

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF JACKSON	)	
ENERGY COOPERATIVE CORPORATION FOR A	)	CASE NO.
GENERAL ADJUSTMENT OF RATES PURSUANT	)	2024-00324
TO 807 KAR 5:078	)	

ORDER

On November 8, 2024, Jackson Energy Cooperative Corporation (Jackson Energy) tendered an application for an alternative rate adjustment for electric cooperatives pursuant to 807 KAR 5:078.<sup>1</sup> Pursuant to 807 KAR 5:078 Section 8(2), the Commission shall complete its initial review of the application within ten business days of the filing of the application and issue an Order either accepting or rejecting the application for filing.

LEGAL STANDARD

Administration regulation 807 KAR 5:078 establishes an alternative procedure for rural electric cooperatives to apply for rate adjustments.<sup>2</sup> The regulation allows cooperatives to request modest rate increases under specific conditions and outlines the necessary documentation and procedures for filing such applications, aiming to simplify and reduce the costs associated with rate adjustments for electric cooperatives.

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<sup>1</sup> Application (tendered Nov. 8, 2024).

<sup>2</sup> 807 KAR 5:078.

## DISCUSSION AND FINDINGS

Upon review of Jackson Energy's application tendered pursuant to 807 KAR 5:078, the Commission finds that the application fails to meet the requirements of 807 KAR 5:078 Section 8(3)(b),<sup>3</sup> which permits rejection of an application if the proposed rates will not provide sufficient revenue to meet the cooperative's obligations under KRS 278.030(2). This statute mandates that utilities must establish rates that are adequate to provide the necessary service to the public and maintain financial solvency.

Supporting testimony submitted with the application explicitly stated that Jackson Energy is requesting rates that will result in continued operational losses.<sup>4</sup> Specifically, the utility identified a total revenue deficiency of \$8,922,803 but requested an increase of only \$5,797,581, leaving a shortfall exceeding \$3 million.<sup>5</sup> Despite acknowledging this deficiency, Jackson Energy has not provided any explanation or financial analysis demonstrating how it intends to continue providing adequate service while operating at a financial loss. The failure to address the revenue shortfall raises substantial concerns regarding the cooperative's ability to meet its obligations under KRS 278.030(2).<sup>6</sup>

Without a detailed explanation of how Jackson Energy intends to manage its financial resources and maintain adequate service despite the projected shortfall, the Commission cannot find that the proposed rates comply with the requirements of 807

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<sup>3</sup> 807 KAR 5:078 Section 8(3)(b).

<sup>4</sup> Direct Testimony of John Wolfram (Wolfram Testimony) (tendered Nov. 8, 2024) at 8, lines 8-14.

<sup>5</sup> Wolfram Testimony at 8, lines 8-14.

<sup>6</sup> KRS 278.030(2).

KAR 5:078 or the statutory standards for rate sufficiency. Accordingly, the application must be rejected.

In addition to the failure to request sufficient revenue, the application tendered by Jackson Energy is also rejected for failure to comply with various other provisions set forth in 807 KAR Chapter 5. Specifically, nine additional deficiencies found in the application, each of which must be addressed fully and completely in addition to the insufficient revenue request before the application may be processed. The nine additional issues are as follows:

1. The application fails to include properly bookmarked sections as required under 807 KAR 5:001 Section 8(4)(b).<sup>7</sup>

2. Under 807 KAR 5:078 Section 3(2),<sup>8</sup> the application lacks a detailed explanation for why Jackson Energy did not seek a general rate adjustment for over ten years,<sup>9</sup> despite the regulation requiring this explanation when more than five years have elapsed since the last adjustment. While the cooperative acknowledges rising expenses as the basis for the current request, it provides no justification for the prolonged delay in seeking rate adjustments, nor has it filed a motion for deviation to address this omission.<sup>10</sup>

3. The application contained unsigned tariff sheets in contravention of 807 KAR 5:078 Section 3(3)<sup>11</sup> and 807 KAR 5:011 Section 3(2)(f).

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<sup>7</sup> 807 KAR 5:001 Section 8(4)(b)(4).

<sup>8</sup> 807 KAR 5:078 Section 3(2).

<sup>9</sup> Application at 2, paragraph 5.

<sup>10</sup> Application at 2, paragraph 5.

<sup>11</sup> 807 KAR 5:078 Section 3(3) referencing 807 KAR 5:011 Section 3(2)(f).

4. The filing contains incorrect tariff notations. 807 KAR 5:078 Section 3(4)<sup>12</sup> and 807 KAR 5:011. Specifically, the application uses "D" (denoting deletions) where "R" (indicating reductions) should be applied.

5. The application does not provide an adequate explanation for changes in directors' fees during the test year as required by 807 KAR 5:078 Section 3(10)(b).<sup>13</sup> While the effective date of the change is included, no rationale for the adjustment is provided.

6. The customer notices submitted under 807 KAR 5:078 Section 7(4)(a) are deficient.<sup>14</sup> The cooperative provided two notices but failed to specify which one constitutes the "abbreviated notice."<sup>15</sup> Additionally, neither notice contains all the required elements from 807 KAR 5:001 Section 17(4),<sup>16</sup> specifically omitting subsections 17(4)(f) and 17(4)(h), which detail public access to the application and filing, and the process for submitting public comments. It is important to note under 807 KAR 5:078 Section 7(4) that subsections (a), (b) and (c) are required. Specifically, subsection (a) refers to 807 KAR 5:001, Section 17(4), which has similar requirements to subsection (b), but they are not identical. In order for an abbreviated notice to sufficiently comply, the Commission generally would need to grant a deviation, but that statement is still subject to compliance with the regulations as discussed in this paragraph.

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<sup>12</sup> 807 KAR 5:078 Section 3(4).

<sup>13</sup> 807 KAR 5:078 Section 3(10)(b).

<sup>14</sup> 807 KAR 5:078 Section 7(4)(a).

<sup>15</sup> Application at 18–20.

<sup>16</sup> 807 KAR 5:001 Section 17(4).

7. The public posting notice provided under 807 KAR 5:078 Section 7(4)(b)(9)<sup>17</sup> omits the required statement that the Commission must act on the application within 75 days. This omission creates uncertainty for stakeholders and fails to comply with the regulation's public notification requirements.

8. Administrative regulation 807 KAR 5:078, Section 3(2) requires that, if five 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 in that period. Although the utility acknowledged that it had not been in for a general rate case in over ten years, Jackson Energy did not provide any detailed, specific discussions or financial information to explain why it chose not to file a general rate adjustment application. General cost saving measures are not an adequate justification.

9. Finally, Jackson Energy has not received a general rate adjustment since 2013.<sup>18</sup> Administrative regulation 807 KAR 5:078 Section 2(1) provides that a cooperative may seek a rate increase pursuant to the alternative procedure if, *inter alia*, Ten (10) or fewer years have elapsed since the effective date of new rates resulting from a cooperative's most recent base rate adjustment. Jackson Energy's last base rate adjustment became effective on February 27, 2014, and Jackson Energy submitted its current application on November 8, 2024. Therefore, on its face, Jackson Energy's application does not comply with one of the threshold legal requirements of 807 KAR 5:078. Pursuant to 807 KAR 5:078, Section 10(1), a cooperative may seek an exception from any requirement of the regulation. Administrative regulation 807 KAR 5:078, Section

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<sup>17</sup> 807 KAR 5:078 Section 7(4)(b)(9).

<sup>18</sup> Case No. 2013-00219, *Application of Jackson Energy Cooperative Corporation for an Adjustment of Rates* (Ky. PSC Feb. 27, 2014).

10(1) provides that, a “utility may submit a written request to the commission to obtain an exception, based on good cause, for a requirement established in this administrative regulation. The utility shall attach supporting evidence of good cause to the written request.” Jackson Energy did not: submit a written request for an exception; provide good cause; nor attach any supporting evidence to support an exception. Absent such a request, and subsequent Commission approval, the Commission cannot accept the application under the alternative procedure.

Each of these deficiencies must be cured for Jackson Energy’s application to meet the filing requirements of 807 KAR 5:078 and related regulations. If Jackson Energy wishes to proceed with its application pursuant to 807 KAR 5:078, it must provide a detailed written statement explaining how it intends to meet its statutory obligation to provide adequate, efficient, and reasonable service under KRS 278.030(2) while operating at a significant financial loss under the proposed rates. Additionally, Jackson Energy must address and cure the deficiencies identified in its application to bring it into compliance with 807 KAR 5:078. However, if Jackson Energy elects to amend its application pursuant to 807 KAR 5:078 Section 8(5)(b)<sup>19</sup> and proceed as a general rate adjustment pursuant to 807 KAR 5:001 Section 16,<sup>20</sup> it must include the following additional items:

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<sup>19</sup> 807 KAR 5:078 Section 8(5)(b).

<sup>20</sup> 807 KAR 5:001 Section 16.

<b>FILING REQUIREMENTS TO AMEND APPLICATION FROM A STREAMLINE CO-OP CASE TO A GENERAL RATE CASE</b>
a. Proposed pro forma adjustments to test-year revenues and expenses with supporting documentation
b. Audited financial statements, including balance sheet, income statement, and cash flow statement
c. Detailed schedules of all proposed tariff changes
d. A comprehensive rate design proposal with justifications
e. A recent depreciation study for plant assets, if applicable
f. Forecasted test period information, if using a forecasted test period, including assumptions and reconciliations
g. Justification and supporting calculations for the proposed revenue requirement
h. Compliance with public notice requirements for general rate cases under 807 KAR 5:001 Section 17

Jackson Energy is to notify the Commission within 60 days of service of this Order, and provide all required documents listed above, whether it wishes to amend its application and proceed as a general rate case pursuant to 807 KAR 5:001 Section 16. Conversely, within 60 days of the service date of this Order, if Jackson Energy wishes to proceed with its application under 807 KAR 5:078, it will need to cure all of the deficiencies listed herein to be in compliance with 807 KAR 5:078 Section 8(3)(a), and additionally, provide a detailed explanation of how Jackson Energy intends to manage its financial resources and maintain its statutorily required duty to provide adequate service despite the projected shortfall to be compliance with 807 KAR 5:078 Section 8(3)(b). Given that annual reports are due to be filed with the Commission on March 31<sup>st</sup>,<sup>21</sup> the Commission cautions Jackson Energy regarding delays in addressing the matter. If the application is not accepted for filing prior to March 31, 2025, the application will need to be recalculated using a new historical test year.

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<sup>21</sup> See, 807 KAR 5:006, Section 4(2).

IT IS THEREFORE ORDERED that:

1. Jackson Energy's application is rejected for filing pursuant to 807 KAR 5:078 Section 8(3)(b).

2. Jackson Energy's application is rejected for filing pursuant to 807 KAR 5:078 Section 8(3)(a).

3. Jackson Energy must take one of the following actions within 60 days of service of this Order:

a. Amend its application: Transition to a general rate case under 807 KAR 5:001 Section 16, including all required supplemental documentation and compliance with all applicable regulations;

b. Cure deficiencies: Address all deficiencies listed above and provide justification for revenue sufficiency as required under 807 KAR 5:078 Sections 8(3)(a) and (b) and in furtherance of KRS 278.030; or

c. Withdraw Application: Notify the Commission, in writing, if it elects not to proceed.

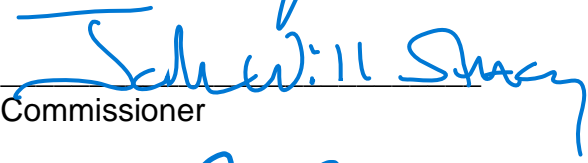
4. The statutory or administrative processing deadlines of any type of rate adjustment application will not begin until such time an application has been accepted for filing.



PUBLIC SERVICE COMMISSION

  
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Chairman

  
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Commissioner

  
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Commissioner

ATTEST:

  
\_\_\_\_\_ FOR  
Executive Director

ENTERED  
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KENTUCKY PUBLIC  
SERVICE COMMISSION

\*Carol Wright  
President & CEO  
Jackson Energy Cooperative Corporation  
115 Jackson Energy Lane  
McKee, KY 40447

\*Clayton O Oswald  
Taylor, Keller & Oswald, PLLC  
1306 West Fifth Street, Suite 100  
Post Office Box 3440  
London, KENTUCKY 40743-3440

\*John Wolfram  
Catalyst Consulting  
3308 Haddon Rd  
Louisville, KENTUCKY 40241

\*Jackson Energy Cooperative Corporation  
115 Jackson Energy Lane  
McKee, KY 40447

\*Ryan Henderson  
Jackson Energy Cooperative Corporation  
115 Jackson Energy Lane  
McKee, KY 40447