

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

In the Matter of:

THE APPLICATION OF SOUTH KENTUCKY RURAL)
ELECTRIC COOPERATIVE CORPORATION FOR)
APPROVAL OF MASTER POWER PURCHASE AND) Case No. 2018-0050
SALE AGREEMENT AND TRANSACTIONS THEREUNDER)

**JACKSON ENERGY’S RESPONSE TO SALT RIVER’S
MOTION TO STRIKE PORTIONS OF THE POST HEARING
BRIEF OF EAST KENTUCKY POWER COOPERATIVE**

By its order dated July 23, 2018, the Commission has invited the parties to this action to respond to a reply brief filed by Salt River Electric Cooperative Corporation (“Salt River”) on July 20, 2018, which included a motion to strike certain portions of the initial post hearing brief filed on behalf of East Kentucky Power Cooperative, Inc. (“EKPC”). Accordingly, Jackson Energy Cooperative Corporation (“Jackson Energy”) hereby files this brief.

In its post hearing brief, EKPC states that subsequent to the public hearing in this matter, its Board (minus South Kentucky’s representative) met to discuss the issues in this matter along with a possible resolution. The meeting ultimately resulted in a Board resolution which is set forth in EKPC’s brief.¹ In sum, the resolution would eliminate Amendment 3 to the wholesale power contract, and adopt Amendment 5 in its stead. Amendment 5 would essentially be an all requirements contract with the exception of any existing projects, which

¹ See EKPC’s Initial Brief, page 43.

would be grandfathered, and with the exception of any local community based distributed generation projects which would be approved solely by EKPC and owned by EKPC. Salt River has objected to the presentation of this proposal on the grounds that EKPC's board meeting was conducted in secret with counsel for EKPC present, but in the absence of any counsel on behalf of the distribution cooperatives.

Jackson Energy does not object to the presentation of EKPC's Board resolution and proposal on the grounds that the meeting was conducted in secret and in the absence of counsel for the distribution cooperatives. However, Jackson Energy does wish to note that while the resolution was apparently adopted by a unanimous vote of EKPC's Board, its vote it is not reflective of unanimous consent among the distribution cooperatives (other than South Kentucky). EKPC's resolution was adopted at a Board meeting without any prior notice to the distribution cooperatives of the proposal to be considered at the Board meeting. In essence, neither the management nor the Boards of each distribution cooperative had an opportunity to review the proposal and discuss it amongst themselves and with their representative on the EKPC Board prior to the meeting.

Jackson Energy does not support EKPC's proposal as set forth in its resolution. EKPC's proposal would seek to strip all ability of a distribution cooperative to purchase off system power. This proposal is in direct contradiction to Amendment 3 which allows for up to 5% of EKPC's load to be purchased from alternate sources and it assumes that there can be no logical solution to the problems of Amendment 3 without chucking it in favor of an all requirements contract.

Jackson Energy has filed an initial brief in this matter which presented a simple and appealing proposal for the resolution of the problems inherent in Amendment 3. Jackson

Energy proposes that if South Kentucky's application is denied, each distribution cooperative should be limited to off system purchases of up to 5% of its coincident peak demand, and that all such off system purchases must be behind the meter. This solution is not only appealingly simple, but guarantees the 5% allotment previously agreed upon via Amendment 3. Moreover, this solution is inherently fair to each cooperative and to EKPC. This proposal would allow for additional small distributed generation projects and would have little if any effect on EKPC's finances.

It would further seem that there is more at stake in this discussion than the immediate issue of South Kentucky's application. It is imperative that EKPC and all distribution cooperatives reach an agreement not only to prevent further angst and litigation among themselves, but also to pave the way for future amendments extending the wholesale power contract which would require the unanimous consent of EKPC and each and every distribution cooperative. It is respectfully submitted that Jackson Energy's proposal would accomplish such a goal.

In conclusion, Jackson Energy does not believe that EKPC's proposal and Board resolution should be stricken, but Jackson Energy does object to such proposal to the extent that it may be interpreted as a unanimous deal among the distribution cooperatives and EKPC.

Submitted by,

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