

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 2, 2017

IN RE:

**PETITION OF KINGSPORT POWER COMPANY
D/B/A AEP APPALACHIAN POWER FOR
APPROVAL OF ITS TARGETED RELIABILITY
PLAN, AND ITS TRP & MS RIDER, AN
ALTERNATIVE RATE MECHANISM AND
MOTION FOR PROTECTIVE ORDER**

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**DOCKET NO.
17-00032**

**ORDER GRANTING PETITION TO INTERVENE FILED BY THE CONSUMER
ADVOCATE**

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) on May 18, 2017.

RELEVANT BACKGROUND

Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport” or the “Company”) is a public utility, subject to TPUC jurisdiction, engaged in the business of distributing electric power service to approximately 47,000 customers in its service area, which includes portions of Sullivan, Washington and Hawkins Counties, Tennessee, the City of Kingsport, Tennessee, and the Town of Mount Carmel, Tennessee. On April 19, 2017, Kingsport filed a *Petition of Kingsport Power Company d/b/a AEP Appalachian Power for Approval of its Targeted Reliability Plan, and its TRP & MS Rider, an Alternative Rate*

Mechanism and Motion for Protective Order General Rate Case (“Petition”) seeking approval an alternative rate mechanism (“ARM”) pursuant to Tenn. Code Ann. § 65-5-103(d).

CONSUMER ADVOCATE’S PETITION TO INTERVENE

On May 18, 2017, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Authority. The Consumer Advocate asserts that “[t]he interests of consumers, including without limitation the expected increase in rates to customers through the implementation of the TRP/MS Rider, may be affected by the determinations and orders made by the TPUC with respect to (a) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103 and other relevant statutory and regulatory provisions and (b) the review and analysis of the documentation, financial spreadsheets, and materials provided by Kingsport.”¹ As such, it seeks to intervene in these proceedings to represent the interests of Tennessee consumers. Kingsport did not oppose the Consumer Advocate’s intervention in these proceedings.

FINDINGS AND CONCLUSIONS

Under Tenn. Code Ann. § 65-2-107, “All persons having a right under the provisions of the laws applicable to the authority to appear and be heard in contested cases as defined in this chapter shall be deemed parties to such proceedings for the purposes of this chapter. In addition, the authority may upon motion allow any interested person to intervene and become a party to any contested case.” Along with its own statutes and rules, contested case proceedings before the Commission are governed by the provisions of Tenn. Code Ann. § 4-5-101, *et seq.*, known as the Tennessee Uniform Administrative Procedures Act (“UAPA”). Tenn. Code Ann. § 4-5-310

¹ *Petition to Intervene*, pp. 3-4 (May 18, 2017).

establishes the following criteria for considering petitions to intervene, it reads in part:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.

Similarly, TPUC Rule 1220-01-02-.08 directs that requests for intervention before the Commission be made and considered as follows:

(1) Petitions for intervention shall be granted in accordance with T.C.A. § 4-5-310 and T.C.A. § 65-2-107.

(2) A petition for intervention shall set forth with particularity those facts that demonstrate that the petitioner's legal rights, duties, privileges, immunities or other legal interests may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law. Intervention may be denied or delayed for failure to provide such specific facts.

(3) A petition for intervention shall be filed at least seven (7) days prior to the date of the contested case hearing.

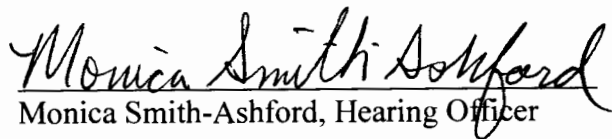
In the instant proceeding, Kingsport seeks approval of an ARM which could result in a rate increase for its customers. Therefore, as Kingsport's requests will directly impact the rates and charges paid by its customers, the Hearing Officer finds that there is a sufficient factual basis

to find that legal rights or interests held by those consumers may be determined in this proceeding.

Upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Kingsport's customers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no objection to its intervention, and its *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

1. The *Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General is granted.
2. The Consumer Protection and Advocate Division of the Office of the Attorney General may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.


Monica Smith-Ashford, Hearing Officer