

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo) Case No. 10-176-EL-ATA
Edison Company for Approval of a New)
Rider and Revision of an Existing Rider.)

MOTION FOR
SUBPOENA FOR ELIO ANDREATTA

Now comes the Office of the Ohio Consumers' Counsel ("OCC") and, pursuant to Ohio Adm. Code 4901-1-25, hereby respectfully moves the Public Utilities Commission of Ohio ("Commission" or "PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena compelling Mr. Elio Andreatta to appear at hearing and provide oral testimony upon examination on February 7, 2011 10:00 a.m., and attend from day to day until called to testify by the OCC at the Commission offices, 180 E. Broad Street, 11th Floor, Columbus, Ohio 43215. Mr. Andreatta should appear at hearing to provide testimony concerning his activities as an employee of one or more of the applicants in this case, including work as a residential representative for the Ohio Edison Company. Such activities are the subject of testimony in this case at one or more local public hearings, including as the author of a June 18, 1988 letter that was addressed to Local Public Hearing Witness Thomas Logan.¹

Grounds for this Motion are set forth in the accompanying Memorandum in Support.

¹ Tr., Strongsville Ex. 2 (October 27, 2010).

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician SAB Date Processed 1/22/11

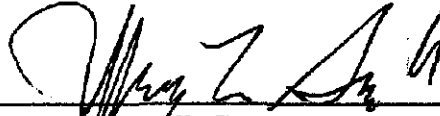
RECEIVED-DOCKETING DIV

2011 JAN 27 PM 4:35

PUCO

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



Jeffrey L. Small, Counsel of Record

Maureen R. Grady

Christopher J. Allwein

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

614-466-8574 (Telephone)

614-466-9475 (Facsimile)

small@occ.state.oh.us

grady@occ.state.oh.us

allwein@occ.state.oh.us

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo) Case No. 10-176-EL-ATA
Edison Company for Approval of a New)
Rider and Revision of an Existing Rider.)

MEMORANDUM IN SUPPORT

The OCC requests a subpoena, pursuant to Ohio Adm. Code 4901-1-25, to command Mr. Elio Andreatta to appear and provide oral testimony on February 7, 2011 at 10:00 a.m. and attend the hearing from day to day until called to testify by the OCC at the Commission offices (180 E. Broad Street, 11th Floor, Columbus, Ohio 43215) in the above-captioned proceeding. A previous subpoena was issued for Mr. Andreatta's appearance at the hearing that was scheduled to begin on January 27, 2011, but that hearing was continued by Entry dated January 26, 2011. A new subpoena should be issued that correctly identifies the new date (i.e. February 7, 2011) for the beginning of the hearing and for the Mr. Andreaatta's appearance to testify at that hearing.

The above-captioned case involves charges by the Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company to customers for electric service, and especially the charges paid by customers whose service was or could have been provided according to the terms of non-standard residential tariffs. As part of the Commission's inquiries, the PUCO scheduled and conducted six local public hearings, stating in its Entry that the Commission was "particularly interested in receiving

more information . . . about the following: Commitments: If you are in an all-electric home, what contacts or written documents do you have regarding your electric rates now and in the future? Was there a commitment that the rate would remain with the home for future owners?"² Mr. Andreatta's is expected to be able to provide insights on this topic if called to testify.

Local public hearings followed the Commission's Entry that discussed utility commitments, including a hearing in Strongsville, Ohio on October 27, 2010. Mr. Thomas Logan appeared and testified under oath at the Strongsville hearing, making statements and also offering a letter (with accompanying attachments, the "Letter") on Ohio Edison's letterhead dated June 18, 1988.³ The Letter makes a representation regarding the continuation of service according to a non-standard tariff "as long as you wish to utilize it."⁴ Mr. Elio Andreatta is shown on the Letter as its author.⁵ OCC counsel asked that the Letter presented by Mr. Logan be marked as Strongsville Ex. 2 and moved for its admission into evidence. The contents of the Letter provides one type of information that the Commission seeks in this case, and Mr. Andreatta's insights concerning sales activities at Ohio Edison (including, but not limited to the contents of the Letter) are important to this case.

² Id., Entry at 3, ¶(7) (October 14, 2010).

³ Tr., Strongsville Ex. 2 (October 27, 2010).

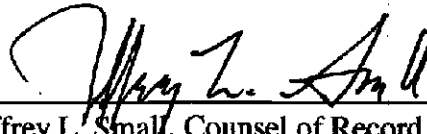
⁴ Id. at 1 (October 27, 2010).

⁵ The OCC understands that the applicant utilities intend to challenge Mr. Logan's representation at the local public hearing that the Letter was transmitted by Mr. Andreatta to Mr. Logan.

Mr. Andreatta's full participation in the examination will facilitate a full and complete development of the cases before the Commission, including the ultimate record upon which the Commission will base its decision.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

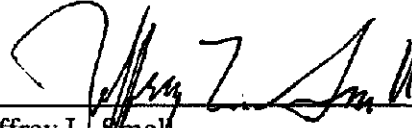
A handwritten signature in black ink, appearing to read "Jeffrey L. Small", is written over a horizontal line.

Jeffrey L. Small, Counsel of Record
Maureen R. Grady
Christopher J. Allwein
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-8574 (Telephone)
614-466-9475 (Facsimile)
small@occ.state.oh.us
grady@occ.state.oh.us
allwein@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion for Subpoena by the Office of the Ohio Consumers' Counsel was provided to the persons listed below, electronically, this 27th day of January, 2011.



Jeffrey L. Small
Assistant Consumers' Counsel

PERSONS SERVED

John Jones
Attorney General's Office
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, OH 43215

James W. Burk
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308

Samuel C. Randazzo
McNees Wallace & Nurick LLC
21 E. State St., 17th Fl
Columbus, OH 43215

Thomas J. O'Brien
Bricker & Eckler LLP
100 S. Third St
Columbus, OH 43215

**Attorneys for Industrial Energy Users-
Ohio**

**Attorney for Ohio Hospital Association
and Ohio Manufacturers' Association**

Richard L. Sites
Ohio Hospital Association
155 East Broad Street, 15th Floor
Columbus, OH 43215-3620

Kevin Corcoran
Corcoran & Associates Co., LPA
8501 Woodbridge Court
North Ridgeville, OH 44039

Attorney for Ohio Hospital Association

**Attorney for Sue Steigerwald; Citizens
For Keeping The All-Electric Promise
(CKAP); Joan Heginbotham and Bob
Schmitt Homes, Inc.**

David C. Rinebolt
Colleen L. Mooney
231 West Lima Street
Findlay, OH 45839-1793

**Attorneys for Ohio Partners for
Affordable Energy**

M. Howard Petricoff
Stephen M. Howard
Vorys, Sater, Seymour & Pease
52 East Gay Street
PO Box 1008
Columbus, OH 43216-1008

Cynthia Fonner Brady
Senior Counsel
Constellation Energy Resources, LLC
550 West Washington Blvd Suite 300
Chicago, IL 60661

**Attorneys for Constellation New Energy,
Inc.**

David A. Kutik
Jones Day
North Point, 901 Lakeside Ave.
Cleveland, OH 44114-1190

Grant W. Garber
Jones Day
P.O. Box 165017
Columbus, OH 43216-5017

**Attorney for Ohio Edison Company,
Cleveland Electric Illuminating
Company and the Toledo Edison
Company**

**Attorney for Ohio Edison Company,
Cleveland Electric Illuminating
Company and the Toledo Edison
Company**

John.jones@puc.state.oh.us
cynthia.a.fonner@constellation.com
smhoward@vorys.com
cmooney2@columbus.rr.com
tobrien@bricker.com
mhpetricoff@vssp.com
drinebolt@aol.com
sam@mwncmh.com
ricks@ohanet.org
kevinocorcoran@yahoo.com
burkj@firstenergycorp.com
dakutik@jonesday.com
gwwgarber@jonesday.com

**STATE OF OHIO
PUBLIC UTILITIES COMMISSION
180 EAST BROAD STREET
COLUMBUS, OHIO 43266-0573**

**John Kasich
GOVERNOR**



**THE PUBLIC UTILITIES COMMISSION OF OHIO
SUBPOENA**

**TO: Elio Andreatta
5922 Mill Creek Blvd.
Youngstown, Ohio 44512**

Upon application of Counsel for the Office of the Ohio Consumers' Counsel ("OCC"), Elio Andreatta is hereby required to appear on February 7, 2011, at 10:00 a.m., at the offices of the Public Utilities Commission of Ohio, 180 E. Broad Street, 11th Floor, Columbus, Ohio 43215, and attend the hearing from day to day until called by OCC to testify. The witness shall submit oral testimony concerning his understanding of sales contacts between representatives of one or more of the FirstEnergy electric distribution utilities (the Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company) and residential customers and/or developers of residential housing. Upon information and belief, Mr. Andreatta was employed by Ohio Edison during the 1985-1989 as a residential sales representative and is knowledgeable concerning a letter dated June 18, 1988 that was presented by Mr. Thomas Logan at the Strongsville local public hearing (marked as Strongsville Ex. 2 and subject to an OCC motion to admit into evidence). The exhibit shows Mr. Andreatta as the author of that letter dated June 18, 1988. The witness shall submit oral testimony regarding the letter and his activities while employed by any and all of the FirstEnergy electric distribution utilities.

Mr. Andreatta's full participation in the examination will facilitate a full and complete development of the cases before the Commission, including the ultimate record upon which the Commission will base its decision.

Dated at Columbus, Ohio, this 27th day of January, 2011.

BY: 

TITLE: Attorney Examiner