

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON)	
PURCHASE ENERGY CORPORATION)	CASE NO. 2024-00085
FOR A GENERAL ADJUSTMENT OF RATES)	
AND OTHER GENERAL RELIEF)	

ATTORNEY GENERAL’S POST-HEARING BRIEF

The Intervenor, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”) submits the following Post-Hearing Brief to the Kentucky Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Jackson Purchase Energy Corporation (“Jackson Purchase Energy” or the “Company”) is a not-for-profit, member-owned, rural electric distribution cooperative organized under KRS Chapter 279.¹ The Company distributes retail electric power to approximately 23,000 member customers in the Kentucky counties of Ballard, Carlisle, Graves, Livingston, Marshall, and McCracken.² Jackson Purchase Energy owns approximately 3,000 circuit miles of distribution line in its service territory, and purchases its power requirements from Big Rivers Electric Corporation, pursuant to a Wholesale Power Contract dated October 14, 1977, and subsequent amendments.³ The Company is a utility subject to the rates and service jurisdiction of the Commission.⁴

¹ Application, paragraph 1.

² *Id.*

³ *Id.*

⁴ *Id.*

On April 1, 2024, Jackson Purchase Energy filed its notice of intent to file an application for a general adjustment of rates. The Company subsequently filed its application on May 1, 2024, utilizing a historic test year ending August 31, 2023, which included adjustments for alleged known and measurable changes.⁵ The Commission issued an Order on May 14, 2024, which deemed the Company’s application filed as of May 1, 2024, and set out a procedural schedule for the parties to follow in the pending case. The Commission granted intervention to the Attorney General by Order dated May 21, 2024.

In the application, Jackson Purchase Energy originally requested an increase in revenues totaling \$5,585,876 per year, or 5.8% over current revenues, to achieve a Times Interest Earned Ratio (“TIER”) of 2.0.⁶ The Company is also requesting to increase the residential monthly customer charge from \$20.35 to \$30.35,⁷ or a 49.14% increase. The Attorney General and Commission Staff each propounded several rounds of discovery to Jackson Purchase Energy, to which the Company filed responses into the record. On July 17, 2024, the Attorney General filed direct testimony into the record of his expert witness Mr. Greg R. Meyer (“Mr. Meyer”), as well as filed responses to discovery requests on August 13, 2024. The Company filed rebuttal testimony on August 21, 2024. An evidentiary hearing was conducted on December 16, 2024. Jackson Purchase Energy then filed responses to post-hearing discovery requests on January 6, 2025. The pending case will stand submitted for a decision on the record on January 28, 2025.

ARGUMENT

Pursuant to KRS 278.190(3), Jackson Purchase Energy bears the burden of proof to demonstrate “that an increase of rate or charge is just and reasonable.”⁸ The Company has failed

⁵ *Id.* at paragraph 8.

⁶ *Id.* at paragraph 4.

⁷ *Id.* at paragraph 5.

⁸ *Kentucky-American Water Company v. Commonwealth ex rel. Cowan*, 847 S.W.2d 737,741 (Ky. 1993).

to meet its burden of proof to demonstrate that the requested revenue increase will result in fair, just, and reasonable rates.⁹ The Attorney General recommends a downward adjustment to the requested revenue increase because approving the Company's application as is will result in unfair, unjust, and unreasonable rates due to the following issues.

I. Jackson Purchase Energy's revised rate increase and revenue requirement request due to agreeing, or partially agreeing, to specific recommendations proposed by the Attorney General.

In Jackson Purchase Energy's rebuttal testimony the Company agreed, or partially agreed, to specific recommendations and adjustments proposed by the Attorney General, as discussed below.¹⁰ According to the Company, the acceptance of these adjustments reduces the Company's requested rate increase and proposed revenue requirement by approximately \$944,551,¹¹ for a revised requested rate increase of \$4,641,647.¹² However, at the evidentiary hearing and through the post-hearing discovery responses to the Attorney General,¹³ the Company admitted that after additionally removing the improperly booked \$57,964 expense related to invoices for staking and drawing work orders for pole replacements,¹⁴ and updating interest expense,¹⁵ the revised requested rate increase would be \$4,181,127.¹⁶ It should be noted that this revised amount does not include the two newly added adjustments that the Company filed into the record on December

⁹ See KRS 278.190. "At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility...."; See KRS 278.030(1). "Every utility may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person."

¹⁰ Rebuttal Testimony of John Wolfram ("Wolfram Rebuttal Testimony") at 2 – 14.

¹¹ *Id.* at 14.

¹² *Id.*

¹³ Jackson Purchase Energy's response to the Attorney General's Post-Hearing Request for Information ("Attorney General's Post-Hearing Request"), Item 3(a); Jackson Purchase Energy's response to the Commission Staff's Second Request for Information ("Staff's Second Request"), Item 17(a); December 16, 2024 Hearing, Video Transcript of Evidence ("VTE") at 1:37:40 – 1:38:33; VTE 1:39:33 – 1:40:30.

¹⁴ See Direct Testimony of Greg R. Meyer ("Meyer Testimony") at 23.

¹⁵ VTE 1:37:40 – 1:38:33.

¹⁶ Jackson Purchase Energy's response to the Attorney General's Post-Hearing Request, Item 3(c).

10, 2024, which will be fully addressed in Section VI. of this brief.

Jackson Purchase Energy agrees, or partially agrees, to the following adjustments proposed by the Attorney General:

1. Agreed with the Attorney General's recommendation to remove the monetary amount associated with the donations, promotional advertisements, and dues that was erroneously included, and double counted, in the revenue requirement request, which is a reduction to the proposed revenue requirement of \$911,331.¹⁷
2. Partially agreed to the Attorney General's recommendation to remove the prior rate case expense from the revenue requirement, because through the pendency of this case the prior rate case balance has decreased.¹⁸ The Company stated in response to post-hearing discovery that as of December 31, 2024, the prior rate case balance was \$17,664.25,¹⁹ which is less than what was requested in the application, and would constitute a reduction to the proposed revenue requirement of \$13,738.85. However, due to the fact that only \$5,883.73 will be left in prior rate case expense by February 28, 2025, which is the day before the 10-month deadline for a decision to be made in the pending case, if the prior rate case expense is allowed to be included in rates going forward it will unjustly enrich the Company because it will recover much more than the \$5,883.73 that is left to be paid in prior rate case expense. Thus, based upon this updated information, as well as Mr. Meyer's direct testimony²⁰ on this issue, the Attorney General recommends that the Commission allow \$0 prior rate case expense in the revenue requirement in the pending case.

¹⁷ Wolfram Rebuttal Testimony at 3; Meyer Testimony at 6.

¹⁸ Wolfram Rebuttal Testimony at 6 – 7; Meyer Testimony at 11 – 13.

¹⁹ Jackson Purchase Energy's response to the Attorney General's Post-Hearing Request, Item 6.

²⁰ Meyer Testimony at 11 – 13.

3. Agreed that the Attorney General's recommendation to remove the costs associated with the least expensive retirement plan for those employees that have more than one retirement plan is reasonable and could be adopted, which is a reduction to the proposed revenue requirement of \$23,390.²¹
4. Agreed with the Attorney General's recommendation to remove the improperly booked expense of \$57,964 concerning invoices associated with staking and drawing work orders for pole replacements,²² which is a reduction to the proposed revenue requirement of \$57,964.

II. Jackson Purchase Energy's proposal to increase the residential monthly customer charge by 49.14% and increase the residential energy charge are unreasonable.

As aforementioned, Jackson Purchase Energy is proposing to increase the residential monthly customer charge from \$20.35 to \$30.35,²³ or a 49.14% increase. The Company already has one of the highest residential monthly customer charges in the state at \$20.35 per month, but if the Commission were to grant the Company's proposed \$30.35 residential monthly customer charge, then Jackson Purchase Energy will have the highest residential monthly customer charge in the entire state of Kentucky.²⁴ Jackson Purchase Energy is also proposing to increase the residential energy charge from \$0.114521 per kWh to \$0.118059 per kWh.²⁵ An increase of this magnitude to the residential monthly customer charge and energy charge will hinder residential

²¹ Wolfram Rebuttal Testimony at 11; Meyer Testimony at 22 – 23.

²² Meyer Testimony at 23; Jackson Purchase Energy's response to the Attorney General's Post-Hearing Request, Item 3(a); Jackson Purchase Energy's response to the Staff's Second Request, Item 17(a); VTE at 11:09:00 – 11:10:25; VTE 1:39:33 – 1:40:30.

²³ Application, paragraph 5; Application, Exhibit 4, Schedule R – Residential.

²⁴ Jackson Purchase Energy's response to the Attorney General's Second Request for Information ("Attorney General's Second Request"), Items 11(c) and (d).

²⁵ Application, Exhibit 4, Schedule R – Residential.

customers' ability to control their monthly electric bills, and pose a financial hardship on those customers already struggling to make ends meet.

Jackson Purchase Energy asserts that while it has 23,000 customers, it has 30,000 meters or service connections, because some customers have multiple meters.²⁶ For example, one customer may own a home and a farm, so that customer would have two meters instead of one meter. In this specific scenario, the residential customer who owns a home and a farm, and therefore has two meters, will see an increase in the residential monthly customer charge of \$20.00 instead of \$10.00. Thus, for this subset of customers who have more than one meter, the impact of the increased residential monthly customer charge will be even more harmful.

It is important to note that based upon the most updated data from the United States Census Bureau the average poverty rate in Jackson Purchase Energy's service territory is 14.8%,²⁷ with the highest poverty rate of 17.6% in Graves County²⁸ and the lowest of 12.9% in Carlisle County.²⁹ The Company acknowledges that it is aware of the high poverty rates in its service territory.³⁰ Jackson Purchase Energy also admits that inflationary pressures and general increases in the cost of living are issues that the Company's customers are currently combating at this time.³¹ Yet, Jackson Purchase Energy has filed for its third rate increase in a little over five years.³²

²⁶Grissom Testimony at 3; Jackson Purchase Energy's response to the Attorney General's First Request for Information ("Attorney General's First Request"), Item 24; VTE 12:07:00 – 12:08:20.

²⁷See

<https://www.census.gov/quickfacts/fact/table/mccrackencountykentucky,livingstoncountykentucky,carlislecountykentucky,ballardcountykentucky,marshallcountykentucky,gravescountykentucky/PST045224>.

²⁸ See <https://www.census.gov/quickfacts/fact/table/gravescountykentucky/PST045223>.

²⁹ See <https://www.census.gov/quickfacts/fact/table/carlislecountykentucky/PST045223>.

³⁰ Jackson Purchase Energy's response to the Attorney General's First Request, Item 2(i).

³¹ *Id.* at Item 2(a).

³² Case No. 2021-00358, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Apr. 8, 2022) (The Commission initially granted Jackson Purchase Energy a \$6,846,816 rate increase on April 8, 2022, and then adjusted the rate increase through a Rehearing Order to \$6,794,425 on May 3, 2022); Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC Jun. 20, 2019) (The Commission granted Jackson Purchase Energy a \$1,308,142 rate increase on June 20, 2019); VTE 9:27:00 – 9:27:34.

Due to the existing poverty, difficult economic conditions, and the fact that the Company's customers have faced three rate increases in a relatively short period of time, the Attorney General appeals to the Commission to employ gradualism when awarding any increase in Jackson Purchase Energy's residential monthly customer charge as well as the energy charge. The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.³³ Jackson Purchase Energy's proposed 49.14% increase to the residential monthly customer charge, increase to the energy charge, and filing of its third rate increase in approximately five years violates this important ratemaking principle.

In the alternative, if the Commission were to grant the Company's requested \$30.35 residential monthly customer charge, the Attorney General recommends that the increase be implemented in a two-phased approach. For example, during the first phase the residential monthly customer charge could increase to \$25.35 in the first year, and then under the second phase increase to \$30.35 in the second year. This approach would at least provide Jackson Purchase Energy's residential customers to absorb the higher monthly customer charge over a longer period of time, rather than immediately force customers to pay a 49.14% increase.

Moreover, if the Commission approves the requested increase to the residential monthly customer charge and energy charge, then the residential customers will be paying the same exact monthly customer charge as well as the same energy charge as the Small Commercial Single Phase

³³ Case No. 2014-00396, *In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief*, (Ky. PSC June 22, 2014) ("the Commission has long employed the principle of gradualism"); *See also* Case No. 2000-00080, *In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks* (Ky. PSC Sept. 27, 2000) ("the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.")

customers.³⁴ In the Final Order of Jackson Purchase Energy’s Case No. 2019-00053, the Commission stated that it does not support a rate design in which the small single-phase commercial class pays a monthly customer charge that is lower than that charged to the residential class.³⁵ The Attorney General is concerned that the Company’s proposed monthly customer charge and energy charge for the residential class being exactly the same as that proposed to be paid by the Small Commercial Single Phase customers leads to an inequitable result. This concern is exacerbated by the fact that based upon Jackson Purchase Energy’s own evidence, even after accounting for a proposed rate increase, the Small Commercial Single Phase customer class will still provide a negative rate of return on rate base.³⁶ In other words, based upon the Company’s Cost of Service Study (“COSS”), the proposed rates for the Small Commercial Single Phase customers will not cover the cost to serve that class.

Thus, the Attorney General respectfully requests the Commission to continue to rely upon the principle of gradualism when awarding Jackson Purchase Energy any increase to the residential monthly customer charge as well as the energy charge. The Attorney General also requests the Commission utilize its expertise to determine whether any additional portion of the rate increase should be allocated to the Small Commercial Single Phase customer classification to achieve a more equitable result.

III. The Commission should deny Jackson Purchase Energy’s request to increase its right-of-way expense by \$758,989.

Jackson Purchase Energy is requesting approximately \$4.7 million in right-of-way

³⁴ Application, Exhibits 3 and 4; Jackson Purchase Energy’s response to the Attorney General’s First Request, Item 22.

³⁵ Case No. 2019-00053, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment in Existing Rates* (Ky. PSC June 20, 2019), Order at 16.

³⁶ Jackson Purchase Energy’s response to the Attorney General’s Post-Hearing Request, Excel Spreadsheet, JPEC-2023-COS-REV-Dec16-Excl-New.xlsx, titled COS REV December 16 NEW (filed on January 6, 2025).

expense, which represents an increase of \$758,989 over the test year expense.³⁷ The Company premises its request on the 2024 estimated costs for circuit maintenance and removals for 237.6 miles, at a cost per mile of \$12,427. Jackson Purchase Energy then extrapolates this to cover 358 miles, which according to the Company is the amount of miles required to be covered if it is to achieve compliance with a five-year maintenance cycle policy.³⁸ In addition to these costs, Jackson Purchase Energy estimates that it will spend \$225,000 on herbicide for 2024.³⁹

However, when reviewing the Company's right-of-way costs over the past ten years, there is no reasonable basis to believe that Jackson Purchase Energy is capable of meeting their target of providing right-of-way coverage for 358 miles per year.⁴⁰ Even though the Commission granted Jackson Purchase Energy's requested increase to right-of-way expense in Case No. 2021-00358, which should have allowed the Company to clear 358 miles of right-of-way annually,⁴¹ the Company only cleared 242 miles in 2022 and 170 miles in 2023.⁴² In fact, based upon the most updated information that the Company provided in the pending case, the Company had only cleared 186 miles of right-of-way as of October 31, 2024.⁴³

As such, the Attorney General's expert witness Mr. Meyer recommends basing the right-of-way expense using 242 miles, which is the maximum number of miles of right-of-way that the Company has cleared in the past five years, including 2024, and then increasing the maximum mileage by 10%, for a total of 266.2 miles of right-of-way trimming.⁴⁴ According to Mr. Meyer,

³⁷ Meyer Testimony at 7; Wolfram Testimony, Exhibit JW-2, Reference Schedule 1.14.

³⁸ Meyer Testimony at 7.

³⁹ *Id.*

⁴⁰ *Id.*; See Case No. 2021-00358, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Apr. 8, 2022), Order at 8 – 12.

⁴¹ VTE 9:28:45 – 9:28:54.

⁴² Jackson Purchase Energy's response to the Attorney General's Second Request, Item 26, Excel Spreadsheet.

⁴³ Jackson Purchase Energy's updated response to the Attorney General's Second Request, Item 26 (filed on December 26, 2024).

⁴⁴ Meyer Testimony at 7 – 9.

with the current costs of trimming and herbicide of \$13,374 per mile, this would bring the total cost of right-of-way expense to \$3,560,154, which is a reduction of \$1,113,716 to the Company's proposed right-of-way expense.⁴⁵

Beyond a large increase to customer electric rates, a further concern of awarding Jackson Purchase Energy the requested \$4.7 million in right-of-way expense is that the Company admits that it has reduced right-of-way maintenance for a number of years in the past.⁴⁶ The Company's chief executive officer ("CEO") testified that, "Jackson Purchase has spent less than the budgeted amount for ROW [right-of-way] maintenance in 2022 and 2023 because the allocated amounts were needed elsewhere to maintain financial health."⁴⁷ Yet, when the Attorney General requested for Jackson Purchase Energy to provide an account of where the right-of-way funds were diverted to, the Company responded that, "[a] breakdown of those expenses cannot be provided, as there were not specific expenses or projects that those funds were used for."⁴⁸ Importantly, even though Jackson Purchase Energy admits to paring back right-of-way maintenance, it does not appear that the Company equally pared back employee compensation/benefits, donations, rodeos, or employee parties/events during this same timeframe.⁴⁹

It is important to note that if the Commission approves Jackson Purchase Energy's requested right-of-way expense then the Company will continue to receive the full \$4.7 million every year until rates are reset, regardless of whether or not the funds are used for right-of-way clearing.⁵⁰ Thus, the Attorney General recommends a right-of-way expense of \$3,560,154. If the Commission accepts this recommendation then it represents a reduction of \$1,113,716 from the

⁴⁵ *Id.* at 9 – 10.

⁴⁶ Grissom Testimony at 5.

⁴⁷ *Id.*

⁴⁸ Jackson Purchase Energy's response to the Attorney General's First Request, Item 28(c)(i).

⁴⁹ *Id.* at Items 3, 4, 5, and 40.

⁵⁰ Meyer Testimony at 9.

Company's proposed revenue requirement.

Even in the face of continuously rising right-of-way costs, it is extremely concerning that Jackson Purchase Energy did not take heed of the Final Order in Case No. 2021-00358, in which the Commission placed the Company on notice that it could not continue its approach to right-of-way management.⁵¹ The Commission further stated that the Company needed to take significant steps to address right-of-way management expenses, such as working with other regional electric utilities to develop regional bids for right-of-way management contracts, which could create significant cost savings.⁵² Jackson Purchase Energy asserted in the pending case that it, "discussed the possibility of combining circuit mileage for bids with other electric cooperatives," but then only spoke about the potential regional bids with one contractor who asserted that they did not have the resources to complete a project of that size.⁵³ However, Jackson Purchase Energy should have attempted to discuss regional bids with more than one right-of-way contractor, including right-of-way contractors who could take on larger projects. The Company further admits that it does not attempt to coordinate its right-of-way program with the Kentucky Transportation Cabinet/Kentucky Department of Highways' right-of-way program, which could also provide savings for its customers.⁵⁴

In fact, Jackson Purchase Energy admits that the only action it has taken to address the ever increasing right-of-way management expenses since the prior rate case is to be selective in the

⁵¹ Case No. 2021-00358, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Apr. 8, 2022), Order at 12; VTE 9:31:10 – 9:31:25.

⁵²Case No. 2021-00358, *Electronic Application of Jackson Purchase Energy Corporation for a General Adjustment of Rates and Other General Relief* (Ky. PSC Apr. 8, 2022), Order at 12; *See* Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 30; VTE 9:31:26 – 9:31:35.

⁵³ Jackson Purchase Energy's response to the Attorney General's First Request, Item 26(f).

⁵⁴ *Id.* at Item 26(e).

trees that it removes⁵⁵ and to delay herbicide spraying in some years.⁵⁶ Hence, the Attorney General requests for the Commission to continue to require or encourage Jackson Purchase Energy to pursue all opportunities to decrease right-of-way management expense, including but not limited to working with regional electric utilities, as well as the Kentucky Transportation Cabinet/Kentucky Department of Highways, in an effort to reduce the ever increasing right-of-way expense that the Company's customers pay for through electric rates.⁵⁷ The Commission should also continue to require Jackson Purchase Energy to provide specific detail as to what actions, if any, have been taken to address right-of-way management expense in future rate cases.⁵⁸

Furthermore, in light of Jackson Purchase Energy's past practices of intentionally spending less than the budgeted right-of-way allocation, the Attorney General recommends that the Commission place a condition upon Jackson Purchase Energy to not use the approved right-of-way funds on expenditures that are specifically disallowed by the Commission. At the very least, the Company should be required to provide an account of where the right-of-way funds are diverted to in future rate case proceedings. Furthermore, Jackson Purchase Energy should be required to explain why TIER funds in excess of debt covenant requirements could not be used to meet right-of-way maintenance goals. In the alternative, the Company could be subject to a one-way right-of-way expense tracker mechanism.⁵⁹ A tracker could be required such that any unspent money be recorded as a regulatory liability with the annual amounts spent below the Commission authorized amount either be returned to the customers in the next rate case or offset any overspending in the interim period until the next rate case.⁶⁰ But, if Jackson Purchase Energy

⁵⁵ *Id.* at Item 26(g); Jackson Purchase Energy's response to the Attorney General's Second Request, Item 12.

⁵⁶ Jackson Purchase Energy's response to the Attorney General's Second Request, Item 12.

⁵⁷ Meyer Testimony at 10.

⁵⁸ *Id.*

⁵⁹ *Id.* at 10 – 11.

⁶⁰ *Id.*

spends more than the Commission authorized amount over a span of several years then the Company should not be allowed to seek recovery of the same from customers in future rate case.⁶¹

IV. The Commission should only allow what is reasonable when evaluating Jackson Purchase Energy’s employee compensation and benefit plan expense.

Jackson Purchase Energy admits that even though its headcount has decreased, the cost of labor and benefits have increased by approximately \$1 million between 2019 and 2023.⁶² The Commission should closely review this magnitude of an increase in labor and benefits, especially for a rural electric cooperative with only 23,000 customers.

First, even though the Company admits that its headcount has decreased, and touts that, “Jackson Purchase has kept staffing at the lowest level possible to still maintain safe and reliable service,” the Company based its requested revenue requirement on 70 full-time employees even though it only employed 66 full-time employees.⁶³ It would be inherently unfair to force Jackson Purchase Energy’s customers to pay an electric rate that includes vacant employee position costs because the costs are not currently being expended, are merely speculative, there is no guarantee that the positions will be filled, and the vacant positions are providing no benefit to the customers as to the provision of safe and reliable electric service.⁶⁴

Second, the level of overtime that Jackson Purchase Energy included in the test year does not appear to be representative of the Company’s past experience.⁶⁵ The \$1,504,559 in pro forma overtime cost⁶⁶ far exceeds every year in the past five calendar years.⁶⁷ As discussed above,

⁶¹ *Id.*

⁶² Direct Testimony of Meredith Kendall (“Kendall Testimony”) at 8.

⁶³ *Id.*; Grissom Testimony at 5; Jackson Purchase Energy’s response to the Attorney General’s Second Request, Item 20.

⁶⁴ *See* Meyer Testimony at 13 – 15.

⁶⁵ *Id.* at 16.

⁶⁶ Wolfram Testimony, Exhibit JW-2, Reference Schedule 1.11, Wages and Salaries.

⁶⁷ Meyer Testimony at 15 – 18.

Jackson Purchase Energy includes expenses associated with additional employees, but does not make any reduction in overtime expense. As Mr. Meyer asserts in his direct testimony, “[i]f one assumes extra employees to help shoulder the workload, it would make sense to assume there would be less need for overtime.”⁶⁸ Finally, the average regular-time wage growth should not be used in determining the growth, if any, in overtime wage rate because the average regular-time wage growth used by the Company includes many employees not eligible for overtime, or those who did not incur overtime.⁶⁹ Since overtime in a given period is a complex mix of factors such as number of employees who are available, wage rates of employees asked to work overtime, and the total amount of work to be done, among other things, in order to calculate overtime expense it is reasonable to use an average of a multi-year period.⁷⁰ Reviewing Jackson Purchase Energy’s overtime costs for the past five years demonstrates a fluctuation of costs rather than a clearly discernable trend, which further supports an averaging approach.⁷¹ Thus, the Company’s overtime costs using a five-year average would be \$1,134,596 before applying the labor capitalization rate.⁷²

Third, the prior CEO’s annual salary, without benefits, was \$157,500 in 2017,⁷³ but the current CEO’s annual salary, without benefits, has more than doubled to \$353,380.66 for 2024.⁷⁴ Further, beginning in 2019, Jackson Purchase Energy began providing the CEO with what the Company throughout the case record referred to as incentive compensation,⁷⁵ but then at the December 16, 2024 evidentiary hearing asserted that it was actually a “pension replacement,”

⁶⁸ *Id.* at 17.

⁶⁹ *Id.* at 15 – 18.

⁷⁰ *Id.* at 17.

⁷¹ *Id.*

⁷² *Id.* at 17 – 18.

⁷³ Jackson Purchase Energy’s response to the Attorney General’s First Request, Items 3, 4, and 5, Excel Spreadsheet

⁷⁴ *Id.*: VTE 9:48:00 – 9:49:25; Jackson Purchase Energy’s updated response to the Attorney General’s Second Request, Item 2(a), Excel Spreadsheet (filed on December 26, 2024).

⁷⁵ Jackson Purchase Energy’s response to the Attorney General’s First Request, Items 3, 4, and 5, Excel Spreadsheet; Jackson Purchase Energy’s response to the Attorney General’s Second Request, Items 35(a) and (b), and 2(z).

“deferred compensation,” or “retirement plan mechanism.”⁷⁶ In 2019 the CEO was provided \$18,400 in incentive compensation, \$20,000 in 2020, \$39,500 in 2021, \$20,500 in 2022, \$47,500 in 2023, and \$48,000 in 2024.⁷⁷

Regardless of whether the aforementioned amounts are considered as incentive compensation or a deferred retirement benefits there is Commission precedent to disallow these costs from the revenue requirement. The Commission has long-standing precedent of only allowing incentive compensation to be included for ratemaking purposes that is directly connected to the ratepayer goals of improved service, safety, and reduced rates.⁷⁸ Jackson Purchase Energy does not have a formal policy regarding incentive compensation,⁷⁹ so there is no way to ascertain the criteria that the Company utilizes to award the incentive compensation to the CEO.⁸⁰

Further, even if the awarded amounts are deferred retirement benefits instead of incentive compensation, the Commission should still deny recovery of these amounts because it would be considered as Supplemental Executive Retirement Plan (“SERP”) expense. SERP is an extra benefit that exceeds IRS limits and is provided only to high-compensated executive employees. The Commission has repeatedly disallowed SERP expense from the revenue requirement because, “the retirement plans that benefit highly-compensated employees without providing a benefit to ratepayers are the type of costs the Commission finds should not be borne by ratepayers.”⁸¹ SERP

⁷⁶ VTE 9:49:00 – 9:50:45.

⁷⁷ Jackson Purchase Energy’s response to the Attorney General’s First Request, Items 3, 4, and 5, Excel Spreadsheet; VTE 9:52:00 – 9:53:10.

⁷⁸ Case No. 2018-00358, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates* (Ky. PSC June 27, 2019), Order at 43; Case No. 2020-00160, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Existing Rates* (Ky. PSC Dec. 8, 2020), Order at 19 – 20; Case No. 2014-00396, *Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief* (Ky. PSC June 22, 2015), Order at 25.

⁷⁹ Jackson Purchase Energy’s response to the Attorney General’s Second Request, Item 2(ff).

⁸⁰ Meyer Testimony at 18 – 19.

⁸¹ Case No. 2020-00174, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish*

expense does not benefit ratepayers, and as such the costs should not be borne by the ratepayers. Based upon the foregoing, the Attorney General requests the Commission to disallow the incentive compensation/SERP from the revenue requirement, and to further evaluate and determine whether it is reasonable to pay the CEO of a not-for-profit rural electric cooperative that provides electricity to only 23,00 customers⁸² close to \$400,000 annually in compensation, which includes incentive compensation/SERP, but excludes benefits.

Fourth, in just the past five years, Jackson Purchase Energy has given a total average raise to the executive staff of 44.1% (5.30% in 2020, 10.29% in 2021, 12.56% in 2022, 11.51% in 2023, and 4.44% in 2024).⁸³ Similarly, the Company provided a total average raise to the salaried employees of 40.28% in the past five years (6.26% in 2020, 8.83% in 2021, 9.52% in 2022, 10.20% in 2023, and 5.47% in 2024). Further, Jackson Purchase Energy provided a total average raise to the non-salaried employees of 32.58% in the past five years (4.83% in 2020, 4.89% in 2021, 4.19% in 2022, 10.20% in 2023, and 8.47% in 2024). Based upon the evidence in the record, 34 of the Company's 68 employees, or exactly half of the employees, receive a salary in excess of \$90,000 annually, not including benefits.⁸⁴

Fifth, Jackson Purchase Energy pays for 82.5% of the healthcare premium for union employees but approximately 92% of the cost for non-union employees.⁸⁵ As discussed at the

Regulatory Assets and Liabilities; (4) Approval of a Certificate of Public Convenience and Necessity; and (5) All Other Required Approvals and Relief (Ky. PSC Jan. 13, 2021), Order at 16. Case No. 2023-00159, *Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) Approval of Tariffs and Riders; (3) Approval of Accounting Practices to Establish Regulatory Assets and Liabilities; (4) A Securitization Financing Order; and (5) All Other Required Approvals and Relief* (Ky. PSC Jan. 19, 2024), Order at 26 – 28.

⁸² Application, paragraph 1; VTE 9:49:00 – 9:49:43.

⁸³ Jackson Purchase Energy's response to the Attorney General's First Request, Items 3, 4, and 5, Excel Spreadsheet; Jackson Purchase Energy's updated response to the Attorney General's Second Request, Item 2(a), Excel Spreadsheet (filed on December 26, 2024).

⁸⁴ Jackson Purchase Energy's updated response to the Attorney General's Second Request, Item 2(a), Excel Spreadsheet (filed on December 26, 2024).

⁸⁵ Kendall Testimony at 9; VTE 11:07:40 – 11:07:55.

December 16, 2024 evidentiary hearing, the Company’s healthcare plan is a premium offering,⁸⁶ and Jackson Purchase Energy inexplicably pays the same healthcare premium for single employee coverage as it does for family employee coverage.⁸⁷ In prior cases, the Commission has limited the recoverable portion of the company-paid health insurance premiums to the most current U.S. Bureau of Labor Statistics’ (“BLS”) averages for single and family coverage in order to rein in benefit expenses.⁸⁸ Additionally, the Commission found in Case No. 2023-00158 that, “the Commission has since maintained the position that employee contribution rates of less than 12 percent will be adjusted to the Bureau of Labor Statistics (BLS) average.”⁸⁹ The BLS 2024 averages for single and family coverages are 80% and 68%, respectively.⁹⁰ When compared to the BLS 2024 averages, for the union employees Jackson Purchase Energy is contributing 2.5% more to health insurance premiums for single coverage, and 14.5% more for family coverage. Further, when compared to the BLS 2024 averages, for the non-union employees Jackson Purchase Energy is contributing 12% more to health insurance premiums for single coverage, and 24% more for family coverage. According to the Company, in order to reduce the contribution to employee insurance premiums to the BLS average a reduction of \$208,537 would be necessary.⁹¹ Thus, the Attorney General respectfully requests for the health insurance premium contribution amounts above the BLS 2024 averages to be removed for ratemaking purposes.

⁸⁶ VTE 12:05:10 – 12:06:45.

⁸⁷ VTE 12:04:00 – 12:05:10.

⁸⁸ See Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 9.

⁸⁹ Case No. 2023-00158, *Electronic Application of Farmers Rural Electric Cooperative Corporation for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407*, (Ky. PSC Oct. 3, 2023), Order at 10.

⁹⁰ Bureau of Labor Statistics, Employee Benefits, March 2024, Table 3, private industry workers, <https://www.bls.gov/news.release/ebs2.t03.htm>; Bureau of Labor Statistics, Employee Benefits, March 2024, Table 4, private industry workers, <https://www.bls.gov/news.release/ebs2.t04.htm>.

⁹¹ Jackson Purchase Energy’s response to the Staff’s Second Request, Item 11.

Sixth, in addition to health insurance, Jackson Purchase Energy provides dental and vision insurance to its employees,⁹² pays for 100% of the cost for life insurance that is two times the annual base wages for each employee, as well as \$100,000 additional coverage for business travel accident insurance,⁹³ and offers long-term disability insurance to its employees and pays for 2/3 of the premium.⁹⁴ The Company also provides an additional \$20,000 life insurance benefit that is included in the medical insurance premium, as well as short-term disability insurance.⁹⁵ In addition to annual raises, Jackson Purchase Energy provides bonuses, awards, and relocation expense reimbursement.⁹⁶ Specifically, with regard to awards that the Company included in the pending revenue requirement, the Attorney General requests for these amounts to be removed for ratemaking purposes based upon extensive Commission precedent.⁹⁷ The Commission has repeatedly held that awards do not benefit ratepayers and therefore should be excluded from the rates.⁹⁸

The Company also provides vehicle allowances for specific employees,⁹⁹ and provides Company-owned vehicles to the CEO, Vice President of Engineering, Director of Safety and Environmental Compliance, Manager of Right-of-Way, Manager of Operations, the Mechanic, and Crew Leaders.¹⁰⁰ Finally, the Company contributes 100% of the costs associated with

⁹² Kendall Testimony at 9.

⁹³ *Id.* at 9 - 10; Jackson Purchase Energy's response to the Attorney General's First Request, Item 33(l).

⁹⁴ Kendall Testimony at 10; Jackson Purchase Energy's response to the Attorney General's First Request, Item 34(b).

⁹⁵ Kendall Testimony at 9; Jackson Purchase Energy's response to the Attorney General's First Request, Item 34(a) and (l).

⁹⁶ Jackson Purchase Energy's response to the Attorney General's First Request, Items 3, 4, and 5.

⁹⁷ Meyer Testimony at 19 – 20.

⁹⁸ Case No. 2023-00147, *Electronic Application of Taylor County Rural Electric Cooperative Corporation for a General Adjustment of Rates* (Ky. PSC Apr. 5, 2024), Order at 5 – 6; Case No. 2014-00159, *Application of Cumberland Valley Electric, Inc. for an Adjustment of Rates* (Ky. PSC Jan. 16, 2015), Order at 14; and Case No. 2004-00067, *Application of Delta Natural Gas Company, Inc. for an Adjustment of Rates* (Ky. PSC Dec. 21, 2004), Order at 37.

⁹⁹ Jackson Purchase Energy's response to the Attorney General's Second Request, Item 2(hh).

¹⁰⁰ *Id.*

employee pension plans and 401(k) plans, in addition to providing both a pension plan and 401(k) plan to certain employees.¹⁰¹ Jackson Purchase Energy admits that it does not require the employees to contribute at all to their own retirement plans.¹⁰² Jackson Purchase Energy also admits that it did not conduct a formal or informal study to determine whether the contribution rates to the employee pensions and 401(k) accounts were even reasonable.¹⁰³

Seventh, Jackson Purchase Energy admits that it has not conducted a formal study comparing the Company's wage/salary and benefit information to the local wage/salary and benefit information for the geographic area in which the Company provides service.¹⁰⁴ The Commission has asserted in prior cooperative cases that it, "has begun placing more emphasis on evaluating salary and benefits provided by electric cooperatives as they relate to competitiveness in a broad marketplace, as opposed to wage and salary studies limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies."¹⁰⁵ The Commission then ordered cooperatives to include a formal study that provides local wage and benefit information for the cooperative's operating area, and to provide state data where available, in the next rate application.¹⁰⁶ The Attorney General requests for Jackson Purchase Energy to be required to perform a formal study comparing the Company's total compensation package to the total compensation information for the geographic area in which the Company provides service, and to file the same with the next rate case.

¹⁰¹ VTE 11:07:50 – 11:08:08; Jackson Purchase Energy's response to the Attorney General's First Request, Item 35; Jackson Purchase Energy's response to the Attorney General's Second Request, Item 17.

¹⁰² VTE 11:07:55 – 11:08:10.

¹⁰³ Jackson Purchase Energy's response to the Attorney General's First Request, Items 35(d), (e), and (f).

¹⁰⁴ Jackson Purchase Energy's response to the Attorney General's Second Request, Items 4(a) and (b).

¹⁰⁵ Case No. 2016-00174, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Mar. 1, 2017), Order at 7; Case No. 2016-00367, *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Jun. 21, 2017), Order at 5 – 6.

¹⁰⁶ Case No. 2016-00174, *Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Mar. 1, 2017), at 7 – 8; Case No. 2016-00367, *Application of Nolin Rural Electric Cooperative Corporation for a General Rate Increase* (Ky. PSC Jun. 21, 2017), Order at 5 – 6.

Due to the aforementioned issues, the Attorney General requests the Commission to closely review and evaluate Jackson Purchase Energy's compensation and benefit plans and only allow what is reasonable, which will lead to fair, just, and reasonable rates.

V. Jackson Purchase Energy needs to address the significant increase in credit card processing fees.

Jackson Purchase Energy admits that payment processing fees have risen significantly in the past decade.¹⁰⁷ For example, in 2014 the Company paid \$54,037.50 in credit card processing fees, as compared to \$193,935.22 in 2023, and according to the information provided, was on track to pay well over \$200,000 in credit card processing fees for 2024.¹⁰⁸ This substantial increase in credit card processing fees represents a more than quadrupling of the credit card processing fees over the past decade. Currently, the Company pays for the credit card processing fees instead of the assessed credit card fees being passed through and paid by the customer.¹⁰⁹ However, due to it being a member-owned cooperative, the majority, if not all, of its revenue stream is obtained from the customers.¹¹⁰ As such, even if the credit card fees are not being included in the rates, it does not change the fact that the expenses are still being paid with customer funds. By not requiring customers who pay their electric bill with a credit card to pay the associated processing fee, customers who are utilizing payment options that do not assess a corresponding fee, such as cash and checks, are essentially subsidizing the customers who use a credit card. Furthermore, it is possible that the Company is enticing customers to use credit cards in order to increase points and rewards associated with various credit card loyalty programs.

¹⁰⁷ Jackson Purchase Energy's response to the Attorney General's First Request, Item 37(a).

¹⁰⁸ Jackson Purchase Energy's response to the Attorney General's First Request, Item 37(a), Excel Spreadsheet.

¹⁰⁹ *Id.* at 37(c), (g), and (h).

¹¹⁰ See Case No. 2016-00077, *Application of Licking Valley Rural Electric Cooperative Corporation for an Order Issuing a Certificate of Public Convenience and Necessity*, Licking Valley RECC's response to the Attorney General's Second Request for Information, Item 5.

According to a 2024 publication by the Federal Reserve, “[a]lmost all adults with an income of at least \$100,000 had a credit card,” but “[a]t lower income levels, having a credit card was less common...”¹¹¹ In fact, according to the Federal Reserve, 54% of people with family income less than \$25,000 do not have a credit card.¹¹² Due to low-income customers having more difficulty obtaining credit cards,¹¹³ the Attorney General is concerned that the continuing escalation of credit card processing fees are being subsidized and borne by those customers who can least afford it. Jackson Purchase Energy can follow the example of other utilities by still allowing utility bills to be paid with credit cards, etc. as long as the customer pays 100% of the corresponding fee that is assessed to the Company.¹¹⁴

The Attorney General recognizes that the Commission has recently allowed credit card fees to be included in certain rural electric cooperative rates,¹¹⁵ but, the Commission has also recently denied credit card fees to be included in rates of an investor-owned water company.¹¹⁶ Due to the significant increase of credit card processing fees, it is important for the Attorney General to

¹¹¹See Federal Reserve, Report on Economic Well-Being of U.S. Households in 2023 – May 2024, <https://www.federalreserve.gov/publications/2024-economic-well-being-of-us-households-in-2023-banking-credit.htm>.

¹¹² *Id.*

¹¹³ *Id.* The Federal Reserve publication further states that 23% of people with a family income less than \$25,000 are unbanked, meaning neither they nor their spouse or partner had a checking, savings, or money market account.

¹¹⁴See <https://www.duke-energy.com/home/billing/billing-payment-options> (Duke Energy Kentucky assesses a “small fee” to a residential customer paying a utility bill with a credit card, debit card, or electronic check.); <https://www.amwater.com/kyaw/customer-service-billing/billing-payment-info/> (Kentucky-American Water assesses a \$1.95 fee to a customer using a credit card to pay the utility bill); <https://www.kentuckypower.com/account/bills/pay/compare> (Kentucky Power Company assesses a \$1.85 fee for a residential customer to pay a utility bill with a credit card, debit card, or ATM card.); <https://lge-ku.com/residential/payment> (Louisville Gas and Electric and Kentucky Utilities charge an additional fee to a residential customer paying a utility bill with a debit card, credit card, PayPal, Amazon Pay, Google Pay, or Venmo.); <https://www.columbiagasky.com/bills-and-payments/pay-my-bill> (Columbia Gas of Kentucky assesses a \$2.00 fee to a residential customer paying a utility bill with a credit card, debit card, PayPal, Venmo, or Amazon Pay.

¹¹⁵See Case No. 2023-00158, *Electronic Application of Farmers Rural Electric Cooperative Corporation for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Oct. 3, 2023), Order at 12.

¹¹⁶ Case No. 2023-00191, *Electronic Application of Kentucky-American Water Company for an Adjustment of Rates, A Certificate of Public Convenience and Necessity for Installation of Advanced Metering Infrastructure, Approval of Regulatory and Accounting Treatments, and Tariff Revisions* (Ky. PSC May 3, 2024), Order at 23 – 24.

continue to advocate that these fees be paid by the customer utilizing the credit card instead of the costs being subsidized by all customers.

VI. The Commission should disallow the newly added expense adjustments that Jackson Purchase Energy filed into the record on December 10, 2024.

Jackson Purchase Energy filed two newly added adjustments into the record on December 10, 2024, titled as “Updated responses to data requests.” This filing occurred 223 days after the Company filed its application, 467 days after the end of the August 31, 2023 test period, and only 3 business days before the evidentiary hearing. At the hearing Jackson Purchase Energy’s CEO appeared to assert that the Company was not requesting the expenses associated with the two newly filed adjustments to be included in the revenue requirement;¹¹⁷ however, Mr. Wolfram testified that the Company was in fact requesting for these new expenses to be included in the rate increase.¹¹⁸

The new expense adjustments are problematic and should be disallowed for a multitude of reasons. First, due to the extremely late filing of the new expense adjustments, it deprived the Attorney General of his two rounds of discovery to fully scrutinize said expenses; as well as to have his expert witness, Mr. Meyer, to review, analyze, and opine on said expenses in his filed direct testimony (filed in this case on July 17, 2024); and, to have the appropriate amount of time and information in the record to fully prepare for the evidentiary hearing with regard to the new expense adjustments. The pending case will not be submitted for a ruling until January 28, 2025, with an Order due by February 28, 2025, which only provides the Commission one month to issue a ruling. Thus, when Jackson Purchase Energy filed the new expense adjustments three

¹¹⁷ VTE 9:19:50 – 9:20:42.

¹¹⁸ VTE 1:40:35 – 1:43:45.

business days before the evidentiary hearing, there was not enough time left in the procedural schedule for the Attorney General to file a motion requesting additional rounds of discovery and to request leave for his expert witness to file additional direct testimony on the newly filed expense adjustments.

Second, although the Company filed two new expense adjustments, it did not file updated revenues¹¹⁹ or any potential offsets to the new expenses that may exist. The Attorney General was limited to only one post-hearing request for information, and requested the 2023 and 2024 base revenues broken down by quarter. Jackson Purchase Energy provided all four quarters for 2023, but only provided the first three quarters for 2024.¹²⁰ When comparing the revenues from the first three quarters in 2023, which totaled \$61,174,235, to the first three quarters in 2024 totaling \$61,848,388, it is clear that the Company's revenues have increased by \$674,153. Therefore, it would be unreasonable to review the two new expenses in isolation without also considering Jackson Purchase Energy's increased revenues as well as other potential offsets. Based upon the foregoing, the Attorney General respectfully requests the Commission to disallow the newly added expense adjustments that the Company filed into the record on December 10, 2024.

VII. A 2.0 TIER is not necessary for Jackson Purchase Energy to provide safe and reliable electric service, and unnecessarily inflates the rate increase on the customers.

Jackson Purchase Energy has failed to meet its burden of proof to establish that a 2.0 TIER will lead to fair, just, and reasonable rates. First, Jackson Purchase Energy provides no analytical support for its proposed 2.0 TIER.¹²¹ Instead, the Company states that it, "considers it prudent to

¹¹⁹ VTE 9:21:30 – 9:21:59.

¹²⁰ Jackson Purchase Energy's response to the Attorney General's Post-Hearing Request, Items 4 and 5.

¹²¹ Jackson Purchase Energy's response to the Attorney General's First Request, Items 29(c) and (d).

establish rates that permit the achievement of financial metrics above these [loan requirement] minimums, and the Commission has supported this view in every distribution cooperative rate case of which the cooperative is aware.”¹²² However, the Company failed to discuss the Order in which the Commission stated that, “the authorized TIER for an electric distribution cooperative will be addressed on a case by case basis, and the current interest rates for the cooperative and market conditions must be part of the consideration.”¹²³

Second, a 2.0 TIER is excessive when compared to the financial and credit metrics required by the Company’s lenders. Jackson Purchase Energy admits that its loan covenants normally require it to meet a 1.25 TIER.¹²⁴ A 2.0 TIER is also excessive due to Jackson Purchase Energy having riders that collect significant portions of its costs, essentially guaranteeing that the Company will be completely made whole for its fuel costs, environmental surcharges, and non-FAC purchase power agreements.¹²⁵

Third, the authorization of an excessive TIER is a disincentive to controlling discretionary expenses such as employees’ excess wages, salaries, raises, benefits, donations, and the like. For example, even if the Commission disallows a certain percentage of funding to be included in rates such as employee health insurance contributions that are found to be excessive, or the Company’s contributions to 401(k) accounts for employees who also receive contributions to a pension plan, the Company can, and most likely will, continue these practices, at least in part because of the excess monies¹²⁶ awarded to it through a higher than necessary TIER.

¹²² *Id.* at 29(c).

¹²³ Case No. 2021-00407, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief* (Ky. PSC June 30, 2022), Order at 18.

¹²⁴ Jackson Purchase Energy’s response to the Attorney General’s First Request, Item 29(b); VTE 11:10:40 – 11:10:48.

¹²⁵ Meyer Testimony at 26.

¹²⁶ See VTE 11:11:10 – 11:11:28.

Fourth, in theory, if the Commission authorizes an excessive TIER that provides excessive margins, it can be returned to customers through future capital credits. However, this is problematic because there is no tracking and no functional equivalence between excessive margins and future capital credits. Furthermore, any return of excess margins is likely to be diluted and delayed because customers stand at the end of the line for any residual revenues. In fact, any capital credit distributions to customers normally do not occur for decades.

Fifth, the authorization of a higher TIER than what is required by loan covenants, increases the revenue requirement, and in turn, the rate increase on customers.¹²⁷ In fact, according to the Company's initial requested rate increase, an additional \$2.66 million would be added to the revenue requirement to achieve a 2.0 TIER; whereas if the Commission adopted Mr. Meyer's recommendation of a 1.85 TIER, which would still provide more than enough funds to meet its debt obligations as well as have an adequate cushion, it would save the customers approximately \$400,000 in the revenue requirement.¹²⁸

Based upon the foregoing, the Attorney General requests the Commission only award Jackson Purchase Energy a TIER that will lead to fair, just, and reasonable rates. Additionally, if the Commission awards the Company a TIER higher than what is required to satisfy its loan covenants, then there should be a condition placed upon Jackson Purchase Energy to not use the additional TIER funds on expenditures that are specifically disallowed by the Commission. The Company should also be required to provide an account of how it spends the additional TIER funds in future rate case proceedings.¹²⁹

¹²⁷ See VTE 11:11:10 – 11:11:28.

¹²⁸ Meyer Testimony at 26 – 27.

¹²⁹ See Jackson Purchase Energy's response to the Attorney General's First Request, Item 29(d). (When the Attorney General requested the Company to explain how Jackson Purchase Energy utilizes the additional TIER funds that are above and beyond the required amounts per the loan covenants, no accounting was provided.)

VIII. Jackson Purchase Energy should be required to reduce its miscellaneous expenses.

Jackson Purchase Energy asserts that since its last rate case it has encountered increased costs in many areas of its business, and has allegedly attempted to create cost reductions through various means.¹³⁰ However, in the test year, Jackson Purchase Energy spent a staggering \$788,645.87 in donations, dues, employee events, etc.¹³¹ In response to the Attorney General's discovery questions, Jackson Purchase Energy provided a breakdown of the expenses, which in part, included items such as the following:

- Rodeo Expenses - \$156,920.06;
- Annual Meeting - \$33,880.42;
- Employee Christmas Party - \$17,043.20;
- Employee Events/Benefits - \$5,345.45;
- Youth Tour (Frankfort/Washington) - \$9,581.16;
- Donations and Sponsorships - \$15,512.83; and,
- Scholarships - \$11,000.¹³²

Even though some of these expenses are being excluded from rates, it does not change the fact that the expenses are still being paid with customer funds because normally the only revenue stream that an electric cooperative has is from the member customers.¹³³ Thus, Jackson Purchase Energy needs to rein in these expenses moving forward in order to stave off further rate increases. Jackson Purchase Energy should work to better utilize the customers' funds by reducing the

¹³⁰ Grissom Testimony at 5.

¹³¹ Jackson Purchase Energy's response to the Attorney General's First Request, Item 40, Excel Spreadsheet.

¹³² *Id.*

¹³³ See Case No. 2016-00077, Licking Valley RECC's response to the Attorney General's Second Request for Information, Item 5.

hundreds of thousands of dollars of expenditures that are not directly related to providing safe and reliable electric service. Due to the difficult economic situation and high poverty rates that exist in Jackson Purchase Energy's service area, the Company's customers have been required to cut expenditures. Likewise, Jackson Purchase Energy needs to do the same.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission deny Jackson Purchase Energy's requested rate increase. If the Commission is inclined to grant a rate increase, then it should be limited to what Jackson Purchase Energy has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's customers.

Respectfully submitted,

RUSSELL COLEMAN
ATTORNEY GENERAL



ANGELA M. GOAD
J. MICHAEL WEST
LAWRENCE W. COOK
JOHN G. HORNE II
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE, SUITE 200
FRANKFORT, KY 40601
PHONE: (502) 696-5421
FAX: (502) 564-2698
Angela.Goad@ky.gov
Michael.West@ky.gov
Larry.Cook@ky.gov
John.Horne@ky.gov

Certificate of Service and Filing

Pursuant to the Commission's Orders and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on January 13, 2025, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding.

This 13th day of January, 2025,



Assistant Attorney General