

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

**JACKSON ENERGY COOPERATIVE’S RESPONSE TO
THE ATTORNEY GENERAL’S PETITION FOR REHEARING**

Comes now Jackson Energy Cooperative Corporation, by and through the undersigned counsel, and hereby submits its response to the Attorney General’s petition for rehearing.

BACKGROUND

On February 26, 2019, Jackson Energy Cooperative Corporation (“Jackson Energy”) filed its notice of intent to seek a general adjustment of its rates. On March 28, 2019, Jackson Energy filed its application for an adjustment of rates and for permission to utilize the streamlined rate case pilot program as set forth in Case No. 2018-00407. The application sought to increase Jackson Energy’s monthly residential customer charge from \$16.44 to \$24.00 and to decrease the energy charge from \$.09591 to \$.08882. This rate redesign would result in no increased revenue to Jackson Energy and would, in fact, be revenue neutral.

Thereafter, on April 1, 2019, the Commission entered an order granting the intervention to the Attorney General, and on April 10, 2019, the Commission entered an order approving the use of the streamlined procedure in this matter. Both the Commission and the Attorney General propounded data requests upon Jackson Energy to which responses were provided. On May 20, 2019, the Attorney General submitted extensive written comments for the Commission’s consideration. On June 10, 2019, the Commission entered an order approving the rates proposed by Jackson Energy, which were to take effect on or after July 1, 2019.

On June 12, 2019, Jackson Energy electronically filed its revised tariffs to take effect on July 1, 2019. The tariffs were accepted and filed by the Commission on July 1, 2019. Late in the day on July 1, 2019, the Attorney General filed its petition for rehearing. Jackson Energy now files this response to that petition and requests that the petition be denied.

JACKSON ENERGY'S RATE REDESIGN IS REVENUE NEUTRAL

The Attorney General first acknowledges that Jackson Energy's rate redesign is revenue neutral in the sense that it results in no increase or decrease in revenue to the utility. However, the Attorney General seems to argue that the rate redesign is not neutral to each individual member of the class affected by the redesign.

Jackson Energy's rate redesign affects only the residential class and is based upon a cost of service study. The average residential member using 1,066 kWh per month would see no change in his or her monthly bill. However, members using less energy than average would see a small increase in their bills, while members using more energy than average would see a correspondingly small decrease in their bills. Therefore, to the extent that the Attorney General argues that the rate redesign is not neutral to every single member of the residential class, he is correct. While the rate redesign is revenue neutral to the residential class as a whole, there will certainly be members who will see an increase in their bills. There will also be members who will benefit from a decrease in their bills. The Attorney General is, in essence, arguing that there are subsets within the residential class who will be negatively affected by the rate redesign. However, this condition always occurs in the normal course of ratemaking which deliberately sets rates for classes (i.e. groups of customers who are similarly situated) and not for subsets of customers within those classes. If the Attorney General could offer some logical reason as to why a subset of residential customers should be identified and treated as a subset, it should do so, but it has not and it cannot since no

such reason exists. All residential customers of Jackson Energy are similarly situated. Utility ratemaking is based on identifying rate classes. This method has been accepted for every utility in the Commonwealth of Kentucky and this case should be no different.

The Attorney General further argues that the rate redesign is detrimental to low income members. While the Attorney General acknowledges that the average member receiving financial assistance with heating bills will see a reduction in his or her monthly bill, the Attorney General goes on to argue that this is somehow a detriment to such a member due to a reduction in the assistance that would be received by a low income member. As an initial matter, this argument should not be considered by the Commission because it is based on facts that are not in evidence in this matter. The Attorney General is presenting as fact certain assumptions that are unproven and unsupported in the record. In fact, Jackson Energy believes the Attorney General's stated facts are simply incorrect. Members who receive financial assistance through the LIHEAP program receive assistance based on the total amount of their bill, not based on the number of kilowatt hours they use. Accordingly, if a member receives less assistance because of a lower bill, the member has suffered no detriment.

The Attorney General also argues that Jackson Energy submitted no data concerning low income members who do not receive assistance to help determine whether such members use more or less energy than the average member. This information was not presented because it simply does not exist. Jackson Energy has no way to obtain highly personal information such as the income levels of its members other than relying upon the information obtained through assistance programs. Moreover, such information has not been required of other utilities in the State in any rate case.

Finally, much is made by the Attorney General of the fact that the Commission has allowed an increase in the monthly customer charge of \$7.56 per month, which is well within the cost to serve the average member of the residential class. The Attorney General worries that the Commission may entertain the possibility of cost-based rates, which the Attorney General seems to believe is detrimental to consumers. In fact, no evidence or meaningful argument is presented as to why cost-based rates would be detrimental to consumers. On the contrary, in the cooperative model, the utility is owned by its members, all of which have an interest in stabilizing the cooperative's revenues so its board and management can create meaningful budgets and plans without the upheaval that is created by weather patterns that are unusually harsh or mild. Even allowing full cost-based rates does not address the uncertainty in costs which all utilities face when confronted with damage to utility plant caused by storm or other unexpected natural disasters.

The Commission has held in a number of other rate cases involving electric distribution cooperatives that "there is merit in providing a means to guard against revenue erosion that often occurs due to the decrease in sales volumes that accompanies poor regional economics and changes in weather patterns, and this Commission has been consistently in favor of raising the customer charge in utility rate cases to reflect the fixed costs inherent in providing utility service."¹ The Commission seems to recognize that the members of a cooperative and the cooperative itself have interests that align – to provide reliable electric service at reasonable rates. This goal can be more readily achieved by implementing cost-based rates than by subjecting cooperatives and their members to the vagaries of weather patterns and wildly fluctuating revenues. While the Commission has approved increases in customer charges in a number of rate cases involving distribution cooperatives, to the best of this attorney's knowledge, this is the first time the Attorney

¹ See Case Nos. 2016-00174, 2016-00365, 2016-00434, 2017-00374, 2018-00129 and 2018-00272.

General has contested the Commission's view of allowing distribution cooperatives to increase their monthly customer charges to more fully recover fixed costs.

THE RATE REDESIGN DOES NOT RESULT IN COST SHIFTING

The Attorney General asserts that Jackson Energy's rate redesign results in cost shifting to the residential class which serves to "punish" that class. The Attorney General offers no evidence to support this outlandish claim. On the contrary, as stated above, moving toward cost-based rates with respect to a distribution cooperative is of benefit to both the members and the cooperative. Furthermore, there is no cost shifting that results from this rate redesign. In fact, if pure cost-based rates were implemented, there would be more fairness within the residential rate class. If each member is not paying a cost-based rate, then the members using more electricity are in effect subsidizing the members who use less electricity. Thus, the rate redesign promotes fairness and is the antitheses of cost shifting and could not be described as "radical" or a "punishment" to members of the cooperative.

JACKSON ENERGY'S RATE REDESIGN IS FAIR, JUST AND REASONABLE

Jackson Energy has filed a cost of service study in this matter which shows that for residential customers, Jackson Energy incurs a fixed cost of \$31.95 per month. The Attorney General has offered no meaningful evidence to contradict the results of the study. As stated above, any fixed monthly charge that is less than the monthly cost of service creates intra class subsidization, which is inherently unfair. Cost-based rates eliminate such subsidization resulting in fairness within the class. The majority of the Attorney General's arguments are based on one portion of the residential class – those who use less energy than the average. The arguments in the petition completely ignore the fact that the other portion of the residential class, some of which are

low income, will receive a meaningful reduction in their bills, and the fact that there will be more fairness within the residential class.

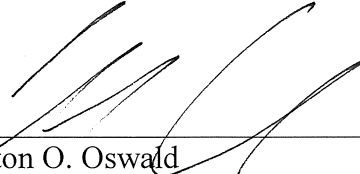
CONCLUSION

In Case No. 2018-00407, the Commission established a pilot program for electric distribution cooperatives to utilize a streamlined rate case procedure. This program was designed after input from numerous stakeholders including the Attorney General. It seems that the issues raised in the Attorney General's petition for rehearing are merely complaints concerning the streamlined process itself and with any move toward cost-based rates rather than any particular issue with Jackson Energy's rate redesign. In that vein, the Attorney General's comments and views should have been expressed during the development of the pilot program and not presented as obstacles for the adoption of a fairer rate structure for Jackson Energy and its members.

Furthermore, the Attorney General has presented no new evidence or arguments in its petition. Rather, the petition is simply a rehash of comments it has already submitted to the Commission for consideration.

For the reasons stated herein, Jackson Energy respectfully requests that the Commission deny the Attorney General's petition for rehearing.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read 'C. Oswald', is written over a horizontal line.

Clayton O. Oswald
Taylor, Keller & Oswald, PLLC
P.O. Box 3440
1306 W. 5th St., Suite 100
London, KY 40743-3440
(606) 878-8844
Fax: (606) 878-8850
Email: coswald@tkolegal.com