

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

August 20, 2021

IN RE:

PETITION OF JACKSON SUSTAINABILITY
COOPERATIVE TO DETERMINE IF A
CERTIFICATE OF CONVENIENCE AND
NECESSITY IS NEEDED

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DOCKET NO.
21-00061

ORDER GRANTING THE PETITION TO INTERVENE FILED BY THE
TENNESSEE VALLEY AUTHORITY

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition of the Tennessee Valley Authority for Leave to Intervene* (“*Petition to Intervene*”) filed by the Tennessee Valley Authority (“TVA”) on August 13, 2021.

PETITION TO INTERVENE

On May 24, 2021, Jackson Sustainability Cooperative (“JSC”) filed a *Petition for a Solar Facility for Supplemental Energy* (“*Petition*”) seeking a determination whether it is a public utility and if so, requesting a Certificate of Public Convenience and Necessity (“CCN”) to construct and operate a solar facility with battery storage for sharing among its members located on leased property in Madison County, TN. TVA supplies electricity to an 80,000 square mile service area which encompasses most of Tennessee, except Kingsport, and parts of six other states.¹ TVA states

¹ *Petition to Intervene*, p. 2 (August 13, 2021).

it is primarily a wholesale supplier that supplies power to 153 local power companies that distribute TVA power to retail customers. In addition, TVA states it supplies power directly to 57 end use customers, which consist primarily of large businesses and industries with large loads and to federal agencies.² TVA argues that as the wholesale provider of electricity to the other Intervenors in this docket, TVA shares the interests of the other parties in opposing the *Petition*.³ In addition, TVA maintains “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.”⁴ Although the deadline established by the Hearing Officer for petitions to intervene has passed, TVA requests that its intervention be considered and granted due to the change in circumstances since the initial filing of JSC’s *Petition*, and its intervention will not delay the proceedings.⁵

FINDINGS & CONCLUSIONS

Tenn. Code Ann. § 4-5-310 establishes the following criteria for granting petitions to intervene:

(a) The administrative judge or hearing officer shall grant one (1) or more petitions for intervention if:

(1) The petition is submitted in writing to the administrative judge or hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(2) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the

² *Id.*

³ *Id.*

⁴ *Id.* at 2-3.

⁵ *Id.* at 4-5.

petitioner qualifies as an intervenor under any provision of law; and

(3) The administrative judge or hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(b) The agency may grant one (1) or more petitions for intervention at any time, upon determining that the intervention sought is in the interests of justice and shall not impair the orderly and prompt conduct of the proceedings.⁶

The Hearing Officer finds that circumstances have changed since the initial filing of JSC's *Petition*, and the deadline imposed on the Commission to determine whether to accept the *Petition* for a declaratory order for consideration has passed. The Commission has determined that a contested case proceeding should be convened and the docket is in its the next phase, and as such, TVA's intervention would not interfere with the prompt conduct of the proceedings. Therefore, the Hearing Officer concludes, it is appropriate to consider TVA's *Petition to Intervene* at this time, even though the initial deadline for interventions has passed. JSC's *Petition* seeks a determination whether it is a public utility, and its intent is to ultimately provide electric power in TVA's service area. JSC providing supplemental electric service to customers in TVA's service area could have a direct impact on the TVA distributors that it sales wholesale power to, and as a result, directly and negatively impact TVA. Therefore, the Hearing Officer finds there is a sufficient factual basis to find that the legal rights or interests held by TVA may be determined in this proceeding.

Upon due consideration, the Hearing Officer concludes that the legal rights, duties, privileges, immunities or other legal interest of TVA may be determined in this proceeding. The Hearing Officer finds that TVA's *Petition to Intervene* was timely-filed and should not impair the

⁶ Tenn. Code Ann. § 4-5-310.

interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes TVA's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Petition of the Tennessee Valley Authority for Leave to Intervene* is granted. The Tennessee Valley Authority may intervene and participate as a party in this proceeding and, as such, shall receive copies of any notices, orders, or other documents filed herein.

A handwritten signature in black ink that reads "Monica Smith-Ashford". The script is cursive and fluid, with the first letters of the first and last names being capitalized and prominent.

Monica Smith-Ashford, Hearing Officer