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Case 08-E-0077 - Entergy: Assignment  
of second ALJ

All Parties:

I joined the Department of Public Service as an Administrative Law Judge on Monday, June 23, 2008, and have been assigned to co-preside with Judge Lynch in this case. In the interests of full disclosure, I want to advise the parties that, earlier this month, while I was still working as an attorney for the NYS Consumer Protection Board, I was contacted by John Sipos, who is representing the Office of the Attorney General in this proceeding. Mr. Sipos had been referred

to me by the Director of the CPB's Utility Intervention unit because he had questions about the interaction of FOIL and the Commission's regulations relating to the disclosure of assertedly confidential information obtained through discovery in PSC proceedings. I gave him my views on the applicable rules based on my experience in other Commission cases.

The CPB is not a party to this case, and has taken no position on its merits as far as I am aware. Given these facts, the acting chief ALJ, the Department's ethics officer and I have concluded there is no impediment to my presiding in this case generally. Specifically with regard to discovery, however, I have determined that I will not participate in the decision of any issue involving the application of the procedures for the protection of information claimed to be exempt from disclosure established by the "Procedural Ruling and Protective Order" issued on June 17, 2008.

David Prestemon  
Administrative Law Judge  
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