

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

April 18, 2023

IN RE:

**PETITION OF KINGSPORT POWER COMPANY
D/B/A AEP APPALACHIAN POWER FOR
OCTOBER, 2021 THROUGH DECEMBER, 2022
ANNUAL RECOVERY UNDER THE TARGETED
RELIABILITY PLAN AND MAJOR STORM RIDER
("TRP&MS"), ALTERNATIVE RATE
MECHANISMS APPROVED IN DOCKET NO. 17-
00032**

**DOCKET NO.
23-00019**

**ORDER GRANTING PETITION TO INTERVENE FILED BY
CONSUMER ADVOCATE**

This matter is before the Hearing Officer of the Tennessee Public Utility Commission ("Commission" or "TPUC") to consider the *Petition to Intervene* filed in the docket by the Consumer Advocate Division of the Office of the Tennessee Attorney General ("Consumer Advocate") on March 24, 2023.

BACKGROUND

Kingsport Power Company d/b/a AEP Appalachian Power ("Kingsport") is a public utility, subject to Commission jurisdiction, engaged in the business of distributing electric power service to approximately 50,000 customers in its service area, which includes portions of Sullivan, Washington and Hawkins Counties, Tennessee, the City of Kingsport, Tennessee, and the Town of Mount Carmel, Tennessee. On March 10, 2023, Kingsport filed a *Petition of Kingsport Power Company d/b/a AEP Appalachian Power for October, 2021 - December, 2022 Annual Recovery Under the Targeted Reliability Plan and Major Storm Rider ("TRP & MS"), Alternative Rate*

Mechanisms Approved in Docket No. 17-00032 (“Petition”) requesting recovery of deferred Targeted Reliability Plan (“TRP”) costs and Major Storm (“MS”) expenses that were not offset by cumulative TRP&MS revenues and that have not been recovered through base rates for the review period. The TRP&MS Riders approved in Docket No. 17-00032 allow Kingsport to seek recovery of the amounts not recovered through base rates.

CONSUMER ADVOCATE’S *PETITION TO INTERVENE*

In its *Petition to Intervene*, filed on March 24, 2023, the Consumer Advocate seeks 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. The Consumer Advocate asserts:

The interests of consumers, including without limitation the potential 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: (1) the interpretation, application, and implementation of Tenn. Code Ann. § 65-5-103 and other relevant statutory and regulatory provisions; and (2) the review and analysis of the documentation, financial spreadsheets, and materials provided by the Company.¹

In conclusion, the Consumer Advocate states that only by participating in this proceeding can it work to adequately protect the interests of consumers.² Kingsport did not oppose the Consumer Advocate’s intervention in these proceedings.

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 *Petition to Intervene*, p. 2 (March 24, 2023).

² *Id.*

(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;

(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.³

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.⁴

Because Kingsport is requesting recovery of TRP&MS expenses that were not recovered through base rates, the Hearing Officer finds there is a sufficient factual basis to find that the legal rights or interests held by consumers may be determined in this proceeding. In addition, Kingsport did

³ Tenn. Code Ann. § 4-5-310.

⁴ Tenn. Code Ann. § 65-4-118(b)(1).

not object to the *Petition to Intervene*.

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 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 Division of the Office of the Tennessee Attorney General is granted. The Consumer Advocate Division of the Office of the Tennessee 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, reading "Monica Smith-Ashford". The signature is written in a cursive, flowing style.

Monica Smith-Ashford, Hearing Officer