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April 19, 2021

**VIA EMAIL (tpuc.docketroom@tn.gov) & FEDEX**

Dr. Kenneth C., Hill, Chair  
c/o Ectory Lawless, Dockets & Records Manager  
Tennessee Public Utility Commission  
502 Deaderick Street, 4th Floor  
Nashville, TN 37243

Re: IN RE: DOCKET TO COLLECT AND CONSIDER  
INFORMATION RELATING TO COMMISSION  
PRACTICE AND PROCEDURE FOR RULEMAKING  
ON TENN. R. & REGS. 1220-01-01, 1220-01-02, AND  
OTHER SECTIONS AS DETERMINED RELEVANT  
DOCKET NO.: 21-00018

Dear Chair Hill

On behalf of Kingsport Power Company, we transmit herewith the following Comments of Kingsport Power Company, d/b/a AEP Appalachian Power.

The original and four copies of the Comments are being sent via Federal Express.

Should there be any questions, contact the writer or Joseph B. Harvey.

Very sincerely yours,

**HUNTER, SMITH & DAVIS, LLP**

  
William C. Bovender

Enclosures: As stated

cc: Herbert H. Slatery, III, Attorney General and Reporter State of Tennessee *Via U.S. Mail*  
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**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION  
NASHVILLE, TENNESSEE**

IN RE: DOCKET TO COLLECT AND CONSIDER )	
INFORMATION RELATING TO COMMISSION )	
PRACTICE AND PROCEDURE FOR )	
RULEMAKING ON TENN. R. & )	DOCKET NO.: 21-00018
REGS. 1220-01-01, 1220-01-02, AND OTHER )	
SECTIONS AS DETERMINED RELEVANT )	

**COMMENTS OF KINGSPORT POWER COMPANY,  
D/B/A AEP APPALACHIAN POWER**

Comes Kingsport Power Company, d/b/a AEP Appalachian Power (herein, “Kingsport”), and submits the following COMMENTS pursuant to the NOTICE OF RULE DEVELOPMENT ON COMMISSION PRACTICE AND PROCEDURE and the NOTICE OF DEADLINE FOR FILING COMMENTS filed in this Docket No.: 21-00018.

**PRELIMINARY STATEMENT**

Kingsport generally agrees with the position of both the Consumer Advocate (“CAU”) and Chattanooga Gas Company (“Chatt.”) that certain Rules, Regulations and Procedures contained in the Rules and Regulations of the Tennessee Public Utility Commission (“TPUC”), Tenn. R. & Regs. 1220-01-01, 1220-01-02, etc., are in need of refinement and revision. Based upon the previously filed comments and discussions in the workshop of February 25, 2021, and follow-up discussions, the following topics appear to be at issue:

1. Minimum Filing Requirements;
2. Advance Notice of Filing of Petition for Revision of Rates;
3. Notice to Customers of Filing of Petition for Revision of Rates;
4. Discovery; and
5. Uniform System of Accounting.

Each topic will be addressed below in order of its appearance.

## **1. MINIMUM FILING REQUIREMENTS**

There does not appear to be an actual reference to Minimum Filing Requirements (“MFR”) in the TPUC Rules and Regulations. Certain filings by interested parties have noted MFR’s were developed primarily for the Gas Utilities and have been utilized for some time. However, TPUC has never formally adopted or mandated same. The Gas MFR’s, which Kingsport has reviewed, certainly request “generic utility information.” However, many are wholly gas-centric.

CAU and the TPUC Staff understandably seek more latitude in the discovery process. However, there must be a balance: If MFR’s will be imposed on Kingsport, then same should reduce the discovery needed in the rate case. Moreover, the so-called “informal discovery”, which is another name for extra rounds of discovery, should be reduced significantly.

As such, Kingsport will not oppose MFR’s directed to Electric Utilities regulated by TPUC, but, does request that representatives of Kingsport be allowed to participate in the development of Electric MFR’s. Lastly, Kingsport is of the opinion that the MFR’s developed for Electric Utility rate cases should be approved by TPUC and published as part of the Rules and Regulations or addenda thereto.

## **2. ADVANCE NOTICE OF FILING OF PETITION FOR REVISION OF RATES**

Chatt. has suggested that any Advance Notice be filed thirty (30) days or more in advance of the filing of a Petition for Revision of Rates. Apparently, this would also apply to Annual Rate Reviews under an ARM. CAU has advocated a sixty (60) day notice in advance of the filing of a Petition.

Kingsport does not oppose a requirement under § 1220-04-01-.05 that:

“...all public utilities applying for a revision of rates pursuant to TCA § 65-5-103, et seq. shall notify the Commission, the Attorney General, and all parties of record appearing in the public utility’s last rate case of its intent to file the application at least sixty (60) days in advance of filing the application.”

This Notice should contain no more than a summary of the proposed rate changes, along with some minimal, and non-binding, prediction of the impacts of the proposed rate changes on the average residential and business customers served by the public utility.

Kingsport seeks participation in the drafting of the language to be incorporated in the Rules and Regulations relative to Advance Notice.

### **3. NOTICE TO CUSTOMERS OF FILING OF PETITION FOR REVISION OF RATES**

Kingsport does not oppose the provision of notice to its customers when it petitions for a revision of rates. Kingsport supports including, in its initial filing of its Petition for revision of rates to the Commission, a customer notice which would include:

- (a) A statement that the utility has requested a change in rates, a statement of the amount requested, a comparison of the current and proposed rates, and the general reason for the request;
- (b) A summary of the sections of the Minimum Filing Requirements (MFR) (to be developed for Electric Utilities) showing a comparison of the present and proposed rates by rate class as well as identifying any proposed increase in miscellaneous charges;
- (c) A copy of any Executive Summary filed with the MFR’s (to be developed for Electric Utilities);
- (d) A description of the ratemaking process and the time schedule established for the rate case;



- (e) A statement that a complete copy of the proposed rate changes and the reasons for them are on file with the TPUC and are available on the Commission's website;
- (f) A statement of what the Commission does, including an explanation of its role in establishing just and reasonable rates;
- (g) The docket number assigned to the Petition by the Commission;
- (h) A statement that written comments regarding the proposed changes in rates and charges should be addressed to the Tennessee Public Utility Commission, 502 Deaderick Street 4th Floor, Nashville, TN 37243 or emailed to the Commission at [contact.tpuc@tn.gov](mailto:contact.tpuc@tn.gov), and that such correspondence should include the docket number; and
- (i) A statement explaining that the public will have an opportunity to make in-person comments (or via electronic means) regarding the proposed changes in rates, including a hyperlink to the Commission's website where further information can be found once it is available regarding the time and location of the hearing.

The public utility must begin sending the notice to customers within 60 days of the filing of its Petition. Customer notices shall include the following methods of publication:

- (a) Direct mailing to each customer (bill inserts or electronic bill messages are acceptable);
- (b) Posted in a public place at the public utility's local customer service office or offices, to the extent the public utility has such offices;
- (c) Publication of the notice on the public utility's website specific to its Tennessee operations (provided the public utility maintains a website), and a hyperlink to the Commission's website where the Petition filing is located.

The petitioner, by a duly authorized officer, or by its attorney, shall file a statement in writing on or before the date of hearing that the above notice has been published and posted, together with the date and location of said posting and publication, as required by this rule.

### 3. DISCOVERY

Kingsport agrees with CAU that the current limitation of forty (40) discovery requests, including subparts, without obtaining leave for additional requests, is antiquated and the number limitation should be deleted. That being said, there needs to be some “guardrails” on the virtually unlimited discovery rules proposed by CAU.

Hence, Kingsport endorses the following proposed § 1220-01-02.11, discovery provisions:

#### 1220-01-02-.11 DISCOVERY.

1. Any party to a contested case may seek discovery that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to the relevant information, the parties' resources, the importance of discovery in resolving the issues in the case, and whether the burden or expense of the proposed discovery outweighs the likely benefit. In any case where discovery is sought, no discovery shall be undertaken until after (a) the parties have conferred and attempted in good faith to develop a proposed discovery plan and (b) a discovery schedule is set in accordance with these Rules. Parties must take reasonable steps to avoid undue burden or expense in discovery. Discovery shall be sought and effectuated in accordance with these Rules and the Tennessee Rules of Civil Procedure.
2. Any party may at any time prior to the hearing of a case on its merits move for the setting of a discovery schedule, either in a pre-hearing conference or by order of the Commission or a Hearing Officer. Any such motion may be denied if it appears the movant has failed to confer with the other parties as required in (1) above or has unreasonably delayed in seeking discovery and if discovery would unreasonably delay disposition of the case on its merits.
3. The discovery schedule shall state with reasonable specificity the issues to which discovery may be directed and the manner in which discovery is proposed to be accomplished.
4. Stipulations extending the time for responding to discovery shall not be effective without the approval of the Commission or Hearing Officer. Any party unable to respond to discovery within the time provided and who cannot obtain the agreement of the parties for an agreed order extending the time for responding may move, in writing, for an extension of the time for responding.

- 5) The party responding to any form of discovery shall respond or object to each request, serve a copy containing the original signature upon the requesting party, serve copies thereof on all other parties and upon request of the Commission or a Hearing Officer, file a copy with the Commission. All responses to interrogatories shall be signed under oath.
- (6) All objections to discovery requests shall be presented in the manner set forth in the Tennessee Rules of Civil Procedure.
- 7) If counsel for any party advises the Commission or Hearing Officer in writing that an opposing counsel has refused or delayed a discussion of any discovery problems covered in this subsection, the Commission or Hearing Officer may take such action as appropriate to avoid delay.
- (8) Before filing any motion to limit or compel discovery or asking for a discovery conference to resolve a discovery dispute, counsel for the parties must confer in good faith in an effort to resolve by agreement the issues raised. If the parties are not able to resolve the discovery issue, they must, in connection with any request for a discovery conference or a discovery motion, file a joint discovery dispute statement: (a) detailing their attempts at resolution; (b) setting forth exactly what discovery is in dispute (either by including the text of the discovery requests and responses or by attachment as exhibits); and (c) detailing the parties' respective positions. This joint statement must be filed before any request for a discovery conference with the Commission or Hearing Officer is made, and must be attached to any filed discovery motion.
- 9) Motions for protective orders filed pursuant to Tennessee Rules of Civil Procedure 26.03, motions to quash subpoenas for discovery, or any motion asking that discovery be postponed or restricted shall:
  - (a) Be accompanied by a copy of the discovery request or subpoena;
  - (b) State with reasonable specificity the factual and legal grounds for the motion; and
  - (c) Be accompanied by an affidavit or other evidence showing the need for the order.
- 10) Whenever a request for discovery is made, the party seeking discovery shall serve each party with a copy of the request. Such service shall be made even though the discovery sought may be directed to fewer than all parties.



- 11) The Commission may adopt, and from time to time modify, a model protective order, the use of which shall not be mandatory, but which shall provide guidance as to appropriate provisions of such orders.

## **5. UNIFORM SYSTEM OF ACCOUNTING**

With reference to § 1220-04-01-.11, Kingsport does not oppose substituting:

- “(e) For classes A and B electric companies, Uniform System of Account as adopted by the National Association of Regulatory Utility Commissions.
- (f) For Classes C and D electric companies, Uniform System of Accounts as adopted by the National Association of Regulatory Utility Commissions...”

for the “Uniform System of Accounts as adopted by the National Association of Railroad and Utilities Commissions as revised June 30, 1974, on any amendments or revisions pertaining thereto,” as same currently reads in the Rules and Regulations of TPUC.

Kingsport reserves the right to take other, further, or differing positions on the wording of the applicable Rules and Regulations as same may become at issue henceforth.

Respectfully submitted this the 19<sup>th</sup> day of April, 2021.

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

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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing *Comments Of Kingsport Power Company, d/b/a AEP Appalachian Power* has been served by mailing a copy of same by United States mail, postage prepaid, or Email, to below on this the 19<sup>th</sup> day of April, 2021, as follows:

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**HUNTER, SMITH & DAVIS, LLP**

By: \_\_\_\_\_

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