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**Janie A. Miller, Secretary  
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Executive Director  
Public Service Commission**

**COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION**  
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**Martin J. Huelsmann  
Chairman**

**Gary W. Gillis  
Vice Chairman**

**Robert E. Spurlin  
Commissioner**

December 19, 2002

J. Warren Keller, Esq.  
Taylor, Keller & Dunaway, PLLC  
1306 West Fifth Street  
P. O. Box 905  
London, KY 40743-0905

Re: Jackson Energy Rural Electric Cooperative Corporation  
Line of Credit

Dear Mr. Keller:

Commission Staff has reviewed your letter concerning a line of credit Jackson Energy Rural Electric Cooperative Corporation ("Jackson Energy") is considering with the National Rural Utilities Cooperative Finance Corporation ("CFC").

Your letter sets forth the following facts: CFC has approved a 23-month loan to Jackson Energy in the principal amount of \$8,190,000 (which you state will be repaid in 23 months) and a line of credit in the amount of \$7,000,000. You request a staff opinion as to whether Jackson Energy is required to obtain prior Commission approval for the line of credit. The creditor agreement that you attached to your letter provides that for each 12 month period that the agreement is in effect, Jackson Energy will, for a period of at least 5 consecutive business days, reduce to zero all amounts outstanding. Despite that provision in the agreement, you also ask whether prior Commission approval is required if the line of credit exceeds a 23-month period.

The Commission's authority to regulate financing transactions is set forth in KRS 278.300. Specifically, KRS 278.300(1) provides that:

No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission.



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However, there are exemptions to this requirement. KRS 278.300(8) provides a limited exception:

This section does not apply to notes issued by a utility, for proper purposes and not in violation of the law, that are payable at periods of not more than two (2) years from the date thereof, or to like notes, payable at a period of not more than two (2) years from date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewals of such notes from time to time, not exceeding in the aggregate six (6) years from the date of the issue of the original notes so renewed or refunded.

It is staff's opinion that if the line of credit is paid off every year as required by the provisions of Paragraph 9 of the agreement, it does not require Commission approval. If, however, the loan or the line of credit exceeds 23 months as you suggested, it is staff's opinion that Commission approval is required.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Anita Mitchell, staff attorney, at (502) 564-3940, ext. 258.

Sincerely,



Thomas M. Dorman  
Executive Director

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