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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application )  
of Globe Metallurgical Inc. for Approval ) Case No. 16-737-EL-AEC  
of a Reasonable Arrangement for its )  
Beverly, Ohio Plant )

STIPULATION AND RECOMMENDATION

Rule 4901-1-30, Ohio Administrative Code ("O.A.C."), provides that two or more parties to a proceeding may enter into a written stipulation to resolve some or all of the issues presented in such proceeding. The purpose of this document is to set forth the understanding and agreement of the parties that have signed below ("Signatory Parties") and jointly recommend that the Public Utilities Commission of Ohio ("Commission") approve and adopt this Stipulation and Recommendation ("Stipulation") as part of its Opinion and Order resolving all of the issues in the above-captioned proceeding.

This Stipulation is supported by adequate data and information and represents a just and reasonable resolution of all issues in this proceeding. The Stipulation violates no regulatory principle or precedent and is in the public interest. The Stipulation was the product of serious bargaining among knowledgeable and capable parties. Further, there were no adverse comments filed by members of the public.

Except for enforcement purposes, neither this Stipulation nor the information and data contained herein shall be cited as precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves the Stipulation. The Signatory Parties' agreement to this Stipulation is only in its entirety. The Stipulation shall not be interpreted in a future proceeding before this Commission as an agreement by a particular

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Signatory Party to an isolated provision of this Stipulation. In sum, the Stipulation must be taken in whole and applies only to the matters in this proceeding.

For purposes of resolving certain issues raised by this proceeding, the Signatory Parties stipulate and recommend that the Commission find as follows:

1. Ohio Power Company (“Ohio Power”) is a public utility as defined by R.C. 4905.02 and is subject to regulation by the Commission.
2. Globe Metallurgical Inc. (“Globe”) is a transmission voltage, GS-4 customer of Ohio Power, with a main office and plant at 1598 Sparling Road, Beverly, Ohio (“Beverly Plant”), located in the area designated as part of Appalachia.
3. Globe qualifies as a mercantile customer as that term is defined in R.C. 4928.01.
4. Pursuant to R.C. 4905.31, and Rule 4901:1-38-05(B), O.A.C., a mercantile customer of an electric utility may apply to the Commission for a unique arrangement with the electric utility. Globe has filed such an application (“Application”) in this proceeding.
5. Globe manufactures silicon metal and ferrosilicon alloys at the Beverly Plant. Globe competes nationally and internationally in the worldwide silicon metal market. Silicon metal prices have steeply declined in the worldwide market. Ohio’s energy policy under R.C. 4928.02(N) is that the Commission facilitate Ohio’s effectiveness in the global economy.
6. Energy is the single largest production cost component of Globe’s specialty metal products and reasonable, predictable energy prices are essential to the competitiveness of the Beverly Plant and to maintain the promised full-time employment levels. Increases in energy costs present a very real challenge in Globe’s ability to compete effectively in the market, as electricity comprises from 30 percent to almost 40 percent of the cost of goods sold, depending on the product.

7. Globe's Beverly plant has a significant total net annual economic impact in Ohio, supporting approximately 1,090 jobs and \$66.1 million in total labor income. Above and beyond these important economic impacts, the Beverly plant directly and indirectly supports state and local tax revenue of about \$6.6 million.

8. In this proceeding, Globe seeks a unique arrangement as stated in the Application, subject to modifications as follows:

- a. The term of the unique arrangement stated in the Application<sup>1</sup> shall be modified such that the unique arrangement will be effective as of the commencement of the October 2016 billing cycle and will terminate as of the conclusion of the December 2018 billing cycle.
- b. The delta revenue caps stated in the Application<sup>2</sup> shall be modified such that the aggregate cap shall be reduced to \$9.30 million and annual caps shall be set according to the following schedule:
  - (i) 2016 - \$1,000,000 (for the period 10/1/16 - 12/31/16)
  - (ii) 2017 - \$4,500,000
  - (iii) 2018 - \$3,800,000
- c. The employment commitment stated in the Application<sup>3</sup> shall be modified such that Globe shall retain at the Beverly Plant a monthly average of [REDACTED] full-time employees as of the end of each calendar year during the term of the reasonable arrangement and, if the delta revenue cap for 2017 is met or exceeded in 2017,

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<sup>1</sup>See Application at 12 ¶ 24(a).

<sup>2</sup>See, e.g., Application at 12 ¶ 24(c), 14 ¶ 31 and 18 ¶ 46.

<sup>3</sup>See Application at 13 ¶ 25, 15-16 ¶ 36.

Globe shall commit to retain a monthly average of [REDACTED] full-time employees during the term of the reasonable arrangement.

- d. The capital investment commitment stated in the Application<sup>4</sup> shall be modified such that Globe shall make an aggregate capital investment commitment of \$[REDACTED] by December 31, 2018. Of the aggregate capital investment, Globe will make at least \$[REDACTED] in capital investment commitments over the period starting October 1, 2016 and ending on December 31, 2017. If the required capital investment commitment of \$[REDACTED] is not made by December 31, 2017, a shortfall in the capital investment commitment shall be declared under the Application.<sup>5</sup>

- e. The definition of *force majeure* stated in the Application<sup>6</sup> shall be modified to read as follows:

For purposes of the reasonable arrangement, "force majeure" shall mean acts of God, riots, strikes, labor disputes, labor or material shortages, act(s) by any government, governmental body or instrumentality, or regulatory agency (including, but not limited to, delay or failure to act in the issuance of approvals, permits or licenses), fires, explosions, floods, breakdown of or damage to plants, equipment or facilities, or other causes of similar nature which are beyond the reasonable control of the Customer and which wholly or partially prevent the receipt or utilization of electricity by the Customer.

- f. Although R.C. 4905.31 allows otherwise, Globe shall not apply to renew the unique arrangement or apply for a new unique arrangement for two years after the expiration of the unique arrangement. Nonetheless, if after the expiration of the

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<sup>4</sup>See, e.g., Application at 13 ¶ 25, 15 ¶ 35, and 16 ¶ 38.

<sup>5</sup>See Application at 16, ¶ 38-39. For example, if at the end of calendar year 2017, Globe's employment pledge was 100 full time employees but Globe only employed a monthly average of 90 employees while Globe had met or exceeded its required capital investment commitment, then the employment shortfall ratio (10/100 or .1) would be added to the investment shortfall ratio (0) and the result would be averaged to obtain a Percentage Adjustment of 5%:  $(.1+0)/2 = .05$  or 5%.

<sup>6</sup>See Application at 15 n.8.

unique arrangement one of the following events occurs, or has occurred in the case of part (ii) of this paragraph, Globe may apply for a new unique arrangement: (i) changes in the applicable legal or regulatory structure for electric service occur that materially and adversely affect Globe, (ii) increases of 25% or more in total tariff charges for Wire Services to the Beverly Plant occur over any 12-month period after the effective date of the unique arrangement, (iii) material growth or expansion opportunities occur at the Beverly Plant that will create significant economic development in the area, or (iv) the Commission approves a unique arrangement for an entity in competition with Globe in the metals or mining industries taking service at transmission or subtransmission voltage.

- g. The proposal that Globe receive a monthly demand credit of \$8.21/kWh-month even if the credit or program is no longer available under tariff or the IRP-D rider as stated in the Application<sup>7</sup> shall be withdrawn such that Globe's receipt of demand credits shall remain subject to tariff.

9. With these features in place, the unique arrangement will benefit all of Ohio, allowing Globe to make continued capital investments in the Beverly Plant and to retain a significant number of full-time employees during the term of the unique arrangement.

10. The Parties believe that the terms proposed in this Stipulation will maintain the competitiveness of the Beverly Plant so that Globe can continue to provide employment and other economic and fiscal benefits in Ohio.

11. Based on the foregoing and the statements in the Application, a just and reasonable basis exists for approving the unique arrangement as modified in this Stipulation.

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<sup>7</sup>See Application at 12 ¶ 24(d), 15 ¶ 34

The Signatory Parties agree and recommend that the terms and conditions as proposed in the Application as modified by the Stipulation, including reporting requirements, be adopted by the Commission. The Signatory Parties also recommend that the Commission retain continuing jurisdiction over the unique arrangement.

12. The Signatory Parties believe that this Stipulation represents a reasonable compromise of varying interests. This Stipulation is expressly conditioned upon adoption in its entirety by the Commission without material modification by the Commission. Should the Commission reject or materially modify all or any part of this Stipulation, the Signatory Parties shall have the right, within 30 days of issuance of the Commission's Order, to file an application for rehearing, or to terminate and withdraw from the Stipulation by filing a notice with the Commission in this proceeding, including service to all the Signatory Parties.

13. The Signatory Parties agree that they will not oppose or argue against any other Signatory Party's application for rehearing that seeks to uphold the original, unmodified Stipulation. Upon the Commission's issuance of an Entry on Rehearing that does not adopt the Stipulation in its entirety without material modification, any Signatory Party may terminate and withdraw from the Stipulation by filing a notice with the Commission within 30 days of the Commission's Entry on Rehearing. Other Signatory Parties to the Stipulation agree to defend and shall not oppose the withdrawal and termination of the Stipulation by any other Signatory Party.<sup>8</sup> Upon notice of termination or withdrawal by any Signatory Party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In any such event, this proceeding shall go forward at the procedural point at which this Stipulation was filed, and the Signatory Parties will be afforded the opportunity to present evidence through witnesses, to

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<sup>8</sup> Any Signatory Party has the right, in its sole discretion, to determine what constitutes a "material" change for purposes of that Signatory Party withdrawing from the Stipulation.

cross-examine witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs as if this Stipulation had never been executed.

14. The Signatory Parties respectfully request that the Commission adopt this Stipulation in its entirety.

The undersigned hereby stipulate and agree that each presents that it is authorized to enter into this Stipulation on this 19th day of October, 2016. This Stipulation may be signed in counterparts.

STAFF OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO

*Per email authorization 10/18/2016*

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Thomas W. McNamee  
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By: Steven T. Nourse by MLL  
Steven T. Nourse  
Attorney for Ohio Power Company

The undersigned executes this Stipulation not as a Signatory Party but solely to state its non-opposition to the Stipulation...

OFFICE OF THE OHIO CONSUMER'S  
COUNCIL

By: Jodi Bair  
Jodi Bair  
Assistant Consumer's Counsel

OHIO MANUFACTURER'S ASSOCIATION  
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*Per email authorization 10/18/2016*

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### CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to this case. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below via electronic mail this 19th day of October, 2016.

  
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