

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Eramet	)	
Marietta, Inc. to Incorporate Customer's	)	
Peak Demand Reduction Capabilities into	)	Case No 10-188-EL-EEC
Columbus Southern Power Company's	)	
Demand Reduction Program.	)	

**STIPULATION AND RECOMMENDATION**

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. This document sets forth the understanding and agreement of Eramet Marietta, Inc. ("Eramet") and Columbus Southern Power Company ("CSP") who jointly recommend that the Public Utilities Commission of Ohio ("Commission") approve and adopt this Stipulation and Recommendation ("Stipulation") on an expedited basis and without modification, in order to resolve all of the issues raised in this proceeding.

WHEREAS, the Ohio General Assembly passed Amended Substitute Senate Bill 221 ("SB 221") in 2008, which includes new Section 4928.66, Revised Code, establishing energy efficiency ("EE") and peak demand reduction ("PDR") benchmarks; and

WHEREAS, the Commission recently adopted rules in Case No. 08-888-EL-ORD concerning the EE/PDR benchmarks and including Rule 4901:1-3905(G), O.A.C., that establishes requirements for an application to commit customer-sited resources to an electric distribution utility ("EDU").

Eramet and CSP hereby agree as follows:

- 1 Consistent with Finding 33 of the Commission's March 24, 2010 Entry on Rehearing in Case No. 09-516-EL-AEC, the Parties agree that Eramet's curtailable capacity registered in the PJM ILR Program for the 2010-2011 Planning Year qualifies as a customer-sited capacity resource under Rule 4901:1-39-05(E)(2)(a), O.A.C., that may be committed to CSP for integration into its portfolio for the purpose of complying with CSP's PDR benchmarks.
- 2 In order to effectuate and memorialize Eramet's commitment of its customer-sited PDR capabilities, the Parties request expedited approval of the PJM Demand Response Integration Agreement attached to this Stipulation and incorporated herein by reference.
- 3 The Parties agree that the terms and conditions of the proposed PJM Demand Response Integration Agreement are appropriate for resolving the unique issues presented in Case No. 10-188-EL-EEC
- 4 The Stipulation is being entered into without prejudice to the Parties' rights and positions in Case No. 10-343-EL-ATA, and the Parties expressly and fully reserve their rights and positions concerning the proposals in that case for resolution in that case.
5. This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceeding, and except as otherwise provided herein, it is not to be offered or relied upon in any other proceedings, except as

necessary to enforce the terms of this Stipulation.

6. This Stipulation is conditioned upon adoption of the Stipulation by the Commission in its entirety and without material modification.<sup>1</sup> If the Commission rejects or modifies all or any part of this Stipulation, the parties shall have the right to apply for rehearing. If the Commission does not adopt the Stipulation without material modification upon rehearing, then within thirty (30) days of the Commission's Entry on Rehearing, the parties may terminate and withdraw from the Stipulation by filing a notice with the Commission. Upon the filing of such notice, the Stipulation shall immediately become null and void and the parties agree that the issues presented in the application filed to initiate this case will remain open and pending for subsequent decision by the Commission in this case. Neither party shall file a notice of termination and withdrawal without first negotiating in good faith with the other party to achieve an outcome that substantially preserves the original purpose of the Stipulation.

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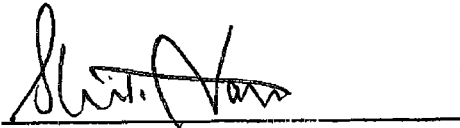
<sup>1</sup> Either party has the right, in its sole discretion, to determine what constitutes a "material" change for the purposes of that party withdrawing from the Stipulation.

IN WITNESS WHEREOF, this Stipulation and Recommendation has been signed  
by the authorized agents of the undersigned parties as of this 21<sup>st</sup> day of April, 2010.

Eramet Marietta, Inc

By: 

Columbus Southern Power Company

By: 

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Demand Reduction Program.	)	

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**MOTION OF ERAMET MARIETTA, INC. FOR PROTECTIVE ORDER**

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Thomas L. Froehle  
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**Attorneys for Eramet Marietta, Inc**

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**MOTION OF ERAMET MARIETTA, INC. FOR PROTECTIVE ORDER**

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Pursuant to Rule 4901-1-24, Ohio Administrative Code, Eramet Marietta, Inc. ("Eramet") respectfully moves the Public Utilities Commission of Ohio ("Commission") to issue a Protective Order to protect the confidentiality and prohibit the disclosure of the confidential version of the PJM Demand Response Integration Agreement ("Agreement"), which includes competitively sensitive and highly proprietary business information comprising of trade secrets, filed with this Motion. The Agreement has been clearly marked as confidential and is hereby filed under seal, separate from the redacted, public version of the Agreement. The grounds for this Motion are set forth in the attached Memorandum in Support.

Respectfully Submitted,

/s/ Lisa G. McAlister  
Lisa G. McAlister  
Thomas L. Froehle  
McNEES WALLACE & NURICK LLC  
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**Attorneys for Eramet Marietta, Inc.**

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**MEMORANDUM IN SUPPORT**

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Concurrent with this Motion, Eramet is filing a Stipulation and Recommendation and the Agreement, in both a public version and a confidential version filed under seal, for the purpose of effectuating Eramet's commitment of its customer-sited peak demand reduction capabilities to Columbus Southern Power Company ("CSP") to integrate Eramet's capabilities into CSP's portfolio for the purpose of complying with CSP's peak demand reduction benchmarks. The Agreement contains the amount of Eramet's curtailable capacity for the 2010-2011 PJM Planning year, which is competitively sensitive and highly proprietary business information comprising of trade secrets.

Accordingly, Eramet respectfully requests that the Commission grant its Motion for Protective Order to protect the confidentiality of the information contained in the confidential version of the attached Agreement.

Rule 4901-1-24(D), Ohio Administrative Code, provides for the issuance of an order that is necessary to protect the confidentiality of information contained in documents filed at the Commission to the extent that state and federal law prohibit the release of such information and where non-disclosure of the information is not inconsistent with the purposes of Title 49 of the Revised Code. State law recognizes

the need to protect information that is confidential in nature, as is the curtailable capacity contained in the Agreement. The Commission has statutory authority to protect trade secrets.<sup>1</sup> Additionally, non-disclosure of the curtailable capacity will not impair the purposes of Title 49 as the Commission and its Staff will have full access to the confidential information in order to complete their review process.

The curtailable capacity term contained within the Agreement is competitively sensitive and highly proprietary business financial information falling within the statutory characterization of a trade secret, as defined by Section 1333.61(D), Revised Code. The definition of trade secret contained in Section 1333.61(D), Revised Code, is as follows:

"Trade secret" means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

(1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Section 1333.61(D), Revised Code (emphasis added).

Clearly, the curtailable load contained within the Agreement is proprietary data, is confidential, and derives independent economic value from not being generally known and not being readily ascertainable by proper means by Eramet's competitors. Public disclosure would jeopardize Eramet's business position and its ability to compete.

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<sup>1</sup> See Sections 4901.12 and 4905.07, Revised Code.



Further, the efforts to protect the confidential information are reasonable under the circumstances. Finally, the curtailable load is the only information for which protection is sought so as to minimize the information that will not be publicly disclosed.

Eramet respectfully requests that this Motion for Protective Order be granted for the reasons set forth herein.

Respectfully Submitted,

/s/ Lisa G. McAlister

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Thomas L. Froehle  
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tfroehle@mwncmh.com

**Attorneys for Eramet Marietta, Inc.**

## **Certificate Of Service**

I hereby certify that a copy of the foregoing *Motion of Eramet Marietta Inc., for Protective Order and Memorandum in Support*, was served upon the following parties of record this 22<sup>nd</sup> day of April, 2010, via electronic transmission, hand-delivery or first class mail, postage prepaid.

/s/ Lisa G. McAlister  
Lisa G. McAlister

Marvin I. Resnik, Counsel of Record  
Steven T. Nourse  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, OH 43215

**ON BEHALF OF COLUMBUS SOUTHERN POWER**

**PUBLIC – REDACTED VERSION**

**PJM DEMAND RESPONSE INTEGRATION AGREEMENT**

This PJM Interconnection, L.L.C. ("PJM") Demand Response Integration Agreement ("Agreement") is entered into by and between Columbus Southern Power Company ("Columbus Southern Power") and Eramet Marietta Inc. ("Eramet" or "Customer").

In consideration of the mutual covenants, terms and conditions set forth herein, Columbus Southern Power and Eramet hereto agree as follows:

**1. CUSTOMER COMMITMENT.** Customer represents that it is a participant in the PJM Interruptible Load for Reliability Program ("PJM ILR Program"), and has an existing contract with a PJM-certified Curtailment Service Provider ("CSP Contract") within Columbus Southern Power's service territory for [REDACTED] kw of curtailable capacity for the 2010-2011 PJM Planning year. For subsequent PJM Planning Years, Eramet will provide its actual curtailable capacity to Columbus Southern Power within 24 hours of PJM's acceptance of such curtailable capacity registered by Eramet for that PJM Planning Year. Customer agrees to commit its demand-response results to Columbus Southern Power in order to allow Columbus Southern Power to integrate this demand reduction with any other demand reduction initiatives and thus count this demand reduction towards compliance with yearly statutory demand reduction targets as required by R.C. §4928.66(A)(2). Customer further agrees to permit Columbus Southern Power to file this curtailment commitment with the PUCO and otherwise report Customer's curtailment commitment as Columbus Southern Power deems necessary. Customer further agrees to contact Columbus Southern Power within 24 hours when called upon by PJM to reduce load, and will notify Columbus Southern Power of its actual load reduction performed in response to PJM's directive. Customer also grants permission to Columbus Southern Power and the Staff of the PUCO to measure and verify energy savings and/or peak-demand reductions resulting from customer-sited projects and resources. As its curtailment commitment through its CSP Contract, Customer has agreed to curtail in accordance with Customer's election in the PJM ILR Program upon request by PJM. Columbus Southern Power will base the Customer's demand response contribution on this amount.

**2. INCENTIVE.** Eramet and Columbus Southern Power agree that Eramet shall not receive any compensation or incentive in exchange for Eramet's agreements set forth herein. Columbus Southern Power and Eramet agree that this Agreement meets the PUCO's directive for Eramet to make its demand response capabilities available to Columbus Southern Power in order to reduce peak demand reduction compliance costs after the PJM 2009-2010 planning year as set forth in Case No. 09-516-EL-AEC.

**3. TERM OF CONTRACT AND CANCELLATION.** This Agreement shall be in effect commencing upon Commission approval and through May 31, 2011 and will be automatically extended each 12 months thereafter for a total term of up to ten years, except that either Party may cancel this agreement after May 31, 2011 upon providing

**PUBLIC – REDACTED VERSION**

90 days' written notice subject to ongoing compliance with the Commission's orders in Case No. 09-516-EL-AEC. Cancellation of this Agreement does not affect or impair Eramet's ability, right or opportunity to participate in PJM or any other regional transmission organization's demand response programs.

**4. PENALTY.** In the event a curtailment event is called by PJM and Customer does not curtail load by the curtailable amount set forth in Customer's CSP Contract, Customer shall be responsible for payment of any penalty assessed against Columbus Southern Power due to Columbus Southern Power's failure to comply with its yearly statutory demand reduction target as a result of Customer's failure to curtail, but not to exceed the PJM payment identified in Eramet's CSP Contract. The penalty provision set forth herein applies even if Customer would not face a penalty under Customer's CSP Contract for failing to curtail load when called upon by PJM to do so.

**5. NOTICE.** All Notices relating to this Contract must be effectuated in writing and sent by ordinary US mail, postage prepaid, to:

If to the Company at:

Columbus Southern Power Company  
Attn: AEP Ohio President  
850 Tech Center Drive  
Gahanna, Ohio 43230

If to the Customer at:

Eramet Marietta, Inc.  
Attn: President  
P.O. Box 299  
Marietta, Ohio 45750-0299

**6. MODIFICATION.** No modification of this Agreement is effective unless reduced to writing, signed by both parties, and approved by the PUCO.

**7. SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and/or assigns, but Customer shall not transfer or assign any of the rights hereby granted to any non-affiliated third party without the prior written consent of Columbus Southern Power.

**COLUMBUS SOUTHERN POWER COMPANY**

By: Jon F. Williams

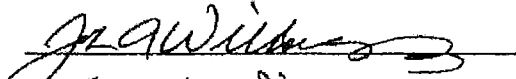
Name: JON F. WILLIAMS

Title: Mgr EE PDR

Date: 4/22/10

PUBLIC – REDACTED VERSION

CUSTOMER: ERAMET MARIETTA, INC.

By:   
Name: John A. Willaughley  
Title: Dir, HR & Public Affairs  
Date: April 22, 2010

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/22/2010 3:52:28 PM**

**in**

**Case No(s). 10-0188-EL-EEC**

Summary: Stipulation and Recommendation, Motion for Protective Order and Agreement electronically filed by Mrs. Lisa G. McAlister on behalf of Eramet Marietta, Inc.