

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

ENTRY ON REHEARING

The Commission finds:

- (1) By opinion and order issued on July 15, 2009, the Commission modified and approved the amended application of Ormet Primary Aluminum Corporation (Ormet) for a unique arrangement with Columbus Southern Power Company and Ohio Power Company (jointly, AEP-Ohio) for electric service to Ormet's aluminum-producing facility located in Hannibal, Ohio.¹
- (2) On October 12, 2012, Ormet filed a motion for expedited approval of payment deferral, pursuant to Section 4905.31, Revised Code, and Rules 4901-1-12(C) and 4901:1-38-05(B), Ohio Administrative Code (O.A.C.). Specifically, Ormet sought approval of a modification to its unique arrangement with AEP-Ohio, such that Ormet would be authorized to defer payment of its billed amounts for October and November 2012, which would otherwise be due in November and December 2012, respectively. Ormet proposed to pay the deferred amounts over the 12 months of 2014 and the first five months of 2015 in equal monthly installment payments that are equal to 1/17, or 5.88235 percent, of the cumulative amount of the two bills.
- (3) Rule 4901-1-11(E), O.A.C., provides that a motion to intervene will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any

¹ By entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Company into Ohio Power Company, effective December 31, 2011. *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC.

specific deadline established by order of the Commission for purposes of a particular proceeding. Rule 4901-1-11(F), O.A.C., further provides that a motion to intervene that is not timely will be granted only under extraordinary circumstances.

- (4) On October 16, 2012, the OMA Energy Group (OMAEG) filed a motion to intervene in this proceeding, as well as objections to Ormet's motion for expedited approval of payment deferral. The Commission finds that OMAEG's motion to intervene was untimely filed, given that a specific intervention deadline of April 28, 2009, was established in this proceeding by entry issued on April 17, 2009. OMAEG did not attempt to show that extraordinary circumstances exist for granting its motion more than three years past the intervention deadline, as required by Rule 4901-1-11(F), O.A.C., or even request leave to file its motion past the deadline. Accordingly, the Commission finds that the motion to intervene filed by OMAEG should be denied.
- (5) By entry issued on October 17, 2012, the Commission granted Ormet's request for a deferred payment arrangement to the extent set forth in the entry.
- (6) Section 4903.10, Revised Code, states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.
- (7) On November 16, 2012, an application for rehearing of the Commission's October 17, 2012, entry was filed by the Ohio Consumers' Counsel (OCC).
- (8) On November 26, 2012, Ormet filed a memorandum contra OCC's application for rehearing.
- (9) In its application for rehearing, OCC requests that the Commission clarify that Ormet is required to continue to maintain 650 full-time jobs, consistent with the terms of the unique arrangement approved by the Commission on July 15, 2009. OCC further requests that the Commission clarify that it may terminate the unique arrangement if

long-term metal prices do not increase enough such that Ormet may profitably operate. OCC notes that the Commission, in its July 15, 2009, opinion and order, put these provisions in place to protect the customers that pay for the discount that Ormet receives through its unique arrangement with AEP-Ohio. OCC argues that these safeguards should continue under the revised unique arrangement approved by the Commission in the October 17, 2012, entry.

- (10) In its memorandum contra, Ormet argues that OCC's application for rehearing should be denied because it is redundant and counterproductive. Ormet points out that the Commission's October 17, 2012, entry modified the unique arrangement to authorize the deferral of two payments, but did not otherwise abrogate any provision of the arrangement. Ormet contends that the provisions of the unique arrangement imposing minimum employee thresholds and allowing the Commission to terminate the arrangement remain in place.
- (11) Pursuant to the terms of the unique arrangement approved by the Commission on July 15, 2009, the rate discount provided to Ormet is directly related to Ormet maintaining certain levels of employment.² Additionally, the Commission may terminate, by order, the unique arrangement if Ormet does not begin to reduce the amount of the accumulated deferrals, and carrying charges, through the payment of above-tariff rates, pursuant to the terms of the unique arrangement, by April 1, 2012.³ The Commission's October 17, 2012, entry granted Ormet's request for a deferred payment arrangement only to the extent set forth in the entry. Specifically, the Commission authorized Ormet to defer payment of its bills for October and November 2012, with payment to occur in 2014 and the first five months of 2015, in monthly installments that are equal to 1/17, or 5.88235 percent, of the cumulative amount of the two bills. Aside from the modifications explicitly

² *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company and Columbus Southern Power Company*, Case No. 09-119-EL-AEC, Opinion and Order, at 11 (July 15, 2009).

³ *Id.* at 15.

approved in the October 17, 2012, entry, Ormet's unique arrangement has been altered in no other respect, and, accordingly, all of the other terms of the arrangement, as initially approved on July 15, 2009, including the two provisions identified by OCC, remain in effect. There is nothing in the October 17, 2012, entry that indicates otherwise. Therefore, we find that OCC's suggestions are unnecessary and the application for rehearing should be denied.

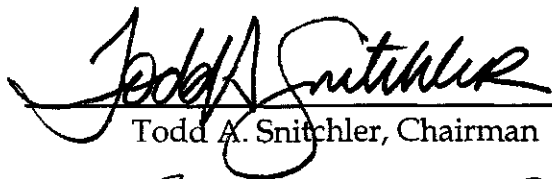

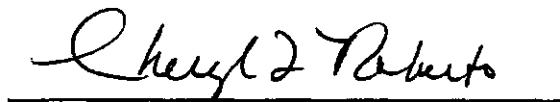
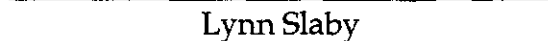
It is, therefore,

ORDERED, That the motion to intervene filed by OMAEG be denied. It is, further,

ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

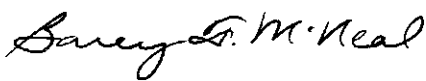
ORDERED, That a copy of this entry on rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman
Steven D. Lesser
Andre T. Porter
Cheryl L. Roberto
Lynn Slaby

SJP/sc

Entered in the Journal **DEC 12 2012**


Barcy F. McNeal
Secretary