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Teresa Mahan Lesnak \*  
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\* Of Counsel  
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KPOW.93068

September 7, 2017

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

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

DOCKET NO.

17-00095

Re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power for  
Approval of Negotiated Franchise Agreement with the Town of Mt. Camel,  
Tennessee, Pursuant to T.C.A. § 65-4-107

Dear Chairman Price:

Enclosed herewith are the original and four (4) copies of the Petition for Approval of  
Negotiated Franchise Agreement with the Town of Mt. Carmel, Tennessee, Pursuant to T.C.A.  
§ 65-4-107, for filing in the captioned matter.

Also enclosed is a check in the amount of \$25.00 to cover the filing fees. If you have any  
questions, please feel free to contact our office.

Very sincerely yours,

HUNTER, SMITH & DAVIS, LLP

  
William C. Bovender

Enclosures

cc: John E. Pevy, Esq.

Mr. David Price, Chairman

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September 7, 2017

cc: John E. Pevy, Esq.  
Kelly Grams, General Counsel  
David Foster, Chief-Utilities Division  
Andrew Shaffron, Jr.  
William K. Castle  
Mary Holliday Begley  
Thomas G. St. Pierre, Esq.  
James R. Bacha, Esq.  
Joseph B. Harvey, Esq.

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION**

**NASHVILLE, TENNESSEE**

IN RE: PETITION OF KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER FOR APPROVAL OF NEGOTIATED FRANCHISE AGREEMENT WITH THE TOWN OF MT. CARMEL, TENNESSEE, PURSUANT TO T.C.A. § 65-4-107	DOCKET NO.: 17-_____
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**PETITION OF KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER  
FOR APPROVAL OF NEGOTIATED FRANCHISE AGREEMENT WITH THE TOWN  
OF MT. CARMEL, TENNESSEE, PURSUANT TO T.C.A. § 65-4-107**

Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport Power”), pursuant to T.C.A. § 65-4-107, hereby requests approval by the Tennessee Public Utility Commission (“TPUC”) of the negotiated franchise agreement between Kingsport Power and the Town of Mt. Carmel, Tennessee (“Town”), said franchise agreement having been approved by Ordinance by the Board of Mayor and Aldermen of the Town, as discussed more fully hereinbelow. In support of this Petition, Kingsport Power submits the following:

1. It is represented that any notice or communications with respect to the Petition be sent to the following:

- A. Andrew Shaffron, Jr., Kingsport District Manager  
Kingsport Power Company d/b/a AEP Appalachian Power  
420 Riverport Road  
Kingsport, TN 37660  
Ph: (423) 578-2201  
Email: [ashaffron@aep.com](mailto:ashaffron@aep.com)

- B. William K. Castle, Director, Regulatory Services VA/TN  
Appalachian Power Company  
Three James Center  
Suite 1100 1051 E. Cary Street  
Richmond, VA 23219-4029  
Ph: (804) 698-5540  
Email: [wkcastle@aep.com](mailto:wkcastle@aep.com)
- C. Mary Holliday Begley  
Manager, External Affairs  
Appalachian Power Co.  
13563 Owens Drive  
Glade Spring, VA 24340  
Email: [mlbegley@aep.com](mailto:mlbegley@aep.com)
- D. Thomas G. St. Pierre, Esq.  
James R. Bacha, Esq.  
American Electric Power Service Corporation  
P.O. Box 16637  
Columbus, Ohio 43216  
Ph: (614) 716-1615  
Email: [jrbacha@aep.com](mailto:jrbacha@aep.com)  
Email: [tgstipierre@aep.com](mailto:tgstipierre@aep.com)
- E. William C. Bovender, Esq.  
Joseph B. Harvey, Esq.  
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Kingsport, TN 37664  
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Email: [jharvey@hdsdlaw.com](mailto:jharvey@hdsdlaw.com)

2. Kingsport Power is a Virginia corporation with its principal place of business located in Kingsport, Sullivan County, Tennessee. It is engaged in the business of distributing electric power to approximately two thousand seven hundred (2700) customers in its service area in the Town. The Town first granted Kingsport Power a franchise for a period of thirty (30) years by Ordinance effective August 24, 1962. By Ordinance effective August 24, 1992, said franchise was extended by the Board of Mayor and Aldermen for an additional period of twenty four (24) years up to and through June 8, 2016. Since that date, the parties have been operating

on a month-to-month franchise through the date of the filing of this Petition. Kingsport Power purchases all of its electric power requirements from Appalachian Power Company, whose rates and charges are subject to the jurisdiction of the Federal Energy Regulatory Commission.

3. Kingsport Power and the Town engaged in negotiations over the renewal of a franchise agreement for several months, prior hereto, and were able to agree on the terms and conditions of a new franchise agreement which both Kingsport Power and the Town request be approved by the TPUC pursuant to T.C.A. § 65-4-107.

4. By separate filing with the TPUC, Kingsport Power accepts the franchise. The franchise ordinance of the Town relative to the franchise itself is discussed more fully hereinbelow.

5. On August 22, 2017, the Board of Mayor and Aldermen of the Town enacted Ordinance No. 17-458, granting the non-exclusive franchise to Kingsport Power. (See EXHIBIT 1 hereto). Attached as EXHIBIT 2 is a copy of the advertisement run in the Kingsport Times – News by the Town after approval of the Ordinance No. 17-458.

6. The Franchise Ordinance No. 17-458 (EXHIBIT 1) grants to Kingsport Power the non-exclusive right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances in the Town's public streets, alleys, lanes, ways, utility easements, parkways, public right-of-ways, and other public grounds held by or controlled by the Town.

7. Kingsport Power submits that the Franchise Ordinance No. 17-458 is necessary and proper for the public convenience and properly conserves the public interest for, at least, the following reasons:

a. The Franchise Ordinance establishes a thirty (30) year term which secures the provision of electricity to citizens, businesses, industries, and government institutions within the corporate limits of the Town, for a significant period of time;

b. The Franchise Ordinance ensures the provision of high quality electric service by an established provider of such service;

c. The Franchise Ordinance establishes adequate and proper mechanisms for access to public rights-of-way, new and existing customers, and existing service lines, transmission and distribution facilities and thereby ensures the protection of the property and citizenry of the Town; and

d. For the additional reasons set forth in the pre-filed testimony of Andrew Shaffron, Jr. submitted herewith. (See EXHIBIT 3).

8. Pursuant to T.C.A. § 65-4-107, the Franchise Agreement between Kingsport Power and the Town must be approved by the TPUC in order to be valid. Such approval is proper where, as asserted herein, the franchise is necessary and proper for the public convenience and properly conserves the public interest.

9. Kingsport Power respectfully requests approval of the Franchise Agreement (EXHIBIT 1) with the Town to be effective within its terms.

WHEREFORE, Kingsport Power Company d/b/a AEP Appalachian Power respectfully requests the approval of the item contained in this Petition. In addition to EXHIBITS 1 and 2, which include a certified copy of the Ordinance No. 17-458, Kingsport Power Company also submits, as mentioned, the pre-filed testimony of Andrew Shaffron, Jr. (EXHIBIT 3).

Respectfully submitted this 7<sup>th</sup> day of Sept, 2017.

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

By: 

William C. Bovender, Esq. (BPR #000751)

Joseph B. Harvey (BPR #028891)

**HUNTER, SMITH & DAVIS, LLP**

1212 N. Eastman Road

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**OF COUNSEL:**

Thomas G. St. Pierre, Esq.

James R. Bacha, Esq.

**American Electric Power Service Corporation**

P. O. Box 16637

Columbus, Ohio 43216

Ph: (614) 716-1615

Email: [jrbacha@aep.com](mailto:jrbacha@aep.com)

Email: [tgstpierre@aep.com](mailto:tgstpierre@aep.com)

*Attorneys for Kingsport Power Company*

*d/b/a AEP Appalachian Power*

**VERIFICATION**

I, William K. Castle, on behalf of Kingsport Power Company d/b/a AEP Appalachian Power ("Kingsport"), being duly sworn, state that: I am Director of Regulatory Services for Kingsport; the facts and allegations contained in the foregoing application are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, I believe them to be true; and, as representative of Kingsport, I am signing on behalf thereof.

W K Castle

STATE OF VIRGINIA )

CITY/COUNTY OF RICHMOND )

Before me, a Notary Public in and for the aforesaid jurisdiction, personally appeared WILLIAM K. CASTLE, who, being by me first duly sworn, did depose and say that he/she is a DIRECTOR - Regulatory of Kingsport Power Company d/b/a AEP Appalachian Power, that he/she has read the foregoing Application and knows the contents thereof and that the facts therein stated are true to the best of his/her knowledge and belief. Subscribed and sworn to before me this 7<sup>th</sup> day of SEPTEMBER 2017.

Garry H. Simmons  
NOTARY PUBLIC



My Commission Expires: 12/31/19



**CERTIFICATE OF SERVICE**

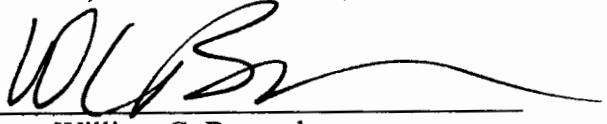
The undersigned hereby certifies that the foregoing **Petition of Kingsport Power Company d/b/a AEP Appalachian Power for Approval of Negotiated Franchise Agreement with the Town of Mt. Carmel, Tennessee, Pursuant to T.C.A. § 65-4-107** has been served upon the following by mailing a copy of same by United States mail, postage prepaid, and emailing as follows, on this the 7<sup>th</sup> day of September, 2017.

John E. Pevy, Esq.  
Mt. Carmel Town Attorney  
Milligan & Coleman, PLLP  
P.O. Box 1060  
Greeneville, TN 37744

Kelly Grams, General Counsel  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
Email: [Kelly.Grams@tn.gov](mailto:Kelly.Grams@tn.gov)

David Foster, Chief-Utilities Division  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
Email: [David.Foster@tn.gov](mailto:David.Foster@tn.gov)

HUNTER, SMITH & DAVIS, LLP

By   
William C. Bovender

## **EXHIBIT 1**

## **ORDINANCE NO. 17-458**

**AN ORDINANCE GRANTING KINGSPORT POWER COMPANY D/B/A AEP APPALACHIAN POWER AN ELECTRIC UTILITY FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A SYSTEM OF ELECTRICITY DISTRIBUTION AND TRANSMISSION LINES AND OTHER NECESSARY EQUIPMENT AND FACILITIES FOR THE PURPOSE OF TRANSMITTING AND DISTRIBUTING ELECTRICITY IN, UPON, ACROSS, ALONG AND UNDER THE HIGHWAYS, STREETS, AVENUES, ROADS, COURTS, ALLEYS, LANES, WAYS, UTILITY EASEMENTS, PARKWAYS AND PUBLIC GROUNDS OF THE TOWN OF MT. CARMEL, TENNESSEE; AND TO FIX THE EFFECTIVE DATE OF THIS ORDINANCE.**

**WHEREAS, Kingsport Power Company d/b/a AEP Appalachian Power (herein referred to collectively as the "Company"), is a regulated, investor-owned utility that provides electric power and energy to the citizens of the Town of Mt. Carmel (herein referred to as the "Town") and other surrounding areas;**

**WHEREAS, providing electrical power and energy requires the installation, operation and maintenance of power poles and other related facilities to be located within the public ways of the Town;**

**WHEREAS, the Town desires to set forth the terms and conditions by which the Company shall use the public ways of the Town;**

**WHEREAS, the Town and the Company recognize that both parties benefit from economic development within the Town;**

**NOW, THEREFORE,**

**BE IT ORDAINED BY THE TOWN OF MT. CARMEL, as follows:**

### **SECTION I. DEFINITIONS.**

**That for the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular include the plural number. The word "shall" is always mandatory and not merely directory.**

a) Board of Mayor and Alderman – the Board of Mayor and Alderman of the Town of Mt. Carmel, Tennessee.

b) Town – the Town of Mt. Carmel, Tennessee, and its respective successors and assigns.

c) Company – Kingsport Power Company d/b/a AEP Appalachian Power, a corporation organized under the laws of the Commonwealth of Virginia and its lawful successors and assigns.

d) Construction – the installation, laying, erection, renewal, repair, replacement, extension, or removal of an electric transmission and distribution system and such activity as may be necessary to construct, maintain and operate an electric system.

e) Electricity – Electricity transmitted and distributed into the Town by the Company.

f) Electric System – any lines for the transmission and distribution of electric energy, either by means of overhead or underground conductors, together with all necessary or desirable appurtenant equipment, to render public service and supply electric energy for heat, light, power or any other purpose or purposes for which electric energy is now or may hereafter be used.

g) Streets – the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, public rights-of-way, or other public grounds, held or controlled by the Town, in the Town as they now exist or as they may be established at any time during the term of this franchise in the Town, but only to the extent of the Town's right, title, interest, or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of a public utility system.

h) T.P.U.C. – the Tennessee Public Utility Commission or any successor state agency having jurisdiction over the Company.

## **SECTION II. GRANT OF FRANCHISE.**

The Town hereby grants to the Company the non-exclusive right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as "Electric Facilities") in the public streets, highways, avenues, roads, courts, alleys, lanes, ways, utility easements, parkways, public rights-of-way, or other public grounds, held or controlled by the Town (collectively referred to herein as "Public Ways"), in the Town as they now exist or as they may be established at any time during the term of this franchise in the Town, but only to the extent of the Town's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of a

public utility system for the purpose of supplying and transmitting electric power and energy to the inhabitants of the Town and persons and corporations beyond the limits thereof.

### SECTION III. TERM.

The term of this Franchise is for a period of thirty (30) years from the date of the Company's acceptance hereof and the approval of the Franchise by the T.P.U.C.

### SECTION IV. ACCEPTANCE BY COMPANY.

The Company shall file with its Petition for Approval of the Franchise Agreement a written acceptance of the terms and conditions of same subject only to the disapproval by the T.P.U.C. of said terms and conditions.

### SECTION V. NON-EXCLUSIVE FRANCHISE.

The right to use and occupy the Public Ways of the Town shall be non-exclusive and the Town reserves the right to use the Public Ways for itself or any other entity that provides service to Town residences; provided, however, that such use shall not unreasonably interfere with the Company's Electric Facilities or rights as granted herein.

### SECTION VI. TOWN REGULATORY AUTHORITY

The Town and Company recognize that, under the law of the State of Tennessee, the T.P.U.C. is granted "...general supervisory and regulatory power, jurisdiction and control over public utilities, and also over their property, property rights, facilities and franchises. . ." T.C.A. § 65-4-104. However, to the extent not preempted by Tennessee state law, the Town reserves the right to adopt such additional ordinances and exercise its regulatory powers as may be deemed necessary in the exercise of its police powers for the protection of the health, safety and welfare of its citizens and their properties.

### SECTION VII. COMPLIANCE WITH APPLICABLE LAWS.

The Electrical Facilities of Company shall be constructed, maintained and operated, in good and safe condition, in accordance with standard engineering practices, and in accordance with any applicable Federal Laws and Regulations, Statutes of the State of Tennessee, the Rules and Regulations of the T.P.U.C., and Ordinances of the Town which do not conflict with any such federal or state laws, rules or regulations, as such practices and laws, statutes, ordinances, rules and regulations now exist or as they may be from time to time amended, changed or modified.

## **SECTION VIII. STANDARD OF CARE.**

That the Company shall at all times employ a reasonable standard of care and shall install and maintain and use industry standards or other reasonable methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public.

## **SECTION IX. LOCATION OF FACILITIES**

(A) The Town and the Company agree that it is beneficial to both parties to this agreement and to the citizens of Mt. Carmel that the Town and the Company work together to plan the location of utility facilities as they relate to the Town's infrastructure and community planning. Towards that end, the Company and the Town commit to meet at least quarterly to review upcoming utility projects and the Town's ongoing planning efforts. In addition, the Company and the Town agree to jointly plan new development and redevelopment efforts to configure utilities in a way that compliments those efforts while affecting economical solutions to those desires.

(B) The Company understands that the Town reserves the right, by ordinance or resolution of the Board of Mayor and Alderman, or otherwise through proper representatives of the Town, to designate specifically the location of the Electric Facilities of the Company with references to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the Town to so designate does not relieve the Company of its responsibilities in matters of public safety as provided in this Ordinance. The Company shall construct, maintain and locate its Electric Facilities so as to not unreasonably interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities owned or operated by the Town.

The rights and privileges granted by this franchise shall not be in preference or hindrance to the rights of the Town and any other lawful governmental authorities having jurisdiction to perform or carry out any public works or public improvements within the Public Ways.

## **SECTION X. USE OF PUBLIC WAYS.**

(A) The Company, in any opening it shall make in the Public Ways of the Town, shall be subject to the provisions of this Ordinance and to all applicable ordinances, codes and regulations of the Town. Specifically, in addition to the requirements contained herein, except in

the cases of emergencies, the Company shall at all times comply with all applicable Town ordinances with respect to any opening it shall make in the Public Ways of the Town. The proposed location of any part of the Electric Facilities to be constructed by the Company in, upon, across, under or over the Public Ways of the Town shall not unreasonably interfere with:

- (1) the public safety or the convenience of persons using the Public Ways;
- (2) the use of Public Ways for purpose of travel;
- (3) with any use or contemplated use of Public Ways by the Town either above or below the surface of the Public Ways for which plans have been prepared or for which plans are in the course of preparation, which plans have been authorized by the Town, and of which the Company has been previously notified by the Town; or
- (4) personal property lawfully in, upon, along, across, under or over the Public Ways.

(B) The Company's location, construction and maintenance shall not unduly burden regular maintenance procedures of the Town and shall be coordinated with the Town's annual paving program.

(C) The Company shall submit to the Town a drawing of all proposed street cuts prior to performing the work except in the case of an emergency excavation.

In the case of emergency excavations made in the Public Ways, the Company shall make a report of each such excavation to the Town within two (2) working days. Any inspections related to repair of excavations shall be promptly acted upon by the Town so as not to unreasonably delay the Company in discharging its public service obligation.

The Company shall use its best efforts not to interfere with or injure any utility or any other public improvement which the Town has heretofore made or may hereinafter make in, upon, across, along or under any Public Ways and shall not unnecessarily obstruct or impede such Public Ways of the Town.

The Company shall promptly remove or correct any obstruction, damage or defect in any Street which was caused by the Company in the installation, operation, maintenance or extension of the Electric Facilities. Any such obstructions, damage, or defect which is not promptly removed, repaired or corrected by the Company after proper notice to do so, given by the Town to the Company, may be removed or corrected by the Town, and the cost thereof shall be charged against the Company. Any expense, cost, or damages incurred for repair, relocation, or replacement to Town water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance or extension of the

Electric Facilities shall be borne by the Company and any and all expense and cost incurred in connection therewith by the Town shall be fully reimbursed by the Company to the Town.

(D) If weather or other conditions do not permit the complete restoration required by this Section, the Company shall temporarily restore the affected Public Ways or property. Such temporary restoration shall be at the Company's sole expense and the Company shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(E) The Company shall not open, disturb or obstruct, at any one time, any more of the Public Ways than reasonably may be necessary to enable it to proceed in laying or repairing the Electric Facilities. Neither shall the Company permit any Street so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Electric Facilities to remain open or the Public Ways disturbed or obstructed for a longer period of time than reasonably shall be necessary.

(F) Whenever the Town shall widen, reconstruct, realign, pave or repave, or otherwise work on any Public Ways, or shall change the grade or line of any Public Ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the Town, it shall be the duty of the Company at the Company's cost and expense to move, alter or relocate its Electric Facilities originally constructed on a Public Way (that is not secured by a private easement) or any part thereof as reasonably requested by the Town. Upon written notice by the Town of the Town's intention to perform work as specified above, the Company shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the Town for such construction, reconstruction of improvements.

(G) All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of underground Electric Facilities must, to the extent the landscaping does not interfere with the safe operation of the facilities, be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. The Town understands that vegetation growing in the vicinity of overhead power lines must be trimmed and maintained away from those lines to allow for safe operation of those lines.

(H) The Company shall give all required notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the construction being performed.

(I) Inspections during construction may be made by the Town.

(J) Construction and repair shall be performed with the least practical hindrance of the Public Ways for the purpose of travel or any other public purpose. After any work has commenced by the Company, in, upon, along, across, under, or over the Public Ways of the Town, the same shall be continued in good faith and with due diligence until completed. If, as determined by the Town, the Company refuses or fails to proceed in good faith, or any separable part thereof, with



such diligence as will ensure its completion within a reasonable period of time, the Town will issue notice to the Company of its findings and instructions and, if after three (3) days of receipt of such notice, the Company has not commenced to re-execute the work, the Town will cause the construction required in said notice to be performed and charge the Company the entire cost and expense plus ten (10%) percent of the construction.

(K) When any construction opening or excavation, disturbance, cut or damage is made in, along, upon, across, under or over the Public Ways for any purpose whatsoever by the Company, any portion of said Public Ways affected or damaged thereby shall be restored, as promptly as possible to as useful, safe, durable, in as good condition as existed prior to making of such opening or such excavation or such damage. If the Company is unable to comply with the provisions of this section by reason of strikes, riots, acts of God, or acts of public enemies or other factors beyond its control, restorative work of a temporary nature allowing for such requirements as trench and backfill consolidation and fine grading and vegetative stabilization will be performed. The temporary restorative work shall be accomplished immediately in accordance with the best acceptable construction procedures and shall be continuously maintained in a useful and safe condition pending permanent restoration. Where a cut or disturbance is made in a section of sidewalk rather than replacing only the area actually cut, the Company shall replace the full width of the existing sidewalk as determined by the Town and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring. Where a cut or disturbance is made by the Company in a section of pavement, rather than repaving only the actual area cut the Company shall, if requested by the Town, repave the area between the street cuts when there are two or more street cuts made by the Company within twenty (20) feet of each other. The width of the repavement shall correspond to the width of the street cut made by the Company. If the Company fails to timely perform said restoration and repair within a reasonable time, the Town may issue notice to the Company of its findings and instructions and, if after three (3) days the Company has not commenced the restoration and/or repair, the Town will cause the work required in said notice to be done and performed and charge the Company the entire cost and expense of restoration or repair plus ten (10%) percent.

(L) After the work of restoring such portion of the Street has been completed as provided herein, the Company shall keep such portion of such Street repaired or restored in as useful, safe, durable, and good condition as it existed prior to the making of such opening, excavation or damage, ordinary wear and tear excepted, for a period of eighteen (18) months from the completion of repair or restoration, if the Town determines that such portion of the Street was affected or damaged by the work of the Company.

(M) When Public Ways are opened, excavated, disturbed, obstructed or any other construction activity is required in the Public Ways by the Company, said Company, or other person acting on its behalf, shall place and maintain all necessary safety devices, barriers, lights, and warnings to properly notify all persons of any dangers resulting from such construction entrances, and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the Street and shall comply with all federal, state and local laws and regulations, including the Manual of Uniform Traffic Control Devices flagging requirements, the

Manual for Streets and Highways, as approved by the Federal Highway Administrator and as may be amended from time to time shall be the standard used in determining the necessary placement of such devices, barrier, lights and warnings.

(N) The Company shall provide the Town with a master set "as built" drawings and/or maps in an electronic form agreed to by Town and the Company showing the location of all its underground Electric Facilities within the Town. To the extent Town and the Company cannot agree on an appropriate electronic form for the above referenced map or maps, the Company agrees to provide Town with such information in hard copy or paper format. The Company shall also provide the Town with a list of Public Ways along which its above ground Electric Facilities is located. The Company shall provide updated maps in accordance with this Section on an annual basis if changes have occurred. The Company also agrees to cooperate with and participate in Tennessee One Call. On at least an annual basis the Company shall meet with the Town to discuss its plans for construction and/or maintenance of its Electric Facilities for the following year.

(O) In addition to the installation of underground electric distribution lines as provided by applicable state law and regulations, the Company, upon payment of all charges provided in its tariffs or their equivalent, shall place newly constructed electric distribution lines underground as may be required by Town ordinance. The Company and Town agree to work together to jointly plan new facilities so the new facilities are operationally appropriate for the Company while providing the aesthetics desired by the Town and accomplishing the desired goal at the least cost to the Company's customers and the Town's citizens.

(P) The Town shall have the right without cost to use all poles and suitable overhead structures owned by the Company within Public Ways for Town wires used in connection with governmental purposes; provided, however, any such uses shall be for activities owned, operated or used by the Town for a public purpose. Provided, that the Company shall assume no liability nor shall it incur, directly or indirectly, any additional expense in connection therewith, and the use of said poles and structures by the Town shall be in such a manner as to prevent safety hazards or interferences with the Company's use of the same. Nothing herein shall be construed to require the Company to increase pole size, or alter the manner in which the Company attaches its equipment to poles, or alter the manner in which it operates and maintains its Electric Facilities. Town attachments shall be installed and maintained in accordance with the reasonable requirements of the Company and the current edition of the National Electrical Safety Code pertaining to such construction. Further, Town attachments shall be attached or installed only after written approval by the Company in conjunction with the Company's standard pole attachment application process. The Company shall have the right to inspect such attachments to ensure compliance with this Section and to require the Town to remedy any defective attachments.

(Q) If the Company is dissatisfied with any determination of the Town permitted by the foregoing sections thereof, it may petition the Board of Mayor and Alderman within ten (10) days after such determination to review the same, which review shall be taken up by the Board of Mayor and Alderman in the normal course of business.

## **SECTION XI. INSURANCE.**

The Company hereby agrees, upon official request of the Town, to furnish to the Town evidence of insurance on such amounts as may be reasonably necessary to protect the Town. However, the coverage shall, at a minimum, include Workers' Compensation insurance covering the Company's statutory obligation under the laws of the State of Tennessee and Employer's Liability insurance for all its employees engaged in work under the franchise. Minimum limits of liability for Employer's Liability insurance shall be \$100,000 bodily injury each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee).

## **SECTION XII. HAZARDOUS WASTE.**

The Company shall not transport, dispose of or release any hazardous waste within the Streets. If utilizing any hazardous material in the ordinary course of its business, the Company shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances or waste. Regardless of the Town's acquiescence, the Company shall indemnify and hold Town, its officers, agents, employees and volunteers harmless from all costs, claims, damages, causes of action, liabilities, fines or penalties, including reasonable attorneys' fees, resulting from the Company's its agents, assigns, violation of this paragraph and Company agrees to reimburse Town for all costs and expenses incurred by Town in eliminating or remedying such violations, including all remediation and cleanup costs. This provision shall survive the expiration, revocation or termination of this franchise.

## **SECTION XIII. INDEMNIFICATION.**

(A) The Company shall at all times defend, indemnify and hold harmless the Town and any of the Town's representatives from and against all loss sustained by the Town on account of any suit, judgment, execution, claim or demand whatsoever resulting fully or in part from the failure of the Company or its employees to exercise due care and diligence in the construction, operation, and maintenance of its Electric Facilities in the Town provided the Company shall have been notified in writing of any claim against the Town on account thereof and shall have been given ample opportunity to defend same. The Company shall indemnify, defend and hold harmless the Town from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Electric Facilities or the provision of electric service.

(B) The right of indemnification shall include and extend to reasonable attorney fees and trial preparation expenses and other litigation expenses reasonably incurred in defending a claim arising from the operation of the Electric Facilities by the Company, whether or not the claim be proved to be without merit. This provision shall survive the expiration, revocation or termination of this franchise.

#### SECTION XIV. ANNEXATION.

Upon the annexation of any territory to the Town, the rights granted herein shall extend to the annexed territory to the extent the Town has such authority. All Electrical Facilities owned, maintained or operated by the Company located within any public ways of the annexed territory shall thereafter be subject to all of the terms hereof.

#### SECTION XV. VEGETATION MANAGEMENT.

The Company or its contractors may prune all trees and vegetation which encroach upon the Public Ways, whether such trees or vegetation originate within or outside the Public Ways to prevent the branches or limbs of other part of such trees or vegetation from interfering with the Company's Electrical Facilities. Such pruning shall comply with the *American National Standard for Tree Care Operation (ANSI A300)* and be conducted under the direction of an arborist certified with the International Society of Arboriculture. A growth inhibitor treatment may be used for trees and vegetation species that are fast-growing and/or problematic. Nothing contained in this Section shall prevent the Company, when necessary and with the approval of the owner of the property on which they may be located, from cutting down and removing any trees which overhang Public Ways.

#### SECTION XVI. FRANCHISE FEE.

(A) The Town may impose upon Company the requirement that Company pay a franchise fee to the Town. The T.P.U.C., as with its jurisdictional obligation to approve this Franchise Ordinance, also must approve the amount of the franchise fee before its imposition. If approved by the T.P.U.C., Company shall pass the imposed franchise fee on to its customers for payment, with same being shown as a separate line item on the customer's electric bill from the Company. Should the T.P.U.C. approve the Franchise Agreement but not the amount of the franchise fee, the Agreement shall become effective and the parties may, thereafter, petition the T.P.U.C. for approval of a different franchise fee. Any franchise fee will be collected by the Company and distributed to the Town on a monthly basis as soon as practical.

(B) The franchise fee shall be the minimum tax collected by the Town other than ad valorem taxes on property and any other fees set forth in this document with respect to the Company's electric business or the exercise of this franchise within the corporate limits of the

Town and the amount due to the Town under such other license, occupation, franchise or excise taxes or other charges for corresponding periods shall be reduced by deducting therefrom the amount of said franchise fee paid hereunder.

(C) The Town may inspect the Company books of account for the Town at any time during business hours and may audit such books from time to time, provided that only franchise payments which occurred during a period of 36 months prior to the date the Town notifies the Company of its intent to conduct an inspection shall be subject to such review. The Town may also request the Company to provide an audit report of franchise fees calculated and remitted from the gross revenues derived from its sale of Electricity within the Town limits at the Company's expense or an audit report prepared by an approved independent accounting firm at the Town's expense, but not more than once per calendar year.

#### SECTION XVII. ABANDONMENT OF FACILITIES.

Upon abandonment of any of the facilities or equipment of the Company located above or below the surface of the Public Ways, the Company shall notify the Town in writing of such abandonment within a reasonable time thereafter and if such abandoned facilities or equipment will then interfere with the use of the Public Ways by the Town, the Town shall give written notice thereof to the Company and the Company shall commence to remove the same within twenty (20) days following the date of the written notice and continue the work to completion with reasonable diligence and at its own cost and expense.

All rights and privileges granted hereby are subject to the lawful exercise of the police power of the Town to adopt and enforce local laws, rules and regulation necessary to the health, safety, and general welfare of the public. Expressly reserved to the Town is the right to adopt such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public. Further, the Town hereby reserves:

(1) The right to grade, widen, relocate, sewer, pave, macadamize, lay conduits and pipe and to install manholes, poles or other structures therein, or to alter, repair or otherwise provide for the making of local improvements in the Street;

(2) The right to make and enforce all such local police, sanitary or other regulations by ordinance in the exercise of its police power;

(3) The right to make and provide for the making of local improvements by special assignment.

The enumeration herein of specific rights reserved shall not be taken as exclusive, or as limiting the reservation made herein.

## SECTION XVIII. TRANSFER OF ASSETS.

In the event the Company desires to sell, transfer, or lease the entire assets of the Electric System, which is the subject of this Ordinance, the following conditions shall apply:

(A) A statutory merger, consolidation, recapitalization or sale and transfer of common stock of the Company does not constitute a sale or transfer of assets for purposes of this Section.

(B) Any transfer of assets, whether by sale, assignment or lease by the Company shall first be subject to approval by the T.P.U.C.. Thereafter, same shall be subject to approval by the Town.

(C) To effect the transfer of assets, the Company shall have duly executed a good and sufficient instrument making such sale, transfer or lease; and, a duplicate original of said instrument shall be filed with the Town.

(D) The purchaser, transferee, or lease shall have duly executed a good and sufficient instrument accepting said purchase, transfer or lease and assuming all obligations of Company under this Ordinance; and, a duplicate original of the instrument shall be filed with the Town.

## SECTION XIX. T.P.U.C. RULES AND REGULATIONS

(A) The Town and the Company hereby agree that this Ordinance is subject to the approval of the T.P.U.C. and that the Ordinance shall also be subject to the rules and regulations of the State of Tennessee as they may from time to time be changed and that all such rules and regulations become part of this Ordinance to the same extent and with the same effect as if said rules and regulations were herein set out in full.

(B) The Company shall make every reasonable effort to furnish an ample and uninterrupted supply of Electricity to all customers throughout its entire system within the Town and on any enlargements and extensions thereof within the Town. The Company shall not unreasonably or arbitrarily refuse to make an extension thereof with in the Town. At the time each and every annexation ordinance of the Town becomes operative, the Town shall provide the Company with a copy of the ordinance and its accompanying map precisely describing said annexed territory. Subject to applicable law, the Company shall not unreasonably or arbitrarily refuse to make an extension for the purpose of giving Electric Service to the Town, the inhabitants, institutions and businesses thereof. The Company shall also file with the Town its extension policy and any changes as may from time to time be adopted, as filed with and approved by the T.P.U.C..

(C) The Company shall at all times keep the Town apprised of its current electrical rates, charges, and pricing policies charged to Town residents and changes to such rates, charges, and pricing policies whether changes are initiated by the Company or a third party. In

the event the Company files a rate change request with the T.P.U.C., it shall provide the Town with a copy of the request at the time of filing.

#### **SECTION XX. ANNUAL REPORT.**

The Company shall, upon request by the Town, file with the Town a duplicate original of the Annual Report of the Company's operation in the Town filed with the T.P.U.C., as now required by the Public Utility Act, or as may be required by any other act of the legislature of the State of Tennessee, as soon as practical after one duplicate original of said report has been filed with said T.P.U.C. or its successors.

#### **SECTION XXI. RENEWAL.**

At least 120 days prior to the expiration of this Franchise, the Company and the Town either shall agree to extend the term of this Franchise for a mutually acceptable period of time or the parties shall use best faith efforts to renegotiate a replacement Franchise. The Company shall have the continued right to use the Public Ways of the Town as set forth herein in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise. The Town shall continue to receive any and all fees and payments due in the event an extension or replacement Franchise is not entered into upon expiration of this Franchise.

#### **SECTION XXII. DEFAULT AND CURE.**

Both the Company and the Town recognize there may be circumstances whereby compliance with the provisions of this Ordinance is impossible or is delayed because of circumstances beyond the Company's control. In this instance, the Company shall use its best efforts to comply in a timely manner and to the extent possible. In the event of a substantial breach by Company of any material provision of this Ordinance, the Town, acting by and through its Board of Mayor and Alderman, may terminate the franchise and rights granted to Company hereunder, provided, however, that such termination shall not be effective unless and until the procedures described below have been followed:

(A) The Town must deliver to Company, by certified or registered mail, a written notice. Such notice must (i) fairly and fully set forth in detail each of the alleged acts or omissions of Company that the Town contends constitutes a substantial breach of any material provision hereof within sixty (60) days of the alleged breach or within sixty (60) days of the Town's actual or constructive notice of the alleged breach whichever is later; and (ii) designate which of the terms and conditions hereof the Town contends Company breached.

(B) The Town shall permit Company the opportunity to substantially correct and cure all of the breaches hereof set forth in the written notice described in subsection (A) above within sixty (60) days after Company's receipt of such notice before termination may occur.

(C) If the Company objects and disagrees with the Town's determination that a substantial breach of a material provision has occurred, the Company may submit the issue to the Board of Mayor and Alderman for review within thirty (30) days of receipt of the written notice described in subsection (A) above. Termination of this Ordinance shall be stayed during the course of any such review or subsequent litigation on the issue until the matter is either resolved by agreement between the parties or upon entry of a final order of a court authorizing termination by the Town.

In the event the Ordinance is properly terminated pursuant to the terms of this section prior to the expiration of the thirty (30) year period or any renewal period thereafter, the Company shall not be entitled to claim lost profits against the Town for the balance of time remaining under the thirty (30) year period or any renewal period thereafter in a sale of assets to the Town or any condemnation action. In the event of termination and/or expiration of this Ordinance, the Company may continue to operate on the same terms and conditions pending either a negotiated sale of its assets, negotiation of a new franchise or condemnation, whichever first occurs, with a minimum period of six (6) months and a maximum period of twenty four (24) months, absent agreement of the parties.

#### **SECTION XXIII. NO WAIVER.**

Neither the Town nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions to insist upon or to seek compliance with any such terms and conditions.

#### **SECTION XXIV. AMENDMENT.**

At any time during the term of this Franchise, the Town through its Board of Mayor and Aldermen, or the Company may propose amendments to this Franchise by giving thirty (30) days written notice to the other party of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). No amendment or amendments to this Franchise shall be effective until mutually agreed upon by the Town and the Company and formally adopted as an ordinance amendment, which is accepted in writing by the Company and approved by T.P.U.C.. Notwithstanding anything in this ordinance to the contrary, this ordinance is subject to any ordinance that may be adopted by the Town establishing



reasonable uniform rules, procedures and obligations concerning the use of streets for construction and operation of utility systems.

#### SECTION XXV. NOTICES.

Unless otherwise specified herein, all notices from the Company to the Town pursuant to or concerning this Franchise shall be delivered to the Town with a copy to the Town Attorney. Unless otherwise specified herein, all notices from the Town to the Company pursuant to or concerning this Franchise shall be delivered to William K. Castle, Director, Regulatory Services VA/TN, Appalachian Power Company, Three James Center, Suite 1100 1051 E. Cary Street, Richmond, VA 23219-4029, with a copy to William C. Bovender/Joseph B. Harvey, Hunter, Smith & Davis, LLP, PO Box 3740, 1212 North Eastman Road, Kingsport, TN 37664, 423-378-8800.

#### SECTION XXVI. SEVERABILITY.

If any section, sentence, paragraph, term or provision hereof is for any reason determined to be illegal, invalid, or superseded by other lawful authority including any state or federal regulatory authority having jurisdiction thereof or unconstitutional, illegal or invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

#### SECTION XVII. GOVERNING LAW.

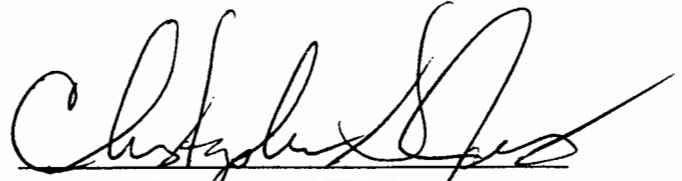
The Agreement and the rights and obligations of the parties are governed by the laws of the State of Tennessee, without regard to its conflict of laws principles.

#### SECTION XXVIII. NO ARBITRATION, JURISDICTION, WAIVER OF JURY TRIAL, VENUE.

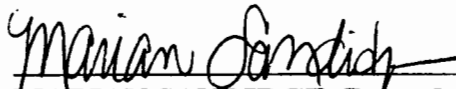
Notwithstanding any other provision in the Agreement to the contrary, arbitration is not permitted and if a dispute arises between the parties concerning any aspect of the Agreement, and it cannot be resolved by mutual agreement, any party may resort to resolution of the dispute by litigation in the state or federal courts for Mt. Carmel, Hawkins County, Tennessee. The parties waive their right to a jury trial. Mandatory and exclusive venue for any disputes shall be in state courts or federal for Mt. Carmel, Hawkins County, Tennessee.

#### SECTION XXIX. EFFECTIVE DATE.

The franchise granted by this Ordinance shall become effective pursuant to the procedure set forth hereinabove.

  
CHRISTOPHER JONES, Mayor

ATTEST:

  
MARIAN SANDIDGE, Recorder



APPROVED AS TO FORM:

  
JOHN PEVY, ATTORNEY

<b>MOTION: ALDERMAN DIANE ADAMS</b>			
<b>SECOND: ALDERMAN JENNIFER WILLIAMS</b>			
<b>FIRST READING</b>	<b>AYES</b>	<b>NAYS</b>	<b>OTHER</b>
ALDERMAN DIANE ADAMS	X		
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN MARGARET CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN JENNIFER WILLIAMS	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR CHRISTOPHER JONES	X		
<b>TOTALS</b>	<b>7</b>	<b>0</b>	<b>0</b>

**PASSED FIRST READING: August 15, 2017**

<b>MOTION: ALDERMAN EUGENE CHRISTIAN</b>			
<b>SECOND: ALDERMAN JENNIFER WILLIAMS</b>			
<b>SECOND READING</b>	<b>AYES</b>	<b>NAYS</b>	<b>OTHER</b>
ALDERMAN DIANE ADAMS	X		
ALDERMAN EUGENE CHRISTIAN	X		
ALDERMAN MARGARET CHRISTIAN	X		
ALDERMAN WANDA DAVIDSON	X		
ALDERMAN JENNIFER WILLIAMS	X		
VICE-MAYOR CARL WOLFE	X		
MAYOR CHRISTOPHER JONES	X		
<b>TOTALS</b>	<b>7</b>	<b>0</b>	

**PASSED FIRST READING: August 22, 2017**

**PUBLICATION AFTER PASSAGE:**  
**DATE: AUGUST , 2017**  
**NEWSPAPER: Kingsport Times-News**

## **EXHIBIT 2**

,

**Subject:** Publish Passed Ordinances  
**From:** Marian Sandidge (mariansandidge@yahoo.com)  
**To:** sedwards@timesnews.net;  
**Date:** Friday, August 25, 2017 2:23 PM

August 25, 2017

Kingsport Times-News  
ATTN: Sheryl Edwards  
Classified Advertising Department  
P.O. Box 479  
Kingsport, TN 37662

RE: Adopted Ordinances for the Town of Mount Carmel

Dear Sheryl:

Please run the following advertisement in the Legal Section one time:

**NOTICE**

The Town of Mount Carmel, TN, on August 22, 2017, passed **Ordinance No. 17-456**, "An Ordinance to Amend the Code of Ordinances by Changing Title 12, Prefabricated Swimming Pools."; and, also passed **Ordinance No. 17-458**, "An Ordinance Granting Kingsport Power Company D/B/A AEP Appalachian Power an Electric Utility Franchise to Construct, Maintain and Operate a System of Electricity Distribution and Transmission Lines and Other Necessary Equipment and Facilities for the Purpose of Transmitting and Distributing Electricity in, Upon, Across, Along and Under the Highways, Streets, Avenues, Roads, Courts, Alleys, Lanes, Ways, Utility Easements, Parkways, and Public Grounds of the Town of Mount Carmel, TN; and to Fix the Effective Date of this Ordinance."

Should you have any additional questions, please give me a call.

Sincerely,

TOWN OF MOUNT CARMEL  
Marian Sandidge, City Recorder

## **EXHIBIT 3**

**DIRECT TESTIMONY OF  
ANDREW SHAFFRON, JR.  
ON BEHALF OF KINGSPORT POWER COMPANY  
D/B/A AEP APPALACHIAN POWER  
BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
DOCKET NO. 17-\_\_\_\_\_**

1    **Q.    PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.**

2    A.    My name is Andrew Shaffron, Jr. My business address is 420 Riverport Road,  
3        Kingsport, TN. I am the Manager of Distribution Systems for the Kingsport District  
4        of Appalachian Power Company. In this capacity, I represent Kingsport Power  
5        Appalachian Power d/b/a Appalachian Power (“KgPCo”).

6    **Q.    PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND**  
7        **BUSINESS EXPERIENCE.**

8    A.    I earned a Bachelor of Science degree in Electrical Engineering from West Virginia  
9        University in 1984. I have worked for Appalachian Power in the electrical distribution  
10       organization since 1985, first as an electrical engineer and subsequently in various  
11       distribution operations leadership positions over the past 25 years. I have been in my  
12       current position since April 2017.

13    **Q.    WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
14        **PROCEEDING?**

15.   A.    The purpose of my testimony is to present information to the TPUC relating to the  
      Franchise Agreement entered into between KgPCo and the Town of Mt. Carmel, Tennessee  
      (“Town”).

1           **Q.     PLEASE EXPLAIN THE CIRCUMSTANCES WHICH CAUSED A NEED**  
2                   **FOR A NEW FRANCHISE AGREEMENT BETWEEN KINGSFORT**  
3                   **POWER COMPANY AND THE TOWN.**

4           A.     As discussed in the Petition of KgPCo in this Docket, the Town first granted  
5                   KgPCo a franchise for a period of thirty (30) years by Ordinance effective August  
6                   24, 1962. By Ordinance effective August 24, 1992, said franchise was extended  
7                   by the Board of Mayor and Aldermen for an additional period of approximately  
8                   twenty-four (24) years up to and through June 8, 2016. Since that time, the  
9                   parties have been operating on a month-to-month franchise through the date of the  
10                  filing of the KgPCo Petition. KgPCo and the Town have engaged in negotiations  
11                  to renew the franchise. Pursuant to TCA § 65-4-107, KgPCo must receive the  
12                  approval of a new franchise agreement between KgPCo and the Town to become  
13                  effective.

14                The franchise agreement which has been agreed to by KgPCo and the Town as  
15                embodied in Ordinance No.17-458, covers a term of thirty (30) years, subject to  
16                approval of the TPUC. It was approved by the Town's Board of Mayor and  
17                Aldermen on August 22, 2017.

18           **Q.     WHAT ARE THE SIGNIFICANT DIFFERENCES BETWEEN THE OLD**  
19                   **AGREEMENT WITH THE TOWN AND THE NEW ONE KINGSFORT**  
20                   **POWER HEREBY BRINGS BEFORE THE TPUC?**

21           A.     The new franchise agreement brings the contractual relationship between KgPCo



1 and the Town into the 21<sup>st</sup> Century by incorporating all applicable laws,  
2 regulations, and practices that have come into existence since the original  
3 franchise agreement was entered into.

4 **Q. WHAT IS THE STANDARD TO BE UTILITIZED BY THE TPUC IN**  
5 **DETERMINING WHETHER TO APPROVE THIS FRANCHISE**  
6 **AGREEMENT?**

7 A. Under the statute, the TPUC is authorized to approve the agreement/ordinance if  
8 it finds it "...is necessary and proper for the public convenience and properly  
9 conserves the public interest..." TCA § 65-4-107.

10 **Q. IN YOUR OPINION, ARE THE TERMS AND CONDITIONS OF THE**  
11 **NEW FRANCHISE AGREEMENT BETWEEN KINGSPORT AND THE**  
12 **TOWN NECESSARY AND PROPER FOR THE PUBLIC CONVENIENCE**  
13 **AND IN THE PUBLIC INTEREST?**

14 A. Yes, for several reasons:

15 (1) The new franchise agreement, with the thirty (30) year term, is a  
16 sufficiently long-term arrangement through which current and future residents,  
17 businesses, industries and government facilities located within the corporate limits  
18 of the Town will be able to receive the benefits of continuing electric service from  
19 KgPCo. As such, the Town will receive the highest quality electric service for the  
20 future;

1           (2)     The new franchise agreement ensures electricity will continue to be  
2           provided to the Town and rate-payers in the Town by an established and proven  
3           electric company, possessing the required expertise, facilities and distribution  
4           network necessary to provide continued excellent service; and,

5           (3)     The new franchise agreement provides to KgPCo continued access to  
6           public rights-of-way and new and existing customers. This will assure KgPCo is  
7           able to provide adequate and efficient service and to comply with the  
8           requirements of the TPUC, to ensure the rights and protection of the residents and  
9           property within the Town.

10          **Q.     IS KINGSPORT POWER SATISFIED WITH THE NEGOTIATED**  
11          **AGREEMENT REACHED WITH THE TOWN?**

12          A.     Yes.

13          **Q.     WHAT ARE YOU ASKING THE TPUC TO DO IN THIS PROCEEDING?**

14          A.     Based on the Petition, Exhibits, and my Testimony in support, contained herein,  
15                 we are asking the TPUC to approve the new Franchise Agreement. between  
16                 KgPCo and the Town.

17          **Q.     DOES THAT CONCLUDE YOUR TESTIMONY?**

18          A.     Yes.