

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MR. BILL'S GROCERY)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2014-00194
)	
JACKSON ENERGY COOPERATIVE)	
CORPORATION)	
)	
DEFENDANT)	

ORDER

On May 29, 2014, Mr. Bill's Grocery¹ ("Complainant"), by counsel, filed a formal complaint alleging that Jackson Energy Cooperative Corporation ("Jackson Energy") overcharged it for utility service to its place of business located at U.S. Highway 421 in McKee, Kentucky. The claim of overcharging arises from Jackson Energy having backbilled the Complainant to collect an underbilling that occurred due to a defective current transformer serving the Complainant. On June 24, 2014, Jackson Energy filed its answer denying the Complainant's claims.

Pursuant to an Order of the Commission entered on August 1, 2014, a procedural schedule was established in order for the Commission to investigate the claims made in the complaint and to afford the parties the opportunity to conduct

¹ Complainant identified itself by the name "Mr. Bill's Grocery" in its Complaint and filings with the Commission. The legal name of Complainant is "Mr. Bill's Gas and Grocery, Inc." See *2014 Annual Report of Mr. Bill's Gas and Grocery, Inc.*, filed with the Kentucky Secretary of State on June 18, 2014, <https://app.sos.ky.gov/corpsscans/72/0301972-09-99999-20140618-ARP-5879484-PU.pdf>, viewed on Dec. 19, 2014.

discovery. Commission Staff served requests for information upon both the Complainant and Jackson Energy, and the Complainant and Jackson Energy each filed responses to these requests. Neither the Complainant nor Jackson Energy filed requests for information upon the other party. On November 12, 2014, an informal conference was held in this matter.

On November 21, 2014, Jackson Energy filed a Motion to Approve Settlement and Motion to Dismiss ("Motions"). Jackson Energy tendered with the Motions a photocopy of the executed Settlement Agreement between the Complainant and Jackson Energy, attached as the Appendix to this Order. Pursuant to the Settlement Agreement, Jackson Energy will reduce the amount that it claims for an underbilling of the Complainant from \$4,779.94 to \$4,528.93 in order to reflect the removal of the monthly customer charge in calculating the backbilling.² The Complainant agrees to continue to pay the sum of \$99.58 per month until the amount of \$4,528.93 has been paid in full.³

The Commission, having reviewed the evidence on record and being otherwise sufficiently advised, finds that the Complainant was underbilled for approximately three years due to a defective current transformer. Pursuant to KRS 278.225, a utility may only backbill for two years, and pursuant to the Settlement Agreement, Jackson Energy will collect an amount due for underbilled service for the two-year period from July 2011

² Settlement Agreement, paragraph 1, attached to Jackson Energy's Motions filed Nov. 21, 2014.

³ *Id.* at paragraph 2.

through June 2013.⁴ The Commission finds that Jackson Energy estimated the amount of actual usage for the two-year period by comparing the Complainant's usage for August 2013 when electricity was properly metered and billed with the Complainant's average usage for August 2012, August 2011, and August 2010, months in which the Complainant's usage was not properly metered and billed due to the defective current transformer.⁵ Dividing the August 2013 usage by the average usage for August 2012, August 2011, and August 2010 resulted in a factor of 1.38.⁶ The usage amounts for each month from July 2011 through June 2013 were thereafter totaled (equaling 106,600 kWh) and then multiplied by the 1.38 factor in order to estimate the amount of usage that should have been billed (147,108 kWh) for the two-year period.⁷ Jackson Energy then multiplied the difference between the estimate of the total actual usage and the total usage per the inaccurate metering and billing (40,508 kWh) by the Complainant's average rate for electricity (\$.118/kWh) to arrive at an underbilling amount of \$4,779.94.⁸ Jackson Energy sought recovery of this amount over a period of

⁴ KRS 278.225 states that "[n]o customer shall be liable for unbilled service after two (2) years from the date of the service, unless the customer obtained the service through fraud, theft, or deception." Therefore, although Jackson Energy asserts that the Complainant was underbilled for approximately 36 months, Jackson Energy will collect an amount due for the two-year period from July 2011 through June 2013. See Response of Jackson Energy to Commission Staff's First Request for Information ("Staff's First Request"), Items 1 and 3.

⁵ Response of Jackson Energy to Staff's First Request, Exhibit 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

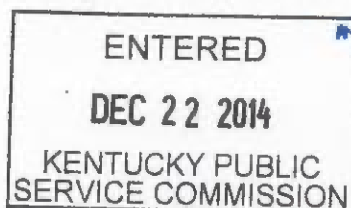
24 months by adding \$199.16 to the Complainant's monthly electric bill beginning with the Complainant's September 2013 electric bill.⁹

Through the Settlement Agreement, Jackson Energy has recalculated the Complainant's average rate for electricity by removing the Complainant's monthly customer charge in calculating the per-kWh rate to be applied to the unbilled service. The Commission finds that the removal of the monthly customer charge in determining the average rate for electricity is appropriate because the full customer charge was paid by the Complainant during the period of underbilling. Thus, the recalculated estimate of unbilled usage in the amount of \$4,528.93, the amount of each payment, and the period of repayment established by the Settlement Agreement are reasonable.

IT IS THEREFORE ORDERED that:

1. The November 12, 2014 Settlement Agreement between the Complainant and Jackson Energy is approved.
2. Jackson Energy shall collect \$4,528.93 due for unbilled service to the Complainant at the rate of \$99.58 per month until the amount has been paid in full.
3. This case is closed and is removed from the Commission's docket.

By the Commission



ATTEST:



Executive Director

⁹ Response of Jackson Energy to Staff's First Request, Item 1. See also 807 KAR 5:006, Section 11(2)(e), which states, "A utility shall not require customer repayment of an underbilling to be made over a period shorter than a period coextensive with the underbilling."

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2014-00194 DATED **DEC 22 2014**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

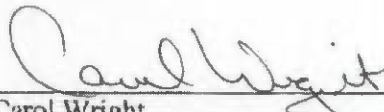
MR. BILL'S GROCERY)	
)	
Complainant)	
)	Case No. 2014-00194
V.)	
)	
JACKSON ENERGY COOPERATIVE)	
CORPORATION)	
)	
Defendant)	

SETTLEMENT AGREEMENT

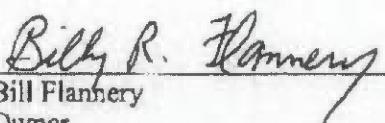
The parties herein having discussed this matter at an Informal Conference with the Commission and having reached an agreement as to the dispute between them, it is hereby agreed by and between the parties as follows:

1. The amount claimed by Jackson Energy Cooperative that Mr. Bill's Grocery was under billed shall be reduced from \$4,779.94 to \$4,528.93 to reflect a removal of the customer charge from the under billing calculation.
2. Mr. Bill's Grocery shall continue to pay the sum of \$99.58 per month until the amount of \$4,528.93 has been paid in full.

DATED this 12th day of November 2014.



 Carol Wright
 President & CEO
 Jackson Energy Cooperative



 Bill Flannery
 Owner
 Mr. Bill's Grocery

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