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February 12, 2016

*Hand Delivery*

Chairman Herb Hillard  
c/o Sharla Dillon, Dockets & Records Manager  
Tennessee Regulatory Authority  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, Tennessee 37243

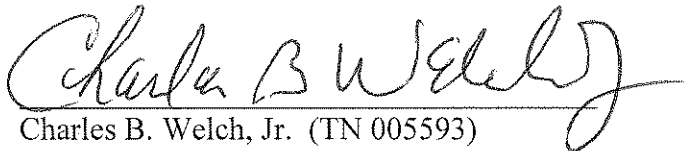
**Re: Docket No. 16-00001 Response to Kingsport Power's Objection to Petitions  
to Intervene**

Dear Chairman Hillard:

Enclosed for filing are the original and four copies of Energy Freedom Coalition of America, LLC's Response to Kingsport Power's Objection to Petitions to Intervene.

Thank you for your assistance regarding this matter. If you have any questions, or if I may be of further assistance, please do not hesitate to contact me.

Respectfully submitted,



Charles B. Welch, Jr. (TN 005593)  
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BEFORE THE TENNESSEE REGULATORY AUTHORITY

IN RE: )  
 )  
PETITION OF KINGSFORT POWER ) DOCKET NO. 16-00001  
COMPANY d/b/a AEP APPALACHIAN )  
POWER GENERAL RATE CASE )  
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ENERGY FREEDOM COALITION OF AMERICA, LLC  
RESPONSE TO KINGSFORT POWER'S  
OBJECTION TO PETITIONS TO INTERVENE

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The Energy Freedom Coalition of America, LLC ("EFCA") hereby files this Response to Kingsport Power Company's ("Kingsport" or "Company") Objection to Petitions to Intervene.<sup>1</sup>

**I. EFCA's Petition For Full Intervention Should Be Granted**

**a. EFCA members have an interest in all aspects of rate design that extend beyond net metering**

1. EFCA members offer distributed energy resource ("DER") products and services that help residential, commercial, industrial, and government customers manage their energy consumption and costs, reduce the environmental impacts of energy generation, and promote consumer choice. These DER products and services include backup battery storage, demand management, solar thermal and electric generation, and solar lighting systems. Kingsport's proposal impacts the value proposition of all of these

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<sup>1</sup> Petition of Kingsport Power Company d/b/a AEP Appalachian Power General Rate Case, Docket No. 16-00001, Kingsport Power Company Objection to Petitions to Intervene, Feb. 8, 2016 (hereinafter "*Kingsport Objection*").

DER products and services. For instance, while net metering is specific to rooftop solar generation, other DER products, such as battery storage, solar thermal, and demand management help consumers reduce electric demand and lower their energy bills even though there is no special tariff designated for that particular technology. The increase in rates and changes to rate design proposed by Kingsport necessarily influence whether a customer will invest in these non-solar PV DER products and services. Accordingly, the interests of EFCA's members extend beyond net metering and net metering issues and are fundamentally tied to the Company's proposed rates and rate designs for all customer classes since all customer classes could install DERs.

2. EFCA members market their products to customers in numerous customer classes and have a direct interest in ensuring that the rates charged to all customers are fair, transparent, and reasonably cost based. The Company has used its class cost of service study ("CCOS") to classify its total costs as being attributable to capacity, energy or customer related costs.<sup>2</sup> The Company has then designed its proposed rates for each class based on these classifications. Therefore, all of the Company's proposed rate designs and tariffs are an outgrowth of the application of the Company's interpretation of the cost causation principles imbedded in its CCOS. In other words, the Company uses its CCOS as justification for its rate design proposals.<sup>3</sup> Because EFCA members offer competitive services to all types of customers, and because the value of those services is influenced by the rates which customer's are charged, EFCA has a clear interest in

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<sup>2</sup> See Testimony of Company Witness Caudill at pp. 3-6 (describing Company's approach to rate design, summarizing proposed tariff modifications and proposed new tariffs, and discussing Company's proposal to design rates that include demand, service, and volumetric charges.).

<sup>3</sup> See Testimony of Company Witness Caudill at p. 3 ("... the Company's approach is to design rates and rate components which reflect the underlying costs of the Company.").

ensuring that the utility does not improperly use its COSS to justify rate design mechanisms that unfairly impede competition from DER providers.

3. In order to represent its interests, it is necessary that EFCA be allowed to participate in all aspects of this rate case, including the myriad cost of service issues that influence the proposed rate designs, rate schedules, and proposed tariffs for all customer classes.

**b. Kingsport mischaracterizes the interests of EFCA**

1. Kingsport mischaracterizes EFCA's interests by arguing that EFCA is interested only in the net metering tariff, and further, that EFCA has no interest in other issues such as "proposed increases to base rates for residential, commercial, and industrial customers; allocation of costs among classes; and revisions to Kingsport's Terms and Conditions of Service . . . ."<sup>4</sup> Kingsport's claim that EFCA's "'particular interest' is limited to the net metering tariff and net metering issues"<sup>5</sup> misstates EFCA's interests. Kingsport selectively quotes those parts of EFCA's petition that refer to its interest in net metering issues and conflates it with the interests of other intervenors to suggest that each petitioner that has expressed an interest in net metering has no interests broader than net metering.<sup>6</sup>

2. Kingsport states, "the Solar Intervenors acknowledge (either explicitly or implicitly) that their interests in this matter are limited to Kingsport's proposed net metering tariff and net metering issues."<sup>7</sup> EFCA objects to being lumped in with the "solar intervenors" because, as EFCA explicitly stated in its Petition to Intervene, it has a

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<sup>4</sup> *Kingsport Objection* at 2.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

broad based interest in the advancement of all DER technologies beyond rooftop solar.<sup>8</sup> As competitors of Kingsport, EFCA has a direct interest in ensuring that rates are non-discriminatory and do not raise anti-competitive concerns.<sup>9</sup>

3. As explained above, EFCA's interests are broad and include the Company's proposed increase in base rates, changes to tariffs for different classes of residential, commercial, and industrial customers, and riders. All of these proposals impact customers who invest in DER products and services offered by EFCA members. Specific elements of the Company's proposal, include but are not limited to, increased fixed charges for residential, commercial, and industrial customers, the adoption of demand charges for net metering customers, and shifting certain rates between fixed, variable and demand components.<sup>10</sup> EFCA's interests are grounded in ensuring that the principles of cost of service rate regulation are applied such that the resulting rate design and tariffs are fair, clear, and transparent so as not to unjustly discriminate against any particular class of customers, or favor the utility to the exclusion of competitive industry.<sup>11</sup>

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<sup>8</sup> See In Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power General Rate Case, Docket No. 16-00001, The Energy Freedom Coalition of America Petition to Intervene, Feb. 4, 2016 (hereinafter "*EFCA Petition to Intervene*") at p. 1 ("EFCA is a national association of companies that promotes, provides and consumes distributed energy resources ("DERs")."; FN 1 "Examples of DERs are: distributed solar generation, solar thermal generation, thermal and battery energy storage, and demand management.").

<sup>9</sup> *Id.* at p. 3 ("EFCA's interests are directly affected by Kingsport's filing and include the Company's cost of service and rate design proposals for residential, commercial, industrial, general service, net metering, and other customers."; and "EFCA has a direct interest in ensuring that the final rates approved in this proceeding incorporate cost of service and public policy considerations that are fair, clear, and transparent so as not to discriminate against any particular class of customers or favor the utility to the exclusion of competitive industry.").

<sup>10</sup> See e.g., Testimony of Company Witness Caudill, Exhibit No. 2: Comparison of Current and Proposed Rates.

<sup>11</sup> *EFCA Petition to Intervene* at p. 3.

**c. The net metering tariff and the net metering issues implicate all aspects of rate design**

1. Even if the TRA were to find that EFCA's interests are specific to the net metering rider, these "net metering issues" necessarily implicate all aspects of rate design, because the current credit given to net metering customers is based on Kingsport's other retail rates. Under Kingsport's existing NEM rider ("N.M.S Rider") customers take service under one of the existing rate classes and receive credits for their excess generation based on the applicable rates.<sup>12</sup>

2. Kingsport's proposed changes would result in some revisions to its N.M.S. Rider and would ultimately close it to new customers effective January 1, 2017.<sup>13</sup> The Company proposes to replace the existing N.M.S. Rider with a new net metering service rider ("N.M.S.-2 Rider"), which would be available to new or existing customers effective January 1, 2017.<sup>14</sup> Under the N.M.S.-2 Rider, residential customers who request net metering service would be required to take service under the newly proposed Residential Service-Demand ("R.S.-D") tariff. Non-residential net metering service customers taking service under the Company's Small General Service ("S.G.S."), Medium General Service Secondary ("M.G.S.-Secondary") or the Public Schools ("P.S.") tariffs would be required to switch to the new proposed Small General Service-Demand ("S.G.S.-D") schedule.<sup>15</sup> Both the R.S.-D and the S.G.S.-D proposals would institute

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<sup>12</sup> See Testimony of Company Witness Caudill, KgPCo Exhibit No. 3, Tariff N.M.S. (Net Metering Service Rider) (herein after "*Net Metering Service Rider*") at p. 33 of 65 (requiring net metering customers to take service under Tariff R.S., Tariff S.G.S., Tariff M.G.S.-Secondary, or Tariff P.S.).

<sup>13</sup> *Net Metering Service Rider* at p. 33 of 65.

<sup>14</sup> Testimony of Company Witness Caudill, KgPCo Exhibit No. 3, Tariff N.M.S. (Net Metering Service Rider 2) (hereinafter "*Net Metering Service Rider 2*") at p. 38 of 65.

<sup>15</sup> Non-residential customers must be taking service under Tariff S.G.S., Tariff M.G.S.- Secondary, or Tariff P.S., and change to service under Tariff S.G.S.-D to receive net metering service. *Net Metering Service Rider 2*.

increased fixed charges in the form of a new demand charge and an increased service charge that were not previously assessed against net metering customers.<sup>16</sup>

3. However, if the Company's request is denied and its existing NEM tariff is upheld then NEM customer credits will still be based on applicable existing rates or modifications to those rates that result from this proceeding. Therefore even if EFCA's interest is deemed to be limited to NEM, it still has an interest in all of the rates because of the possibility that the rates proposed in these tariffs will be used to credit NEM customers depending on which parts of the Company's proposals are approved, denied, or modified.

4. Furthermore, as described above, it would be very difficult, if not impossible at this stage of the proceeding to predetermine the "scope" of the net metering issues. Net metering implicates fundamental principles of cost of service rate design and therefore the "net metering issues" are, by definition, so broad that it would not be fair to presuppose the scope of EFCA's participation based on the Company's interpretation of EFCA's interests. EFCA should be afforded the opportunity to conduct discovery on all issues implicated by the Company's proposal that it deems relevant to its interests. An attempt to predefine the scope of EFCA's interests not only prejudices EFCA ability to represent its interests, but also incentivizes the Company to be overly litigious in contesting EFCA discovery requests thereby creating unnecessary administrative burdens on the part of the TRA.

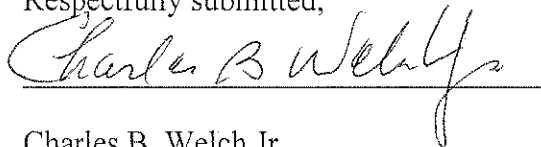
## **II. Conclusion**

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<sup>16</sup> *Net Metering Service Rider 2.*

Wherefore, EFCA requests that it be granted intervention as a full party so that it may participate in discovery, access all discovery and data responses (confidential and non-confidential), present its own witnesses and examine others' witnesses to adduce evidence, and contribute to developing a full record.

Respectfully submitted,



Charles B. Welch Jr.

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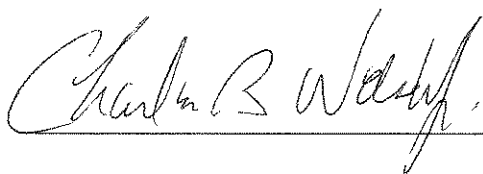
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Attorney for the Energy Freedom Coalition  
of America

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served via facsimile or first-class mail to all parties of record in this proceeding on February 12, 2016.



Charles B. Welch Jr.