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June 22, 2005

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JUN 23 2005

PUBLIC SERVICE  
COMMISSION

**VIA EXPRESS MAIL**

Hon. Beth O'Donnell  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40601

***Re: In the Matter of: Ballard Rural Telephone Cooperative Corporation, Inc. v. Jackson Purchase Energy Corporation before the Public Service Commission of the Commonwealth of Kentucky, Case No. 2004-00036***

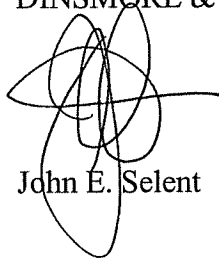
Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case is an original and eleven copies of the Reply of Ballard Rural Telephone Cooperative Corporation, Inc. to the Verified Response of Jackson Purchase Energy Corporation to the Motion to Apply CTAT Rates to Ballard Rural Telephone Cooperative Corporation, Inc. Please file stamp and return one copy in the self-addressed, postage prepaid envelope furnished herewith.

Thank you, and if you have any question, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



John E. Selent

JES/bmt  
Enclosure

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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JUN 23 2005

PUBLIC SERVICE  
COMMISSION

*In the Matter of:*

BALLARD RURAL TELEPHONE  
COOPERATIVE CORPORATION, INC.

)

)

) CASE NO. 2004-00036

v.

)

)

JACKSON PURCHASE ENERGY CORPORATION

)

REPLY OF BALLARD RURAL TELEPHONE  
COOPERATIVE CORPORATION, INC. TO  
THE VERIFIED RESPONSE OF  
JACKSON PURCHASE ENERGY CORPORATION  
TO THE MOTION TO APPLY CTAT RATES TO  
BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC.

Plaintiff, Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Rural"), by counsel, for its reply to the verified response to motion to apply CTAT rates to Ballard Rural filed by Jackson Purchase Energy Corporation ("Jackson Purchase") on or about June 8, 2005, states as follows.

First, Ballard Rural's position throughout this proceeding has been consistent; that is, that the Public Service Commission of the Commonwealth of Kentucky (the "Commission") should exercise its unquestionable authority over pole attachment rates in a manner consistent with §2 of the Kentucky Constitution prohibiting the exercise of arbitrary power. This means that the rates charged telephone companies and cable companies for pole attachments should not be different. *See Womack v. City of Flemingsburg*, 102 S.W.3d 513, at 515 (Ky. Ct. App. 2002).

Second, the fact that Ballard Rural may have the power of eminent domain is no reason to subject it to rates which differ from those to which cable television companies are subjected for

pole attachments by Jackson Purchase, especially in an environment where cable television companies and telephone companies are competitors.

*Third*, Jackson Purchase's contention that eminent domain is a rational basis upon which to treat cable television companies and telephone companies different with respect to pole attachment rates is an invitation to endorse a public policy which would be aesthetically disastrous. In effect, Jackson Purchase requests the Commission to endorse the proposition that, if Ballard Rural (or any other telephone company) cannot obtain rates equivalent to those charged cable television companies, the telephone company should just duplicate the utility poles of the electric utility. In other words, where one pole would do, there will be two poles. Ballard Rural cannot imagine that this is a result which Jackson Purchase seriously advocates, or that the Commission would ever endorse.

*Fourth*, simply because the party seeking the pole attachment is an entity other than a cable television company is not a good reason to depart from the methodology established by the Commission in Administrative Case No. 251 for determining pole attachment rates. And, Jackson Purchase proposes no reasonable basis to distinguish between a cable television company and a telephone company, especially in light of the fact that, with changes in technology over the last two decades, the two are now competitors and require nondiscriminatory access to utility poles in order to compete fairly on a level playing field.

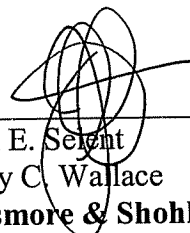
*Fifth*, the methodology established by the Commission in Administrative Case 251 for determining pole attachment rates adequately addresses the inflation and subsidization (Jackson Purchase calls this "charity") concerns raised by Jackson Purchase.

*Sixth*, in its motion to apply CTAT rates to it, Ballard Rural simply asks the Commission to confirm that the methodology of Administrative Case 251 for the determination of pole

attachment rates applies equally to cable television companies, as well as to telephone companies, and that the rates calculated pursuant thereto are the rates that Jackson Purchase may charge to Ballard Rural, and vice versa. This is a reasonable proposition because it treats two competitors the same, and allows the Commission to resolve this case on the basis of its pole attachment rate making methodology, established in Administrative Case 251, without the need to reinvent the wheel. And, the application of the 251 methodology to this matter best serves the public interest of the Commonwealth in establishing a level playing field for competing cable television and telephone companies.

In conclusion, the motion of Ballard Rural filed April 13, 2005 should be **GRANTED** and a hearing should be held in this matter at the earliest possible date in accordance with the Commission's order dated March 23, 2005.

Respectfully submitted,



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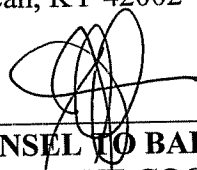
**COUNSEL TO BALLARD  
RURAL TELEPHONE  
COOPERATIVE  
CORPORATION, INC.**

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and accurate copy of the foregoing was served, via United States mail, first class, postage pre-paid, this 17<sup>th</sup> day of June, 2005 on the following:

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