

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of: \_\_\_\_\_

BALLARD RURAL TELEPHONE )  
COOPERATIVE CORPORATION, INC. )

COMPLAINANT )

v. )

JACKSON PURCHASE ENERGY CORPORATION )

DEFENDANT )

CASE NO.  
2004-00036

ORDER

This Complaint proceeding presented the Commission an issue of first impression regarding its jurisdiction over pole attachment arrangements entered into by and between pole-owning jurisdictional utilities ("joint users"). Finding that the provision of pole attachments was a "service" as that term is defined in KRS 278.010(13), the Commission asserted jurisdiction over joint use pole arrangements. The Commission unambiguously stated, however, that joint users could continue to negotiate the terms and conditions under which they would provide pole attachment services to each other, but in the event they could not reach agreement, the Commission would establish the rate.

Since the parties to this proceeding, Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard") and Jackson Purchase Energy Corporation ("Jackson Purchase") (collectively "parties") are joint users and were unable to reach an agreement concerning their pole attachment arrangements, the Commission

determined the appropriate rate each of these parties could charge the other for pole attachments.

On August 2, 2007, the Commission directed the parties to begin providing pole attachment services to each other under the same terms and conditions as each provided such service to their respective cable television customers and to file, within 30 days, tariffs consistent therewith. The Commission subsequently granted a joint motion by the parties that allowed them to file their tariffs on or before October 14, 2007 with an effective date of January 1, 2008.

In response to the Commission's directive, both parties filed proposed tariffs and both filed amendments thereto. Ballard initially moved the Commission to reject Jackson Purchase's proposed tariff but subsequently withdrew the request after Jackson Purchase amended its proposal.

Ballard proposes to amend its current cable television pole attachment tariff to make it applicable to all cable television operators, all electric company operators, and all other telecommunications company operators that wish to make attachments on Ballard's poles. Jackson Purchase, on the other hand, proposes a new tariff that applies the same terms and conditions set forth in its cable television tariff to Ballard.

The Commission, having reviewed the proposed tariffs and being otherwise sufficiently advised, finds that Jackson Purchase's tariff is consistent with our decision in this case and should be approved. We further find that Ballard's proposed tariff is not in compliance with the Commission's Order and should be rejected. While the Commission found that the provision of pole space is a service and asserted jurisdiction, our finding that the service provided to these parties for their attachments

constituted a like service made under the same or similar conditions to those made to the cable television customers applied only to these parties.<sup>1</sup> In addition, we specifically stated in our Order of February 8, 2006 in this proceeding that our "decision in this case will not be binding on anyone other than Jackson Purchase and Ballard Telephone."<sup>2</sup> Therefore, Ballard's proposal to extend our August 2, 2007 decision to facility attachments made by all electric companies and all other telecommunication companies should be rejected.

IT IS THEREFORE ORDERED that:

1. Jackson Purchase's proposed tariff submitted on December 18, 2007 is approved. All other versions submitted are rejected.
2. Ballard's proposed tariff submitted on October 12, 2007 and the amendment thereto filed on November 21, 2007 are rejected.
3. Within 30 days from the date of this Order, Ballard shall file a tariff with an effective date of January 1, 2008 that is consistent with this Order.

Done at Frankfort, Kentucky, this 27th day of December, 2007.

By the Commission

ATTEST:



Executive Director

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<sup>1</sup> Order of August 2, 2007 at 7.

<sup>2</sup> Order of February 8, 2007 at 2.