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August 29, 2005

**via Hand Delivery**  
Ms. Beth O'Donnell  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
P. O. Box 615  
Frankfort, KY 40601

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AUG 29 2005

PUBLIC SERVICE  
COMMISSION

**Re: *Application of Jackson Purchase Energy Corporation for Adjustments in Existing Cable Television Attachment Tariff, before the Public Service Commission of the Commonwealth of Kentucky, Case No. 2004-00319***

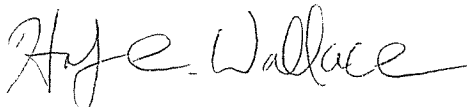
Dear Ms. O'Donnell:

Enclosed for filing with the Public Service Commission of the Commonwealth of Kentucky (the "Commission") is one original and ten (10) copies of Ballard Rural Telephone Cooperative Corporation Inc.'s Post-Hearing Brief in the above-styled case.

Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk  
Enclosures  
cc: All Parties of Record

bc: Mr. Harlon Parker  
Janice Chittenden  
Randy Grogan  
Jim Sharpe  
John E. Selent, Esq.

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AUG 29 2005

PUBLIC SERVICE  
COMMISSION

**COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION**

*In the Matter of:*

**APPLICATION OF JACKSON PURCHASE )  
ENERGY CORPORATION FOR ADJUST- )  
MENTS IN EXISTING CABLE TELEVISION )  
ATTACHMENT TARIFF )**                      **Case No. 2004-00319**

**POST-HEARING BRIEF OF BALLARD RURAL TELEPHONE COOPERATIVE  
CORPORATION, INC.**

Ballard Rural Telephone Cooperative Corporation, Inc. ("Ballard Rural"), by counsel, and in accordance with the Amended Procedural Order as revised by the Kentucky Public Service Commission (the "Commission") at the August 11, 2005 hearing in this matter, hereby submits its post-hearing brief in support of its proposed rates for the cable television attachment tariff ("CTAT") of Jackson Purchase Energy Corporation ("Jackson Purchase").

**STATEMENT OF FACTS**

On September 13, 2004, Jackson Purchase filed an application to adjust its existing CTAT rates. The Commission rejected the application on October 26, 2004 for failing to comply with the requirements of 807 KAR 5:001, §10. On November 12, 2004 Jackson Purchase re-filed its application for adjustments in the existing CTAT rates. The Kentucky Cable Telecommunications Association ("KCTA") moved for full intervention on November 24, 2004, and Ballard Rural moved for full intervention on November 30, 2004. KCTA and Ballard Rural's respective motions for full intervention were granted by the Commission on December 6, 2004.

After an informal conference, and pursuant to the request of Commission staff, Jackson Purchase submitted revised CTAT rate calculations on February 10, 2005, and the KCTA and Ballard Rural each submitted their calculations of Jackson Purchase's CTAT rates on February 25, 2005. In their revised calculations, Jackson Purchase departed from the uniform methodology established by the Commission in Administrative Case No. 251 in four areas. First, in calculating net pole investment, Jackson Purchase used total gross utility plant investment less total accumulated depreciation on utility investment, rather than total gross pole investment less total accumulated depreciation on pole investment. Second, Jackson Purchase deviated from Administrative Case No. 251 in calculating the annual carrying charge. The annual carrying charge includes a cost-of-money component which the Commission has held should be equivalent to the rate of return from the utility's last general rate case. Jackson Purchase, however, adjusted the rate of return of 4.61% from its last general rate case to arrive at a rate of return of 5.81%.<sup>1</sup> Third, Jackson Purchase used a bare pole factor of .936 rather than the bare pole factor of .85 established by the Commission in Administrative Case No. 251. Finally, in calculating its pole attachment rates, Jackson Purchase used an average investment in grounds of \$33.08 rather than \$12.50 as established by the Commission. In addition, Jackson Purchase's calculations reflected the erroneous assumption that service providers attach grounds to every other pole.

Subsequently, Jackson Purchase filed an amended application for adjustments in existing CTAT rates on August 2, 2005, one week before the public hearing. In its amended application, Jackson Purchase revised its calculations to more closely, though not entirely, comply with

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<sup>1</sup> Jackson Purchase later amended its application to reflect a rate of return of 8.88%. This, too, deviates from the uniform methodology established by the Commission in Administrative Case No. 251 as explained below.

Administrative Case No. 251. Specifically, Jackson Purchase no longer used an average investment in grounds of \$33.08. Rather, Jackson Purchase utilized a figure of \$12.50 in accordance with Administrative Case No. 251. In addition, Jackson Purchase added a separate tariffed rate for ground attachments so that pole and anchor attachments no longer include costs for grounds. Jackson Purchase's amended calculations also utilized a bare pole factor of .85 rather than the previously proposed factor of .936. Based on Jackson Purchase's amended application, only two issues remained to be heard at the public hearing on August 11, 2005: (1) the method for calculating net pole values, and (2) the appropriate rate of return to be used in calculating the annual carrying charge. As the remainder of the brief shall demonstrate, Ballard Rural's calculations most closely comply with the uniform methodology established by the Commission in Administrative Case No. 251; therefore, the Commission should adopt Ballard Rural's calculations with regard to the two remaining issues.

### **ARGUMENT AND ANALYSIS**

#### **I. POLE INVESTMENT AND POLE DEPRECIATION SHOULD BE USED IN CALCULATING NET POLE VALUE.**

In determining net pole value as required by the uniform methodology established in Administrative Case No. 251, Ballard Rural utilized total gross pole investment reflected in account 364 less accumulated depreciation on pole investment reflected in account 108.664. This approach is consistent with that of the Commission in *Application of Blue Grass Energy Cooperative Corporation to Adjust its Rates*, Case No. 2000-414 ("*Blue Grass Energy*") and *Application of Cumberland Valley Electric, Inc. to Adjust its Rates*, Case No. 2000-359 ("*Cumberland Valley*"). "The Commission finds that net plant - i.e., net investment in utility poles - . . . should be the basis for the calculation of Blue Grass's CATV charges." (*Order, Blue*

*Grass Energy*, Case No. 2000-414, April 4, 2001, p. 5.) Moreover, it is much more consistent with the principal of cost causation to use pole investment and pole depreciation in calculating net pole values, than it is to use total plant investment and total plant depreciation as proposed by Jackson Purchase. Jackson Purchase's use of total plant investment and total plant depreciation distorts net pole value by including in the calculation a myriad of assets other than poles. In accordance with this Commission's holdings in *Blue Grass Energy* and *Cumberland Valley*, the Commission should hold that the use of total gross pole investment reflected in account 364 less accumulated depreciation on pole investment reflected in account 108.664 is the proper method for calculating net pole value pursuant to Administrative Case No. 251, resulting in a gross to net factor of 66.50%.

**II. THE ANNUAL CARRYING CHARGE SHOULD BE CALCULATED USING A RATE OF RETURN OF 4.61%.**

Pursuant to the uniform methodology established in Administrative Case No. 251, the carrying charge should be calculated using a cost-of-money component equal to the rate of return from the applicant's last general rate case. As Mr. Kelly Nuckols, President and CEO of Jackson Purchase, testified during the public hearing on August 11, 2005, the last general rate case of Jackson Purchase was Case No. 97-224.

In 1997, Jackson Purchase entered an application to adjust its retail rates to consumers. An order was entered in May or June of '98, Case No. 97-224. Prior to that, back in the early 80's, mid-80's, prior to my coming to Jackson Purchase, there was a case, No. 8863, I think was the last one that has a rate of return listed in it."

(Video transcript, August 11, 2005, 9:35:27 - 9:35:04.) The fact that Case No. 8863 is purportedly the last rate case "that has a rate of return listed in it" is immaterial pursuant to Administrative Case No. 251. Accordingly, pursuant to Mr. Nuckols' testimony, Jackson

Purchase's last general rate case was Case No. 97-224. Moreover, the rate of return in that case, according to the testimony of James Freeman, was 4.61%. "According to earlier JP [Jackson Purchase] filings, the imputed rate accepted by the Commission in that proceeding [Case No. 97-224] was 4.61%." (Prefiled Direct Testimony of James Freeman on behalf of the KCTA, August 10, 2005, p. 3.) Therefore, the proper rate of return for calculating Jackson Purchase's carrying charge is 4.61%.

Nonetheless, Jackson Purchase seeks a rate of return of 8.88% based on Case No. 8863. In support of its position, Jackson Purchase states that 8.88% is the "rate of return in JPEC's last general rate case in which a rate of return was stipulated in the order." (*See Amended Application, August 3, 2005, p.2.*) This is the only support Jackson Purchase provides for its proposed rate of return of 8.88%. Administrative Case No. 251 does not provide, however, that a utility should use the rate of return from "the last general rate case *in which a rate of return was stipulated in the order;*" rather, it provides that a utility should use the rate of return from the utility's last rate case. Jackson Purchase' last general rate case was Case No. 97-224, not Case No. 8863. Therefore, the applicable rate of return is 4.61%.

Moreover, the rate of return should not be 5.81% as proposed by the KCTA. The KCTA arrives at this rate by amending the rate of return in Case No. 97-224 pursuant to subsequent Case Nos. 2000-527 and 2002-485. Again, Administrative Case No. 251 does not provide that the applicable rate of return is the rate of return from the utility's last general rate case *as amended by subsequent cases.* Rather, Administrative Case No. 251 simply provides that the rate of return should be the utility's rate of return from its last general rate case. Jackson Purchase's last general rate case was Case No. 97-224, and the rate of return in that case was

4.61%. Accordingly, the Commission should order that a rate of return of 4.61% be used to calculate Jackson Purchase's carrying charge, resulting in an annual carrying charge of 19.03%.

**III. THE COMMISSION SHOULD ORDER JACKSON PURCHASE TO CHARGE THE CTAT RATES AS CALCULATED BY BALLARD RURAL.**

Using the net pole value and carrying charge as calculated in Sections I and II above, the Commission should order that Jackson Purchase charge the following CTAT rates pursuant to the uniform methodology established in Administrative Case No. 251.

<u>2-Party Attachment</u>	19.03% (annual carrying charge)	
	x (199.77 *.85) (net pole value * bare pole factor)	
	x <u>.1224</u>	
	<b>\$3.95</b>	<b>2-party pole attachment rate</b>

<u>3-Party Attachment</u>	19.03% (annual carrying charge)	
	x (272.80 *.85) (net pole value * bare pole factor)	
	x <u>.0759</u>	
	<b>\$3.35</b>	<b>3-party pole attachment rate</b>

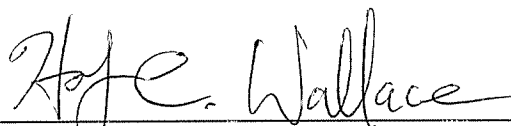
<u>2-Party Anchor</u>	\$3,024,078.00 (value of anchors)	
	x 66.50% (gross to net factor)	
	x 19.03% (annual carrying charge)	
	÷ 39,833 (number of anchors)	
	÷ <u>2 (number of users)</u>	
	<b>\$4.80</b>	<b>2-party anchor rate</b>



## CONCLUSION

For the foregoing reasons, Ballard Rural's calculations of Jackson Purchase's CTAT rates most closely comply with the uniform methodology established by the Commission in Administrative Case No. 251. Therefore, the Commission should order that Jackson Purchase's CTAT rates be calculated using total pole investment as reflected in account 364 less total pole depreciation reflected in account 108.664, and using the rate of return of 4.61% established in Case No. 97-224, resulting in a 2-party attachment rate of \$3.95, a 3-party attachment rate of \$3.35, and a 2-party anchor rate of \$4.80.

Respectfully submitted,



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**TELEPHONE COOPERATIVE**

**CORPORATION, INC.**

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and accurate copy of the foregoing was served by mailing a copy of the same by First Class United States Mail, postage prepaid, to the following individuals this 29<sup>th</sup> day of August, 2005:

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