

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 MUNICIPAL ELECTRIC POWER ASSOCIATION**

This matter is before the Hearing Officer of the Tennessee Public Utility Commission (“Commission” or “TPUC”) to consider the *Petition for Leave to Intervene of Tennessee Municipal Electric Power Association* (“*Petition to Intervene*”) filed by the Tennessee Municipal Electric Power Association (“TMEPA”) on June 25, 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. TMEPA is a trade organization consisting mainly of municipal electric systems, municipal energy authorities, county electric utilities, and other governmental utility systems in Tennessee. TMEPA states that its members serve 67% of the state’s electric

power customers and sell 75% of the electric power sold in Tennessee.¹ According to TMEPA, all the municipal electric utilities purchase electric power wholesale from the Tennessee Valley Authority (“TVA”) and sell the electric power to retail customers.² In addition TMEPA, states many of its members have entered into contracts to purchase electric power generated directly from solar facilities that will be built or operated by third party entities.³ TMEPA argues that JSC is prohibited by law from providing the services it seeks to offer. TMEPA asserts “[b]y attempting to generate and sell electric power in the territorial boundaries of a municipal electric utility while purporting to be a G&T cooperative entity, JSC’s Application seeking an exemption from Tennessee Public Utilities Commission (“TPUC”) regulation or a Certificate of Public Convenience and Necessity directly impacts TMEPA’s interests and its members’ interests.”⁴ For these reasons, TMEPA seeks to intervene in the docket on behalf of its members.

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

¹ *Petition to Intervene*, p. 1 (June 25, 2021).

² *Id.* at 1-2.

³ *Id.* at 2.

⁴ *Id.*

(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.⁵

Because JSC's *Petition* seeks a determination whether it is a public utility, and its intent is to ultimately provide electric power in the TVA area, the Hearing Officer finds that there is a sufficient factual basis to find that the legal rights or interests held by TMEPA 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 TMEPA may be determined in this proceeding. The Hearing Officer finds that TMEPA's *Petition to Intervene* was timely-filed and should not impair the interests of justice or the orderly and prompt conduct of the proceedings. For these reasons, the Hearing Officer concludes TMEPA's *Petition to Intervene* should be granted.

IT IS THEREFORE ORDERED THAT:

The *Petition for Leave to Intervene of Tennessee Municipal Electric Power Association* is granted. The Tennessee Municipal Electric Power Association 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.



Monica Smith-Ashford, Hearing Officer

⁵ Tenn. Code Ann. § 4-5-310.