

FILE

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VIA OVERNIGHT DELIVERY

PUCO

September 8, 2005

Docketing Division
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

Public Utilities Commission of Ohio
Duane W. Luckey
Attorney General Section
180 East Broad Street, 9th Floor
Columbus, Ohio 43215-3793

Village of Amberley
Village Solicitor
7149 Ridge Road
Cincinnati, Ohio 45237

Re: The Cincinnati Gas & Electric Co. vs. The Village of Amberley
PUCO Case No. 05-0641-AU-PWN

Dear Sir or Madam:

On September 7, 2005, The Cincinnati Gas & Electric Company filed the Complaint and Appeal from Public Way Ordinance in the above-referenced case with the PUCO Docketing.

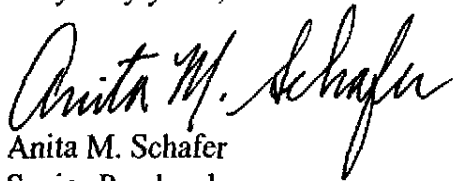
The original of the filing was complete and correct, however, due to a mechanical error, the ten copies enclosed with the original were missing pages 10 and 11.

In order to correct this error, I am enclosing 12 copies of the missing pages 10 and 11.

Please file stamp the two extra copies and return them in the enclosed envelope.

Should you have any questions, please contact me at (513) 287-3842.

Very truly yours,


Anita M. Schafer
Senior Paralegal

Enclosures
AMS/sew

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payments are waived as authorized by division (B) of this section or for which compensation is otherwise obtained."⁸

31. Among other deficiencies, upon information and belief, the Amberley Ordinance and fee structure on its face is arbitrary, unreasonable and bears no relationship to the costs actually incurred by CG&E and is not competitively neutral due to the fact that the costs of users of the Rights-of-Way that are exempt from the Ordinance's permit requirements, such as Amberley Village, may be assessed to CG&E.

COUNT IV (OTHER UNREASONABLE FEES)

32. For Paragraph 32, CG&E incorporates all the allegations of paragraphs 1-31 as if fully restated herein.

33. Amberley Ordinance Article III, Section 2(b), requires CG&E to submit mapping data for its entire system in the Rights-of-Way to Amberley Village in the most advanced format readable by Amberley Village and to pay for Amberley Village's costs to convert the mapping system, if necessary. Upon information and belief, Amberley Ordinance Article III, Section 2(b) is unreasonable as this provision will result in excessive and unreasonable costs being assessed to CG&E as a public way fee.

34. Upon information and belief, it is unreasonable to require CG&E to change its mapping system and pay for the change of its system and Amberley Village's system. The Amberley Ordinance provides no system design and its request is therefore ambiguous, arbitrary, and unreasonable as a public way fee.

⁸ Ohio Rev. Code Ann. § 4939.05(C) (Baldwin 2005).

PRAYER FOR RELIEF

WHEREFORE, CG&E respectfully requests that the Commission cause a copy of this complaint and appeal to be served upon Amberley Village pursuant to Rule 4901-9-01, Ohio Administrative Code; direct Amberley Village to answer in accordance with said rule, and schedule this matter for public hearing after a reasonable opportunity for discovery.

As its prayer for relief, CG&E respectfully requests that the Commission find:

- A. That this complaint states reasonable grounds for complaint;
- B. That, pursuant to R.C. 4939.06(B), the public way fees established by the Amberley Village Ordinance No. 2005-14 should be suspended for the duration of the Commission's consideration of this complaint;
- C. That the public way fees, related to classifications, and assignment and/or allocations of costs to such fees as established by the Amberley Village Ordinance No. 2005-14 are unreasonable, unjust, unjustly discriminatory, unlawful and in violation of Ohio and federal law;
- D. That, pursuant to R.C. 4939.06(C) such public way fees and classifications which the record in this proceeding supports as reasonable, just, nondiscriminatory, and lawful should be substituted for the unreasonable, unjust, unjustly discriminatory and unlawful public way fees and classifications in Amberley Village Ordinance No. 2005-14; and