

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE**

**IN RE:**

**PETITION OF KINGSPORT POWER  
COMPANY d/b/a AEP APPALACIAN  
POWER FOR APPROVAL OF A  
STORM DAMAGE RIDER TARIFF  
(RIDER SDR)**

**DOCKET NO. 17-00143**

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**DIRECT TESTIMONY**

**OF**

**DAVID DITTEMORE**

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**June 20, 2018**

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AFFIDAVIT

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I, David N. Dittemore, Financial Analyst, on behalf of the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above-referenced case and the opinion of the Consumer Protection and Advocate Division.

  
David N. Dittemore  
DAVID N. DITTEMORE

Sworn to and subscribed before me this 20th day of June, 2018.

Emily Knight  
NOTARY PUBLIC

My commission expires: May 6, 2019

1       **Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION**  
2       **FOR THE RECORD.**

3       **A1.** My name is David N. Dittmore. I am a Financial Analyst employed by the  
4       Consumer Protection and Advocate Division within the Office of the Tennessee  
5       Attorney General (Consumer Advocate). My business address is Office of the  
6       Tennessee Attorney General, UBS Tower, 315 Deaderick Street, Nashville, TN  
7       37243.

8       **Q2. PLEASE PROVIDE A SUMMARY OF YOUR BACKGROUND AND**  
9       **PROFESSIONAL EXPERIENCE.**

10      **A2.** I received a Bachelor of Science Degree in Business Administration from the  
11      University of Central Missouri in 1982. I am a Certified Public Accountant licensed  
12      in the state of Oklahoma (#7562). I was previously employed by the Kansas  
13      Corporation Commission (KCC) in various capacities, including Managing Auditor,  
14      Chief Auditor, and Director of the Utilities Division. For approximately four years,  
15      I was self-employed as a Utility Regulatory Consultant representing primarily the  
16      KCC Staff in regulatory issues. I also participated in proceedings in Georgia and  
17      Vermont, evaluating issues involving electricity and telecommunications regulatory  
18      issues. Additionally, I performed a consulting engagement for Kansas Gas Service  
19      (KGS), my subsequent employer during this time frame. For eleven years, I served  
20      as Manager and subsequently Director of Regulatory Affairs for KGS, the largest  
21      natural gas utility in Kansas, serving approximately 625,000 customers. KGS is a  
22      division of One Gas, a natural gas utility serving approximately two million  
23      customers in Kansas, Oklahoma, and Texas. I joined the Office of the Tennessee  
24      Attorney General in September, 2017 as a Financial Analyst. In total, I have over  
25      thirty years' experience in the field of public utility regulation. I have presented  
26      testimony as an expert witness on numerous occasions. Attached as Exhibit 1 is a  
27      detailed vita of my professional background.

1       **Q3. HAVE YOU PREVIOUSLY PROVIDED TESTIMONY BEFORE THE**  
2       **TENNESSEE PUBLIC UTILITY COMMISSION (TPUC)?**

3       A3. Yes. I have submitted testimony in TPUC Docket Nos. 17-00014, 17-00108 and  
4       17-00138.

5       **Q4. ON WHOSE BEHALF ARE YOU TESTIFYING?**

6       A4. I am testifying on behalf of the Consumer Advocate.

7       **Q5. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

8       Q5. The purpose of my testimony is to provide recommendations relating to the request  
9       by Kingsport Power Company (Kingsport Power) to collect a total of \$1,505,354 in  
10       storm damage costs through a proposed Storm Damage Rider (SDR). The storm  
11       damage costs were predominantly incurred from a 2013 storm<sup>1</sup>, however, \$90,333  
12       of these costs relate to under-recoveries from a 2009 ice storm<sup>2</sup>.

13       **Q6. ACCORDING TO KINGSFORT POWER, WHAT IS THE IMPACT OF THE**  
14       **SDR TO AN AVERAGE RESIDENTIAL CUSTOMER?**

15       A6. Kingsport Power's witness Mr. Simmons indicated that the average customer  
16       impacted by the SDR would see an increase of 0.71%, or approximately \$.77 per  
17       month.<sup>3</sup>

18       **Q7. WHAT WAS THE SCOPE OF THE CONSUMER ADVOCATE'S REVIEW**  
19       **OF THE KINGSFORT POWER PROPOSAL?**

20       A7. I have reviewed the history of the two storm damage dockets (TPUC Docket Nos.  
21       12-00051 and 13-00121) referenced in the testimony of Kingsport Powers' witness,

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<sup>1</sup> *Petition of Kingsport Power Company d/b/a AEP Appalachian Power for Approval of a Storm Damage Rider Tariff (SDR)* (Petition), pages 5-6, paragraph 12.

<sup>2</sup> *Id.* at page 6, paragraph 14.

<sup>3</sup> In his testimony, Mr. Simmons alleges that the SDR should not apply to customers served by the transmission voltage level since costs were all distributed related. Simmons Direct Testimony, page 4: 1-14 (December 12, 2017).

1 Mr. Simmons.<sup>4</sup> I have also reviewed the storm damage docket referenced in the  
2 testimony of the Kingsport Power's witness, Mr. Wright—TPUC Docket No. 15-  
3 00024.<sup>5</sup> The Consumer Advocate has issued discovery and reviewed supporting  
4 documentation related to storm damage costs and considered the policy implications  
5 of the Kingsport Power proposal.

6 **Q8. HOW DOES KINGSPORT POWER PLAN TO RECOVER THE \$1.5**  
7 **MILLION IN STORM DAMAGE COSTS?**

8 A8. Kingsport Power proposes to collect the surcharge through imposition of a rate per  
9 kilowatt hour (kwh) designed to be in place for twenty-four months. The amount of  
10 over-under recovery, which is the difference between actual surcharge revenue  
11 recovered compared with the costs approved for recovery, would be addressed at  
12 the end of the twenty-four-month period. At the end of the period, Kingsport Power  
13 would provide a report to TPUC with a copy to the Consumer Advocate identifying  
14 the amounts collected from each class, allowing for a true-up of the amounts  
15 recovered to date.<sup>6</sup>

16 **Q9. PROVIDE A SUMMARY OF THE CONSUMER ADVOCATE'S**  
17 **PROPOSAL IN THIS DOCKET.**

18 A9. The Consumer Advocate recommends Kingsport Power be permitted to recover  
19 \$1,504,282 in storm damage costs, which reflects the amount proposed by Kingsport  
20 Power, less a minor adjustment to remove employee recognition awards unrelated  
21 to the storm damage.

22 However, rather than implementing a new SDR, Consumer Advocate does not  
23 object to the proposal set forth by Kingsport Power in TPUC Docket No. 18-00038

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<sup>4</sup> Although not specifically mentioned by Mr. Simmons, I would note that the history of TPUC Docket No. 12-00051 would include TPUC Docket No. 10-00104, which is where Kingsport Power petitioned, and TPUC approved, a request for deferred accounting for the storm costs associated with the severe winter storms in December, 2009.

<sup>5</sup> On November 16, 2015, TPUC issued an *Order Granting Motion to Withdraw Petition*, which relates to Kingsport Power's 2013 storm costs.

<sup>6</sup> Petition at page 7, paragraph 19.

1 that its deferred storm rider costs offset its balance of Excess Unprotected  
2 Accumulated Deferred Income Taxes. In this manner, Kingsport Power would  
3 recover its storm damage costs by reducing balances that otherwise would flow back  
4 to its ratepayers over some future time-period.

5 Consumer Advocate recommends that the proposal by Kingsport Power to offset  
6 such balances should be deferred until the balance of Excess Unprotected  
7 Accumulated Deferred Income Tax is confirmed in Docket 18-00038.

8 **Q10. DESCRIBE THE NATURE OF THE CONSUMER ADVOCATE'S**  
9 **ADJUSTMENT TO REMOVE THE COSTS ASSOCIATED WITH**  
10 **EMPLOYEE RECOGNITION AWARDS.**

11 A10. This adjustment is necessary to remove \$1,072 of costs incorrectly charged to the  
12 deferred storm damage account related to the provision of t-shirts to employees  
13 involved in the restoration efforts. The Company response to CPAD #2 – 6 indicates  
14 the purpose of this cost was to recognize employees for their hard work and to show  
15 appreciation for the time they were away from their families. This charge was the  
16 allocable portion of such costs assigned to Kingsport Power, with the remaining  
17 costs assigned to Appalachian Power Company.

18 Recognizing employee efforts during this challenging period is an understandable  
19 decision, however the costs should be borne by shareholders, not ratepayers. This  
20 type of cost is discretionary, similar in nature to incentive pay, therefore, was not  
21 essential to complete the restoration of service and should not qualify for cost  
22 recovery from ratepayers.<sup>7</sup>

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<sup>7</sup> The Commonwealth of Massachusetts, Department of Public Utilities excluded such expenses in its Order in Dockets D.P.U. 11-102 and D.P.U. 11-102A. 2014 WL 7006648 \*24-25. The Order can also be accessed at <https://eeaonline.eea.state.ma.us/EEA/FileService/FileService.Api/file/FileRoom/9230578>. Costs related to t-shirts are on pages 40-41 of the Order.

1       **Q11. HAS THE RECENTLY ENACTED TAX LEGISLATION IMPACTED**  
2       **KINGSPORT POWERS' REQUEST?**

3       A11. Yes. At the time of the Kingsport Power's Petition in this Docket, the Tax Cuts and  
4       Jobs Act (TCJA) had not been signed into law. The TCJA reduces income tax  
5       expense for all corporations, including utilities. Further, utilities have experienced  
6       a significant reduction in their deferred tax liability balances. These balances reflect  
7       the payment of taxes that utilities have incurred and collected from ratepayers but  
8       will not be paid until some point in the future. The reduction results from the partial  
9       cancellation of these future tax payments due to the reduction in the federal tax rate  
10      from 35% to 21%.

11      On January 16, 2018, at its regularly-scheduled Conference, TPUC opened an  
12      investigation into the impact of the TCJA on jurisdictional utilities. As a result of  
13      the Order in TPUC Docket No. 18-00001, jurisdictional utilities were required to  
14      submit information quantifying the impact of the TCJA on their operations.

15      As with all jurisdictional utilities, there are two primary aspects of cost reductions,  
16      the reduction in federal tax expense and the elimination of a major portion of future  
17      tax reductions. These are two distinct aspects of the TCJA and must be addressed  
18      from a regulatory perspective in different ways.

19      **Q12. HAS KINGSPORT POWER QUANTIFIED THE COST REDUCTIONS**  
20      **ASSOCIATED WITH THE TCJA?**

21      A12. Yes. In response to information TPUC required in Docket No. 18-00038, Kingsport  
22      Power has indicated the reduction in Income Tax Expense is \$904,383, while the  
23      reduction in its Accumulated Deferred Tax Liability is \$13,591,820, on a revenue  
24      basis. Of the reduction in the deferred tax liability, Kingsport Power has indicated  
25      that \$9,329,605 is Protected Excess Deferred Taxes, while \$4,262,215 is identified  
26      as Excess Unprotected Deferred Taxes.

1       **Q13. HAVE YOU HAD AN OPPORTUNITY TO OBTAIN AND REVIEW**  
2       **KINGSPORT POWER'S TAX DATA?**

3       A13. No. Although the Consumer Advocate has reviewed Kingsport Power's initial filing  
4       in TPUC Docket No. 18-00038, the Hearing Officer just recently granted the  
5       Consumer Advocate's Petition to Intervene.<sup>8</sup> No procedural schedule has been  
6       issued setting out deadlines for discovery request nor has any informal discovery  
7       occurred.

8       **Q14. WHAT IS THE SIGNIFICANCE OF PROTECTED VERSUS EXCESS**  
9       **UNPROTECTED DEFERRED TAXES?**

10      A14. The distinction between these two types of excess deferred taxes is important.  
11      Excess protected Deferred Taxes must be amortized using one of two prescribed  
12      methods identified in the TCJA, while regulatory commissions have the authority to  
13      determine the appropriate treatment of Excess Unprotected Deferred Taxes.

14      **Q15. HAS KINGSPORT POWER MODIFIED ITS PROPOSAL TO RECOVER**  
15      **DEFERRED STORM DAMAGE COSTS?**

16      A15. Yes. In TPUC Docket No. 18-00038, Kingsport Power proposed to offset the  
17      deferred storm damage costs against its Excess Unprotected ADIT balance.

18      **Q16. WHAT IS YOUR POSITION CONCERNING HOW THE DEFERRED**  
19      **STORM DAMAGE COSTS SHOULD BE RECOVERED?**

20      A16. If approved by TPUC, I have no objection to the Kingsport Power's proposal  
21      contained in its Petition in Docket No. 18-00038 which is, in essence, to shelve the  
22      rider proposal and instead offset the deferred storm damage costs against the balance  
23      of the Excess Unprotected Deferred Tax Balance.

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<sup>8</sup> Order Granting the Petition to Intervene Filed by the Consumer Advocate, TPUC Docket No. 18-00038 (June 11, 2018).



1       **Q17. HOW WOULD KINGSFORT POWER BE COMPENSATED FOR ITS**  
2       **DEFERRED STORM DAMAGE COSTS UNDER THIS PROPOSAL?**

3       A17. Kingsport Power would be compensated for its deferred storm damage costs  
4       (\$1,504,282) by retaining this amount of Excess Unprotected Deferred Income  
5       Taxes that would otherwise be returned to ratepayers. This compensation to  
6       Kingsport Power would simply occur through an accounting entry to eliminate the  
7       deferred storm damage deferred costs with a corresponding entry reducing the  
8       regulatory liability associated with the Excess Unprotected Deferred Income Taxes  
9       in the same amount.

10      **Q18. WHEN SHOULD THESE OFFSETTING ENTRIES OCCUR?**

11      A18. The Consumer Advocate recommends the deferred asset balance should remain on  
12      the books of Kingsport Power until TPUC issues an order approving the disposition  
13      of the deferred tax liability balances in Docket No. 18-00038.

14      **Q19. IS THIS RECOMMENDATION PREMATURE GIVEN THAT THE TAX**  
15      **DOCKET IS IN ITS EARLY STAGES AND DISCOVERY IS ONGOING?**

16      A19. No, I do not believe so. While the Consumer Advocate is not indicating approval of  
17      the amounts Kingsport Power has identified as its Unprotected Deferred Tax  
18      Liability, it seems very likely that such balances will be greater than the deferred  
19      storm damage costs.

20      **Q20. WHAT ARE THE BENEFITS OF OFFSETTING THE EXCESS**  
21      **UNPROTECTED DEFERRED TAX BALANCE WITH THE**  
22      **RECOMMENDED AMOUNT OF DEFERRED STORM DAMAGE COSTS?**

23      A20. There are benefits for both ratepayers and Kingsport Power from this proposal.  
24      First, ratepayers would essentially receive an immediate return of its Unprotected  
25      Deferred Tax Liability using this approach. I believe ratepayers should receive the  
26      benefits from return of the unprotected balances as soon as possible, after all it is

1           their money. The Kingsport Power proposal to forego the recovery of storm damage  
2           costs essentially provides an immediate benefit to ratepayers. The Company also  
3           benefits from this method by obtaining a quick return of its deferred storm damage  
4           costs and it avoids the administrative costs of levying the surcharge and tracking the  
5           rider recoveries. Obviously, ratepayers benefit from not incurring a surcharge of  
6           \$1.5 million to be recovered over a twenty-four-month period.

7           **Q21. DOES YOUR POSITION IN THIS DOCKET OF NO OBJECTION**  
8           **REFLECT THAT BENEFITS OF THE TCJA SHOULD GO TO REDUCE**  
9           **TPUC APPROVED SURCHARGES SUCH AS CAPITAL RIDERS?**

10          A21. No. The Consumer Advocate does not intend to create any precedent with this  
11          proposal. Each utility will be in a different position and have unique issues that  
12          must be considered within the individual TPUC tax dockets.

13          **Q22. ARE THE STORM DAMAGE COSTS UNIQUE RELATIVE TO**  
14          **INFRASTRUCTURE COSTS?**

15          A22. Yes. The storm damage costs are one-time costs, unlike infrastructure costs, which  
16          are ongoing in nature. Further, the size of the deferred storm damage costs is  
17          relatively small compared with Kingsport Power's excess deferred tax liability  
18          balances. I generally believe customer transparency is important in setting rates and  
19          identifying how such costs are reflected on customer bills. However, this approach  
20          is appropriate given the unique nature of the costs and their relatively small size.

21          **Q23. DOES THIS CONCLUDE YOUR TESTIMONY?**

22          A23. Yes.

## **EXHIBIT 1**

David Dittmore

**Experience**

**Areas of Specialization**

Approximately thirty-years experience in evaluating and preparing regulatory analysis, including revenue requirements, mergers and acquisitions, utility accounting and finance issues and public policy aspects of utility regulation. Presented testimony on behalf of my employers and clients in natural gas, electric, telecommunication and transportation matters covering a variety of issues.

Tennessee Attorney General's Office; **Financial Analyst September, 2017 – Current**

Responsible for evaluation of utility proposals on behalf of the Attorney General's office including water, wastewater and natural gas utility filings. Prepare analysis and expert witness testimony documenting findings and recommendations.

Kansas Gas Service; **Director Regulatory Affairs 2014 – 2017; Manager Regulatory Affairs, 2007 - 2014**

Responsible for directing the regulatory activity of Kansas Gas Service (KGS), a division of ONE Gas, serving approximately 625,000 customers throughout central and eastern Kansas. In this capacity I have formulated strategic regulatory objectives for KGS, formulated strategic legislative options for KGS and led a Kansas inter-utility task force to discuss those options, participated in ONE Gas financial planning meetings, hired and trained new employees and provided recommendations on operational procedures designed to reduce regulatory risk. Responsible for the overall management and processing of base rate cases (2012 and 2016). I also played an active role, including leading negotiations on behalf of ONE Gas in its Separation application from its former parent, ONEOK, before the Kansas Corporation Commission. I have monitored regulatory earnings, and continually determine potential ratemaking outcomes in the event of a rate case filing. I ensure that all required regulatory filings, including surcharges are submitted on a timely and accurate basis. I also am responsible for monitoring all electric utility rate filings to evaluate competitive impacts from rate design proposals.

Strategic Regulatory Solutions; 2003 -2007

**Principal;** Serving clients regarding revenue requirement and regulatory policy issues in the natural gas, electric and telecommunication sectors

Williams Energy Marketing and Trading; 2000-2003

**Manager Regulatory Affairs;** Monitored and researched a variety of state and federal electric regulatory issues. Participated in due diligence efforts in targeting investor owned electric utilities for full requirement power contracts. Researched key state and federal rules to identify potential advantages/disadvantages of entering a given market.

MCI WorldCom; 1999 - 2000

**Manager, Wholesale Billing Resolution;** Manage a group of professionals responsible for resolving Wholesale Billing Disputes greater than \$50K. During my tenure, completed disputes increased by over 100%, rising to \$150M per year.

Kansas Corporation Commission; 1984- 1999

**Utilities Division Director** - 1997 - 1999; Responsible for managing employees with the goal of providing timely, quality recommendations to the Commission covering all aspects of natural gas, telecommunications and electric utility regulation; respond to legislative inquiries as requested; sponsor expert witness testimony before the Commission on selected key regulatory issues; provide testimony before the Kansas legislature on behalf of the KCC regarding proposed utility legislation; manage a budget in excess of \$2 Million; recruit professional staff; monitor trends, current issues and new legislation in all three major industries; address personnel issues as necessary to ensure that the goals of the agency are being met; negotiate and reach agreement where possible with utility personnel on major issues pending before the Commission including mergers and acquisitions; consult with attorneys on a daily basis to ensure that Utilities Division objectives are being met.

**Asst. Division Director** - 1996 - 1997; Perform duties as assigned by Division Director.

**Chief of Accounting** 1990 - 1995; Responsible for the direct supervision of 9 employees within the accounting section; areas of responsibility included providing expert witness testimony on a variety of revenue requirement topics; hired and provided hands-on training for new employees; coordinated and managed consulting contracts on major staff projects such as merger requests and rate increase proposals;

**Managing Regulatory Auditor, Senior Auditor, Regulatory Auditor** 1984 - 1990; Performed audits and analysis as directed; provided expert witness testimony on numerous occasions before the KCC; trained and directed less experienced auditors on-site during regulatory reviews.

Amoco Production Company 1982 - 1984

**Accountant** Responsible for revenue reporting and royalty payments for natural gas liquids at several large processing plants.

### **Education**

- B.S.B.A. (Accounting) Central Missouri State University
- Passed CPA exam; (Oklahoma certificate # 7562) – Not a license to practice