

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE, TENNESSEE**

Regulatory Authority,¹ in TRA Docket No. 16-00001.² The FPPAR allows for an annual “true-up” of the Company’s fuel and purchased power costs through a surcharge to its customers, similar to a gas utility’s Actual Cost Adjustment (“ACA”) mechanism.³ As Consumer Advocate witness Mr. Novak testified, the FPPAR surcharge consists of the “under- or over-recovery of prior power costs” and the “forecasted power costs for the upcoming year. The resulting percentage change ... is then applied consistently to all tariffs.”⁴

Currently, the Company files with the Commission only an affidavit of publication with an attached notice to the public of the FPPAR surcharge. As shown on the online docket page for TPUC Docket No. 16-00001,⁵ the Company made no public FPPAR filings with the Commission prior to 2020, even though the rider was implemented in 2016. According to the notice filed by the Company on October 7, 2022, the FPPAR surcharge “to be applied to customer bills beginning November 1, 2022, would result in an approximate increase of 15.34% to 30.76% for Kingsport’s residential, commercial, and industrial customers.”⁶ This represents a nearly 42% increase compared to the existing FPPAR surcharge and accounts for previous under recoveries by the Company of \$30.6 million and estimated future costs of \$133.2 million.⁷

The Consumer Advocate reiterated at the hearing in this matter that it is not contesting the Company’s current FPPAR calculation.⁸ Rather, the sole issue in dispute concerns the appropriate

¹ The Tennessee Regulatory Authority, or TRA, is the predecessor agency to the TPUC, just as the Tennessee Public Service Commission predated the TRA. While the nomenclature has changed, the scope and function of these entities has remained essentially the same.

² See *Order Approving Stipulation and Settlement Agreement*, p. 3, TRA Docket No. 16-00001 (Oct. 19, 2016).

³ See, e.g., *Order Adopting ACA Audit Report of Tennessee Public Utility Commission’s Utility Division*, TPUC Docket No. 22-00085 (Apr. 4, 2023).

⁴ *Direct Testimony of William H. Novak*, p. 3:14–19, TPUC Docket No. 22-00111 (Apr. 3, 2023).

⁵ Available at <http://share.tn.gov/tra/dockets/1600001.htm>.

⁶ *Affidavit of Publication*, p. 4, TPUC Docket No. 16-00001 (Oct. 7, 2022).

⁷ See *Direct Testimony of William H. Novak*, p. 4, TPUC Docket No. 22-00111 (Apr. 3, 2023).

⁸ See *Transcript of Commission Conference June 20, 2023*, p. 13:4-9.

filing procedures and accompanying documentation related to the FPPAR. The Consumer Advocate submits that the Company's annual FPPAR calculations should be subject to certain public filing requirements and formal Commission approval. The Consumer Advocate specifically proposes the following requirements: (1) that the Company make future FPPAR filings in a separate docket file and include testimony describing how the filing was put together; (2) that the Company provide a set of structured workpapers with the FPPAR filings that include a reconciliation with the Company's books; and (3) that the Company be required to have the FPPAR rates specifically approved by the Commission before they are charged to customers.⁹ It is within the discretion of the Commission to establish such requirements, and it is necessary to ensure transparency to the consumers from whom the Company recovers its power costs and accuracy in the Company's accounting.

ARGUMENT

That the Commission may establish the proposed filing requirements is beyond dispute. Tenn. Code Ann. § 65-4-104(a) gives this Commission "general supervisory and regulatory power, jurisdiction, and control over all public utilities,"¹⁰ which includes the authority to implement filing requirements related to changes in the Company's FPPAR rates. Moreover, Tenn. Code Ann. § 65-5-103(a) provides that "[w]hen any public utility shall increase any existing individual rates, joint rates, tolls, fares, charges, or schedules thereof, or change or alter any existing classification, the [C]ommission *shall have power* either upon written complaint, or upon its own initiative, to *hear and determine whether the increase, change or alteration is just and reasonable.*"¹¹ Thus, it

⁹ *Direct Testimony of William H. Novak*, p. 8, TPUC Docket No. 22-00111 (Apr. 3, 2023).

¹⁰ TENN. CODE ANN. § 65-4-104(a).

¹¹ TENN. CODE ANN. § 65-5-103(a) (emphasis added).

is within the discretion and authority of the Commission to adopt the Consumer Advocate's proposed annual FPPAR filing requirements.

Additionally, the proposed filing requirements are well within the procedural norm for similar true-up mechanisms. The analogy to gas utility ACA filings has been sufficiently argued by the Consumer Advocate and its witness. Further, Appalachian Power Company is already subject to, and complies with, similar requirements in other jurisdictions. For example, Appalachian Power Company supports its Expanded Net Energy Cost ("ENEC") filing at the Public Service Commission of West Virginia with supporting schedules and pre-filed testimony, which is then subject to a hearing and approval by the Public Service Commission.¹² In the State of Virginia, the FPPAR-equivalent "recovery of fuel and purchased power costs" is governed by Va. Code Ann. § 56-249.6, which provides in part that an electric utility

shall submit to the Commission its estimate of fuel costs, including the cost of purchased power, for the 12-month period beginning on the date prescribed by the Commission. *Upon investigation of such estimates and hearings in accordance with law*, the Commission shall direct each company to place in effect tariff provisions designed to recover the fuel costs *determined by the Commission to be appropriate for that period*, adjusted for any over-recovery or under-recovery of fuel costs previously incurred.¹³

Thus, the Appalachian Power Company's fuel and purchased power adjustments in other jurisdictions are already subject to the requirements proposed by the Consumer Advocate, which further demonstrates the modesty and reasonableness of the recommendations before this Commission.

¹² See generally, West Va. PSC Case No. 22-0393-E-ENEC (searchable at <http://www.psc.state.wv.us/WebDocket/default.htm>).

¹³ VA. CODE ANN. § 56-249.6A.1 (emphasis added). See, e.g., Va. State Corporation Commission, Division of Public Utility Regulation, Case No. PUR-2022-00139 (available at <https://www.scc.virginia.gov/DocketSearch#caseDocs/143388>).

Not only are the recommendations of the Consumer Advocate regarding FPPAR filing requirements reasonable, but they are essential to the interest of Tennessee ratepayers who receive service from the Company. As Mr. Novak noted, the Company's 2021 rate case resulted in a \$5.75 million rate increase, whereas this FPPAR adjustment alone represents an approximately \$48.0 million increase.¹⁴ Yet, under the current process, this increase is subject to no public filing requirements. The Company notes that "all of the costs, Kingsport seeks to recover in such updates results from APCo's wholesale rates to Kingsport which are approved by the FERC."¹⁵ Nonetheless, the Commission's review and public, formal approval is necessary, particularly in consideration of the Company's previous failure to properly apply surcharges appropriately to all customer classes, resulting in under-collection and subsequent inappropriate re-allocation of costs to customers.¹⁶

CONCLUSION

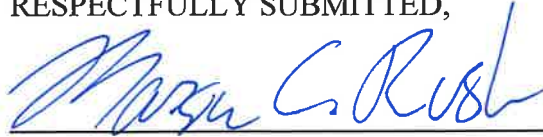
The Consumer Advocate respectfully requests that the Commission adopt its recommendations regarding the filing requirements for Kingsport's annual adjustment under the FPPAR. Such filing procedure will help to ensure the accuracy of the annual adjustment and provide a fundamental level of transparency due the ratepayers funding the recovery of costs.

¹⁴ *Direct Testimony of William H. Novak*, p. 4:8–10, TPUC Docket No. 22-00111 (Apr. 3, 2023).

¹⁵ *Transcript of Commission Conference June 20, 2023*, p. 21:6–9.

¹⁶ *See Direct Testimony of William H. Novak*, p. 15, TPUC Docket No. 21-00142 (Sept. 6, 2022).

RESPECTFULLY SUBMITTED,



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TPUC Docket No. 22-00011

Consumer Advocate Post-Hearing Brief

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On this the 11th day of July 2023.



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