

**IN THE SUPREME COURT OF OHIO**

City of Reynoldsburg, Ohio	:	Appeal from the Public Utilities
	:	Commission of Ohio
Appellant,	:	
	:	Public Utilities Commission of Ohio
v.	:	Case No. 08-846-EL-CSS
	:	
The Public Utilities Commission of Ohio,	:	Ohio Supreme Court Case No. _____
	:	
Appellee.	:	

**NOTICE OF APPEAL OF APPELLANT CITY OF REYNOLDSBURG, OHIO**

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**NOTICE OF APPEAL OF APPELLANT CITY OF REYNOLDSBURG, OHIO**

Appellant City of Reynoldsburg, Ohio (herein “Reynoldsburg” or “City”) hereby gives notice of its appeal as of right, pursuant to R.C. 4903.11 through 4903.13, to the Supreme Court of Ohio from the Opinion and Order of the Public Utilities Commission of Ohio (herein “Commission” or “Appellee” or “PUCO”) entered on April 5, 2011, and from the Entry on Rehearing entered on June 1, 2011, in PUCO Case No. 08-846-EL-CSS.

Pursuant to R.C. 4905.04 and 4905.26, Reynoldsburg filed a Complaint against Columbus Southern Power Company with the Commission on July 1, 2008, requesting that the Commission declare Item #17 of Columbus Southern Power’s tariff unjust, unreasonable, and unlawful. Reynoldsburg’s Complaint was assigned PUCO Case No. 08-846-EL-CSS. Discovery was completed in September of 2009, the parties submitted an Agreed Statement of Facts and Legal Issues on November 5, 2009, and an evidentiary hearing was held at the offices of the Commission on November 17 through 19 of 2009. The parties submitted briefs in January and February of 2010. On April 5, 2011, the Commission issued an Opinion and Order finding that Item #17 of Columbus Southern Power’s tariff was not unjust, unreasonable, or unlawful. On May 4, 2011, Reynoldsburg timely filed its Application for Rehearing in accordance with R.C. 4903.10. By Entry dated June 1, 2011, the Commission denied Reynoldsburg’s Application for Rehearing. Specifically, the Application for Rehearing was denied with respect to the issues stated herein.

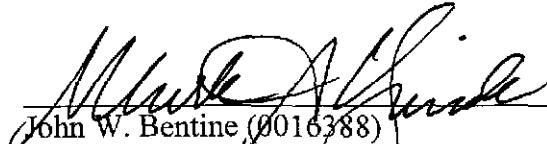
Reynoldsburg complains and alleges that Appellee’s April 5, 2011 Opinion and Order and Appellee’s June 1, 2011 Entry on Rehearing in PUCO Case No. 08-846-EL-CSS

are unlawful, unjust and unreasonable in the following respects, as set forth in Reynoldsburg's Application for Rehearing before the Commission:

1. Item #17 of Columbus Southern Power's tariff violates Section 3 of Article XVIII of the Ohio Constitution in that regulation of the municipal rights-of-way is a *matter of local self government*.
2. Item #17 of Columbus Southern Power's tariff contravenes Reynoldsburg's statutory authority to govern its public rights-of-way, pursuant to R.C. 4939.01 et seq., R.C. 723.01, and R.C. 4905.65.
3. The Commission erred in finding that Columbus Southern Power had presented sufficient evidence to invalidate Reynoldsburg's Right of Way Ordinance, codified at Reynoldsburg City Code § 907.
4. The Commission erred in finding that when a party declines to intervene in a tariff case before the PUCO, that party is rendered unable to bring a subsequent Complaint case before the PUCO to challenge a provision of that tariff.
5. The Commission erred in finding that Item #17 of Columbus Southern Power's tariff applies to the factual situation at issue in this matter.

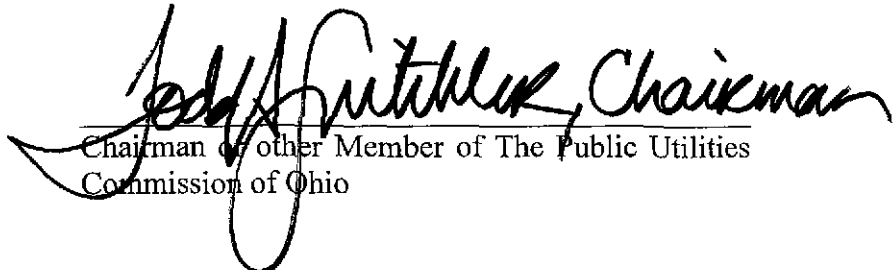
6. The Commission erred in misconstruing and improperly applying the language of Item #17 of Columbus Southern Power's tariff in the present matter.

WHEREFORE, Appellant Reynoldsburg respectfully submits that Appellee's April 5, 2011 Opinion and Order and Appellee's June 1, 2011 Entry on Rehearing in PUCO Case No. 08-846-EL-CSS are unlawful, unjust and unreasonable and should be reversed. The case should be remanded to Appellee with instructions to correct the errors complained of herein.

  
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*Counsel for Appellant the City of Reynoldsburg,  
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The undersigned hereby certifies that I was served via hand-delivery with a copy of this Notice of Appeal of Appellant City of Reynoldsburg, Ohio on this 27 day of July, 2011.

  
Chairman or other Member of The Public Utilities  
Commission of Ohio

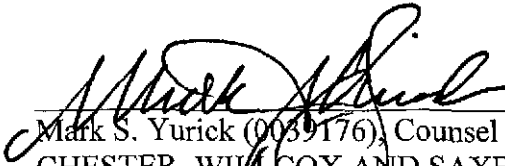
### CERTIFICATE OF SERVICE

The undersigned hereby certifies the a copy of the foregoing **Notice of Appeal of City of Reynoldsburg, Ohio** was served by hand-delivery on the Chairman or other Member of the Public Utilities Commission of Ohio on July ~~27<sup>th</sup>~~<sup>24<sup>th</sup></sup>, 2011, and served by regular U.S. Mail, postage prepaid on this ~~27<sup>th</sup>~~<sup>24<sup>th</sup></sup> day of July, 2011 on the following, which are all of the parties to the proceedings before the Commission:

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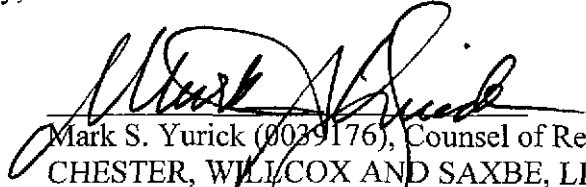
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**CERTIFICATE OF FILING**

The undersigned hereby certifies the a copy of the foregoing **Notice of Appeal of City of Reynoldsburg, Ohio** has been filed with the docketing division of the Public Utilities Commission in accordance sections § 4901-1-02(A) and § 4901-1-36 of the Ohio Administrative Code this 27<sup>th</sup> day of July, 2011.

  
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