

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio Power Company to Adjust) Case No. 15-279-EL-RDR
The Economic Development Cost)
Recovery Rider Rate.)

**COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this proceeding, Ohio Power Company (“AEP Ohio” or “the Utility”) proposes to charge customers for subsidized costs related to so-called “reasonable arrangement” contracts that provide discounted electricity to four large AEP Ohio customers. The four companies are Eramet Marietta, Inc. (“Eramet”), Globe Metallurgical, Inc. (“Globe”), Ormet Primary Aluminum Corp., (“Ormet”), and The Timken Company (“Timken”). Depending on the calculation methodology, other AEP Ohio customers would be charged either \$12.93 million or \$23.67 million through AEP Ohio’s Economic Development Cost Recovery Rider (“Rider EDR”) for the next 12 months.¹

The Office of the Ohio Consumers’ Counsel (“OCC”) files comments on AEP Ohio’s proposal, per Ohio Adm. Code 4901:1-38-08(C). To the extent the Public Utilities Commission of Ohio (“PUCO” or “Commission”) approves AEP Ohio’s Application, the Commission should only permit the Utility to charge customers the delta revenue from those reasonable arrangement subsidies that have previous Commission approval.

In its Application, AEP Ohio is seeking to charge customers, through Rider EDR, for costs “resulting from delta revenues (plus associated carrying costs) under current and

¹ Application (February 6, 2015) at Schedule No.1 and Schedule No. 1A.

prior reasonable arrangements (contracts)”² with Eramet, Globe, Ormet, and Timken. Those subsidized amounts would be charged to all other customers through Rider EDR. AEP Ohio has proposed two alternative methods for determining the subsidy that customers will pay through Rider EDR.

The first alternative includes “the amounts attributable to Ormet that the Company is seeking to recover through the EDR,”³ after AEP Ohio and Ormet agreed in a Stipulation filed in Case No. 13-22063-EL-CSS that the Utility has the right to charge other customers for Ormet’s unpaid bills when Ormet went out of business. As a result, customers would be required to pay \$23.67 million, with \$10.483 million attributable to unpaid Ormet bills.⁴ But the Stipulation in that case has not yet been approved by the PUCO. Under the second alternative, which “reflects only the Ormet deferrals previously authorized by the Commission for recovery through the EDR,”⁵ other AEP Ohio customers would pay \$12.93 million.⁶

A public utility is permitted to enter into a “reasonable arrangement with one or more of its customers . . .”⁷ Such a reasonable arrangement can include a subsidy “device to recover costs incurred in conjunction with any economic development and job retention program of the utility within its certified territory . . .”⁸ Under this authority, the

² Application at 1.

³ Id. at 2.

⁴ Application at Schedule 1, Line 4; *see also*, Schedule 1A, Line 4.

⁵ Id. at 2.

⁶ Application at Schedule 1A, Line 4.

⁷ R.C. 4905.31.

⁸ R.C. 4905.31(E).

PUCO has promulgated rules whereby an electric utility, “may file an application for commission approval for an economic development arrangement between the electric utility and a new or expanding customer or group of customers.”⁹ Each electric utility that is serving customers pursuant to “*approved reasonable arrangements*, may apply for a rider to collect from customers certain costs associated with its delta revenue for serving those customers pursuant to reasonable arrangements.”¹⁰ But the electric utility “filing an application for commission approval of an economic development arrangement bears the *burden of proof* that the proposed arrangement is *reasonable* . . .”¹¹

As previously mentioned, and conceded by AEP Ohio in its Application,¹² the Rider EDR amount at issue in the Stipulation in Case No. 13-2206-EL-CSS, has not been *approved* by the PUCO. In that case, Ormet filed a complaint case against AEP Ohio when Ormet went out of business¹³ and disputed three electric bills for July, September, and October of 2013 under the reasonable arrangement subsidy set forth in Case No. 09-119-EL-AEC.¹⁴ Ormet alleged that AEP Ohio made errors on those three bills that resulted in Ormet being billed an amount that exceeds the rate approved by the PUCO.¹⁵ Shortly thereafter, AEP Ohio and Ormet entered into a Stipulation, whereby AEP Ohio agreed to reduce Ormet’s bill with the intention of charging those amounts (namely, the

⁹ Ohio Adm. Code 4901:1-38-03(A).

¹⁰ Ohio Adm. Code 4901:1-38-08(A) (emphasis added).

¹¹ Ohio Adm. Code 4901:1-38-03(A)(3) (emphasis added).

¹² “The EDR is to be adjusted periodically to recover economic development amounts *authorized by the Commission*.” Application at 1.

¹³ *Ormet Primary Aluminum Corp. v. Ohio Power Company*, Brief by the Office of the Ohio Consumers’ Counsel, at 1 (May 30, 2014).

¹⁴ *See, Ormet Primary Aluminum Corp. v. Ohio Power Company*, Case No. 13-2206-EL-CSS, Complaint at 1 (Nov. 11, 2013).

¹⁵ *See, id.*

disputed unpaid bills and usage deferrals after July 2013) to other customers through Rider EDR.¹⁶ OCC opposed the Stipulation on a number of bases, arguing, inter alia, that it failed to meet the three prong test.¹⁷ The 13-2206-EL-CSS case has been briefed and remains pending before the PUCO awaiting decision.

Accepting the Utility's first alternative would presuppose that the PUCO will approve the 13-2206-EL-CSS Stipulation over OCC's objections. It would not be just and reasonable to charge customers for disputed delta revenues that have not been approved by the PUCO as AEP Ohio has proposed through its first alternative. Moreover, the additional delta revenues, that resulted from Ormet's unpaid bills, should not be charged to other AEP Ohio customers through Rider EDR for the reasons set forth in OCC's May 30, 2014 Brief filed in Case No. 13-2206-EL-CSS which are hereby adopted and incorporated by reference.

For these reasons, it would be contrary to R.C. 4905.22, Ohio Adm. Code 4901:1-38-03 and Ohio Adm. Code 4901:1-38-08 to approve the proposed rates that are set forth in the Schedule 1 of the Application. Instead, the PUCO should only approve the rates that AEP Ohio has proposed in Schedule 1A of the Application, which only includes subsidy costs that have been approved by this Commission.

¹⁶ *Ormet Primary Aluminum Corp. v. Ohio Power Company*, Stipulation at 5-6 (Feb. 3, 2014).

¹⁷ *Ormet Primary Aluminum Corp. v. Ohio Power Company*, Brief by the Office of the Ohio Consumers' Counsel (May 30, 2014).

Respectfully submitted,

BRUCE J. WESTON
OHIO CONSUMERS' COUNSEL

/s/ Michael J. Schuler

Michael J. Schuler, Counsel of Record
(Reg. No. 0082390)

Terry L. Etter

(Reg. No. 0067445)

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

(614) 466-9547 (Schuler Direct)

(614) 466-7964 (Etter Direct)

michael.schuler@occ.ohio.gov

(will accept service via email)

terry.etter@occ.ohio.gov

(will accept service via email)

CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* were served on the persons stated below via electronic transmission this 26th day of February 2015.

/s/ Michael J. Schuler

Michael J. Schuler (0082390)
Assistant Consumers' Counsel

SERVICE LIST

William Wright
Attorney General's Office
Public Utilities Commission of Ohio
180 E. Broad St., 6th Fl.
Columbus, OH 43215
William.wright@puc.state.oh.us

Samuel C. Randazzo
Frank P. Darr
Matthew R. Pritchard
McNees Wallace & Nurick LLC
21 East State Street, 17th Fl.
Columbus, OH 43215
sam@mwncmh.com
fdarr@mwncmh.com
mpritchard@mwncmh.com

Attorneys for Eramet Marietta Inc.

Michael J. Settineri
Stephen M. Howard
Vorys, Sater, Seymour and Pease LLP
52 E. Gay St., P.O. Box 1008
Columbus, OH 43216
mjsettineri@vorys.com
smhoward@vorys.com

Attorneys for TimkenSteel Corp.

Steven T. Nourse
AEP Service Corporation
1 Riverside Plaza, 29th Floor
Columbus, OH 43215
stnourse@aep.com

Counsel for Ohio Power Company

M. Howard Petricoff
Vorys, Sater, Seymour and Pease LLP
52 E. Gay St., P.O. Box 1008
Columbus, OH 43216
mhpetricoff@vorys.com

Attorney for Globe Metallurgical, Inc.

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Summary: Comments Comments by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Schuler, Michael J.