

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

PETITION OF KINGSPORT POWER COMPANY
d/b/a AEP APPALACHIAN POWER
GENERAL RATE CASE AND MOTION FOR
PROTECTIVE ORDER

DOCKET NO. 16-00001

MOTION OF PETITIONER TO ADOPT PROCEDURAL SCHEDULE
SUBMITTED HEREWITH

Comes Petitioner, Kingsport Power Company d/b/a AEP Appalachian Power ("KgPCo"), and respectfully moves that the Hearing Officer adopt the proposed Procedural Schedule submitted herewith by KgPCo and attached hereto as EXHIBIT 1.

CHRONOLOGY

On January 4, 2016, KgPCo filed its Petition in this general rate case.

On January 8, 2016, the Consumer Advocate and Protection Division ("CAPD") filed its Petition to Intervene, same not being opposed by KgPCo.

On January 13, 2016, your Honorable Hearing Officer responded to an email from counsel for KgPCo on that same date which inquired as to when the Hearing Officer was considering setting the scheduling conference in this Docket No.: 16-00001.

In that response your Honor, as reflected in EXHIBIT 2, submitted herewith, responded in pertinent part:

"Counsel:

I'd like you all to work on a procedural schedule, but I'm sure there will be additional petitions to intervene filed. Either I can issue a Notice of Filing and request a certain date

for petitions to intervene to be filed. Once those are filed we can set a status conference. In the meantime, you all can conduct informal discovery.

Or, you all can work on a proposed procedural schedule, and we can have a status conference by phone if the only purpose is to set a procedural schedule. In setting a Procedural schedule, I think it is best that objections and responses be eliminated from the schedule. It's more productive just to include dates for Motions to Compel, Responses, and a Status Conference on the motions. That's usually how the procedural schedules are done.

Let me know if you all have a preference as to how we proceed.

Monica Smith-Ashford
Hearing Officer”

It should be noted that the parties were requested to work on a procedural schedule, which should eliminate “objections and responses” and should include “dates for Motions to Compel, Responses...” etc. (EXHIBIT 2).

On January 19, 2016, your Honor entered an Order granting the Petition of the CAPD to intervene in this Docket.

On January 25, 2016, counsel for KgPCo submitted to the TRA Staff and the CAPD a proposed procedural schedule, same being attached as EXHIBIT 3.

On January 27, 2016, counsel for KgPCo followed up with the CAPD relative to the proposed Procedural Schedule, submitted on January 25, 2016; and, the CAPD responded as shown on EXHIBIT 4 submitted herewith.

Whether the characterizations were accurate or not, on January 28, 2016, counsel for KgPCo and the CAPD exchanged additional emails about the non-response of the CAPD to KgPCo’s proposed Procedural Schedule, submitted herewith as EXHIBIT 5.

On February 2, 2016, the CAPD served on KgPCo a First Discovery Requests containing 207 multipart discovery requests. (See, EXHIBIT 6). Concurrent with those Discovery Requests was a proposed Procedural Schedule of the CAPD, submitted herewith as EXHIBIT 7. It should be noted that, contrary to the instructions of the Hearing Officer, the CAPD's proposed Schedule contains dates for objections to discovery responses, giving KgPCo all of three days to digest and object to said 207 multipart discovery requests, and setting a deadline for responses to same, seventeen days after service. Tennessee Rules of Civil Procedure 33 and 34, which are applicable to discovery requests in TRA dockets, grant to a party a minimum of thirty (30) days to respond to interrogatories and requests for production.

The CAPD Schedule also permits a second round of discovery requests to be directed to KgPCo (with four days to object and twenty-five days to respond).

It should also be noted that the CAPD moved for leave to issue more than forty (40) discovery requests which KgPCo does not object to as long as the CAPD is limited to one round of discovery requests. (See, separately filed Response).

DISCUSSION

The proposed Procedural Schedule of KgPCo complies with the instructions of the Hearing Officer relative to a fair and proper schedule, (see, EXHIBIT 2), unlike the unreasonable, proposed schedule of the CAPD.

It allows KgPCo to respond to the 207 plus discovery requests of the CAPD and any further discovery requests of any other intervenor in a fair and timely fashion and generally in compliance with the applicable Rules of discovery. Particularly given that the CAPD has had KgPCo's responses to the Staff Data Requests (MFR's) in the previous Docket No.: 15-00093

for over three months, and now has updates contained in the responses to said Staff Data Requests (MFR's) in this docket, it is clear the CAPD has no need for a second round of discovery. It is inconceivable that the CAPD would need more discovery given the number of requests served on KgPCo on February 2, 2016. (See also, AGREED ORDER RELATIVE TO USE OF CONFIDENTIAL INFORMATION entered January 21, 2016).

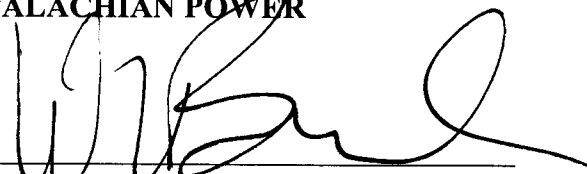
KgPCo withdrew its Petition in Docket No.: 15-00093, in significant part, due to the protestations of the CAPD that it needed to do extensive discovery on an anticipated Petition of KgPCo for an alternate rate mechanism (ARM). That issue is not raised in the Petition in Docket No.: 16-00001. Indeed, even a cursory review of the pre-filed Testimony submitted on behalf of KgPCo reveals the testimony on the base rate case is essentially identical to that seen in No.: 15-00093 and, with minor exceptions, only the discussions of the ARM have been eliminated. The fact the CAPD has numerous specific questions about Pre-Filed Testimony in the best evidence that it has scrutinized same extensively. (See, EXHIBIT 6).

KgPCo went to significant lengths to attempt to work with the CAPD on a procedural schedule. In return, the CAPD eventually proposed a schedule which would result in abusive discovery in a short timeframe.

KgPCo remains willing to work with all parties going forward. However, it is submitted the Proposed Procedural Schedule, submitted herewith (EXHIBIT 1), which complies with your Honor's directive (EXHIBIT 2), should be adopted by the Hearing Officer.

Respectfully submitted,

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

By: 

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Attorneys for Kingsport Power Company

d/b/a AEP Appalachian Power

CERTIFICATE OF SERVICE


The undersigned hereby certifies that a true and exact copy of the foregoing **MOTION OF PETITIONER TO ADOPT PROCEDURAL SCHEDULE SUBMITTED HERewith** has been served upon the following by emailing a true and accurate copy on this the 4th day of February, 2016:

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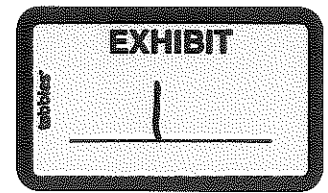
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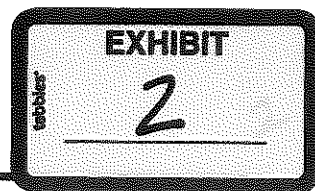


William C. Bovender



**KgPCo General Rate Case
TRA Docket No. 16-00001
Proposed Procedural Schedule on Behalf of KgPCo**

<u>Due Date</u>	<u>Filing/Action</u>
February 2, 2016	CAPD's First Discovery Requests
February 4, 2016	Deadline for Intervening Petitions
February 8, 2016	Response of KgPCo to Additional Intervening Petitions
Week of February 15, 2016	Status Conference
February 18, 2016	Intervenors Discovery Requests Deadline (other than CAPD)
March 10, 2016	KgPCo's Responses to Discovery Requests of All Intervenors
March 14, 2016	Motion(s) to Compel Discovery (if needed)
March 18, 2016	Responses to Motion(s) to Compel
TBD	Status Conference
April 4, 2016	Intervenors' Pre-Filed Testimony
April 14, 2016	KgPCo's Discovery Requests to Intervenors
April 28, 2016	Intervenors' Responses to Discovery Requests
May 2, 2016	Motion(s) to Compel Discovery (if needed)
May 6, 2016	Responses to Motion(s) to Compel
TBD	Status Conference
May 9, 2016	KgPCo's Rebuttal Testimony
TBD	Prehearing Conference
May 16, 2016	Target Date for Hearing



Shawn E. Long

From: William C. Bovender
Sent: Wednesday, January 13, 2016 3:51 PM
To: Shawn E. Long
Subject: FW: Scheduling conference

Please send and copy Irvin

From: Monica Smith-Ashford [<mailto:Monica.Smith-Ashford@tn.gov>]
Sent: Wednesday, January 13, 2016 3:50 PM
To: William C. Bovender
Cc: Wayne Irvin (Wayne.Irvin@ag.tn.gov)
Subject: RE: Scheduling conference

The Protective Order is fine. Would you please send me a word version.

Thank you

From: William C. Bovender [<mailto:bovender@hdsdlaw.com>]
Sent: Wednesday, January 13, 2016 2:30 PM
To: Monica Smith-Ashford
Cc: Wayne Irvin (Wayne.Irvin@ag.tn.gov); Larry C Foust; jrbacha@aep.com; Will Castle (wkcastle@aep.com); Joseph B. Harvey
Subject: RE: Scheduling conference

We shall discuss with our client and get back.

From: Monica Smith-Ashford [<mailto:Monica.Smith-Ashford@tn.gov>]
Sent: Wednesday, January 13, 2016 2:34 PM
To: William C. Bovender
Cc: Wayne Irvin (Wayne.Irvin@ag.tn.gov); Larry C Foust; jrbacha@aep.com; Will Castle (wkcastle@aep.com); Joseph B. Harvey
Subject: RE: Scheduling conference

Counsel:

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Let me know if you all have a preference as to how we proceed.

Monica Smith-Ashford

Hearing Officer

From: William C. Bovender [<mailto:bovender@hsdlaw.com>]

Sent: Wednesday, January 13, 2016 12:29 PM

To: Monica Smith-Ashford

Cc: Wayne Irvin (Wayne.Irvin@ag.tn.gov); Larry C Foust; jrbacha@aep.com; Will Castle (wkcastle@aep.com); Joseph B. Harvey

Subject: Scheduling conference

*** This is an EXTERNAL email. Please exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email - STS-Security. ***

We were wondering when you were considering setting the scheduling conference? We want to avoid conflicts if possible.

HUNTER·SMITH·DAVIS
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