

S. Morris Hadden  
William C. Bovender  
William C. Argabrite  
Jimmie Carpenter Miller  
Mark S. Dessauer  
Gregory K. Haden  
Michael L. Forrester  
Stephen M. Darden  
Edward J. Webb, Jr.  
James N. L. Humphreys<sup>1</sup>  
Michael S. Lattier<sup>5,6</sup>  
Scott T. Powers

**HUNTER·SMITH·DAVIS**  
SINCE 1916 LLP

**Kingsport Office**  
1212 North Eastman Road  
P.O. Box 3740  
Kingsport, TN 37664  
Phone (423) 378-8800  
Fax (423) 378-8801

**Johnson City Office**  
100 Med Tech Parkway  
Suite 110  
Johnson City, TN 37604  
Phone (423) 283-6300  
Fax (423) 283-6301

Leslie Tentler Ridings  
Christopher D. Owens<sup>1,3</sup>  
Jason A. Creech  
Meredith Bates Humbert  
Joseph B. Harvey<sup>4</sup>  
Caroline Ross Williams<sup>1</sup>  
Marcy E. Walker<sup>2</sup>  
J. Christopher Rose<sup>1</sup>  
Sarah Blessing Valk  
Sydney B. Gilbert  
Joseph A. Matherly  
Will A. Ellis  
Jordan T. Richardson

**Respond to:**

Kingsport Office  
William C. Bovender  
423-378-8858, 423-534-7897 (mobile)  
bovender@hdsdlaw.com

All Attorneys Licensed in Tennessee  
Unless Noted

Additional Bar Memberships:  
VA<sup>1</sup>, NC<sup>2</sup>, KY<sup>3</sup>, GA<sup>4</sup>, FL<sup>5</sup>, MT<sup>6</sup>, CA only<sup>7</sup>

Of Counsel:

Jeannette Smith Tysinger  
John B. Buda<sup>7</sup>

[www.hdsdlaw.com](http://www.hdsdlaw.com)

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Electronically Filed in TPUC Docket  
Room in October 31, 2022 at 5:03 p.m.

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

Herbert H. Hilliard, Chairman  
c/o Ectory Lawless, Dockets & Records Manager  
Tennessee Public Utility Commission  
502 Deaderick Street, 4th Floor  
Nashville, TN 37243

**22-00111**

Re: Fuel and Purchased Power Adjustment Rider Per Docket No.: [REDACTED]

Dear Chairman Hilliard:

We submit herewith electronically for filing the *MOTION TO DISMISS PETITIONS ON BEHALF OF KINGSFORT POWER COMPANY d/b/a AEP APPALACHIAN POWER* relative to the above-styled proceeding.

The original and four copies will be sent on Tuesday, November 1, 2022 via Federal Express. Please file in the Docket.

Very sincerely yours,

**HUNTER, SMITH & DAVIS, LLP**



William C. Bovender

Enclosure

cc: Kelly Grams, General Counsel (w/enc.)  
Monica L. Smith-Ashford, Esq. (w/enc.)

***Via Email: Kelly.Grams@tn.gov***

***Via Email: monica.smith-ashford@tn.gov***

David Foster, Chief Utilities Division (w/enc.)	<i><b>Via Email: David.foster@tn.gov</b></i>
Edward L. Petrini, Esq. (w/enc.)	<i><b>Via Email: epetrini@cblaw.com</b></i>
Karen Stachowski, Esq. (w/enc.)	<i><b>Via Email: karen.stachowski@ag.tn.gov</b></i>
James R. Bacha, Esq. (w/enc.)	<i><b>Via Email: jrbacha@aep.com</b></i>
Noelle J. Coates, Esq. (w/enc.)	<i><b>Via Email: njcoates@aep.com</b></i>
William K. Castle (w/enc.)	<i><b>Via Email: wkcastle@aep.com</b></i>
Michael J. Quinan, Esq. (w/enc.)	<i><b>Via Email: mquinan@t-mlaw.com</b></i>

## BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

## NASHVILLE, TENNESSEE

IN RE: Fuel and Purchased Power Adjustment Rider Per

Docket No.:

**MOTION TO DISMISS PETITIONS TO INTERVENE ON BEHALF OF  
KINGSPORT POWER COMPANY d/b/a AEP APPALACHIAN POWER**

Comes Kingsport Power Company d/b/a AEP Appalachian Power (“Kingsport”) and, pursuant to Tennessee Public Utility Commission Rule 1220-01-02-.02(4) moves to dismiss the Petitions to Intervene filed by Consumer Advocate Division and East Tennessee Energy Consumers on the basis that they are untimely under said Rule and should be denied for two other reasons.

The filing in question, the 2022 Revised Fuel and Purchased Power Adjustment Rider per Docket No. 16-0001, follows similar filings in 2018, 2019, 2020, and 2021. In Docket No. 16-00001, the Tennessee Public Utility Commission (“Commission”) approved the Fuel and Purchased Power Adjustment Rider (“FPPAR”) which allows Kingsport to annually true-up its fuel and purchased power costs to actual costs and adjust the rider accordingly. The relevant Docket remains Docket No. 16-00001.

On September 30, 2022, Kingsport filed its changes to the FPPAR changes reflecting rates occasioned by the cost of fuel and purchased power. The effective date of these tariff changes is November 1, 2022.

Tenn. Comp R & Regs 1220-01-02-.02(4) states as follows:

A tariff filing does not constitute a contested case; however, any interested person may object to the tariff filing by filing a complaint. Any such complaint shall state the nature of the interest, the grounds for any such objection and the relief sought. A copy of the complaint shall be served on the company filing the tariff. The company filing the tariff shall have the right to respond to such complaint. It shall be within the discretion of the Commission to convene a contested case. A complaint opposing the tariff shall be filed no later than seven (7) days prior to the Commission

Conference immediately preceding the proposed effective date of the tariff

Note that a Complaint opposing the tariff "...shall be filed no later than seven (7) days prior to the Commission Conference immediately preceding the proposed effective date of the tariff."

The proposed effective date of the 2022 version was November 1, 2022. That date is not the November 7, 2022 Conference now set. The Commission Conference immediately preceding the proposed effective date was October 10, 2022, the date of the Commission Conference in October.

Hence, the Intervening Petitions of the Consumer Advocate Division and East Tennessee Energy Consumers are untimely and barred and the Commission lacks jurisdiction over the subject matter.

There are two other arguments accompanying the procedural one: (1) The Commission Staff Is Capable of Reviewing and Verifying the Numbers. This is a tariff filing that is based on actual costs incurred by Kingsport for Fuel and Purchased Power. The procedure for the filing was established in Kingsport's 2016 Base Rate case. There is nothing subjective about what Kingsport has filed. They are costs relative to a FERC-approved contract. The Commission's Staff is entirely capable of verifying the invoices, which is all this filing amounts to. Indeed, the Commission Staff has reviewed Kingsport's FPPAR rate calculation and found no errors. Commission staff has found that the updated FPPAR rate is reasonable and issued a letter acknowledging its review of the Company's filing (Tariff Filing No. 2022-0080); and (2) Delaying Kingsport's Revised Tariff Would Be Detrimental to Kingsport's Customers. Implementing Kingsport's revised tariff in a timely manner is critical to avoid Kingsport's customers facing a greater increase later. Kingsport's current FPPAR tariff rates are under-recovering actual costs. Every month that passes beyond November 1, 2022 will result in a

larger increase as the under-recovery amount increases. For this reason, it is imperative that Kingsport's FPPAR tariff go into effect on November 1, 2022, as provided under the Commission's rules.

Kingsport intends to implement the tariff changes on November 1, 2022 by the authority of the Commission staff.

PREMISES CONSIDERED, Kingsport Power Company d/b/a AEP Appalachian Power respectfully requests that the Commission deny the Intervening Petitions of Consumer Advocate Division and East Tennessee Energy Consumers for the reasons set forth herein; and, the 2022 version of the recovery tariff should be allowed to become effective November 1, 2022.

Respectfully submitted,

KINGSPORT POWER COMPANY  
d/b/a AEP APPALACHIAN POWER

BY: 

William C. Bovender, Esq. (BPR #000751)  
Joseph B. Harvey, Esq. (BPR #028891)  
Hunter, Smith & Davis, LLP  
P.O. Box 3740  
Kingsport, TN 37655  
Tel: 423.378.8858  
Email: [bovender@hsdlaw.com](mailto:bovender@hsdlaw.com)  
Email: [jharvey@hsdlaw.com](mailto:jharvey@hsdlaw.com)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **MOTION TO DISMISS  
PETITIONS ON BEHALF OF KINGSPORT POWER COMPANY d/b/a AEP  
APPALACHIAN POWER** has been served upon the following by emailing a copy of same as follows, on this the 31<sup>st</sup> day of October, 2022.

Karen H. Stachowski, Esq.  
Vance L. Broemel, Esq.  
Office of the Tennessee Attorney General  
Public Protection Section  
Consumer Protection and Advocate Division  
P.O. Box 20207  
Nashville, Tennessee 37202-0207  
Karen.Stachowski@ag.tn.gov  
Vance.broemel@ag.tn.gov

Kelly Grams, General Counsel  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
Email: kelly.grams@tn.gov

Monica L. Smith-Ashford, Deputy General Counsel  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
Email: monica.smith-ashford@tn.gov

David Foster, Chief-Utilities Division  
Tennessee Public Utility Commission  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243  
Email: David.Foster@tn.gov

Michael J. Quinan  
ThompsonMcMullan, P.C.  
100 Shockoe Slip, Third Floor  
Richmond, VA 23219  
Email: [mquinan@t-mlaw.com](mailto:mquinan@t-mlaw.com)

HUNTER, SMITH & DAVIS, LLP

By   
William C. Bovender