

**BEFORE THE
TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

IN RE:)	
)	
PETITION OF JACKSON)	DOCKET NO. 21-00061
SUSTAINABILITY COOPERATIVE)	
FOR DETERMINATION OF)	
EXEMPTION OR, ALTERNATIVELY,)	
CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY)	

**UPDATE ON STATUS OF DISCOVERY ISSUES BY
JACKSON ENERGY AUTHORITY,
TENNESSEE ELECTRIC COOPERATIVE ASSOCIATION AND TENNESSEE
MUNICIPAL ELECTRIC POWER ASSOCIATION**

As required by the Hearing Officer's January 13, 2021 Notice of Filing, Jackson Energy Authority ("JEA"), Tennessee Electric Cooperative Association ("TECA"), and Tennessee Municipal Electric Power Association ("TMEPA") submit this update on the status of efforts to informally resolve their discovery disputes with Jackson Sustainability Cooperative ("JSC").

In the Order on September 30 and October 21, 2021 Status Conferences, entered on December 23, 2021 ("Order"), the Hearing Officer suspended the Procedural Schedule, directed the Parties to work informally to resolve discovery disputes, clarified that additional discovery would be conducted on Part II of the Emberling Pre-Filed Testimony that was filed with JSC's discovery responses ("Emberling Part II") and directed the Parties to discuss the timing of this additional discovery.

Status of Existing Discovery Disputes. As explained in JEA's December 16, 2021 letter to the Hearing Officer, JEA and TECA had productive discussions with counsel for JSC in November and December. After that letter was submitted, JSC made a supplemental production

of documents to JEA and TECA and committed to supplement its productions as new documents and information were created. Counsel for JSC also sent letters to JEA and TECA providing additional information regarding outstanding issues. Although JSC has produced a limited volume of discovery, JEA and TECA take JSC at its word that it has produced all responsive documents and information in the possession, custody and control of JSC and the project developer, Community Development Enterprises – Jackson I (“CDE”), and has not withheld any non-privileged documents or information based on JSC’s general and specific objections.¹ Based on JSC’s representations, JEA and TECA do not contemplate filing motions to compel at this time.

However, in the course of their communications with counsel for JSC, JEA and TECA learned that significant documents and information responsive to their discovery requests were only in the possession, custody and control of certain third-parties. Counsel for JSC was advised that third-party discovery may be necessary. After due consideration, JEA and TECA have concluded that it is necessary to seek third-party discovery from Northern Reliability, Inc. (the entity described in Emberling’s Pre-Filed Testimony as the “prime contractor” with responsibility for selecting JSC’s members); SynEnergy, Inc. (a CDE venture partner that prepared the economic impact study attached as Exhibit 13 to the Petition) and, possibly, other CDE partners, potential project funders and key persons identified in JSC’s discovery responses. JEA and TECA propose to serve third-party discovery by **February 11, 2022**.

¹ JSC has produced just over 600 pages of documents excluding the Petition and other documents filed before discovery. Of these, well over half of the pages consist of third-party publications that are not specific to the JSC project in any way. For example, JSC has produced an IRS publication about depreciation and industry white papers about financing. Thus, discovery has yielded only a relatively small number of pages of project-specific documents. Notably, only three emails regarding this purported \$70 million project have been produced.

Discovery on Emberling Part II. Consistent with their positions at the prior status conferences, JEA and TECA have held off on conducting discovery on Emberling Part II pending resolution of the initial disputes with JSC in order to streamline this additional discovery and maintain an orderly sequence of discovery. While it would be preferable to wait until third-party discovery is complete before proceeding with discovery on Emberling Part II, JEA and TECA recognize that the cooperation of some of these third-parties is outside of JSC's control. Thus, JEA and TECA propose to serve JSC with discovery relating to Emberling Part II by **February 11, 2022**, and they propose that JSC be given **30 days** to respond. JEA and TECA will contact JSC's counsel early next week to confirm that these dates are workable for JSC.

For the reasons previously provided at the October and November status conferences, the Procedural Schedule should remain suspended pending completion of this discovery.

DATED this 28th day of January, 2022.

Respectfully submitted,



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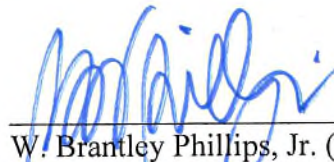
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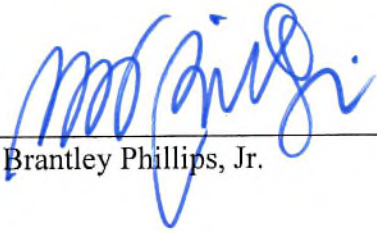
CERTIFICATE OF SERVICE

I hereby certify that on this the 28th day of January, 2022, the foregoing document was served on the following persons via email, hand delivery, overnight delivery and/or U.S. Mail, postage prepaid:

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