

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

June 11, 2018

IN RE:	)	
FILING OF KINGSPORT POWER COMPANY	)	DOCKET NO.
D/B/A AEP APPALACHIAN POWER IN RESPONSE	)	18-00038
TO TENNESSEE PUBLIC UTILITY COMMISSION	)	
INVESTIGATION OF IMPACT OF FEDERAL TAX	)	
REFORM ON THE REVENUE REQUIREMENTS	)	
OF KGPCO	)	

**ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE
CONSUMER ADVOCATE**

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Consumer Advocate’s Petition to Intervene* (“*Petition to Intervene*”) filed by the Consumer Protection and Advocate Division of the Office of the Attorney General (“Consumer Advocate”) on April 24, 2018.

RELEVANT BACKGROUND

On January 1, 2018, the 2017 Tax Cuts and Jobs Act, Pub. L. No. 115-97 (“2017 Tax Act”) became effective, which significantly impacted the earnings of investor-owned utilities. The 2017 Tax Act reduced the corporate federal income tax rate from 35% to 21%. On February 6, 2018 in Docket No. 18-00001, the Commission issued its *Order Opening an Investigation and Requiring Deferred Accounting Treatment*. In its Order, the Commission ordered Atmos Energy Corporation (“Atmos Energy”), Chattanooga Gas Company (“Chattanooga Gas”), Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport Power”), Piedmont Natural Gas Company (“Piedmont Natural Gas”), and Tennessee American Water Company (“Tennessee

American Water”) to immediately apply deferred accounting treatment with respect to the impact of the lowering of the federal corporate income tax rate and to provide the Commission no later than March 31, 2018, the amounts deferred and a proposal to reduce rates or otherwise make adjustments to account for the tax benefits resulting from the 2017 Tax Act. The Commission Order directed Staff to assist the remaining water, wastewater and natural gas utilities under the Commission’s jurisdiction in calculating the tax impacts on their earnings resulting from the 2017 Tax Act and report the results to the Commission.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

On April 24, 2018, the Consumer Advocate filed a *Petition to Intervene* seeking to intervene in the docket pursuant to Tenn. Code Ann. § 65-4-118, which qualifies the Consumer Advocate to represent the interests of Tennessee consumers of public utility services in proceedings before the Commission. The Consumer Advocate asserts that “regulated utilities will realize significantly reduced federal income tax expense. As ratepayers bear the costs of tax expense, rates should be reduced by a corresponding amount. Further, as a result of the lower tax rate, utilities will experience excess deferred tax reserves, and utilities owe ratepayers refunds for these amounts.”¹ According to the Consumer Advocate, the “interests of consumers, including without limitation, the new rates that will be set and the refunds owed to consumers as a result of the TCJA, may be affected by determinations and orders made by TPUC with respect to (a) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-105 and other relevant statutory and regulatory provisions and (b) the review and analysis of the documentation, financial spreadsheets, and materials provided by each utility.”² Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent

¹ *Petition to Intervene*, p. 2 (April 24, 2018).

² *Id.* at 3.

the interests of Tennessee consumers.³ Atmos does not oppose the Consumer Advocate's *Petition to Intervene*.

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310 establishes the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.⁴

Although it is not an automatic or absolute right to participate in proceedings before the Commission, Tenn. Code Ann. § 65-4-118(b)(1) provides a general basis for the qualification of the Consumer Advocate to be permitted to intervene as a party to represent the interests of Tennessee public utility consumers. It provides as follows:

The consumer advocate division has the duty and authority to represent the interests of Tennessee consumers of public utilities services. The division may, with the approval of the attorney general and reporter,

³ *Id.* at 3.

⁴ Tenn. Code Ann. § 4-5-310.

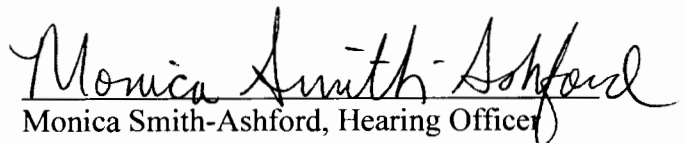
participate or intervene as a party in any matter or proceeding before the commission or any other administrative, legislative or judicial body and initiate such proceeding, in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the rules of the commission.⁵

The Hearing Officer finds that there is a sufficient factual basis to find that the legal rights or interests held by those consumers may be determined in this proceeding.

THEREFORE, upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of Tennessee consumers may be determined in this proceeding. Further, the Hearing Officer finds that the Consumer Advocate qualifies under law as an intervenor for the purpose of representing those consumer interests, there is no opposition to its intervention, and its *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes that the Consumer Advocate's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Consumer Advocate's Petition to Intervene* filed by the Consumer Protection and Advocate Division of the Office of the Attorney General is granted. The Consumer Protection and Advocate Division of the Office of the Attorney General may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.


Monica Smith-Ashford, Hearing Officer

⁵ Tenn. Code Ann. § 65-4-118(b)(1).