

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

January 5, 2023

IN RE:)	
)	
PETITION OF JACKSON SUSTAINABILITY)	DOCKET NO.
COOPERATIVE TO DETERMINE IF A)	21-00061
CERTIFICATE OF CONVENIENCE AND)	
NECESSITY IS NEEDED)	

ORDER GRANTING MOTION FOR INTERLOCUTORY REVIEW BY THE PANEL OF COMMISSIONERS

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) on the *Motion for Interlocutory Appeal to the Full Public Utility Commission* (“*Motion*”) filed by Jackson Sustainability Cooperative (“JSC”) on December 12, 2022. JSC seeks interlocutory review of the Hearing Officer’s decision made pursuant to Rule 37.01 of the Rules of Civil Procedure to issue sanctions against JSC in the form of attorney’s fees to be paid to Jackson Energy Authority (“JEA”) and Tennessee Electric Cooperative Association (“TECA”) for JSC’s abuse of the discovery process. JSC also seeks review of the Hearing Officer’s August 20, 2021 determinations granting intervention to the “Government Intervenors,” as referred to by JSC to include JEA, TECA, TVA, and presumably TMEPA. In addition, JSC seeks review of the “Hearing Officer’s decision to bar Petitioner’s discovery to the Government Intervenors while allowing the Government Intervenors to effect enormous discovery against the Petitioner.”¹

On December 19, 2022, JEA, TECA, Tennessee Valley Authority (“TVA”), and Tennessee Municipal Electric Power Association (“TMEPA”) (collectively the “Intervenors”) filed the *Joint*

¹ *Motion*, p. 1 (December 12, 2022).

Response to Jackson Sustainability Cooperative's Motion for Interlocutory Appeal (“*Joint Response*”). The *Joint Response* states that “[w]hile the substantive issues raised in the Motion are completely without merit,” the Intervenor’s acknowledge Commission rules provide that permission for review shall not be unreasonably withheld.² Therefore, the Intervenor’s state they will not take a position on the *Motion* but will strongly oppose the *Motion* on its merits if it is permitted to go forward.³

FINDINGS AND CONCLUSIONS

Commission Rule 1220-1-2-.06 provides that “[a]ny party who wishes to seek interlocutory review by the Commission of a Hearing Officer decision on a preliminary motion shall make application by motion to the Hearing Officer. *Permission for interlocutory review shall not be unreasonably withheld.*” (emphasis added)⁴ Based on the standard for granting review pursuant to Commission Rule 1220-1-2-.06, the Hearing Officer concludes that JSC may seek interlocutory review by the panel of Commissioners of the Hearing Officer’s rulings set forth in JSC’s *Motion*. The Hearing Officer’s determination is not based on a consideration of the merits of the arguments within the *Motion*.

IT IS THEREFORE ORDERED THAT:

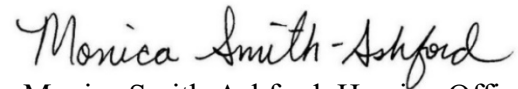
1. Jackson Sustainability Cooperative may seek interlocutory review by the voting panel of Commissioners assigned to this docket of the issues set forth in its *Motion for Interlocutory Appeal to the Full Public Utility Commission*.
2. Initial Briefs in this matter shall be filed by **January 20, 2023**.
3. Rebuttal Briefs shall be filed by **February 2, 2023**.

² *Joint Response*, p. 1 (December 19, 2022).

³ *Id.* at 2.

⁴ The Order issued by the Hearing Officer on November 14, 2022 more accurately should have been entitled *Order Granting, in Part and Denying, in Part, Motions to Compel filed by Tennessee Electric Cooperative Association and Jackson Energy Authority*.

4. The target date for Oral Arguments is the Commission Conference currently scheduled for **February 27, 2023, at 9:00 a.m. (CST)**.


Monica Smith-Ashford, Hearing Officer