

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power)
Company and Columbus Southern Power)
Company for Authority to Merge and Related) Case No. 10-2376-EL-UNC
Approvals.)

In the Matter of the Application of Columbus)
Southern Power Company and Ohio Power)
Company for Authority to Establish a Standard) Case No. 11-346-EL-SSO
Service Offer Pursuant to §4928.143, Ohio Rev.) Case No. 11-348-EL-SSO
Code, in the Form of an Electric Security Plan.)

In the Matter of the Application of Columbus)
Southern Power Company and Ohio Power) Case No. 11-349-EL-AAM
Company for Approval of Certain Accounting) Case No. 11-350-EL-AAM
Authority.)

In the Matter of the Application of Columbus)
Southern Power Company to Amend its) Case No. 10-343-EL-ATA
Emergency Curtailment Service Riders.)

In the Matter of the Application of Ohio Power)
Company to Amend its Emergency Curtailment) Case No. 10-344-EL-ATA
Service Riders.)

In the Matter of the Commission Review Of the)
Capacity Charges of Ohio Power Company and) Case No. 10-2929-EL-UNC
Columbus Southern Power Company.)

In the Matter of the Application of Columbus)
Southern Power Company for Approval of a)
Mechanism to Recover Deferred Fuel Costs) Case No. 11-4920-EL-RDR
Ordered Under Ohio Revised Code 4928.144.)

In the Matter of the Application of Ohio Power)
Company for Approval of a Mechanism to)
Recover Deferred Fuel Costs Ordered Under) Case No. 11-4921-EL-RDR
Ohio Revised Code 4928.144.)

**THE OMA ENERGY GROUP'S
MEMORANDUM CONTRA APPLICATIONS FOR REHEARING**

I. INTRODUCTION

On September 7, 2011, numerous parties filed a Stipulation and Recommendation (“Stipulation”) before the Public Utilities Commission of Ohio (“Commission”) as a package of recommendations to address important regulatory issues and resolve a number of contested cases concerning the electric security plans (“ESP”) of Columbus Southern Power Company and Ohio Power Company (collectively “AEP-Ohio”). On December 14, 2011, the Commission issued an Opinion and Order (“Order”) that approved the Stipulation with several modifications. On January 13, 2012, several parties filed applications for rehearing of the Commission’s Order.

Pursuant to Rule 4901-1-35(B), Ohio Administrative Code (“O.A.C.”), the OMA Energy Group (“OMAEG”) respectfully submits this Memorandum Contra the Application for Rehearing of Ormet Primary Aluminum (“Ormet”) for the reasons discussed below. Further, OMAEG supports the recommendation of the Retail Energy Supply Association (“RESA”) for an implementation dispute resolution process. OMAEG’s failure to address the over 50 specific allegations of error advanced by other parties is not a concession by OMAEG that any allegation unaddressed by OMAEG has merit.

II. ARGUMENT

A. **The Commission should deny Ormet’s request to modify the Load Factor Provision to apply to Ormet.**

Ormet has failed to raise any new arguments that the Commission has not already thoroughly considered and rejected. Specifically, at page 38 of the Order, the Commission found Ormet’s arguments to be without merit and held:

While it is true that Ormet is not eligible to receive the LFP, the provision is not discriminatory towards Ormet, as Ormet's rates are set pursuant to its Unique Arrangement Case, not AEP-Ohio's SSO rates that other high load industrial and commercial customers fall under. Accordingly, as Ormet has its own unique arrangement plan which runs through the entire term of the proposed ESP, it is disingenuous for Ormet to proclaim it is being treated differently from similarly situated customers when there are no similarly situated customers. Further, as a result of Ormet's Unique Arrangement Case, Ormet is already a beneficiary of the rate stability benefits the LFP is designed to create. Therefore, the Commission finds that the MTR provision of the Stipulation, including the LFP contained within the MTR, does not violate any important regulatory principle or practice.

Further, as the Commission also noted, it is not the case that Ormet is similarly situated to the other reasonable arrangement customers that Ormet references and is simply being discriminated against as the only customer excluded from the load factor provision. It is the combination of the lengthy historical unique treatment Ormet has received, the fact that Ormet's reasonable arrangement is completely unique in that it is largely based on the London Metal Exchange and the fact that the unique arrangement already provides Ormet the same rate stability benefits as load factor provision was intended to provide other customers. As the Commission stated:

We recognize that, often at Ormet's request, Ormet has historically been treated differently than other OP customers. Prior to the filing of this ESP 2 case, Ormet had requested and been approved to receive a special rate based on the London Metal Exchange (Ormet 2009 Unique Arrangement). However, most persuasive to the Commission in this proceeding is Ormet's current unique arrangement for electric service effective through 2018, which covers the term of the proposed ESP Stipulation and beyond. The fact that Ormet is currently provided service pursuant to a unique arrangement effectively puts Ormet in a service class by itself.¹

The Commission has already addressed and rejected Ormet's arguments. For those same reasons, the Commission should deny Ormet's Application for Rehearing.

¹ Opinion and Order at 16.

B. The Commission should adopt RESA's request for a dispute resolution process for implementation issues.

On page 9 of RESA's Application for Rehearing, RESA identifies an example of an implementation issue and requests that the Commission include a process for resolving implementation disputes in its final order. While an informal process has been established, OMAEG believes that with a transition of the type and magnitude being undertaken by AEP-Ohio, good faith implementation disputes will be inevitable. Accordingly, OMAEG supports RESA's recommendation and also requests that the Commission formalizes an expedient resolution process as well.

III. CONCLUSION

OMAEG respectfully requests that the Commission deny Ormet's Application for Rehearing and add a dispute resolution process for implementation issues.

Respectfully submitted,



Lisa G. McAllister, Counsel of Record
Matthew W. Warnock
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-2300
Facsimile: (614) 227-2390
E-mail: lmcalister@bricker.com
mwarnock@bricker.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Memorandum Contra Application for Rehearing was served by electronic mail on the parties of record listed below this 23rd day of January 2012.



Lisa G. McAlister

PARTIES SERVED

Werner.margard@puc.state.oh.us

John.jones@puc.state.oh.us

grady@occ.state.oh.us

MWarnock@bricker.com

stnourse@aep.com

mjsatterwhite@aep.com

tobrien@bricker.com

sam@mwncmh.com

fdarr@mwncmh.com

joliker@mwncmh.com

ricks@ohanet.org

msmalz@ohiopoverlylaw.org

jmaskovyak@ohiopoverlylaw.org

Philip.sineneng@thompsonhine.com

Dorothy.corbett@duke-energy.com

todonnell@bricker.com

cmontgomery@bricker.com

myurick@cwslaw.com

dconway@porterwright.com

haydenm@firstenergycorp.com

mkurtz@BKLawfirm.com

dboehm@BKLawfirm.com

emma.hand@snrdenton.com

doug.bonner@snrdenton.com

keith.nusbaum@snrdenton.com

JLang@Calfee.com

lmcbride@calfee.com

talAlexander@calfee.com

jbentine@cwslaw.com

cmooney2@columbus.rr.com

jejadwin@aep.com

mhpetricoff@vorys.com

smhoward@vorys.com

mjsettineri@vorys.com

wmassey@cov.com

henryeckhart@aol.com

jesse.rodriquez@exeloncorp.com

sandy.grace@exeloncorp.com

kpkreider@kmklaw.com

holly@raysmithlaw.com

BarthRoyer@aol.com

Gary.A.Jeffries@dom.com

gthomas@gtpowergroup.com

laurac@chappelleconsulting.net

cmiller@szd.com

gdunn@szd.com

ahaque@szd.com

tsantarelli@elpc.org

nolan@theoec.org

trent@theoec.org

ned.ford@fuse.net

gpoulos@enernoc.com

sfisk@nrdc.org

zkraivitz@cwslaw.com

aehaedt@jonesday.com

dakutik@jonesday.com

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

1/23/2012 4:36:55 PM

in

Case No(s). 10-2376-EL-UNC, 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM

Summary: Memorandum Contra Applications for Rehearing electronically filed by Teresa Orahod on behalf of OMA Energy Group