

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

December 23, 2021

IN RE:

**PETITION OF JACKSON SUSTAINABILITY
COOPERATIVE TO DETERMINE IF A
CERTIFICATE OF CONVENIENCE AND
NECESSITY IS NEEDED**

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**DOCKET NO.
21-00061**

ORDER ON SEPTEMBER 30 AND OCTOBER 21, 2021 STATUS CONFERENCES

This matter came before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) at Status Conferences held on September 30, 2021 and October 21, 2021. The following parties participated in the Status Conferences, Jackson Sustainability Cooperative (“JSC” or the “Petitioner”) and Jackson Energy Authority (“JEA”), Tennessee Valley Authority (“TVA”), Tennessee Electric Cooperative Association (“TECA”), and Tennessee Municipal Electric Power Association (“TMEPA”) (together the “Intervenors”).

SEPTEMBER 30, 2021 STATUS CONFERENCE

The Hearing Officer convened a Status Conference on September 30th at the request of the Intervenors to address certain discovery issues, including the Petitioner filing non-responsive answers to discovery requests and filing additional pre-filed testimony. During the September 30th Status Conference, the parties engaged in productive discussions regarding the discovery issues. JEA and TVA stated they had drafted a letter detailing the deficiencies in JSC’s discovery responses and wanted to file the letter in the docket file. However, JSC objected to having the deficiency letter filed in the docket file. JSC maintained the rules call for an informal discovery

process, and if disputes can't be resolved informally, then the next step in the process are motions to compel. The Hearing Officer found that it would be more productive for the parties to informally try to resolve the discovery issues. Since the process was proceeding informally at this time, the Hearing Officer concluded that the deficiency letter should not be filed in the docket file. Another issue raised during the Status Conference dealt with the additional testimony filed by JSC as part of its discovery responses, Part II of Mr. Emberling's Pre-Filed Testimony. The Intervenor requested they be allowed to submit additional discovery requests on Part II of Mr. Emberling's testimony. The Intervenor also requested that the procedural schedule be suspended to allow time for the discovery issues to be resolved since under the current Procedural Schedule, their pre-filed testimony would be due October 4th. The Hearing Officer determined that the Procedural Schedule would be suspended until the discovery disputes could be resolved and another procedural schedule could be put into place. The Hearing Officer directed the parties to try to work together to informally resolve the discovery disputes. In addition, the Hearing Officer found that since the parties were engaging in an informal process, it was not appropriate for the deficiency letter to be filed in the docket file at that time. The Hearing Officer directed the parties to discuss the best way to handle conducting Intervenor discovery on Part II of the Emberling Pre-Filed Testimony, whether before the Intervenor receive responses to the discovery requests previously filed or after. Another Status Conference was scheduled for October 21, 2021, at 1:30 pm (central) to discuss the parties' progress towards resolving the discovery disputes.

OCTOBER 21, 2021 STATUS CONFERENCE

The Status Conference on October 21st was convened to discuss the status of the discovery issues after the parties had an opportunity to discuss the Intervenor's deficiencies and if necessary, to set a schedule for motions to compel. During the Status Conference, the parties indicated they

had limited discussions and had not yet received the supplemental responses from JSC to the discovery requests to try to resolve the discovery disputes. The Hearing Officer clarified a previous ruling that discovery would be conducted on the additional Emberling testimony and a determination would be made as to whether a separate round of discovery would take place before or after the supplemental discovery responses were submitted at the next status conference to be held on November 12th.

IT IS THEREFORE ORDERED THAT:

1. The Procedural Schedule issued September 8, 2021 is effectively suspended until the discovery disputes can be resolved and another procedural order can be issued.
2. The Parties should work informally to resolve the discovery disputes. The discovery
3. Jackson Energy Authority and Tennessee Electric Cooperative Association's deficiency letter regarding the discovery responses of Jackson Sustainability Cooperative should not be filed in the docket file at this time.
4. The parties should discuss the best way to handle conducting Intervenor discovery on the additional Emberling Pre-Filed Testimony Part II that was filed with the Petitioner's discovery responses.



Monica Smith-Ashford, Hearing Officer