

the company is also considering offering electric service to retail customers in other parts of the state. Pre-filed testimony of Dennis Emberling at 4.

3. TVA is a constitutionally authorized executive branch corporate agency and instrumentality of the United States created by the TVA Act of 1933. 16 U.S.C. §§ 831–831ee. As set forth in the TVA Act, Congress directed TVA to pursue “the physical, social, and economic development of the” Tennessee Valley region, including the state of Tennessee where much of TVA’s infrastructure and ratepayers are physically located. 16 U.S.C. § 831n-4(h). Providing power in the region is one important TVA function, but there are many others, including environmental protection, flood control, river and land management, assisting farmers, promoting regional economic development, and supporting national defense. *E.g.*, 16 U.S.C. § 831. TVA’s power program is essential to TVA’s successful fulfillment of its unique and broad statutory mission.

4. TVA supplies electricity to approximately ten million people throughout an 80,000-square-mile service area that encompasses most of Tennessee (except for Kingsport) and parts of six other states. TVA operates a diverse portfolio of generation resources and delivers power across a network consisting of over 16,000 miles of transmission lines. TVA is primarily a wholesale supplier that supplies power to 153 local power companies that distribute TVA power to retail customers. TVA also supplies power directly to 57 end use customers, primarily businesses and industries with large or unusual loads and to federal agencies.

5. As the wholesale provider of electricity to JEA, to the members of the Tennessee Electric Cooperative Association (“TECA”), and to the members of the Tennessee Municipal Electric Power Association (“TMEPA”), TVA shares the interests of these parties in opposing the Application. While JSC’s proposal will not relieve TVA and JEA of their obligation to maintain

capacity sufficient to serve all customers in JEA's service area, JSC's business model appears intended to reduce the revenue of JEA and may result in the shifting of TVA's wholesale costs to other customers. In other words, just as TVA's distributors may be directly and negatively affected if JSC is permitted to sell electricity to retail customers in TVA's service area, TVA itself will necessarily also be affected.

6. The Tennessee Uniform Administrative Procedures Act requires the Commission to "grant" a petition to intervene that is filed "at least seven (7) days before the hearing" as long as the petitioner demonstrates "that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding" and "the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention." T.C.A. § 4-5-310(a). As discussed above, TVA clearly has a recognizable legal interest in this docket which may be determined or otherwise materially impacted in the proceeding and, since no procedural schedule has been issued and the hearing is more than two months away, granting TVA's request to intervene will not impair the orderly and prompt conduct of the proceedings.

7. JSC's initial Application was filed on May 24, 2021. On June 10, 2021, the Hearing Officer issued an order requiring that any petitions to intervene in this docket be submitted by June 25, 2021. JEA, TMEPA, and TEC have petitioned to intervene. Although the June 25 deadline has passed, TVA respectfully requests that the Hearing Officer also consider and grant TVA's petition to intervene for the following reasons.

8. JSC's initial Application was quite different from the Application now before the Commission. In the cover letter accompanying the original Application and in the testimony of JSC's president (at 2), JSC claimed to be a "generation and transmission" cooperative ("G&T Cooperative") organized pursuant to the Tennessee Electric G&T Cooperative Act, T.C.A. § 48-

69-101 et seq. The Applicant stated that it intended to sell electricity to retail customers in Jackson even though state law expressly prohibits a G&T Cooperative from selling “electrical power and energy service to retail customers in the Tennessee Valley areas.” T.C.A. § 48-69-118(a). As TVA stated in comments filed on July 1, 2021, the relief sought by JSC is “on its face barred as a matter of law” (quoting Commission Rule 1220-01-02-.02(2)) and, therefore, there was no reason for the Commission to open a contested case proceeding to hear JSC’s Application and requests for declaratory rulings.

9. On June 10, 2021, the Hearing Officer issued an order stating that anyone wishing to file a petition to intervene should do so on or by June 25, 2021. TVA did not file a petition to intervene but, as discussed above, submitted comments pointing out that JSC’s proposal would violate state law and suggesting that the Commission decline to hear the matter.

10. In response to TVA’s comments and similar statements by others, JSC filed on July 13, 2021, a “Response” that can better be described as an amended Application. In that filing, JSC states that it is no longer a G&T Cooperative but has transformed into a non-profit cooperative organized under the Rural Electric and Community Service Cooperative Act, T.C.A. § 65-25-101 et seq.

11. In the Response, JSC states that it still intends to sell electricity to retail customers located in JEA’s service territory, but it acknowledges that state law may not permit such sales. Therefore, JSC now asks that the Commission determine, among other things, “that the project does not violate the terms” of the Geographic Territories of Utility Systems statutes, T.C.A. § 65-34-101 et seq. JSC Response at 11.

12. On July 21, 2021, the Hearing Officer issued a “Notice of Hearing” stating that she will hear the revised Application on October 26, 2021 and that she will address two issues: (1)

whether JSC is--as it now claims to be--a cooperative organized under T.C.A. § 65-25-101 et seq. and (2) if JSC is not a cooperative organized under that statute, whether JSC is a public utility “affected by and dedicated to the public use” under T.C.A. § 65-4-101(6)(A).

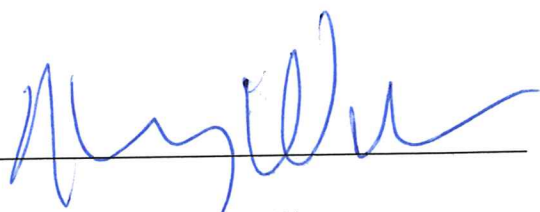
13. In sum, circumstances have changed since June 28, 2021. JSC has purportedly transformed from a generation and transmission cooperative to a non-profit cooperative organized under T.C.A. § 65-25-101 et seq., and the Commission has opened a contested case proceeding to hear and rule upon two of the Applicant’s requests for declaratory rulings. In light of these developments, TVA requests permission to intervene.

CONCLUSION

TVA has a legal interest that may be determined in this proceeding. Furthermore, since the hearing is not until October 26, 2021 and no procedural schedule has been set, TVA’s petition to intervene will not delay the proceedings nor prejudice any party. For these reasons, TVA respectfully submits that it has a statutory right to intervene and therefore asks that its petition be granted.

Respectfully Submitted,

By: _____



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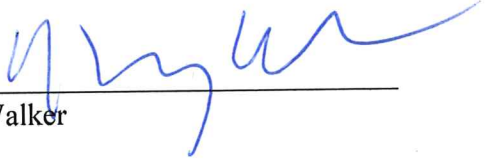
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served via either U.S. Mail, postage prepaid, or email to the following this 13th day of August, 2021:

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