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November 10, 2015

Via Electronic Mail and U.S. Mail:

November 10, 2015

Chairman Herbert H. Hilliard
Tennessee Regulatory Authority
c/o Sharla Dillon, Dockets and Records Manager
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

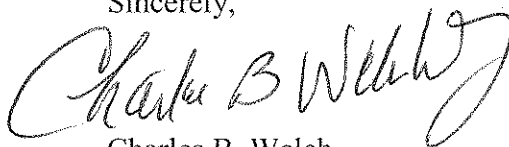
**RE: EFCA Response to Kingsport Power's Objection to Petitions of
Intervenors and Request to Clarify the Scope of EFCA's Intervention,
Docket No. 15-00093, Petition of Kingsport Power Company d/b/a AEP
Appalachian Power General Rate Case**

Dear Ms. Dillon:

Please find enclosed for Docket Number 15-00093, *The Energy Freedom Coalition of America's* Response to Kingsport Power's Objection to Petitions of Intervenors and Request to Clarify the Scope of EFCA's Intervention. This document was electronically filed on November 10, 2015 with the Tennessee Regulatory Authority.

Please contact me if you have any questions regarding this filing.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles B. Welch", with a stylized flourish at the end.

Charles B. Welch

BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE:

PETITION OF KINGSFORT POWER)
COMPANY d/b/a AEP APPALACHIAN)
POWER GENERAL RATE CASE)

DOCKET NO. 15-00093

ENERGY FREEDOM COALITION OF AMERICA, LLC
RESPONSE TO KINGSFORT POWER'S OBJECTION TO PETITIONS OF
INTERVENORS AND REQUEST TO CLARIFY THE SCOPE OF EFCA'S
INTERVENTION

The Energy Freedom Coalition of America, LLC ("EFCA") hereby files this Response to Kingsport Power Company's ("Kingsport" or "Company") objection to EFCA's Petition to Intervene and requests clarification as to the scope of EFCA's intervention.

I. EFCA's Petition to Intervene Should Be Upheld

At the October 28, 2015 Status Conference, Hearing Officer Cashman-Grams granted EFCA's petition to intervene in the above referenced case but limited intervention to the issue of net metering.¹ On November 3, 2015, Kingsport filed an objection to EFCA's Petition to Intervene.²

¹ In Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power General Rate Case, Docket No. 15-00093, Transcript of Proceedings, October 28, 2015 (hereinafter "*Transcript*") at 9.

² In Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power General Rate Case, Docket No. 15-00093, Kingsport Power Company Objection to Petitions to Intervene, Nov. 3, 2015 (hereinafter "*Kingsport Objection*").

1. EFCA has standing to participate in this proceeding because the outcome of this case will result in multi-year impacts to rate payers through new rate structures, fees, and other charges that will have long-term impacts on consumer choices in the rooftop solar market. These impacts will influence the rooftop solar market in Tennessee and could result in distinct and palpable economic injury to EFCA members, underscoring EFCA's interest in the outcome of this proceeding. Standing to intervene in this case is not predicated upon EFCA showing minimum contacts or showing injury-in-fact. Tenn. Code. Ann. § 65-2-107 ("the authority may upon motion allow any interested person to intervene and become a party to any contested case"); Tenn. Code Ann. § 4-5-310 and Tenn. Comp. R. & Regs. R. 1220-1-2-.08 (a petition to intervene shall set forth "those facts demonstrating the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding . . .").

2. EFCA members currently serve customers in 19 states and the District of Columbia. EFCA members are attempting to expand their business to other states, including Tennessee. Kingsport wrongly claims that EFCA is not authorized to do business and is not doing business in Tennessee.³ EFCA has a registered agent in Tennessee, is authorized to transact business in Tennessee,⁴ and EFCA members are engaged in business development efforts in Tennessee, including in the Kingsport service territory. As part of their expansion efforts, EFCA members are engaged in requests for proposals in Tennessee. These efforts are part of the business development activities. EFCA member business expansion efforts are sustained over multi-year periods and

³ *Kingsport Objection* at 2.

⁴ State of Tennessee Secretary of State Certificate of Existence/Authorization for EFCA to transact business in Tennessee was issued on October 29, 2015. See Attachment A.

clearly demonstrate that EFCA has a distinct and palpable interest in the outcome of this proceeding.

3. Kingsport asserts that EFCA “should have no different standing than a manufacturer of any electricity consuming device (e.g. a toaster or a clothes dryer) that may (or may not) sell such a product to customers in the Kingsport service territory sometime in the future.”⁵ This assertion is premised on a fundamental mischaracterization of the rooftop solar industry and the importance of rate design and other electric service policies to EFCA members’ solar development businesses.

4. EFCA’s members work with customers that seek to generate electricity through the installation of solar panels. The decision to install rooftop solar is a significant decision anywhere in the country and is directly tied to the potential benefits and costs of the investment. These benefits and costs include energy cost savings, costs of interconnection, potential for additional fixed charges and fees associated with hosting a solar system, among other considerations. Importantly, these considerations are significantly influenced by the rates, charges, and interconnection policies imposed by the utility serving a customer seeking to install solar power. The adjustments to rates and charges for electric service, and the revised tariffs proposed by Kingsport, will significantly impact customer decisions to install rooftop solar. By contrast, a customer purchasing a new toaster or clothes dryer does not consider whether he or she will be subject to a separate rate class, additional fixed charges, or other fees on their next electric bill. EFCA’s economic interests are distinct and palpable and are directly and materially affected by the changes proposed by Kingsport because of the potential for

⁵ In re: Petition of Kingsport Power Company d/b/a Appalachian Power General Rate Case, Docket No. 15-00093 Objection to Petitions to Intervene, Nov. 3, 2015 at 2.

these changes to influence consumer behavior in the rooftop solar market. Based on the foregoing, Kingsport's objections to EFCA's intervention and participation should be rejected.

II. The Scope of EFCA's Intervention Should be Clarified

At the October 28th Status Conference, Hearing Officer Cashman-Grams granted EFCA's intervention, but limited it to the "net metering issue." She further stated that if other issues are identified that are important to EFCA, the limited intervention status could be revisited.⁶ Kingsport's net metering proposal in this proceeding raises a number of fundamental rate making issues, and EFCA seeks to ensure that its participation will not be limited in a manner that restricts its ability to address these associated issues.

1. In this proceeding, Kingsport is proposing to close its current Rider N.M.S. as of December 31, 2016, and require new net metering customers to take service under proposed Rider N.M.S. 2.⁷ That proposed tariff would require installation of a demand meter, and customers would be required to pay "a charge based on their highest peak demand realized during the month, as measured by the demand meter."⁸ In addition, the energy component of the customer's bill under Rider N.M.S. 2 would be based on "the Company's variable cost of production."⁹ According to Kingsport, these measures are necessary to "reduce[] or eliminate[] the cross-subsidization that occurs with the current net metering construct."¹⁰ The demand meters allegedly ensure that customers are charged "for the fixed infrastructure they utilize," while the reduced rate for energy

⁶ *Transcript* at 9.

⁷ Castle Direct Testimony at 10.

⁸ *Id.* at 11.

⁹ *Id.*

¹⁰ *Id.*

purchases effectively values the output of customer-sited generation at “the Company’s cost to purchase that generation from other sources” rather than at the Company’s retail rates under the current net metering tariff.¹¹

2. These proposals are fundamental departures from traditional net metering practices followed throughout the country. The Company’s claims of “cross-subsidization” presumably are supported by cost of service studies and generally accepted rate design practices. It is essential that EFCA’s intervention be sufficiently broad to enable it to investigate thoroughly the basis for these sweeping proposals and to challenge them, as necessary. EFCA therefore submits that its interests include the net metering issue, which necessarily involves related cost of service and rate design testimony (and supporting analysis, if any). EFCA’s participation will not interfere with the interest of justice and the orderly and prompt conduct of the proceedings. On the contrary, EFCA’s participation in this proceeding ensures that the interests of rooftop solar customers directly affected by Kingsport’s proposals are represented.

3. EFCA’s interests are directly affected by the proposed Rider N.M.S. 2. Kingsport’s proposed adjustments to rates and charges for providing electric service as well as its proposed tariff revisions could each lead to new fixed costs, additional fees, and charges that impact utility customers installing customer-sited distributed energy resources, including rooftop solar. The imposition of these charges on customer generators would be a strong disincentive to customer investment in rooftop solar.

4. It is not possible to predict at this early stage all of the related issues that may arise in this proceeding, or what data or other information may come available that may impact EFCA’s ability to represent its interests. As noted above, Hearing Officer

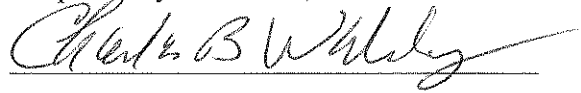
¹¹ *Id.*

Cashman-Grams stated at the prehearing conference that the scope of EFCA's intervention could be revisited later in the event other issues are identified that are important to EFCA. The purpose of this pleading is not to revisit the scope of the intervention—which may prove to be necessary later in the proceeding—but to clarify the scope of the intervention associated with the examination of Kingsport's net metering proposal. EFCA respectfully requests that the Hearing Officer clarify the scope of EFCA's intervention so that EFCA may participate in discovery, access all discovery and data responses, both confidential and non-confidential, present its own witnesses and examine other's witnesses to adduce evidence to protect its interests, contribute to the record, and aid the Tennessee Regulatory Authority's evaluation of Kingsport's proposals in this proceeding.

III. Conclusion

EFCA has a justiciable interest in the disposition of this case that may be impaired or impeded by the outcome of this proceeding. Therefore, EFCA's intervention should be upheld and the scope of EFCA's intervention with respect to the net metering issue should be clarified to include Kingsport's proposed net metering tariff and any testimony, studies and analyses regarding cost of service, rate design, and ratemaking practices or principles which support or relate to the determination of rates that affect Kingsport's proposed net metering tariff.

Respectfully submitted,



Charles B. Welch Jr.

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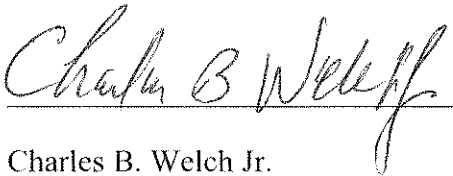
(615) 726-1776 (fax)

cwelch@farris-law.com

Attorney for the Energy Freedom Coalition
of America

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served via email, facsimile, or first-class mail to all parties of record in this proceeding on November 10, 2015.



Charles B. Welch Jr.



STATE OF TENNESSEE
Tre Hargett, Secretary of State
Division of Business Services
William R. Snodgrass Tower
312 Rosa L. Parks AVE, 6th FL
Nashville, TN 37243-1102

BEREN ARGETSINGER
SUITE 100
401 HARRISON OAKS BLVD.
CARY, NC 27513

November 9, 2015

Request Type: Certificate of Existence/Authorization

Request #: 0180778

Issuance Date: 11/09/2015

Copies Requested: 1

Document Receipt

Receipt #: 002304358

Filing Fee: \$22.25

Payment-Credit Card - State Payment Center - CC #: 165762057

\$22.25

Regarding: Energy Freedom Coalition of America, LLC

Filing Type: Limited Liability Company - Foreign

Control #: 819525

Formation/Qualification Date: 10/29/2015

Date Formed: 08/18/2015

Status: Active

Formation Locale: DELAWARE

Duration Term: Perpetual

Inactive Date:

CERTIFICATE OF AUTHORIZATION

I, Tre Hargett, Secretary of State of the State of Tennessee, do hereby certify that effective as of the issuance date noted above

Energy Freedom Coalition of America, LLC

* is a Limited Liability Company formed in the jurisdiction set forth above and is authorized to transact business in this State;

* has paid all fees, taxes and penalties owed to this State (as reflected in the records of the Secretary of State and the Department of Revenue) which affect the existence/authorization of the business;

* has appointed a registered agent and registered office in this State;

* has not filed an Application for Certificate of Withdrawal.

Tre Hargett
Secretary of State

Processed By: Cert Web User

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