

IN THE TENNESSEE REGULATORY AUTHORITY
AT NASHVILLE, TENNESSEE

IN RE:)	
)	
PETITION OF ATMOS ENERGY)	
CORPORATION TO REVISE)	DOCKET NO. 13-00111
PERFORMANCE BASED)	
RATEMAKING MECHANISM RIDER)	
IN TARIFF)	

CONSUMER ADVOCATE AND PROTECTION DIVISION'S
RESPONSE TO PARTY STAFF'S MOTION TO INTERVENE

The Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), pursuant to the Hearing Officer's directive, respectfully submits its response to the Motion to Intervene filed by Authority Staff Participating as a Party ("Party Staff"). In its motion, Party Staff requests that it be allowed to intervene as a party to this matter and that the procedural schedule be amended to allow Party Staff to conduct discovery and file testimony, if necessary.

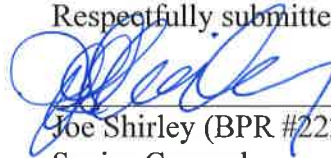
Intervention of Party Staff. The Uniform Administrative Procedures Act ("UAPA") prohibits a person from serving as an advocate in a contested case and as an administrative judge or hearing officer in the same proceeding. Tenn. Code Ann. § 4-5-303(a). Nor may a person who serves as an advocate, or who is under the direction of a person serving as an advocate in a contested case, assist or advise an administrative judge or hearing officer in the same proceeding. Tenn. Code Ann. §§ 4-5-303(a)-(b). Further, the UAPA prohibits an administrative judge, hearing officer or agency member from receiving, either directly or indirectly, any unauthorized *ex parte* communication from any person regarding an issue in a pending contested case without notice and opportunity for all parties to participate in the communication. Tenn. Code Ann. §§ 4-5-304(a) & (c). An agency staff member who receives such an *ex parte* communication may

not aid or assist the administrative judge, hearing officer or agency member in deciding the contested case. Tenn. Code Ann. § 4-5-304(b). Any such *ex parte* communication shall be placed on the record and any party shall be given an opportunity to rebut after receiving notice of the communication. Tenn. Code Ann. §§ 4-5-304(e) & -319(b)(10)-(11). The Authority Staff is authorized to participate as a party in contested cases; and the Staff shall be bound by the same requirements as any other party. TRA Rule 1220-1-2-.21(3)-(4). These requirements, obviously, are designed to protect the administrative due process rights of parties appearing before the Authority, and they preserve the fundamental fairness of the Authority's contested case proceedings.

As long as the Authority and its Staff observe and abide by the aforementioned requirements, and the Party Staff adequately demonstrates its compliance with them, the Consumer Advocate does not object to the Party Staff's participation as a party to this case.

Amendment of Procedural Schedule. The Consumer Advocate does not object to the Party Staff's request to amend the procedural schedule as long as the Consumer Advocate is also given a fair opportunity to conduct discovery and a reasonable time to respond to the Party Staff's testimony by filing amended testimony, rebuttal testimony or other appropriate filings as the circumstances may warrant. *See* Tenn. Code Ann. §§ 4-5-311(a)&(d), -312(b); TRA Rules 1220-1-2-.11(1)-(2) & -.16(5).

Respectfully submitted,



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CERTIFICATE OF SERVICE

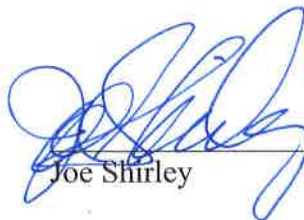
I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 18th day of November, 2013.



Joe Shirley