

IN THE TENNESSEE PUBLIC UTILITY COMMISSION  
AT NASHVILLE, TENNESSEE

IN RE:

PETITION OF KINGSPORT POWER  
COMPANY d/b/a AEP APPALACHIAN  
POWER COMPANY FOR A GENERAL  
RATE INCREASE

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DOCKET NO. 21-00107

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CONSUMER ADVOCATE'S MOTION  
IN LIMINE TO FILE REBUTTAL TESTIMONY

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Comes the Consumer Advocate Unit in the Financial Division of the Office of the Tennessee Attorney General ("Consumer Advocate"), pursuant to Tenn. R. Civ. Proc. 7.02 and Tenn. Comp. R. & Regs. 1220-1-2-.06, and respectfully moves *in limine* the Tennessee Public Utility Commission to enter an order allowing the Consumer Advocate to present written testimony, rebutting, and responding to East Tennessee Energy Consumers' ("ETEC") witness, Stephen J. Baron, regarding "certain rate-design and other proposals and assertions set forth" in his direct testimony.<sup>1</sup>

Both the Consumer Advocate and ETEC are intervenors in this Docket.<sup>2</sup> On June 3, 2022, ETEC filed its *Motion in Limine of the East Tennessee Energy Consumers* seeking the permission of the Tennessee Public Utility Commission ("TPUC" or the "Commission") to "present the oral testimony of its witness, Mr. Stephen Baron" to rebut the direct testimony of the Consumer

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<sup>1</sup> *Motion in Limine of the East Tennessee Energy Consumers*, TPUC Docket No 21-00107 (June 3, 2022).

<sup>2</sup> *Order Granting the Consumer Advocate's Petition to Intervene*, TPUC Docket No. 21-00107 (December 6, 2021). *Order Granting the Petition to Intervene Filed by the East Tennessee Energy Consumers* (January 24, 2022).

Advocate's witness, William H. Novak.<sup>3</sup> Pursuant to TPUC's rules, "any party opposing a motion shall file and serve a response within seven (7) days after the service of the motion. The Commission or Hearing Officer may shorten or extend the time for responding to any motion."<sup>4</sup>

The Hearing Officer scheduled a prehearing conference on June 6, 2022, but no agenda for the conference was provided to the Parties. At the conference, the Hearing Officer questioned the Parties regarding settlement negotiations and ETEC's *Motion in Limine*. In its responses to the Hearing Officer, the Consumer Advocate expressed its objections to ETEC's *Motion in Limine*. In the alternative, the Consumer Advocate requested the approval to also file a response to the direct testimony of ETEC's witness. By email, on June 6, 2022, the Hearing Officer issued her ruling on ETEC's *Motion in Limine*:

Thank you for your arguments regarding the *Motion in Limine of the East Tennessee Energy Consumers* filed on June 3, 2022 in Docket No. 21-0107. If East Tennessee Energy Consumers ("ETEC") would like to rebut the testimony presented by the Consumer Advocate's witness, William H. Novak, ETEC must file Pre-Filed Rebuttal Testimony in the docket file by **Thursday, June 9, 2022, at 2:00 p.m. (CDT)**. At the June 20<sup>th</sup> Hearing, ETEC's witness, Stephen Baron, should provide a **summary** of his Pre-filed Direct and Rebuttal Testimonies and will be subject to cross-examination.<sup>5</sup>

The Consumer Advocate responded the Hearing Officer's decision requesting clarification on her ruling as it appears to provide only one intervenor, ETEC, to file written rebuttal testimony despite the Consumer Advocate's request for the opportunity to file rebuttal if ETEC's motion was granted. To date, the Consumer Advocate has not received a response to the Hearing Officer. Considering the upcoming hearing date, the Consumer Advocate is filing this request seeking approval for the same opportunity as the other Intervenor, ETEC, to file rebuttal testimony.

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<sup>3</sup> *Id.* at p. 1.

<sup>4</sup> Tenn. Comp. R. & Regs. 1220-1-2-.06(2).

<sup>5</sup> Email from Monica Smith-Ashford, TPUC Hearing Officer, to William C. Bovender, Esq. *et al.* (June 6, 2022, at 3:50pm CDT). A copy of this email is on file with Karen H. Stachowski, Senior Assistant Attorney General.

Karen H Stachowski

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**TPUC Docket No. 21-00107**

***Consumer Advocate's Motion in Limine to File Rebuttal Testimony***

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via electronic mail,  
with a courtesy copy by U.S. mail, upon:


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This the 7<sup>th</sup> day of June 2022.

  
KAREN H. STACHOWSKI  
Senior Assistant Attorney General

**TPUC Docket No. 21-00107**  
***Consumer Advocate's Motion in Limine to File Rebuttal Testimony***