009-2010 PJM planning year, CSP argued that, if the Commission approved a discount from the otherwise applicable tariff, Eramet should be prohibited from participating in PJM's DRPs.

At page 10 of the Order, the Commission states:

With regard to Eramet's participation in PJM's ILR Program, Eramet is authorized to continue its participation in PJM demand response programs for the 2009-2010 planning year. Thereafter, however, Eramet must make its demand response capabilities available to CSP in order to reduce peak demand reduction compliance costs.

Eramet committed in the Stipulation to work in good faith with CSP to determine how its customer-sited capabilities might be committed to CSP for integration into its portfolio for purposes of complying with Ohio's portfolio requirements, including Eramet's peak demand reduction capabilities. However, Eramet's commitment is necessarily conditioned upon its participation in a DRP, whether it is a CSP DRP that provides Eramet with opportunities equivalent to those available as a result of participating in PJM's DRPs, or PJM's DRP itself. So long as the programs and compensation are equivalent, Eramet will participate in a yet-to-be developed CSP program. Eramet will then work with CSP to commit those resources to CSP to help CSP comply with its mandates without seeking an offset to the recovery mechanism for

energy efficiency and DRPs for its contribution. However, in the event that CSP does not have such a program available by the time Eramet must commit to PJM's DRPs, it does not make sense to prohibit Eramet from participating in PJM's program, particularly given Eramet's willingness to contribute its capabilities to CSP to help it meet its requirements without an offset to the energy efficiency rider.

This approach is also consistent with Rule 4901:1-39-05(E), as adopted on October 28, 2009, which specifies that an electric distribution utility ("EDU") may satisfy its peak demand reduction benchmarks through customer-sited programs committed to the EDU that are created under either of the following circumstances:

- (a) A peak-demand reduction program meets the requirements to be counted as a capacity resource under the tariff of a regional transmission organization approved by the Federal Energy Regulatory Commission.
- (b) A peak-demand reduction program equivalent to a regional transmission organization program, which has been approved by this Commission.

Thus, the latest version of the Commission's rules do not prohibit any customer's participation in a regional transmission organization's ("RTO") peak demand reduction programs, whether they are shopping, under a reasonable arrangement or are a standard service offer customer of the EDU.

The Commission's most recent modifications to Rule 4901:1-39-05(E) also remove any potential competition between CSP's programs and PJM's programs by permitting EDUs to count customer capabilities committed to the EDU towards peak demand reduction mandates so long as it meets the requirements to be counted as a capacity resource under the RTO's tariff approved by the Federal Energy Regulatory Commission or is a Commission-approved equivalent.

III. CONCLUSION

For the reasons contained herein, Eramet respectfully requests that the Commission grant rehearing to confirm that it approved the Stipulation, including, without modification, the provision of the Stipulation in which Eramet committed to work in good faith with CSP to determine how and to what extent Eramet's customer-sited capabilities, specifically including 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, might be committed to CSP for integration into its portfolio for purposes of complying with Ohio's portfolio requirements.

In the alternative, to the extent that the Commission's Order requires Eramet to commit its customer-sited peak demand response capabilities to CSP by participating without compensation, through an undefined process, Eramet respectfully requests that the Commission affirm its decision permitting Eramet to participate in either a DRP that offers opportunities equivalent to those of PJM's DRP to be developed and offered by CSP if such a program becomes available by February 2010 or PJM's DRP until CSP's equivalent program becomes available, with the understanding that Eramet will work with CSP to contribute its peak demand reduction capabilities to CSP for the purpose of helping it meet its requirements without an offset to the recovery mechanism for energy efficiency and DRPs for its contribution.

Finally, Eramet urges the Commission to promptly issue a rehearing decision on this issue in order to erase any uncertainty about whether Eramet can or cannot participate before the next PJM registration window closes in February 2010.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Lisa G. McAlister', written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Application for Rehearing and Memorandum in Support of Eramet Marietta, Inc.* was served upon the following parties of record this 16th day of November 2009, via hand-delivery, electronic transmission or first class mail, postage prepaid.


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