

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**COMMENTS ON
ORMET'S APPLICATION FOR A UNIQUE ARRANGEMENT
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

Maureen R. Grady, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
(614) 466-9567 (Telephone)
(614) 466-9475 (Facsimile)
grady@occ.state.oh.us

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The Public Utilities Commission of Ohio (“PUCO” or “Commission”) has again been presented by Ormet Primary Aluminum Corporation (“Ormet”) with a decision to make. The PUCO will have to weigh whether to grant or deny another Ormet claim for economic development funds with the history of the “unprecedented subsidies”¹ that just last year it (the PUCO) said Ohioans are paying for Ormet. Utility customers have subsidized Ormet by approximately \$220 million since 2010, paying for Ormet’s electricity discounts.² The current authorized subsidy from customers is expected to exceed \$300 million.

¹ See *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Entry at ¶5 (Oct. 17, 2012).

² The delta revenues collected are \$60 million in 2010, \$60 million in 2011, \$54 million in 2012, and \$44 million in 2013. See Motion to Amend at 6 -7. According to AEP Ohio, the \$44 million discount is expected to be used at the end of August 2013. See Application, Schedule No. 3.1 in Case No. 13-325-EL-RDR (February 1, 2012). The 2009 delta revenue associated with the Ormet discount was collected separately from the existing Economic Development Cost Recovery Rider. There are also associated carrying charges for any under-recovery.

Jobs and economic development are key. At the same time, the PUCO has been increasingly concerned with the magnitude of the cost to other customers for this particular economic development. Residential consumers in the Ohio Power territory currently pay \$3.41 per month on their electric bills to subsidize the electricity discount arrangements, with most of it for Ormet.³ Residential customers in the Columbus Southern Power territory pay approximately \$2.89⁴ per month to subsidize the electricity discount arrangements, with most of it for Ormet.

The Office of the Ohio Consumers' Counsel ("OCC") represents AEP Ohio's 1.1 million residential customers who are paying the subsidies. Absent among Ormet's requests for those subsidies is a commitment by Ormet that it will not again return to the PUCO for money from customers. Indeed, the proposed three-year shortening of Ormet's current subsidy plan could position Ormet for its next request for subsidies from customers three years earlier than would otherwise be the likely scenario.

I. INTRODUCTION

Ormet is a major producer (smelter) of aluminum in the United States.⁵ Ormet's smelter is located in Hannibal, Ohio.⁶ When the smelter is fully operating (six potlines),⁷ Ormet employs approximately one thousand employees among three states.⁸ Currently

³ Based on 1,000 KWh usage. See Attachment 1.

⁴ Based on 1,000 KWh usage. See Attachment 2.

⁵ Ormet also owns an alumina refinery in Burnside Louisiana which was restarted on November 1, 2011. Ormet Corporation Rule 15c2-11 at 1, Information and Disclosure Statement for the Six Months Ended June 30, 2012.

⁶ See Id.

⁷ Ormet reduced production at the Hannibal smelter to four pot lines at the end of August 2012. As of October 1, 2012, Ormet has reduced its Hannibal smelter workforce by approximately 90 employees. Id.

⁸ See Affidavit of James Burns Riley (Oct. 19, 2012).

Ormet is in bankruptcy. It has scaled down production to four pot lines with 750 employees. Roughly sixty percent (60%) of Ormet's smelter employees are Ohio residents and forty percent (40%) are residents of West Virginia or Pennsylvania.⁹

On July 15, 2009, the PUCO approved, by Opinion and Order, a ten-year "unique arrangement" for Ormet.¹⁰ Under the arrangement Ormet receives a yearly discount on the power bill it would otherwise pay at AEP Ohio's tariff rates. The customers of AEP Ohio were ordered to fund the discount, reimbursing AEP Ohio for the discount to Ormet. Over the term of the arrangement, the PUCO authorized charging customers \$305.8 million for the discount.¹¹ The unique arrangement was structured to phase down the discount over time, eliminating Ormet's dependence on the customer-provided subsidy.

The discount is for economic development--to retain Ohio jobs at Ormet (and presumably not sought from Ohioans for retaining jobs in the other two states whose citizens are also employees of Ormet). In arranging the discount to Ormet that customers will pay, the PUCO did seek to protect utility customers by placing certain restrictions on the arrangement.

One protection ordered by the PUCO was an annual (\$54 million) and aggregate limit (\$305.8) on the money customers would pay to reimburse AEP Ohio for its discount

⁹ See Ormet Exhibit A at 5 (Coomes).

¹⁰ *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Opinion and Order (July 15, 2009).

¹¹ In 2009 the discount provided to Ormet was \$11.78 million. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company to Adjust the Economic Development Cost Recovery Rider Rates*, Case No. 09-1075-EL-UNC, Application at Schedules 5, 5b (November 13, 2009). For 2010 through 2018, the Commission imposed restrictions on the discount provided to Ormet. For 2010 and 2011, there is a maximum discount of \$60 million per year. In 2012, the maximum discount is \$54 million, for calendar years 2013 through 2018, the maximum discount is reduced by \$10 million per year. See Opinion and Order at 10.

to Ormet.¹² Another PUCO-ordered protection was that Ormet must maintain 650 full-time employees for Ohio.¹³ Further, another protection ordered by the PUCO was a provision allowing it to terminate the arrangement (discount) if long-term metal prices did not increase enough for Ormet to profitably operate.¹⁴

On October 12, 2012, Ormet requested that the PUCO modify its earlier approved arrangement.¹⁵ Ormet sought to defer payments for the remainder of 2012 because it had already exhausted its yearly discount.¹⁶ Ormet asked that if it failed to make a scheduled payment for its electricity bill, the missed payment should be collected from AEP Ohio's other customers.¹⁷

On October 17, 2012, the PUCO ruled that Ormet could defer payment of its electric bills for October and November 2012, with payment by Ormet to be prorated over a seventeen-month period beginning on January 1, 2014.¹⁸ The PUCO also granted to AEP Ohio the accounting authority to defer the amounts of Ormet's unpaid electricity

¹² *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Opinion and Order at 10 (July 15, 2009); see footnote 10.

¹³ *Id.*

¹⁴ Specifically, the PUCO determined that it could terminate the arrangement "if Ormet does not begin to reduce the amount of accumulated deferrals, and carrying charges [potentially created in years 2010 and 2011 through deferral accounting], through the payment of above-tariff rates, by April 1, 2012." Order at 15. Termination was to become effective immediately upon issuance of a PUCO order terminating the arrangement. *Id.*

¹⁵ *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Ormet Motion for Expedited Approval of Payment Deferral and Memorandum in Support (Oct. 12, 2012).

¹⁶ Ormet attributes this to the "declining metals market and an overabundance of supply." *Id.* at ¶2. The 2012 discount provided to Ormet was \$54 million, funded by customers.

¹⁷ *Id.* at ¶6.

¹⁸ *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Entry at ¶5 (Oct. 17, 2012).

bills for 2012, not to exceed \$20 million, which is related to Ormet's effort to receive subsidized electricity rates.

Also, customers may be responsible for the carrying charges that AEP Ohio can collect on the principal of the deferrals and that would likely add to the total discount funded by AEP Ohio's customers.¹⁹ That is, the deferral arrangement will likely add to the \$305.8 million customers are obliged to pay. If Ormet does not timely pay the deferrals, customers will pay AEP Ohio for that revenue as well.²⁰

In granting Ormet's deferral request the PUCO found that the subsidy granted was a "sufficiently reasonable and properly constrained means to address Ormet's cash flow problem while considering the interests of AEP-Ohio and its other ratepayers."²¹ The PUCO did note, however, that "we are concerned by the financial risk being incurred by AEP-Ohio ratepayers***."²² And the PUCO advised that it expects any further relief requested by Ormet "will be accompanied by a detailed business plan confirming its long-term ability to exist without ratepayer support."²³ Four months later, Ormet filed for bankruptcy,²⁴ placing customers at risk of paying the entire \$20 million in Ormet's unpaid electric bills from 2012, and associated carrying charges.

In its Application filed last month, Ormet asserted that it needs the PUCO to amend the unique arrangement that Ormet previously sought so that it can "come out of

¹⁹ See *id.*, any amounts, up to \$20 million, that are not timely paid by Ormet shall be considered foregone revenue and recoverable from customers by AEP Ohio under the Economic Development Rider.

²⁰ *Id.* With the Ormet bankruptcy filing, the risk to customers being stuck with a \$20 million plus deferral bill is real.

²¹ *Id.*

²² *Id.* at ¶5.

²³ *Id.*

²⁴ In Re: Ormet, Case No. 13-10334 (Chapter 11 filing).

bankruptcy as a going concern, and do so within the time allotted by the purchase agreement (for Ormet’s assets) approved by the Bankruptcy Court.”²⁵ Ormet has requested the PUCO to grant its emergency application no later than July 31, 2013.²⁶ Additionally, it asks for other benefits on a non-emergency basis. With respect to the timing of the non-emergency benefits, Ormet requests it be “heard on an expedited basis to provide certainty to Ormet as to the ability to reopen the pot lines 5 and 6 by July of 2014 and proceed with construction of the power plant.”²⁷

On June 27, 2012, the Attorney Examiner issued an Entry advising that “given the nature and extent of the modifications requested by Ormet,” its filing should be construed as an application for a unique arrangement.²⁸ The Entry further clarified that the 20-day intervention and comment period specified under the Ohio Administrative Code should apply. In accordance with that Entry, OCC files its comments.

II. COMMENTS

A. Overview Of Ormet’s Request

1. Ormet’s request for *emergency* modifications to its existing arrangement

Ormet asks the PUCO to issue an Order by July 31, 2013, approving the following modifications to its unique arrangement:

²⁵ Ormet Motion to Amend at 1. Ormet, however, failed to include in its filing a copy of its asset purchase agreement.

²⁶ Ormet Motion to Amend at 13, ¶24.

²⁷ Ormet Motion to Amend at 15, ¶31.

²⁸ *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Entry at ¶4 (June 27, 2012).

- (1) Shortening the length of the current unique arrangement by three years so that it terminates on December 2015.²⁹
- (2) Advancing the discount so that Ormet can receive from AEP (and AEP can receive from customers) the “remaining” \$92.5 million in economic development discounts by December 2014 instead of December 2017.³⁰
- (3) Allowing Ormet to purchase electricity from sources other than AEP Ohio as of the January 2014 billing cycle.³¹
- (4) Reducing Ormet’s price per MWH for generation from AEP Ohio for the remaining 5 months of 2013, so that the average fixed rate for the entire 2013 calendar year is \$45.89 per MWh.³²
- (5) Affirm the assignment by Ormet of its interest to its successor in bankruptcy.³³

Ormet alleges that the price for its emergency rate benefits “should be a modest \$3.5 million.”³⁴ According to Ormet, the \$3.5 million estimated cost³⁵ comes from the fourth provision,³⁶ which means that Ormet is asserting the other four provisions have no cost to customers or AEP Ohio.

Ormet requests that the PUCO not hold a hearing in this proceeding. That is Ormet’s position because it must bring the asset purchase agreement to a close and that agreement “requires modification to the unique arrangement to provide Ormet with affordable power

²⁹ Ormet Motion to Amend at 10.

³⁰ Id.

³¹ Id.

³² Ormet Motion to Amend at 10-11.

³³ Id. at 11.

³⁴ Ormet Motion to Amend at 13, ¶23.

³⁴ Id.

³⁶ Ormet Motion to Amend at 13, ¶23.

rates.”³⁷ Ormet alleges that, if its emergency request is not approved, there is no obligation for the lender to provide funds to allow Ormet to maintain its operations.³⁸ Ormet also alleges that with the shutdown of its facility, the existing unique arrangement would be nullified, including its payback of the deferrals.³⁹ According to Ormet, continued employment of 750 direct employees, and millions of dollars paid to local and state government will be lost if it does not come out of bankruptcy by July 31, 2013.⁴⁰

If the emergency benefits are granted, Ormet advises it is ready meet its existing obligation to maintain its current employment.⁴¹ That minimum employment obligation was established as condition precedent to Ormet receiving the \$305.8 million in subsidy payments for electricity under the PUCO’s 2009 Order approving Ormet’s unique arrangement.⁴²

2. Ormet’s request for non-emergency modifications to its arrangement

On a non-emergency basis, Ormet asks for the following⁴³:

- (1) An amendment to support Ormet’s current 4 pot line operation for the first five months of 2015. Ormet would receive a monthly discount of \$4.5 million.⁴⁴
- (2) For two currently unopened pot lines, no earlier than July 2014, Ormet should be able to terminate its purchase of electricity from AEP and buy from another vender, for its full power requirement for these lines. Ormet would also

³⁷ Ormet Motion to Amend at 13, ¶24.

³⁸ Ormet Motion to Amend at 4.

³⁹ Ormet Motion to Amend at 9, ¶17

⁴⁰ Ormet Motion to Amend at 4.

⁴¹ Ormet Motion to Amend at 12, ¶22.

⁴² *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).

⁴³ Ormet Motion to Amend at 11-12.

⁴⁴ *Id.*

receive a shopping credit of \$9/MWh through May 31, 2015, on the additional 160 MW from these pot lines.⁴⁵

- (3) Extend the period for repaying the two months of deferred 2012 electric bills from 17 months to two years.
- (4) A lower price target that triggers Ormet's obligation to pay above tariff electric rates.⁴⁶
- (5) An amendment that Ormet will submit a business plan to the PUCO (under seal within 30 days from the Application filing) demonstrating sustainable energy post-2015 from a newly constructed on-site power plant.⁴⁷
- (6) An amendment to provide for Ormet to submit a detailed construction plan for its on-site gas-fired power plant that will enable it to meet its long term needs "without further incentives."⁴⁸
- (7) An amendment allowing Ormet to purchase up to 540 MW of power from a marketer if the on-site power plant is not functioning on May 31, 2015. Ormet would receive a shopping credit of \$6/MWh, terminating when Ormet's generation plant is placed into full service or Dec. 31, 2015, whichever is earlier.⁴⁹

According to Ormet, the non-emergency rate benefits for 2015 will cost electric customers \$28.1 million. But Ormet acknowledges the subsidy could increase at the rate of \$2.2 million more per month if its as yet unbuilt power plant is delayed beyond June 1, 2015.⁵⁰ Ormet indicates that if the non-emergency rate benefits are granted, it "may elect" [as differentiated from "will elect"] to open one or both of the idled potlines, and in that event it will increase its minimum employment to 1,000 once both idled potlines are

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ Ormet Motion to Amend at 14, ¶29.

fully restarted.⁵¹ Additionally, Ormet asserts that the non-emergency amendments are needed to permit it to transition to an on-site gas-fired power plant, which is to be constructed during the remaining term of the current unique arrangement.⁵² Ormet provides some counterbalance to its request in offering to reduce the price target that triggers Ormet's obligation to pay above tariff rates.⁵³

B. Ormet Has Not Demonstrated That Its Proposed Modifications To Its Unique Arrangement Are Reasonable For Ohioans.

Under S.B. 221, reasonable arrangements are permitted based on unique circumstances, if the arrangement is filed with and approved by the PUCO.⁵⁴ The Applicant, Ormet, bears the burden of proving its modifications are reasonable and should be approved.⁵⁵ When a request for a unique arrangement is filed, the PUCO may fix a time and place for a hearing if the application appears to be unjust or unreasonable.⁵⁶

A balanced solution should promote economic development through electricity rate discounts and assure reasonable rates for Ohio customers. The PUCO has spoken of this balance. A balance can only be achieved, if among other things, the discount (subsidy) that customers are asked to fund is reasonable.

Ormet did not provide support for its assertions about the amount that its Application will cost Ohio utility customers to subsidize. Moreover, the cost quotes for

⁵¹ Ormet Motion to Amend at 11, ¶21b.

⁵² Ormet Motion to Amend at 14, ¶25.

⁵³ Ormet Motion to Ament at 14, ¶28.

⁵⁴ R.C. 4905.31.

⁵⁵ See Ohio Adm. Code 4901:1-38-05(B)(1).

⁵⁶ Ohio Adm. Code 4901:1-38-05(A)(2).

the modifications of the current plan appear to be understated for both the emergency and non-emergency items.

For instance, Ormet claims that the emergency application will only cost customers \$3.5 million, while the non-emergency part of the Application will cost customers, at a minimum \$28.1 million. But these figures are provided by Ormet's Executive, Mr. Riley, without cost support or workpapers to allow verification that the estimates are valid.

And the estimates appear to understate the cost of the modifications for AEP Ohio's customers for both the emergency and non-emergency items. First, Ormet did not consider that under its "\$3.5 million" emergency request customers will be paying \$22 million more for the arrangement in 2013 than previously approved.⁵⁷ For 2014 customers will be paying \$20 million more than what the PUCO initially approved for Ormet, because customers will be paying the subsidies sooner than under the current plan. By paying the discount sooner than they would otherwise be required to pay, customers lose the time value of their money.

Ormet is seeking to advance the \$92.5 million of "unused" discounts that were to be given to it over five years (until the end of 2018). Under Ormet's proposal the advanced discount will be given to it over two years. The cost of Ormet receiving the discount sooner escalates what customers will pay because it requires customers to pay more now than later. But the cost of paying now instead of later is not a component of the "modest \$3.5 million" price for the emergency relief.

⁵⁷ The PUCO approved a \$44 million discount for Ormet in 2013 and a \$34 million discount for Ormet in 2014. Under Ormet's Motion to Amend, it has requested a payment of \$66 million in 2013 and \$54 million in 2014.

In advancing its receipt of subsidies, Ormet would create a new end date for its arrangement that is three years earlier than its current arrangement. There appears to be no commitment by, or prohibition on, Ormet filing in the future a new application for subsidies, to begin when the new advanced date of this plan ends in 2015. Yet, it would seem that such a commitment to not again file for a subsidy from other customers would be a logical component of Ormet's Application in this case.

It is also unclear what costs are included in the \$28.1 million for non-emergency benefits. While there is the additional \$22.5 million discount over the first five months of 2015, it is unclear whether this particular cost is included in the \$28.1 million figure. Second, there are no cost estimates provided regarding the various shopping credits during different periods of time.

Thirdly, Ormet also understates the cost of the emergency and non-emergency rate requests. Ormet understates the impact on customers because it fails to consider that, if it shops, other customers will pay more to AEP Ohio. Customers will pay more because, as a result of AEP Ohio's electric security plan, customers pay AEP Ohio for capacity cost deferrals. Under the AEP ESP Order, all customers are responsible for the capacity deferrals associated with shopping customers.⁵⁸ Customers' payments to AEP Ohio for capacity costs increase when other customers leave AEP Ohio to purchase electricity from marketers—which is what is proposed in Ormet's Application. Given that Ormet is the largest customer on the Ohio Power Company system,⁵⁹ the impacts on

⁵⁸ *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 et al., Opinion and Order at 51 (Aug. 8, 2012).

⁵⁹ Ormet Motion to Amend at 5, ¶5.

other customers will be substantial if Ormet is allowed to receive subsidies and to switch electric providers. But these costs are not calculated or considered as part of the \$3.5 million of emergency relief or the \$28.1 million of non-emergency relief.

And it appears that Ormet's non-emergency proposal to extend the deferral payment plan, from 17 months to 24 months, may also impose a cost on customers as customers will likely be asked to pay the carrying costs on AEP Ohio's deferral for an additional seven months. Again, the cost of carrying charges on the deferred payments does not appear to be a part of the \$28.1 million quoted for the non-emergency relief.

As noted, the PUCO has previously stated its concerns about the burden on customers who pay the subsidies to Ormet. Without knowing the true cost of the proposal, the PUCO cannot determine the additional financial risk customers are being asked to bear. Ormet has not met its burden of showing that its modifications are reasonable.

Finally, the Commission will grant temporary rate relief only at the minimum level necessary to avert or relieve the emergency.⁶⁰ Ormet has not shown that the amount of relief it is seeking is at the minimum level, which will avert the impending injury to it and the public. Ormet, in making its claims, fails to show that the \$42 million discount is the minimal amount necessary to allow it to maintain its Ohio operations. A mere claim that that the "conditions of the bankruptcy court"⁶¹ require

⁶⁰ Id.

⁶¹ Ormet failed to attach a copy of the asset purchase agreement which would appear germane to this issue.

modifications to the Unique Arrangement “which provide for affordable power rates”⁶² is not enough.

C. Ormet’s Proposals Do Not Meet The Safeguards The PUCO Imposed When Approving And Modifying Ormet’s Unique Arrangement.

Ormet asks to receive the discounts to its electric bill three years earlier than originally ordered by the PUCO.⁶³ Under the PUCO’s original approval of the Ormet arrangement, the discount to Ormet was phased down over the ten-year period of the arrangement.⁶⁴ The PUCO described this part of the arrangement as an effort to “reduce over time and eventually eliminate Ormet’s dependency on the delta revenue.”⁶⁵ According to Ormet, advancing the \$92.5 million of remaining discounts would average \$5.5 million as a discount per month in 2013 and \$4.5 million as a discount per month in 2014.⁶⁶

Additionally, Ormet promises to submit to the PUCO, *under seal, thirty days after the filing* of the application, a business plan demonstrating a sustainable energy price after 2015 from a newly constructed on-site power plant. Finally, Ormet is also seeking to extend the 17-month deferred payment plan, recently approved by the PUCO in

⁶² Ormet Motion to Amend at 3.

⁶³ Ormet Motion to Amend at 2.

⁶⁴ *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 10 (July 15, 2009).

⁶⁵ *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, Entry at ¶5 ((Oct. 17, 2012).

⁶⁶ Ormet Motion to Amend at 2, footnote 4.

October 2012, to a 24-month payment plan.⁶⁷ These provisions however, are inconsistent with the PUCO's prior rulings on the Ormet unique arrangement.

First, if the emergency relief provides discounts of \$5.5 million per month in 2013, including the discount already provided in 2013, it would appear that customers will be paying more than the ceiling the PUCO set for customer funding of the discount. The PUCO, in its original Opinion and Order, set a \$54 million annual ceiling on customer funding of the Ormet discount.⁶⁸ The PUCO did so after acknowledging the recommendations of others, including its Staff, that the ability of customers to fund delta revenues (discount) is not unlimited.⁶⁹ And, according to the PUCO, the terms of the unique arrangement, as initially approved on July 15, 2009, remain in effect.⁷⁰ But under Ormet's emergency proposal this important consumer protection would be circumvented.

Second, when the PUCO approved further modifications of Ormet's unique arrangement in October 2012, the PUCO advised Ormet that it "expects that any further relief requested by Ormet will be accompanied by a detailed business plan confirming its long-term ability to exist without ratepayer support."⁷¹ Yet, Ormet now seeks "further

⁶⁷ Ormet Motion to Amend at 11, ¶21a.

⁶⁸ *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 10 (July 15, 2009). .

⁶⁹ Id.

⁷⁰ *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, Entry on Rehearing at ¶11 (Dec. 12, 2012).

⁷¹ *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, Entry at ¶5 (Oct. 17, 2012).

relief”—emergency relief, without filing the detailed business plan the PUCO ordered. (The Plan will be filed thirty days after its application,⁷² or on or about July 14, 2013.)

There is very little information regarding the size, the construction cost, the schedule, the financing, and the economic viability of Ormet’s “proposed” power plant. There is no indication whatsoever that Ormet can finance, construct, and operate a power plant of the considerable size needed, given Ormet’s large electricity load.

According to Ormet, the PUCO should grant Ormet’s emergency requests, and then it will file a business plan to show sustainability *post-2015*. Ormet has not provided assurance that it will not return in 2015 (or sooner) to ask for a new discount. Ormet’s emergency request, without showing its detailed business plan, is inconsistent with the PUCO’s directive. And that directive was based on the PUCO’s expressed concerns regarding the financial risk being incurred by AEP Ohio’s customers.

Third, as part of the non-emergency relief, Ormet proposes to modify the prior approved deferral payment.⁷³ This too is inconsistent with the PUCO’s earlier determination that a 17-month payment plan is a “sufficiently reasonable and properly constrained means to address Ormet’s cash flow problem, while considering the interests of AEP-Ohio and its other ratepayers.”⁷⁴

For these reasons, Ormet has not shown compliance with the prior rulings of the PUCO. The PUCO’s prior rulings, with its expectations for Ormet in the future, were intended to apply in situations such as this where Ormet is seeking a new plan.

⁷² Ormet Motion to Amend at 12.

⁷³ Ormet Motion to Amend at 11, ¶21a.

⁷⁴ *Id.*

III. CONCLUSION

Reasonable arrangements established under S.B. 221 must be reasonable for both the entity receiving the subsidy and all of the customers who would pay the subsidy. Ormet has not proven in its Application that the subsidies are reasonable for customers to pay.

Jobs and economic development are key. At the same time, the PUCO has been increasingly concerned with the magnitude of the cost to other customers for this particular economic development. The PUCO, in noting its concern, described the customer payments for Ormet as “unprecedented subsidies.”⁷⁵ AEP Ohio customers have paid about \$220 million through August 2013 and will pay significant additional amounts of money (bringing the total above \$300 million) toward Ormet’s financial viability.

Absent among Ormet’s requests for subsidies is a commitment by Ormet that it will not again seek money from utility customers. Indeed, Ormet’s proposed three-year shortening of its current subsidy plan could position Ormet for its next request for subsidies from customers three years earlier than would otherwise be the likely scenario.

Residential consumers in the Ohio Power territory currently pay \$3.41 per month to subsidize electricity discounts for economic development. Residential customers in Columbus Southern Power territory pay approximately \$2.89 per month to subsidize the

⁷⁵ See *In the Matter of the Application of Ormet Primary Aluminum Corporation for Approval of a Unique Arrangement with Ohio Power Company*, Case No. 09-119-EL-AEC, Entry at ¶5 (Oct. 17, 2012).

electricity discounts for economic development. The bulk of these bill payments relate to Ormet. Ormet has not met its burden of proof to show the PUCO that its requests balance the interests in economic development and reasonable rates for utility customers.

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/Maureen R. Grady

Maureen R. Grady, Counsel of Record
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-9567 (Telephone)

(614) 466-9475 (Facsimile)

grady@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments was served via electronic transmission upon the following parties of record, this 5th day of July, 2013.

/s/ Maureen R. Grady
Maureen R. Grady
Assistant Consumers' Counsel

SERVICE LIST

Thomas.mcnamee@puc.state.oh.us
stnourse@aep.com
myurick@taftlaw.com
mwhite@taftlaw.com
dboehm@bkllawfirm.com
mkurtz@bkllawfirm.com
ricks@ohanet.org
tobrien@bricker.com
jajadwin@aep.com
mhpetricoff@vorys.com
smhoward@vorys.com
glpetrucci@vorys.com

cvince@sonnenschein.com
ehand@sonnenschein.com
dbonner@sonnenschein.com
dbarnowski@sonnenschein.com
sam@mwncmh.com
fdarr@mwncmh.com
joliker@mwncmh.com
mpritchard@mwncmh.com
tsiwo@bricker.com
marmstrong@bricker.com

AEs: Gregory.price@puc.state.oh.us
Sarah.parrot@puc.state.oh.us

Edison Electric Institute
Typical Net Monthly Bills
Current Rates

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Ohio Power Company

RESIDENTIAL

| | | | Rate Schedule Charges | 100 kWh | 250 kWh | 500 kWh | 750 kWh | 1,000 kWh |
|------------------------------------|--------|-----------|-----------------------------|-------------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| <u>Bill Calculations</u> | | | | | | | | |
| Customer Charge | \$/mo. | 3.82 | D | \$3.82 | \$3.82 | \$3.82 | \$3.82 | \$3.82 |
| Energy Charges | | | | | | | | |
| First 800 kWh | \$/kWh | 0.0278195 | G | 2.78 | 6.95 | 13.91 | 20.86 | 22.26 |
| | \$/kWh | 0.0235642 | D | 2.36 | 5.89 | 11.78 | 17.67 | 18.85 |
| Over 800 kWh | \$/kWh | 0.0230461 | G | 0.00 | 0.00 | 0.00 | 0.00 | 4.61 |
| | \$/kWh | 0.0171224 | D | 0.00 | 0.00 | 0.00 | 0.00 | 3.42 |
| Subtotal | | | G | \$2.78 | \$6.95 | \$13.91 | \$20.86 | \$26.87 |
| | | | D | \$6.18 | \$9.71 | \$15.60 | \$21.49 | \$26.09 |
| | | | A | \$8.96 | \$16.66 | \$29.51 | \$42.35 | \$52.96 |
| Universal Service Fund | \$/kWh | 0.0056727 | D | 0.57 | 1.42 | 2.84 | 4.25 | 5.67 |
| Advanced Energy Fund Rider | \$/mo. | 0.0000000 | D | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| KWH Tax (First 2,000) | \$/kWh | 0.00465 | D | 0.47 | 1.16 | 2.33 | 3.49 | 4.65 |
| (Next 13,000) | \$/kWh | 0.00419 | D | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| (Over 15,000) | \$/kWh | 0.00363 | D | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Retail Stability Rider | \$/kWh | 0.0046509 | D | 0.47 | 1.16 | 2.33 | 3.49 | 4.65 |
| Transmission Cost Recovery | \$/kWh | 0.0115708 | T | 1.16 | 2.89 | 5.79 | 8.68 | 11.57 |
| Transmission Under Recovery | \$/kWh | 0.0003295 | T | 0.03 | 0.08 | 0.16 | 0.25 | 0.33 |
| Fuel Adjustment Clause | \$/kWh | 0.0382555 | G | 3.83 | 9.56 | 19.13 | 28.69 | 38.26 |
| AER | \$/kWh | 0.0004868 | G | 0.05 | 0.12 | 0.24 | 0.37 | 0.49 |
| Phase-In Cost Recovery Rider | \$/kWh | 0.0042220 | D | 0.42 | 1.06 | 2.11 | 3.17 | 4.22 |
| EE&PDR Cost Recovery Rider | \$/kWh | 0.0028902 | D | 0.29 | 0.72 | 1.45 | 2.17 | 2.89 |
| EDR Cost Recover Rider | % | 13.05465% | D | 0.81 | 1.27 | 2.04 | 2.81 | 3.41 |
| Distribution Investment Rider | % | 0.1116685 | D | 0.69 | 1.08 | 1.74 | 2.40 | 2.91 |
| gridSMART SM Rider | \$/mo | 0.10 | D | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 |
| Distribution Asset Recovery Rider | % | 8.50120% | D | 0.53 | 0.83 | 1.33 | 1.83 | 2.22 |
| Residential Credit Rider | % | -3.58070% | D | (0.22) | (0.35) | (0.56) | (0.77) | (0.93) |
| Enhanced Service Reliability Rider | % | 5.30956% | D | 0.33 | 0.52 | 0.83 | 1.14 | 1.39 |
| Total Bill | | | G | \$6.66 | \$16.63 | \$33.28 | \$49.92 | \$65.62 |
| | | | T | \$1.19 | \$2.97 | \$5.95 | \$8.93 | \$11.90 |
| | | | D | \$10.63 | \$18.68 | \$32.14 | \$45.57 | \$57.26 |
| | | | A | \$18.48 | \$38.28 | \$71.37 | \$104.41 | \$134.78 |
| <u>Bill Calculations</u> | | | | | | | | |
| | | | Rate Schedule Charges | Minimum 1,500 kWh | Minimum 2,000 kWh | Minimum 3,000 kWh | Minimum 5,000 kWh | Minimum 7,500 kWh |
| Customer Charge | \$/mo. | 3.82 | D | \$3.82 | \$3.82 | \$3.82 | \$3.82 | \$3.82 |
| Energy Charges | | | | | | | | |
| First 800 kWh | \$/kWh | 0.0278195 | G | 22.26 | 22.26 | 22.26 | 22.26 | 22.26 |
| | \$/kWh | 0.0235642 | D | 18.85 | 18.85 | 18.85 | 18.85 | 18.85 |
| Over 800 kWh | \$/kWh | 0.0230461 | G | 16.13 | 27.66 | 50.70 | 96.79 | 154.41 |
| | \$/kWh | 0.0171224 | D | 11.99 | 20.55 | 37.67 | 71.91 | 114.72 |
| Subtotal | | | G | 38.39 | 49.92 | 72.96 | 119.05 | 176.67 |
| | | | D | \$34.66 | \$43.22 | \$60.34 | \$94.58 | \$137.39 |
| | | | A | \$73.05 | \$93.14 | \$133.30 | \$213.63 | \$314.06 |
| Universal Service Fund | \$/kWh | 0.0056727 | D | 8.51 | 11.35 | 17.02 | 28.36 | 42.55 |
| Advanced Energy Fund Rider | \$/mo. | 0.0000000 | D | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| KWH Tax (First 2,000) | \$/kWh | 0.00465 | D | 6.98 | 9.30 | 9.30 | 9.30 | 9.30 |
| (Next 13,000) | \$/kWh | 0.00419 | D | 0.00 | 0.00 | 4.19 | 12.57 | 23.05 |
| (Over 15,000) | \$/kWh | 0.00363 | D | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| Retail Stability Rider | \$/kWh | 0.0046509 | D | 6.98 | 9.30 | 13.95 | 23.25 | 34.88 |
| Transmission Cost Recovery | \$/kWh | 0.0115708 | T | 17.36 | 23.14 | 34.71 | 57.85 | 86.78 |
| Transmission Under Recovery | \$/kWh | 0.0003295 | T | 0.49 | 0.66 | 0.99 | 1.65 | 2.47 |
| Fuel Adjustment Clause | \$/kWh | 0.0382555 | G | 57.38 | 76.51 | 114.77 | 191.28 | 286.92 |
| AER | \$/kWh | 0.0004868 | G | 0.73 | 0.97 | 1.46 | 2.43 | 3.65 |
| Phase-In Cost Recovery Rider | \$/kWh | 0.0042220 | D | 6.33 | 8.44 | 12.67 | 21.11 | 31.67 |
| EE&PDR Cost Recovery Rider | \$/kWh | 0.0028902 | D | 4.34 | 5.78 | 8.67 | 14.45 | 21.68 |
| EDR Cost Recover Rider | % | 0.1305465 | D | 4.52 | 5.64 | 7.88 | 12.35 | 17.94 |
| Distribution Investment Rider | % | 0.1116685 | D | 3.87 | 4.83 | 6.74 | 10.56 | 15.34 |
| gridSMART SM Rider | \$/mo | 0.10 | D | 0.10 | 0.10 | 0.10 | 0.10 | 0.10 |
| Distribution Asset Recovery Rider | % | 8.50120% | D | 2.95 | 3.67 | 5.13 | 8.04 | 11.68 |
| Residential Credit Rider | % | -3.58070% | D | (1.24) | (1.55) | (2.16) | (3.39) | (4.82) |
| Enhanced Service Reliability Rider | % | 5.30956% | D | 1.84 | 2.29 | 3.20 | 5.02 | 7.29 |
| Total Bill | | | G | \$96.50 | \$127.40 | \$189.19 | \$312.76 | \$467.24 |
| | | | T | \$17.85 | \$23.80 | \$35.70 | \$59.50 | \$89.25 |
| | | | D | \$79.84 | \$102.38 | \$147.03 | \$236.30 | \$347.95 |
| | | | A | \$194.19 | \$253.58 | \$371.92 | \$608.57 | \$904.44 |
| | | | | | | | | |
| | | | | Minimum | Minimum | Minimum | Minimum | Minimum |

Edison Electric Institute
Typical Net Monthly Bills
Current Rates

Columbus Southern Rate Zone

RESIDENTIAL - RR1

| | | Rate | | 100 | 250 | 500 |
|------------------------------------|--------|-----------|---|---------|---------|---------|
| <u>Bill Calculations</u> | | Schedule | | kWh | kWh | kWh |
| | | Charges | | | | |
| Customer Charge | \$/mo. | 4.52 | D | \$4.52 | \$4.52 | \$4.52 |
| *Energy Charges | | | | | | |
| First 800 kWh | \$/kWh | 0.0224936 | G | 2.25 | 5.62 | 11.25 |
| | \$/kWh | 0.0274267 | D | 2.74 | 6.86 | 13.71 |
| Over 800 kWh | \$/kWh | 0.0000000 | G | 0 | 0 | 0 |
| | \$/kWh | 0.0057028 | D | 0 | 0 | 0 |
| Subtotal | | | G | \$2.25 | \$5.62 | \$11.25 |
| | | | D | \$7.26 | \$11.38 | \$18.23 |
| Universal Service Fund | \$/kWh | 0.0046813 | D | 0.47 | 1.17 | 2.34 |
| Advanced Energy Fund Rider | \$/mo. | 0.0000000 | D | 0.00 | 0.00 | 0.00 |
| KWH Tax (First 2,000) | \$/kWh | 0.00465 | D | 0.47 | 1.16 | 2.33 |
| (Next 13,000) | \$/kWh | 0.00419 | D | 0.00 | 0.00 | 0.00 |
| (Over 15,000) | \$/kWh | 0.00363 | D | 0.00 | 0.00 | 0.00 |
| Retail Stability Rider | \$/kWh | 0.0046509 | D | 0.47 | 1.16 | 2.33 |
| Phase-In Deferral | \$/kWh | 0.0000680 | D | 0.01 | 0.02 | 0.03 |
| Transmission Cost Recovery | \$/kWh | 0.0115708 | T | 1.16 | 2.89 | 5.79 |
| Transmission Under-Recovery | \$/kWh | 0.0003295 | T | 0.03 | 0.08 | 0.16 |
| Fuel Adjustment Clause | \$/kWh | 0.0449242 | G | 4.49 | 11.23 | 22.46 |
| Distribution Investment Rider | % | 0.1116685 | D | 0.81 | 1.27 | 2.04 |
| AER | \$/kWh | 0.0009709 | G | 0.10 | 0.24 | 0.49 |
| EE&PDR Cost Recovery Rider | \$/kWh | 0.0028902 | D | 0.29 | 0.72 | 1.45 |
| Econ Dev Cost Recovery Rider | % | 13.05465% | D | 0.95 | 1.49 | 2.38 |
| Distribution Asset Recovery Rider | % | 8.50120% | D | 0.62 | 0.97 | 1.55 |
| Residential Credit Rider | % | -3.58070% | D | (0.26) | (0.41) | (0.65) |
| Enhanced Service Reliability Rider | % | 5.30956% | D | 0.39 | 0.60 | 0.97 |
| gridSMART SM Rider | \$/mo. | 0.10 | D | 0.10 | 0.10 | 0.10 |
| Total G | | | | 6.84 | 17.09 | 34.20 |
| Total T | | | | 1.19 | 2.97 | 5.95 |
| Total D | | | | 11.58 | 19.63 | 33.09 |
| Total Bill | | | | \$19.61 | \$39.69 | \$73.24 |

* Not applicable to customers who use more than 700 kWh during the summer months.

Edison Electric Institute
Typical Net Monthly Bills
Current Rates

Columbus Southern Rate Zone

RESIDENTIAL - RR**Winter
Bill Calculations**

| | | Rate Schedule Charges | | 750 kWh | 1,000 kWh | 1,500 kWh | 2,000 kWh |
|------------------------------------|--------|-----------------------------|---|------------|--------------|--------------|--------------|
| Customer Charge | \$/mo. | 4.52 | D | \$4.52 | \$4.52 | \$4.52 | \$4.52 |
| Energy Charges | | | | | | | |
| First 800 kWh | \$/kWh | 0.0296458 | G | 22.23 | 23.72 | 23.72 | 23.72 |
| | \$/kWh | 0.0298899 | D | 22.42 | 23.91 | 23.91 | 23.91 |
| Over 800 kWh | \$/kWh | 0.0000000 | G | 0.00 | 0.00 | 0.00 | 0.00 |
| | \$/kWh | 0.0057028 | D | 0.00 | 1.14 | 3.99 | 6.84 |
| Subtotal | | | G | \$22.23 | \$23.72 | \$23.72 | \$23.72 |
| | | | D | \$26.94 | \$29.57 | \$32.42 | \$35.27 |
| Universal Service Fund | \$/kWh | 0.0046813 | D | 3.51 | 4.68 | 7.02 | 9.36 |
| Advanced Energy Fund Rider | \$/mo. | 0.0000000 | D | 0.00 | 0.00 | 0.00 | 0.00 |
| KWH Tax (First 2,000) | \$/kWh | 0.0046500 | D | 3.49 | 4.65 | 6.98 | 9.30 |
| (Next 13,000) | \$/kWh | 0.0041900 | D | 0.00 | 0.00 | 0.00 | 0.00 |
| (Over 15,000) | \$/kWh | 0.0036300 | D | 0.00 | 0.00 | 0.00 | 0.00 |
| Retail Stability Rider | \$/kWh | 0.0046509 | D | 3.49 | 4.65 | 6.98 | 9.30 |
| Phase-In Deferral | \$/kWh | 0.0000680 | D | 0.05 | 0.07 | 0.10 | 0.14 |
| Transmission Cost Recovery | \$/kWh | 0.0115708 | T | 8.68 | 11.57 | 17.36 | 23.14 |
| Transmission Under-Recovery | \$/kWh | 0.0003295 | T | 0.25 | 0.33 | 0.49 | 0.66 |
| AER | \$/kWh | 0.0009709 | G | 0.73 | 0.97 | 1.46 | 1.94 |
| Fuel Adjustment Clause | \$/kWh | 0.0449242 | G | 33.69 | 44.92 | 67.39 | 89.85 |
| Distribution Investment Rider | % | 0.1116685 | D | 3.01 | 3.30 | 3.62 | 3.94 |
| EE&PDR Cost Recovery Rider | \$/kWh | 0.0028902 | D | 2.17 | 2.89 | 4.34 | 5.78 |
| Econ Dev Cost Recovery Rider | % | 0.1305465 | D | 3.52 | 3.86 | 4.23 | 4.60 |
| Enhanced Service Reliability Rider | % | 5.30956% | D | 1.43 | 1.57 | 1.72 | 1.87 |
| Distribution Asset Recovery Rider | % | 8.50120% | D | 2.29 | 2.51 | 2.76 | 3.00 |
| Residential Credit Rider | % | -3.58070% | D | (0.96) | (1.06) | (1.16) | (1.26) |
| gridSMART SM Rider | \$/mo. | 0.10 | D | 0.10 | 0.10 | 0.10 | 0.10 |
| Total G | | | | 56.65 | 69.6109 | 92.57 | 115.51 |
| Total T | | | | 8.93 | 11.90 | 17.85 | 23.80 |
| Total D | | | | 49.04 | 56.80 | 69.11 | 81.40 |
| Total Bill | | | | \$114.62 | \$138.31 | \$179.52 | \$220.71 |

| | | Rate Schedule Charges | | 3,000 kWh | 5,000 kWh | 7,500 kWh |
|------------------------------------|--------|-----------------------------|---|--------------|--------------|--------------|
| Customer Charge | \$/mo. | 4.52 | D | \$4.52 | \$4.52 | \$4.52 |
| Energy Charges | | | | | | |
| First 800 kWh | \$/kWh | 0.0296458 | G | 23.72 | 23.72 | 23.72 |
| | \$/kWh | 0.0298899 | D | 23.91 | 23.91 | 23.91 |
| Over 800 kWh | \$/kWh | 0.0000000 | G | 0 | 0 | 0 |
| | \$/kWh | 0.0057028 | D | 12.55 | 23.95 | 38.21 |
| Subtotal | | | G | \$23.72 | \$23.72 | \$23.72 |
| | | | D | \$40.98 | \$52.38 | \$66.64 |
| Universal Service Fund | \$/kWh | 0.0046813 | D | 14.04 | 23.41 | 35.11 |
| Advanced Energy Fund Rider | \$/mo. | 0.0000000 | D | 0.00 | 0.00 | 0.00 |
| KWH Tax (First 2,000) | \$/kWh | 0.0046500 | D | 9.30 | 9.30 | 9.30 |
| (Next 13,000) | \$/kWh | 0.0041900 | D | 4.19 | 12.57 | 23.05 |
| (Over 15,000) | \$/kWh | 0.0036300 | D | 0.00 | 0.00 | 0.00 |
| Retail Stability Rider | \$/kWh | 0.0046509 | D | 13.95 | 23.25 | 34.88 |
| Phase-In Deferral | \$/kWh | 0.0000680 | D | 0.20 | 0.34 | 0.51 |
| Transmission Cost Recovery | \$/kWh | 0.0115708 | T | 34.71 | 57.85 | 86.78 |
| Transmission Under-Recovery | \$/kWh | 0.0003295 | T | 0.99 | 1.65 | 2.47 |
| AER | \$/kWh | 0.0009709 | G | 2.91 | 4.85 | 7.28 |
| Fuel Adjustment Clause | \$/kWh | 0.0449242 | G | 134.77 | 224.62 | 336.93 |
| Distribution Investment Rider | % | 0.1116685 | D | 4.58 | 5.85 | 7.44 |
| EE&PDR Cost Recovery Rider | \$/kWh | 0.0028902 | D | 8.67 | 14.45 | 21.68 |
| Econ Dev Cost Recovery Rider | % | 0.1305465 | D | 5.35 | 6.84 | 8.70 |
| Enhanced Service Reliability Rider | % | 5.30956% | D | 2.18 | 2.78 | 3.54 |
| Distribution Asset Recovery Rider | % | 8.50120% | D | 3.48 | 4.45 | 5.67 |
| Residential Credit Rider | % | -3.58070% | D | (1.47) | (1.88) | (2.39) |
| gridSMART SM Rider | \$/mo. | 0.10 | D | 0.10 | 0.10 | 0.10 |
| Total G | | | | 161.40 | 253.19 | 367.93 |
| Total T | | | | 35.70 | 59.50 | 89.25 |
| Total D | | | | 105.55 | 153.84 | 214.23 |

| | | | |
|------------|----------|----------|----------|
| Total Bill | \$302.66 | \$466.54 | \$671.41 |
|------------|----------|----------|----------|

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in

Case No(s). 09-0119-EL-AEC

Summary: Comments Comments on Ormet's Application for a Unique Arrangement by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Grady, Maureen R. Ms.