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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Commission's Review)
of Chapters 4901:1-9, 4901:1-10, 4901:1-21) Case No. 06-653-EL-ORD
4901:1-22, 4901:1-23, 4901:1-24 and)
4901:1-25 of the Ohio Administrative Code)

APPLICATION FOR REHEARING OF
OHIO HOME BUILDERS ASSOCIATION, INC.

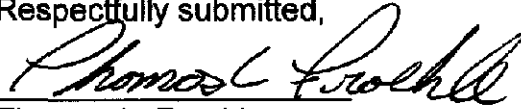
Pursuant to Section 4903.10, Revised Code, and Rule 4901-1-35, Ohio Administrative Code, the Ohio Home Builders Association, Inc. ("OHBA") respectfully submits this Application for Rehearing of the Finding and Order issued by the Public Utilities Commission of Ohio ("Commission") on November 5, 2008. As explained in more detail in the attached Memorandum in Support, the Commission's Finding and Order in this case is unreasonable and unlawful for the following reasons:

- 1) The Commission's failure to remove "underground construction" from the definition of "premium service" in Rule 4901-9-01(I), Ohio Administrative Code, will impose unjust and unreasonable costs to Ohio builders that are contrary to the intent of the line extension rule that provides line extensions up to specified dollar limits without upfront costs and Section 4928.02, Revised Code; and,
- 2) The Commission's failure to incorporate any deadline by which Ohio electric distribution utilities ("EDUs") must start or complete work on line extensions will impose unjust and unreasonable burdens on Ohio builders.

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For these reasons, discussed in greater detail below, OHBA respectfully requests that the Commission grant this Application for Rehearing and modify the rules appropriately.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas L. Froehle", written over a horizontal line.

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THE PUBLIC UTILITIES COMMISSION OF OHIO**

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of Chapters 4901:1-9, 4901:1-10, 4901:1-21) Case No. 06-653-EL-ORD
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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Ohio Home Builders Association, Inc. ("OHBA") provided Initial and Reply Comments on August 12 and 29, 2008, respectively on the second of three sets of rules proposed by the Staff of the Public Utilities Commission of Ohio ("Commission") to implement the recently passed Amended Substitute Senate Bill 221 ("SB 221"), for the Commission's consideration. OHBA's issues in this matter were and continue to be limited to line extension issues.

OHBA appreciates the work the Commission and Commission Staff put into the rules pertaining to line extensions. OHBA also appreciates that the Commission and its Staff are keenly aware of the history and problems that lead OHBA, among others, to file complaints that were ultimately resolved by stipulations in Case No. 01-2708-EL-COI. Unfortunately, however, the Commission-approved rules neither address the problems that lead to the above-referenced complaint nor comply with the State policy set forth in Section 4928.02, Revised Code, which specifically states that "in carrying out this policy, the commission shall consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in this state." Without any discussion on OHBA's recommendations, the

Commission rejected the proposals simply by failing to address them in the Finding and Order. For the reasons set forth herein, OHBA requests that the Commission reconsider two recommendations regarding its rules on line extensions.

II. ARGUMENT

A. Premium Services

While Rule 4901:1-9-07(D), Ohio Administrative Code, purports to make Ohio EDUs responsible for line extension costs up to \$5000 per new build, the failure to include underground construction within those costs conflicts with and all but eliminates the benefits it appears the Commission attempted to bestow upon customers and builders.

For instance, as local governments have required electric lines to be installed underground in virtually all new residential developments for some time now, it is an outdated notion that buried lines fit within the definition of "premium service." For example, the City of Dublin, Ohio building standards require that all new residential construction include underground line extensions – overhead lines are not permitted.¹

¹ The Dublin, Ohio Code of Ordinances, Title XV, Section 152.052 governs utility installation and states, in pertinent part:

The installation, construction and expansion of electric, telephone and cable television shall generally be placed underground subject to the following conditions and exceptions:

(A) Transmission lines are exempted from the provisions of this section. Transmission lines are defined as those lines constructed between generating stations and substations.

(B) For the standard or typical underground utility installation, that equipment typically placed above ground such as transformers and switches affixed on the ground shall be exempt from the provisions of this section.

(C) For purposes of this section, underground services adjacent to new subdivisions, commercial and industrial uses shall include but not be limited to:

(1) Overhead wires extending across the public right-of-way from existing overhead service to such new subdivisions, commercial and industrial uses.

(2) Adjacent overhead services within the property submitted for subdivision approval that existed prior to the filing of a preliminary plat.

(D) Temporary overhead services of electric and telephone utilities shall be allowed, provided that all permanent electric, telephone and cable television services within and adjacent to new subdivisions, commercial and industrial uses shall be underground.

Thus, in real-world building regulations, including zoning laws and subdivision regulations, buried lines are a standard service. Developers and builders do not have an option to request overhead line extension installations. Nonetheless, while the Commission's rules make EDUs responsible for all costs other than the incremental costs of premium services, because the Commission's rules include "underground construction" within the definition of "premium service" in Rule 4901:1-9-01(I), Ohio Administrative Code, the Commission requires builders to pay the incremental costs associated with underground service upfront before an EDU will be required to install electric to new residential construction. This rule is contrary to the intent of Rule 4901:1-9-07(D), Ohio Administrative Code, and the State policy and will impose unjust and unreasonable costs to Ohio builders and developers.

Although there may be a cost differential for the utility in installing underground lines versus overhead lines, utilities charge developers separately for trenching and/or charge other utilities to utilize the electric trench, which makes up for the cost differential to the EDU. On the other hand, requiring builders to pay the incremental costs of underground construction upfront without any predictability of what those costs may be reverts the building process back to the point in time when OHBA filed its complaint inasmuch as the amount required upfront, or prior to when an EDU would provide service, is unknown until EDUs provide estimates. Thus, builders and developers will not know how much to include in their budgets until an estimate is provided by the EDU. Further, requiring developers to pay upfront effectively shifts the costs from customers and EDUs to builders. This is not an appropriate shift of cost responsibility and will work against the State policy set forth in Section 4928.02, Revised Code. With the current

state of the economy and the building industry in Ohio, the Commission should be particularly sensitive to any shifts of cost responsibility that would inhibit development.

Accordingly, "underground construction" should be deleted from the definition of "premium service" in Rule 4901:1-9-01(I), Ohio Administrative Code.

B. Timeframes for starting and completing line extensions

The rules now include mandatory timeframes by which EDUs must provide cost estimates. However, there are no deadlines by which EDUs must begin or complete the actual line extension construction. OHBA noted in Initial Comments that this problem could have been cured by revising Rule 4901:1-10-09(A)(2), Ohio Administrative Code, as follows:

(2) Ninety per cent of service upgrades, and new service installations, and residential line extensions that require construction of electric facilities (including the setting of the meter) and that are not primary line extensions shall:

(a) Be completed within ten business days after the electric utility has been notified that the service location is ready for service and all necessary tariff and regulatory requirements have been met.

(b) Be completed by the requested installation date, when an applicant or customer requests an installation date more than ten business days after the service location is ready for service and all necessary tariff requirements have been met.

Without any discussion on OHBA's recommendation, the Commission did not modify the rule and did not otherwise include any construction deadlines.

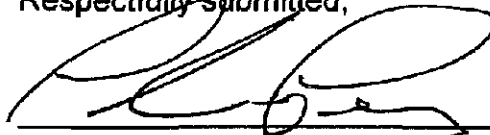
Without any timeframes for construction, builders are left to the mercy and schedules of the EDUs. The failure of an EDU to timely complete line extensions can delay projects and, as a result, increase costs tremendously. Accordingly, OHBA requests that the Commission modify Rule 4901:1-10-09(A)(2), Ohio Administrative Code, to ensure line extensions are completed in a timely manner to keep projects on

budget and on time. In the alternative, the rules should require the EDUs to include a negotiated construction timeline as part of a cost estimate.

III. CONCLUSION

This case represents an opportunity to improve the line extension rules and make the procedures uniform as well as improve the ability of builders and developers to do business in Ohio. Wherefore, for the reasons discussed above, OHBA respectfully requests that the Commission grant rehearing and modify the rules accordingly.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Application for Rehearing of Ohio Home Builders Association, Inc.* was served upon the following parties of record this 5th day of December 2008, via electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.


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