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November 12, 2015

VIA EMAIL & FEDEX

Sharla Dillon, Dockets & Records Manager
Tennessee Regulatory Authority
502 Deaderick Street, 4th Floor
Nashville, TN 37243

Re: Petition of Kingsport Power Company d/b/a AEP Appalachian
Power General Rate Case; **Docket No.: 15-00093**

Dear Sharla:

Please find enclosed Kingsport Power Company d/b/a AEP Appalachian Power's Reply to Responses of Sunrun, Inc., and Energy Freedom Coalition of America, LLC, for filing in the captioned docket. The original and four (4) copies are being shipped via FedEx for overnight delivery.

If you have any questions, please do not hesitate to contact the writer.

Very sincerely yours,

HUNTER, SMITH & DAVIS, LLP

William C. Bovender

William C. Bovender

Enclosure

November 12, 2015

c: Kelly Grams, Hearing Officer (*via email*)
Wayne M. Irvin, Esq. (*via email*)
Henry Walker, Esq. (*via email*)
Michael J. Quinan, Esq. (*via email*)
Charles B. Welch, Jr., Esq. (*via email*)
David Foster (*via email*)
James R. Bacha, Esq. (*via email*)
William Castle (*via email*)
Larry Foust (*via email*)
Brian West (*via email*)
John Shepelwich (*via email*)

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

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

DOCKET NO.: 15-00093

REPLY OF PETITIONER KINGSPORT POWER COMPANY D/B/A AEP
APPALACHIAN POWER TO RESPONSES OF SUNRUN, INC., AND ENERGY
FREEDOM COALITION OF AMERICA, LLC

Comes Petitioner, Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport”), and submits the following reply to the Responses of Sunrun, Inc. (“Sunrun”), and Energy Freedom Coalition of America, LLC, (“EFCA”) to Kingsport’s Objection to Petition to Intervene:

At the pre-hearing conference on October 28, 2015, the Hearing Officer allowed Kingsport to orally object to the newly-filed Petitions to Intervene of Sunrun and EFCA. Sunrun claims to be the “largest dedicated residential solar company in the United States.” (Petition to Intervene of Sunrun, Inc., p. 1). EFCA has alleged its members “invest in rooftop solar facilities.” (Petition to Intervene of EFCA, p. 2). Both companies seek to challenge changes which Kingsport proposes to its current net metering service rider (Rider N.M.S.) and to the proposed Rider N.M.S.2 discussed in the pre-filed testimony of Kingsport Witness William K. Castle at pages 10, 11.

The Hearing Officer orally granted the Petitions to Intervene of both solar companies, but limited the intervention to the “net metering issue.” (No. 15-00093, Transcript of Proceedings,

10/28/15; p. 9). The Hearing Officer also instructed Kingsport to file a formal, written objection to the Petitions to Intervene and, same was accomplished on November 3, 2015.

In Kingsport's Objection, which continued to oppose the intervention, Kingsport also sought to limit the scope of information to be received by Sunrun and EFCA during the proceeding, and to limit the scope of their discovery.

In response to Kingsport's Objection, particularly with respect to discovery, both Sunrun and EFCA seek unlimited access to Kingsport's responses to Data and discovery requests, including confidential responses.¹ EFCA, like Sunrun, seeks to take unlimited discovery related to "...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." (EFCA Response, p. 6). In essence, both seek to participate to the same extent as the Consumer Advocate with respect to discovery and access to Kingsport's information.

A. STANDING

The right to intervene in this proceeding is not unlimited. Intervention may be granted by the Hearing Officer if a petition "...states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interests may be determined in this proceeding... and...the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention." T.C.A. § 4-5-310 (a) (2) and (3).

¹ The active docket index for 15-00093 currently contains and will presumably continue to add data requests and Kingsport responses which should allow Sunrun and EFCA to determine what information they need solely on net metering.

In this case, neither Intervenor is actually doing business in Tennessee, particularly in the Kingsport service territory, even though EFCA qualified to do business in the State the day after the Scheduling Conference. More importantly, the purported challenge to Kingsport's net metering service riders is vicarious in nature. Sunrun and EFCA challenge the effect the rider could have on electric rates charged by Kingsport to their respective potential customers in the Kingsport service territory (if they ever have any customers in that territory). If the Intervenor were actually purchasing electricity from Kingsport, they might have standing to challenge the net metering tariff. They are, however, merely potential vendors of solar equipment and services. A potential Kingsport residential customer of either Intervenor will, theoretically, have to make a decision on the economics of utilizing solar technology. As such, the Intervenor is similar to other vendors of products utilizing electricity. It should be noted, moreover, that to have standing in an administrative proceeding an entity must show "...it is subject to special injury not common to the public generally..." *Wood v. Metro. Nashville*, 196 S.W3d 152, 158 (Tenn. App. 2005). Sunrun and EFCA seemingly lack standing in this case, *Id.*, although their limited participation has been granted.

It should also be pointed out that the Consumer Advocate is absolutely positioned to protect the interests of Kingsport residential customers who have or will be engaging in solar energy activities. In that sense, allowing the Intervenor to proceed is, at least, redundant.

B. DISCOVERY

Recognizing that the Intervenor was granted limited intervention rights, Kingsport respectfully submits that Sunrun and EFCA should not be permitted unlimited access to all information Kingsport submits in response to Staff Requests and discovery by the other

Intervenors, particularly confidential information subject to the Protective Order, and the discovery rights of Sunrun and EFCA should be significantly restricted solely to net metering issues. Put another way, the participation of Sunrun and EFCA should be limited to the “designated issues in which...[they]...ha[ve] a particular interest,...”, and “...their use of discovery, cross-examination, and other procedures should be limited “...so as to promote the orderly and prompt conduct of the proceedings...” T.C.A. § 4-5-310 (c) (1) and (2).

As noted above, EFCA wants to be privy to “...any testimony, studies and analysis 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.” (Response of EFCA, p. 6). The proper limit to be placed on Sunrun and EFCA should be as follows:

1. Allow the Intervenors to submit to Kingsport formal discovery on the net metering issue;
2. Permit Kingsport to respond or object (or both); and
3. Information can be properly disseminated.

Access to all information divulged by Kingsport should be limited. For example, in the Staff Requests (the so-called “MFR’s”), Kingsport has been requested to disclose (subject to the Protective Order) its 25 largest customers based on kWh. It has also been required to provide salary information about its employees. While the Protective Order has been invoked to limit the disclosure of this information, there is no reason for the solar product/service vendors to have access to said information.

This is obviously not an enforcement proceeding such as that seen in “*In Re: Show Cause Proceeding Against Tennessee Waste Water System, Inc. For Material Non-Compliance and/or Violations of State Law, etc.*”, Docket No. 14-00041, Tennessee Regulatory Authority; however, the principles articulated by this Hearing Officer to deny the intervention of the Consumer Advocate in that proceeding are applicable not only to the question of intervention, but also to the scope of the interventions permitted: No actual legal right or interest of Sunrun or EFCA will be affected in this proceeding. “Thus, there are no actual customers of public utility...service to be represented in this proceeding...” by them. The fact the outcome could “likely affect rate payers in the future...” is not sufficient to grant unlimited discovery to Sunrun and EFCA or unlimited access to Kingsport’s information, including confidential information. See, 2014 WL 2699865 (Tenn. P.S.C.), Initial Order Denying Consumer Advocate’s Petition to Intervene.

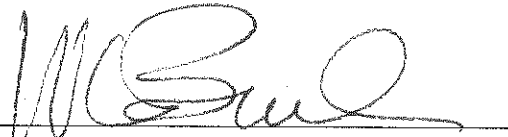
SUMMARY

While Kingsport continues to respectfully assert the Petitions to Intervene of Sunrun and EFCA should have been denied for the reasons discussed herein and in the *Tennessee Waste Water System, Inc.* docket, clearly the principles set forth therein and in *Wood, supra*, and in the criteria concerning interventions, T.C.A. § 67-5-310, require that that receipt of information by Sunrun and EFCA and the scope of the discovery they should be allowed, should be limited.

Kingsport’s suggested discovery procedure is fair and will allow for the proceeding to go forward “...so as to promote the orderly and prompt conduct...” of same. T.C.A. § 67-5-310 (c) (2).

Respectfully submitted,

**KINGSPORT POWER COMPANY d/b/a AEP
APPALACHIAN POWER**

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing **REPLY TO RESPONSES OF SUNRUN, INC., AND ENERGY FREEDOM COALITION OF AMERICA, LLC**, has been served upon the following by emailing a true and accurate copy on this the 12th day of November, 2015:

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