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ATTORNEYS AT LAW

March 10, 2022
Via Electronic Filing and Via Hand Deliver

Chairman Kenneth C. Hill
Attn: Ectory Lawless, Esq.
Docket & Records Manager
Tennessee Public Utility Commission
Andrew Jackson State Office Building
502 Deaderick Street, Floor
Nashville, TN 37243-0001

Electronically filed in TPUC Docket
Room on March 10, 2022 at 9:50 a.m.

Re: Application of Jackson Sustainability Cooperative for a Determination of Exemption and
in the Alternative, for a Certificate of Public Convenience and Necessity
Docket No. 21-00061

Dear Chairman Hill:

Enclosed is a copy of the Petitioner's Responses to the Discovery Requests from Jackson Energy Authority and to Tennessee Electric Cooperative Association. One document is bated stamped "JSC - 000871" and is available for public disclosure. There are no CONFIDENTIAL documents in this filing.

This letter confirms that discovery was served on all counsel of record. Let me know if you have any questions.

Sincerely,


John A. Beam, III

enclosure

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

IN RE: THE APPLICATION OF JACKSON)	
SUSTAINABILITY COOPERATIVE)	
FOR A DETERMINATION OF EXEMPTION)	DOCKET NO. 21-00061
AND IN THE ALTERNATIVE, FOR A)	
CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY)	

**PETITIONER’S RESPONSES TO JACKSON ENERGY AUTHORITY’S SECOND SET
OF DISCOVERY REQUESTS**

INSTRUCTIONS

These responses are made solely for the purpose of this action. These Responses are covered under the Protective Order issued in this matter. Petitioner Jackson Sustainability Cooperative has an ongoing project under development, and therefore, will supplement materials as they are developed for the solar facility. Petitioner has not completed its investigation into some of the issues raised in by these interrogatories and request for documents. The following Responses are thus given without prejudice to Petitioner to produce subsequently discovered information and material.

By these responses (and production, where applicable) Petitioner Jackson Sustainability Cooperative does not admit the relevance of any matter or document and reserves the right to object to the admission into evidence of any response or any document that is produced. Except for facts that may be explicitly admitted herein, no admission of any nature whatsoever is to be implied or inferred from these Responses.

Petitioner Jackson Sustainability Cooperative specifically reserves its right to assert

privilege for any privileged matter or document that is inadvertently disclosed or produced in response to these Interrogatories and Requests for Production. In the event such a matter or documents are inadvertently disclosed or produced, the inadvertent disclosure/production by Petitioner of any matter or of a document containing attorney-client communication, attorney work-product, or otherwise privileged information shall not constitute a waiver of privilege and such matter or document(s) shall be returned to the Petitioner immediately upon such request. Included in this reservation are not only matters and documents promulgated by Petitioner, but also any matter or document disclosed/produced by Petitioner that may have been promulgated by others.

GENERAL OBJECTIONS

Petitioner Jackson Sustainability Cooperative' undersigned counsel objects to each and every Interrogatory Request for Production to the extent it calls for the production of privileged information or documents, including information or documents protected by the attorney-client privilege, investigative privilege, consulting expert exemption, information or documents containing or pertaining to work product, and documents prepared in anticipation of the hearing in this matter. Petitioner Jackson Sustainability Cooperative' counsel further objects to each and every Interrogatory to the extent it seeks the disclosure of the identities of, or any work generated by, non-testifying consulting experts retained by or at the direction of Petitioner Jackson Sustainability Cooperative' attorneys in anticipation or preparation for the hearing in this matter, or in connection with the rendering of legal advice to the Petitioner Jackson Sustainability Cooperative. No restatement of, or failure to restate, any specific objection in the context of these answers shall be construed to imply a waiver of any unstated privilege objections addressed by

this General Objection.

2. Petitioner Jackson Sustainability Cooperative' counsel objects to each and every Interrogatory and Request for Production to the extent it attempts to impose a duty on Petitioner Jackson Sustainability Cooperative to disclose information or to produce documents that are available from other entities not parties in this litigation and to the extent it seeks matter or materials that are available to the public.

3. Petitioner Jackson Sustainability Cooperative' counsel objects to each and every Interrogatory and Request for Production to the extent it is overly broad, burdensome, and/or oppressive, or seeks information or documents neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence. Petitioner Jackson Sustainability Cooperative' counsel preserves its objection to each such Interrogatory and Request for Production to the extent it calls for the disclosure/production of such information/documents.

4. Petitioner Jackson Sustainability Cooperative' counsel objects to every Interrogatory and Request for Production that uses language such as "all" or "each and every" or similarly broad language. Such an Interrogatory or Request for Production is onerous, burdensome, harassing, prejudicial, and overly broad. Each Interrogatory asking "any" and "all" or "each and every" is objectionable in that such an inquiry, in essence, is a request for evidence, and not discoverable information. Moreover, Petitioner has no possible means of making the all encompassing identification such a broadly worded Interrogatory or Request for Production requires.

5. Petitioner Jackson Sustainability Cooperative is contacting those persons who

have knowledge of the location and/or existence of information that may be responsive. To the extent that the Interrogatories or Requests for Production or any portion thereof seek to require Petitioner Jackson Sustainability Cooperative to take any actions other than those enumerated above, such as identifying "all persons" having knowledge or identifying "all documents" concerning the subject of the Interrogatory or Request for Production, Petitioner Jackson Sustainability Cooperative's counsel objects to said Interrogatory or Request for Production on the grounds that it is unduly burdensome and oppressive.

6. Petitioner Jackson Sustainability Cooperative's counsel objects to each and every Interrogatory and Request for Production to the extent that it requires Petitioner Jackson Sustainability Cooperative to produce documents created for it by other parties in that such an Interrogatory or Request for Production is vague, ambiguous, and overly broad. Additionally, such an Interrogatory or Request for Production is broad enough to include information protected by the attorney-client privilege, the attorney work product doctrine, investigative privilege, and the consulting expert exemption.

7. Each Response herein below is subject to all objections as to competence, relevance, materiality, propriety, admissibility, and any and all other objections and grounds to which the same statement would be subject if delivered through live testimony. All such objections and grounds are expressly reserved by Petitioner Jackson Sustainability Cooperative and may be interposed at the time of hearing or in conjunction with other uses of the Responses.

RESPONSES TO SECOND SET OF DISCOVERY REQUESTS FROM INTERVENING
PARTY JACKSON ENERGY AUTHORITY

1. Beginning on page 11 of Emberling - Part II, Mr. Emberling refers extensively to manufacturers. Is membership in JSC exclusively limited to manufacturers? If so, please identify all sources of that limitation and provide copies of all documents relating to such limitation.

ANSWER:

Objection. Membership eligibility requirements were previously asked and answered in JEA question 4. The response to Question 4 is incorporated by reference as if it were stated in full in this answer. Without waiving this objection, beginning on page of 11 of Part II of Mr. Emberling's direct testimony, he describes how Jackson Sustainability Cooperative's proposed solar facility not only helps national companies meet their existing corporate sustainability goals, but meets practical problems such as frequency and voltage fluctuations or grid failures. These existing problems are reasons that those who operate heavy duty or expensive equipment need supplemental solar energy. Though manufacturers typically own and operate heavy duty equipment, Mr. Emberling's discussion beginning on page 11 does not, and is not intended to, limit membership eligibility to manufacturers. Membership eligibility is described in the Bylaws filed as Exhibit 2 to the Petition. Specifically, the membership eligibility provides that "[a]n applicant is eligible for conditional Membership if its plant and facility

- a. annually requires or is expected to annually require at least 100,000 kilowatt-hours (kWh) of electric energy; and,
- b. uses electric energy on a demand curve consistent with the Cooperative's requirements.

(Bylaws, Sect. 2.1, Bate Stamped JSC - 000034)

Jackson Sustainability Cooperative will invite only a small group of entities to become members whose electrical profiles fit well with the solar facility in terms of consumption and peak demand. (See Resp. to JEA No. 4) In addition to the initial screen at least 100,000 kilowatt-hours (kWh) of electric energy and a compatible demand curve, there will be a more detailed power analysis, as well as practical considerations like location, number of buildings, number of meters, site wiring, building wiring, maintenance and repair costs for machinery caused by voltage or frequency surges or dips, historical costs associated with power outages, shut down processes, sending workers home, lost productivity, and restart protocols, as well as publically stated corporate goals for use of energy from renewable sources. (Id.) Manufacturers will likely meet this criteria.

2. On page 13 of Emberling - Part II, Mr. Emberling states: "We reached out to TVA and JEA when first researching the project. ... They totally refused." Please state the name and job title of any such TVA and/or JEA representative which JSC contacted or with whom JSC otherwise discussed these matters. Please also state the date or dates of such contact and provide copies of all documents provided to or received from TVA and/or JEA relating to each such communication.

ANSWER:

Mr. Emberling communicated with TVA employee Antonio Eugene Jones, Sr., Program Manager, Origination & Renewables, Mid-Scale Renewables. The communications began around March 25, 2020. Afterward, they spoke 4 to 5 times. The calls primarily explored general information, including TVA's solar programs, what TVA would pay for electricity, TVA's

regulatory and contracting requirements, and TVA's attitude towards a solar project in Tennessee.

Mr. Emberling and others met with Jackson Energy Authority. John Nanny and Monte Cooper were present. Prior to that meeting there were numerous calls with John Nanny and others at Jackson Energy Authority.

3. Has JSC discussed with TVA or JEA the possibility of providing solar power through TVA programs that are available in Jackson or has JSC evaluated the possibility of providing solar power through such programs? If so, please provide copies of any documents provided to or received from TVA and/or JEA relating to each such communication and provide copies of all documents relating to such evaluations.

ANSWER:

At the time the Petition was filed, as of December 31, 2019, TVA had ended its Green Connect Program that allows customers to sell power from qualified facilities to TVA. (Petition, ¶ 21; Ex. 8, Bate Stamped JSC - 000317) The stated purpose of the former program was to help consumers support renewable energy generated within the Tennessee valley. There were no available programs after the Green Connect Program ended. Mr. Emberling discussed the Green Connect Program with TVA employee Antonio Eugene Jones, Sr., Program Manager, Origination & Renewables, Mid-Scale Renewables.

4. On page 14 of Emberling - Part II, Mr. Emberling refers to JSC as a "nonprofit co-operative corporation." Does JSC claim a federal tax exemption under Section 501(c)(12) or

any other provision under Section 501(c) of the Internal Revenue Code? If so, please state which exemption JSC claims and provide copies of all documents relating to such exemption. If not, please state why JSC either has not claimed such an exemption or does not plan to claim such an exemption and provide copies of all documents relating to JSC's federal tax status.

ANSWER:

Once Jackson Sustainability Cooperative receives acknowledgment of its exemption from the Tennessee Public Utility Commission and construction of its solar facility is underway so that it is foreseeable that it will have income from members, it will file seeking exemption from federal income tax under I.R.C. Section 501(c)(12). Section 501(c)(12) provides federal income tax exemption for cooperative electric companies or "like organizations" who receive 85 percent or more of its income each year from members. Jackson Sustainability Cooperative expects to receive 85 percent or more of its annual income from members.

5. On page 15 of Emberling - Part II, Mr. Emberling indicates that all wiring for the JSC project will be underground. Will this wiring be located in or cross federal, state or local streets or property, public rights of way, or utility or other similar easements? If so, please identify which of the foregoing streets, property, rights of way or utility or other easements that these underground facilities will cross or be located within and provide all documents relating to such underground facilities.

ANSWER:

Objection. Page 15 on Part II of Mr. Emberling's testimony does not discuss wiring traveling underground. Easements and public rights of way are not discussed in Part II of Mr.

Emberling's testimony. Underground wiring was discussed in response to TECA's interrogatory 20. JEA previously asked this same question in Interrogatory 11 when it asked for "documentation relating to the design, location, and configuration of the underground distribution system" "and/or any distribution or other facilities for the delivery of electricity from JSC's solar and/or storage facility to JEA and/or a member or customer of JSC." See the response to Interrogatory 11. Without waiving this objection, Jackson Sustainability Cooperative will acquire private easements or seek permission to run cable in the public right of way once all of its full members are selected. Many prospective members can be accessed without "crossing federal, state or local streets or property." If an entity desires membership that requires the underground wire to enter the public right of way, Jackson Sustainability Cooperative will seek approval prior to construction.

6. Has JSC applied for or otherwise requested a franchise from the City of Jackson? If so, please provide copies of all documents relating to any such application or request. If not, please state why JSC has not applied for other otherwise requested a franchise from the City of Jackson.

ANSWER:

Objection. This questions was previously asked and answered in Question 12 in the written discovery on Part I. The National Renewable Energy Laboratory, a division of the U.S. Department of Energy, describes how many communities use the franchise agreement to achieve clean energy objectives. (see "Municipal Franchise Agreements and Clean Energy Objectives" NREL report, December 4, 2019) Jackson Sustainability Cooperative is offering the community

supplemental clean energy, to those who can benefit the most.

7. On pages 15-16 of Emberling - Part II, Mr. Emberling refers to commercial entities that "may be a suitable fit with those of other potential members." Please identify all such commercial entities and provide copies of all documents relating to such entities, including without limitation, communications with such entities.

ANSWER:

Objection. This questions was previously asked and answered in Question 5 in the written discovery on Part I. Without waiving that objection, please see conditional member agreements previously produced at Bate Stamped JSC Confidential 500162 through JSC Confidential 500211. This request will be supplemented as additional information becomes available or is identified.

8. On page 16 of Emberling - Part II, Mr. Emberling indicates that, once an entity referred to in Request 8, above, is identified, "Jackson Sustainability Cooperative initiates a discussion with that entity." Please identify all entities with whom JSC has initiated such a discussion and provide copies of all documents relating to such discussion or discussions.

ANSWER:

See response to Part II Interrogatory No. 7 above. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

9. On page 16 of Emberling - Part II, Mr. Emberling indicates that "[if] the entity indicates a desire to become a member, it is given a Conditional Member Agreement to sign and required to provide Jackson Sustainability Cooperative with all the electricity usage information needed to evaluate its suitability for membership." Please identify all entities that have been given a Conditional Member Agreement and provide copies of all documents relating to each proposed Conditional Member Agreement and each executed Conditional Member Agreement, including without limitation, all documents provided to evaluate each entity's suitability for membership and all analysis done regarding each entity's suitability for membership.

ANSWER:

See response to Part II Interrogatory No. 7 above. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

10. On page 16 of Emberling - Part II, Mr. Emberling references Section 2.1 of the JSC bylaws and indicates that JSC "will analyze the energy profile and energy demands of the conditional Member to see if the conditional Member's electricity needs are a suitable fit with the other members and the Solar project." Has JSC undertaken or caused to be undertaken such an analysis? If so, please provide all documents related to each such analysis.

ANSWER:

Objection. This was previously asked and answered in Question 4 on the eligibility requirements for members of JSC. At this time, there are no documents responsive to this request. As development of the proposed facility continues, this request will be supplemented as

additional information becomes available or is identified.

11. On page 16 of Emberling - Part II, Mr. Emberling references Section 2.1 of the JSC bylaws and indicates that "Qualifying conditional members may be invited to become full Members who receive supplemental energy after they sign a Full Member Agreement" Has JSC invited any such conditional members to become full Members of JSC? If so, provide all documents relating to each such invitation of full membership.

ANSWER:

Jackson Sustainability Cooperative has not invited any conditional member to become a full member as of this time. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

12. Referring to Request 12, above, please identify all full Members of JSC and provide all documents relating to each such member's membership in JSC.

ANSWER:

Jackson Sustainability Cooperative has not invited any conditional member to become a full member as of this time. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

13. On page 17 of Emberling - Part II, Mr. Emberling indicates that "Once Northern Reliability informs Jackson Sustainability Cooperative that sufficient electrical usage information from a sufficient number of Conditional Members has been received, Northern Reliability begins

to analyze all relevant information submitted by all Conditional Members." Has Northern Reliability informed JSC that it has received sufficient information to perform its analysis? If so, please provide all documents relating to Northern Reliability's analysis. Please also provide all documents relating to communications with Northern Reliability, irrespective of whether Northern Reliability has completed such an analysis.

ANSWER:

Jackson Sustainability Cooperative has not provided electrical usage information to Northern Reliability at this time. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

14. On page 17 of Emberling - Part II, Mr. Emberling indicates that, following Northern Reliability's analysis referenced above, "Northern Reliability then selects a set of Conditional Members whose electrical usage patterns form a good fit for the capabilities of the solar facilities." Has Northern Reliability selected such a set of Conditional Members? If so, please identify each such Conditional Member and provide all documents relating to Northern Reliability's analysis as well as all documents relating to communications with such Conditional Members.

ANSWER:

Jackson Sustainability Cooperative has not provided electrical usage information to Northern Reliability at this time. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

15. On page 17 of Emberling - Part II, Mr. Emberling indicates that if all of the selected Conditional Members sign Full Member Agreements, "they become the only Full Members." Has JSC completed this process? If so, please identify all Full Members, provide copies of all Full Member Agreements and provide all documents relating to such Full Member Agreements. If JSC does not have a "complete set of Full Members," please describe the status of JSC's efforts to complete its set of Full Members and provide all documents relating to the identification and selection of such members.

ANSWER:

See response to Part II Question 11 above. Jackson Sustainability Cooperative has not invited any conditional member to become a full member as of this time. Once Jackson Sustainability Cooperative completes financing commitments for the solar facility, it will work to complete its initial group of members. As development of the proposed facility continues, this request will be supplemented as additional information becomes available or is identified.

16. On page 17 of Emberling - Part II, Mr. Emberling states "When the grid fails and Jackson Sustainability Cooperative continues to provide power, it is not competing with JEA" Does JSC plan to limit its operations to times when the "grid" has failed (i.e., will JSC only provide power when JEA is unable to do so because of a system outage)?

ANSWER:

The questions was previously asked and answered in Tennessee Electric Cooperative Association interrogatory 25. The response has not changed. The response was as follows:

Jackson Sustainability Cooperative members will draw power from the solar

facility whenever their instantaneous demand rises sufficiently for Jackson Sustainability Cooperative's supplementary power to them to be worthwhile to them and feasible for Jackson Sustainability Cooperative to supply. This is not limited to grid outages. No one makes such decisions. They are the responsibility of the computerized controller which electronically monitors production, storage, and demand and shares or optimizes power delivery among members.

VERIFICATION

I, Dennis Emberling, as President of Jackson Sustainability Cooperative, swear and/or affirm that the foregoing Interrogatory Responses are true and accurate to the best of my knowledge, information, or belief.

Jackson Sustainability Cooperative

By: *Dennis Emberling*
Dennis Emberling, President

STATE OF TENNESSEE)
) SS
COUNTY OF DAVIDSON)

Before me, *Brandee Perrin*, of the state and county aforesaid, personally appeared Dennis Emberling, with whom I am personally acquainted, or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be the authorized representative of Jackson Sustainability Cooperative, and that he/she executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as the duly authorized representative.

WITNESS my hand at office, this 7th day of March, 2022.

Brandee Perrin
NOTARY PUBLIC

My commission expires: *9th July 2024*



Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of March, 2022, I filed Responses To

Discovery with the parties named below and filed a true and correct copy with the Tennessee Public Utility Commission within three days, and I emailed and sent by U.S. mail copies to the following parties:

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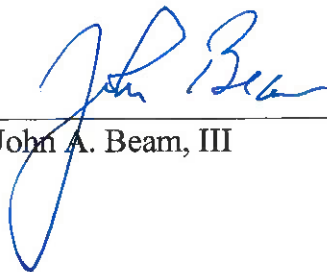
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