

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF ATMOS ENERGY</b>	)	
<b>CORPORATION TO REVISE</b>	)	<b>Docket No. 16-00028</b>
<b>PERFORMANCE BASED RATEMAKING</b>	)	
<b>MECHANISM TARIFF</b>	)	

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**RESPONSES TO THE FIRST DISCOVERY REQUESTS  
OF ATMOS ENERGY CORPORATION  
TO THE CONSUMER PROTECTION AND ADVOCATE DIVISION**

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Comes the Consumer Protection and Advocate Division ("Consumer Advocate" or "CPAD") in the above-referenced Tennessee Regulatory Authority ("TRA") docket and hereby responds to the First Discovery Requests of Atmos Energy Corporation ("Atmos" or "Company") to the Consumer Protection and Advocate Division. In the following responses, Dr. Chris Klein is the responsible witness with respect to the substance of each response.

1. Produce all documents generated by each of your witnesses in this matter, including without limitation all notes, reports, correspondence, work-papers, spreadsheets, calculations and the like. The work-papers and calculations should be produced in Excel working format with numbers, formulas and linked files provided.

**RESPONSE: Dr. Klein has no notes, workpapers, or spreadsheets associated with his testimony other than those included in his pre-filed testimony and the attachments thereto, and an additional workpaper underlying Table 1, which is attached hereto as Attachment 1 (portions redacted as confidential).**

2. Produce all documents that have been referenced or relied upon by each of your witnesses in this matter.

**RESPONSE: Dr. Klein has reviewed the documents filed in this Docket 16-00028, the TRA's Order in TRA Docket 13-00111, and Exeter's Report as filed in Docket 07-00225.**

3. Produce all hearing exhibits and other documents that you plan to introduce, use, or reference at the hearing on the merits in this matter.

**RESPONSE: The Consumer Advocate has not made a determination as to hearing exhibits as of the date of this response.**

4. Identify each person who you expect to call as an expert witness at the hearing on the merits in this docket, and for each such expert witness:

- a. Provide a complete educational, professional and employment history. Include in your response a complete disclosure of all aspects of the expert's education and employment background that you contend qualify the witness to render expert testimony on the issues on which he will testify in this case. Please be sure to include the date(s) applicable to each entry;
- b. Separately for each expert witness, list each published scholarly work (article, book chapter, book, etc.) that the witness has authored or co-authored. Provide a citation to the work that includes the title, date, and publication.
- c. Identify each matter in which the expert has testified or submitted pre-filed written testimony on any subject about which he intends to offer expert testimony in this case. For each matter, provide the name, docket number, forum, dates of testimony, whether the testimony was live or written, and the subjects on which the expert offered testimony in the case. Produce a copy of all such testimony (in electronic form if available).
- d. Produce each expert's entire file in this case, including all work papers, drafts, correspondence, spreadsheets, documents collected, summaries, charts, trade articles, journals, treatises, publications, file notes, chart notes, tests, test results, interview notes, and consultation notes provided to, reviewed by, utilized by, relied upon, created by, or produced by the expert witness in this matter. Where available, please provide working Excel files (or other data file types if applicable).
- e. State the hourly rate and other terms of the financial compensation arrangements that have been made with each expert, the total amount earned as of the date of your response, and the total amount paid, also as of the date of your response. Produce the engagement letter or other agreement(s) with each expert reflecting his retention and the terms of his compensation.

**RESPONSE: See the pre-filed testimony of Dr. Chris Klein. To the extent a response to**

**this request is not provided in such pre-filed testimony, the Consumer Advocate objects to such request on the grounds that it is overly burdensome or constitutes attorney work product. Without waiving such objections, the Consumer Advocate provides, redacted, the contract between Dr. Klein and the Attorney General as Attachment 2.**

5. For the purpose of stating its contentions in this proceeding, provide the specific language of all of the CPAD'S recommended amendments and revisions to the Company's proposed tariff in this matter. Produce a redlined copy of the Company's proposed tariff indicating all of CPAD's proposed amendments and revisions.

**RESPONSE: The Consumer Advocate objects to the request on the grounds that it is unduly burdensome and premature to a determination of the ultimate contentions to be made by the Consumer Advocate in this proceeding. Without waiving that objection, the Consumer Advocate would refer to the pre-filed testimony of Dr. Chris Klein, at page 16, for a summary of the Consumer Advocate's recommendations.**

6. Admit that, since at least September 2015, Atmos Energy, TRA Staff, and the CPAD have exchanged email correspondence including draft proposed tariffs and have had multiple in-person discussions concerning Atmos Energy's proposed Performance Based Ratemaking Tariff amendments.

**RESPONSE: The Consumer Advocate objects to this request on the ground that it is too vague to provide a specific response. Without waiving that objection, the Consumer Advocate acknowledges generally that e-mail correspondence has been exchanged and in-person discussions have occurred on the subject matter of this Docket 16-00028.**

7. Admit that the CPAD had input as to the questions to be asked of the independent consultant (Exeter).

**RESPONSE: The Consumer Advocate objects to this request on the ground that it is**

**too vague to provide a specific response. Without waiving that objection, the Consumer Advocate acknowledges generally that questions have been asked of the independent consultant on the subject matter of this Docket 16-00028.**

8. Admit that the scope of Exeter's review was "to include an evaluation of the balance of incentives between consumers and Atmos in the PBRM, including the sharing percentages and overall cap on incentive savings available to Atmos," as stated on Page 3, Lines 13-16 of the Direct Testimony of Michelle Ramsey, Audit Manager of the Utilities Division for TRA Party Staff.

**RESPONSE: The Consumer Advocate objects to this request on the ground that it is ambiguous. Without waiving that objection, the Consumer Advocate acknowledges that the Company has accurately quoted Ms. Ramsey's testimony.**

9. Admit that the CPAD had the opportunity to ask questions of the consultant (Exeter) and to provide feedback.

**RESPONSE: The Consumer Advocate objects to this request on the ground that it is too vague to provide a specific response. Without waiving that objection, the Consumer Advocate acknowledges generally that discovery was propounded to, and responses were received from, Exeter on the subject matter of this Docket 16-00028.**

10. Admit that the CPAD and the Company and TRA Staff participated in multiple meetings and exchanged multiple drafts of proposed tariff language following Exeter's report.

**RESPONSE: The Consumer Advocate objects to this request on the ground that it is too vague to provide a specific response. Without waiving that objection, the Consumer Advocate acknowledges generally that meetings were held and documents were provided by the Company on the subject matter of this Docket 16-00028.**

11. On what date was Christopher C. Klein, Ph.D., retained by CPAD to work on this

matter (Docket No. 16-00028)?

**RESPONSE:** The Consumer Advocate objects to this request on the ground that it is not relevant. Without waiving that objection, the Consumer Advocate states that Dr. Klein is on an annual contract with the Office of the Attorney General and was aware of Docket 16-00028 when it was filed.

12. Produce timesheets, bills or other documents sufficient to establish, on a daily basis, how many hours Dr. Klein worked on this matter and what work was done.

**RESPONSE:** The Consumer Advocate objects to this request on the ground of the attorney work product doctrine since, *inter alia*, describing “what work was done” could reveal the attorney’s thoughts and mental processes. In addition, the Consumer Advocate objects on the ground that the requested information is not relevant.

13. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 11, Lines 16-19, he stated, “For example, since 2011 Atmos has benefitted from its PBRM more than Piedmont Natural Gas Company has from a similar mechanism in Tennessee, suggesting that the incentives provided to Atmos may be excessive.” What is the relevance of 2011 as the appropriate year from which to start comparing Atmos’s PBRM savings to those of Piedmont?

**RESPONSE:** Dr. Klein believes that, in this instance, a five year period serves as a reasonable basis to evaluate and compare data. Further, Dr. Klein notes that 2011 is the last year that Atmos’s share of savings under its PBRM consistently fell below Piedmont’s share of savings under its PBRM.

14. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 12, Lines 7-14, he discussed the potential acquisition of Atmos Energy Marketing, LLC by CenterPoint Energy Services, Inc. Specifically, he stated that “[t]he potential acquisition of Atmos’s affiliated marketer and current Asset Manager under the PBRM, AEM, by CenterPoint Energy Services, Inc. should be

reviewed for any resulting effects on Atmos's PBRM savings." What "resulting effects" in PBRM savings does Dr. Klein anticipate as a result of the proposed sale of Atmos Energy Marketing, LLC?

**RESPONSE: Dr. Klein believes that the "resulting effects" on Atmos's PBRM savings as a result of CenterPoint Energy Services, Inc.'s ("CenterPoint") acquisition of AEM are unclear, hence the need for review to determine what effects, if any, may occur. With that said, it may be significant to investigate whether CenterPoint is a competent asset manager and whether any lack of competence could have affected savings.**

15. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 12, Lines 7-14, he discussed the potential acquisition of Atmos Energy Marketing, LLC by CenterPoint Energy Services, Inc. Specifically, he stated that "CenterPoint affiliates' relationship with AEM may deserve scrutiny for any similar effects." What relevance, if any, does this sentence have to the Company's PBRM mechanism that is the subject of this proceeding?

**RESPONSE: "Similar effects" refers to the claim of preferences enjoyed by AEM over independent marketers in Exeter's response to CPAD First Informal Discovery Request included on page 4 of Dr. Klein's Exhibit. These claims were not investigated by Exeter for its report. Whether such effects exist and would continue after AEM's acquisition by CenterPoint is unknown, but worthy of investigation as AEM will continue as Atmos's Asset Manager after the acquisition. It is worth noting that since the referenced testimony refers to concerns regarding advantages enjoyed by Atmos affiliates, it is reasonable to inquire as to whether CenterPoint has any affiliates that may give it an undue advantage.**

16. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 12, Lines 7-14, he made reference to "preferences enjoyed by AEM suggested by Exeter's response to CPAD's First Informal Discovery Request." What "preferences enjoyed by AEM" is Dr. Klein referring to?

Please provide any supporting documentation for any such preferences identified.

**RESPONSE: Exeter's response to CPAD First Informal Discovery Request (included on page 4 of Dr. Klein's Exhibit), states:**

**Under the current terms and conditions of transportation service, marketers are not currently required to deliver gas to the service territory in which their customers are located. This allows marketers to deliver gas to the lower-cost West and Middle Tennessee territories to serve customers located in the higher-cost East Tennessee service territory. Non-affiliated marketers have claimed that this makes it more difficult to compete with Atmos' affiliate AEM and they believe if a marketer other than an affiliate were the largest, Atmos would modify its transportation tariff to require deliveries to the service territory in which the marketers' customers were located.**

**In this Response, Exeter refers to concerns expressed by "non-affiliated" marketers that AEM, which is an affiliated marketer, enjoys an advantage due to its affiliated status. Exeter further stated, in this Response, that "[f]urther investigation of this claim is beyond the scope of review of Exeter's investigation," so there is no supporting documentation at this time other than the non-affiliated marketer's statement to Exeter.**

17. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 12, Lines 7-14, he made reference to Exeter Associates Inc.'s response to the First Informal Discover Request of the Consumer Protection and Advocate Division which related to Exeter Associates Inc.'s response to CPAD 1-5. Specifically, it related to a document contained in the "Archive Folder-3531 Atmos Energy\Old Versions of Report" entitled "Report Deleted Paragraph" which stated:

AEM is the largest marketer on the Atmos system, serving customers responsible for approximately 70 percent of total transportation volumes. As previously explained, the Atmos System consists of three separate service territories. Capacity costs for the West and Middle Tennessee service territories are lower than capacity costs for the East Tennessee service territory. Under the current terms and conditions of transportation service, marketers are not currently required to deliver gas to the service territory in which their customers are located. This allows marketers to deliver gas to the lower-cost West and Middle Tennessee territories to serve customers located in the higher-cost East Tennessee service territory. Non-affiliated marketers have claimed that this makes it more difficult to compete with Atmos' affiliate AEM and they believe if a marketer

other than an affiliate were the largest, Atmos would modify its transportation tariff to require deliveries to the service territory in which the marketers' customers were located. Further investigation of this claim is beyond the Scope of Review of Exeter's investigation.

a. Please indicate where in the Company's transportation tariff (Schedule 260) it describes the "West," "Middle," and/or "East" service territories or "three separate service territories."

b. Wouldn't any proposed modifications of the Company's transportation tariff such as those described in the "Report Deleted Paragraph" need to be accepted or approved by the Tennessee Rate Authority as just and reasonable?

**RESPONSE:**

a. **The "three separate service territories" and "West," "Middle," and/or "East" territories are Exeter's characterization of Atmos's Tennessee service territory. Apparently, Atmos's current transportation tariff makes no distinction among these territories, or so the non-affiliated marketers referred to Exeter's response to CPAD 1-5 claim.**

b. **The referenced modification of Atmos's transportation tariff would require TRA approval. The purpose of the referenced modification, however, is to remove the alleged preference enjoyed by AEM over non-affiliate marketers.**

18. In the Direct Testimony of Christopher C. Klein, Ph.D., Pages 5-7, Lines 18-4, when describing the issues before the TRA in this proceeding, he stated "Arguably, the proposal to eliminate the deadband is the only change properly before the TRA at this time." In the Direct Testimony of Michelle Ramsey, Page 3, Lines 6-16, when describing the scope of the issues before the TRA in this proceeding, she stated that "The parties also agreed to expand the scope to include an evaluation of the balance of incentives between consumers and Atmos in the PBRM, including the



sharing percentages and overall cap on incentive savings available to Atmos.” Does Dr. Klein disagree with Ms. Ramsey’s testimony that the parties agreed to expand the scope of this proceeding beyond the proposal to eliminate the deadband?

**RESPONSE:** The Consumer Advocate objects to this request on the grounds that it is vague and ambiguous. Without waiving those objections, the referenced language in the Testimony of Ms. Ramsey specifically refers to the scope of the triennial review to be undertaken by the consultant and not the scope of any subsequent proceeding. Ms. Ramsey’s complete statement is:

Atmos’ PBRM tariff contains a section on the terms of the Review Process. Atmos, the TRA Staff and the Consumer Advocate provide the oversight for the RFP process and prepare an agreed-upon Scope of Review for the potential consultant. The three parties must also agree on the selection of the independent consultant following receipt of the bids. The scope in the latest triennial review included a review of the deadband provision of Atmos’ PBRM tariff as ordered by the Authority. The parties also agreed to expand the scope to include an evaluation of the balance of incentives between consumers and Atmos in the PBRM, including the sharing percentages and overall cap on incentive savings available to Atmos.

It is worth noting that any such agreement among the parties in the course of the triennial review process would not bind the TRA in this proceeding or supersede the TRA’s Order in Docket 13-00111.

19. In the Direct Testimony of Christopher C. Klein, Ph.D., Pages 13-14, Lines 16-2, he stated that “increases in Atmos’s share of savings are realized as rate increases for customers.” Wouldn’t the overall rate impact on customers of any potential increase in the Company’s share of savings be dependent on the amount of that savings?

**RESPONSE:** Yes, but this does not mean that increases in Atmos’s savings do not come at the expense of customers.

20. In the Direct Testimony of Christopher C. Klein, Ph.D., Pages 13-14, Lines 16-2, when discussing increases in Atmos's share of savings, he stated that "These are justified only in the presence of increased benefits to customers from reduced gas costs." Isn't any incremental reduction in gas costs of benefit to customers?

**RESPONSE: Yes, however, Dr. Klein is referring to increases in Atmos's share of savings in the absence of any incremental reduction in gas cost. This is not of benefit to consumers.**

21. On Page 52 of its Review of Performance Based Ratemaking Mechanism Rider, Exeter Associates found that "Consistent with the findings of a study evaluating gas procurement incentive mechanisms conducted by the National Regulatory Research Institute (NRRI), Exeter finds that caps can weaken or eliminate incentives." Exeter was citing "A Hard Look at Incentive Mechanisms for Natural Gas Procurement," National Regulatory Research Institute, November 2006. In the Direct Testimony of Christopher C. Klein, Ph.D., Page 16, Lines 3-16, he recommends maintaining the \$1.25 million cap on Atmos's share of savings. Why does Dr. Klein disagree with the conclusions of the NRRI report cited by Exeter that maintaining a cap will weaken or eliminate incentives for the Company to improve its performance?

**RESPONSE: Dr. Klein recommends maintaining the \$1.25 million cap on Atmos's share of savings during the proceeding that he also recommends to investigate whether the current incentives are insufficient as well as whether they are necessary. This approach essentially freezes Atmos's incentives at the current level while this investigation is undertaken. In the event that the TRA determines that it is proper to consider Atmos's requests in this docket, then removal of the cap is acceptable only if the sharing percentages are re-set to limit Atmos's share of savings to those from additional savings over and above those realized in the past. Otherwise Atmos may be rewarded with a higher share of savings without actually**

producing any more savings in gas costs. In this way the sharing percentages and the cap must be considered together to prevent a windfall to Atmos. While Dr. Klein does not disagree with the NRRI report as far as it goes, there is more at stake than just the incentives created or limited by the cap.

Moreover, Dr. Klein's recommendations on a single sharing percentage (say, 90% consumer and 10% company) are consistent with the recommendations in the NRRI report to use one symmetric set of sharing rules that applies to all categories of gas cost and to "keep it simple." (p.17)

RESPECTFULLY SUBMITTED,



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Consumer Protection and Advocate Division  
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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 23<sup>rd</sup> day of November, 2016.

  
\_\_\_\_\_  
Wayne M. Irvin

# **ATTACHMENT**

**1**

**Piedmont**

Month	Year	Gas Procurement		Capacity Management		Total Company		Docket
		Mech. Savings		Mech. Savings		Mech. Savings	Retained Savings	
July	2008	\$	(4,616)	\$	610,066	\$	151,363	
August	2008	\$	16,095	\$	635,382	\$	162,869	
September	2008	\$	873	\$	737,730	\$	184,651	
October	2008	\$	(184,416)	\$	344,709	\$	40,073	
November	2008	\$	124,665	\$	2,254,360	\$	594,756	
December	2008	\$	65,309	\$	54,360	\$	29,917	
January	2009	\$	109,691	\$	54,360	\$	41,013	
February	2009	\$	530,112	\$	118,770	\$	162,221	
March	2009	\$	205,630	\$	87,458	\$	73,272	
April	2009	\$	19,049	\$	145,951	\$	41,250	
May	2009	\$	64,686	\$	152,775	\$	54,365	
June	2009	\$	75,514	\$	126,704	\$	50,555	
<b>July '08 - June '09</b>		<b>\$</b>	<b>1,022,592</b>	<b>\$</b>	<b>5,322,625</b>	<b>\$</b>	<b>1,586,304</b>	<b>09-00125</b>
July	2009	\$	106,646	\$	254,865	\$	90,378	
August	2009	\$	2,743	\$	155,665	\$	39,602	
September	2009	\$	25,848	\$	178,064	\$	50,978	
October	2009	\$	97,907	\$	155,665	\$	63,393	
November	2009	\$	392,321	\$	1,883,958	\$	569,070	
December	2009	\$	164,003	\$	32,752	\$	49,189	
January	2010	\$	392,390	\$	32,752	\$	106,286	
February	2010	\$	620,406	\$	32,752	\$	163,290	
March	2010	\$	200,979	\$	32,752	\$	58,433	
April	2010	\$	93,070	\$	146,181	\$	59,813	
May	2010	\$	14,631	\$	111,151	\$	31,446	
June	2010	\$	3,214	\$	122,491	\$	31,426	
<b>July '09 - June '10</b>		<b>\$</b>	<b>2,114,158</b>	<b>\$</b>	<b>3,139,048</b>	<b>\$</b>	<b>1,313,302</b>	<b>10-00183</b>
July	2010	\$	8,412	\$	111,151	\$	29,891	
August	2010	\$	31,770	\$	111,151	\$	35,730	
September	2010	\$	(15,702)	\$	114,412	\$	24,678	

October	2010	\$	38,304	\$	111,151	\$	37,364
November	2010	\$	140,664	\$	166,667	\$	76,833
December	2010	\$	226,772	\$	166,667	\$	98,360
January	2011	\$	169,494	\$	166,667	\$	84,040
February	2011	\$	205,516	\$	166,667	\$	93,046
March	2011	\$	146,607	\$	178,022	\$	81,157
April	2011	\$	104,822	\$	177,235	\$	70,514
May	2011	\$	45,654	\$	166,667	\$	53,080
June	2011	\$	18,754	\$	166,667	\$	46,355
<b>July '10 - June '11</b>		<b>\$</b>	<b>1,121,067</b>	<b>\$</b>	<b>1,803,124</b>	<b>\$</b>	<b>731,048</b>
							11-00143
July	2011	\$	13,561	\$	168,052	\$	45,403
August	2011	\$	29,380	\$	166,667	\$	49,012
September	2011	\$	14,385	\$	166,667	\$	45,263
October	2011	\$	40,515	\$	166,667	\$	51,796
November	2011	\$	183,441	\$	127,083	\$	77,631
December	2011	\$	365,329	\$	127,083	\$	123,103
January	2012	\$	274,693	\$	127,083	\$	100,444
February	2012	\$	173,543	\$	127,083	\$	75,157
March	2012	\$	148,263	\$	127,083	\$	68,837
April	2012	\$	36,826	\$	127,083	\$	40,977
May	2012	\$	2,448	\$	127,083	\$	32,383
June	2012	\$	28,522	\$	127,083	\$	38,901
<b>July '11 - June '12</b>		<b>\$</b>	<b>1,310,906</b>	<b>\$</b>	<b>1,684,717</b>	<b>\$</b>	<b>748,906</b>
							12-00103
<b>July '12 - June '13</b>		<b>\$</b>	<b>1,887,812</b>	<b>\$</b>	<b>1,805,524</b>	<b>\$</b>	<b>923,334</b>
							13-00116
July	2013	\$	19,165	\$	133,333	\$	38,125
August	2013	\$	43,637	\$	133,625	\$	44,316
September	2013	\$	27,430	\$	133,333	\$	40,191
October	2013	\$	60,724	\$	136,278	\$	49,251
November	2013	\$	261,480	\$	33,333	\$	73,703
December	2013	\$	405,451	\$	77,416	\$	120,717
January	2014	\$	5,225,733	\$	33,333	\$	1,314,767
February	2014	\$	4,637,471	\$	56,189	\$	1,173,415
March	2014	\$	7,146,229	\$	33,333	\$	1,794,891

April	2014	\$	249,291	\$	54,088	\$	75,845
May	2014	\$	53,107	\$	33,333	\$	21,610
June	2014	\$	47,247	\$	33,333	\$	20,145
<b>July '13 - June '14</b>		<b>\$</b>	<b>18,176,965</b>	<b>\$</b>	<b>890,927</b>	<b>\$</b>	<b>1,600,000</b>
July	2014	\$	65,153	\$	33,333	\$	24,622
August	2014	\$	56,184	\$	33,333	\$	22,379
September	2014	\$	65,242	\$	33,333	\$	24,644
October	2014	\$	112,093	\$	33,883	\$	36,494
November	2014	\$	227,765	\$	58,333	\$	71,525
December	2014	\$	1,232,432	\$	58,333	\$	322,691
January	2015	\$	719,932	\$	58,333	\$	194,566
February	2015	\$	1,017,734	\$	58,333	\$	269,017
March	2015	\$	708,125	\$	58,333	\$	191,615
April	2015	\$	67,564	\$	58,397	\$	31,490
May	2015	\$	45,441	\$	58,333	\$	25,944
June	2015	\$	54,752	\$	58,333	\$	28,271
<b>July '14 - June '15</b>		<b>\$</b>	<b>4,372,417</b>	<b>\$</b>	<b>600,610</b>	<b>\$</b>	<b>1,243,257</b>
							<b>15-000079</b>





Table 1 -Company Retained PBR Incentive Payments			
Year	Atmos	Piedmont	
2009	\$ 94,358	\$	1,586,304
2010	\$ 291,710	\$	1,313,302
2011	\$ 292,139	\$	731,048
2012	\$ 1,250,000	\$	748,906
2013	\$ 1,250,000	\$	923,334
2014	\$ 1,250,000	\$	1,600,000
2015	\$ 1,250,000	\$	1,243,257
<b>Total</b>	<b>\$ 5,678,206</b>	<b>\$</b>	<b>8,146,150</b>

# **ATTACHMENT**

**2**

**MEMORANDUM OF AGREEMENT BETWEEN  
MIDDLE TENNESSEE STATE UNIVERSITY AND  
THE OFFICE OF THE ATTORNEY GENERAL OF TENNESSEE**

This Memorandum of Agreement ("Agreement") is made and entered into on this 15<sup>th</sup> day of June, 2016, by and between the Office of the Attorney General of Tennessee, hereinafter referred to as the Attorney General, and Middle Tennessee State University, hereinafter referred to as the University and collectively Parties:

**WITNESSETH**

**WHEREAS**, the Attorney General has the responsibility for the conduct of administrative dockets and cases before the Tennessee Regulatory Authority ("TRA") and other proceedings representing the utility ratepayers of the State of Tennessee, and these ratemaking dockets and other proceedings often require the use of an expert regulatory economist in the preparation and conduct of these cases and in generally assisting the Attorney General in his statutory duties and responsibilities as Consumer Advocate pursuant to Tenn. Code Ann. § 65-4-118 and the Attorney General's duties generally pursuant to Tenn. Code Ann. § 8-6-109, and

**WHEREAS**, the University is staffed with such an expert regulatory economist in the person of Dr. Christopher C. Klein ("Klein"), whose services can be utilized to the distinct advantage of the Attorney General in such preparation for and conduct before the TRA in ratemaking and other proceedings and generally assisting in the Attorney General in his statutory duties and responsibilities as Consumer Advocate.

**NOW, THEREFORE**, in consideration of the foregoing premises, it is hereby agreed by and between the Parties hereto as follows:

1. The University will furnish the services of its employee, Dr. Christopher C. Klein, M-number [REDACTED], who will assist the Attorney General in the carrying out of his

statutory duties and responsibilities as Consumer Advocate under Tenn. Code Ann. § 65-4-118 and in the preparation and conducting of the administrative and other legal actions before the TRA and elsewhere pursuant to Tenn. Code Ann. § 8-6-109. Klein will be responsible for expert advice and consultation, testimony in trial, hearing, or by deposition or other proceeding if necessary in the opinion of the Attorney General, and any matters necessarily related thereto, including review and evaluation of documents supplied to him.

2. For the performance of the services described in the preceding paragraph, the Attorney General agrees to compensate the University as follows:

██████████ (\$██████) per hour for Klein's general consulting services and document review; and

██████████ (\$██████) per hour for Klein's preparation of written testimony for a proceeding before the TRA or other body; and

██████████ (\$██████) per hour for Klein's appearance and testimony for a deposition or before the TRA or in any other proceeding.

Provided however, should the University's billing for services performed by Dr. Klein for any calendar month be less than ██████████ (\$██████), then the Attorney General shall pay the sum of (\$██████) for that month.

In addition to the foregoing compensation, the Attorney General will pay the University the employer's portion of social security and the retirement contribution attributable to this supplemental pay and all necessary out-of-pocket expenses reasonably incurred by Klein, including travel related expenses up to the limits provided for in the State's comprehensive travel regulations. The University agrees to provide the Attorney General with a monthly billing for all services and expenses incurred in the prior calendar month.

3. In consideration for the payments described in Paragraph 2, above, Klein agrees not to accept consulting work from any person or entity regulated by the TRA. If Klein would like the Attorney General to consider allowing him to accept work from such a potential client,

Klein will provide the Attorney General with written notice of the proposed work including the identity of the proposed client and nature of the proposed work in order to permit the Attorney General's consideration of such request. The Attorney General is not required to approve such work but may consider it if it does not appear to give rise to a conflict of interest.

4. All financial and other records of the University relating to Klein's services and expenses shall be preserved for a period of 3 years after the conclusion of any proceedings and shall be made available to the Attorney General, the Comptroller of the Treasury, or their authorized representative(s) at any reasonable times. Prior to the destruction of any materials relating to these services, the University or Klein will notify the Attorney General and provide at least 30 days prior written notice and the opportunity for the Attorney General to elect to take possession of the records to preserve the records for a longer period of time.

5. University agrees that all papers, studies, documents, opinions, and/or other work product generated from or relating to this Agreement shall be confidential and privileged and shall not be available for discovery or open for inspection or copying except at the direction of the Attorney General. Klein agrees to comply with and abide by any protective orders or other orders relating to the protection of documents or discovery and issued by the TRA or other appropriate body or entered into with the Attorney General.

6. In the event the services performed pursuant to this contract result in fees and expenses owing which approach the sum of \$ [REDACTED] Klein agrees to inform the Attorney General or his designee and to proceed no further without the written approval of the Attorney General. In no event shall the liability of the Attorney General under this Agreement exceed the sum of \$ [REDACTED] for the term of this Agreement.

7. This Agreement shall extend from July 1, 2016 through June 30, 2017, unless terminated by mutual consent or unless terminated by the Attorney General, who reserves the

right to terminate this Agreement for any reason and only owe Klein, at the rate set out herein, for any work already performed and expenses already incurred prior to such termination. Klein agrees to notify the Attorney General, either in writing or by e-mail, no later than March 1, 2017 if he desires for the Attorney General to consider renewal of this Agreement for a time period beyond June 30, 2017 and include the proposed length of any extension or renewal as well as terms and any proposed modifications to the Agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their respective and duly authorized officials, on the day and date first above written.

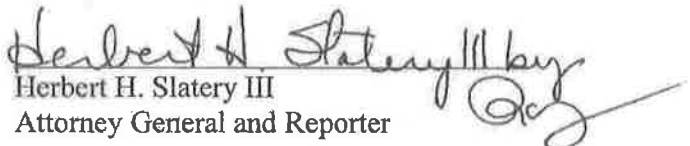
MIDDLE TENNESSEE  
STATE UNIVERSITY

BY:



OFFICE OF THE ATTORNEY GENERAL  
OF TENNESSEE

BY:

  
Herbert H. Slatery III  
Attorney General and Reporter

REVIEWED AND ACCEPTED

  
Dr. Christopher C. Klein