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Filed Electronically in TPUC Docket Room on 11/10/2017

KPOW.94403

November 10, 2017

VIA EMAIL (Sharla.Dillon@tn.gov) & FEDEX

Mr. David Jones, Chairman
c/o Sharla Dillon, Dockets & Records Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243

Re: Resolution of Boundary Dispute Between Kingsport
Power Company d/b/a AEP Appalachian Power and
Bristol Tennessee Essential Services
Docket No. 17-00087

Dear Chairman Jones:

On behalf of Kingsport Power Company, we transmit herewith the following:

Response on Behalf of Kingsport Power Company d/b/a AEP Appalachian Power
Company to First Discovery Requests of Bristol Tennessee Essential Services

The original, four (4) copies and a CD are being sent via Federal Express.

Very sincerely yours,

HUNTER, SMITH & DAVIS, LLP



William C. Bovender

Enclosure: As stated

cc: Henry Walker, Esq. (w/enc.)
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Mr. David Jones, Chairman

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November 10, 2017

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BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

IN RE:)	
)	
RESOLUTION OF BOUNDARY DISPUTE)	
BETWEEN KINGSPORT POWER COMPANY)	DOCKET NO.: 17-00087
d/b/a AEP APPALACHIAN POWER AND)	
BRISTOL TENNESSEE ESSENTIAL SERVICES)	
AS AUTHORIZED BY T.C.A. § 65-34-105)	

**RESPONSE ON BEHALF OF KINGSPORT POWER COMPANY d/b/a AEP
APPALACHIAN POWER TO FIRST DISCOVERY REQUESTS OF BRISTOL
TENNESSEE ESSENTIAL SERVICES**

Petitioner Kingsport Power Company d/b/a AEP Appalachian Power Company ("KPC"), pursuant to Rule 1220-1-2-.11 of the Rules of the Tennessee Public Utility Commission and the Tennessee Rules of Civil Procedure, and respectfully submits the following objections and responses to the Discovery Requests of Bristol Tennessee Essential Services ("BTES").

I. General Objections

A. KPC objects generally to BTES's Discovery Requests to the extent any request purports to impose on KPC any obligation greater than, in addition to, or inconsistent with the requirements of the Tennessee Rules of Civil Procedure, the Rules of the Tennessee Public Utility Commission ("TPUC" or the "Commission"), and/or any Order issued by the Hearing Officer or Commission in this matter.

B. KPC objects generally to BTES's Discovery Requests to the extent any request purports or could be interpreted to require the disclosure of documents, information, and/or communications protected by the attorney-client, work product, and/or any other applicable privilege.

C. KPC objects to the “Definitions” section of BTES’s Discovery Requests to the extent it purports to require KPC’s responses to disclose information in the possession of KPC’s attorneys, as such definition is intended, or at least could be interpreted, to require the disclosure of documents, information, and communications protected by the attorney-client, work product, and other applicable privileges.

D. KPC reserves the right to supplement its responses to BTES’s Requests (or any one or more of them) for substance or clarification, upon the discovery of information making such supplementation appropriate.

II. Objections and Responses to Numbered Requests

In response to BTES’s numbered Requests, KPC responds as follows:

1. Please identify each and every customer of Kingsport Power Company that, as of February 16, 1989, was taking electricity from Kingsport Power Company on the property described in Exhibit 7 and/or Exhibit 8 to the Petition of Kingsport Power Company, and for each such customer, please provide the name, the billing address, the service address, account number, a copy of the customer's monthly bill for the billing period that included February 16, 1989, and a description of and location of the premises where such power was utilized.

ANSWER: Exhibit 7 to KPC’s Petition is a deed to the Sullivan County Board of Education, recorded at Deed Book 3246, Page 1530, for Tax Map 079, Parcels 036.20 and 036.15.

With respect to Tax Map 079, Parcel 036.20 (“Parcel 79-036.20”), KPC served residential customer Doug Barnett as of February 16, 1989. Mr. Barnett’s billing address and service address were 386 Lynn Road, Blountville, Tennessee, 37617, and his KPC account number for

residential electric service was 010-423-830-0. KPC served Mr. Barnett's residence from a transformer on pole 37821130C00344 which was set in 1981. Mr. Barnett's KPC account for residential electric service was activated on January 26, 1989, and had an average monthly electric bill of \$155.82 for the time period between October 1996 and August 2017, which is the timeframe for which KPC has billing data.

Tax Map 079, Parcel 036.15 ("Parcel 79-036.15") was part of Tax Map 079-036.00 in February 1989. KPC served Jenelle M. Carroll, a residential customer on Parcel 79-036.00 as of February 16, 1989. Mrs. Carroll's billing address and service address was 899 Henry Harr Road, Blountville, Tennessee, 37617, and her KPC account number for residential electric service was 018-662-830-0. KPC served Mrs. Carroll's residence from the transformer on pole 37821130C00059, which was originally set on Parcel 079-036.00 in 1947. Mrs. Carroll's account for residential electric service was activated on February 23, 1973, with an average monthly electric bill of \$126.16 for the time period between October 1996 and August 2017, which is the timeframe for which KPC has billing data.

Exhibit 8 to KPC's Petition is the deed to the Sullivan County Board of Education, recorded at Deed Book 3246, Page 1535, for Tax Map 079, Parcel 036.00 and Tax Map 064, Parcel 024.00.

With respect to Tax Map 079, Parcel 036.00, KPC served Jenelle M. Carroll, a residential customer as of February 16, 1989. Mrs. Carroll's billing address and service address were 899 Henry Harr Road, Blountville, Tennessee, 37617, and her KPC account number for residential electric service was 018-662-830-0. KPC served Mrs. Carroll's residence from the transformer on pole 37821130C00059, which was originally set on Parcel 079-036.00 in 1947. Mrs. Carroll's KPC account for residential electric service was activated on February 23, 1973, with an average

monthly electric bill of \$126.16 for the time period between October 1996 and August 2017, which is the timeframe for which KPC has billing data.

Mrs. Carroll was also the owner of Tax Map 064, Parcel 024.00 ("Parcel 64-024.00"), which is completely within and surrounded by parcels that were served by KPC on February 16, 1989. KPC has had power poles, lines, and other equipment surrounding Parcel 64-024.00 that were able and available to provide electric service to any customer on that parcel since at least 1975. Specifically, Parcel 64-024.00 is surrounded as follows:

- West – Parcel 64-024.00 is bordered to the west by Parcel 79-036.00, which is in KPC's current geographic territory for the reasons explained above.
- North and East – Parcel 64-024.00 is bordered to the north and east by property designated Map 064, Parcel No. 023.00 ("Parcel 64-023.00"). According to publicly available tax records, Parcel 64-023.00 contains a home built in 1952, which is located near and served by a transformer on pole 37821130C00053, which was set in 1947.
- South – To the South, Parcel 64-024.00 is bordered by property designated Map 075, Parcel No. 035.00, on which KPC has had power poles and lines and has served a residential customer since at least 1976.

Had any customer on Parcel 64-024.00 requested electric service prior to February 16, 1989, KPC would and could have provided such electric service from several poles located on Map 075, Parcel No. 035.00, including pole number 37821131000024 set in 1975, pole number 37821131000027 set in 1982, pole number 37821131000026 set in 1975. It is also significant that Parcel 64-024.00 had the same owner as Parcel 79-036.00, and both parcels were deeded to the Sullivan County Board of Education by the same deed. (See EXHIBIT 8 to KPC's Petition.)

Accordingly, BTES would have to place lines and poles on and across parcels of property that have been served by KPC since at least February 16, 1989 in order to reach Parcel 64-024.00.

Further answering, KPC states that while it maintains records reflecting when existing residential service accounts were activated and when certain equipment, such as poles and transformers were set and replaced, KPC is not aware of the existence of copies of customer bills from February 1989, which was over 28 years ago.

2. Does Kingsport Power Company contend that it was providing electric service on February 16, 1989 to the property described in Exhibit 7 to the Petition of Kingsport Power? If so, please state each and every fact and produce each and every document relating to your contention.

ANSWER: Yes, KPC was providing residential electric service on February 16, 1989 to the property described in Exhibit 7 to KPC's Petition (Parcels 036.20 and 036.15). KPC refers BTES to KPC's response to Request No. 1 and documents produced by KPC in this matter. KPC objects to BTES's Request No. 2 to the extent it purports to require KPC to "state each and every fact and produce every document relating to your contention," as such blanket requests are vague, overly broad, and discovery in this matter just began. *See Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010) (holding that requests for every fact, piece of evidence, and witness supporting a party's position is overly broad and unduly burdensome).

3. Does Kingsport Power Company contend that it was providing electric service on February 16, 1989 to the property described in Exhibit 8 to the Petition of Kingsport Power? If so, please state each and every fact and produce each and every document relating to your contention.

ANSWER: Yes, KPC was providing residential electric service on February 16, 1989 to Parcel 079-036.00. KPC also served all parcels surrounding Parcel 064-024.00 on February 16, 1989, and had facilities and equipment able and available to offer service to any customer on said parcel had there been one. KPC refers BTES to KPC's response to Request No. 1 and documents produced by KPC in this matter. KPC objects to BTES's Request No. 3 to the extent it purports to require KPC to "state each and every fact and produce every document relating to your contention," as such blanket requests are vague, overly broad, and discovery in this matter just began. *See Ritchie Risk-Linked Strategies Trading (Ireland), Ltd. v. Coventry First LLC*, 273 F.R.D. 367, 369 (S.D.N.Y. 2010) (holding that requests for every fact, piece of evidence, and witness supporting a party's position is overly broad and unduly burdensome).

4. Please state the monthly revenue received from power sales to consumers of electric power on Tax Map 079, Parcel Number 036.00 for the months of January, February and March of 1989. Please also include the name, the billing address, the service address and account number for any customer served at that location and provide a copy of each customer's monthly bill for January, February and March of 1989.

ANSWER: KPC objects to Request No. 4 on the grounds that it is irrelevant to any matter at issue in this case. KPC further objects to Request No. 4 on the grounds that it is redundant and duplicative of multiple previous requests. Subject to and without waiving its

objections, KPC refers BTES to KPC's responses to Requests 1 and 3. Further answering, KPC states that it is not currently aware of copies of bills or any other records in its possession reflecting the revenue received from Parcel 79-036.00 for the months of January, February and March of 1989. KPC states that, for the months of January, February and March of 1989, KPC provided residential electric service to Jenelle M. Carroll, whose billing address and service address were 899 Henry Harr Road, Blountville, Tennessee, 37617, and her KPC account number for residential electric service was 018-662-830-0. Mrs. Carroll's KPC account for residential electric service was activated on February 23, 1973, with an average monthly electric bill of \$126.16 for the time period between October 1996 and August 2017, which is the timeframe for which KPC has billing data.

5. Please state the monthly revenue received from power sales to consumers of electric power on Tax Map 064, Parcel Number 024.00 for the months of January, February and March of 1989. Please also include the name, the billing address, the service address and account number for any customer served at that location and provide a copy of each customer's monthly bill for January, February and March of 1989.

ANSWER: KPC objects to Request No. 5 on the grounds that it is irrelevant to any matter at issue in this case. KPC further objects to Request No. 5 on the grounds that it is redundant and duplicative of multiple previous requests. Subject to and without waiving its objections, KPC refers BTES to KPC's responses to Requests 1 and 3. Further answering, KPC states that it is not currently aware of copies of bills or any other records in its possession reflecting the revenue received from Parcel 64-024.00 for the months of January, February and March of 1989.

6. Please state the monthly revenue received from power sales to consumers of electric power on Tax Map 079, Parcel Number 36.20 for the months of January, February and March of 1989. Please also include the name, the billing address, the service address and account number for any customer served at that location and provide a copy of each customer's monthly bill for January, February and March of 1989.

ANSWER: KPC objects to Request No. 6 on the grounds that it is irrelevant to any matter at issue in this case. KPC further objects to Request No. 6 on the grounds that it is redundant and duplicative of multiple previous requests. Subject to and without waiving its objections, KPC refers BTES to KPC's responses to Requests 1 and 2. Further answering, KPC states that it is not currently aware of copies of bills or any other records in its possession reflecting the revenue received from Parcel 79-036.20 for the months of January, February and March of 1989. KPC states that, for the months of January, February and March of 1989, KPC provided residential electric service to Doug Barnett whose billing address and service address were 386 Lynn Road, Blountville, Tennessee, 37617, and his KPC account number for residential electric service was 010-423-830-0. Mr. Barnett's KPC account for residential electric service was activated on January 26, 1989, and had an average monthly electric bill of \$155.82 for the time period between October 1996 and August 2017, which is the timeframe for which KPC has billing data.

7. Please state what electric facilities, including, without limitation, poles, transformers, conductors, capacitors, meters and similar equipment AEP owned, maintained or otherwise utilized on Tax Map 079, Parcel Number 036.00 as of February 16, 1989. Please

produce all system maps, drawings, work orders or job orders evidencing the existence of such facilities on February 16, 1989.

ANSWER: As of February 16, 1989, KPC owned, maintained, and utilized the following equipment on Parcel 079-036.00:

- (a) Pole No. 37821130C00059 set in 1947;
- (b) Transformer Serial No. 3249204 installed on Pole No. 37821130C00059 on February 2, 1977, which replaced a previously existing transformer;
- (c) Meter for service to the residential customer located at 899 Henry Harr Road, Blountville, Tennessee, 37617,
- (d) Conductors and service conductors to the residential customer located at 899 Henry Harr Road, Blountville, Tennessee, 37617;
- (e) Pole No. 37821130C00343 set in 1981;
- (f) Conductors attached to Pole No. 37821130C00343;
- (g) Pole No. 37821130C00055 set in 1947 and replaced in 1991, which is near the border with the property shown in Tax Map 064, Parcel No. 023.00; and
- (h) Conductors attached to Pole No. 37821130C00055.

See documents produced by KPC in this matter.

8. Please state what electric facilities, including, without limitation. poles, transformers, conductors, capacitors, meters and similar equipment AEP owned, maintained or otherwise utilized on Tax Map 064, Parcel Number 24.00 as of February 16, 1989. Please

produce all system maps, drawings, work orders or job orders evidencing the existence of such facilities on February 16, 1989.

ANSWER: Although Parcel 64-024.00 consists of open land (partially wooded) and has never had a residence or any other structure with a need for electric service, Parcel 64-024.00 is completely within and surrounded by parcels of property that were served by KPC on February 16, 1989. Specifically, Parcel 64-024.00 is surrounded as follows:

- West – Parcel 64-024.00 is bordered to the west by Parcel 79-036.00, which is in KPC's current geographic territory for the reasons explained in KPC's Responses to these Discovery Requests.
- North and East – Parcel 64-024.00 is bordered to the north and east by property designated Map 064, Parcel No. 023.00 ("Parcel 64-023.00"). According to publicly available tax records, Parcel 64-023.00 contains a home located at 743 Henry Harr Road, Blountville, Tennessee, 37617, which was built in 1952, and served by a transformer on pole 37821130C00053, which was set in 1947.
- South – To the South, Parcel 64-024.00 is bordered by property designated Map 075, Parcel No. 035.00, on which KPC has had power poles and lines and served a residential customer since at least 1976.

Had any customer on Parcel 64-024.00 requested electric service prior to February 16, 1989, KPC would and could have provided such electric service from several poles located on Map 075, Parcel No. 035.00, including pole number 37821131000024 set in 1975, pole number 37821131000027 set in 1982, pole number 37821131000026 set in 1975. Parcel 64-024.00 had the same owner as Parcel 79-036.00, and both parcels were deeded to the BOE by the same deed. (See EXHIBIT 8 to KPC's Petition.)

In short, BTES would have to place lines and poles on parcels of property that have been served by KPC since at least February 16, 1989 in order to reach Parcel 64.024.00 to provide electric service.

9. Please state what electric facilities, including, without limitation. poles, transformers, conductors, capacitors, meters and similar equipment AEP owned, maintained or otherwise utilized on Tax Map 079, Parcel Number 036.20 as of February 16, 1989. Please produce all system maps, drawings, work orders or job orders evidencing the existence of such facilities on February 16, 1989.

ANSWER: As of February 16, 1989, KPC owned, maintained, and utilized the following equipment on Parcel 079-036.20:

- (a) Pole No. 37821130C00344 set in 1981;
- (b) Transformer Serial No. 3791981 installed on said pole on December 8, 1981;
- (c) Meter for service to the residential customer located at 386 Lynn Road, Blountville, Tennessee, 37617; and
- (d) Conductors and service conductors to the residential customer located at 386 Lynn Road, Blountville, Tennessee, 37617.

See documents produced by KPC in this matter.

10. Please state whether Kingsport Power Company, Bristol Tennessee Electric System, and/or Johnson City Power Board entered into one or more agreements pursuant to, in furtherance of or in any way related to the April 19, 1989 letter that is attached as Exhibit 10 to

the Petition of Kingsport Power in this Docket, and produce each and every document related to your response.

ANSWER: KPC is not currently aware of any agreements pursuant to, in furtherance of or otherwise related to the April 19, 1989 Letter Agreement that is attached as Exhibit 10 to KPC's Petition in this docket.

11. Please produce a copy of each and every agreement entered into between Kingsport Power Company, Bristol Tennessee Electric System, and/or Johnson City Power Board on or after February 16, 1989 that relates in any way to the respective retail electric service areas of one or more such parties in Sullivan County, Tennessee.

ANSWER: KPC objects to Request No. 11 on the grounds that it is irrelevant to any matter at issue in this case. Subject to and without waiving its objections, KPC states that it was a party to the following agreements on or after February 16, 1989 with BTES and/or Johnson City Power Board relative to their respective retail electric service areas:

- (a) *See* Exhibit 10 to KPC's Petition in this docket;
- (b) Agreement with Johnson City Power Board regarding service territory near the Interstate 26 and Interstate 81 interchange;
- (c) Agreement with Johnson City Power Board regarding service to the overflow campground at Warrior's Path State Park; and
- (d) Agreement with BTES regarding service to Triton Express Wash, LLC, located at 5135 Highway 126, Blountville, Tennessee, 37617, Tax Map 064, Parcel 133.00 (which is within the city limits of Kingsport, Tennessee). KPC has conducted a

reasonable search of its records and is not currently aware of any records documenting the parties' agreement.

Attached to KPC's Discovery Responses, subject to stated objections, are documents which are responsive to those discovery requests above that seek production of documents and that are relevant to KPC's service territory on February 16, 1989.

Respectfully submitted this the 10th day of November, 2017

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

By: _____

Andy Shaffron, Jr.

Title: Kingsport District Manager

STATE OF TENNESSEE)

CITY OF SULLIVAN)

Personally appeared before me, **ANDY SHAFFRON, JR.**, being first duly sworn upon oath, deposes and says that he is the Kingsport District Manager for Kingsport Power Company d/b/a AEP Appalachian Power, the Petitioner in the above-entitled action, and that he is authorized to make this Affidavit on its behalf; that he has read the foregoing Responses to BTES's Discovery Requests Nos: 1-11, by him subscribed and knows the contents thereof; that there is no single person employed by or otherwise connected with Kingsport Power Company d/b/a AEP Appalachian Power, who has personal knowledge of all the facts and information requested herein; that said Responses to Discovery Request Nos: 1-11, were prepared with the assistance and advice of counsel and the assistance of various employees and representatives of the corporation upon which he has relied; that the Responses to Discovery Request Nos: 1-11, set forth herein, subject to inadvertent or undiscovered errors, are based on, and therefore necessarily limited by, the records and information still in existence, presently recollected and thus far discovered in the course of the preparation of these Responses; that the foregoing Responses are thus based upon corporate knowledge and are true and correct to the best of his knowledge and belief; that consequently, Kingsport Power Company d/b/a AEP Appalachian Power reserves the right to make any changes in the Responses if it appears at any time that omissions or errors have been made therein or that more accurate information is available; and that subject to the limitations set forth herein, the said Responses are true to the best of his knowledge, information and belief.

ANDY SHAFFRON, JR.

Sworn to and subscribed before me, this the 9th of November, 2017.

My Commission Expires:

4/25/18



Notary Public

As to Objections:

**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 the foregoing **Kingsport Power Company d/b/a/ AEP Appalachian Power's Responses to First Discovery Requests of Bristol Tennessee Essential Services** has been served upon the following by mailing a copy of same by United States mail, postage prepaid, and by Email, as follows, on this the 10th day of November, 2017.

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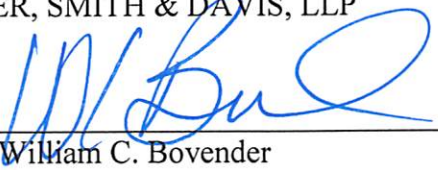
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HUNTER, SMITH & DAVIS, LLP

By



William C. Bovender