

Matthew J. Sinback
msinback@bassberry.com
(615) 742-7910

March 18, 2022

Via Electronic Filing and U.S. Mail

Hon. Kenneth C. Hill, Chairman
c/o Ectory Lawless, Docket Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
tpuc.docketroom@tn.gov

Electronically Filed in TPUC Docket
Room on March 18, 2022 at 8:30 a.m.

***Re: Petition of Jackson Sustainability Cooperative to Determine if a Certificate of
Convenience and Necessity Is Needed
Docket No. 21-00061***

Dear Chairman Hill:

Enclosed please find an original and four copies of Tennessee Electric Cooperative Association's Update on Status of Third-Party Discovery.

Should you have any questions concerning the enclosed, please do not hesitate to contact me.

Sincerely,



Matthew J. Sinback

Enclosure

cc: All Counsel of Record

**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 THIRD-PARTY DISCOVERY BY
TENNESSEE ELECTRIC COOPERATIVE ASSOCIATION**

In light of the Hearing Officer’s entry of the Amended Partial Procedural Schedule dated March 1, 2022, Tennessee Electric Cooperative Association (“TECA”) submits this update on the status of third-party discovery. The parties have continued to cooperate in pursuing this discovery and advancing this case.

During the February 9, 2022 status conference, TECA discussed the need for third-party discovery from parties involved with Jackson Sustainability Cooperative’s (“JSC”) proposed solar project, and the Hearing Officer authorized TECA to proceed. On February 11, 2022, the Hearing Officer signed subpoenas for E A Solar LLC; Hunt Solar LLC; SynEnergy, Inc.; and Northern Reliability, Inc.¹

Because these entities are located or registered outside of Tennessee, completion of service of the subpoenas would require “domestication” in multiple state court systems. Given his prior contacts and experience with these entities, counsel for JSC generously offered to reach out to

¹ Copies of the signed subpoenas are being filed contemporaneously with this Update.

these entities and attempt to arrange to accept service of process for them in order to avoid the need for the domestication process.

On February 16, 2022, counsel for JSC advised counsel that E A Solar, Hunt Solar, and SynEnergy agreed to accept service of the subpoenas. Counsel for JSC delivered electronic copies of these entities' subpoena responses on March 10, 2022, and these responses will be filed with the TPUC and served on the parties once the entities identify which documents they deem to be confidential.²

Also on February 16, counsel for JSC advised that he had traded calls with his contact at Northern Reliability, the Vermont-based entity described as the "prime contractor" for the solar project, and that he would follow up on whether they agreed to accept service. On February 28, counsel for JSC responded to a request for an update and stated that he had emailed Northern Reliability and would follow that email up with a telephone call. When that effort did not yield a response from Northern Reliability, TECA retained counsel in Vermont, filed the subpoena in the Vermont Superior Court, asked the court to approve the subpoena, and arranged for the domesticated subpoena to be served. That process was completed on March 10, 2022, and Northern Reliability's response is due on March 31, 2022.

In light of this delay, which occurred despite the parties' good-faith efforts to cooperate, TECA requests that the Amended Partial Procedural Schedule be modified to keep the

² Upon receiving the discovery responses of these entities, each of whom is a venture partner in Community Development Enterprises – Jackson I, counsel for TECA notified counsel for JSC that the documents had been produced without any confidentiality designation. Counsel for TECA asked whether counsel for JSC had any concerns about the public filing of these documents. On March 15, 2022, counsel for JSC advised that it is likely that some of the third-party documents should be filed under seal. Given that, additional time is needed for the third parties to identify the documents they deem to be confidential and for such documents to be marked as "CONFIDENTIAL" pursuant to the terms of the Amended Protective Order.

consideration of all discovery disputes on a consistent schedule. The current schedule calls for JSC's discovery responses and the third-party discovery responses to be produced by March 11, 2022 and for motions to compel to be filed 14 days later, on March 25, 2022. Because Northern Reliability's responses will not be received until March 31, 2022, the deadline for motions to compel for all discovery should be 14 days after that date—April 14, 2022.

This schedule modification will allow for all discovery disputes to proceed on the same timeline, and it will give the parties time to review Northern Reliability's responses and objections and identify whether there are any disputes that need to be addressed. Under Rule 45(f)(3)(B) of the Vermont Rules of Civil Procedure, discovery disputes with Northern Reliability, if any, will need to be litigated in the Vermont Superior Court, not at the TPUC.

Given that circumstance, TECA also proposes that the parties appear for a status conference the week of April 18, 2022 to discuss the impact on the schedule if a discovery dispute needs to be litigated in Vermont or, if no such litigation is necessary, to discuss the remainder of the procedural schedule.

DATED this 18th day of March, 2022.

Respectfully submitted,



W. Brantley Phillips, Jr. (18844)
Matthew J. Sinback (23891)
Caleb H. Hogan (37412)
BASS BERRY & SIMS PLC
150 Third Avenue South, Suite 2800
Nashville, TN 37201
(615) 742-6200
(615) 742-6293 (facsimile)
bphillips@bassberry.com
msinback@bassberry.com
caleb.hogan@bassberry.com

*Attorneys for Tennessee Electric
Cooperative Association*

CERTIFICATE OF SERVICE

I hereby certify that on this the 18th day of March, 2022, the foregoing document was served on the following persons via email, hand delivery, overnight delivery and/or U.S. Mail, postage prepaid:

John A. Beam, III
EQUITUS LAW ALLIANCE, PLLC
P.O. Box 280240
Nashville, TN 37208
beam@equituslaw.com

Larry L. Cash
Mark W. Smith
MILLER & MARTIN PLLC
832 Georgia Avenue, Suite 1200
Chattanooga, Tennessee 37402
larry.cash@millermartin.com
mark.smith@millermartin.com

Henry Walker
**BRADLEY ARANT BOULT
CUMMINGS, LLP**
1600 Division Street, Suite 700
Nashville, TN 37203
hwalker@bradley.com

Kimberly Bolton
Office of the General Counsel
**TENNESSEE VALLEY
AUTHORITY**
400 West Summit Hill Drive
Knoxville, TN 37902-1401
kabolton@tva.gov

Jeremy L. Elrod
**TENNESSEE MUNICIPAL
ELECTRIC POWER
ASSOCIATION**
212 Overlook Circle, Suite 205
Brentwood, TN 37027
jelrod@tmepa.org



Matthew J. Sinback