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November 17, 2023

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

Electronically Filed in TPUC Docket
Room on November 17, 2023 at 1:58 p.m.

***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 November 17, 2023: Tennessee Electric Cooperative Association's Motion for Leave to File Reply to Responses by Jackson Sustainability Cooperative and Its Former Counsel Regarding Award of Reasonable Attorneys' Fees, and the exhibit thereto.

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 MOTION FOR LEAVE
TO FILE REPLY TO RESPONSES BY JACKSON SUSTAINABILITY COOPERATIVE
AND ITS FORMER COUNSEL REGARDING AWARD OF REASONABLE
ATTORNEYS’ FEES**

Pursuant to Commission Rule 1220-01-02-.06, Tennessee Electric Cooperative Association (“TECA”) requests leave to file a short reply to (i) Applicant’s (Jackson Sustainability Cooperative) Response Argument to Motion to Assess Fees and Expenses in This Case, filed on September 29, 2023; (ii) Response By John Beam And Equitus Law Alliance, PLLC to the Motions for Sanctions Filed by the Tennessee Electric Cooperative Association and by Jackson Energy Authority, filed on October 2, 2023 (“Former Counsel’s Response”); and the Affidavit of Dennis Emberling, filed on October 2, 2023 (“Emberling’s October Affidavit”).

Under Commission Rule 1220-01-02-.06, a reply to a response may be filed if leave is given. Tenn. Comp. R. & Regs. 1220-01-02-.06. TECA submits that a short reply will aid the Hearing Officer’s consideration of the issues. A reply is particularly helpful here because Former Counsel’s Response is not confined to responding to the arguments made in TECA’s

Memorandum Supporting Award of Reasonable Attorneys' Fees, filed on September 1, 2023, and because Former Counsel's Response and Emberling's October Affidavit contain incomplete and misleading characterizations of the record in this docket.

For the Hearing Officer's convenience, a copy of TECA's proposed reply is attached hereto as **Exhibit 1**.

DATED this 17th day of November, 2023.

Respectfully submitted,

/s/ W. Brantley Phillips, Jr.

W. Brantley Phillips, Jr. (18844)

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 2023, the foregoing document was served on the following persons via email and/or U.S. Mail, postage prepaid:

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/s/ W. Brantley Phillips, Jr.

STATE OF TENNESSEE
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**TENNESSEE ELECTRIC COOPERATIVE ASSOCIATION’S REPLY TO RESPONSES
BY JACKSON SUSTAINABILITY COOPERATIVE AND ITS FORMER COUNSEL
REGARDING AWARD OF REASONABLE ATTORNEYS’ FEES**

In its order affirming the Hearing Officer’s November 14 Order, the Commission observed that “[t]he record here paints a perplexing picture.” (Commission Order at 33.)¹ The misguided legal arguments and demonstrably false factual assertions made by John Beam and Equitus Law Alliance PLLC (“Former Counsel”) in their response to TECA’s Second Fee Memo (“Former Counsel’s Response”) and by Dennis Emberling in his October 2, 2023 Affidavit (“Emberling’s October Affidavit”) only make the picture more perplexing.

TECA respectfully submits this reply to briefly address six points raised in Former Counsel’s Response, Emberling’s October Affidavit, and JSC’s September 29, 2023 response brief

¹ This reply uses the same defined terms used in TECA’s Memorandum Supporting Award of Reasonable Attorneys’ Fees, filed on September 1, 2023 (“TECA’s Second Fee Memo”).

(“JSC’s Response”).² For the reasons discussed below, none of these arguments or assertions provides a valid basis to deny the expenses requested by TECA or to deny TECA’s request that JSC, Former Counsel, and Emberling be held jointly and severally liable for those expenses.

First, JSC, Former Counsel, and Emberling **do not contest** the reasonableness of the \$67,843.95 in attorneys’ fees and expenses requested by TECA.

Second, JSC does not argue that it would be improper to enter an award of attorneys’ fees and expenses against it. JSC’s Response simply advises the Hearing Officer that “[a]t the end of the day, if [JSC] is assessed with the fees and expenses from this case, then ... the assessment is non-collectible.” (JSC Resp. at 5.) This statement does not suggest there is any barrier to entering a final award of attorneys’ fees and expenses against JSC, Former Counsel, and Emberling. As to JSC, entering a final award will provide an appropriate record should any of JSC’s principals or affiliates appear again before the Commission.

Third, Former Counsel’s effort to reargue the merits of the November 14 Order and the Commission Order are procedurally improper and should be rejected. Curiously, Former Counsel devotes a substantial portion of his response to arguing that Tennessee law does not allow for an award of attorneys’ fees and expenses under Rule 37.01 based on the discovery misconduct that occurred in this docket. (See Former Counsel Resp. at 5-9, 12-13, 15-21.) That issue has been decided. (See *generally* Nov. 14 Order; Commission Order.) It is not the subject of the November 30 hearing set by the Hearing Officer or TECA’s Second Fee Memo. (See, e.g., Order Establishing Briefing and Hearing Procedural Schedule, Sep. 8, 2023, *as amended* Oct. 27, 2023 and Nov. 9,

² This reply does not address the arguments made in Emberling’s Memorandum in Support of Motion to Dismiss and in Opposition to Briefs of JEA and TECA, filed on October 30, 2023.

2023; TECA’s Second Fee Memo.) For that reason, alone, Former Counsel’s reargument of the merits should be rejected.

Regardless, Former Counsel’s merits argument entirely misses the mark. Former Counsel argues that the discovery misconduct that occurred here does not meet the criteria set forth in *Apple Inc. v. Samsung Elecs. Co.*, 888 F. Supp. 2d 976 (N.D. Cal. 2012) and *Tatham v. Bridgestone Americas Holding, Inc.*, 473 S.W.3d 734 (Tenn. 2015). Neither case is relevant. The *Apple* decision discusses the standards for determining whether an adverse inference may be given as a discovery sanction. *Apple*, 888 F. Supp. 2d at 989-95. The *Tatham* decision considered whether a trial court should have dismissed a case as a sanction for spoliation under Tennessee Rule of Civil Procedure 34A.02. *Tatham*, 473 S.W.3d at 744-48. Neither case involved an award of expenses under Tennessee Rule of Civil Procedure 37.01(4) in connection with the granting of a motion to compel, which is what the Hearing Officer did in the November 14 Order.³

Fourth, Former Counsel’s argument that he may be liable for the award of expenses only if he specifically directed the discovery misconduct finds no support in the language of Rule 37.01 or the cited authorities. Under Rule 37.01, “the court shall ... require the party ... whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney’s fees” Tenn. R. Civ. P. 37.01(4). Former Counsel suggests that an attorney may be liable only if it can be proven that “he or she is advising the client not to produce documents.” (Former Counsel’s Resp. at 12.) That standard misapprehends the attorney’s role in discovery. As between the attorney and the client, the attorney is the expert regarding discovery obligations, including the

³ To be sure, TECA may have sought a more severe sanction—like the dismissal of JSC’s petition or an adverse evidentiary inference—if JSC failed to comply with the November 14 Order. JSC chose to abandon this docket instead of answering basic questions about its discovery efforts.

duty to preserve documents. Accordingly, the attorney is obligated to take an “active and primary role” in ensuring that information is preserved and produced. *EPAC Techs., Inc. v. HarperCollins Christian Publ’g, Inc.*, 2018 WL 1542040, at *22 (M.D. Tenn. Mar. 29, 2018), *aff’d as modified sub nom. EPAC Techs., Inc. v. Thomas Nelson, Inc.*, 2018 WL 3322305 (M.D. Tenn. May 14, 2018). As JSC’s counsel during discovery, Former Counsel is responsible for the discovery misconduct that led to the November 14 Order.⁴ Moreover, Former Counsel’s preferred standard is entirely impracticable. It would require an adverse party to, somehow, pierce the attorney-client privilege to discover the advice given by the attorney to his or her client. Nothing in the language of Rule 37.01 suggests that such proof is required.

Indeed, the cases cited in TECA’s Second Fee Memo make clear that neither the language nor the purpose of Rule 37.01 requires proof that the attorney instructed the client to engage in discovery misconduct. *See Devaney v. Cont’l Am. Ins. Co.*, 989 F.2d 1154, 1161-62 (11th Cir. 1993); *GMAC Bank v. HTFC Corp.*, 248 F.R.D. 182, 198 (E.D. Pa. 2008); *Rebsom v. Kunnath*, 2022 WL 715711, at *2 (D. Mont. Mar. 10, 2022); *Twin Falls NSC, LLC v. S. Idaho Ambulatory Surgery Ctr., LLC*, 2020 WL 5523384, at *17 (D. Idaho Sept. 14, 2020).

Former Counsel’s “due process” argument fares no better. That argument relies upon the United States Supreme Court’s decision in *Goodyear Tire & Rubber Co. v. Haeger*, 581 U.S. 101

⁴ Incredibly, Former Counsel and Emberling now admit that Emberling continued to exercise discretion over which emails he kept and which emails he moved to his “trash bin” for eventual auto-deletion. Former Counsel explains that E A Solar LLC’s auto-delete function “applied only to its email trash bin.” (Former Counsel’s Resp. at 17.) Emberling explains that “[a]fter our filing to the PUC, I was even more cautious about moving anything to trash that might be important for the PUC case. I never put any emails in trash that I believed relevant to our petition.” (Emberling’s Oct. Aff. at ¶ 23.) Somehow Mr. Emberling’s supposed caution resulted in the deletion of scores of relevant emails created after JSC filed its petition and after discovery commenced. It is telling that instead of answering the interrogatories ordered in the November 14 Order, which focused on explaining JSC’s discovery efforts, Emberling chose to put JSC in bankruptcy and move to dismiss this docket.

(2017). *Goodyear*, however, says nothing about when an attorney may be jointly and severally liable for the expenses incurred by the opposing party in connection with a successful motion to compel. Rather, *Goodyear* holds that a federal court's inherent authority does not allow the court to issue a sanction that is unrelated to the discovery misconduct. *Id.* at 109-11. In that case, Goodyear withheld a key piece of evidence. *Id.* at 104-05. After the case settled and the misconduct was discovered, the court exercised its inherent authority and required Goodyear to pay all of the plaintiff's legal fees (whether related to discovery or not) from the date of Goodyear's first dishonest discovery response. *Id.* at 105-06. The Supreme Court held that a court may not paint with such a broad brush. Instead, a court may only award those expenses incurred because of the discovery violation. *Id.* at 109.

The November 14 Order (and Rule 37.01) is entirely consistent with *Goodyear*. The November 14 Order limits TECA and JEA to the reasonable attorneys' fees and expenses related to the filing of the motions to compel. (Nov. 14 Order at 17.)⁵ Former Counsel's suggestion that the discovery misconduct that resulted in a successful motion to compel did not cause the expenses incurred by the moving party in filing the motion to compel is nonsensical.⁶

Fifth, in an effort to cast doubt on the propriety of the November 14 Order and the Commission Order, Former Counsel's arguments make demonstrably false and misleading statements about the record in this case. Former Counsel claims that: (i) after June 2, 2021, E A Solar LLC retained all electronic documents, including email communications; (ii) after June 2, 2021, Mr. Beam made sure all documents, including electronically stored documents were retained

⁵ Indeed, the Hearing Officer denied the other expenses requested by TECA. (*Id.* at 15, 17.)

⁶ Former Counsel also appears to suggest that TECA only cited cases decided before *Goodyear*. (See Former Counsel's Resp. at 22 n.4.) That suggestion is false. TECA's Second Fee Memo cites to cases decided after *Goodyear*. (TECA's Second Fee Memo at 8-9 (citing *Rebsom*, 2022 WL 715711, at *2; *Twin Falls NSC, LLC*, 2020 WL 5523384, at *17.)

by the solar developer; and (iii) there is no evidence that proves the existence of documents allegedly not produced in discovery. (Former Counsel’s Resp. at 16-18, 20-24.) As the Hearing Officer is aware, Northern Reliability, Inc.’s May 12, 2022 document production (“Northern Reliability’s Third Production”), which consists of documents numbered NRI000950-NRI001802, contains nearly 200 emails from, to, or copying Emberling or other persons affiliated with JSC or CDE that were not produced by JSC. (See TECA Compel Mem., filed May 20, 2022, at 12, 17-18; *see generally* NRI000950-NRI001787.) Of these, some 111 emails were created *after* June 2, 2021, when Mr. Beam supposedly ensured that all documents were retained. A list of these 111 emails, by date and bates number, is attached as Exhibit A.⁷ The claim that no documents created after June 2, 2021 were withheld or destroyed is patently false.⁸

Former Counsel also claims—in a bold heading—that there is no evidence Mr. Emberling’s auto-delete policy resulted in the spoliation of relevant evidence. (Former Counsel’s Resp. at 16-17.) Again, that claim is simply false. It also is incredible given that JSC and Emberling are the ones who pointed to the auto-delete policy as the reason why so few emails were produced to TECA. (See, e.g., JSC Resp. to Mot. to Compel, filed June 1, 2022, at 12, 19-20.)

⁷ Former Counsel omits any discussion of these emails and seems to suggest he was unaware of or has not seen them. (See Former Counsel Resp., Decl. of John Beam, at ¶¶ 15-16.) That is nonsense. Those emails were a key issue in the briefing and oral argument of TECA’s Motion to Compel and JSC’s appeal to the Commission. Indeed, during the June 21, 2022, hearing on TECA’s Motion to Compel, Mr. Beam answered questions about the contents of those emails. When asked about the “200 emails that TECA received from Northern Reliability,” Mr. Beam explained that the emails were “[t]o and from Mr. Emberling” and “from EA Solar and/or Community Development Enterprises. Those are the two primary sources. Mr. Emberling has an unrelated business they named that there was -- I’m sure a few from there.” (Tr. of June 21, 2022 Hr’g at 58:10-23, attached as Exhibit B.) The notion that Former Counsel was unaware of these emails is absurd. Indeed, he was provided a link to download Northern Reliability’s Third Production on the same email that was sent to the Commission and the other attorneys involved in the docket. A copy of this email is attached as Exhibit C.

⁸ Emberling’s October Affidavit likewise ignores these emails. (See Emberling’s Oct. Aff. at ¶¶ 28-30.)

Sixth, and finally, Former Counsel’s effort to portray his interactions with Northern Reliability as benign does not withstand scrutiny. Mr. Beam says he emailed Greg Noble at Northern Reliability and “[t]hree or four days later” spoke with Northern Reliability’s outside counsel about weaknesses in the protective order. (Former Counsel Resp. at 3-4, Decl. of John Beam, at ¶ 9.) Mr. Beam sent his email to Mr. Noble on February 11, 2022. (CONFIDENTIAL NRI001775, attached as Ex. 21 to TECA’s Compel Mem.) Accordingly, based on his own version of events, Mr. Beam would have spoken to Northern Reliability’s counsel by February 15, 2022. Yet, Mr. Beam never mentioned his discussions with Northern Reliability’s counsel when, on February 16 and February 28, 2022, TECA’s counsel requested an update on Mr. Beam’s efforts to arrange for Northern Reliability to accept service of TECA’s subpoena. (See TECA’s Compel Mem. at 10, Exs. 19-20.) Instead, Mr. Beam simply told TECA’s counsel that he had emailed Northern Reliability and would need to follow up. (See *id.*) This falls far short of the kind of candor and cooperation Mr. Beam is now claiming. Moreover, nothing in Former Counsel’s Response explains away or excuses the obstruction documented in Mr. Beam’s February 11, 2022 email to Mr. Noble. (See CONFIDENTIAL NRI001775, attached as Ex. 21 to TECA’s Compel Mem.)

CONCLUSION

Nothing in JSC’s Response, Former Counsel’s Response, or Emberling’s October Affidavit provides a valid basis to deny TECA’s request for an order that awards TECA \$67,843.95 plus interest accruing from November 14, 2022, until the date payment is received in full and that holds JSC, Former Counsel, and Emberling jointly and severally liable for the amount awarded.

DATED this 17th day of November, 2023.

Respectfully submitted,

/s/ W. Brantley Phillips, Jr.

W. Brantley Phillips, Jr. (18844)

Matthew J. Sinback (23891)

Caleb H. Hogan (37412)

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I hereby certify that on this 17th day of November, 2023, the foregoing document was served on the following persons via email and/or U.S. Mail, postage prepaid:

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**LIST OF POST-JUNE 2, 2021 EMAILS FROM, TO, OR COPYING JSC PRESIDENT
DENNIS EMBERLING, JSC CHIEF FINANACIAL OFFICER DAVID SHIMON, OR
JSC FORMER COUNSEL JOHN BEAM**

	Beginning Bates #	Ending Bates #	Email Date
1	NRI001232	NRI001232	6/4/21
2	NRI001319	NRI001320	6/4/21
3	NRI001321	NRI001322	6/4/21
4	NRI001413	NRI001413	6/4/21
5	NRI001765	NRI001765	6/5/21
6	NRI001070	NRI001071	6/8/21
7	NRI001317	NRI001318	6/8/21
8	NRI001324	NRI001325	6/8/21
9	NRI001758	NRI001758	6/8/21
10	NRI001771	NRI001771	6/8/21
11	NRI001073	NRI001073	6/11/21
12	NRI001373	NRI001373	6/11/21
13	NRI001374	NRI001375	6/11/21
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23	NRI001389	NRI001392	6/21/21
24	NRI001669	NRI001671	6/21/21
25	NRI001672	NRI001674	6/21/21
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27	NRI001344	NRI001350	6/22/21
28	NRI001039	NRI001040	6/23/21
29	NRI001275	NRI001276	6/23/21
30	NRI001277	NRI001278	6/23/21
31	NRI001279	NRI001279	6/23/21
32	NRI001280	NRI001281	6/23/21
33	NRI001076	NRI001076	7/1/21
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36	NRI001355	NRI001356	7/2/21
37	NRI001078	NRI001078	7/4/21
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43	NRI001468	NRI001469	7/14/21
44	NRI000973	NRI000976	7/19/21
45	NRI001265	NRI001267	7/19/21
46	NRI001759	NRI001759	7/19/21
47	NRI001485	NRI001485	7/20/21
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105	NRI001242	NRI001242	2/2/22
106	NRI000962	NRI000962	2/6/22
107	NRI001775	NRI001775	2/11/22
108	NRI001378	NRI001378	3/1/22
109	NRI001760	NRI001760	3/16/22
110	NRI001371	NRI001371	3/24/22
111	NRI001513	NRI001513	3/24/22

In The Matter Of:
Before the Tennessee Public Utility Commission
Nashville, Tennessee

Docket No 21-00061
June 21, 2022

nashvillecourtreporters

Online Scheduling: ncrdepo.com | 615.885.5798

Original File 2022-06-21 TPUC Docket No 21-00061.txt

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

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

TRANSCRIPT OF PROCEEDINGS

Tuesday, June 21, 2022

1 APPEARANCES:

2 Hearing Officer: Ms. Monica Smith-Ashford

3 For TPUC: Mr. Ryan L. McGehee
4 (via telephone:) Ms. Kelly Cashman-Grams

5 For the Petitioner,
6 Jackson Sustainability
7 Cooperative: Mr. John A. Beam, III

8 For Tennessee Valley
9 Authority: Mr. Henry Walker

10 For Jackson Energy
11 Authority: Mr. Larry L. Cash

12 For Tennessee Electric
13 Cooperative Association: Mr. W. Brantley Phillips, Jr.
14 (via telephone:) Mr. Matthew J. Sinback
15 Mr. Caleb H. Hogan

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Reported By:
Jennifer B. Carollo, LCR, RPR, CCR

1 (The aforementioned hearing came on to
2 be heard on Tuesday, June 21, 2022, beginning at 10:00
3 A.M., before Monica Smith-Ashford, Hearing Officer,
4 when the following proceedings were had, to-wit:)

5 HEARING OFFICER: Good morning. Today
6 is June 21, 2022, and we're here today for oral
7 arguments on the motions to compel filed on May 20th in
8 Docket No. 21-00061 in re: The petition of Jackson
9 Sustainability Cooperative to determine if a
10 certificate of convenience and necessity is needed.

11 I'm Monica Smith-Ashford, the hearing
12 officer, in this matter.

13 Would the parties please introduce
14 themselves for the record starting with the petitioner.

15 MR. BEAM: John Beam for the
16 petitioner. Mr. Emberling is here as well. Dennis
17 Emberling.

18 HEARING OFFICER: And could you go
19 ahead and state the name of who you represent as well?

20 MR. BEAM: I represent Jackson
21 Sustainability Cooperative, the petitioner in this
22 matter.

23 HEARING OFFICER: Thank you. Go ahead,
24 Mr. Phillips.

25 MR. PHILLIPS: This is Brant Phillips

1 HEARING OFFICER: So JSC does not have
2 a 30-day document retention policy?

3 MR. BEAM: JSC has no need for such a
4 policy. There's not a lot of email communications. I
5 suspect when it becomes operational, once the facility
6 is built, that they will have such a policy, whether
7 it's 60 or 90 days, but there will be an auto delete
8 policy unless it's critical to a job and then
9 they'll -- then they will retain it.

10 HEARING OFFICER: So in the over 200
11 emails that TECA received from Northern Reliability,
12 Mr. Emberling was -- some of those emails were to
13 Mr. Emberling?

14 MR. BEAM: To and from Mr. Emberling,
15 yes.

16 HEARING OFFICER: And were they to and
17 from his JSC email address?

18 MR. BEAM: No. No. They were -- they
19 were from EA Solar and/or Community Development
20 Enterprises. Those are the two primary sources.
21 Mr. Emberling has an unrelated business they named that
22 there was -- I'm sure a few from there. They do other
23 work with Northern Reliability.

24 HEARING OFFICER: Okay. And let me ask
25 you this. I know that in your discovery responses,

Exhibit C

To: 'tpuc.docketroom@tn.gov'[tpuc.docketroom@tn.gov];
'Ectory.R.Lawless@tn.gov'[Ectory.R.Lawless@tn.gov]
Cc: 'Monica.Smith-Ashford@tn.gov'[Monica.Smith-Ashford@tn.gov]; Phillips,
Brant[BPhillips@bassberry.com]; Hogan, Caleb[caleb.hogan@bassberry.com]; 'John
Beam'[beam@equituslaw.com]; 'hwalker@bradley.com'[hwalker@bradley.com]; 'Mark
Smith'[Mark.Smith@millermartin.com]; 'Larry Cash'[Larry.Cash@millermartin.com];
'jelrod@tmepa.org'[jelrod@tmepa.org]
From: Sinback, Matthew
Sent: Mon 5/16/2022 3:30:18 PM
Subject: Docket 21-00061 - CONFIDENTIAL Non-Party Northern Reliability Supplemental Document
Production of May 12, 2022
Dkt 21-00061 - 2022.05.16 Cover Letter from TECA Re Northern Reliability Supplemental Production.pdf

Ms. Lawless,

On behalf of Tennessee Electric Cooperative Association ("TECA"), please accept for filing the **CONFIDENTIAL** documents produced by non-party Northern Reliability, Inc. on May 12, 2022 in response to TECA's subpoena. Northern Reliability, Inc. has requested that these documents be treated as **CONFIDENTIAL** pursuant to the Amended Protective Order in this docket.

The confidential electronic file produced by Northern Reliability may be downloaded in a zip file from the link below. An index of this production is also included in the zip file. As an additional security measure, a password is required to extract the zip file. The password will be provided in a separate email. The cover letter that will accompany the hard-copy filing of this production is attached.

[Click to Retrieve File\(s\)](#)

NorthernReliability_CONFIDENTIAL_Subpoena_Response_2022.05.12.zip

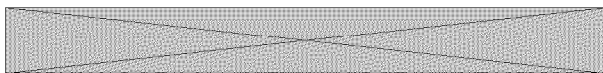
If the above link is not clickable, copy and paste the following URL into your browser.

<https://www.sendthisfile.com/YVEcLgNICZmpAzf8vqfzOqfH>

Note: These files will expire in 14 days from the time this email was generated.

Please do not hesitate to contact me if you have any questions. Hard copies of these documents will be filed promptly.

Best regards,
Matt Sinback



Matt Sinback
Senior Litigation Attorney

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May 16, 2022

Via Hand Delivery

Hon. Kenneth C. Hill, Chairman
c/o Ectory Lawless, Esq., 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 Hill:

Enclosed please find a hard copy of the CONFIDENTIAL documents produced by non-party Northern Reliability, Inc. on May 12, 2022 in response to the subpoena of the Tennessee Electric Cooperative Association. Northern Reliability has designated these documents as CONFIDENTIAL pursuant to the Second Amended Protective Order that governs this docket. The bates numbers included are NRI000950 to NRI001787. Electronic copies of these documents were filed electronically on May 16, 2022.

For your convenience, an index of Northern Reliability's May 12, 2022 CONFIDENTIAL production is included. The "Production Folder" column provides information on the electronic folder in which each document was included in Northern Reliability's production. The "Production File Name" column provides information on the electronic file name of each document. Please note that four of the documents produced by Northern Reliability and included on the index are native-format copies of documents previously produced by Northern Reliability. Because they were previously filed, they have not been included in this filing.

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

Sincerely,



Matthew J. Sinback

May 16, 2022

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Enclosure

cc: All Counsel of Record (letter only)