

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
ENERGY COOPERATIVE CORPORATION)	CASE NO. 2019-00066
FOR A GENERAL ADJUSTMENT)	
IN EXISTING RATES)	

ATTORNEY GENERAL’S PETITION FOR REHEARING

Comes now the intervenor, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), and pursuant to KRS 278.400, hereby tenders his Petition for Rehearing to the Kentucky Public Service Commission (“Commission”), regarding the June 10, 2019 Final Order in this matter.

Jackson Energy Cooperative Corporation (hereinafter “JEC” or the “Cooperative”) asserted that its filing was revenue neutral and the Commission agreed, approving the rate design as proposed by JEC.¹ However, the Commission did not adequately address the implications of approving the proposed rate design within the streamlined rate case pilot procedure, both for JEC’s customers and for those customers of other Rural Electric Cooperative Corporations who will seek to use the streamlined procedure in the future.

The Resulting Impact Of The Changes To JEC’s Rate Design Is Not Neutral

In the Final Order, as part of its reasoning in granting JEC’s desired rate design, the Commission stated that JEC customers who receive assistance use on average more electricity than the average residential customer, 1,238 kWh to 1,066 kWh. The result of increasing the customer charge by \$7.56, from \$16.44 to \$24.00, along with the corresponding decrease in the energy

¹ Commission Order [“Final Order”], *Electronic Application Of Jackson Energy Cooperative Corporation For A General Adjustment In Existing Rates*, Case No. 2019-00066 (Ky. Commission June 10, 2019).

charge, \$0.00709/kWh, ostensibly results in a lower bill for those low-income customers using 1,238 kWh (\$135.18 under the current rate design versus \$133.96 under the proposed rate design, or \$1.22 less), with the Commission opining that “the proposed rate design will actually be beneficial to the customers receiving assistance.”² However, the record evidence indicates the change is not beneficial to those customers. First, this shading of the issue ignores the fact that there are low-income residential customers who do not receive assistance with their electric bill, for whom the cooperative provided no data or evidence on whether their usage was higher or lower than the average residential customer. Second, although the proposed rate change is revenue neutral to the utility—in the sense that it does not change the total revenue in a historic test period—the impact to residential customers is not neutral. The Commission held that “guard[ing] against revenue erosion” for the Cooperative is more important than the harmful impact a rate design change has on customers.³ Such a holding is manifestly unjust and is unsupported by the record. In fact, the record indicates that the Cooperative is currently readily able to earn its Commission-approved revenue requirement and maintain reasonable credit metrics.⁴ Thus, providing the Cooperative a rate design change that is not needed, is neither fair, just, nor reasonable; conversely, it is contrary to the law.⁵

Furthermore, for those residential customers receiving assistance, whose average electricity usage as provided by the utility is 1,238 kWh per month, the rate design change ordered by the Commission reduces the amount of monthly energy subsidy by \$7.56. Energy assistance in the form of subsidy is ordinarily provided as a fixed amount for only a handful of months, and

² *Id.* at 6–7.

³ *Id.* at 7.

⁴ Application, Case No. 2019-00066, Exhibit E, Direct Testimony of John Wolfram, at 6–10. Mr. Wolfram’s testimony indicates the Cooperative earned a TIER of 2.19 for the test year, in *excess* of the 2.0 level the Commission has historically approved rates to recover.

⁵ KRS 278.030(1).

does not vary based on usage. For every dollar the Commission increased the customer charge, a customer receiving energy assistance loses nearly 10.5kWh of energy available for subsidy.⁶ In the Commission’s final Order, the increase to the customer charge of \$7.56 reduced the number of kWh available for subsidy by 78.82, or more than 6% of the kWh for the average JEC customer receiving assistance.⁷ While the overall bill total for residential customers receiving assistance may be \$1.22 less,⁸ the net outcome is a reduction of \$6.34 ($\$7.56 - \1.22) to the benefit being received—subsidization of electricity usage. The benefit of this change in the rate design accrues entirely to the utility. The impact of this is then compounded in the sense that even if a residential customer receiving assistance who uses more than the average attempted to use less energy in order to mitigate the magnitude by which their usage is being subsidized through assistance, their ability to conserve has been diminished by the increased fixed charge.

In the Final Order, the Commission went on to note that JEC’s cost of service study (“COSS”) supported a fixed monthly charge of \$31.95 for those taking service in the residential class, and therefore concluded that the \$24.00 proposal was reasonable as it is within the range of the COSS results.⁹ Such a result suggests that JEC’s next rate case, whether under the streamlined procedure or not, will include a proposal to increase the customer charge to the full alleged residential cost of service. If so, the customer charge would nearly double within the span of two rate cases, from \$16.44 to at least \$31.95, or higher, depending on the COSS results or changes in certain plant accounts. This possible outcome does not comport with the Commission’s preference for gradualism, as it would expedite JEC’s change in rate design, requiring the residential class to pay full “cost-based” rates within the span of two rate cases, perhaps both in the guise of

⁶ See Final Order at 7. (\$1/0.09591).

⁷ *Id.*

⁸ *Id.* (Footnote 27).

⁹ *Id.*

streamlined cases and possibly both under a revenue-neutral designation. Although the Commission gives weight to the argument that because cooperatives are strictly distribution utilities and nonprofit, increases in the customer charge have greater justification, it has simultaneously noted that the “concerns and issues raised by the AG,” such as promoting conservation and his objection of certain costs in the calculation of the residential customer charge “are both relevant and valid”, and adjusted its final decision accordingly.¹⁰ The Commission has now inexplicably reversed course and decidedly ignored the Attorney General’s concerns, instead placing the interests of the Cooperative squarely ahead of its customers/member-owners.

The Commission’s ruling provides a framework whereby JEC is unnecessarily assured of more stable revenue, albeit at the expense of customers. The Attorney General urges the Commission to reconsider these disparate impacts on JEC customers and grant rehearing accordingly.

Wholesale Cost-Shifting And Extreme Changes To Rate Design Should Be Avoided In Streamlined Rate Cases In Order To Align With The Intent Of The Pilot Procedure

In its order initiating the streamlined rate case pilot procedure, Case No. 2018-00407, the Commission noted that the aims of the pilot were to:

- (1) reduce rate case expense to the Distribution Cooperatives and their members;
- (2) encourage Distribution Cooperatives to make more frequent, smaller rate adjustments as needed;
- (3) avoid, or at least diminish, rate shock that may result from large infrequent rate increases; and
- (4) reduce the strain on Commission resources.¹¹

¹⁰ Commission Order, *Application Of Owen Electric Cooperative Corporation To [sic] For An Order Authorizing A Change In Rate Design For Its Residential And Small Commercial Rate Classes, And The Proffering Of Several Optional Rate Designs For The Residential Rate Classes*, Case No. 2011-00037, at 6–9 (Ky. Commission Feb. 29, 2012).

¹¹ Commission Order, *A Review Of The Rate Case Procedure For Electric Distribution Cooperatives*, Case No. 2018-00407 (Ky. Commission Dec. 11, 2018).

As a general matter, the Attorney General opposes wholesale cost-shifting to any single class, but especially to the residential class where the eventual impacts are most attenuated. By approving JEC's proposed rate design, the Commission's actions will encourage other distribution cooperatives to file similarly extreme revenue neutral cases which fits within the Commission's given mandate of limiting the dollar amount of rate cases, but which unfairly serves to punish residential ratepayers. Further, under the auspices of the streamlined rate pilot procedure, any such utility will ensure that only a limited review occurs through expedited discovery, without an evidentiary hearing, or as JEC did, ignoring relevant discovery.¹²

In the present case, the Commission approved JEC's increase to the residential customer charge halfway to the full "cost-based" rate for that class without the benefit of a full rate case review or hearing. Despite the Commission's strained resources, it must not set a precedent that would allow utilities to substantially alter rates with less transparency than should be required for such an extreme shift. The Commission's Order in this case is anything but gradual or incremental. Only through a traditional, general base rate case should such a radical change in rate design be considered.

Revenue Neutral Cases Should Be More Narrowly Defined Or Limited For The Streamlined Procedure

In order to avoid such a scenario, the Commission should endeavor to more narrowly define the proper scope of a revenue neutral rate case within the streamlined rate pilot procedure. It seems as though the Commission is inclined to require a lower degree of scrutiny to revenue neutral rate cases, even though it has now decided, improperly, to use a different revenue requirement than that previously approved by the Commission.¹³ However, the Commission should instead require

¹² Attorney General's Comments, Case No. 2019-00066, at 4-7 (Ky. Commission May 20, 2019).

¹³ Final Order, at 8. ("The information requested by the Attorney General but not provided by Jackson Energy would be relevant if this was an application for a general rate increase rather than an application for a revenue-neutral rate

more scrutiny for revenue neutral cases filed using the streamlined procedure due to the inherent accelerated timeline and reduced opportunity for discovery. If that means instituting some sort of limit on the degree to which the rate design may be changed, then the Commission should explore this in order to sufficiently guard customers against any unnecessarily damaging cost-shifting.

WHEREFORE, the Attorney General requests that the Commission, based upon the evidentiary record, grant the Attorney General's request for rehearing based upon his arguments herein.

Respectfully submitted,

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design. Jackson Energy has filed all relevant information needed to process this case even though some of the information requested by the Attorney General was not specifically exempted under the 'streamlined procedure' from inclusion in a revenue-neutral rate design application. Being that this is a pilot project, the Commission appreciates the Attorney General bringing this issue to our attention and the need to grant a deviation. Going forward, we will consider whether revisions are needed to the filing requirements and the exemptions set forth in the 'streamlined procedure'").