

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

August 21, 2023

Electronically Filed in TPUC Docket
Room on August 21, 2023 at 1:25 p.m.

Via Electronic Filing and U.S. Mail

Hon. Herbert H. Hilliard, Chairman
c/o Ectory Lawless, Docket Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37243
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 Hilliard:

Enclosed please find an original and four copies of the following, which was filed electronically on August 21, 2023: Tennessee Electric Cooperative Association's Response to Jackson Sustainability Cooperative's Motion to Dismiss Petition with Prejudice.

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 (via email)

STATE OF TENNESSEE
BEFORE THE
TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

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

**TENNESSEE ELECTRIC COOPERATIVE ASSOCIATION’S RESPONSE TO
JACKSON SUSTAINABILITY COOPERATIVE’S
MOTION TO DISMISS PETITION WITH PREJUDICE**

Tennessee Electric Cooperative Association (“TECA”) submits this response to the Motion to Dismiss Petition with Prejudice (“Motion”) filed by Jackson Sustainability Cooperative (“JSC”) on August 14, 2023.

On May 8, 2023, the Tennessee Public Utility Commission issued an order affirming the Hearing Officer’s award of reasonable attorney’s fees and expenses to Jackson Energy Authority (“JEA”) and TECA under the provisions of Rule 37 of the Tennessee Rules of Civil Procedure. As discussed during the Status Conference held on August 11, 2023, the proceedings to determine the amount of, and the persons or entities responsible for paying, the reasonable attorney’s fees and expenses are pending.¹ Without waiving or abandoning its claims for reasonable attorney’s

¹ As set during the August 11 Status Conference, briefs from JEA and TECA are due August 31, 2023; response briefs are due September 7, 2023; and a hearing is scheduled for September 12, 2023.

fees and expenses under Rule 37, TECA states that it does not object to this docket being dismissed with prejudice. TECA respectfully requests, however, that the order dismissing this docket with prejudice not be entered until the proceedings regarding the reasonable attorney's fees and expenses to be paid have concluded.²

DATED this 21st day of August, 2023.

Respectfully submitted,

/s/ W. Brantley Phillips, Jr.

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

bphillips@bassberry.com

msinback@bassberry.com

caleb.hogan@bassberry.com

Attorneys for Tennessee Electric

Cooperative Association

² In the event this docket is dismissed prior to the conclusion of the Rule 37 proceedings, TECA maintains that the Commission retains authority to determine the amount of, and the persons or entities responsible for paying, the reasonable attorney's fees and expenses to be awarded to TECA and JEA. *See e.g., Menche v. White Eagle Prop. Grp., LLC*, 2019 WL 4016127, at *8-9 (Tenn. Ct. App. Aug. 26, 2019). Nevertheless, waiting to grant JSC's motion to dismiss will serve to prevent uncertainty.

CERTIFICATE OF SERVICE

I hereby certify that on this the 21st day of August, 2023, 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

Steven L. Lefkovitz
LEFKOVITZ AND LEFKOVITZ, PLLC
908 Harpeth Valley Place
Nashville, TN 37221
SLefkovitz@Lefkovitz.Com

Dennis Emberling
1100 Whitehall Street
Jackson, TN 38301

Larry L. Cash
Mark W. Smith
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

/s/ W. Brantley Phillips, Jr.