

**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)	
	)	
<b>PETITION OF KINGSFORT POWER</b>	)	
<b>COMPANY d/b/a AEP APPALACHIAN</b>	)	<b>DOCKET NO. 16-00001</b>
<b>POWER GENERAL RATE CASE AND</b>	)	
<b>MOTION FOR PROTECTIVE ORDER</b>	)	

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**RESPONSE TO PETITIONER’S MOTION TO ADOPT PROCEDURAL SCHEDULE  
AND  
MOTION BY THE CONSUMER ADVOCATE  
TO ADOPT ONE OF TWO PROPOSED PROCEDURAL SCHEDULES  
ATTACHED HEREWITH**

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Comes the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) and respectfully moves that the Hearing Officer deny the *Motion to Adopt Procedural Schedule* filed by Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport” and with such motion being referred to as “*Kingsport’s Motion*”) on February 4, 2016, in this TRA Docket 16-00001 for the reasons set forth below. The Consumer Advocate also respectfully moves that the Hearing Officer approve either the Proposed Procedural Schedule attached herewith as Attachment A or the Proposed Procedural Schedule attached herewith as Attachment B, likewise for the reasons set forth below.

**BACKGROUND**

The Record in this Docket reflects:

1. Kingsport filed its *Petition of Kingsport Power Company d/b/a Appalachian Power General Rate Case and Motion for Protective Order* (“*Petition*”) on January 4, 2016;
2. On January 13, 2016, the Hearing Officer requested that the Parties work out a procedural schedule;

3. The Consumer Advocate's *Petition to Intervene* was granted on January 19, 2016;
4. Kingsport provided its responses to the TRA Staff's data requests to the Consumer Advocate on January 25, 2016<sup>1</sup> and the Consumer Advocate began diligently reviewing those materials;
5. On January 25, 2016, Kingsport provided an unworkable procedural schedule to the Consumer Advocate that fails to allow for adequate discovery, fails to provide adequate time to analyze discovery received, and fails to allow adequate time to prepare testimony;
6. Prior the filing of *Kingsport's Motion*, the Parties exchanged a number of e-mails in which it appears Kingsport was attempting to finalize a procedural schedule even before the deadline set for interventions had passed;
7. The Consumer Advocate forwarded its *First Discovery Request*<sup>2</sup> to Kingsport and a discussion draft of a procedural schedule to Kingsport on February 2, 2016, with such procedural schedule incorporating some thoughts that the Consumer Advocate believed might assist in moving this Docket along more expeditiously (and that was not intended to be a formal proposal, much less intended to be filed);
8. *Kingsport's Motion* was filed on February 4, 2016, which effectively cut off discussions concerning the procedural schedule;
9. After some coordinating e-mails among the Hearing Officer, Kingsport, the Consumer Advocate, and other intervenors, the Hearing Officer issued on February 10, 2016, a Notice of Status Conference directing the Parties, *inter alia*, to confer and reach an agreement on a procedural schedule;

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<sup>1</sup> In TRA Docket 16-00001, Kingsport filed the non-confidential responses to the TRA Staff's data requests on January 12, 2016. The confidential responses were filed on January 12, 2016. The Consumer Advocate received the non-confidential and confidential responses on January 25, 2016.

<sup>2</sup> Filed in TRA Docket 16-00001.

10. In view of the unworkable procedural schedule filed with *Kingsport's Motion*, the Consumer Advocate forwarded to the Parties a copy of a discussion draft of a proposed procedural schedule (in substantially the same form and substance as Attachment A) on February 11, 2016, incorporating the Hearing Officer's requests for motions to compel and responses to same, and adequate time to review discovery responses and put together motions;
11. In the interim, the Consumer Advocate's proposed schedule has been favorably received by at least a couple of the other Parties, with Kingsport generally expressing a lack of clarity about why its proposed schedule is unworkable,<sup>3</sup> among other things.

**KINGSPORT'S PROPOSED PROCEDURAL SCHEDULE IS UNWORKABLE  
AND SHOULD NOT BE ADOPTED**

The Procedural Schedule proposed in *Kingsport's Motion* is unworkable and should not be adopted because it fails to allow for adequate discovery, it fails to provide adequate time to analyze discovery received, and it fails to allow adequate time to prepare testimony. Each of these points will be addressed below.

**A. *Kingsport's Motion* is unworkable and should not be adopted because it only permits one round of discovery for the intervenors and thereby fails to allow for adequate discovery.**

Initially, it is worth noting that Kingsport itself agreed to more than one round of discovery in TRA Docket 15-00093. Kingsport's failure to allow more than one round of discovery in this TRA Docket 16-00001 appears to be based on the premises that its responses to the *TRA Staff Informal Data Requests* in TRA Docket 15-00093 were complete and that one data request is the normal practice at the TRA for rate cases—both of these premises are inaccurate.

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<sup>3</sup> This occurred in an e-mail exchange among the Parties after the filing of *Kingsport's Motion*.

For example, Kingsport refers to a “sample” procedural schedule—TRA Docket 14-00146 (general rate case and annual review mechanism docket filed by Atmos Energy Corporation (“Atmos”))<sup>4</sup>—and argues that Docket 16-00001 should be treated similarly.<sup>5</sup> Kingsport, though, fails to take into account that in Docket 14-00146:

- (i) There were robust filings (in the form of minimum filing requirements (“MFRs”)) by Atmos that contained far more data and information than has been provided by Kingsport to this point in this Docket or Docket 15-00093;
- (ii) There were at least eight (8) rounds or sets of discovery requests issued by the Consumer Advocate and responded to by Atmos in that docket—there was effectively no limit to the number or scope of the Consumer Advocate’s discovery requests and there were effectively no unresolved objections to the Consumer Advocate’s requests (all without the need of any time-consuming motions to compel and responses); and
- (iii) There was in that docket a more cooperative approach by Atmos to providing the data and information needed by the Consumer Advocate, which Kingsport has not demonstrated thus far in this Docket.

The absence of the cooperative approach that prevailed in Docket 14-00146 may be seen in how discovery has failed to progress in this Docket 16-00001. Kingsport has had most of the requests that were in the Consumer Advocate’s *First Discovery Request* in this Docket since

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<sup>4</sup> The other sample docket referenced by Kingsport—TRA Docket 14-00086 involving Piedmont Natural Gas Company (“Piedmont”)—was a bit of an anomaly in that it was originally two dockets (14-00086 and 14-00087) that were the subject of meetings, conference calls, and informal and formal discovery that are not reflected in the procedural schedule approved in that docket, though all of the discovery was filed in those dockets. Similar to TRA Docket 14-00146, in that Piedmont docket there was essentially an unlimited number of discovery requests and no unresolved objections (all without the need of any time-consuming motions to compel and responses). Also, it is important to note that Piedmont’s approach was one of providing all the information that the Consumer Advocate and other intervenor requested in a prompt manner.

<sup>5</sup> This occurred in the same e-mail exchange referenced in footnote 3.

December 1, 2015—as they are essentially the same requests made by the Consumer Advocate with respect to the petition filed by Kingsport in TRA Docket 15-00093 (with such requests actually being reduced because Kingsport withdrew its petition in that docket and eliminated certain elements before refiling). To date, the Consumer Advocate has not received any response from Kingsport to the requests that Kingsport had to know would be coming – especially in view of Kingsport’s assertion that “even a cursory review of the pre-filed testimony submitted on behalf of [Kingsport in TRA Docket 16-00001] reveals the testimony on the base rate case is essentially identical to that seen in [TRA Docket] 15-00093 and, with minor exceptions, only the discussions of the ARM have been eliminated.”<sup>6</sup> Thus, Kingsport filed essentially the same general rate case and failed to respond to the Consumer Advocate’s requests that it has had since December 1, 2015.

Similarly, Kingsport failed to provide all of the information requested in the MFRs in either docket, notwithstanding its protests that it satisfied its obligations. In spite of being on notice of gaps and incompleteness in its MFR responses, Kingsport failed to provide complete responses to the TRA informal data requests, thereby requiring the Consumer Advocate to make specific discovery requests to fill these gaps. For examples, see the Consumer Advocate’s requests numbered 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 25, 30, and many others.<sup>7</sup> Further, contrary to the approach of the large utilities in the dockets Kingsport uses as “samples,” and in many other dockets, Kingsport’s approach appears to be that of obstructing, rather than facilitating, the flow of information to the Consumer Advocate, TRA Staff, and other intervenors by limiting the number of discovery requests to which it will respond.

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<sup>6</sup> *Kingsport’s Motion* at page 4.

<sup>7</sup> In fact, one may review the *First Discovery Request* and note all of the requests that begin with the phrase that can be generally described as “Refer to the [Staff Informal Data request number . . .]” or “Refer to [KgPCo Exhibit number . . .]” for a more complete list.

Additional evidence supports the practice of multiple rounds of discovery. For example, note the multiple rounds of discovery and high number of requests made in other cases involving Kingsport affiliates, as identified and described in the Affidavit of Ralph Smith, CPA, originally filed in TRA Docket 15-00093 and attached as Attachment C.<sup>8</sup>

**B. *Kingsport's Motion* is unworkable and should not be adopted because it fails to allow adequate time for discovery.**

On its face, *Kingsport's Motion* asks the Hearing Officer to approve a procedural schedule that requires the intervenors (other than the Consumer Advocate) to file discovery requests on the day that their intervention is granted, though it has stated some flexibility on this in a later e-mail. At the outset, it is worth emphasizing that it takes time to analyze thoroughly and fairly the documents and testimony filed with the *Petition* in order to produce appropriate discovery questions. Kingsport apparently fails to recognize, however, that analyzing the responses to those questions will also require substantial time. Kingsport allows itself about thirty-seven (37) days to respond to the Consumer Advocate's discovery requests that it received on February 2, 2016, but that it has known about (as a result of TRA Docket 15-00093) since December 1, 2015.<sup>9</sup> After those thirty-seven days, Kingsport allows the Consumer Advocate four (4) days to analyze and assess the completeness and accuracy of those responses, which one would expect to be substantial after only a glance at the Consumer Advocate's *First Discovery Request*. The Consumer Advocate would have only another four days to prepare a motion to compel. By any measure, four days to review what is expected to be a substantial amount of

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<sup>8</sup> The Exhibits to Mr. Smith's Affidavit may be found in TRA Docket 15-00093 in a filing made by the Consumer Advocate on December 8, 2015.

<sup>9</sup> See the discussion above as evidence of the incompleteness of Kingsport's response to the *TRA Staff's Informal Data Requests* that necessitated the number of requests made to Kingsport.

discovery responses by Kingsport, with only a total of eight days to review those discovery responses for accuracy, completeness, and reasonableness, is inadequate.<sup>10</sup>

If the procedural schedule in *Kingsport's Motion* were approved, that would be all of the discovery received by the Consumer Advocate. All of the questions that would ordinarily follow from Kingsport's responses to the *First Discovery Request* would not be asked.<sup>11</sup> Potential follow-up questions to the requests in the *First Discovery Request*—that are readily apparent from even a glance of the *First Discovery Request* and that would be critical to ascertaining the completeness, accuracy, and reasonableness of the testimony of Kingsport's ten (10) witnesses—would not be asked and the lack of those responses would deny the Consumer Advocate, and ultimately the TRA Staff and Authority, the data and information necessary to assess Kingsport's *Petition*.

**C. *Kingsport's Motion* is unworkable and should not be adopted because it fails to allow adequate time for the Consumer Advocate's witnesses to prepare their testimony.**

The proposed procedural schedule in Kingsport's Motion would allow the Consumer Advocate only twenty-five (25) days from the date on which Kingsport presumably files a substantial amount of discovery (in the only round of discovery) to file its pre-filed testimony in this Docket. Interestingly, included in that twenty-five day period would be the obligation of the Consumer Advocate to file a motion to compel and evaluate Kingsport's response—leaving in practical terms likely much less than seventeen (17) days from the date Kingsport was compelled

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<sup>10</sup> It is worth noting here that the discovery requests made by Kingsport to the Consumer Advocate and other intervenors would not be, in ordinary practice, comparable in number or amount – so the amount of time required by the Consumer Advocate and other intervenors to respond to Kingsport and corresponding amounts of time to analyze and review any such responses (with respect to the filing motions to compel, if any) would be substantially less.

<sup>11</sup> Except, perhaps, in what would become an extremely lengthy hearing on the merits.

to provide discovery to the date that such discovery would have to be evaluated and incorporated into the testimony filed by the Consumer Advocate.

If the procedural schedule in *Kingsport's Motion* were approved, the testimony of the Consumer Advocate's witnesses would be superficial at best. This deficiency would be especially troublesome because Kingsport has failed at this point to even provide complete answers to the *TRA Staff's Informal Data Requests* and the Consumer Advocate is denied under *Kingsport's Motion* the opportunity to ask follow-up and clarifying requests due to the one-round limitation. The effect of this would be to deny to the Consumer Advocate, and the consumers it represents, the ability to provide even an adequate recommendation to assist the Authority in evaluating Kingsport's *Petition*.

**THE HEARING OFFICER SHOULD APPROVE EITHER THE PROPOSED  
PROCEDURAL SCHEDULE ATTACHED HEREWITH AS ATTACHMENT A  
OR THE PROPOSED PROCEDURAL SCHEDULE ATTACHED HEREWITH AS  
ATTACHMENT B**

The Procedural Schedules proposed herein are workable and either should be adopted because each permits more than one round of discovery for the Consumer Advocate and other intervenors and thereby allows for adequate discovery, provides adequate time to analyze discovery received, and allows adequate time for the Consumer Advocate's witnesses to prepare testimony. The Consumer Advocate has proposed alternative procedural schedules to permit flexibility to the Hearing Officer and Parties as each considers the discovery schedule in this Docket. As each proposed schedule accomplishes the goals just stated, the principal differences are the length of time until the target hearing date and the mechanism used to resolve discovery disputes.



**A. The Hearing Officer should adopt the Proposed Procedural Schedule attached as Attachment A if the Hearing Officer prefers an extended period of time until the target hearing date and prefers to resolve discovery issues through motions to compel and related procedures.**

The Proposed Procedural Schedule attached as Attachment A allows for adequate discovery, provides adequate time to analyze discovery received, allows adequate time for the Consumer Advocate's witnesses to prepare testimony, and satisfies the guidance provided by the Hearing Officer that the procedural schedule forgo objections and abbreviated status conference schedules in favor of motions to compel and responses. The cost of forgoing objections and using motions to compel involves the time required to review discovery responses to assess whether they are reasonable, complete, and accurate—and that process takes time on the part of the Consumer Advocate.<sup>12</sup> If that time were not allowed, the motion to compel would necessarily look a great deal like the discovery request because the Consumer Advocate would not have had the time to review in a meaningful way the expected substantial amount of responses to discovery.

**B. The Hearing Officer should adopt the Proposed Procedural Schedule attached as Attachment B if the Hearing Officer prefers a shortened period of time until the target hearing date and prefers to resolve discovery issues through objections and prompt status conferences to resolve discovery disputes.**

The Proposed Procedural Schedule attached as Attachment B allows for adequate discovery, provides adequate time to analyze discovery received, and allows adequate time for the Consumer Advocate's witnesses to prepare testimony, but would be a deviation from the guidance provided by the Hearing Officer that the procedural schedule forgo objections and abbreviated status conference schedules in favor of motions to compel and responses.

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<sup>12</sup> By virtue of the nature of the process, the time required with respect to discovery requests to the Consumer Advocate would ordinarily be substantially less than for discovery requests to the company, and thus it would require less time to respond to them and less time would be involved in motions to compel and responses and such.

In the recent experience of the Consumer Advocate, notwithstanding specific language in procedural schedules addressing motions to compel, the “object, work it out, and if we disagree go the Hearing Officer” model is the method that has been most often employed by the parties in larger rate cases and other dockets brought by, for example, Atmos (in TRA Dockets 14-00081 and 14-00146) and Piedmont (in TRA Dockets 14-00017, 14-00086, and 14-00087). With that said, to the Consumer Advocate’s recollection, there has not even been a discovery dispute brought before the Hearing Officer in any recent significant case. The Consumer Advocate’s view is that the time-savings benefits of using the above-described model generally outweigh the time-cost of forgoing objections and using motions to compel, which may or may not catch everything that has been omitted.

In general, the Consumer Advocate has found that sophisticated, larger companies can usually evaluate discovery requests promptly because each company knows what it has and knows its objections, and therefore that it can file objections to those requests in short order and produce everything else (that it already knows it has anyway).

### **CONCLUSION**

WHEREFORE, the Consumer Advocate respectfully moves that the Hearing Officer deny the *Motion to Adopt Procedural Schedule* filed by Kingsport on February 4, 2016, in this TRA Docket 16-00001 and, further, respectfully moves that the Hearing Officer approve either the Proposed Procedural Schedule attached herewith as Attachment A or the Proposed Procedural Schedule attached herewith as Attachment B, likewise for the reasons set forth below.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail or electronic mail upon:

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This the 17<sup>th</sup> day of February, 2016.

  
\_\_\_\_\_  
Wayne M. Irvin



IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE

IN RE:	)	
	)	
PETITION OF KINGSPORT POWER	)	
COMPANY d/b/a AEP APPALACHIAN	)	DOCKET NO. 16-00001
POWER GENERAL RATE CASE AND	)	
MOTION FOR PROTECTIVE ORDER	)	

**PROPOSED PROCEDURAL SCHEDULE**

February 2, 2016	First Round CPAD Discovery Requests Filed
February 18, 2016	Status Conference
February 19, 2016	First Round KPC Discovery Responses to CPAD Due
February 24, 2016	First Round of non-CPAD Discovery Requests Due
March 7, 2016	First Round of non-CPAD KPC Discovery Responses Due
March 15, 2016	Motions to Compel Due on all First Round KPC Responses
March 22, 2016	Responses to Motion to Compel Due
March 28, 2016	Status Conference
April 11, 2016	Second Round of all Intervenor Discovery Requests Due
April 25, 2016	Second Round KPC Discovery Responses Due
May 9, 2016	Motions to Compel Due on Second Round KPC Responses
May 13, 2016	Responses to Motion to Compel Due
May 20, 2016	Status Conference with TRA
July 12, 2016	Intervenors Pre-filed Testimony Due
July 20, 2016	KPC Data Requests Due
July 29, 2016	Intervenors Responses to KPC Data Requests Due
August 3, 2016	Motions to Compel Due on Intervenors Responses
August 8, 2016	Responses to Motion to Compel Due
August 10, 2016	Status Conference with TRA
August 19, 2016	KPC Rebuttal Testimony Due
August 29, 2016	Pre-Hearing Motions Due
August 31, 2016	Pre-Hearing Conference
September 12, 2016	Target Hearing Date <sup>1</sup>

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<sup>1</sup> This Target Hearing Date would require that Deliberations be set for no later than October 4, 2016 (because KPC filed its general rate case on January 4, 2016).



**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

<b>IN RE:</b>  <b>PETITION OF KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER GENERAL RATE CASE AND MOTION FOR PROTECTIVE ORDER</b>	) ) ) ) ) )	<b>DOCKET NO. 16-00001</b>
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**PROPOSED PROCEDURAL SCHEDULE**

February 2, 2016	First Round CPAD Discovery Requests Filed
February 18, 2016	Status Conference
February 19, 2016	First Round KPC Discovery Responses to CPAD Due (KPC Objections Included)
February 24, 2016	First Round of non-CPAD Discovery Requests Due
March 7, 2016	First Round of non-CPAD KPC Discovery Responses Due (KPC Objections Included)
March 14, 2016	Status Conference on Discovery Issues
April 18, 2016	Second Round of all Intervenor Discovery Requests Due
April 22, 2016	Objections to Intervenor Discovery Requests Due
April 28, 2016	Status Conference on Discovery Issues
May 6, 2016	Second Round KPC Discovery Responses Due
June 17, 2016	Intervenors Pre-filed Testimony Due
June 24, 2016	KPC Data Requests to Intervenors Due
June 30, 2016	Objections to Intervenor Discovery Requests Due
July 7, 2016	Status Conference with TRA
July 14, 2016	Intervenor Responses to KPC Discovery Requests Due
July 22, 2016	KPC Rebuttal Testimony Due
July 28, 2016	Pre-Hearing Motions Due
August 1, 2016	Pre-Hearing Conference
August 8, 2016	Target Hearing Date





**IN THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF KINGSFORT POWER  
COMPANY d/b/a AEP APPALACHIAN  
POWER FOR A GENERAL RATE  
INCREASE**

**DOCKET NO. 15-00093**

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**AFFIDAVIT**

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I, RALPH SMITH, CPA, hereby certify that:

1. I am an individual and a resident of the State of Michigan, and make this Affidavit in support of Consumer Protection and Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate").
2. I am retained as an expert witness for the Consumer Advocate in this matter. I recently filed testimony and appeared before the TRA for the B&W Pipeline rate case, Docket 15-00042.
3. I have reviewed my records and the case file regarding the discovery that has been submitted by the Consumer Advocate to Kingsfort Power Company d/b/a AEP Appalachian Power ("Company," "KgPCo" or "Kingsport").
4. The quantity and content of the discovery submitted by the Consumer Advocate to the Company are reasonable and necessary at this stage of the proceedings.
5. I participated in a number of recent regulatory proceedings involving electric utility affiliates of KgPCo in Kentucky, West Virginia and Virginia.

6. In a rate case involving Kentucky Power Company, an affiliate of KgPCo, in Kentucky Public Service Commission Case No. 2014-00396, the following discovery occurred:

Kentucky PSC Staff 1<sup>st</sup> DR – 58 questions

Office of the Kentucky Attorney General's 1<sup>st</sup> DR – 419 questions

Kentucky School Boards Assoc. 1<sup>st</sup> DR – 11 questions

Kentucky Industrial Utility Customers, Inc 1<sup>st</sup> DR – 100 questions

Kentucky PSC Staff 2<sup>nd</sup> DR -114 questions

Kentucky Industrial Utility Customers 2<sup>nd</sup> DR – 26 questions

Kentucky School Boards Assoc. 2<sup>nd</sup> DR – 6 questions

Office of the Kentucky Attorney General's 2<sup>nd</sup> DR -115 questions + 9 confid questions

7. The discovery from the Kentucky Power rate case is summarized in the following table:

Party Name	1 <sup>st</sup> round count	2 <sup>nd</sup> round question count	Total questions
KY PSC	58	114	172
Office of the AG	419	124	543
KY School Board	11	6	17
KY Industrial Utility Customers	100	26	126
<b>Totals:</b>	<b>588</b>	<b>270</b>	<b>858</b>

8. In a rate case involving Appalachian Power Company ("APCo") and Wheeling Power Company ("WPCo") before the West Virginia Public Service Commission, Case No. 14-1152-E-42T et al., the following discovery occurred:

1<sup>st</sup> DR of SWVA – 32 questions (they are a steel production co)

1<sup>st</sup> DR of CA – 97 questions

2<sup>nd</sup> DR of CA - 75 questions

1<sup>st</sup> DR of Kroger Co. – 4 questions

2<sup>nd</sup> DR of SWVA – 19 questions

3<sup>rd</sup> DR of CA - 32 questions

4<sup>th</sup> DR of CA – 43 questions

3<sup>rd</sup> DR of SWVA – 23 questions

2<sup>nd</sup> DR of Kroger Co. – 2 questions

1<sup>st</sup> DR of WV Energy users group – 3 questions

3<sup>rd</sup> DR of Kroger Co. - 8 questions

4<sup>th</sup> DR of Kroger Co – 3 questions

5<sup>th</sup> DR of CA – 26 questions

6<sup>th</sup> DR of CA – 1 question

4<sup>th</sup> DR of SWVA – 8 questions

2<sup>nd</sup> DR of Staff – 17 questions

3<sup>rd</sup> DR of Staff – 32 questions

4<sup>th</sup> DR of Staff - 11 questions

7<sup>th</sup> DR of CA – 2 questions

9. The discovery from the APCo/WPCo West Virginia rate case is summarized in the following table:

Party name	1 <sup>st</sup> round count	2 <sup>nd</sup> round count	3 <sup>rd</sup> round count	4 <sup>th</sup> round count	5 <sup>th</sup> round count	6 <sup>th</sup> round count	7 <sup>th</sup> round count	Total per party
CA	97	75	32	43	26	1	2	276
Kroger Co.	4	2	8	3	0	0	0	17
SWVA	32	19	23	8	0	0	0	82
WV Energy Users Group	3	0	0	0	0	0	0	3
PSC Staff	0	17	32	11	0	0	0	60
Total	136	103	95	65	26	1	2	428

10. In a biennial earnings review case involving APCo before the Virginia Corporation Commission, Case No. PUE-2014-00026, the discovery occurred listed in the attached “Exhibit A” – “Discovery Report - APCO Rate Case - PUE-2014-00026” consisting of 113 pages, which was provided to me by the Virginia Attorney General's office.

11. The discovery from the APCo Virginia biennial review case is summarized in the following table:

**APCo Rate Case Virginia (PUE-2014-00026)**

Party	Discovery Requests Asked
OAG	275
SCC	589
SDI	60
SELC	11
Total	935

12. The quantity of discovery submitted by the Consumer Advocate in the current case to KgPCo is substantially less than the discovery of KgPCo's affiliates, Kentucky Power Company (in Kentucky), APCo/WPCo (in West Virginia) and APCo (in Virginia).

14. The quantity and content of the discovery submitted by the Consumer Advocate in the current case to KgPCo is believed to be appropriate in content based on the issues identified to date that are being presented in the current KgPCo rate case.

15. As this proceeding moves forward and more issues are identified, it may be reasonable and necessary for the Consumer Advocate to request additional discovery. In fact, the Procedural Schedule provides for a second round of intervenor data requests due January 11, 2016.

16. An appendix of my background and qualifications in public utility regulatory appears in the attached "Exhibit B."

17. The above is true and correct to the best of my knowledge and belief.

FURTHER AFFIANT SAITH NOT.

*Ralph G. Smith*  
RALPH SMITH

Sworn to and subscribed before me  
this 7<sup>th</sup> day of December, 2015.

*Christine Miller*  
NOTARY PUBLIC

My commission expires: 11/8/2021

CHRISTINE MILLER  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES Nov 8, 2021  
ACTING IN COUNTY OF Wayne

