

FILE

RECEIVED-DOCKETING DIV  
2006 SEP -7 PM 1:12  
PUCO

**BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of Ohio Power Company for Approval of a Special Contract Arrangement with Ormet Primary Aluminum Corporation.</b>	)	<b>Case No. 96-999-EL-AEC</b>
	)	
<b>In the Matter of the Joint Petition of Ohio Power Company and South Central Power Company for Reallocation of Territory.</b>	)	<b>Case No. 96-1000-EL-PEB</b>
	)	

\*\*\*\*\*

**In the Matter of:**

<b>Ormet Primary Aluminum Corporation and Ormet Aluminum Mill Products Corporation</b>	)	
	)	
<b>v.</b>	)	<b>Case No. 05-1057-EL-CSS</b>
	)	
<b>South Central Power Company and Ohio Power Company</b>	)	
	)	

**ORMET'S MEMORANDUM CONTRA MOTION FOR LIMITED INTERVENTION OF THE OHIO ENERGY GROUP**

Ormet Primary Aluminum Corporation and Ormet Aluminum Mill Products Corporation (collectively, "Ormet"), by counsel, hereby submit this Memorandum Contra Ohio Energy Group's ("OEG") Motion for Limited Intervention in this case.

It is well-settled that the Commission has the discretion to decide how to manage its proceedings to avoid unnecessary duplication of effort. Toledo Coalition for Safe Energy v. Public Utilities Commission of Ohio et al., 433 N.E.2d 212, 214 (Ohio 1982). Section 4901-1-11(B) of the Ohio Administrative Code provides that in deciding whether to deny OEG's intervention in this case, the Commission may consider, among other things, the nature of OEG's interest; the extent to which OEG's interest is represented by existing parties; and OEG's potential contribution to a just and

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business. Technician *[Signature]* Date Processed 9.7.06

expeditious resolution of the issues involved in the proceeding. Likewise, Section 4903.221(B) of the Ohio Revised Code provides that in ruling upon OEG's application to intervene in this proceeding, the Commission shall consider, among other things, the nature and extent of OEG's interest; the legal position advanced by OEG and its probable relation to the merits of the case; and whether OEG will significantly contribute to the full development and equitable resolution of the factual issues.

Applying the above law to the present case, OEG's motion must fail, because its intervention in this case is unnecessary and duplicative. As the Commission is aware, Industrial Energy Users of Ohio (IEU) already has intervened in this case for the very purpose of representing and protecting the concern that a decision by the Commission requiring OPCO to serve Ormet at GS-4 tariff rates might ultimately result in increased costs to existing rate payers – the exact concern espoused by OEG as its reason for seeking intervention. (IEU's Memorandum in Support, p. 7; Memorandum in Support of the Ohio Energy Group's Motion for Limited Intervention, p. 2). The nature of these interests is the same. Like OEG, IEU's customers purchase substantial amounts of electric and related services from OPCO (IEU's Memorandum in Support, p. 3). Like OEG, IEU is concerned that the relief Ormet seeks in this action might adversely effect the cost of electrical supplies provided to OPCO's similarly situated customers (*Id.* at p. 7). Unlike OEG, IEU has been representing and protecting this interest since the outset of this case.<sup>1</sup> Thus, OEG's very interests are already being protected by an existing party and have been for almost a year now.

In light of the above, it is at best tenuous for OEG now to allege that without its intervention in these proceedings its interests will not be adequately protected. Moreover, OEG has failed to

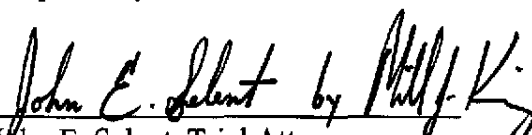
---

<sup>1</sup> IEU filed its motion to intervene on September 13, 2005, and the Commission granted the motion on October 27, 2005.

articulate how its presence at this late stage of the proceedings could contribute in any meaningful way to the full development and equitable resolution of the factual issues.

For the foregoing reasons, the Commission should deny OEG's August 24, 2006 Amended Motion for Limited Intervention.

Respectfully submitted,

  
John E. Selent, Trial Attorney (0072597)  
Edward T. Depp PER E-MAIL AUTH.  
**DINSMORE & SHOHL LLP**  
1400 PNC Plaza  
500 West Jefferson St.  
Louisville, Kentucky 40202  
Email: john.selent@dinslaw.com  
(502) 540-2300 (Phone)  
(502) 585-2207 (Fax)

-and-

Brian S. Sullivan  
**DINSMORE & SHOHL LLP**  
255 E. 5th St.  
Suite 1900  
Cincinnati, Ohio 45202  
Email: brian.sullivan@dinslaw.com  
(513) 977-8200 (Phone)  
(513) 977-8141 (Fax)

*Counsel for Ormet Primary Aluminum Corporation  
and Ormet Aluminum Mill Products Corporation*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the attached Memorandum Contra Amended Motion for Limited Intervention was served upon the following parties by electronic mail and first-class United States mail, sufficient postage prepaid, this 7<sup>th</sup> day of SEPTEMBER, 2006.

Samuel C. Randazzo  
sam@mwncmh.com  
lmcaster@mwncmh.com  
McNees Wallace & Nurick LLC  
21 East State Street, 17th Floor  
Columbus, OH 43215-4228

American Electric Power  
c/o Marvin I. Resnick  
miresnik@aep.com  
findutton@aep.com  
1 Riverside Plaza  
Columbus, OH 43215-2373

Robert P. Mone  
robert.mone@thompsonhine.com  
Thomas E. Lodge  
tom.lodge@thompsonhine.com  
Carolyn S. Flahive  
carolyn.flahive@thompsonhine.com  
Kurt P. Helfrich  
kurt.helfrich@thompsonhine.com  
William R. Case  
bill.case@thompsonhine.com  
Thompson Hine LLP  
10 West Broad Street, Suite 700  
Columbus, OH 43215-3435

Nathaniel Hawthorne  
nhawthorne@earthlink.net  
27600 Chagrin Blvd. #265  
Cleveland, Ohio 44122

David F. Boehm, Esq.  
Michael L. Kurtz, Esq.  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
dboehm@BKLawfirm.com  
mkurtz@BKLawfirm.com

*John E. Sabant* by *Phillip K. (0072597)*  
Counsel for Ormet Primary Aluminum Corporation  
and Ormet Aluminum Mill Products Corporation **PER  
E-MAIL  
AUTH.**