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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of
Columbus Southern Power Company
and Ohio Power Company for
Authority to Establish a Standard
Service Offer Pursuant to Section
4928.143, Revised Code, in the Form of
an Electric Security Plan.

Case No. 11-346-EL-SSO
Case No. 11-348-EL-SSO

In the Matter of the Application of
Columbus Southern Power Company
and Ohio Power Company for
Approval of Certain Accounting
Authority.

Case No. 11-349-EL-AAM
Case No. 11-350-EL-AAM

**MEMORANDUM CONTRA OF ORMET PRIMARY ALUMINUM CORPORATION
TO OHIO POWER COMPANY'S MOTION FOR AMENDMENT TO THE
PROCEDURAL SCHEDULE AND REQUEST FOR EXPEDITED TREATMENT**

The Commission should deny Ohio Power Company's ("AEP Ohio's")¹ motion to amend the procedural schedule to the extent that it accelerates the already aggressive deadline for the intervenors to submit testimony regarding AEP Ohio's over 620 page ESP application. AEP Ohio proposes to, among other changes, advance the current May 4, 2012 deadline for submission of intervenor testimony to May 1, 2012.² AEP Ohio argues that doing so would

¹ AEP Ohio is a subsidiary of American Electric Power ("AEP"), a company that is publicly traded on the New York Stock Exchange.

² As an initial matter, AEP Ohio suggests that pursuant to Ohio Administrative Code section 4901-1-12(C), the Commission may rule on its motion without considering memoranda contra. That rule allows the Commission to issue an expedited ruling without waiting for memoranda contra where: a) the movant merely requests an extension of time of less than five days; or b) where the movant seeks something more than a mere less-than-five-day extension, asks the other parties' permission, and they do not object. AEP Ohio's motion does not fit within this rule. First, AEP Ohio's motion does not merely request an extension of time of five days or less;

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further AEP Ohio's unique goal of reaching a Commission decision as close to June 1, 2012 as possible. The Commission should not grant AEP Ohio's motion in this respect for two reasons. First, AEP Ohio has failed to present the Commission with any credible reason to rush the already accelerated process. Contrary to its two claims allegedly justifying modification to the schedule, AEP Ohio is in a strong fiscal position, and the intervenors have had very little time to analyze the application. Second, the intervenors are already faced with significant time constraints to prepare their testimony and should not be further limited. Addressing each of these issues in turn, Ormet respectfully suggests that the Commission should deny AEP Ohio's motion to the extent it seeks to shorten the time intervenors have to prepare their testimony.

AEP Ohio first seeks to justify accelerating the Commission's procedural schedule based on the false pretense of its financial hardship and need for new rates to be imposed by its July billing cycle.³ In reality, no such hardship exists as AEP Ohio has enjoyed net income of over \$1 billion over the last two calendar years.⁴ It also earned a Return on Equity ("ROE") of 12.06 percent in 2011,⁵ a rate higher than any ROE approved for an electric utility in the country in

rather, it seeks to shorten the intervenors' time to prepare testimony. Second, AEP Ohio "fails to certify that no party has any objection, [so] any party may file a memorandum contra." O.A.C. § 4901-1-12(C). Third, Ormet never said it would not object to AEP Ohio's motion; in fact, it does. Fourth, the rule says only that the Commission "may" rule without receiving memoranda contra if the rule's requirements are satisfied, not that the Commission need not consider memoranda contra filed before the Commission rules.

³ AEP Ohio Mem. in Support of Mot. for Amendment to the Procedural Schedule at pp. 4-5 (Apr. 4, 2012).

⁴ See American Electric Power's Annual 10-K Report at p. 189 (Feb. 28, 2012), available at <http://www.aep.com/investors/financialfilingsandreports/edgar/filings.aspx?section=OhioPowerFilings>.

⁵ Direct Testimony of William A. Allen in Support of AEP Ohio's Modified Electric Security Plan at 14 (Mar. 30, 2012).

2011.⁶ In fact, AEP's CEO recently addressed the impact of AEP Ohio having to continue its 2011 rates and effectively told AEP's shareholders that the company *does not* have a financial need to accelerate the schedule in this case. He said to a bank analyst, specifically with regard to the financial impact of the possibility that AEP Ohio would be forced to continue to operate under 2011 rates: "I don't think that would be a big issue at all if that's the way it ends up . . . we'll just continue on with where we are and that's not a bad news story for us at all."⁷ AEP is now collecting rates that are even higher than it did in 2011. In light of AEP Ohio's industry-leading ROE, its billion dollar net income over two years, and the AEP CEO's representations that continuing the 2011 rates would not harm AEP, AEP Ohio's suggested need to implement changes by the July billing cycle strain credulity.

AEP Ohio also inaccurately claims that the intervenors have had months to prepare their testimony based on "the previous phases of this proceeding."⁸ That is misleading. AEP Ohio itself admits that its newly proposed ESP presents an entirely different application since it expressly intends for the application to be considered as a "balanced package of terms."⁹ In fact, AEP Ohio dedicates many pages of its application simply to summarize how the other sections of the application are different from its previous filings. For example, the stated purpose of Mr. Dias' testimony is to explain the "major differences between the original ESP II (filed January

⁶ See Exhibit A attached, *available at* http://www.fortnightly.com/exclusive.cfm?o_id=70 by selecting "electric" as the utility type with a date range of all months in 2011 and sorting by "ROE Rate Newly Authorized."

⁷ AEP-Q2 2011 American Electric Power Earnings Conference Call, July 29, 2011, transcript available from SeekingAlpha, *available at* <http://seekingalpha.com/article/283262-american-electric-power-s-ceo-discusses-q2-2011-results-earnings-call-transcript?part=qanda> (last accessed Sept. 27, 2011).

⁸ AEP Ohio Mem. in Support of Mot. for Amendment to the Procedural Schedule at 5 (Apr. 4, 2012).

⁹ Direct Testimony of Robert P. Powers in Support of AEP Ohio's Modified Electric Security Plan at 5:2-4 (Mar. 30, 2012).

2011)" and the current, "modified ESP II plan."¹⁰ AEP Ohio stresses through Mr. Dias' testimony that this application is different because, among other things, it eliminates the Market Transition Rider and the Load Factor Rider while presenting entirely new riders.¹¹ That the application is a new package with "major" changes requires reviewing it anew to understand how all the pieces fit together. Furthermore, the Commission expressly allowed for new intervenors to join the case when it set the procedural schedule at issue.¹² Since then, several new parties have intervened, and they have not had months to prepare their testimony.¹³ For AEP Ohio to now argue that the intervenors have had months to prepare testimony relevant to the current, "modified ESP II plan" is not accurate.

That AEP Ohio needed many pages simply to highlight the differences between this over 620 page application and its previous application highlights the extraordinary complexity of reaching just and reasonable rates in this case. It equally highlights the need for a full and complete record before the Commission. Accordingly, the Commission should reject AEP Ohio's invitation to rush to judgment.

AEP Ohio fails to present any reason to grant its motion other than its claim of financial need, which contradicts many publicly available facts, and its false claim about how long the intervenors have had to consider AEP Ohio's application. Conversely, Ormet and the other intervenors present good reasons that they need all the time that was originally allotted to them to consider the new application before submitting testimony. AEP Ohio's application contains myriad assumptions and unexplained figures that are relied upon by AEP Ohio to justify its

¹⁰ Direct Testimony of Selwyn J. Dias in Support of AEP Ohio's Modified Electric Security Plan at 3:9-14 (Mar. 30, 2012).

¹¹ *Id.* at 9:1-2.

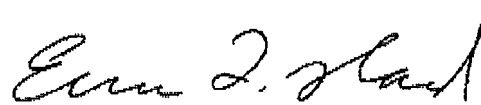
¹² Entry Ordering Procedural Schedule at ¶8(b) (April 2, 2012).

¹³ *See, e.g.*, Mot. to Intervene and Mem. in Supp. of Ohio Restaurant Ass'n (April 4, 2012); Mot. to Intervene and Mem. in Supp. of the Ohio Construction Materials Coalition (April 3, 2012).

claims. To properly analyze AEP Ohio's application requires understanding AEP Ohio's assertions and the reasonableness of the assumptions on which they are based. Doing so requires carefully deconstructing the application and analyzing it in its entirety. Conducting such a review takes time, but benefits every party involved, including AEP Ohio, and especially the Commission and the ratepayers of Ohio.

The rush to judgment that AEP Ohio requests would deprive the Commission of evidence and clarity that it needs to engage in meaningful review of AEP Ohio's application for its justness and reasonableness. Accordingly, for all the foregoing reasons, the Commission should consider Ormet's Memorandum Contra and deny AEP Ohio's motion to the extent it seeks to shorten the time allotted for the intervenors' preparation of testimony.

Respectfully submitted,



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April 9, 2012

EXHIBIT A

UTILITIES ROE SURVEY REPORT

Report (44 Results)						
State	Company	Utility Type	Order Date	Previously Authorized ROE Rate	Newly Authorized ROE Rate	ROE Difference
	Loachan Power Co.	Electric	8/15/2011	12	12	0.00
	Southern California Edison Co.	Electric	4/14/2011	11.8	11.3	-0.10
	Pacific Gas & Electric Co.	Electric	5/5/2011	11.75	11.55	0.00
	Municipal Light & Power	Electric	8/22/2011		10.80	
	Montana-Dakota Utilities Co.	Electric	5/5/2011		10.75	
	Qatar Tail Power Co.	Electric	4/25/2011	10.40	10.74	0.31
	Commonwealth Edison Co.	Electric	5/24/2011	10.3	10.8	0.20
	Southern Indiana Gas & Electric d/ba Western Delivery of Indiana	Electric	4/27/2011	10.4	10.4	0.00
	Interstate Power & Light Co.	Electric	8/12/2011	10.39	10.35	-0.04
	Madison Gas & Electric Co.	Electric	1/12/2011	10.4	10.3	-0.10
	Northern States Power Co.	Electric	7/12/2011		10.3	
	Wisconsin Public Service Corp.	Electric	7/30/2011	10.9	10.3	-0.60
	NorthWestern Energy	Electric	8/28/2011	10.23	10.26	0.00
	Union Electric Co. d/ba American Midstream	Electric	7/19/2011	10.1	10.2	0.10
	Public Service Co. of Oklahoma	Electric	1/5/2011	10	10.15	0.15
	Texas-New Mexico Power Co.	Electric	1/27/2011	10.25	10.125	-0.13
	CenterPoint Energy	Electric	5/12/2011		10	
	Appalachian Power Co. & Wheeling Power Co. d/ba American Electric Power	Electric	3/30/2011	10.5	10	-0.50
	Dakota Power & Light Co.	Electric	8/9/2011	10	10	0.00
	Public Service Co. of New Mexico	Electric	7/28/2011		10	
	Interstate Power & Light Co.	Electric	1/10/2011	10.5	10	-0.50
	KCP&L Greater Missouri Operations Co.	Electric	5/6/2011		10	
	Kansas City Power & Light Co.	Electric	4/12/2011		10	
	Southwestern Public Service Co.	Electric	3/25/2011	10.25	10	-0.25
	Oklahoma Gas & Electric Co.	Electric	6/12/2011	10.25	9.93	-0.30
	PacificCorp d/ba Rocky Mountain Power	Electric	2/28/2011	10.25	9.9	-0.35
	Saltwater Gas & Electric Co.	Electric	3/8/2011		9.85	
	PacificCorp d/ba Pacific Power & Light Co.	Electric	3/25/2011	10.2	9.8	-0.40
	Unal Energy Systems	Electric	4/28/2011	9.87	9.87	0.00
	Western Massachusetts Electric Co.	Electric	1/31/2011	10	9.6	-0.40
	Central Vermont Public Service Co.	Electric	4/20/2011	9.59	9.40	-0.14
	Ontario Power Generation Inc.	Electric	2/19/2011	9.57	9.43	0.68
	Nagawamuck Power Corp.	Electric	1/24/2011		9.3	
	Orange & Rockland Utilities, Inc.	Electric	6/17/2011	9.4	9.2	-0.20
	Fitchburg Gas & Electric Co.	Electric	8/1/2011	10	9.2	-0.80
	Empire District Electric Co.	Electric	6/1/2011	10.0		
	Dakota Power & Light Co.	Electric	7/5/2011	10		
	Qatar Tail Power Co.	Electric	2/14/2011			
	East Kentucky Power Co-op	Electric	1/14/2011			
	Mid-Kansas Electric Co.	Electric	5/30/2011			
	Walshboro Electric Co.	Electric	1/13/2011			
	Citizens Electric Co.	Electric	1/13/2011			
	Montana-Dakota Utilities Co.	Electric	7/20/2011	10.25		
	Northern States Power Co.	Electric	1/12/2011	10.4		

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Memorandum Contra of Ormet Primary Aluminum Corporation to Ohio Power Company's Motion for Amendment to the Procedural Schedule and Request for Expedited Treatment* was served by U.S. Mail and email upon counsel identified below for all parties of record this 9th day of April, 2012.



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