

**BEFORE 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

JOINT MOTION FOR TEMPORARY STAY OF PROCEEDINGS

All of the parties in this matter, including Kingsport Power Company d/b/a AEP Appalachian Power (KgPCo), Herbert H. Slatery III, Attorney General and Reporter for the State of Tennessee, by and through the Consumer Protection and Advocate Division of the Office of the Attorney General (Consumer Advocate), and the East Tennessee Energy Consumers (ETEC) (the Parties), respectfully request that proceedings in this Docket, Tennessee Public Utility Commission (TPUC) Docket No. 17-00143, be stayed temporarily, pending the resolution of TPUC Docket No. 18-00038. In support, the Parties show that the Commission's determinations in TPUC Docket No. 18-00038 may resolve the issues presented by KgPCo's Petition in the instant Docket, and, more specifically, the Parties would show as follows:

1. On December 15, 2017, KgPCo filed its Petition in the instant Docket, TPUC Docket No. 17-00143 (the Petition). In the Petition, KgPCo requests approval of a Storm Damage Rider (SDR) Tariff to recover costs incurred as a result of a severe winter storm in

January 2013¹ and to allow KgPCo to recover remaining unrecovered costs incurred as a result of December, 2009 winter storms.²

2. On January 8, 2018, the Consumer Advocate filed a Petition to Intervene in this Docket (No. 17-000143). By Order dated February 7, 2018, the Consumer Advocate's intervention was granted.

3. On January 12, 2018, ETEC, by counsel, filed a Petition to Intervene in this Docket (No. 17-000143). By Order dated February 7, 2018, ETEC's intervention was granted.

4. On February 6, 2018, TPUC issued its Order Opening an Investigation and Requiring Deferred Accounting Treatment in Docket No. 18-00001 to account for the tax implications "resulting from the 2017 Tax Cuts and Jobs Act, Pub. L. No. 115-97 (2017 Tax Act)."³

5. On March 29, 2018, KgPCo filed its response to the TPUC's Order Opening Tax Investigation in Docket No. 18-00001. In its response, which was assigned Docket No. 18-00038, KgPCo states that Unprotected Accumulated Deferred Income Tax (ADIT) balances⁴ can be used to offset regulatory asset balances that have not yet been collected from customers, and are not part of base rates.⁵ KgPCo also states in that response that KgPCo currently has before the TPUC in this Docket No. 17-00143, a request to recover \$1,505,354 in deferred storm costs resulting from winter storms in 2009 and 2013. Accordingly, in KgPCo's Response to the Tax

¹ KgPCo asserts that the incremental cost of the January 2013 severe winter storm amounts to \$1,415,021. Petition at p. 4, ¶12.

² KgPCo seeks \$90,333 in under-recovered 2009 storm costs. Petition at p. 4, ¶9; *Order Approving Unrecovered Amount of Storm Damage Cost*, TPUC Docket No. 12-00051 (Oct. 16, 2014).

³ *Order Opening an Investigation and Requiring Deferred Accounting Treatment*, TPUC Docket No. 18-00001 (Feb. 6, 2018) ("Order Opening Tax Investigation").

⁴ More specifically, KgPCo estimates that approximately \$4,262,215 of the Excess ADIT is "unprotected" which "can be used to offset regulatory asset balances that have not yet been collected from customers and are not part of base rates." *Filing of Kingsport Power Company d/b/a AEP Appalachian Power (KgPCo) In Response to Tennessee Public Utility Commission Investigation of Impact of Federal Tax Reform on the Revenue Requirements of KgPCo*, TPUC Docket No. 18-00038, pp. 2-3, ¶¶2,4 (March 29, 2018) ("KgPCo's Response to the TPUC Tax Order").

⁵ *Id.*

Order in Docket No. 18-00038, KgPCo proposes to offset the deferred storm cost regulatory asset with a corresponding portion of the Excess Unprotected ADIT liability, eliminating the need to recover the winter storm costs through the SDR Tariff proposed in this Docket.⁶

6. The Consumer Advocate has been granted Intervenor status in Docket No. 18-00038, and ETEC plans to file a Petition to Intervene in that docket shortly. All of the Parties plan to work cooperatively to achieve a prompt and fair resolution of TPUC Docket No. 18-00038.

7. On June 20, 2018, the Consumer Advocate filed the direct testimony of its witness, David D. Dittemore, in this Docket. In his testimony, Mr. Dittemore:

- a. Recommends an adjustment to remove \$1,072 of costs “incorrectly charged to the deferred storm damage account related to the provision of t-shirts to employees involved in the restoration efforts.”⁷ Mr. Dittemore explains this “type of cost is discretionary, similar in nature to incentive pay, therefore, was not essential to complete the restoration of service and should not qualify for cost recovery from ratepayers.”⁸
- b. Does not object to KgPCo’s proposal in “TPUC Docket No. 18-00038 that its deferred storm rider costs offset its balance of Excess Unprotected Accumulated Deferred Income Taxes.”⁹
- c. Recommends that this proposed offset “be deferred until the balance of the Excess Unprotected Accumulated Deferred Income Taxes is confirmed in

⁶ *Id.* at pp. 2-3, ¶4.

⁷ Direct Testimony of David Dittemore, p. 4: 11-13.

⁸ *Id.* at p. 4:20-22.

⁹ *Id.* at p. 3: 22-23 and p. 4:1-4.

8. On June 20, 2018, ETEC filed the direct testimony of its witness, Stephen Barron, in this Docket.¹¹ Witness Barron’s testimony addresses the issue of customer class allocation, but does not address the use of Excess Unprotected ADIT to offset storm costs sought in this Docket.

9. The Parties agree that, subject to TPUC’s approval, KgPCo should be permitted to recover \$1,504,282 in storm damage costs, which reflects the amount proposed by KgPCo (\$1,505,354), less an adjustment to remove \$1,072 of costs incurred to provide t-shirts to employees involved in the restoration efforts. KgPCo’s total recovery of \$1,504,282 in storm damage costs would consist of \$1,413,949 for storm damages incurred for the 2013 winter storm and \$90,333 in costs related to under-recovery from the 2009 winter storms. This recovery amount is supported by the documents and information supplied in this Docket and is a fair and reasonable amount for the limited purposes of this Docket and TPUC Docket No. 18-00038.

10. KgPCo states that its Excess ADIT reserve resulting from the reduction in federal tax rate is \$13,591,820 on a revenue basis, including \$9,329,605 in “protected” ADIT and \$4,262,215 in “unprotected” ADIT.¹² The Intervenors have not yet had an opportunity to conduct discovery and develop their conclusions and recommendations in Docket No. 18-00038. However, based upon the asserted ADIT amount identified by KgPCo in comparison with the outstanding balance of unrecovered storm damage costs, it appears that the \$1,504,282 in storm damage costs will be less than the balance of “unprotected” ADIT.

11. KgPCo may be able to recover \$1,504,282 in storm damage costs requested in this matter by offsetting that amount against its stated balance of Excess Unprotected ADIT in

¹⁰ *Id.* at p. 4: 5-7. *See also Id.* at p. 7: 10-13

¹¹ Direct Testimony and Exhibits of Stephen J. Baron on behalf of East Tennessee Energy Consumers.

¹² KgPCo’s Response to the Tax Order, p. 2, ¶2 (March 29, 2018).

TPUC Docket No. 18-00038, subject to TPUC approval and contingent upon the resolution of the other issues to be addressed in that proceeding. While the Parties agree that such an offset may be acceptable in concept, they cannot know that it will be acceptable to resolve this Docket until all issues in TPUC Docket No. 18-00038 are resolved.

12. Accordingly, in order to permit the Parties to seek determinations in TPUC Docket No. 18-00038 that may resolve the issues in this Docket, to permit the possibility of a resolution of this Docket that is agreeable to all Parties, and in the interest of regulatory efficiency, a temporary stay of these proceedings is warranted.


WHEREFORE, the Parties jointly request that further proceedings in this Docket be temporarily stayed until the issues in TPUC Docket 18-00038 are resolved.

Submitted this 1st day of August, 2018.

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