

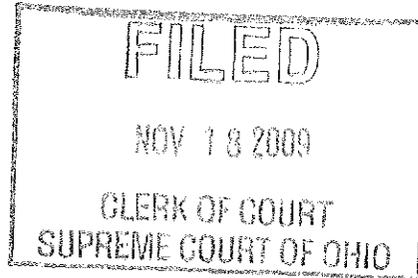
ORIGINAL

IN THE SUPREME COURT OF OHIO

Columbus Southern Power Company and )  
Ohio Power Company )  
) )  
Appellants, )  
) )  
v. )  
) )  
The Public Utilities Commission of Ohio )  
) )  
Appellee. )  
) )  
(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. 09-2060

On Appeal from the Public  
Utilities Commission of Ohio,  
Case No. 09-119-EL-AEC




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**MOTION TO INTERVENE AS APPELLEE  
OF  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**IN THE SUPREME COURT OF OHIO**

Columbus Southern Power Company and Ohio Power Company	)	Case No. 09-2060
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**MOTION TO INTERVENE AS APPELLEE  
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The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of Appellants' 1.2 million residential electric customers, respectfully requests that this Court grant it leave to intervene as a party appellee in the above-captioned case. The reasons for this Motion are set forth in the attached Memorandum in Support.

Respectfully submitted,

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**IN THE SUPREME COURT OF OHIO**

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**MEMORANDUM IN SUPPORT**

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This case comes to the Court on appeal by the Columbus Southern Power Company and Ohio Power Company (“Appellants,” “Companies” or “AEP Ohio”) from an order of the Public Utilities Commission of Ohio (“Commission,” “PUCO” or “Appellee”) dated July 15, 2009 and an Entry on Rehearing dated September 15, 2009 in PUCO Case No. 09-119-EL-AEC. That case involved an application filed by Ormet Primary Aluminum Corporation (“Ormet”) for approval of a unique arrangement with AEP Ohio under which Ormet is to receive ten years of discounted electricity rates, funded by customers of AEP Ohio.

The OCC was an intervening party<sup>1</sup> and an active participant in PUCO Case No. 09-119-EL-AEC. Initially, OCC filed written comments on the Ormet application. Subsequently, OCC filed the written expert testimony of OCC Witness Dr. Ibrahim. OCC also subpoenaed two AEP employees, CEO J. Craig Baker and David M. Rousch, to testify and appear at the evidentiary hearing, subject to cross examination by OCC.

OCC has the statutory authority to represent the 1.2 million residential utility consumers of AEP Ohio under Chapter 4911 of the Ohio Revised Code. The residential utility customers are impacted directly in this proceeding as the PUCO has determined that all customers, including residential customers, must fund the discount to electric rates that has been granted to Ormet in the case below.

This discount subsidized by customers is a significant amount of money. Over the ten-year contract term, the Ormet discount funded by other customers of AEP Ohio, under the PUCO Opinion and Order, could amount to \$540 million. Moreover, AEP Ohio seeks by appeal to increase the amount that customers will pay. If AEP Ohio prevails in its appeal, the \$540 million subsidy required of AEP Ohio's customers will increase substantially.

OCC has a statutory right to intervene in state courts, including the Ohio Supreme Court, concerning review of decisions rendered by the public utilities commission.<sup>2</sup> Additionally, under R.C. 4903.13 and S.C.Prac.R. II (3)(B)(2), the Court may grant interested parties intervention in appeals taken of PUCO proceedings. OCC, a party in the PUCO proceeding below, has a real and substantial interest in this matter because the consumers that OCC represents are being required to subsidize discounted electric rates to Ormet.

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<sup>1</sup> OCC moved to intervene in the PUCO proceeding and its intervention was granted by the PUCO on April 17, 2009.

<sup>2</sup> See R.C. 4911.02(B)(2)(c).

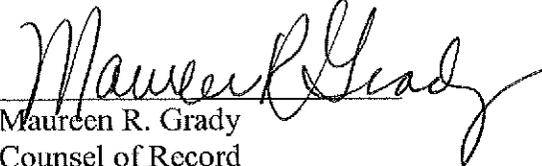
OCC has a vested interest in the outcome of this appeal, because the issues under appeal will impact the amount of subsidy residential customers will have to pay through increased electric rates. Should AEP Ohio prevail and the Commission's Opinion and Order be reversed, the Appellants' residential customers, represented by OCC, will suffer harm as a result of having to subsidize even more of a discount to Ormet than they are currently required under the Opinion and Order on appeal.

Further, OCC's intervention will not unduly prolong or delay the proceedings. Instead OCC will contribute to the full development of and equitable resolution of this appeal. Finally, the nature of OCC's interest is different from that of either the Appellant or Appellee in this proceeding.

For all these reasons, the OCC respectfully requests the Court to grant OCC's Motion to Intervene, so that OCC may protect the interests of 1.2 million residential customers.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of this Motion to Intervene as Appellee of the Ohio Consumers' Counsel have been served by first class mail, postage prepaid, to the following parties of record, this 18th day of November 2009.

  
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