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**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
Edison Company for Approval of a New
Rider and Revision of an Existing Rider.**

Case No. 10-176-EL-ATA

PUCO

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MOTION FOR SUBPOENA FOR MICHAEL W. CHALLENGER

Pursuant to Rules 4901-1-25 of the Ohio Administrative Code, Sue Steigerwald, Joan Heginbotham, Citizens for Keeping the All-Electric Promise (CKAP) and Bob Schmitt Homes, Inc. (collectively, the "CKAP Parties") hereby respectfully move the Public Utilities Commission of Ohio ("PUCO"), any commissioner, the legal director, the deputy legal director, or an attorney examiner to issue a subpoena compelling Michael W. Challenger to appear at hearing and provide oral testimony upon examination on February 16, 2011, at 10:00 a.m., and attend day to day until called to testify by the CKAP Parties at the PUCO offices, 180 E. Broad Street, 11th Floor, Columbus, Ohio 43215. Mr. Challenger should appear at hearing to provide testimony concerning his activities as an employee of the FirstEnergy electric distribution companies (the Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company, collectively, "FirstEnergy"), applicants in this case, including his work as an account representative, his contact with Bob Schmitt and Bob Schmitt Homes, Inc., and agreements he presented to Bob Schmitt Homes, Inc.

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

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Respectfully submitted,

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0061488

ATTORNEY FOR THE CKAP PARTIES

DATED: February 10, 2011

**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 Edison Company for Approval of a New Rider and Revision of an Existing Rider.

Case No. 10-176-EL-ATA

MEMORANDUM IN SUPPORT

The CKAP Parties request a subpoena pursuant to Rule 4901-1-25 of the Ohio Administrative Code, to command Mr. Michael W. Challender to appear and provide oral testimony February 16, 2011, at 10:00 a.m., and attend the hearing from day to day until called to testify by the CKAP Parties at the PUCO offices, 180 E. Broad Street, Columbus, Ohio 43215, in the above captioned proceeding. Previous subpoena were issued in this matter before the latest continuance was ordered,¹ and this new filing provides a new date upon which Mr. Challender's presence is required.

The above-captioned case involves charges by FirstEnergy to customers for electric service and the marketing of all-electric rates to the general public and builders of all-electric homes. Mr. Challender is a former employee of FirstEnergy and entered into agreements with Bob Schmitt Homes, Inc., a developer of residential all-electric homes. Mr. Challender's first-hand knowledge of these matters and insights concerning sales activities at FirstEnergy are important to this case and provides information that the PUCO seeks in this case.

Mr. Challender's full participation will facilitate a full and complete development of the case before the PUCO, including the ultimate record upon which the PUCO will base its decision.

¹ Entry at 2 (February 7, 2011).

Respectfully submitted,



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ATTORNEY FOR THE CKAP PARTIES

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Motion for Subpoena was served electronically to the counsel identified below this 10th day of February 2011.


Kevin Corcoran *as authorized by JLD*
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**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: Michael W. Challender
4410 Kolbe Road
Lorain, Ohio 44053**

Upon application by Sue Steigerwald, Joan Heginbotham, Citizens for Keeping the All-Electric Promise and Bob Schmitt Homes, Inc. (collectively, "CKAP Parties") Michael W. Challender is hereby required to appear on February 16, 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 the CKAP Parties to testify. The witness shall submit oral testimony concerning his duties while employed by FirstEnergy (i.e. the Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company, collectively referred to as "FirstEnergy"), including his understanding of sales contracts between representatives of FirstEnergy and residential customers and/or developers of residential housing. By example, and upon information and belief, Mr. Challender was employed by FirstEnergy and is knowledgeable concerning a letter and agreement dated March 13, 2000 between FirstEnergy and Bob Schmitt Homes, Inc. Mr. Challender was the author of that letter and agreement. The witness shall submit oral testimony regarding the letter,

agreements, any other contact or conversations with Bob Schmitt Homes, Inc., and other matters during his employment with FirstEnergy.

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

Dated at Columbus, Ohio, this 10th day of February, 2011.

BY: Henry A. Phillips Jr.

Title: Attorney Examiner