

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

In the Matter of:

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

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**OHIO POWER COMPANY'S MEMORANDUM CONTRA
ORMET'S MOTION TO STRIKE POST-HEARING BRIEF
OF INDUSTRIAL ENERGY USERS - OHIO**

On March 9, 2006 Ormet Primary Aluminum Corporation and Ormet Aluminum Mill Products Corporation (collectively, "Ormet"), by counsel, moved the Public Utilities Commission of Ohio (the "Commission") to strike the post-hearing brief of Industrial Energy Users - Ohio ("IEU-Ohio"). Ohio Power Company (OPCO) files this Memorandum Contra pursuant to §4901-1-12(B)(1), Ohio Administrative Code.

IEU-Ohio in its post-hearing brief addressed Ormet's failure to demonstrate that South Central Power Company was not providing physically adequate service, that the relief Ormet seeks exceeds the PUCO's jurisdiction, and that the public interest is

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reflected in the certified territory legislation contrary to Ormet's view of the public interest. IEU-Ohio raises the unfair competitive advantages Ormet obtained by leaving OPCO's certified territory in 1996, prior to the beginning of retail choice, to take advantage of the lower market power rates, avoiding transition costs that others had to pay to achieve the same market access. Ormet seeks to strike IEU-Ohio's brief because IEU-Ohio's intervention was "for the limited purpose of participating in Ormet's complaint with respect to the rates charged by Ohio Power." However, Ormet's own post hearing brief supports IEU-Ohio.

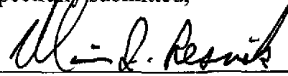
First, as IEU-Ohio points out and all parties agree, the Commission must "find physically inadequate service as a predicate for mandating an involuntary transfer to OPCO of South Central's service obligations to Ormet." (IEU-Ohio Brief, p. 12). IEU-Ohio, as an advocate for its members, appropriately addresses Ormet's failure to meet this condition precedent which must be met prior to imposing on OPCO, and indirectly its customers, the burden of serving Ormet at the GS-4 rate.

Secondly, Ormet's own brief repeatedly recites Ormet's desire to be served on OPCO's GS-4 rate tariff. Ormet states "[This] Hearing is a crucial step to providing Ormet access to the ... GS-4 tariff. That is a crucial destination for Ormet..." (Ormet Brief, p. 3). Ormet further argues that if Ormet does not receive access to OPCO's GS-4 tariff then terrible consequences will flow to Ormet's operations and the State of Ohio, (Ormet Brief, pp. 3 and 4, See Also p. 11). Ormet repeatedly referenced OPCO's GS-4 tariff and, in order to be transferred to OPCO's certified territory, argued for a finding that South Central Power Company is providing physically inadequate service. Certainly

IEU-Ohio and its members are entitled to be heard on why the condition precedent to such an obligation has not been met.

While OPCO continues to believe that "public interest" is relevant only if the Commission finds an absence of physically adequate service. Public interest is not in and of itself a basis for such a finding. Nonetheless, if Ormet is going to make extensive arguments regarding public interest (Ormet Brief. pp. 3,4,10,11 and 13-17) then IEU-Ohio is entitled to share its view of the public interest from the perspective of OPCO's existing customers. Therefore, Ormet's motion to strike should be denied.

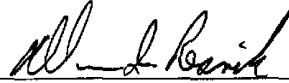
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra was served upon the following persons listed below via first class U.S. Mail, postage prepaid, and via electronic transmission this 14th day of March, 2006.



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