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PUBLIC SERVICE COMMISSION

VIA FAX and FEDEX

Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission of Kentucky
211 Sowers Boulevard
Frankfort, Kentucky 40602

Re: Jackson Purchase Energy Corporation
PSC Case No. 2004-00319

Dear Ms. O'Donnell:

The Brief of Jackson Purchase Energy Corporation is being filed herein by faxing a copy herewith and by sending the original and eight (8) copies to the Commission via FedEx for overnight delivery.

Your assistance in this matter is appreciated.

Very truly yours,

DORSEY, KING, GRAY, NORMENT & HOPGOOD

By Frank N. King

Frank N. King, Jr.
Special Counsel for Jackson Purchase Energy Corporation

FNKJr/cds
Encl.
COPY/w/encls.: Service List
Jackson Purchase Energy Corporation

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF JACKSON PURCHASE ENERGY CORPORATION FOR ADJUSTMENTS IN EXISTING CABLE TELEVISION ATTACHMENT TARIFF	)))CASE NO. 2004-00319)

BRIEF OF JACKSON PURCHASE ENERGY CORPORATION

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By ______________________
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CERTIFICATE OF SERVICE

I hereby certify that this brief has been served upon Gardner F. Gillespie, Hogan & Harston, L.L.P., 555 Thirteenth Street, Washington, D.C. 20004-1109, and Frank F. Chuppe, Wyatt, Tarrant & Combs, LLP, 500 West Jefferson Street, Suite 2600, Louisville, KY 40202, attorneys for Kentucky Cable Telecommunications Association; and John E. Selent and Holly C. Wallace, Dinsmore & Shohl, LLP, 1400 PNC Plaza, 500 West Jefferson Street, Louisville, KY 40202, attorneys for Ballard Rural Telephone Cooperative Corporation, Inc., by sending a true and correct copy of same electronically and by US Mail, first class, postage prepaid, on this 29th day of August, 2005. I also hereby certify that a filing of this brief has been made with the Kentucky Public Service Commission on said day by submitting a copy by facsimile (Filings Division at (502) 564-3460) and by sending the original and eight (8) copies via FedEx for overnight delivery.

____
counsel for Jackson Purchase Energy Corporation

MAY IT PLEASE THE COMMISSION:

In this case JACKSON PURCHASE ENERGY CORPORATION ("JPEC") is seeking to adjust its existing Cable Television Attachment Tariff which has not been adjusted since being adopted in 1984. Initially JPEC proposed rates that were calculated based on the methodology outlined in Administrative Case No. 251 ("Case No. 251"), however the amount per ground was increased to reflect the current gross value of grounds in JPEC's account and the bare pole factor was adjusted only for minor appurtenances because JPEC segregates major appurtenances. JPEC believed it was appropriate to change these figures in order to reflect current, accurate information; otherwise rates would be based on arbitrary, outdated information.

Further, initially JPEC used a rate of return that was calculated based on orders in a combination of three (3) Commission cases beginning in 1997. This was done because JPEC believed it was the proper approach to take in order to, in effect, balance out the use of the aforementioned adjusted figures.

On August 3, 2005, JPEC filed an Amended Application. In this amended filing JPEC is adhering strictly to the uniform methodology set forth in the Commission's final order in Case No. 251. JPEC amended because of points raised by Commission Staff at the July 26, 2005, informal conference herein (TAPE 10:13:38) and as a result of a further reading of cases in which the Commission has interpreted and applied the Case No. 251 methodology, including cases involving Cumberland Valley Electric, Inc. (Case No. 2000-359) and Blue Grass Energy Cooperative Corporation (Case No. 2000-414) (TAPE 10:14:25). The amended filing also was intended to allay the objections to JPEC's initial approach of intervenors KENTUCKY TELECOMMUNICATIONS ASSOCIATION ("KCTA") and BALLARD RURAL TELEPHONE COOPERATIVE CORPORATION, INC. ("Ballard Rural").

Much of the basic data, and the manner of application, are agreed upon by the parties. There remain two (2) central issues in this case, namely (1) how to calculate the gross to net factor, and (2) what rate of return should be used. These are discussed below.

(1) Calculation of Gross to Net Factor

The intervenors insist that this factor should be determined by dividing net Account 364 by gross Account 364. It is true that some post-1982 Commission cases have approved this step, but we submit there is no case in which this point was contested and the Commission then ruled that the intervenors' approach was the sole, exclusive way to determine this factor.

JPEC proposes that the net total utility plant be divided by gross total utility plant in arriving at the gross to net factor in this case. See Amendment Exhibit 2 to Amended Application. This is a more reasonable, fairer approach because poles, which make up most of the Account 364 balance, have a negative salvage value (TAPE 10:09:04). This skews the depreciation and causes it to be greater than if the Account 364 assets all had at least some positive salvage value.

The evidence shows that the group depreciation method is used to calculate Account 364 depreciation (TAPE 10:08:23) and that poles comprise approximately 60% to 70% of the Account 364 total balance (TAPE 11:00:59). The evidence also shows that because there is a removal cost at the end of a pole's life, an extra approximate 47% is added to the cost to cover the depreciation (TAPE 11:06:05). As can be seen, if the Account 364 assets were to remain static, eventually depreciation would exceed the initial cost.

We wish to point out that using the intervenors' approach the gross to net factor always will be less than using the approach advocated by JPEC. This is because the remaining assets that comprise the total utility plant have salvage value, and the negative salvage value of poles has less impact (and thus the gross to net factor is greater) if the total utility plant is considered. In using the gross and net values of total utility plant, the presence of negative salvage value in the pole subaccount is mitigated and a fairer, more reliable factor is being used. This is the calculation JPEC requests the Commission to approve in this case.

(2) The Applicable Rate of Return

First we need to address Ballard Rural's use of the 4.61% figure. As explained by JPEC's President and CEO Kelly Nuckols, this figure is incorrect and was inadvertently included in JPEC's initial application (the one that was rejected because of filing deficiencies) (TAPE 11:17:52). This is the rate of return that was set forth in the prepared testimony of JPEC's rate analyst in Case No. 97-224, but was only the proposed rate of return in the initial filing. However, Case No. 97-224, which was for the purpose of addressing a wholesale rate reduction and included a flow-through to retail customers, resulted in allowable margins that were considerably less than those JPEC had initially proposed. Thus, the 4.61% figure is irrelevant.

James Freeman, who presented testimony on behalf of KCTA, used a rate of return of 5.81% in his calculations (TAPE 10:51:22) and Ballard Rural's witness Randy C. Grogan acknowledged that substituting a 5.81% rate of return in his calculations resulted in proposed rates identical to Mr. Freeman's (TAPE 11:24:20). JPEC's position is that the rate of return should be 8.88%, which is the rate of return in case No. 8863, JPEC's last general rate case in which a rate of return was stipulated in the order. See JPEC's Response to First Data Request of Commission Staff, Item 4. Thus the issue for the Commission to decide, based upon the evidence, is whether 5.81% or 8.88% should be used in this case.

The 5.81% figure does not appear in any Commission order in a JPEC rate case. It is what the intervenors refer to as an "imputed" rate of return (TAPE 10:52:46). Actually it is the result of complicated calculations made by JPEC to support its initial filing in this case. See Sherrill Exhibit 3 to initial Application of JPEC filed herein.

The Commission should not resort to using an "imputed" rate of return in the calculation of CATV rates. In discussing the calculation of the annual carrying charge component, Case No. 251 states quite clearly that "for convenience and certainty" the rate of return should be the one allowed in the utility's last rate case. See page 12 of the September 17, 1982, Amended Order in Case No. 251. Obviously the concepts of an imputed rate of return and one having certainty are at odds. Using an imputed rate of return that resulted from calculations based on a combination of orders in three (3) Commission cases, the first case being mainly a flow-through case and the latter two (2) addressing only depreciation, does not provide the "certainty" envisioned in the above order in Case No. 251.

The intervenors are inconsistent when they argue that Case No. 251 should be followed to the letter, except in determining the rate of return. The intervenors cannot have it both ways. We either follow the uniform methodology of Case No. 251 or we do not. JPEC amended to strictly follow the Case No. 251 uniform methodology and in doing so its final proposed rates are measurably less than those set forth in its initial filing. The Commission should approve the use of an 8.88% rate of return in this case.

CONCLUSION

For the reasons stated, the Commission should accept JPEC's positions on the two (2) issues discussed above. In JPEC's amended filing it uses a rate of return of 8.88%, ground value of $12.50 and base pole factor of 85%. This directly complies with the Case No. 251 uniform methodology. The proper, fair thing for the Commission to do is to approve the proposed yearly rental charges to CATV operators as set forth in JPEC's Amended Application, which are as follows:

Two-party pole attachment	$5.23
Three-party pole attachment	$4.43
Two-party anchor attachment	$4.56
Three-party anchor attachment	(not available)
Two-party ground attachment	$ .26
Three-party ground attachment	$ .16

(Presently ground attachments have been approximated. JPEC intends to conduct a field count in 2006 and begin separate charges in 2007 (TAPE 10:16:40). The Commission may want to reflect this in its order.)

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