

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 18, 2019

IN RE:

**FILING OF KINGSPORT POWER COMPANY
D/B/A AEP APPALACHIAN POWER IN
RESPONSE TO TENNESSEE PUBLIC UTILITY
COMMISSION INVESTIGATION OF IMPACT
OF FEDERAL TAX REFORM ON THE
REVENUE REQUIREMENTS OF KGPCO**

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**DOCKET NO.
18-00038**

ORDER APPROVING STIPULATION AND SETTLEMENT

This matter came before Chair Robin L. Morrison, Vice Chair Kenneth C. Hill, and Commissioner Herbert H. Hilliard of the Tennessee Public Utility Commission (“Commission” or “TPUC”) at the regularly scheduled Commission Conference held on January 22, 2019, for consideration of the *Stipulation and Settlement Agreement* (“*Settlement Agreement*”) filed by Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport Power” or “KPC”), East Tennessee Energy Consumers (“ETEC”), and the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”), the parties in this matter, filed with the Commission on December 7, 2018.

BACKGROUND

Generally, the statutory rate for federal income tax expense is included as a component of the revenue requirement when utility rates are set by the Commission. On December 22, 2017, new federal tax reductions, including those for businesses, were signed into law. The primary business tax reduction impacting utilities and utility rates was the lowering of the corporate tax rate from 35% to 21%, which will significantly reduce income tax expenses that are currently recovered in

utility service rates. The lower tax rates will also impact the future tax liability for utilities that have deferred income taxes because the tax deferrals were included in ratemaking calculations at 35% when in fact the rate is now 21%; this lower tax liability is not reflected in existing rates because future recovery in previous proceedings was based upon a 35% tax rate.¹

Income taxes and deferred tax liabilities are major components included in establishing rates for all corporate investor-owned utilities. Many public utility commissions, including the Tennessee Public Utility Commission, require depreciation methods to recognize depreciation benefits over the life of the asset placed into service.² The Internal Revenue Service (“IRS”), however, allows businesses, including utilities, to recover investment at a faster rate by utilizing accelerated depreciation methods. Accelerated depreciation lowers a utility’s income for federal tax purposes in the early years when an asset is placed in service thereby reducing income taxes owed in those early years. These tax savings are then recorded as deferred income taxes and returned to ratepayers in future years to avoid utility windfall profits.³

Absent an adjustment, utilities’ service rates would be unreflective of a significantly lower cost. This Commission and other state commissions have in the past allowed for deferring expenses and/or revenues until such time as a final decision can be made as to (1) the proper amounts to be recovered by the utility or returned to ratepayers and (2) the method by which amounts are recovered by utilities or returned to ratepayers.⁴

¹ See *In re: Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on the Public Utility Revenue Requirement*, Docket No. 18-00001, *Order Opening an Investigation and Requiring Deferred Accounting Treatment*, pp. 2-3 (February 6, 2018) (hereinafter *TPUC 2018 Tax Reform Order*).

² *TPUC 2018 Tax Reform Order*, pp. 2-3 (February 6, 2018).

³ *Id.* at 2.

⁴ *Id.* at 2-3 (citing *In re: Application to Lower Rates and Charges for Any Refund Due to Customers of Centerpoint Energy Resources Corporation*, Oklahoma Corporation Commission, No. PUD 201700568, *Order*, (January 9, 2018); *Kentucky Industrial Utility Customers v. Kentucky Utilities Company, et al.* Kentucky Public Service Commission, Case No. 2017-00477, *Order* (December 27, 2017); *In Re: Tax Reform Act of 1986*, Mass. Dept. of Public Utilities, *Order*, D.P.U. 87-21-A, (June 1, 1987); *Pennsylvania Public Utility Commission v. ALLTEL Pennsylvania, Inc.* M-860105, *Order Prescribing Temporary Rate Reductions in Response to the Tax Reform Act of 1986*, (June 10, 1987)).

On January 16, 2018, the Commission ordered Kingsport to immediately apply deferred accounting treatment with respect to the impact of the lowering of the federal corporate income tax (“FIT”) rate resulting from the 2017 Tax Cuts and Jobs Act, Pub. L. No. 115-97 (“2017 Tax Act”).⁵ The Commission also ordered Kingsport to provide no later than March 31, 2018, the amounts deferred, as well as a proposal to reduce rates or otherwise make adjustments to account for the computed tax benefits. The Commission specifically required Kingsport to:

1. Track and accumulate monthly in a deferred account the portion of its revenue representing the difference between the cost of service approved by the Commission in its most recent rate case and the cost of service that would have resulted had the provision for federal income taxes been based on 21% rather than 35%; and
2. Calculate the excess deferred tax reserve caused by the reduction in the corporate federal income tax rate recognize as a deferred liability the estimated reduction of the utilities’ revenue requirement resulting from the 2017 Tax Act; and
3. Calculate and defer any other tax effects resulting from the 2017 Tax Act on revenue requirement that are not included in the preceding calculations.⁶

In accordance with the Commission’s order, Kingsport calculated and filed the annual tax savings that would have resulted had the lower tax rate been used to compute the cost of service approved by the Commission in Kingsport’s last rate case.⁷ Kingsport also calculated and filed the amount of excess Accumulated Deferred Income Tax (“ADIT”) reserves generated from the reduction in the FIT rate for future tax periods. Kingsport proposed to return the calculated tax savings and excess reserves to customers through an adjustment rider.⁸

ETEC and the Consumer Advocate intervened and both engaged in discovery and filed testimony. Subsequently, the parties filed the *Settlement Agreement* on December 7, 2018, followed by a joint motion for expedited consideration of the agreement filed on December 12, 2018.

⁵ *TPUC 2018 Tax Reform Order*, p. 3 (February 6, 2018).

⁶ *Id.* at 4-5.

⁷ *In re: 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* (March 29, 2018).

⁸ *Id.* at 4-5.

The proposed *Settlement Agreement* identifies three categories of tax calculations: (1) annual tax savings, (2) protected excess ADIT reserves, and (3) unprotected excess ADIT reserves. The *Settlement Agreement* also provides for a plan to return these tax benefits to ratepayers through the Federal Tax Rate Adjustment Rider (“FTRAR”).

First is the annual recurring tax savings resulting from the reduction in the FIT rate from 35% to 21%. The annual tax savings are further categorized into two subcategories: historic tax savings and prospective tax savings.⁹ Historic tax savings relate to the period from when the new tax rate first became effective (January 1, 2018) to the date these savings are flowed back to customers. The *Settlement Agreement* identifies January 1, 2018 through December 31, 2018 as the historic tax savings period and \$967,255 as the historic tax savings amount. The *Settlement Agreement* provides that the historic tax savings shall be refunded to Kingsport’s customers over the one-year period of January 1, 2019 through December 31, 2019 via the FTRAR.¹⁰

The prospective tax savings are ongoing savings beyond the historical period and will recur annually until new base rates are determined which reflect the reduction in the FIT rate in the calculation of Kingsport’s authorized cost of service. The *Settlement Agreement* identifies the prospective tax savings amount as \$967,255 annually.¹¹ These savings will be flowed back to customers using the FTRAR starting in 2019 and continuing each year thereafter until the Commission sets new base rates which reflect these savings.

The second category of tax benefits is the protected excess ADIT reserves. Protected excess ADIT relates to tax reserves accumulated on the books to pay the IRS in the future for favorable accelerated depreciation amounts taken to lower the taxes owed in the current period (i.e., timing differences generated by tax depreciation methods for capital assets which differ from regulatory

⁹ *Stipulation and Settlement Agreement*, pp. 6-7 (December 7, 2018).

¹⁰ *Id.* at 7.

¹¹ *Id.*

depreciation methods for those same assets). Since the 2017 Tax Act reduced the FIT rate going forward, the amount owed to the IRS in the future has been reduced. This results in excess ADIT reserves that should be refunded to ratepayers. Specifically, Kingsport employed the Average Rate Assumption Method (“ARAM”) to determine a twenty-one year amortization period for a computed protected excess ADIT reserve balance of \$9,978,188. This results in an annual amortization amount of \$475,152.¹² The *Settlement Agreement* provides that this amount shall be flowed back to ratepayers annually over the amortization period through the FTRAR.

The third category of tax benefits is the unprotected excess ADIT reserves. These reserves are accumulated on the books to pay the IRS in the future for favorable tax treatment of qualifying transactions that reduce taxes owed in the current period, but which will be owed in future tax periods (e.g., timing differences not deemed “protected” by the IRS). The *Settlement Agreement* computes the unprotected excess ADIT reserves as \$3,936,829. The *Settlement Agreement* proposes to use \$1,504,282 of the unprotected excess ADIT reserves to offset its deferred costs primarily associated with the 2013 winter storm.¹³ This offset eliminates the need to recover these storm damage costs separately from ratepayers. Under the *Settlement Agreement*, Kingsport will use the remaining portion of unprotected excess ADIT of \$2,432,547 to partially offset its uncollected fuel and purchased power balance of \$5,408,840.¹⁴ This offset will reduce the amount of fuel and purchased power to be collected from ratepayers in the future.

THE HEARING

The Hearing on the *Settlement Agreement* was held before the voting panel assigned to this docket on January 22, 2019, as noticed by the Commission on January 11, 2019. Participating in the Hearing were:

¹² *Id.* at 8.

¹³ *Id.* at 9-10.

¹⁴ *Id.* at 10.

Kingsport Power Company – William C. Bovender, Esq., Hunter, Smith & Davis, LLP, P.O. Box 3740, Kingsport, Tennessee 37655.

Consumer Advocate Unit – Karen Stachowshi, Esq., Post Office Box 20207, Nashville, Tennessee 37202-4015.

East Tennessee Energy Consumers – Michael J. Quinan, Esq., Christian & Barton, LLP, 909 East Main St., Suite 1200, Richmond, Virginia 23219

The parties spoke in favor of approval of the *Settlement Agreement*. Mr. William K. Castle provided testimony on behalf of Kingsport in support of the *Settlement Agreement*. Mr. David Dittmore of the Consumer Advocate Unit was present and available for any questions of the panel or Commission Staff. The parties waived cross-examination. The public was invited to provide comment. No one sought recognition to speak other than the parties to the docket.

FINDINGS AND CONCLUSIONS

After the hearing and upon consideration of the record and the *Settlement Agreement*, the panel found the parties have come to an agreement that will ensure ratepayers receive the benefits intended from the 2017 Tax Act in a timely and reasonable manner. The panel therefore voted unanimously to approve the *Settlement Agreement* as filed.

IT IS THEREFORE ORDERED THAT:

1. The *Stipulation and Settlement Agreement* filed on December 7, 2018, and attached herein as Exhibit A, is approved.
2. Any person who is aggrieved by the Commission's decision in this matter may file a Petition for Reconsideration with the Commission within fifteen (15) days from the date of this Order.
3. Any person who is aggrieved by the Commission's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

**Chair Robin L. Morrison, Vice Chair Kenneth C. Hill, and Commissioner Herbert H. Hilliard
concur.**

ATTEST:



Earl R. Taylor, Executive Director

EXHIBIT A

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

IN RE:)	
)	
FILING OF KINGSPORT POWER)	DOCKET NO.
COMPANY d/b/a AEP)	18-00038
APPALACHIAN POWER ("KgPCo"))	
IN RESPONSE TO THE TENNESSEE)	
PUBLIC UTILITY COMMISSION)	
INVESTIGATION OF IMPACT OF)	
FEDERAL TAX REFORM ON THE)	
REVENUE REQUIREMENT OF KgPCo)	

STIPULATION AND SETTLEMENT AGREEMENT

In compromise and settlement of this matter, Tennessee Public Utility Commission (TPUC or Commission) Docket No. 18-00038, Herbert H. Slatery III, the Tennessee Attorney General and Reporter, by and through the Consumer Advocate Unit (Consumer Advocate), Kingsport Power Company d/b/a AEP Appalachian Power (Kingsport), and the East Tennessee Energy Consumers (ETEC) respectfully submit this Stipulation and Settlement Agreement (Settlement Agreement). Subject to the TPUC's approval, the Consumer Advocate, Kingsport and ETEC (individually, a Party and collectively, the Parties) stipulate and agree to the following:

BACKGROUND

1. On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act (TCJA). Among other provisions, the TCJA lowers the federal corporate tax rate from 35% to 21%.¹

¹ Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018. Pub. L. No. 116-97, 133 Stat. 2054 (Dec. 22, 2017).

2. In the public utility context, regulated utilities will realize significantly reduced federal income tax expense.² As ratepayers bear the costs of tax expense, rates should be reduced by a corresponding amount.³ Further, as a result of the lower federal tax rate, utilities will experience excess deferred tax reserves.⁴ These reserves accumulate funds for the future payment of federal income tax. Effective with implementation of a lower federal income tax rate, a portion of these future obligations, paid by ratepayers, were effectively cancelled. Utilities owe ratepayers refunds for these excess reserves.⁵

3. On February 6, 2018, the Commission issued its Order in TPUC Docket No. 18-00001 as a result of the TCJA.⁶ The Order required Tennessee's five largest public utilities – Tennessee American Water Company, Piedmont Natural Gas, Kingsport, Atmos Energy Corporation, and Chattanooga Gas Company – to file reports with the Commission by March 31, 2018.⁷

4. Further, each of these utilities was directed to include three subject areas in the reports: (a) the portion of revenue representing the difference between the cost of service in the utility's most recent rate case and the cost of service if the tax rate had been 21% rather than 35%; (b) the excess deferred tax reserve caused by the reduction in the corporate tax rate; and (c) any

² *Order Opening an Investigation and Requiring Deferred Accounting Treatment, In Re: Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on the Public Utility Revenue Requirements*, TPUC Docket No. 18-00001, pgs. 2, 4 (February 6, 2018).

³ *Consumer Advocate's Petition to Intervene, In Re: Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on the Public Utility Revenue Requirements*, TPUC Docket No. 18-00001, pg. 2, ¶3 (March 13, 2018).

⁴ Commission's Order, TPUC Docket No. 18-00001, pg. 4.

⁵ *Consumer Advocate's Petition to Intervene, In Re: Tennessee Public Utility Commission Investigation of Impacts of Federal Tax Reform on the Public Utility Revenue Requirements*, TPUC Docket No. 18-00001, pg. 2, ¶3 (March 13, 2018).

⁶ This Docket was first set on the TPUC Conference Agenda on January 16, 2018. During this January Conference, the TPUC voted to open an investigation into the impacts of the recent federal tax reform and directed action by both utilities and the TPUC staff. Transcript, pp. 8-12. The Commission issued its written order on February 6, 2018.

⁷ Commission's Order, TPUC Docket No. 18-00001, pgs. 5-6.

other tax effects experienced by the utility resulting from the TCJA.⁸

5. On March 29, 2018, Kingsport filed its report in Response to the Commission's Order in TPUC Docket No. 18-00001 (Response).⁹ In response to Kingsport's filing, the Commission opened the present TPUC Docket 18-00038 separate from the original docket and separate from the other utilities previously named in the Commission's Order.¹⁰

6. On April 24, 2018, the Consumer Advocate filed a Petition to Intervene in this Docket.¹¹ The intervention petition was subsequently granted without objection.¹²

7. On August 3, 2018, ETEC filed a Petition to Intervene in this Docket.¹³ The intervention petition was subsequently granted without objection.¹⁴

8. On September 25, 2018, Kingsport's witness William K. Castle filed testimony in support of Kingsport's Response to the Commission's Order.¹⁵ In his testimony, Mr. Castle stated the following:

(a) Kingsport proposes "to credit customers with tax savings by reducing or

⁸ Commission's Order, TPUC Docket No. 18-00001, pgs. 4-5.

⁹ *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 (March 29, 2018).

¹⁰ E-mail from Kelly Cashman-Grams, General Counsel, Tenn. Public Utility Comm. to Roberta Davis, Paralegal, Hunter, Smith & Davis, LLP (March 29, 2018, 1:41PM CT). In this e-mail, Ms. Cashman-Grams advised that compliance filings in response to TPUC Docket No. 18-00001 of each utility should be made in a separate docket from TPUC Docket No. 18-00001.

¹¹ *Consumer Advocate's Petition to Intervene, In Re: 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 (April 24, 2018).

¹² *Order Granting the Petition to Intervene Filed by the Consumer Advocate*, TPUC Docket No. 18-00038 (June 11, 2018).

¹³ *Petition to Intervene of East Tennessee Energy Consumers, In Re: 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. 18-00001 (August 3, 2018).

¹⁴ *Order Granting the Petition to Intervene Filed by the East Tennessee Energy Consumers*, TPUC Docket No. 18-00038 (September 6, 2018).

¹⁵ *Direct Testimony of William K. Castle, In Re: 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 (September 25, 2018).

eliminating uncollected regulatory asset balances”¹⁶;

(b) Kingsport proposes to credit customers with tax savings via a credit rider¹⁷ -- its Proposed Federal Tax Rate Adjustment Rider¹⁸; and

(c) Kingsport proposes a 10-year amortization period for any remaining Excess Unprotected Accumulated Deferred Federal Income Tax (ADFIT) balance, which is sometimes referred to herein as ADIT.¹⁹

9. On October 24, 2018, the Consumer Advocate’s witness David N. Dittmore filed testimony.²⁰ Mr. Dittmore supports Kingsport’s Proposed Federal Tax Rate Adjustment Rider²¹ and its proposal to eliminate the outstanding balance associated with Storm Damage Costs and reduce the balance of Kingsport’s Uncollected Fuel and Purchased Power.²² Although recognizing the consumer-friendly nature of Kingsport’s proposal, Mr. Dittmore recommended some changes, as follows:

(a) Accrued Income Tax Expenses Savings should flow back to ratepayers for the period beginning January 1, 2018 through the effective date of the proposed Federal Tax Rate Adjustment Rider (FTRAR)²³;

(b) Reduction of the amount of Excess Unprotected ADIT by \$621,690 to address book/tax timing differences associated with Operating Expense items that are

¹⁶ Castle Direct Testimony, pg. 2, lines 17-18. The regulatory asset balances Kingsport seeks to offset include the storm damage as set out in Docket No. 17-00143 and uncollected fuel and purchased power balances. Castle Direct Testimony, Exhibit No. 1, pgs. 2-3, ¶¶ 4-6.

¹⁷ Castle Direct Testimony, pg. 2, lines 18-21. *See also*, Castle Direct Testimony, Exhibit No. 1, pg. 1, ¶ 1 and pgs. 3-5, ¶¶ 7-11.

¹⁸ Castle Direct Testimony, Exhibit No. 2.

¹⁹ Castle Direct Testimony, pg. 3, lines 12-13.

²⁰ *Direct Testimony of David Dittmore, In Re: 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 (October 24, 2018).

²¹ Dittmore Direct Testimony, pg. 9, line 11 – pg. 10, line 2.

²² Dittmore Direct Testimony, pg. 10, lines 15-20 and pg. 14, lines 16-20.

²³ Dittmore Direct Testimony, pg. 10, lines 6-10 and pg. 14, lines 1-5.

typically removed from the revenue requirement²⁴; and

(c) Requirement of an annual reconciliation filing for the Proposed FTRAR.²⁵

10. On October 24, 2018, ETEC's witness Stephen J. Baron filed testimony summarizing ETEC's support for Kingsport's proposal as follows:

the Commission approve the plan, as filed, if it is approved in its entirety. This would include the proposed: 1) elimination of the Storm Damage Deferral, 2) partial elimination of the Fuel and Purchased Power Adjustment Rider ('FPPAR'), 3) allocation of current tax savings and protected EADIT to rate classes, 4) allocation of the deferred regulatory liability to rate classes for the period January 1, 2018, through the implementation of the proposed Federal Tax Rate Adjustment Rider.²⁶

11. On December 7, 2018, the Parties filed this Stipulation and Settlement Agreement for consideration by the TPUC.

12. The Parties to this Settlement Agreement have engaged in discovery and have undertaken discussions to resolve all disputed issues in this case. As a result of the information obtained during discovery and the discussions between the Parties, and for the purpose of avoiding further litigation and resolving this matter upon acceptable terms, the Parties have reached this Settlement Agreement, subject to the TPUC's approval.

SETTLEMENT TERMS

Subject to the TPUC's approval, in furtherance of this Settlement Agreement, the Parties have agreed to the settlement terms set forth below and in the FTRAR attached as Exhibit A:

²⁴ Dittmore Direct Testimony, pg. 11, line 14 – pg. 12, line 11.

²⁵ Dittmore Direct Testimony, pg. 16, lines 11-16.

²⁶ *Direct Testimony of Stephen J. Barron, In Re: 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, pg. 8, lines 12-17 (October 24, 2018). While agreeing to the overall plan by Kingsport, Mr. Baron does not necessarily agree with the allocation of certain reductions and credits to rate classes on a standalone basis. However, Mr. Baron stated that Kingsport's "proposal, taken as a whole, is reasonable and will provide fair treatment to Kingsport's customers." *Id.* at pg. 8, lines 7-10.

REDUCTION IN FEDERAL INCOME TAX RATE

13. Kingsport is tracking and accumulating “monthly in a deferred account the portion of its revenue representing the difference between the cost of service approved by the Commission in its most recent rate case (Docket No. 16-0001) and the cost of service that would have resulted had the provision for federal income taxes (FIT) been based on 21% rather than 35%.”²⁷ There are two distinct periods involved with the reduction for FIT - Historic Period and Prospective Period.²⁸

14. The **Historic Period** is the savings from the date the new tax rate became effective (January 1, 2018) until the date these savings are flowed back to customers.²⁹

- a. Mr. Dittmore calculated the accrued FIT savings for the Historic Period of January 1, 2018 through December 31, 2018 which is \$967,255.³⁰
- b. The accrued FIT savings for the Historic Period shall be flowed back to Kingsport’s customers over the one-year period of January 1, 2019 - December 31, 2019 using the FTRAR.³¹

15. The **Prospective Period** is the ongoing savings beyond the Historic Period and until new base rates are set reflecting the reduction for FIT.³²

²⁷ Castle Direct Testimony, Exhibit No. 1, pgs. 1-2, ¶ 1.

²⁸ Dittmore Direct Testimony, pg. 3, lines 9-12.

²⁹ Dittmore Direct Testimony, pg. 3, lines 9-11.

³⁰ Consumer Advocate’s Response to Kingsport’s Discovery Request No. 1-1, Attachment DND Workpaper 18-00038, Table DND-1 Corrected. Kingsport set a period of January 1, 2018 – September 30, 2018 and estimated the amount to be approximately \$678,287. Castle Direct Testimony, Exhibit No. 1, pg. 4, ¶ 9.

³¹ Kingsport proposed a one-year period to flow back these savings to Customers, which was October 1, 2018 – September 30, 2019. Castle Direct Testimony, Exhibit No. 1, pg. 4, ¶ 9.

³² Dittmore Direct Testimony, pg. 3, lines 9-12.

a. Mr. Dittmore calculated the annual on-going accrued FIT savings which is \$967,255.³³

b. The annual accrued FIT savings for the Prospective Period of January 1, 2019 – December 31, 2019 shall also be flowed back to Kingsport's customers over the one-year period of January 1, 2019 - December 31, 2019 through its FTRAR.³⁴

c. ~~Using the FTRAR, Kingsport will continue to flow back the annual accrued FIT~~ savings to its customers each year thereafter until the Commission sets new base rates reflecting these savings.³⁵

16. As described above, Kingsport will flow back annual accrued FIT savings due to the decrease in the reduction in the tax rate from 35% to 21% through the FTRAR as set out in Table 1 below.

Table 1: Flow Back of the Annual Accrued FIT Savings.

Item	January 1, 2019 – December 31, 2019	January 1* December 31**
Historical Period or January 1, 2018 – December 31, 2018	\$ (967,255)	—
Prospective Period or Ongoing Annual FIT Savings	\$ (967,255)	\$ (967,255)
TOTAL	\$ (1,934,510)	\$ (967,255)

*Savings flow back every year starting in 2020 and thereafter until Commission sets new base rates reflecting these savings.

³³ Consumer Advocate's Response to Kingsport's Discovery Request No. 1-1, Attachment DND Workpaper 18-00038, Table DND-1 Corrected. Kingsport set the period of January 1, 2018 – September 30, 2018 and estimated the amount to be approximately \$678,287. Castle Direct Testimony, Exhibit No. 1, pg. 4, ¶ 9.

³⁴ In Kingsport's response, the one year proposed period to flow back these savings to customers was October 1, 2018 – September 30, 2019. Castle Direct Testimony, Exhibit No. 1, pg. 4, ¶ 9.

³⁵ Castle Direct Testimony, Exhibit No. 1, pg. 5, ¶ 11.

EXCESS PROTECTED ACCUMULATED DEFERRED INCOME TAX

17. Kingsport's Excess ADIT reserve caused by the reduction in the corporate FIT rate and recognized as a deferred liability as of December 31, 2017 is estimated³⁶ to amount to \$13,915,017.³⁷ This estimated amount comprises Excess Protected ADIT amounting to \$9,978,188 and Excess Unprotected ADIT amounting to \$3,936,829.³⁸

18. To avoid a normalization violation under the Internal Revenue Code, Excess Protected ADIT must be amortized over periods prescribed in the tax code.³⁹ For Kingsport's Excess Protected ADIT, the amortization period is 21 years.⁴⁰ The amortization over 21 years of the Excess Protected ADIT of \$9,978,188 results in an additional estimated average annual revenue requirement reduction of \$475,152.⁴¹ Kingsport is utilizing the Average Rate Assumption Method (ARAM), thus, the annual amortization will vary each year. Kingsport began amortization of the Excess Protected ADIT on January 1, 2018, resulting in a projected provision for refund of \$475,152 at December 31, 2018.⁴² Subsequent revenue reductions associated with Excess Protected ADIT will be flowed back to Kingsport's customers through the FTRAR.

³⁶ Kingsport explains that the amounts of Excess ADIT are subject to change until such time that it files its tax returns. Castle Direct Testimony, Exhibit No. 1, pg. 2, ¶ 2.

³⁷ These estimated amounts differ from the estimates in Kingsport's Response to TPUC and Mr. Castle's Direct Testimony, pg. 3, lines 1-5, due to a change in the revenue basis factor from 1.266 to 1.353821. The amounts in this Table also take into account Mr. Dittmore's revision to the Excess Unprotected ADFIT. Dittmore Direct Testimony, pg. 12, lines 1-11. Mr. Dittmore's Workpapers provide the calculations using the 1.353821 revenue basis factor and his revision to the Excess Unprotected ADIT. Consumer Advocate's Response to Kingsport's Discovery Request No. 1-1, Attachment DND Workpaper 18-00038, Unprotected Proforma Worksheet.

³⁸ Castle Direct Testimony, Exhibit No. 1, pg. 2, ¶ 2. Mr. Dittmore proposed a revision to the amount of Excess Unprotected ADIT which will be discussed in more detail in Paragraph 20 of this Settlement Agreement.

³⁹ Castle Direct Testimony, Exhibit No. 1, pg. 3, ¶ 7.

⁴⁰ Castle Direct Testimony, Exhibit No. 1, pgs. 4-5, ¶ 8.

⁴¹ These estimated amounts differ from the estimates in Kingsport's Response to TPUC and Mr. Castle's Direct Testimony, pg. 3, lines 1-5, due to a change in the revenue basis factor from 1.266 to 1.353821. The amounts in this Table also take into account Mr. Dittmore's revision to the Excess Unprotected ADIT. Dittmore Direct Testimony, pg. 12, lines 1-11. Mr. Dittmore's Workpapers provide the calculations using the 1.353821 revenue basis factor and his revision to the Excess Protected ADIT. Consumer Advocate's Response to Kingsport's Discovery Request No. 1-1, Attachment DND Workpaper 18-00038, Unprotected Proforma Worksheet.

⁴² The agreed upon treatment of this 2018 value will be discussed in Paragraph 21 of this Settlement Agreement.

19. Therefore, through the FTRAR, Kingsport will flow back to customers both (a) the annual accrued FIT savings due to the decrease in the reduction in the tax rate from 35% to 21% and (b) the revenue requirement reduction from the amortization of the Excess Protected ADIT as set out in Table 2 below.

Table 2: Annual Flow Back of both the Accrued FIT Savings and the Remaining Excess Protected ADIT amortized over 20 years.

Item	January 1, 2019 – December 31, 2019	January 1 st – December 31 st *
Historical Period or January 1, 2018 – December 31, 2018	\$ (967,255)	
Prospective Period or Ongoing Annual FIT Savings	\$ (967,255)	\$ (967,255)
Excess Protected ADIT (Annual)	\$ (475,152)	\$ (475,152)
TOTAL	\$ (2,409,662)	\$ (1,442,407)

*Savings flow back every year starting in 2020 and thereafter until Commission sets new base rates reflecting these savings. As noted earlier, savings amount will vary each year using the ARAM.

EXCESS UNPROTECTED ACCUMULATED DEFERRED INCOME TAX

20. As explained above in Paragraph 17, Kingsport's Excess Unprotected ADIT is estimated to amount to \$3,936,829. To flow-back TCJA benefits to Customers as quickly as possible, Kingsport will use this Excess Unprotected ADIT amount of \$3,936,829 to offset the following two regulatory asset balances:

- a. **Storm Damage Costs.**⁴³ Kingsport will use \$1,504,282 of the Excess Unprotected ADIT to offset its deferred costs primarily associated with the 2013 winter storm.⁴⁴

⁴³ Castle Direct Testimony, Exhibit No. 1, pgs. 2-3, ¶ 4.

⁴⁴ In Kingsport's Petition in TPUC Docket No. 17-00143, Kingsport requested recovery in the amount of \$1,505,354; however, the Consumer Advocate adjusted the storm damage costs to remove costs associated with employee recognition amounting to \$1,072. TPUC Docket No. 17-00143, Dittmore Direct Testimony, pg. 4, lines 8-22. Kingsport did not file rebuttal testimony in TPUC Docket No. 17-00143.

This offset eliminates the need to recover these storm damage costs through the rider proposed in TPUC Docket No. 17-00143 which benefits both Kingsport and its Customers.⁴⁵

- b. **Uncollected Fuel and Purchased Power.**⁴⁶ Kingsport will use the remaining Excess Unprotected ADIT balance of \$2,432,547 to partially offset its Uncollected Fuel and Purchased Power balance, which as of July 31, 2018, totaled \$5,408,840.⁴⁷

PROVISION FOR REFUND RELATED TO 2018 EXCESS PROTECTED ADIT

21. As described in paragraph 18, Kingsport projects a provision for refund related to the amortization of Excess Protected ADIT of \$475,152 on December 31, 2018. Kingsport will use this balance to further reduce its Uncollected Fuel and Purchased Power balance.

TRUE-UP OF FEDERAL TAX RATE ADJUSTMENT RIDER

22. Kingsport agrees to implement the FTRAR “with annual true-up filings and rate adjustments as necessary until [its] next base rate case. Truing up the actual credits to the Excess Protected ADIT schedule is necessary to avoid a normalization violation.”⁴⁸

23. Kingsport will reflect the actual amortization amounts of Excess Protected ADIT in its true-up calculations.

24. Kingsport will file its true-up for the FTRAR by no later than October 1st of each year, beginning in 2019.

⁴⁵ In testimony by Mr. Dittmore, the Consumer Advocate also recognized that the storm damage is a one-time expense that was incurred due to an act of nature. Dittmore Direct Testimony, pg. 10, lines 19-20.

⁴⁶ Castle Direct Testimony, Exhibit No. 1, pg. 3, ¶ 5.

⁴⁷ Kingsport’s Response to CPAD 1-18.

⁴⁸ Castle Direct Testimony, Exhibit No. 1, pg. 4, ¶ 8.

25. Beginning in 2020, Kingsport will adjust FTRAR rates on January 1st of each year based on its projection of the true-up balance at December 31st of the prior year, which will reflect actual amortization amounts of Excess Protected ADIT through June 30th of the prior year.

26. Kingsport will amortize the projected true-up balance over each subsequent 12-month period.

TRANSPARENCY ON UTILITY BILLING

27. Kingsport agrees to clearly and conspicuously state on each bill sent to customers the FTRAR as a separate line entitled “Federal Tax Rate Adjustment Rider”. The line item will be included on customer bills beginning with the implementation of the FTRAR and until the Commission sets new rates reflecting the savings from the reduction in FIT due to the TCJA.

ATTORNEYS’ FEES

28. Kingsport agrees not to separately seek to recover the specific 2018 outside attorneys’ fees or costs associated with any of its filings related to this Docket; provided, however, that nothing in this paragraph precludes Kingsport from reflecting ordinary and necessary test year outside legal fees or costs related to TPUC proceedings in future base rates.

GENERAL TERMS

29. All pre-filed discovery (formal and informal), testimony and exhibits of the Parties will be introduced into evidence without objection, and the Parties waive their right to cross-examine all witnesses with respect to all such pre-filed testimony. If, however, questions should be asked by any person, including a Commissioner, the Parties may present testimony and exhibits to respond to such questions and may cross-examine any witnesses with respect to such testimony and exhibits. The Parties would ask to permit any out of town witnesses to be available by telephone to reduce the costs associated with such

appearance.

30. After the filing of this Settlement Agreement, the Parties agree to support this Settlement Agreement before the TPUC and in any hearing, proposed order, or brief conducted or filed in this Docket. The provisions of this Settlement Agreement are agreements reached in compromise and solely for the purpose of settlement of this Docket. The provisions in this Settlement Agreement do not necessarily reflect the positions asserted by any Party. None of the Parties to this Settlement Agreement shall be deemed to have acquiesced in or agreed to any ratemaking or accounting methodology or procedural principle.

31. This Settlement Agreement shall not have any precedential effect in any future proceeding or be binding on any of the Parties in this or any other jurisdiction except to the limited extent necessary to enforcement and implementation of the provisions hereof.

32. The Parties agree and request the TPUC to order that the settlement of any issue pursuant to this Settlement Agreement shall not be cited by the Parties or any other entity as binding precedent in any other proceeding before the TPUC, or any court, state or federal, except to the limited extent necessary to implement the provisions hereof and for the limited purpose of enforcement should it become necessary.

33. The terms of this Settlement Agreement have resulted from extensive negotiations between the signatories and the terms hereof are interdependent. The Parties jointly recommend that the TPUC issue an order adopting this Settlement Agreement in its entirety without modification.

34. If the TPUC does not accept the settlement in whole, the Parties are not bound

by any position or term set forth in this Settlement Agreement. In the event that the TPUC does not approve this Settlement Agreement in its entirety, each of the signatories to this Settlement Agreement retains the right to terminate this Settlement Agreement by giving notice of the exercise of such right within 15 business days of the date of such action by the TPUC; provided, however, that the signatories to this Settlement Agreement could, by unanimous consent, elect to modify this Settlement Agreement to address any modification required by, or issues raised by, the TPUC within the same time frame. Should this Settlement Agreement terminate, it would be considered void and have no binding precedential effect, and the signatories to this Settlement Agreement would reserve their rights to fully participate in all relevant proceedings notwithstanding their agreement to the terms of this Settlement Agreement.

35. By agreeing to this Settlement Agreement, no Party waives any right to continue litigating this matter should this Settlement Agreement not be approved by the TPUC in whole or in part.

36. No provision of this Settlement Agreement shall be deemed an admission of any Party. No provision of this Settlement Agreement shall be deemed a waiver of any position asserted by a Party in this Docket or any other docket.

37. The Consumer Advocate's agreement to this Settlement Agreement is expressly premised upon the truthfulness, accuracy and completeness of the information provided by Kingsport to the TPUC and the Consumer Advocate throughout the course of this Docket, which information was relied upon by the Consumer Advocate in

negotiating and agreeing to the terms and conditions of this Settlement Agreement.

38. The acceptance of this Settlement Agreement by the Attorney General shall not be deemed approval by the Attorney General of any of Kingsport's acts or practices.

39. Each signatory to this Settlement Agreement represents and warrants that it/he/she has informed, advised and otherwise consulted with the Party for whom it/he/she signs regarding the contents and significance of this Settlement Agreement and has obtained authority to sign on behalf of such Party, and based upon those communications, each signatory represents and warrants that it/he/she is authorized to execute this Settlement Agreement on behalf of its/his/her respecting Party.

40. This Settlement Agreement shall be governed by and construed under the laws of the State of Tennessee, Tennessee choice of law rules notwithstanding.

41. Nothing herein limits or alters the Sovereign Immunity of the State of Tennessee or any of its entities or subdivisions.

42. Kingsport agrees that, once approved, this Settlement Agreement subjects it to the jurisdiction of and for enforcement by the TPUC and other state tribunals pursuant to applicable State law.

43. The Parties agree that this Settlement Agreement will become effective upon oral approval of the TPUC, and hereby waive any right to appeal the TPUC's order approving the Settlement Agreement.

The foregoing is agreed and stipulated to this _____ day of _____, 2018.

[Parties' signature pages follow – remainder of page intentionally left blank]

Stipulation and Settlement Agreement
Tennessee Public Utility Commission Docket No. 18-00038
Kingsport Power Company d/b/a AEP Appalachian Power Signature Page

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

HAVE SEEN AND AGREED.

BY: William C. Bovender by permission (KHS)
WILLIAM C. BOVENDER, Esq. (BPR # 000751)
JOSPEPH B. HARVEY, Esq. (BPR # 028891)
Hunter, Smith & Davis, LLP
P.O. Box 3740
Kingsport, TN 37655
Tel: 423.378.8858
Email: bovender@hdsdlaw.com

[additional signature page follows – remainder of page intentionally left blank]

Stipulation and Settlement Agreement
Tennessee Public Utility Commission Docket No. 18-00038
East Tennessee Energy Consumers Signature Page

EAST TENNESSEE ENERGY CONSUMERS.

HAVE SEEN AND AGREED.

BY: Michael J. Quinan by permission (KNS)
MICHAEL J. QUINAN, Esq. (BPR # 11104)
Christian & Barton, LLP
909 East Main St., Suite 1200
Richmond, VA 23219
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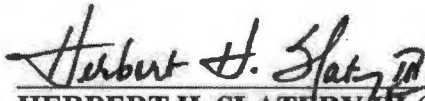
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Stipulation and Settlement Agreement
Tennessee Public Utility Commission Docket No. 18-00038
Attorney General's Signature Page

FINANCIAL DIVISION, CONSUMER ADVOCATE Unit

HAVE SEEN AND AGREED.

By:



HERBERT H. SLATTERY III (BPR # 09077)
Attorney General and Reporter
State of Tennessee



KAREN H. STACHOWSKI (BPR # 019607)
Assistant Attorney General
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KINGSPORT POWER COMPANY
d/b/a AEP Appalachian Power
Kingsport, Tennessee

First Revised Sheet Number 2-24
T.R.A. Tariff Number 2

FEDERAL TAX RATE ADJUSTMENT RIDER

Kingsport Power is authorized under the terms of this rider to apply a credit or charge to all customer bills rendered by the Company to reflect the impacts of changes to the Federal Corporate Income Tax Rate not included in base rate or other tariff schedules.

1. Applicability

Credits or charges resulting from changes in the Federal Income Tax Rate not otherwise incorporated in rate schedules in this tariff shall be applied to all Distribution function base rates in the form of a percentage credit or charge to those rates. The credit or charge will apply to the Service, Energy, Demand, and Lamp charge components of the distribution portion of the schedules. The credit or charge is not applicable to Rider schedules in this tariff.

2. Determination of Credit or Charge Percentage

The aggregate credit or charge amounts shall be determined by the Tennessee Public Utility Commission. The percentage credit or charge will remain in place until modified or discontinued by the Tennessee Public Utility Commission.

3. Notification of Change in Charge by the Company

The Company will provide no less than a 30-day notice of the proposed effective date in any change in the federal tax rate adjustment to its customers. The Company will also provide the calculations and other information supporting the proposed purchased power charges to the Staff of the Tennessee Regulatory Authority 30 days prior to the effective date of such charge.

4. Credit or Charge

Pursuant to the provisions of this Rider, a Federal Tax Rate Adjustment Rider credit or charge will be applied to each kilowatt-hour, kilowatt or lamp rate as billed under the Company's filed tariff non-rider schedules.

The Federal Tax Rate Adjustment Rider percentage credit or charge applicable to each schedule for the period January 01, 2019 to December 31, 2019, is a credit or reduction to rates of 8.9859%.