

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON	)	CASE NO.
ENERGY COOPERATIVE CORPORATION FOR A	)	2019-00066
GENERAL ADJUSTMENT IN EXISTING RATES	)	

ORDER

The matter is before the Commission upon a petition for rehearing filed by the Attorney General of the Commonwealth of Kentucky (Attorney General) pursuant to KRS 278.400. The Attorney General requests a rehearing of the June 10, 2019 Order (Final Order). Specifically, the Attorney General contends that the Commission’s approval of Jackson Energy Cooperative Corporation’s (Jackson Energy) proposed rate design change in order to protect the utility against revenue erosion is unreasonable and unlawful because the record indicates that Jackson Energy “is currently readily able to earn its Commission-approved revenue requirement and maintain reasonable credit metrics.”<sup>1</sup> The Attorney General also argues that the resulting impact of Jackson Energy’s proposed rate design, as approved, is not neutral to all residential ratepayers and that residential customers who receive bill assistance would be adversely impacted by the increase in the customer charge. While the Attorney General acknowledges that the monthly bill for an average residential customer receiving financial assistance would be reduced by \$1.22, the Attorney General contends that the net impact of the \$7.56 increase in the customer charge reduces the financial aid received by the average residential customer

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<sup>1</sup> Attorney General’s Petition for Rehearing at 2.

who receive bill assistance by \$6.34. The Attorney General also argues that “[f]or every dollar increase in the customer charge, a residential customer receiving assistance loses nearly 10.5 kilowatt hours (kWh) of energy available for subsidy”<sup>2</sup> and that residential customers receiving assistance, particularly those whose usage is higher than average, would be unable to conserve as much due to the increase in the customer charge.

The Attorney General also argues that the granted increase in the residential customer charge does not comport with the Commission’s principle of gradualism. The Attorney General contends that the pathway for Jackson Energy to obtain fully cost-based rates has been expedited. Lastly, the Attorney General expresses concern over the impact of wholesale cost shifting and extreme changes in rate design occurring in the streamlined rate case procedure. That process, according to the Attorney General, is less transparent than that of a traditional general rate case proceeding. The Attorney General suggests that the Commission should consider placing a limit on the degree to which a rate design change may be requested in streamlined procedure.

Jackson Energy filed a response to the Attorney General’s rehearing petition, emphasizing that its rate design proposal is, in fact, revenue neutral in that the change in the rate design for the residential class results in no increase in revenue to Jackson Energy. Jackson Energy notes that while the residential rate design change is revenue neutral to the residential class as a whole, those residential customers whose usage is below or above the average residential customer usage would see a slight increase or decrease in their monthly bills, respectively, and that this impact is something that always

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<sup>2</sup> Attorney General’s Petition for Rehearing at 3.

occurs in the normal course of ratemaking and rate design. Jackson Energy takes issue with the Attorney General's focus on the subset of customers within the residential class who receive bill assistance, saying this focus is flawed because ratemaking is based on identifying rate classes as a whole and that all residential customers of Jackson Energy are similarly situated. Jackson Energy further contends that the Attorney General's argument that the change in the residential rate design is detrimental to low-income customers is equally flawed because the financial assistance is applied to the eligible residential customer's total bill and not solely the portion based on that customer's usage. Jackson Energy asserts that its rate design for the residential class does not result in cost shifting to low-income customers but results in greater fairness within the residential rate class. Jackson Energy avers that a movement towards cost-based rates would reduce intra-class subsidization as higher-usage customers are not subsidizing those customers who use relatively less electricity. Jackson Energy argues that the Attorney General's assertions are largely focused on a subset of customers within the residential class – those who use less energy than average – and that such assertions ignore the fact that higher-usage customers, including those who receive financial assistance, will receive a meaningful reduction in their bills.

Addressing the Attorney General's argument that the increase in the residential customer charge cannot be considered to be gradual and that such an increase would eventually lead to Jackson Energy obtaining full cost-based rates within the next rate case, Jackson Energy contends that the Attorney General has not provided any evidence to support the claim that cost-based rates would be detrimental to customers. Jackson Energy points out that its interest, and that of its customers, is to achieve revenue

stabilization so that Jackson Energy can plan its operations in a way that would not be disrupted by unexpectedly harsh or mild weather.

Having reviewed the pleadings and being otherwise sufficiently advised, the Commission finds that KRS 278.400 expressly limits the new evidence that the Commission can consider on rehearing by providing that, “Upon the rehearing any party may offer additional evidence that could not with reasonable diligence have been offered on the former hearing.”<sup>3</sup> KRS 278.400 is intended to provide finality to Commission proceedings by limiting rehearing to new evidence not readily discoverable during the pendency of the original proceeding.<sup>4</sup> The arguments that the Attorney General raises in his rehearing petition are not based on new evidence that was not readily discoverable during the pendency of this matter. Rather, the issues raised by the Attorney General in his rehearing petition are substantially the same arguments made by the Attorney General in comments filed prior to the Commission’s issuance of its Final Order in this matter. Accordingly, the Commission finds that the Attorney General has not demonstrated the existence of any newly discovered evidence to justify granting rehearing.

As to the substantive arguments raised by the Attorney General, the Commission finds no merit to or support in the record for the Attorney General’s claim that the increase in Jackson Energy’s residential customer charge is not revenue neutral in its impact and is actually harmful to those customers who receive financial assistance with their electric bill. The Attorney General contends that the \$7.56 increase in the residential customer charge would result in a reduction of \$6.34 for any low-income residential customer who

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<sup>3</sup> KRS 278.400.

<sup>4</sup> Case No. 2008-00250, *Proposed Adjustment of the Wholesale Water Service Rates of Frankfort Electric and Water Plant Board* (Ky. PSC Apr. 7, 2009).

receives a fixed amount of financial assistance, asserting that financial assistance is tied to the usage of electricity and thus every dollar increase in the customer charge would reduce the amount of energy available for subsidy by almost 10.5 kWh. The Attorney General points to nothing in the record to support his claim that financial assistance received by eligible low-income customers is applied solely to the usage component of the customers' bills. The Commission is not aware of any financial assistance programs that are applied solely to a customer's electric consumption. Rather, financial assistance received by a utility customer is applied to the total bill, typically as a fixed amount.

The rates approved by the Commission are designed to be both revenue neutral for the residential class in the aggregate and revenue neutral for a customer with the average residential usage of 1,066 kWh per month. The Final Order makes clear that those customers who use less energy than average will see a slight increase in their average monthly bills, whereas those who have higher-than-average usage will see a slight decline in their monthly bills. The Appendix to this order provides a comparison of total bills for various levels of usage under the prior and approved rates.

Furthermore, the Commission noted in the Final Order that, as a group, Jackson Energy residential customers who receive financial assistance consume a higher-than-average amount of energy per month – 1,238 kWh, or 16 percent more than average. The Commission, in evaluating the proposed rate design change, used this group of customers as a representative surrogate for low-income ratepayers as a whole.

The Commission acknowledges that the impact of the rate design change on residential ratepayers will vary based upon individual consumption. Those low-income

customers with below-average usage who receive assistance may see a modest increase in the amount they will have to pay above their subsidy.

However, based on the evidence in the record, the Commission found that the rate design change proposed by Jackson Energy was likely to benefit low-income ratepayers as a group and particularly those with the highest levels of electric usage. The Attorney General has not provided any new evidence that would lead us to question that finding.

The Commission also finds without merit the Attorney General's contention that the Commission's approval of Jackson Energy's residential rate design results in wholesale cost shifting due to the extreme nature of the rate design change and that the change serves only to benefit the utility at the expense of low-income residential customers. The Commission disputes the Attorney General's characterization of the increase in Jackson Energy's customer charge from \$16.44 to \$24.00 as "extreme." As stated in the Final Order, the increase in the customer charge "represents a movement of 49 percent towards cost-based rates coupled with an energy charge that allows for the overall revenue change for the residential class to be zero."<sup>5</sup> The increase granted to Jackson Energy is consistent with our recent decisions in granting increases in residential customer charges. As the Final Order points out, Jackson Energy's proposed customer charge is supported by its updated Cost-of-Service Study (COSS), which the Commission determined to be acceptable for use as a guide in determining Jackson Energy's proposed rate design.

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<sup>5</sup> Final Order at 3.

The Commission further finds that the approved residential rate design does not result in any “wholesale cost-shifting” whatsoever. Again, as stated in the Final Order, the residential rate design proposed by Jackson Energy and ultimately approved by the Commission results in no revenue impact to the residential class as a whole. As acknowledged in the Final Order and noted above, the rate design change does impact those residential customers who consume more energy or less energy than the average residential customer. Those customers whose usage is higher than the residential average monthly usage of 1,066 kWh will see a reduction in their monthly bills. Conversely, residential customers who use less than 1,066 kWh each month will see a slight increase in their monthly bills. This does not represent wholesale cost shifting but rather is inherent to any rate design changes made as part of a revenue-neutral rate case.

As stated above, the Commission in the Final Order found that Jackson Energy’s COSS is reasonable; the Attorney General does not contest this finding in his petition for rehearing. We note that the movement towards cost-based rates, in a measured and reasonable manner, would enable Jackson Energy, and other electric distribution cooperatives, to achieve revenue stability and guard against, among other things, exposure to financial risk from changes in weather patterns. Customers, particularly residential customers, benefit from a rate design that closely reflects costs, as those customers will not be subject to extreme volatility in the amount of their bills as a result of changes in weather patterns. The fact that Jackson Energy is financially sound does not preclude it from revising its rate design to achieve revenue stability that will, on balance, benefit not only Jackson Energy but also its customers, particularly the residential customer class as a whole. The record establishes that the purpose of Jackson Energy’s

change in its residential rate design was to address an imbalance between the recovery of fixed costs and variable costs.<sup>6</sup> Jackson Energy stated that the residential fixed charge was too low and the variable energy charge was too high, relative to ideally cost-based rates. The Commission found that Jackson Energy's proposed increase in the residential customer charge, accompanied by a corresponding decrease in the residential energy charge, resulting in no revenue impact to the residential class as a whole, was reasonable and supported by Jackson Energy's COSS. The approved rate design adequately addresses the volatility that was inherent in the prior rate design. The extremes of usage associated with fluctuating weather are reduced, benefitting both Jackson Energy (revenue stability) and its residential customers (bill stability). Finally, we find to be wholly speculative and without any foundation the Attorney General's contention that the approved rate design would necessarily result in Jackson Energy requesting and obtaining approval in its next rate case for fully cost-based rates. The Commission's review of each rate application, whether it is a traditional comprehensive rate proceeding or a streamlined procedure, is and will be based on the facts as presented in that application. Prior approval of a rate design change does not mean that a subsequent proposal will automatically be approved.

The Commission appreciates the Attorney General's comments regarding the information necessary for the review of a revenue-neutral rate design application through the streamlined procedure established in Case No. 2018-00407.<sup>7</sup> As stated in the Final

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<sup>6</sup> Jackson Energy's response to Commission Staff's First Request for Information, Item 1.

<sup>7</sup> Case No. 2018-00407, *A Review of the Rate Case Procedure for Electric Distribution Cooperatives* (Ky. PSC Mar. 26, 2019).



Order, the Commission will consider whether revisions are needed to the filing requirements and the exemptions set forth in streamlined procedure. The Commission notes, however, that the information sought by the Attorney General, but not provided by Jackson Energy, was not relevant to the instant matter.<sup>8</sup> To the extent that the Attorney General is of the opinion that such information is relevant to his position, the Attorney General has a means of redress under 807 KAR 5:001, Section 4(12)(e), which allows a party to file a motion with the Commission to compel compliance with that party's request for information. The motion should include a description of the information requested, the reasons as to why the information sought is relevant to the issues in the case, and the efforts made to resolve any disagreement over the production of the information sought. The record in the underlying matter is silent as to the Attorney General's efforts in seeking production of the information. Because the Attorney General failed to move to compel the production of the information at issue, he has waived his right to contest Jackson Energy's objection to provide that information on rehearing.

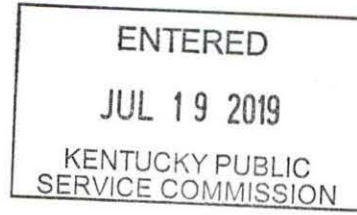
IT IS HEREBY ORDERED that:

1. The Attorney General's petition for rehearing is denied.
2. This matter is closed and removed from the Commission's docket.

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<sup>8</sup> The information sought by the Attorney General included, among other things, Jackson Energy's contributions towards both a defined benefit retirement plan and a 401(k) plan for each employee; salary or wage and benefits studies conducted by Jackson Energy; savings achieved by installing advanced metering infrastructure meters; information on Jackson Energy's board of directors' travel expenses; policies on wage and salary increases; and information on salary increases and bonuses.

By the Commission



ATTEST:

  
Executive Director

Case No. 2019-00066

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00066 DATED **JUL 19 2019**

Line #	kWh	Present Base Rates			Proposed Base Rates			Increase	
		Customer	Energy	Total	Customer	Energy	Total	\$	%
		\$ 16.44	\$0.09591		\$ 24.00	\$0.08882			
1	0	\$ 16.44	\$ -	\$ 16.44	\$ 24.00	\$ -	\$ 24.00	\$ 7.56	46.0%
2	100	\$ 16.44	\$ 9.59	\$ 26.03	\$ 24.00	\$ 8.88	\$ 32.88	\$ 6.85	26.3%
3	200	\$ 16.44	\$ 19.18	\$ 35.62	\$ 24.00	\$ 17.76	\$ 41.76	\$ 6.14	17.2%
4	300	\$ 16.44	\$ 28.77	\$ 45.21	\$ 24.00	\$ 26.65	\$ 50.65	\$ 5.43	12.0%
5	400	\$ 16.44	\$ 38.36	\$ 54.80	\$ 24.00	\$ 35.53	\$ 59.53	\$ 4.72	8.6%
6	500	\$ 16.44	\$ 47.96	\$ 64.40	\$ 24.00	\$ 44.41	\$ 68.41	\$ 4.02	6.2%
7	600	\$ 16.44	\$ 57.55	\$ 73.99	\$ 24.00	\$ 53.29	\$ 77.29	\$ 3.31	4.5%
8	700	\$ 16.44	\$ 67.14	\$ 83.58	\$ 24.00	\$ 62.17	\$ 86.17	\$ 2.60	3.1%
9	800	\$ 16.44	\$ 76.73	\$ 93.17	\$ 24.00	\$ 71.06	\$ 95.06	\$ 1.89	2.0%
10	900	\$ 16.44	\$ 86.32	\$ 102.76	\$ 24.00	\$ 79.94	\$ 103.94	\$ 1.18	1.1%
11	1000	\$ 16.44	\$ 95.91	\$ 112.35	\$ 24.00	\$ 88.82	\$ 112.82	\$ 0.47	0.4%
12	1066	\$ 16.44	\$ 102.24	\$ 118.68	\$ 24.00	\$ 94.68	\$ 118.68	\$ 0.00	0.0%
13	1100	\$ 16.44	\$ 105.50	\$ 121.94	\$ 24.00	\$ 97.70	\$ 121.70	\$ (0.24)	-0.2%
14	1200	\$ 16.44	\$ 115.09	\$ 131.53	\$ 24.00	\$ 106.58	\$ 130.58	\$ (0.95)	-0.7%
15	1238	\$ 16.44	\$ 118.74	\$ 135.18	\$ 24.00	\$ 109.96	\$ 133.96	\$ (1.22)	-0.9%
16	1300	\$ 16.44	\$ 124.68	\$ 141.12	\$ 24.00	\$ 115.47	\$ 139.47	\$ (1.66)	-1.2%
17	1400	\$ 16.44	\$ 134.27	\$ 150.71	\$ 24.00	\$ 124.35	\$ 148.35	\$ (2.37)	-1.6%
18	1500	\$ 16.44	\$ 143.87	\$ 160.31	\$ 24.00	\$ 133.23	\$ 157.23	\$ (3.07)	-1.9%
19	1600	\$ 16.44	\$ 153.46	\$ 169.90	\$ 24.00	\$ 142.11	\$ 166.11	\$ (3.78)	-2.2%
20	1700	\$ 16.44	\$ 163.05	\$ 179.49	\$ 24.00	\$ 150.99	\$ 174.99	\$ (4.49)	-2.5%
21	1800	\$ 16.44	\$ 172.64	\$ 189.08	\$ 24.00	\$ 159.88	\$ 183.88	\$ (5.20)	-2.8%
22	1900	\$ 16.44	\$ 182.23	\$ 198.67	\$ 24.00	\$ 168.76	\$ 192.76	\$ (5.91)	-3.0%
23	2000	\$ 16.44	\$ 191.82	\$ 208.26	\$ 24.00	\$ 177.64	\$ 201.64	\$ (6.62)	-3.2%
24	2100	\$ 16.44	\$ 201.41	\$ 217.85	\$ 24.00	\$ 186.52	\$ 210.52	\$ (7.33)	-3.4%
25	2200	\$ 16.44	\$ 211.00	\$ 227.44	\$ 24.00	\$ 195.40	\$ 219.40	\$ (8.04)	-3.5%
26	2300	\$ 16.44	\$ 220.59	\$ 237.03	\$ 24.00	\$ 204.29	\$ 228.29	\$ (8.75)	-3.7%
27	2400	\$ 16.44	\$ 230.18	\$ 246.62	\$ 24.00	\$ 213.17	\$ 237.17	\$ (9.46)	-3.8%
28	2500	\$ 16.44	\$ 239.78	\$ 256.22	\$ 24.00	\$ 222.05	\$ 246.05	\$ (10.17)	-4.0%
29	2600	\$ 16.44	\$ 249.37	\$ 265.81	\$ 24.00	\$ 230.93	\$ 254.93	\$ (10.87)	-4.1%
30	2700	\$ 16.44	\$ 258.96	\$ 275.40	\$ 24.00	\$ 239.81	\$ 263.81	\$ (11.58)	-4.2%
31	2800	\$ 16.44	\$ 268.55	\$ 284.99	\$ 24.00	\$ 248.70	\$ 272.70	\$ (12.29)	-4.3%
32	2900	\$ 16.44	\$ 278.14	\$ 294.58	\$ 24.00	\$ 257.58	\$ 281.58	\$ (13.00)	-4.4%
33	3000	\$ 16.44	\$ 287.73	\$ 304.17	\$ 24.00	\$ 266.46	\$ 290.46	\$ (13.71)	-4.5%

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