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## Facsimile Transmittal Cover Sheet

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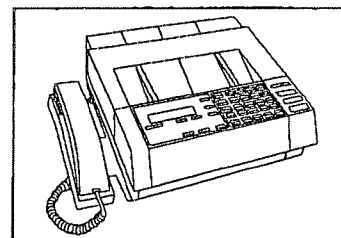
*Date:* December 5, 2007

*To:* BETH O'DONNELL  
 EXECUTIVE DIRECTOR  
 KENTUCKY PUBLIC SERVICE  
 COMMISSION

*At Fax No.:* 502-564-3460

*Re:* Jackson Purchase Energy Corporation  
 Case No. 2007-00456

*From:* Donna / Melissa D. Yates



PAGES ATTACHED INCLUDING THIS SHEET: 10

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December 5, 2007

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PUBLIC SERVICE  
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MS. BETH O'DONNELL  
EXECUTIVE DIRECTOR  
KENTUCKY PUBLIC SERVICE COMMISSION  
211 SOWER BLVD.  
FRANKFORT KY 40602

**Re: Jackson Purchase Energy  
Case No. 2007-00456**

Dear Ms. O'Donnell:

Please find enclosed an original and ten (10) copies of the Response of Jackson Purchase Energy Corporation to Commission's Order dated November 15, 2007 in the above-referenced matter. I have also enclosed an additional copy for file-stamping, which I would ask that you return to me in the enclosed self-addressed, stamped envelope.

Should you need any further information from me regarding this filing, please do not hesitate to contact me.

Sincerely,

Melissa D. Yates  
Attorney for Jackson Purchase Energy Corporation

JACKSON PURCHASE ENERGY CORPORATION  
RESPONSE OF JACKSON PURCHASE ENERGY CORPORATION  
TO KYPSC ORDER DATED NOVEMBER 15, 2007

CASE NO. 2007-00456

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JACKSON PURCHASE ENERGY CORPORATION )  
\_\_\_\_\_) CASE No. 2007-00456  
)  
ALLEGED FAILURE TO COMPLY )  
WITH KRS 278.042 )

RESPONSE  
OF  
JACKSON PURCHASE ENERGY CORPORATION  
TO  
KYPSC ORDER DATED NOVEMBER 15, 2007

Comes Jackson Purchase Energy Corporation, by and through counsel, and for its response to KYPSC Order Dated November 15, 2007, hereby states as follows:

On August 7, 2007, an employee of Hendrix Electric (hereinafter referred to simply as Hendrix), Mr. Joshua Champion, was injured on a job site while working on JPEC's facilities. Mr. Champion received electrical burns on his chest, back, and neck as a result of making contact with a clamp energized at 7,200 volts while at the same time making contact with a grounded clevis. As a result of this incident, the PSC has cited JPEC with six infractions of the 2007 edition of the National Electrical Safety Code (hereby noted as NESC). JPEC has reviewed each citation and offers responses as follows:

**Citation #1:** NESC Section 42, Rule 420.C.4 -- by the employee's failure while working in the vicinity of energized lines to consider all the effects of his actions and to take into

**JACKSON PURCHASE ENERGY CORPORATION  
RESPONSE OF JACKSON PURCHASE ENERGY CORPORATION  
TO KYPSC ORDER DATED NOVEMBER 15, 2007**

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1 account his own safety, the safety of other employees, the property of others, and the  
2 public in general.

3 ❖ NESC Rule 420.C.4: Employees who work on or in the vicinity of energized  
4 lines shall consider all of the effects of their actions, taking into account their own  
5 safety as well as the safety of other employees on the job site, or on some other  
6 part of the affected electric system, the property of others, and the public in  
7 general.

8  
9 **Response #1:** JPEC does not dispute that the incident in question occurred as described  
10 in the second paragraph above. JPEC states that Mr. Champion acted as an individual  
11 without regard to his personal safety in this incident. Mr. Champion had adequate  
12 training and experience to recognize the hazards of the job site and position he was  
13 working in at the time of this incident. Proper insulating tools and personal protective  
14 equipment had been provided, were available at the job site, and, if used properly, could  
15 have prevented Mr. Champion's injuries. JPEC did nothing to contribute to Mr.  
16 Champion's actions in this incident. Mr. Champion simply chose not to use the  
17 protective tools and devices provided.

18 **Witness:** Tracy A. Bensley

19  
20 **Citation #2:** NESC Section 42, Rule 420.H – by the employee's failure to use the  
21 personal protective equipment, protective devices, and the special tools provided for the  
22 work.

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1       ❖ NESC Rule 420.H: Employees shall use the personal protective equipment, the  
2       protective devices, and the special tools provided for their work. Before starting  
3       work, these devices and tools shall be carefully inspected to make sure that they  
4       are in good condition.

5  
6       **Response #2:** JPEC does not dispute that the incident in question occurred as described  
7       in the second paragraph above. Mr. Champion acted as an individual without regard to  
8       his personal safety in this incident. Mr. Champion had adequate training and experience  
9       to recognize the hazards of the job site and position he was working in at the time of this  
10      incident. Proper insulating tools and personal protective equipment had been provided,  
11      were available at the job site, and, if used properly, could have prevented Mr.  
12      Champion's injuries. JPEC did nothing to contribute to Mr. Champion's actions in this  
13      incident. Mr. Champion simply chose not to use the protective tools and devices  
14      provided.

15      **Witness:** Tracy A. Bensley

16

17      **Citation #3:** NESC Section 42, Rule 421.A.2 – by the supervisor's failure to see that the  
18      safety rules and operating procedures are observed by the employee under the direction of  
19      the supervisor.

20      ❖ NESC Rule 421.A.2: Duties of a First-Level Supervisor or Person in Charge

21               This individual shall:

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2. See that the safety rules and operating procedures are observed by the employees under the direction of this individual.

**Response #3:** JPEC does not dispute that the incident in question occurred as described in the second paragraph above. A Hendrix Electric foreman was present on the site as required by the NESC. JPEC has concluded that Mr. Champion was responsible for the violations in Citations #1 and #2. Therefore, JPEC cannot conclude that Hendrix Electric's supervisor at the time of this incident was ensuring that the safety rules and operating procedures were being observed by Mr. Champion who was under the direction of this individual at that time. Further, JPEC does not exert control over the means and methods which are utilized to complete the work the independent contractor has been hired for.

**Witness:** Tracy A. Bensley

**Citation #4:** NESC Section 44, Rule 441.A.3.a – by the employee's failure to guard or insulate exposed ground lines, conductors, or other parts in the work area.

❖ NESC Rule 441.A.3.a: When exposed grounded lines, conductors, or parts are in the work area, they shall be guarded or insulated.

**Response #4:** JPEC does not dispute that the incident in question occurred as described in the second paragraph above. Citations #1 and #2 reference this violation when citing the lack of attention Mr. Champion paid to the effects of his actions and the need for

**JACKSON PURCHASE ENERGY CORPORATION  
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1 personal protective equipment and special tools when working in close proximity to  
2 grounded and/or energized parts. Because this citation duplicates issues addressed with  
3 Citations #1 and #2, JPEC feels that this issue should not be considered again. Therefore,  
4 JPEC does not agree with the assessment of this citation.

5 **Witness:** Tracy A. Bensley

6  
7 **Citation #5:** NESC Section 44, Rule 443.A.1 – by the employee’s failure to insulate  
8 himself from energized parts or failure to isolate or insulate himself from ground and  
9 grounded structures when working on energized lines and equipment.

10 ❖ NESC Rule 443.A.1: When working on energized lines and equipment, one of the  
11 following safeguards shall be applied:

- 12 a. Insulate employee from energized parts  
13 b. Isolate or insulate the employee from ground and grounded structures, and  
14 potentials other than the one being worked on.

15  
16 **Response #5:** JPEC does not dispute that the incident in question occurred as described  
17 the second paragraph above. Citations #1, #2, and #4 reference this violation when citing  
18 the lack of attention Mr. Champion paid to the effects of his actions and the need for  
19 personal protective equipment and special tools when working in close proximity to  
20 grounded and/or energized parts. Because this citation duplicates issues addressed with  
21 Citations #1, #2, and #4, JPEC feels that this issue should not be considered again.  
22 Therefore, JPEC does not concur with this citation.

**JACKSON PURCHASE ENERGY CORPORATION  
RESPONSE OF JACKSON PURCHASE ENERGY CORPORATION  
TO KYPSO ORDER DATED NOVEMBER 15, 2007**

**CASE NO. 2007-00456**

1 **Witness:** Tracy A. Bensley

2

3 **Citation #6:** NESC Section 44, Rule 443.D – by the employee’s failure to avoid working  
4 on equipment or lines in any position from which a shock or slip will tend to bring the  
5 body toward exposed parts at a potential different than the employee’s body – work  
6 should generally be done from below, rather than from above.

7 ❖ NESC Rule 443.D: Employees should avoid working on equipment or lines in any  
8 position from which a shock or slip will tend to bring the body toward exposed parts at a  
9 potential different than the employees body. Work should, therefore, generally be done  
10 from below, rather than from above.

11

12 **Response #6:** JPEC does not dispute that the incident in question occurred as described  
13 in paragraph 2 above. Citation #1 references this violation when citing the lack of  
14 attention Mr. Champion paid to the effects of his actions. Because this citation duplicates  
15 issues addressed with Citation #1, JPEC feels that this issue should not be considered  
16 again. Therefore, JPEC does not agree with the assessment of this citation.

17 **Witness:** Tracy A. Bensley

18

19 All six of these citations involve a lack of proper judgment on the part of Mr. Champion  
20 in considering his actions as well as the lack of judgment on the part of Mr. Champion in  
21 failing to use the proper personal protective equipment and protective tools which were  
22 available to him. From the injuries sustained, it is apparent that Mr. Champion did not



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RESPONSE OF JACKSON PURCHASE ENERGY CORPORATION  
TO KYPS ORDER DATED NOVEMBER 15, 2007**

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1 use proper equipment and operate in a safe manner at the time of the incident. However,  
2 Mr. Champion had received proper training for the work he was performing at the time of  
3 the incident and was provided with proper protective equipment and protective tools for  
4 performing the same. His actions were of an individual nature and not within the control  
5 or at the direction of JPEC as he was under the employ and supervision of an independent  
6 contractor. JPEC had received assurances that its independent contractor would comply  
7 with any and all legal requirements, inclusive of safety regulations and JPEC's safety  
8 manual, in its performance of the work.

9 As to Citations #4, #5, and #6, JPEC believes those address the same issues raised  
10 in Citations #1, #2, and #3. Therefore, JPEC does not feel Citations #4, #5, and #6 are  
11 warranted. Therefore, JPEC does not agree with the assessment of Citations #4, #5, and  
12 #6.

13 As a further defense to the citations described herein, JPEC states that the incident  
14 in question was thoroughly investigated by the U.S. Occupational Safety and Health  
15 Administration ("OSHA"), and that JPEC was cleared of any wrongdoing in said  
16 investigation.

17 Mr. Steve Hendrix, Owner of Hendrix Electric, and Mr. Scott Whitsell, Safety  
18 Director of Hendrix Electric, have collaborated with and support JPEC's findings and  
19 responses as written herein.

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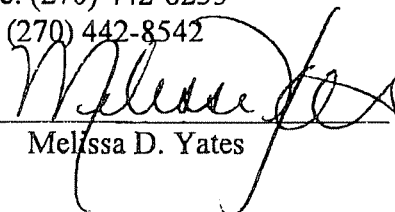
JACKSON PURCHASE ENERGY CORPORATION  
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TO KYPSC ORDER DATED NOVEMBER 15, 2007

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Respectfully Submitted,

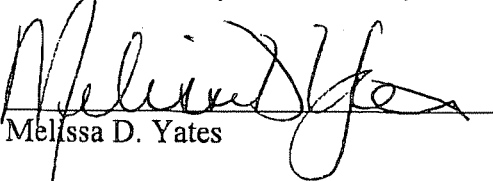
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PO Box 929  
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Phone: (270) 442-8253  
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By:   
Melissa D. Yates

I hereby certify that 10 copies of the foregoing were filed with the Public Service Commission by faxing and mailing via Federal Express to:

BETH O'DONNELL EXEC DIR  
PUBLIC SERVICE COMMISSION  
215 SOWER BLVD  
P O BOX 615  
FRANKFORT KY 40601  
Fax: (502) 564-3460

on this the 5<sup>th</sup> day of December, 2007.

  
Melissa D. Yates  
96604