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IN THE SUPREME COURT OF OHIO

Case No. 12-1677

The K&D Group, Inc. and Reserve  
Apartments, LTD,

Appellants,

v.

The Public Utilities Commission of Ohio,

Appellee.

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: On Appeal from the Public Utilities  
: Commission of Ohio  
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: Public Utilities Commission of Ohio  
: Case No. 11-898-HT-CSS  
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APPELLANTS' AMENDED NOTICE OF APPEAL

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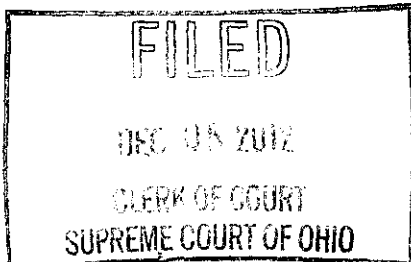
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Cleveland Thermal Steam Distribution, LLC*



Appellants, The K&D Group, Inc. and Reserve Apartments LTD (collectively the “Appellants”), hereby submit this Amended Notice<sup>1</sup> of their appeal to the Supreme Court of Ohio from the Entry of the Public Utilities Commission of Ohio (the “Commission”), entered in Case No. 11-898-HT-CSS and rendered on May 30, 2012, and the Entry on Rehearing rendered by the Commission on August 8, 2012, denying the Appellants’ Application for Rehearing, which granted Cleveland Thermal Steam Distribution, LLC’s Motion to Dismiss (the “Motion”). True and accurate copies of the Commission’s May 30, 2012 Entry and the August 8, 2012 Entry on Rehearing are attached hereto as Exhibits A and B, respectively, and are incorporated herein by reference.

The Appellants complain and allege that the Commission’s May 30, 2012 Entry and the August 8, 2012 Entry on Rehearing are unlawful and unreasonable in the following respects:

1. The Commission acted unlawfully and unreasonably in finding that, between 2007 and 2010, Cleveland Thermal charged Appellants fuel costs that were approved by the Commission.
2. The Commission acted unlawfully and unreasonably in finding that Cleveland Thermal charged Appellants under the Fuel Adjustment Rider between 2007 and 2010 in accordance with the Commission’s Orders.
3. The Commission acted unlawfully and unreasonably in finding that the “fuel adjustment ratio” incorporated into Appellants’ special contract does not encompass the Commission’s requirements for oversight of Cleveland Thermal’s fuel costs as set forth in the tariff and in the Commission’s Orders.

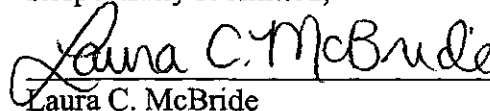
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<sup>1</sup> In accordance with the Court’s November 29, 2012 Entry, Appellants submit this Amended Notice to incorporate corrections to the case caption and cover page. No changes have been made to the substance of Appellants’ Notice.

4. The Commission acted unlawfully and unreasonably in finding that Cleveland Thermal complied with its tariff and/or Appellants' special contract, between 2007 and 2010, in imposing costs on Appellants under the Fuel Adjustment Rider.
5. The Commission acted unlawfully and unreasonably in finding that Cleveland Thermal complied with its tariff and/or Appellants' special contract between 2007 and 2010 by submitting certain fuel cost information to Commission Staff.
6. The Commission acted unlawfully and unreasonably by ignoring Cleveland Thermal's failure to comply with the Commission's Order in Case No. 97-522-HT-AIR between 2007 and 2010.
7. The Commission acted unreasonably and unlawfully in finding that the sole basis for Appellants' Complaint is that Cleveland Thermal's past rates were unreasonable and should not have been charged to Appellants.
8. The Commission acted unreasonably and unlawfully in finding that Cleveland Thermal's failure to submit to the oversight of its fuel charges required by law and Commission Orders does not constitute reasonable grounds for a complaint against Cleveland Thermal.

WHEREFORE, the Appellants respectfully submit that the Commission's May 30, 2012 Entry and its August 8, 2012 Entry on Rehearing are unlawful and unreasonable, and should be reversed with judgment entered in favor of the Appellants.

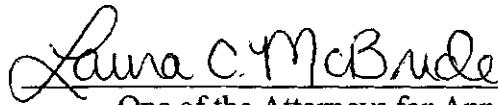
Respectfully submitted,

  
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Laura C. McBride

Counsel of Record for Appellants

### CERTIFICATE OF FILING AND SERVICE

In accordance with Sections 4901-1-02(A) and 4901-1-36 of the Ohio Administrative Code, a copy of the foregoing *Appellants' Amended Notice of Appeal* has been filed this 5th day of December, 2012, with the docketing division of the Public Utilities Commission of Ohio, and has been served by leaving a copy at the offices of the Commission, 180 East Broad Street, 12th floor, Columbus, Ohio 43215.

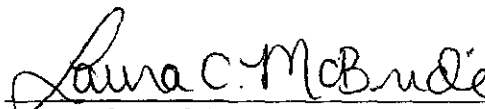
  
One of the Attorneys for Appellants

### CERTIFICATE OF SERVICE

A copy of the foregoing *Appellants' Amended Notice of Appeal* has been served by regular U.S. mail, postage prepaid, this 5th day of December, 2012, upon the following:

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