

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE ELECTRONIC APPLICATION OF)
JACKSON PURCHASE ENERGY)
CORPORATION FOR A GENERAL)
ADJUSTMENT OF RATES AND OTHER)
GENERAL RELIEF)

Case No. 2021-00358

REBUTTAL TESTIMONY OF JOHN WOLFRAM,
PRINCIPAL, CATALYST CONSULTING LLC
ON BEHALF OF JACKSON PURCHASE ENERGY CORPORATION

Filed: February 17, 2022

1 **Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

2 A. My name is John Wolfram. I am the Principal of Catalyst Consulting LLC. My business
3 address is 3308 Haddon Road, Louisville, Kentucky, 40241.

4 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

5 A. I am testifying on behalf of Jackson Purchase Energy Corporation (“Jackson Purchase”).

6 **Q. ARE YOU THE SAME INDIVIDUAL THAT SPONSORED DIRECT TESTIMONY**
7 **IN THIS CASE?**

8 A. Yes.

9 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

10 A. The purpose of my rebuttal testimony is to respond to the Direct Testimony of Mr. Lane
11 Kollen (“Kollen Direct”) on behalf of the Office of the Attorney General of the
12 Commonwealth of Kentucky (“AG”). Specifically, I will explain why the AG’s claims
13 regarding test period adjustments, rate rider deferrals, and proposed adjustments for payroll
14 expense, headquarters expense, and interest are flawed and should be rejected by the
15 Commission. I also address some of the AG claims regarding vegetation management and
16 provide supporting information on the other recommendations on this issue that are
17 addressed in the Rebuttal Testimony of Mr. Greg Grissom. Finally, I explain why the AG’s
18 recommendation for limiting the authorized TIER to a maximum of 1.50 is especially
19 unreasonable and should be rejected by the Commission.

20 **Q. ARE YOU SPONSORING ANY EXHIBITS?**

21 A. I am sponsoring revised versions of exhibits already in the record, which I have updated to
22 reflect the items noted herein and in the responses to discovery provided thus far by Jackson
23 Purchase in this docket. The updated exhibits include the revenue requirement calculation

1 and the cost of service study; they consist of two spreadsheet files that collectively include
2 Exhibits JW-2 through JW-8. These two files are uploaded to the Commission’s website
3 in electronic format only.

4 **Q. IN KOLLEN DIRECT PAGES 4-6, THE AG CLAIMS THAT THE COMPANY**
5 **APPLIED “SELECTIVE” TEST YEAR ADJUSTMENTS RESULTING IN A**
6 **“HODGEPODGE” OF REVENUE AND EXPENSES WHICH VIOLATE THE**
7 **“TEST YEAR CONCEPTUAL FRAMEWORK” IN THIS FILING. IS THIS**
8 **CLAIM CORRECT?**

9 A. No. This claim is false, for several reasons.

10 First, all of the pro forma adjustments accurately represent known and measurable
11 changes to test year revenues and expenses. This does not constitute a “confused mixture”
12 but instead, when one examines the proposed adjustments individually, produces a
13 reasonable representation of Jackson Purchase’s annualized revenue requirement on a
14 prospective basis.

15 Second, the AG misunderstands some of the proposed adjustments and falsely
16 characterizes them as pertaining to time periods out in the future. This includes the wages
17 and salaries adjustment, which I describe in more detail later in this testimony.

18 Third, Mr. Kollen himself has proposed similar pro forma adjustments in other
19 cases before this Commission in the past. For example, in Case No. 2011-00036,¹ the most
20 recent Big Rivers rate case that utilized a historic test year, Mr. Kollen, testifying as an
21 expert rate witness for Kentucky Industrial Utility Customers (“KIUC”), valiantly tried to

¹ *In the Matter of: Application Of Big Rivers Electric Corporation For A General Adjustment In Rates*, Case No. 2011-00036, Direct Testimony of Lane Kollen, filed May 24, 2011.

1 convince the Commission that Big Rivers was attempting “to convert the historic test year
2 to a projected test year on a selective basis rather than on a comprehensive basis”², the
3 same assertion forming the foundation of his testimony in the instant case. He
4 recommended that Transmission of Electricity by Others expense should be *reduced* to
5 reflect post-test year activities. In that case Big Rivers’ historic test year was the twelve
6 months ended October 31, 2010. Mr. Kollen proposed reducing the combined 2009-2010
7 test year expense to the level reflected in the 2011 budget and multi-year forecast through
8 2014, a period well beyond the test year. To summarize, Mr. Kollen portrays Jackson
9 Purchase’s proposed adjustments as unacceptable when their effect is to increase the
10 revenue requirement, when he himself has proposed similar adjustments that decrease the
11 revenue requirement in other cases before the Commission.

12 For these reasons, the Commission should disregard Mr. Kollen’s assertions that
13 Jackson Purchase’s proposed adjustments are “selective” and amount to a “hodgepodge,”
14 and instead consider each proposed pro forma adjustment in detail and decide whether to
15 accept or reject each on its own merits.

16 **Q. IN KOLLEN DIRECT PAGE 5, THE AG CLAIMS JACKSON PURCHASE**
17 **COULD HAVE USED A FORECAST TEST YEAR RATHER THAN A HISTORIC**
18 **TEST YEAR IN THIS CASE. HOW DO YOU RESPOND TO THIS CLAIM?**

19 A. While technically correct, this claim shows that Mr. Kollen is largely unfamiliar with
20 distribution cooperative rate filings in the Commonwealth. Kollen Direct Exhibit _(LK-1)
21 shows that Mr. Kollen has testified many times before the Commission. However, it is
22 noteworthy that over what is now 36 years of testifying, in 120 cases before the

² Id., page 8.

1 Commission (of which all but seven were electric utility cases), he has *never* testified in a
2 single distribution cooperative base rate proceeding before this Commission until now. He
3 has extensive experience, but almost all of it is with investor-owned utilities, and that
4 predisposition is weaved tightly throughout the recommendations proffered in this case.

5 Jackson Purchase is not aware of any distribution cooperative that has filed a rate
6 case using a forecast test year. In response to the question about which electric utilities
7 filed rate cases using forecast test years in Initial Data Request from Jackson Purchase
8 Electric Corporation, Item 1, the AG refused to answer this very relevant question. Instead,
9 he objected to the need to perform “original research” and did not identify a single
10 distribution cooperative that has done so.

11 Jackson Purchase prepared this case using a historic test year ending December 31,
12 2019, in large part because the effects of the COVID-19 pandemic made 2020
13 unrepresentative for ratemaking purposes. For example, the conditions in 2020 were so
14 atypical that the Rural Utilities Service (“RUS”) afforded all of its borrowers, including
15 Jackson Purchase, relief for calendar 2020 from the performance metrics set forth in its
16 loan covenants.

17 While Jackson Purchase is permitted to file using a forecast test year under the
18 statute, doing so would be extremely unconventional for a distribution cooperative, not to
19 mention much more difficult and expensive. It would also be unnecessary as the use of a
20 historic test year with pro forma adjustments for known and measurable changes not only
21 is legally permissible, but also accurately provides a representative annual revenue
22 requirement and a reasonable basis for setting rates prospectively, as is described further
23 by Jackson Purchase in this testimony addressing specific pro forma adjustments.

1 **Q. IN KOLLEN DIRECT PAGE 7, THE AG RECOMMENDS THAT THE**
2 **COMMISSION SHOULD LIMIT THE ALLOWED PRO FORMA**
3 **ADJUSTMENTS TO THE TWELVE MONTHS ENDING DECEMBER 31, 2020,**
4 **WITH THE SOLE EXCEPTION OF THE COSTS RELATED TO THE NEW**
5 **HEADQUARTERS BUILDING. HOW DO YOU RESPOND TO THIS**
6 **RECOMMENDATION?**

7 A. I disagree with this recommendation. The Attorney General seeks to impose an arbitrary
8 limit on the Company's ability to propose adjustments to test year revenues and expenses
9 that meet the Commission's known and measurable standard and provides no basis nor
10 support for the twelve-month period suggested. This artificial and subjective limit is not
11 necessary, particularly given the anomalous nature of 2020 due to the pandemic. As it has
12 consistently done for many years, the Commission should consider each proposed pro
13 forma adjustment in detail and decide whether to accept or reject each on its own merits.

14 **Q. IN KOLLEN DIRECT PAGE 9, MR. KOLLEN INDICATES THAT THE**
15 **COMPANY'S REMOVAL OF THE FAC, ES, MRSM, AND NON-FAC PPA**
16 **REVENUES AND EXPENSES IS PROBLEMATIC, AND RECOMMENDS THAT**
17 **THE COMMISSION DIRECT THE COMPANY TO BEGIN USING DEFERRAL**
18 **ACCOUNTING FOR ITS RIDERS. HOW DO YOU RESPOND TO THIS CLAIM?**

19 A. Jackson Purchase disagrees with this recommendation. The use of deferral accounting for
20 rate riders might reduce volatility in the cooperative's margins and financial metrics, but it
21 would not reduce any practical risk that a cooperative with a TIER of 1.61 faces regarding
22 its financial condition.

1 The purpose of the pro forma adjustment to remove rate rider revenues and
2 expenses is to capture the effects of regulatory lag in base rates. If the deferrals proposed
3 by the AG were required of all utilities – which they are not – then there would be no need
4 to make any adjustments for rate riders, because those adjustments would always net out
5 to zero.

6 Furthermore, adopting the deferral practice does not necessarily improve
7 cooperative metrics. In any given year, based on the magnitude of the rider amounts and
8 whether they are positive or negative, such deferrals could increase or decrease margins.
9 It is not a panacea for margin shortfalls.

10 The AG cites South Kentucky R.E.C.C. as one example of a cooperative that adopts
11 some type of deferral accounting for its rate riders and shows a pro forma adjustment of
12 zero for the riders in its rate filing.³ Jackson Purchase understands that other cooperatives
13 including South Kentucky R.E.C.C. book the over/under recovery of riders to an A/R
14 account with the offsetting entry to revenue. But ultimately, this should not reduce the
15 revenue requirement of the cooperative in a rate filing, because the adjustment to the rate
16 rider is offset by an equal adjustment to base revenues. If Jackson Purchase had an over-
17 recovery during the test year and used similar accounting, revenues would have been
18 reduced by the same amount as the over-recovery. Thus, unadjusted revenues would have
19 been lower in this proceeding, such that when the adjusted base revenues and the rate riders
20 are taken together, the revenue required to achieve the 2.00 target TIER is unchanged --
21 there is no change to the test year bottom line in a rate case under either scenario.

³ AG's Response to Data Requests of Jackson Purchase Energy Corporation, Item 2.

1 It is important to note that the AG’s proposed deferrals are not required by statute
2 or regulation in Kentucky. They are not required by the RUS or Jackson Purchase’s other
3 lenders. They have not been recommended by Jackson Purchase’s auditors. In short, there
4 is nothing currently requiring Jackson Purchase to adopt this deferral accounting practice.

5 Also, this claim further demonstrates Mr. Kollen’s lack of familiarity with
6 distribution cooperatives in Kentucky. When asked about which regulated electric utilities
7 use the recommended deferral method for rate riders⁴ the AG objected but went on to
8 mention South Kentucky R.E.C.C. along with four investor-owned utilities that use
9 deferral accounting but did not identify any distribution cooperatives other than South
10 Kentucky. Jackson Purchase currently believes that five out of nineteen regulated
11 distribution cooperatives in Kentucky have been using some kind of special accounting for
12 the rate riders⁵ and a sixth just began doing so at year-end, and the practices adopted are
13 not necessarily the same regulatory asset/liability deferrals recommended by the AG.

14 Note that with respect to the pro forma adjustment for rate riders, the Commission
15 has accepted this exact same adjustment for the removal of rate riders in numerous
16 distribution cooperative rate filings *without* requiring any deferral accounting practices.
17 This includes Kenergy Corp. (Case No. 2021-00066), Licking Valley R.E.C.C. (Case No.
18 2020-00338), Cumberland Valley Electric (Case No. 2020-00264), Meade County
19 R.E.C.C. (Case No. 2020-00131), Clark Energy Cooperative (Case No. 2020-00104), and
20 Big Sandy R.E.C.C. (Case No. 2017-00374). The AG did not object to the rate rider

⁴ Id.

⁵ To the best of Jackson Purchase’s knowledge, the only distribution cooperatives that use deferrals for rate riders are Bluegrass Energy, Farmers R.E.C.C., Owen Electric, Salt River Electric, South Kentucky R.E.C.C., and as of the end of 2021, Shelby Energy.

1 adjustments on these grounds in any of these cases. In Jackson Purchase’s last rate case,
2 the rate rider adjustment *reduced* the revenue requirement by \$285,738; this was proposed
3 by the Company, was unopposed by the AG, and was accepted by the Commission.
4 Additionally, the AG indicates that the adjustment for rate riders should net to zero, but in
5 other cooperative rate cases, the Commission has accepted pro forma adjustments that do
6 *not* result in a net zero adjustment for rate riders, regardless of the use of any special
7 accounting for rate riders. These cooperatives include Inter-County (Case No. 2018-
8 00129), Nolin R.E.C.C. (Case No. 2016-00367), Owen Electric (Case No. 2012-00448),
9 Shelby Energy (Case No. 2016-00434), and Grayson R.E.C.C. (Case No. 2018-00272).

10 These results are consistent with my overall experience in rate consulting for
11 unregulated distribution cooperatives in other states; I have worked for numerous
12 distribution cooperatives and in my experience their use of deferral accounting for rate
13 riders is very rare.

14 These facts regarding Commission precedent and current cooperative accounting
15 practices demonstrate that the AG’s view that using deferrals is “typically the case” is in
16 fact far less typical than he would have the Commission believe. For these reasons, the
17 Commission should reject this recommendation.

18 **Q. IN KOLLEN DIRECT PAGES 11-17, THE AG CLAIMS THAT THE PROPOSED**
19 **PAYROLL EXPENSE ADJUSTMENT IS EXCESSIVE AND RECOMMENDS**
20 **THAT THE COMMISSION USE THE COMPANY’S ACTUAL PAYROLL**
21 **EXPENSE INCURRED IN 2020 IN LIEU OF THE PROPOSED ADJUSTMENT.**
22 **HOW DO YOU RESPOND TO THESE CLAIMS AND TO THIS**
23 **RECOMMENDATION?**

1 A. This claim is flawed and contradicts Commission precedent. First, this adjustment was
2 prepared in the same manner as that approved by the Commission in other distribution
3 cooperative rate filings. For instance, in Case No. 2017-00374⁶, Big Sandy R.E.C.C. used
4 a test period that ended in mid-2016 and incorporated known and measurable payroll as of
5 2018. The Commission found this adjustment reasonable and accepted it without
6 modification.

7 Second, the AG makes an incorrect claim that the proposed adjustments are
8 reflective of payroll for 12 months ending June 2022. The AG witness acknowledges his
9 error in his response to Jackson Purchase’s data requests⁷, but still errs in his opinion that
10 the adjustment covers the 12 months ended April 2022. The known and measurable wage
11 rates and salaries that Jackson Purchase used for this adjustment were from April 2021.
12 Standard wage increases had not happened yet in 2021. General wage increases occur in
13 July for non-bargaining employees and in November for bargaining employees. Therefore,
14 this adjustment was not for payroll 12 months ending April 2022 either. The AG
15 unreasonably suggests that Jackson Purchase should reduce the revenue requirement for
16 this item by \$0.283 million relative to the test year. The AG recommends this despite
17 Jackson Purchase’s increases in wages and overhead since the test year of 2019. The AG
18 further selectively suggests that Jackson Purchase should replace test year wages and
19 salaries with 2020 actuals. As the Commission stated in its order in the Big Sandy case
20 cited⁸, “in utilizing the historical test year, the Commission considers appropriate known

⁶ Case No. 2017-00374, *Application of Big Sandy Rural Electric Cooperative Corporation for a General Adjustment of Existing Rates*.

⁷ AG Response to Initial Data Request from Jackson Purchase Electric Corporation, Item 3.

⁸ Id.

1 and measurable changes.” The proposed adjustment is known and measurable and is a
2 better reflection of the cooperative’s prospective wages and salaries than the 2020 actuals
3 are for the reasons stated above.

4 Third, the AG selectively suggests using 2020 actuals because they are the lowest
5 alternative at hand. This is very likely due to 2020 being a COVID year where inconsistent
6 work hours for employees and staff due to illness, stay-at-home orders and other virus-
7 related mitigation measures uncharacteristically impacted the level of wages and salaries.
8 As stated throughout the case, this is the precise reason Jackson Purchase chose not to
9 employ a 2020 test year. The AG’s suggestion also ignores the fact that Jackson Purchase
10 is ranked 64th lowest out of 69 similar-sized cooperatives in headcount according to
11 benchmarking provided by the Cooperative Finance Corporation, Key Ratio Trend
12 Analysis.⁹ Jackson Purchase is asking for a small increase to payroll as it is very lean
13 staffed.

14 The Commission should disregard the AG’s position on this issue and approve
15 Jackson Purchase’s adjustment for wages and salaries as filed.

16 **Q. IN KOLLEN DIRECT PAGES 17-19, THE AG CLAIMS THAT THE COMPANY**
17 **FAILED TO REMOVE ELECTRIC EXPENSE NO LONGER INCURRED FOR**
18 **THE OLD HEADQUARTERS BUILDING AND RECOMMENDS THAT THE**
19 **COMMISSION REMOVE \$0.124 MILLION FROM THE PROPOSED REVENUE**
20 **REQUIREMENT FOR THIS. HOW DO YOU RESPOND TO THIS CLAIM?**

⁹ See Jackson Purchase Electric Corporation’s Responses to PSC Staff’s First Request for Information, Item 1b.

1 A. This claim is completely flawed. First, the AG mistakenly claims that the cooperative's
2 purchased power expense is recovered through the FAC rider.¹⁰ This is not correct. A
3 certain portion of purchased power expense is incorporated into base rates in Jackson
4 Purchase's retail rate cases, and Jackson Purchase is charged the wholesale base energy
5 charge for all of its consumption – including its own usage – by Big Rivers. The FAC that
6 Jackson Purchase passes on to its retail members is based entirely on the FAC allocated to
7 Jackson Purchase by Big Rivers and does not include Big Rivers' base energy charges
8 related to Jackson Purchase's own use.

9 Second but more importantly, the AG mentions only the expenses for the old
10 headquarters and fails to consider the costs at the new headquarters. As stated in Jackson
11 Purchase's response to AG 1-14(e) in this case, Jackson Purchase records its own electric
12 expense as purchased power in Account 555. Jackson Purchase does not pass that cost
13 through to customers and did not indicate anywhere in this case that it did. The goal on
14 this issue is to include a full 12 months of expenses for the headquarters in the test period.
15 At the time of the filing, and even today, there is not enough data to make a known and
16 measurable change to electric use at the new headquarters, since June 2021 is the first
17 month of actual usage recorded. For the new headquarters, Jackson Purchase records this
18 expense based upon the wholesale rates charged by Big Rivers. Previously, for the old
19 headquarters located in Paducah Power's service territory, Jackson Purchase was required
20 to pay for electric service at Paducah Power's retail rate. Because of this, and on a kWh-
21 to-kWh basis, there is a purchased power cost savings. However, the new facility is larger
22 and has potentially higher use in the wintertime relative to the old building. There are also

¹⁰ See AG Response to Initial Data Request from Jackson Purchase Electric Corporation, Item 4.

1 differences in property tax and insurance. In Jackson Purchase's Certificate of Public
2 Convenience and Necessity case requesting Commission approval for the construction of
3 the new headquarters¹¹, the estimated variance in costs between the old and new
4 headquarters is included on a table on page 7 of the direct testimony of Jeff Williams.
5 However, Jackson Purchase does not believe that these estimates, made almost two and a
6 half years ago, are sufficiently reliable to meet the known and measurable standard and
7 thus did not propose a pro forma adjustment in this case to account for the change. The
8 AG's claim that a reduction in the revenue requirement is appropriate for this issue is
9 flawed and should be rejected.

10 **Q. IN KOLLEN DIRECT PAGE 19, THE AG FURTHER CLAIMS THAT THE**
11 **COMMISSION MAY WISH TO CONSIDER IN FUTURE FAC PROCEEDINGS**
12 **WHETHER THE COMPANY IMPROPERLY RECOVERED PURCHASED**
13 **POWER EXPENSE RELATED TO THE NEW HEADQUARTERS VIA THE FAC**
14 **AT THE SAME TIME IT RECOVERS COSTS NO LONGER INCURRED FOR**
15 **THE OLD HEADQUARTERS THROUGH BASE REVENUES. HOW DO YOU**
16 **RESPOND TO THIS CLAIM?**

17 A. Because the AG's original claim that Jackson Purchase recovers the expense for the old
18 headquarters through base rates and recovers the expense for the new headquarters in the
19 FAC is incorrect, the subsequent recommendation that the Commission consider this in
20 future FAC proceedings is unfounded.

21 Jackson Purchase indicated in its response to AG 1-14(d) and (e) in this proceeding
22 that it meters its new headquarters electric service and pays Big Rivers directly. It books

¹¹ Case No. 2019-00326, *Electronic Application of Jackson Purchase Energy Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility*.

1 this cost to expense in Account 555. Jackson Purchase did not indicate that it recovers this
2 cost through the FAC, but rather that reference is an example suggested by the AG, which
3 is not used by Jackson Purchase in its response.

4 Since this recovery does not take place as the AG asserts, special consideration in
5 future FAC proceedings is unnecessary. The Company supports the Commission's
6 practice of conducting FAC reviews and welcomes the close review that such proceedings
7 provide for Jackson Purchase and its members, but no special attention to the headquarters
8 issue is warranted, and the Commission should reject this recommendation.

9 **Q. IN KOLLEN DIRECT PAGES 19-27, THE AG CLAIMS THAT THE PROPOSED**
10 **ADJUSTMENT FOR RIGHT OF WAY ("ROW") EXPENSE IS EXCESSIVE AND**
11 **MAKES SEVERAL RECOMMENDATIONS REGARDING THIS ISSUE. HOW**
12 **DO YOU BROADLY RESPOND TO THIS CLAIM?**

13 A. Overall, the claims made by the AG on this issue are incorrect and unsupported. I discuss
14 two of these below; the other recommendations are addressed in the Rebuttal Testimony
15 of Mr. Greg Grissom.

16 **Q. IN KOLLEN DIRECT PAGE 24, THE AG COMPARES THE COMPANY'S**
17 **PROPOSED ROW COST PER MILE TO THAT FILED BY SOUTH KENTUCKY**
18 **R.E.C.C. IN ITS RECENT RATE FILING IN CASE NO. 2021-00407, IMPLYING**
19 **THAT THE COMPANY'S ROW COST IS UNREASONABLE BY COMPARISON.**
20 **HOW DO YOU RESPOND TO THIS CLAIM?**

21 A. This comparison is inappropriate and incomplete.

22 First, the information filed by South Kentucky is a single information point, not a
23 clear trend; it is a selective comparison. Furthermore, the South Kentucky data was as yet

1 unexamined via discovery at the time the AG’s testimony in this docket was filed. For
2 these reasons, any comparison to South Kentucky on ROW maintenances costs is tenuous
3 at best.

4 A better comparison would be to examine how the Commission treated the ROW
5 maintenance issues facing other electric utilities, including other distribution cooperative
6 members of Big Rivers, in recent rate filings that were subject to full Commission scrutiny,
7 and which have already been decided.

8 In Case No. 2020-00131¹², Meade County R.E.C.C. explained that when their
9 contract for tree trimming expired, the “lowest contract bid was presented by the previous
10 vegetation management company which included our standard cut cycle but at a
11 substantially higher cost”¹³ and further noted that this “is not an isolated problem as many
12 utilities are facing this vegetation management challenge while balancing system reliability
13 and quality customer service.”¹⁴ This experience is similar to what Jackson Purchase is
14 facing. The costs reported reflected increases of 63.3%, 43.7%, and 56.4% over the 2020-
15 2022 period.¹⁵ The Commission did not revise the proposed expense and made no mention
16 of it in their final order.¹⁶

¹² Case No. 2020-00131, *Electronic Application of Meade County Rural Electric Cooperative Corporation for an Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407*.

¹³ *Id.*, Response to the Attorney General’s First Set of Data Requests, July 21, 2020, Item 4, page 1.

¹⁴ *Id.*, page 2.

¹⁵ *Id.*

¹⁶ Case No. 2020-00131, Order dated September 16, 2020.

1 More recently, in Case No. 2021-00066, Kenergy Corp. noted in its Application
2 that its tree trimming expenses increased by \$1,722,469 since its last rate case.¹⁷ This is
3 also similar to what Jackson Purchase is facing. Because Kenergy experienced increases
4 of approximately \$1.8 million annually in vegetation management contractor costs, the
5 Commission accepted a pro forma adjustment of \$1,879,927 in its final order, which was
6 issued last summer.¹⁸ Thus it is clear that the ROW challenges are not an isolated issue for
7 Jackson Purchase.¹⁹

8 Second, the requirements for vegetation management can vary significantly from
9 utility to utility due to differences in geography, topography, weather, tree volume, tree
10 type, and other factors. The AG makes no mention of this. In short, the AG provides no
11 basis to conclude that the ROW circumstances facing South Kentucky and Jackson
12 Purchase are even similar, much less equivalent.

13 **Q. THE AG ALSO RECOMMENDS THAT THE COMMISSION DIRECT THE**
14 **COMPANY TO UTILITZE RESERVE ACCOUNTING FOR THE ALLOWED**
15 **ROW MAINTENANCE EXPENSE. IS THIS A REASONABLE**
16 **RECOMMENDATION?**

¹⁷ Case No. 2021-00066, *In The Matter Of: Electronic Application Of Kenergy Corp. For A General Adjustment Of Rates Pursuant To Streamlined Procedure Pilot Program Established In Case No. 2018-00407*, Application, March 11, 2021, page 4.

¹⁸ Case No. 2021-00066, Order dated June 24, 2021.

¹⁹ In addition to the Meade County R.E.C.C. and Kenergy Corp. cases cited, the issue was raised by Duke Energy Kentucky; see *In the Matter of: Electronic Application Of Duke Energy Kentucky, Inc. For 1) An Adjustment Of The Electric Rates; 2) Approval Of New Tariffs; 3) Approval Of Accounting Practices To Establish Regulatory Assets And Liabilities; And 4) All Other Required Approvals And Relief*, Case No. 2019-00271, Application Volume 14 of 19, PDF p. 248. See also *In the Matter of: Electronic Application Of Duke Energy Kentucky, Inc. For: 1) An Adjustment Of The Electric Rates; 2) Approval Of An Environmental Compliance Plan And Surcharge Mechanism; 3) Approval Of New Tariffs; 4) Approval Of Accounting Practices To Establish Regulatory Assets And Liabilities; And 5) All Other Required Approvals And Relief*, Case No. 2017-00321, Final Order dated April 13, 2018, p.16.

1 A. No. The AG witness again demonstrates a lack of professional experience with distribution
2 cooperatives in Kentucky. As is the case with forecast test years, Jackson Purchase is not
3 aware of any distribution cooperatives in Kentucky that use reserve accounting for ROW
4 maintenance costs. In response to the Initial Data Request from Jackson Purchase Electric
5 Corporation, Item 5, the AG objected and did not identify a single distribution cooperative
6 that does so. This is a solution looking for a problem, and it would be unreasonable to
7 require Jackson Purchase to implement an unconventional reserve accounting process for
8 ROW maintenance expense. The Commission should reject this recommendation.

9 **Q. IN KOLLEN DIRECT PAGES 29-31, THE AG ASSERTS THAT THE**
10 **COMPANY'S PROPOSED ADJUSTMENT FOR DEPRECIATION EXPENSE IS**
11 **EXCESSIVE DUE TO THE CALCULATION OF DEPRECIATION EXPENSE ON**
12 **THE OLD HEADQUARTERS BUILDING. DO YOU AGREE WITH THIS**
13 **RECOMMENDATION?**

14 A. Yes, Jackson Purchase agrees with the recommendation of an adjustment to depreciation
15 in the amount of \$18,000.

16 **Q. IN KOLLEN DIRECT PAGES 31-32, THE AG ASSERTS THAT THE**
17 **COMPANY'S REVENUE REQUIREMENT CALCULATION AS ORIGINALLY**
18 **FILED INLCUDES TWO CLERICAL ERRORS. IS THIS ACCURATE?**

19 A. Yes. Corrections are provided in the files uploaded to the Commission's website for this
20 docket.

21 **Q. IN KOLLEN DIRECT PAGES 34-35, THE AG CLAIMS THAT THE REVISED**
22 **INTEREST EXPENSE ON LONG TERM DEBT IS EXCESSIVE AND**

1 **RECOMMENDS THAT THE COMMISSION EXCLUDE THIS EXPENSE**
2 **ADJUSTMENT. DO YOU AGREE WITH THIS RECOMMENDATION?**

3 A. No. To further clarify, Jackson Purchase borrowed a note from RUS in November 2021
4 that is included in the interest expense pro forma adjustment, originally in the headquarters
5 adjustment. Once the interest rate was known (1.988%), Jackson Purchased revised the
6 known amount and included it on the interest expense adjustment for clarity. Doing this
7 achieves an overall savings for our members and in this case a reduction of the overall
8 requested increase. This November 2021 note enabled Jackson Purchase to pay off the
9 line-of-credit agreement for \$16,800,000 at approximately 2.45% interest. Additionally,
10 the extra funds received in addition to the headquarters amount enable Jackson Purchase
11 to not borrow on a line-of-credit agreement for the foreseeable future. Hence, the response
12 to AG 2-15, where Jackson Purchase recommends reducing short-term line of credit
13 interest of \$171,498.26. This amount is already included in the AG's reconciliation of the
14 requested increase, and it should be. However, this is only achievable if we include the
15 extra funds and related long-term interest from the new note in November 2021. Overall,
16 it is still a significant savings. The AG asks for a reduction of \$0.043 million for the long-
17 term debt, but in doing so would open up the need for short term borrowing. Short term
18 borrowing resulted in \$171,498.26 in interest in the test year. The known and measurable
19 change is a net savings to the overall requested increase at a long-term rate (1.988%) that
20 is lower than the current short-term rates. Including both the short-term and long-term
21 interest adjustments fairly represents the interest needed and the resulting savings achieved
22 by borrowing the extra funds in November 2021.

1 **Q. IN KOLLEN DIRECT PAGES 35-43, THE AG CLAIMS THAT THE PROPOSED**
2 **TIER OF 2.00 IS NOT SUPPORTED AND RECOMMENDS THAT THE**
3 **COMMISSION AUTHORIZE A TIER OF 1.50 IN THIS CASE. HOW DO YOU**
4 **BROADLY RESPOND TO THE AG CLAIMS REGARDING TIER AND TO THIS**
5 **RECOMMENDATION?**

6 A. I completely disagree with these claims and strongly recommend that the Commission
7 reject them outright. I explain the particular flaws with the AG's position below.

8 **Q. IN RESPONSE TO KOLLEN DIRECT PAGES 35-43, THE AG RECOMENDS A**
9 **TIER OF 1.50. HOW DOES A 1.50 TIER COMPARE TO THAT OF OTHER**
10 **ELECTRIC COOPERATIVES?**

11 A. Comparative data shows that the AG's recommended TIER of 1.50 is extremely low; in
12 fact, if approved, it would be one of the lowest TIERS among electric cooperatives in the
13 entire country.

14 Jackson Purchase filed the CFC Key Ratio Trend Analysis ("KRTA") with the
15 Commission in this case²⁰. The KRTA shows that for over 800 cooperatives in the US, the
16 Median TIER was 2.64 in 2019, while Jackson Purchase achieved a TIER of 1.61. This
17 ranked 747th lowest out of 815 cooperatives nationwide--which means that 91.66% of the
18 other cooperatives in the national benchmark have a TIER higher than Jackson Purchase.
19 According to the AG, this 1.61 would be deemed excessive, and he recommends nothing
20 higher than 1.50. It is unreasonable to suggest that Jackson Purchase has an excessive
21 TIER when Jackson Purchase is among the lowest 8.34% of cooperatives nationwide on
22 this metric.

²⁰ See Responses To Attorney General's Initial Request For Information To Jackson Purchase Energy Corporation Dated November 15, 2021, Request 42 (filed under seal pursuant to a Motion for Confidential Treatment).

1 Jackson Purchase’s 3-year average for TIER was 1.53 in 2019, which ranked 804th
2 lowest out of 816 nationwide. This means that in 2019, fully 98.53% of the cooperatives
3 in the national benchmark had a higher 3-year average TIER than Jackson Purchase, and
4 the AG would reduce that even further—as if being among the lowest 1.47% of
5 cooperatives nationwide on this metric were not enough.

6 Additionally, when considering cooperatives of similar size that have a median
7 TEIR of 2.63, Jackson Purchase ranks 66th out of 67 (or among the lowest 1.49%).
8 Statewide, the median 2-out-of-3-year TIER was 2.58 in 2019. Jackson Purchase ranks
9 22nd out of 22 (lowest in the state). Again, this 1.53 TIER is still higher than what the AG
10 recommends as the ceiling.

11 OTIER is similar when considering the 2-out-of-3 year high average for 2019:
12 Jackson Purchase ranks 802nd out of 816 nationwide (lowest 1.72%), 66th out of 67 in
13 similar sized cooperatives (lowest 1.49%), and 20th out of 22 statewide (lowest 9.10%).

14 All of this benchmark data shows that the AG’s recommended TIER of 1.50 is
15 unreasonably low, and that Jackson Purchases’ 2019 TIER of 1.61 is very low and should
16 be increased. With this recommendation, the AG demonstrates an obvious unfamiliarity
17 with TIER and the relative levels of TIER as a comparative metric among cooperatives in
18 the US. The Commission should unconditionally reject this recommendation and adopt
19 the 2.00 TIER proposed by Jackson Purchase.

20 **Q. IN KOLLEN DIRECT PAGE 36, THE AG CLAIMS THAT PROPOSED TIER OF**
21 **2.00 IS UNSUPPORTED. HOW DO YOU RESPOND TO THIS CLAIM?**

22 A. The claim that the proposed TIER of 2.00 is unsupported is incorrect. The fact that Jackson
23 Purchase did not provide extensive direct testimony with quantitative support of its

1 proposed TIER does not mean that the TIER is unsupported. In the instant case, Jackson
2 Purchase requested the continuation of the currently-authorized TIER of 2.00, which the
3 Commission recently found reasonable in Jackson Purchase's last rate case in 2019.
4 Notably, the Commission made that finding in Case No. 2019-00053 without extensive
5 direct testimony on the subject filed in the docket on behalf of Jackson Purchase. (Note
6 that TIER is not unique in this regard; at its discretion, the Commission frequently and
7 appropriately approves the continued use of not only TIER but also depreciation rates in
8 cooperative rate cases without extensive, quantitative direct testimony by expert witnesses
9 on these subjects.)

10 As explained in the response to the AG's Initial Request for Information, Request
11 22, Jackson Purchase did not elect to provide extensive, quantitative direct testimony in
12 support of a 2.00 TIER because the Commission has accepted a TIER of 2.00 for numerous
13 distribution cooperative traditional rate cases without such testimony in several recent
14 filings, including but not limited to Big Sandy R.E.C.C. (Case No. 2017-00374), Farmers
15 R.E.C.C. (Case No. 2016-00365), and Kenergy Corp. (Case No. 2015-00312). Moreover,
16 the Commission has authorized rates based on a TIER of 2.00 in other distribution
17 cooperative rate filings over the last fifteen years, including Bluegrass Energy (Case No.
18 2014-00339), Fleming-Mason R.E.C.C. (Case No. 2007-00022), Grayson R.E.C.C. (Case
19 No. 2018-00272), Inter-County Energy (Case No. 2018-00129), and Taylor County
20 R.E.C.C. (Case No. 2012-00023). The Commission approved rates based on an OTIER of
21 1.85, with TIER close to or greater than 2.00, for Clark Energy (Case No. 2020-00104),
22 Kenergy Corp. (Case No. 2021-00066), Licking Valley R.E.C.C. (Case No. 2020-00338),
23 and Meade County R.E.C.C. (Case No. 2020-00131). There have been cases where the

1 cooperative proposed a rate adjustment that resulted in a TIER less than 2.00, but in those
2 cases the overall increase was capped by some other parameter, not the authorized TIER
3 (e.g., the requested overall percentage increase was limited at the cooperative's own
4 discretion in its filing, or other caps established in the streamlined rate procedure applied).
5 The AG did not oppose the proposed TIER in these proceedings, and in some cases did not
6 even intervene.

7 This long docket list supports the view in my experience that it is atypical for a
8 distribution cooperative to spend the time and money on an outside expert to support a
9 proposed authorized TIER in a retail rate case before the Commission, particularly when
10 the proposed TIER is simply the continuation of the currently-authorized value; qualitative
11 support for the continuation or adoption of the commonly-authorized 2.00 TIER is the more
12 common practice. Distribution cooperatives are different than investor-owned utilities in
13 this regard, however Mr. Kollen apparently does not realize this fact.

14 Furthermore, the Commission's streamlined rate pilot program allows for an
15 OTIER of 1.85 which can produce a TIER greater than 2.00.

16 All of these facts support the view that the continuation of the recently-authorized
17 TIER of 2.00 is reasonable, regardless of whether or not Jackson Purchase sponsored
18 extensive, quantitative direct testimony on the subject.

19 **Q. IN KOLLEN DIRECT PAGE 38, THE AG CLAIMS THAT THE TIER OF 2.00 IS**
20 **EXCESSIVE COMPARED TO THE REQUIREMENTS OF THE COMPANY'S**
21 **LENDERS. IS THIS A REASONABLE CLAIM?**

22 A. No. The assertion implies a false equivalence between the minimum financial metrics
23 required by cooperative lenders and the authorized TIER in a rate filing before the

1 Commission. The two are not equivalent. The lender requirements are minimums below
2 which the lender becomes concerned about the ability of the cooperative to meet its
3 repayment obligations. There is a big difference, however, between those minimums and
4 the metric that the Commission should rely upon for establishing target margins in a rate
5 case.

6 The AG has made a recommendation like this before, and the Commission rejected
7 it. In Case No. 2013-00199, the AG proposed that “a 1.10X TIER should be used to derive
8 Big Rivers' revenue requirement, which is the annual minimum TIER Big Rivers must
9 achieve under its loan covenants.”²¹ In its order, the Commission found that “the AG's
10 proposal for setting Big Rivers' TIER to be unreasonable. It is inappropriate to base a
11 cooperative's revenue requirement on the minimum TIER it is required to achieve in order
12 to be in compliance with its mortgage or other controlling loan agreement.”²² The
13 Commission further found that “the use of a minimum coverage ratio will provide no
14 ‘cushion’ in the event of an unexpected decline in revenues or unavoidable increase in
15 expenses.”²³ The same conclusion should be reached here. Even though the AG’s
16 recommended TIER of 1.50 is not the absolute minimum TIER of 1.25 required to comply
17 with Jackson Purchase’s RUS loan covenants (as it was in the cited case for Big Rivers),
18 the Commission’s rationale still applies because the recommended TIER here is very close
19 to the minimum and would provide virtually no cushion in the event of an unexpected
20 decline in revenues or unexpected increase in expenses.

²¹ *In the Matter of: Application Of Big Rivers Electric Corporation For A General Adjustment In Rates Supported By Fully Forecasted Test Period*, Case No. 2013-00199, Order dated April 25, 2014, page 30.

²² *Id.*, page 31.

²³ *Ibid.*

1 Furthermore, a review of the benchmarking data described before demonstrates that
2 most cooperatives across the country achieve a TIER well above the minimum required for
3 Jackson Purchase. The claim that the proposed 2.00 TIER is excessive compared to the
4 minimum requirements of the lenders is simply not supported by the evidence and should
5 be rejected.

6 **Q. IN KOLLEN DIRECT PAGE 39, THE AG CLAIMS THAT THE TIER OF 2.00 IS**
7 **EXCESSIVE BECAUSE THE COMPANY HAS MORE THAN SUFFICIENT**
8 **MEMBER EQUITY. HOW DO YOU RESPOND?**

9 A. The fact that the Company has a sufficient level of member equity does not justify reducing
10 the TIER from its currently-approved level of 2.00. The AG implies that the sole purpose
11 of the utility's margins is to produce an appropriate level of member equity in the
12 cooperative. This implication is incorrect. Cooperative margins not only promote member
13 equity but also provide the cooperative with funding to meet unanticipated financial
14 contingencies, like storm restoration costs, unanticipated changes in wholesale purchased
15 power bills, or other volatility in operating expenses. The implication that the equity ratio
16 is the sole reason for healthy cooperative margins is not correct and the Commission should
17 not consider this when authorizing TIER for Jackson Purchase.

18 **Q. THE AG FURTHER CLAIMS THAT A TIER OF 2.00 GIVES THE COMPANY**
19 **INCENTIVE FOR ADDITIONAL DISCRETIONARY SPENDING. HOW DO YOU**
20 **RESPOND TO THIS CLAIM?**

21 A. Jackson Purchase rejects the presumption that it has an incentive for discretionary spending
22 to begin with, and that a TIER of 2.00 provides incentive for *additional* discretionary
23 spending. Practically speaking, this statement is preposterous on its face. Jackson

1 Purchase does not have incentive for “additional discretionary spending” right now and it
2 certainly would not have any if the Commission reduced its authorized TIER from 2.00 to
3 1.50. This point is demonstrated plainly by two facts.

4 First, the KRTA shows that on Ratio #86 – Total Controllable Expenses per kWh
5 Sold, Jackson Purchase is ranked very well. Jackson Purchase’s value for 2019 is
6 \$17.85/MWh or 1.785 cents per kWh. The United States median for 2019 was 25.33.
7 Jackson Purchase was ranked 651st lowest out of 816 nationally, and 54th lowest out of 67
8 when considering cooperatives of similar size. This shows that Jackson Purchase performs
9 better than roughly 80% of its peers when it comes to managing discretionary spending.

10 Second, this is the second rate case that the cooperative has filed in three years.
11 Utilities requiring frequent rate adjustments under the careful watch of a state regulator
12 have no incentive to increase discretionary spending. In fact it is quite the opposite;
13 regulated utilities requiring frequent rate cases have good reason to curb discretionary
14 spending due to the close scrutiny expected in the rate proceeding. Jackson Purchase
15 described its cost-saving measures in the previous rate case and also in the instant case.
16 Discussion of “additional discretionary spending” as a potential problem is simply uncalled
17 for when Jackson Purchase files two rate revisions in two years *and* ranks among the best
18 20% of similarly sized cooperatives in the national benchmark of controllable expenses per
19 member.

20 The AG offers no evidence that Jackson Purchase has incentive for unreasonable
21 discretionary spending now, let alone any “additional” incentive that would be provided
22 by maintaining the 2.00 TIER that the Commission just authorized in June of 2019. This

1 assertion by the AG is at best academic and at worst absurd. The Commission should put
2 absolutely no weight on this assertion when authorizing TIER in this case.

3 **Q. IN KOLLEN DIRECT PAGES 41-42, THE AG CLAIMS THAT EXCESSIVE**
4 **REVENUES DERIVED FROM THE 2.00 TIER WILL NOT BE RETURNED TO**
5 **CUSTOMERS. IS THIS CLAIM CORRECT?**

6 A. No. Because Jackson Purchase’s rates are typically set based on a 2.00 TIER and require
7 approval from the Commission, Jackson Purchase has not paid a lot of capital credits. The
8 policy of Jackson Purchase’s Board of Directors indicates if it achieves a 2.00 TIER or
9 greater, the Board will review financial metrics and determine whether to pay capital
10 credits. If Jackson Purchase consistently earned the nationwide median TIER, and based
11 upon board review, it is likely that the cooperative would pay out more capital credits.
12 Even if it didn’t, the decision to pay out capital credits to members belongs to the Board,
13 and it is not appropriate for the AG to suggest that the Commission should circumvent the
14 Board’s authority by setting rates based on a presumption of future capital credit payouts,
15 particularly when such payouts are at the discretion of the Board pursuant to its formal
16 policy documents. Simply put, speculation about future capital credit payouts should not
17 factor into the Commission’s decision regarding TIER.

18 **Q. IN KOLLEN DIRECT PAGES 42-43, THE AG CLAIMS THAT A MAXIMUM**
19 **TIER OF 1.50 IS REASONABLE IN THIS CASE. HOW DO YOU RESPOND TO**
20 **THIS CLAIM?**

21 A. This claim is simply wrong. There is nothing reasonable about a maximum TIER of 1.50
22 in this case.

1 It is ironic that the AG criticizes Jackson Purchase for providing “no analytical
2 support for its proposed 2.00 TIER” (Kollen Direct, page 36, lines 2-22) but then proceeds
3 to do the exact same thing by providing no analytical support for its proposed maximum
4 TIER of 1.50. The AG supports the 1.50 value with a total of seven lines of narrative at
5 the very end of the Kollen Direct; the Kollen Direct contains no risk analysis, no mention
6 of Commission precedent, no reference to currently-approved TIER, and no quantification,
7 proxy analysis, risk assessment, or calculations of any kind. In reality, the proposed TIER
8 value of 1.50 is completely arbitrary and thus is baseless.

9 The worst part of this recommendation may be that the AG characterizes the 1.50
10 TIER as the *maximum* TIER that the Commission should authorize, which implies that a
11 TIER *lower* than 1.50 would be desirable. Nothing could be further from the truth. A
12 maximum TIER of 1.50 certainly would not be reasonable, for several reasons.

13 First, as noted before, the aforementioned KRTA shows that a 1.50 TIER would
14 place Jackson Purchase near the bottom of the rankings of cooperatives nationwide. For
15 this reason, a maximum TIER of 1.50 would not only be extremely unconventional, but
16 would also be punitive, because Jackson Purchase is already among the lowest-ranking
17 electric cooperatives in the country on this metric, and the 1.50 would reduce that even
18 further.

19 Second, if the Commission authorized a maximum TIER of 1.50 in this case, it
20 would be the lowest TIER that the Commission has authorized for a distribution
21 cooperative in recent memory, or perhaps ever. The Commission has authorized rates
22 based on a TIER of at least 2.00 in numerous distribution cooperative traditional rate cases
23 in recent years. These include Big Sandy (Case No. 2017-00374), Bluegrass Energy (Case

1 No. 2014-00339), Farmers R.E.C.C. (Case No. 2016-00365), Fleming-Mason R.E.C.C.
2 (Case No. 2007-00022), Grayson R.E.C.C. (Case No. 2018-00272), Inter-County Energy
3 (Case No. 2018-00129), Jackson Energy (Case No. 2013-00219), South Kentucky
4 R.E.C.C. (Case No. 2011-00096), and Taylor County R.E.C.C. (Case No. 2012-00023).
5 Furthermore, in more recent years the Commission established a target OTIER of 1.85 in
6 its Streamlined Rate Pilot Program in Case No. 2018-00407. Seven distribution
7 cooperatives have filed under the Streamlined Procedure to date, and the Commission did
8 not authorize a maximum TIER of 1.50 for any of them. Most of these utilities either
9 reached the target 1.85 OTIER cap (which in my experience corresponds to a TIER close
10 to 2.00 or higher) or otherwise had their effective TIER result from caps on other
11 parameters, such as the overall rate increase percentage, as specified in the Streamlined
12 Rate Order. Based on the information in these dockets, approving a maximum TIER of
13 1.50 instead of the proposed TIER of 2.00 would break with considerable recent
14 Commission precedent.

15 Third, approving a maximum TIER of 1.50 would have a chilling effect on other
16 distribution cooperative traditional rate case filings due to what would be justified concerns
17 among cooperative managers and Boards of Directors about the punitively low level of
18 margins that could be authorized in future cooperative rate cases. The Commission
19 established the streamlined rate filing procedure in part to remove barriers to more frequent
20 cooperative rate filings. Seven cooperatives have filed streamlined rate cases so far, but a
21 Commission finding here in support of a *maximum* TIER of 1.50 would reverse that trend
22 and erect a barrier to future cooperative rate case filings under the traditional process. The

1 Commission should reject the proposal to authorize a maximum TIER of 1.50 outright and
2 instead should authorize a TIER of 2.00 as proposed by Jackson Purchase in this case.

3 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

4 A. Yes.