

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Atmos Energy Corporation's Tariff)
Revision Designed to Implement a General Rate)
Increase for Natural Gas Service in the Missouri) Case No. GR-2010-0192
Service Area of the Company.)

**OBJECTION TO MOTION TO FILE APPLICATION TO INTERVENE OUT OF
TIME AND TO VERIFIED APPLICATION OF IBEW LOCAL 1439 TO
INTERVENE**

COMES NOW Atmos Energy Corporation ("Atmos"), pursuant to Missouri Public Service Commission ("Commission") Rules 4 CSR 240-2.075 and 4 CSR 240-2.080, and submits its Objection in opposition to the "Motion to File Application of IBEW Local 1439 To Intervene Out of Time" ("Motion") and to the "Verified Application of IBEW Local 1439 To Intervene" ("Application") (collectively referred to herein as "Late-Filed Application"). In support of its Objection, Atmos respectfully states as follows:

1. By its Order Directing Notice, Suspending Tariff, Setting Hearings, and Directing Filings ("Order") entered in this matter on January 6, 2010, the Commission ordered that any proper person or entity wishing to intervene shall file an application to intervene no later than January 19, 2010.

2. On April 16, 2010, almost three months after the intervention deadline, International Brotherhood of Electrical Workers Local 1439 ("Local 1439") filed its Motion and contemporaneous Application, seeking permission to intervene in this proceeding.

3. Commission Rule 4 CSR 240-2.075(5) provides that "Applications to intervene filed after the intervention date may be granted upon a showing of good cause."

4. While the Local 1439 Motion cites neither the above-referenced rule (referencing the authority under which relief is requested) nor a specific allegation of “good cause,” it does suggest that “[b]ecause it has not participated in rate proceedings relating to Atmos in the past, Local 1439 did not receive notice or a copy of the order until well after the deadline.” Such statement does not constitute good cause, and it clearly does not justify inaction for a three month period of time. In a previous Missouri Gas Energy rate case, Case No. GR-2006-0422, Cornerstone Energy, Inc. filed an application to intervene out of time stating as its reason that it only recently became aware of the proceeding, and therefore had not previously sought intervention in the matter. Cornerstone also emphasized that no party would be prejudiced by granting its application. In its Order Denying Application To Intervene, this Commission succinctly stated: “Were the Commission to accept ‘we just found out’ as good cause for filing a request to intervene almost two months out of time, ‘good cause,’ as used in the Commission’s rule, would have no substance.”¹

5. Local 1439 is certainly familiar with Commission procedure, having participated in previous and current Commission proceedings. Indeed, the Commission has previously found that a party’s *unfamiliarity* with Commission procedure, and its lack of counsel, does not rise to the level of good cause. In Case No. EO-2005-0293, Order Denying Intervention, the Commission stated: “The Commission finds that Calpine fails to show good cause for its late-filed application. The Commission fails to see how Calpine’s unfamiliarity with Commission procedure, and its lack of counsel, rises to the level of good cause.” Calpine’s application was two weeks out of time. The subject

¹ *Order Denying Application to Intervene*, Case No. GR-2006-0422, August 28, 2006.

Late-Filed Application was submitted almost three months out of time by a party familiar with Commission procedure.

6. While the Commission previously has found that a municipal group showed good cause for filing their application to intervene approximately two weeks after the filing deadline established by the Commission, those applicants explained their actions were because of delays occasioned by the meeting times of the City Councils and Boards of Alderman for the intervening municipalities.² Said application was unopposed.

WHEREFORE, Atmos Energy Corporation respectfully submits its Objection to both IBEW Local 1439's Motion and Application, and requests that the Commission deny the relief requested therein.

Respectfully submitted,

/s/ Larry W. Dority

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² *Order Granting the Application to Intervene Out of Time of the City of O'Fallon, the City of University City, the City of Rock Hill, and the St. Louis County Municipal League*, Case No. ER-2010-0036, September 22, 2009.

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing Objection has been emailed this 19th day of April, 2010, to all counsel of record and to Sherrie A. Schroder and Michael A. Evans, Attorneys for IBEW Local 1439.

/s/ Larry W. Dority

Larry W. Dority