

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATON OF JACKSON )  
ENERGY COOPERATIVE CORPORATION FOR ) Case No. 2024-00324  
A GENERAL ADJUSTMENT OF RATES PURSUANT )  
TO 807 KAR 5:078 )

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**MOTION FOR DEVIATION FROM REQUIREMENTS  
OF 807 KAR 5:047, SECTION 2(1)**

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Comes now Jackson Energy Cooperative Corporation (“Jackson Energy”) by counsel, pursuant to 807 KAR 5:078, Section 10 and other applicable law, and seeks a deviation from the requirements of 807 KAR 5:078, Section 2(1). In support of this motion, Jackson Energy states as follows:

**Background**

Jackson Energy filed its original application for an adjustment of rates pursuant to 807 KAR 5:078 on November 8, 2024. On November 22, 2024, the Commission entered an order rejecting the application due to various deficiencies. Those deficiencies were addressed by Jackson Energy in a specific response to the order and in a revised application, both of which were filed on November 24, 2024. On December 10, 2024, the Commission entered an order rejecting the amended application.

The Commission’s most recent order found that Jackson Energy has failed to comply with 807 KAR 5:078, Section 2(1), which requires that ten or fewer years have passed since the cooperative’s last base rate adjustment. The Commission further found that the application did not

comply with Section 3(2) of the same regulation which requires an explanation for why five or more years have passed since its most recent general rate adjustment.

In 2019, Jackson Energy filed an application for a revenue neutral adjustment to its base rates pursuant to what was, at that time, a pilot program. In submitting its original and amended applications, Jackson Energy was operating under the belief that the 2019 rate adjustment qualified as a “base rate adjustment” as defined in 807 KAR 5:078, Section 1(4). However, in its most recent order, the Commission has found that the revenue neutral rate adjustment does not qualify as a base rate adjustment and thus, Jackson Energy’s application is not in compliance with the regulation.

Jackson Energy now submits this motion to address the deficiencies found in the Commission’s order of December 10, 2024.

**Request for Deviation From 807 KAR 5:078 Section 2(1)**

The alternative rate adjustment regulation for electric cooperatives, 807 KAR 5:078, Section 2(1), requires that ten or few years have passed since the applicant’s most recent base rate adjustment. Jackson Energy last filed for an adjustment of its general rates which resulted in an increase in revenue in 2013.<sup>1</sup> The rate application filed in 2019 adjusted the Cooperative’s base rates, but was not designed to result in an increase in revenue.

807 KAR 5:078, Section 10 states that a utility may submit a written request to the commission to obtain an exception, for good cause, for any requirement contained in the regulation. Jackson Energy requests that the Commission grant it an exception to 807 KAR 5:078, Section 2(1) for good cause for the following reasons:

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<sup>1</sup> See Case No. 2013-00219. The order approving the adjustment of rates was entered by the Commission on February 27, 2014, with a subsequent order being entered on April 11, 2024, correcting certain aspects of the prior order.

First, Jackson Energy’s financial metrics since 2013 have been quite healthy and did not necessitate that a rate case be filed previously. As evidenced by its RUS Form 7 filings with the Commission, Jackson Energy’s end of year OTIER metrics have been as follows:

<u>Year</u>	<u>OTIER</u>
2013	1.27
2014	1.58
2015	.38 <sup>2</sup>
2016	2.09
2017	1.63
2018	1.93
2019	1.66
2020	1.87
2021	1.85
2022	1.55
2023	0.04

With the exception of 2015, Jackson Energy has had healthy financial metrics well above the OTIER of 1.10 required by its lenders. Furthermore, there was no clear indication of a steady erosion of OTIER in the lead up to 2023 that would have caused Jackson Energy to believe that it should seek an increase in revenue prior to that time.

Second, Jackson Energy filed the current rate application based on the belief that its 2019 rate application would be considered as a “general rate adjustment” as defined in 807 KAR 5:078, Section 1(3) for the reasons set forth in more detail in Jackson Energy’s response to the Commission’s order which was filed on November 25, 2024. In sum, the Commission, in establishing the streamlined rate case procedure in Case No. 2018-00407, referred to the procedure as filing for “general rate adjustments.” Furthermore, Jackson Energy’s 2019 application was styled as an application for a “general adjustment in existing rates.” While the Commission has rejected this interpretation of the streamlined rate ratemaking case and regulation, Jackson Energy

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<sup>2</sup> Note that the OTIER reflected in 2015 is an outlier since Jackson Energy adjusted its revenue recognition procedures in that year which resulted in a loss of reported revenue for one month.

had a good faith belief that its application was well within the ten-year period. Jackson Energy further believes that its interpretation of a “general rate adjustment” to include rate applications filed under the streamlined rate case procedure is a belief shared by other electric cooperatives in Kentucky. While it was not clear to Jackson Energy that its financial metrics were declining so rapidly as to require an application for an adjustment of rates a year earlier, it certainly would have considered doing so to utilize the alternative rate case procedure to avoid a more lengthy and costly general rate case pursuant to 807 KAR 5:001, Section 16.

Third, 807 KAR 5:078, Section 10(3) states that the Commission shall consider whether compliance with the regulatory requirements would be contrary to the public interest. As an electric cooperative, Jackson Energy is owned by its members. All expenses, including rate case expenses, are ultimately borne by the members. To require Jackson Energy to file a general rate case under 807 KAR 5:001, Section 16 rather than the streamlined procedure would result in a significant increase in costs to the members of the cooperative, with no discernible benefit to them. In establishing the streamlined regulation in 807 KAR 5:078, the Commission recognized the costs of a general rate case, stating, “[t]his administrative regulation establishes a simplified and less expensive procedure for rural electric cooperatives to use to apply to the commission for rate adjustments.”

#### **Rejection of Application Pursuant to 807 KAR 5:078 Section 3(2)**

The Commission’s order entered on December 10, 2024 also rejected Jackson Energy’s amended petition for failure to comply with 807 KAR 5:078, Section 3(2). That section of the regulation requires that “[i]f five (5) or more years have elapsed since the cooperative’s most recent general rate adjustment, a detailed explanation of why the cooperative did not seek a general rate adjustment” must be included in the application. Jackson Energy is not seeking a deviation from

this section of the regulation. Jackson Energy is submitting an amended rate application which addresses this topic in detail in Exhibit 31 to the application.

**Conclusion**

For the reasons stated herein, Jackson Energy Cooperative Corporation hereby requests a deviation from the requirements of 807 KAR 5:078, Section 2(1) such that its application will be accepted for filing though more than 10 years have passed since its last increase in general rates was granted in 2014.

Respectfully submitted by,

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