

**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. 16-00001**

**MOTION FOR LEAVE TO FILE REPLY**

Pursuant to T.C.A. § 1220-1-2-.06, The Alliance for Solar Choice (“TASC”) respectfully requests leave to file a reply to the *Objection to Petitions to Intervene* (“Objection”) filed by Kingsport Power Company (“Kingsport”) on February 9, 2016.

Kingsport’s Objection primarily rests on the hearing officer’s rulings in Docket No. 15-00093 that Sunrun should be allowed to participate, but as a limited intervenor and only allowed to engage in litigation activities on “net metering issues.” TASC seeks leave to file a reply to highlight new facts in the TASC petition that Kingsport ignores and to address the impact of imposing an ill-defined scope of participation on the orderly administration of this proceeding.

WHEREFORE, TASC respectfully requests that the Authority grant this motion to allow its reply to Kingsport’s Objection.

Respectfully submitted,

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By: 

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**REPLY TO OBJECTION TO INTERVENTIONS**

Pursuant to T.C.A. § 1220-1-2-.06, The Alliance for Solar Choice (“TASC”) respectfully replies to the *Objection to Petitions to Intervene* (“Objection”) filed by Kingsport Power Company (“Kingsport”) on February 9, 2016.

Kingsport does not object to TASC participating in this case. Rather, Kingsport’s Objection is a request that the hearing officer exercise her discretion under T.C.A. § 4-5-310(c) to limit TASC’s access to the tools necessary to fully and effectively litigate this case. Limiting the activities of TASC to “Kingsport’s proposed net metering tariff and net metering issues”—e.g., restricting access to discovery and narrowing the scope of allowable intervenor testimony and cross-examination of witnesses—prejudices TASC’s ability to protect its legal interest in this proceeding and deprives the Tennessee Regulatory Authority (the “Authority”) of the benefits of a more complete and balanced record to adjudicate the issues before it. TASC requests that the hearing officer grant full intervention to TASC and the other intervenors interested in solar energy issues because:

- A legal interest in net metering is necessarily broad, encompasses all issues related to the setting of rates, and cannot be effectively litigated in a silo;
- Limiting participation to “net metering issues” is counterproductive to the orderly conduct of this proceeding because it creates the conditions for recurring disputes over the proper scope of “net metering issues”; and
- TASC’s petition includes new facts not previously considered in Sunrun’s petition to intervene in Docket No. 15-00093, including the fact that TASC includes a member who is actually serving customers in the Kingsport area and will suffer

direct, economic harm under Kingsport's proposed changes to its net metering tariff.

**I. "Net Metering Issues" Cannot Be Effectively Litigated when Placed in a Silo and Isolated from Broader, Interrelated Issues in a General Rate Case.**

TASC stated a broad interest in Kingsport's net metering program in its petition, but not to the exclusion of all other interrelated issues. A petitioner is not required to recite with particularity every possible issue that it might address at the threshold of intervention. The interests in a prompt and orderly proceeding are not impeded by allowing parties to have some latitude in building a comprehensive case upon the many interrelated components of a rate case application. Indeed, the individual components of a general rate case are so intertwined that participants in a rate case can be reasonably expected to have some level of interest in the outcome of each interdependent issue. Contrary to Kingsport's assertion that parties interested in net metering have no interest beyond that tariff and discrete set of issues, TASC has expressed a stated interest in rate design policy, which is more broad and applies equally to existing and prospective net metering customers.

Existing net metering customers, while currently only numbering twenty (20), represent a constituency that is worthy of consideration. Changes in base rates affect the integrity of the investments these customers have made in onsite solar generation and directly impact the savings they realize by generating and consuming electricity onsite. TASC's participation will give voice to this constituency and help the Authority understand the breadth of Kingsport's application from these customers' perspective.

Moreover, a limited scope of "net metering issues" is not meaningful from TASC's perspective because the breadth of the application impacts net metering customers. This is because "net metering issues" **are** fundamentally rate design issues (for both existing and prospective net metering customers). In making the case for whether a particular rate proposal is

“just and reasonable,” all issues, including the allocation of costs among classes and the utility’s overall revenue requirement, are necessary building blocks upon which rate design is built and a determination of “just and reasonable” is framed. It is inappropriate to consider “net metering issues” as existing in a silo because rate design and cost of service issues are inseparable from base rate changes.

**II. Limiting Intervenor to “Net Metering Issues” Invites Recurring Challenges to the Scope of Participation of Intervenor, Potentially Disrupting the Orderly and Efficient Conduct of this Proceeding.**

TASC respectfully requests that the Authority reject Kingsport’s call to limit TASC’s participation to net metering issues, because such a limitation invites recurring controversies over whether a particular issue falls within the definition of a “net metering issue.” Imposing such an amorphous restriction will inevitably tax the of the parties and the Hearing Officer who will be called upon to referee constant disputes about whether petitioners’ discovery questions, testimony, and cross-examination is within the meaning of “net metering issues.” TASC respectfully suggests that a more pragmatic resolution is to allow these petitioners to participate according to their own interests and to litigate according to their own priorities, which are naturally limited by the need to prioritize finite resources to issues central to an intervenor’s interests. These parties will closely coordinate to avoid duplication of effort, respecting party and Authority resources and facilitating an orderly flow of the litigation.

**III. TASC’s Petition to Intervene Brings Forward New Facts Not Previously Considered in Determining these Parties Unique Interests in the Proceeding.**

Kingsport’s primary support for its Objection is the fact that the hearing officer in Docket No. 15-00093 previously granted conditional intervention to Sunrun. For all of the reasons discussed, this previous limitation does not support the prompt and orderly conduct of this proceeding as it creates the likelihood of recurring disputes over the actual scope of “net

metering issues.” More importantly, these previous rulings do not address the same facts put forward in the petition currently before the Hearing Officer.

TASC was not a party to Docket No. 15-00093. Sunrun, a founding member of TASC, intervened in its individual capacity and noted that its interest in providing solar services in Tennessee was prospective.<sup>1</sup> TASC, however, is a coalition of some of the nation’s largest rooftop solar companies. More importantly, TASC has a Tennessee-based member, Lightwave, that has a demonstrated current and ongoing interest in offering solar services to customers in Kingsport’s service territory. As TASC noted in its petition, Lightwave currently provides solar services to one or more retail customers of Kingsport.<sup>2</sup> Kingsport’s Objection did not address this key fact, which establishes TASC’s direct and immediate interest in this rate case.

#### **IV. Conclusion**

WHEREFORE, for the reasons stated herein, TASC requests the hearing officer grant its request to intervene, as of right, in this proceeding.

Respectfully submitted,

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<sup>1</sup> Sunrun’s *Petition to Intervene*, Docket No. 15-00093, at p.1 (filed October 26, 2015).

<sup>2</sup> TASC’s *Petition to Intervene*, Docket No. 16-00001, at p.1 (Filed February 4, 2016).

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of February, 2016, a copy of the foregoing document was served on the parties of record, via electronic email transmission and regular U.S. Mail, postage prepaid, addressed as follows:

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