

KPC is a public utility, subject to TPUC jurisdiction, engaged in the business of distributing electric power service to approximately 48,000 customers in its service area, which includes portions of Sullivan, Washington, and Hawkins Counties, Tennessee, the City of Kingsport, Tennessee, and the Town of Mount Carmel, Tennessee. In TPUC Docket No. 17-

00032, the Commission approved two alternative regulatory mechanisms for the Company. First, the Targeted Reliability Plan (“TRP”) and, secondly, its Major Storm (“MS”) Rider.<sup>1</sup> The TRP consists of Vegetation Management and System Improvement programs and the MS consists of costs associated with major storm damage.

Under the approved riders, Kingsport must track and defer the costs associated with these two mechanisms and then file annually to recover those costs in excess of what has been included in base rates or refund any costs recovered in excess of the amount included in base rates.<sup>2</sup> The annual filing requires the metrics proposed by the Consumer Advocate and approved by the Commission in TPUC Docket No. 17-00032, and an attestation stating that the costs and expenses included in the alternative mechanisms are complete, accurate, and reflect amounts on the Company books and records. In addition, pre-filed testimony is required to support the annual filing.<sup>3</sup>

On November 22, 2019, Kingsport filed the *Petition* seeking to recover TRP costs and MS expenses incurred during the annual period of October 2018 – September 2019, which are beyond that included in base rates.<sup>4</sup> Specifically, Kingsport requests \$6,683,782 of unrecovered TRP & MS costs as of September 30, 2019. This amount consists of an under-recovery of \$5,613,024 in TRP costs and an under-recovery of \$1,811,494 for major storm expenses offset by TRP & MS rider revenues of \$740,736.<sup>5</sup> The TRP & MS alternative rate mechanism is designed to allow the Company to recover or return any costs above or below the Commission set base rates, as approved in Docket No. 16-00001. The requested under-recovered amount is in

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<sup>1</sup> See *In re: Petition of Kingsport Power Company d/b/a AEP Appalachian Power for Approval of Its Targeted Reliability Plan, and Its TRP & MS Rider, An Alternative Rate Mechanism and Motion for Protective Order*, Docket No. 17-00032, *Order Granting Petition* (November 9, 2017) (hereinafter *Kingsport Initial Rider Order*).

<sup>2</sup> *Kingsport Initial Rider Order*, p. 5 (November 9, 2017).

<sup>3</sup> *Id.* at 11.

<sup>4</sup> *Petition*, p. 3 (November 22, 2019).

<sup>5</sup> *Id.* at 4; A.Wayne Allen, Pre-Filed Direct Testimony, pp. 4-5 (November 22, 2019).

excess of \$903,372 in distribution and reliability Operation and Maintenance (“O&M”) expenses and \$392,376 for Major Storm related expenses recovered through base rates.<sup>6</sup>

In pre-filed testimony submitted by the Company in support of the *Petition*, Ms. Eleanor K. Keeton testified that the revenue requirement the Company is seeking to recover is \$6,683,782 and excluded the Prompt Payment Discount, per the settlement agreement approved in Docket No. 18-00125. Ms. Keeton provided testimony and EKK Exhibit No. 2 regarding the methodology of the allocations to each customer class and confirmed the allocations are consistent with the methodology approved in the Company’s most recent base rate case, Docket No. 16-00001.<sup>7</sup> During the review period, Ms. Keeton details two major weather events.<sup>8</sup> The first and most severe event was a snowstorm on December 9, 2018. The duration of this event was 134 hours and damaged poles, crossarms, conductors, and insulators resulting in power outages for more than 14,000 customers. The second event occurred on February 24, 2019, resulting in damage that left almost 4,000 customers without power.<sup>9</sup>

According to Ms. Keeton, residential customers will see an increase of \$2.48 in the service charge component of their monthly bill. Her EKK Exhibit No. 4 indicates typical monthly bill increases for all customer classes by comparing the rates effective on November 6, 2019 to the proposed rates under the TRP & MS Rider increase.<sup>10</sup> Other customer classes, including Small, Medium and Large General Service, and Industrial Power customers will see increases of ranging between 1.3% and 7.2% depending on energy / demand consumption.<sup>11</sup>

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<sup>6</sup> *Petition*, p. 4).

<sup>7</sup> Eleanor K. Keeton, Pre-Filed Direct Testimony, p. 5 (November 22, 2019).

<sup>8</sup> Kingsport used the IEEE Standard 1366-2012 to determine if the weather events qualified as a Major Storm for the purposes of recovering eligible Major Storm costs under the Company’s TRP&MS Rider.

<sup>9</sup> Eleanor K. Keeton, Pre-Filed Testimony, p. 5 (November 22, 2019).

<sup>10</sup> *Id.* at 6.

<sup>11</sup> *Id.* at Exhibit EKK-4.

On behalf of the Company, Mr. A. Wayne Allen provided testimony and exhibits in support of the under-recovery of TRP & MS costs during the current review period, in addition to the unrecovered TRP & MS costs incurred during the period from October 2017 through September 2018, which were the subject of Docket No. 18-00125.<sup>12</sup> He identified the revenues recorded from the TRP & MS Rider implemented on June 1, 2019 and provided an attestation that the Rider revenues, costs, and expenses in the *Petition* were complete, accurate, and reflect actual amounts on the Company's books and records, as well as provided supporting information for TRP & MS costs incurred during the review period pursuant to the settlement agreement approved by the Commission in Docket No. 18-00125.<sup>13</sup>

Mr. Allen states there were two new major storms during the review period that impacted Kingsport's customers. There were also some additional expenses incurred during this period related to the July 20, 2018 major storm that were discussed in Docket No. 18-00125. Of the two storms during the review period, the snowstorm of December 9, 2018 was by far the most damaging, and accounted for \$2,048,800 of the total \$2,097,677 in incurred major storm O&M expenses. The other major storm event, a windstorm that occurred on February 24, 2019, resulted in \$19,736 of O&M expenses, while the additional \$29,141 was incurred relating to the July 20, 2018 storm.<sup>14</sup>

The rate applied to calculate the return on TRP capital investments was the same annual pre-tax carrying charge rate of 7.581% that the Company used in the prior TRP & MS docket for January 2018 and subsequent months.<sup>15</sup> The 7.581% carrying charge rate is consistent with the 8.738% annual rate approved by the Commission in Docket No. 16-00001, except that the

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<sup>12</sup> A. Wayne Allen, Pre-Filed Direct Testimony, p. 3 (November 22, 2019).

<sup>13</sup> *Id.* at Ex. AWA No. 3.

<sup>14</sup> *Id.* at 9.

<sup>15</sup> *Id.* at 9-10.

7.581% reflects the reduction in the corporate federal income tax rate from 35% to 21% effective January 2018.<sup>16</sup> The Company will continue to use the 7.581% pre-tax carrying charge rate in its TRP & MS cost calculations until a new capital structure/cost of capital is approved in its next base rate case.<sup>17</sup>

Following the filing of the *Petition*, the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General (“Consumer Advocate”) was granted intervention on January 8, 2020.<sup>18</sup>

### **POSITION OF THE CONSUMER ADVOCATE**

In accordance with the procedural schedule for the docket, on February 11, 2020, Mr. David N. Dittmore filed direct testimony on behalf of the Consumer Advocate. Mr. Dittmore testified that he reviewed the Company’s proposed TRP & MS Rider in the amount of \$6,683,782, which represents a proposed increase of \$4,353,105 compared to the previously approved Rider amount of \$2,330,677. Mr. Dittmore found the underlying calculations to be reasonable.<sup>19</sup> Proportionally, exclusive of the \$740,736 in revenues recovered through the surcharge through September 2019, the proposed amount consists of \$5,613,024 in Targeted Reliability Plan costs and \$1,811,494 in Major Storm costs.<sup>20</sup> Mr. Dittmore, however, identified three issues that he contended should be addressed:<sup>21</sup>

- 1) The calculation of the Accumulated Deferred Income Tax Liability (“ADIT”) as it relates to the recognition of the Repair Deduction;
- 2) The calculation of Depreciation Expense associated with TRP investments does not include an offset for the reduction in Depreciation Expense associated with plant retirements made as a result of the new TRP investment; and
- 3) An overview of Reliability Metrics.

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 10.

<sup>18</sup> *Order Granting Petition to Intervene filed by the Consumer Advocate* (January 8, 2020).

<sup>19</sup> David N. Dittmore, Pre-Filed Direct Testimony, pp. 2-3 (February 11, 2020).

<sup>20</sup> *Id.* at 2.

<sup>21</sup> *Id.* at 3.

First, Mr. Dittemore asserted that, with respect to tax accounting requirements, the Repair Deduction permits the utility to deduct 50% of the value of qualifying costs in the computation of taxable income, which essentially allows 50% expensing of these costs.<sup>22</sup> When these same costs are capitalized for financial and regulatory accounting purposes, it creates book and tax differences which result in a build-up of ADIT. The balance of this account represents the difference between Income Tax Expense on the books of the company (as a proxy for Income Tax Expense collected from ratepayers through base rates) and the amount that is actually paid to state and federal taxing authorities. The increase in the ADIT account due to the Repair Deduction is a source of cost-free capital that is used to offset rate base when formulating the revenue requirement.<sup>23</sup>

Mr. Dittemore notes that the Repair Deduction associated with 2018 assets were not recorded on the Company's books until the fourth quarter of 2019. Mr. Dittemore states that, while this lag in accounting recognition is reasonable from an accounting perspective, he opines the Company's practice should not determine the appropriate ADIT balance in calculating the TRP & MS Rider.<sup>24</sup> He expressed a concern that recognition of the Repair Deduction is not matched with the underlying costs of the investment to which it pertains. Mr. Dittemore is not proposing an adjustment to the "lagging" of the recognition of the Repair Deduction at this time because it does not appear to be material in this filing, although the lag may have a material impact in the future.<sup>25</sup> For this reason, Mr. Dittemore recommends in future filings, the Company should indicate that either the matching of the Repair Deduction (actual or estimated)

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<sup>22</sup> *Id.* at 3.

<sup>23</sup> *Id.* at 3-4.

<sup>24</sup> *Id.* at 4.

<sup>25</sup> *Id.* at 4.

with the TRP & MS investment is not material or include an appropriate calculation of such values in its next TRP & MS calculation.<sup>26</sup>

The second of Mr. Dittmore's concerns is with the calculation of Depreciation Expense within the TRP & MS calculation. The Company will, on occasion, retire existing plant when new plant is placed in service. While the Company has appropriately calculated the incremental Depreciation Expense associated with the new qualifying TRP & MS investment, there is no offset to reflect the reduction in Depreciation Expense associated with the retired plant.<sup>27</sup> The Depreciation Expense would be that computed on retired plant taken out of service as a result of new qualifying TRP & MS investment, and in his opinion, theoretically should be recognized within the TRP & MS revenue requirement.<sup>28</sup>

Mr. Dittmore concedes that the Depreciation Expense may not be material in this case, but asserts that it could be material in future filings. Therefore, Mr. Dittmore recommended the Company evaluate this issue in its next TRP & MS Rider filing and indicate, with analytical support, whether such calculation would be material to the TRP & MS calculation, or include an appropriate offset to TRP & MS Depreciation Expense to quantify the reduction in expense associated with TRP & MS related plant retirements.<sup>29</sup>

Third, with regard to Performance Reliability Metrics, Mr. Dittmore agrees with Mr. Novak's testimony in Docket No. 18-00125 that the System Average Interruption Duration Index ("SAIDI") and the System Average Interruption Frequency Index ("SAIFI") are the two most relevant measures of benefits from the TRP & MS rider. There has been a modest improvement in performance in the reporting period ending September 30, 2019 compared to the

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<sup>26</sup> *Id.* at 5.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at 6.

corresponding period ending September 30, 2018, with the total SAIDI, excluding Major Storms, now at 272.4 minutes compared to 284.5 in the prior report. The total SAIFI is 1.603 compared with 1.77 in the prior period.<sup>30</sup>

Mr. Dittmore agreed with the Company that there will be a lag of up to several years between the investments in TRP and the expected improvement in the SAIDI and SAIFI indices as vegetation management work is completed. However, Mr. Dittmore asserted that performance in the areas subject to vegetation management and circuit replacement should more than offset declining results in areas that have not yet been subject to the program.<sup>31</sup> The justification for implementing the TRP & MS Rider was the need to improve reliability. As the revenue requirement of this program is now in excess of \$6 million annually, Mr. Dittmore recommends that the Commission continue to closely monitor the Company's reliability metrics in its ongoing assessment of whether the rider mechanism is in the public interest.<sup>32</sup>

#### **KINGSPORT'S RESPONSE TO THE CONSUMER ADVOCATE'S PRE-FILED TESTIMONY**

On February 21, 2020, Kingsport filed a *Letter in Lieu of Rebuttal Testimony*, indicating it did not object to the Consumer Advocate's recommendation that the Commission continue to monitor the Company's performance metrics. The Company also did not object to addressing issues raised by the Consumer Advocate related to ADIT and depreciation expense used by the Company in its calculation of future TRP & MS Rider filings. The Company sought to reserve its right to explain why adjustments to these items by the Consumer Advocate may be inappropriate and to contest any disallowances recommended by the Consumer Advocate in future filings.

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<sup>30</sup> *Id.* at 7.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 8.

In a letter from the Consumer Advocate dated March 4, 2020, the parties jointly expressed that there were no outstanding procedural issues requiring resolution and that the matter was ripe for consideration on the merits. The Parties agreed that the *Petition* should be approved, including the recommendations set forth in Mr. Dittemore's testimony, subject to the reservation of Kingsport's future rights as contained in its *Letter in Lieu of Rebuttal Testimony*, and the Company's proposed surcharge rates.<sup>33</sup> The parties further agreed to a paper hearing, thereby waiving opening statements and cross-examination.

### **THE HEARING**

The Hearing on the *Petition* was held before the voting panel assigned to this docket on May 11, 2020, as noticed by the Commission on May 1, 2020. In accordance with Governor Bill Lee's Executive Order No. 16 issued in response to the COVID-19 public health crisis, the hearing was held electronically via WebEx. Participating in the Hearing were:

Kingsport Power Company d/b/a AEP Appalachian Power – William C. Bovender, Esq., Hunter, Smith & Davis LLP, Post Office Box 3740, Kingsport, Tennessee 37664

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

During the Hearing, Mr. Wayne Allen, Ms. Eleanor K. Keeton, and Mr. David N. Dittemore were available by electronic means for questioning before the panel. The parties waived cross-examination. Members of the public were given an opportunity during the hearing to offer comments, but no one sought recognition to do so.

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<sup>33</sup> *Letter to the Chair Robin L. Morrison* (March 4, 2020).

## **FINDINGS AND CONCLUSIONS**

Upon review of the evidentiary record in this matter, the Hearing Panel found the methodologies, adjustments, and procedures relating to Kingsport Power Company's annual recovery rider under the Targeted Reliability Plan and Major Storm Rider ("TRP" and "MS") for the period October 2018 through September 2019, as filed in this docket, to be reasonable and acceptable, and consistent with prior Commission decisions. As a result, the Company is authorized to recover through surcharges to its customers a revenue requirement of \$6,683,782, as the appropriate amount of eligible TRP & MS Rider costs for the twelve months ended September 30, 2019.

The requested amount consists of an under-recovery of \$5,613,024 in Targeted Reliability Plan costs and an under-recovery of \$1,811,494 for Major Storm expenses, offset by TRP & MS rider revenues of \$740,736. The requested under-recovered amounts are in excess of \$903,372 in distribution and reliability Operation and Maintenance ("O&M") expenses and \$392,381 for Major Storm related expenses recovered through base rates, as approved in Docket No. 16-00001.

The new TRP & MS Rider amount should be recovered beginning June 1, 2020, and a revised tariff should be filed by Kingsport Power Company reflecting this effective date. Further, the Commission will continue to assess the performance measures of Kingsport Power Company to ensure the TRP & MS Rider mechanism results in an improved reliability for customers. Regarding issues raised by the Consumer Advocate related to Accumulated Deferred Income Taxes as it relates to the repair deduction and depreciation expense associated with retirement of plant due to TRP investments, the Company states that it intends to work with the

Consumer Advocate prior to the next TRP & MS filing, in an attempt to resolve issues related to these items; a proposal the Hearing Panel found to be a reasonable approach.

Finally, the mechanism is intended to improve reliability to customers while allowing Kingsport Power Company the opportunity to recover or refund costs associated with the Targeted Reliability Program and Major Storm events. The Hearing Panel found the TRP & MS Rider mechanism continues to benefit both consumers and Kingsport Power Company and remains in the public interest.

**IT IS THEREFORE ORDERED THAT:**

1. The *Petition* filed on November 22, 2019, by Kingsport Power Company d/b/a AEP Appalachian Power 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 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 days from the date of this Order.

**Vice Chair Kenneth C. Hill, Commissioner David F. Jones, and Commissioner John Hie concur.**

**ATTEST:**



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**Earl R. Taylor, Executive Director**