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April 11, 2022

**Via Electronic Filing and U.S. Mail**

Electronically Filed in TPUC Docket  
Room on April 11, 2022 at 7:27 p.m.

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](mailto:tpuc.docketroom@tn.gov)

***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 copy of the Update on Status of Third-Party Discovery and Motion to Extend the Deadline for Motions to Compel by Tennessee Electric Cooperative Association, which was filed electronically on April 11, 2022.

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**

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

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**UPDATE ON STATUS OF THIRD-PARTY DISCOVERY AND  
MOTION TO EXTEND THE DEADLINE FOR MOTIONS TO COMPEL BY  
TENNESSEE ELECTRIC COOPERATIVE ASSOCIATION**

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Tennessee Electric Cooperative Association (“TECA”) submits this update on the status of third-party discovery. Though the parties have diligently pursued this discovery, the completion of initial third-party discovery has been delayed by the need to address certain confidentiality concerns raised by Northern Reliability, Inc., the Vermont-based entity described as the “prime contractor” for the solar project. Accordingly, a brief extension of the deadlines set forth in the current partial procedural schedule is necessary.

As explained in more detail in TECA’s March 18, 2022 Update on Status of Third-Party Discovery (“First Status Update”), TECA served subpoenas on E A Solar LLC; Hunt Solar LLC; SynEnergy, Inc.; and Northern Reliability, Inc. (“Northern Reliability”).<sup>1</sup> The subpoena on

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<sup>1</sup> Upon receiving the discovery responses of E A Solar, Hunt Solar, and SynEnergy, each of whom is a venture partner in Community Development Enterprises – Jackson I, counsel for TECA notified counsel for Jackson Sustainability Cooperative (“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 was likely that some of the third-party documents should be filed under seal. Thereafter, the parties cooperated to obtain lists of the documents that these third-parties deemed to be “CONFIDENTIAL” pursuant to the Amended Protective Order, and counsel for TECA

Northern Reliability was domesticated in a Vermont state court and served on March 10, 2022, making Northern Reliability's response due on March 31, 2022. In the First Status Update, TECA requested that the Amended Partial Procedural Schedule be modified to keep the consideration of all discovery disputes on a consistent schedule. In particular, TECA requested that the deadline for motions to compel for all discovery be set for 14 days after March 31, 2022, the date that Northern Reliability's response was due.

At the status conference held on March 28, 2022, the parties presented their positions on this issue. Other than JSC, all parties agreed that the deadline for all motions to compel should be postponed to allow for the parties to receive and review Northern Reliability's document production. The Hearing Officer agreed and entered the "Order on March 28, 2022, Status Conference and Revising Amended Partial Procedural Schedule," which set April 14, 2022 as the deadline for motions to compel.

During the March 28 status conference, counsel for TECA also advised that it had been in contact with counsel for Northern Reliability and that counsel for Northern Reliability had expressed concerns with the Amended Protective Order and would identify those concerns with more particularity that week. Thereafter, counsel for TECA received Northern Reliability's comments and, on March 31, 2022, sent an email to the Hearing Officer and the parties describing these comments and suggesting revisions to the Amended Protective Order. At the Hearing Officer's direction, TECA filed a formal Motion to Amend the Amended Protective Order on Friday, April 1, 2022.

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processed the documents accordingly. SynEnergy's production was electronically served on the parties on April 1, 2022, and the productions of E A Solar and Hunt Solar were served on April 5, 2022. All productions were electronically filed with the TPUC on April 5 and 6, 2022.

Also on April 1, counsel for TECA informed counsel for Northern Reliability about the motion and asked whether Northern Reliability intended to comply with the subpoena. In response, counsel for Northern Reliability indicated that they consider Northern Reliability's documents to be confidential business documents and that they will be resistant to producing responsive documents before the protective order is amended. Consistent with that position, Northern Reliability did not produce any documents or otherwise respond to the subpoena. On Monday, April 4, counsel for TECA sent an email to the Hearing Officer and the parties describing Northern Reliability's position.

On April 7, 2022, the Second Amended Protective Order was entered without objection. Counsel for TECA promptly provided a copy of the Second Amended Protective Order to counsel for Northern Reliability and participated in a call to discuss whether and when Northern Reliability would comply with the subpoena. Counsel for Northern Reliability stated that they will review the Second Amended Protective Order and promptly advise if they have any other concerns. They also explained that they are in the process of completing their review and processing of the documents provided by Northern Reliability. They stated that they expect to complete the bulk of their production by Wednesday, April 13, but that some documents will be produced after that date because those documents are subject to third-party non-disclosure agreements requiring that notice be given to the relevant third-parties. As of the date of this motion, counsel for Northern Reliability has not contacted counsel for TECA raising any concerns with the Second Amended Protective Order or suggesting that Northern Reliability's production will be further delayed.

Thus, despite these diligent efforts to obtain discovery from Northern Reliability on the timeline set forth in the subpoena, Northern Reliability's production has been briefly delayed. In light of this delay, TECA requests that the deadline for all motions to compel be reset to 14 days



after Northern Reliability substantially completes its production. Alternatively, TECA requests that the deadline for motions to compel be suspended and that a new deadline be set at the status conference scheduled for Monday, April 18, 2022 at 10:30 a.m.

Proceeding in this manner will allow for all discovery disputes to proceed on the same timeline and in an orderly manner. It will also give the parties time to review Northern Reliability's response and identify whether that response has any bearing on potential discovery disputes with JSC and whether any discovery disputes with Northern Reliability will need to be litigated in the Vermont Superior Court.

**DATED** this 11th day of April, 2022.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 11th day of April, 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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