

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

February 12, 2021

IN RE:	)	
	)	
PETITION OF KINGSPORT POWER COMPANY	)	DOCKET NO.
D/B/A AEP APPALACHIAN POWER FOR	)	20-00127
OCTOBER, 2019-SEPTEMBER, 2020 ANNUAL	)	
RECOVERY UNDER THE TARGETED	)	
RELIABILITY PLAN AND MAJOR STORM RIDER	)	
("TRP&MS"), ALTERNATIVE RATE	)	
MECHANISMS APPROVED IN DOCKET NO.	)	
17-00032	)	

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ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE  
CONSUMER ADVOCATE

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This matter is before the Hearing Officer of the Tennessee Public Utility Commission ("Commission" or "TPUC") to consider the *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General ("Consumer Advocate") on January 22, 2021.

**RELEVANT BACKGROUND**

On November 24, 2020, Kingsport Power Company d/b/a AEP Appalachian Power ("KPC") filed its *Petition of Kingsport Power Company d/b/a AEP Appalachian Power for October, 2019- September, 2020 Annual Recovery Under the Targeted Reliability Plan and Major Storm Rider ("TRP & MS"), Alternative Rate Mechanisms Approved in Docket No. 17-00032 ("Petition")*.

**CONSUMER ADVOCATE'S *PETITION TO INTERVENE***

On January 22, 2021, 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. According to the Consumer Advocate, KPC seeks to recover TRP & MS costs in a total amount of \$8,488,738, which is comprised of an under-recovery of \$10,355,252 for TRP costs and an under-recovery of \$2,252,034 for MS costs as of September 30, 2020.<sup>1</sup> According the *Petition to Intervene*, KPC states the requested under-recovered amount will result in an increase of \$1.03 per month to rates paid by KPC residential customers. The Consumer Advocate maintains:

[t]he interests of consumers, including without limitation, the increase in rates to customers through the implementation of the TRP&MS Rider, may be affected by the determinations and orders made by the Commission with respect to (a) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103 and other relevant statutory and regulatory provisions and (b) the review and analysis of the documentation, financial spreadsheets, and materials provided by the Company.<sup>2</sup>

Further, the Consumer Advocate asserts that only by participating in this docket can it adequately represent the interests of Tennessee consumers.<sup>3</sup> KPC did 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;

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<sup>1</sup> *Petition to Intervene*, p. 3 (January 22, 2021).

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

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

(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.<sup>4</sup>

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, 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.<sup>5</sup>

Because granting KPC's *Petition* will result in a rate increase for its customers, 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

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<sup>4</sup> Tenn. Code Ann. § 4-5-310.

<sup>5</sup> Tenn. Code Ann. § 65-4-118(b)(1).

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 *Petition to Intervene* filed by the Consumer Advocate Unit in the Financial Division of the Office of the Attorney General is granted. The Consumer Advocate Unit in the Financial 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.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The script is cursive and fluid, with the first name "Monica" being the most prominent part of the signature.

Monica Smith-Ashford, Hearing Officer