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MEMORANDUM

TO: Gerald E. Wuetcher, Executive Advisor/Attorney
Public Service Commission

FROM: Donna Little
Regulations Compiler

RE: Acknowledgement of Proposed Administrative Regulations and/or Amendment –
807 KAR 5:069 and 807 KAR 5:076

DATE: August 12, 2013

A copy of each administrative regulations listed above is enclosed for your files. These administrative regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **October 2013** meeting. We will notify you of the date and time of this meeting when it has been scheduled.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments during the public comment period, the Statement of Consideration for these administrative regulations is due **by noon on October 15, 2013**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public hearings and the Statement of Consideration.

If you have any questions, please do not hesitate to contact me at (502) 564-8100.

Enclosures

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amendment)

4 807 KAR 5:076. Alternative rate adjustment procedure for small utilities.

5 RELATES TO: KRS 278.010, 278.030, 278.160, 278.180, 278.185, 278.190, 278.310,
6 278.380

7 STATUTORY AUTHORITY: KRS 278.040(3), 278.160(1), 278.180, 278.185(4)

8 NECESSITY, FUNCTION AND CONFORMITY: KRS 278.040(3) authorizes the
9 commission to promulgate administrative regulations to implement KRS Chapter 278.
10 This administrative regulation establishes a simplified and less expensive procedure for
11 small utilities to use to apply to the commission for rate adjustments.

12 Section 1. Definitions. (1) "Annual report" means the financial and statistical
13 report incorporated by reference in 807 KAR 5:006, which requires a utility to file the
14 annual report with the commission.

15 (2) "Annual report for the immediate past year" means an annual report that
16 covers the applicant's operations for either:

17 (a) The calendar year period prior to the year in which the applicant's application
18 for rate adjustment is filed with the commission; or

19 (b) The most recent calendar year period that 807 KAR 5:006, Section 4(1),
20 requires the applicant to have on file with the commission as of the date of the filing of
21 its application for rate adjustment.

1 (3) "Applicant" means a utility that is applying for an adjustment of rates using the
2 procedure established in this administrative regulation.

3 (4) "Gross annual revenue" means:

4 (a) The total revenue that a utility derived during a calendar year; or

5 (b) If the utility operates two (2) or more divisions that provide different types of
6 utility service, the total amount of revenue derived from the division for which a rate
7 adjustment is sought.

8 (5) "Sewage utility" means a utility that meets the requirements of KRS
9 278.010(3)(f).

10 (6) "Utility" is defined by KRS 278.010(3).

11 (7) "Water district" means a special district or special purpose governmental
12 entity created pursuant to KRS Chapter 74.

13 (8) "Web site" means an identifiable site on the Internet, including social media,
14 which is accessible to the public.

15 Section 2. Utilities Permitted to File Application. A utility may apply for an
16 adjustment of rates using the procedure established in this administrative regulation if it:

17 (1) Had gross annual revenue in the immediate past calendar year of \$5,000,000
18 or less;

19 (2) Maintained adequate financial records fully separated from a commonly-
20 owned enterprise; and

21 (3) Filed with the commission fully completed annual reports for the immediate
22 past year and for the two (2) prior years if the utility has been in existence that long.

1 Section 3. The Record upon which Decision Shall Be Made. The commission
2 shall make its decision based on the:

3 (1) Applicant's annual report for the immediate past year and the annual reports
4 for the two (2) prior years, if the utility has been in existence that long;

5 (2) The application required by Section 4 of this administrative regulation;

6 (3) Information supplied by the applicant in response to requests for information
7 submitted by other parties to the proceeding or the commission;

8 (4) Written reports submitted by commission staff;

9 (5) Stipulations and agreements between the parties and commission staff;

10 (6) Written comments and information that the parties to the proceeding
11 submitted in response to the findings and recommendations contained in a written
12 report that commission staff submitted; and

13 (7) If a hearing is held, the record of that hearing.

14 Section 4. Application. (1) An application for alternative rate adjustment shall
15 consist of:

16 (a) A completed ARF Form-1 that is made under oath and signed by the
17 applicant or an officer who is duly designated by the applicant and who has knowledge
18 of the matters established in the application;

19 (b) A copy of all outstanding evidences of indebtedness, such as mortgage
20 agreements, promissory notes, and bond resolutions;

21 (c) A copy of the amortization schedule for each outstanding bond issuance,
22 promissory note, and debt instrument;

23 (d) A depreciation schedule of all utility plant in service;

1 (e) A copy of the most recent state and federal tax returns of the applicant, if the
2 applicant is required to file returns;

3 (f) A detailed analysis of the applicant's customers' bills showing revenues from
4 the present and proposed rates for each customer class;

5 (g) A copy of the notice of the proposed rate change that is provided to
6 customers of the applicant;

7 (h) A completed ARF Form-3 for each member of the utility's board of
8 commissioners or board of directors, each person who has an ownership interest of ten
9 (10) percent or more in the utility, and the utility's chief executive officer; and

10 (i) If a water district proposes to increase any current rate for service or implement
11 a new rate for service, a statement from an authorized official of the district indicating the
12 date the proposed rate increase or new rate was reported to the governing body of the
13 county in which the largest number of its customers resides and the date it presented
14 testimony, or is scheduled to present testimony, to that governing body.

15 ~~[(i) 1. If the applicant is a corporation, a certified copy of its articles of~~
16 ~~incorporation and all amendments thereto, or a written statement attesting that its~~
17 ~~articles and all amendments thereto have been filed with the commission in a prior~~
18 ~~proceeding and referencing the case number of the prior proceeding; and~~

19 ~~2. If the applicant is a limited liability company, a certified copy of its articles of~~
20 ~~organization and all amendments thereto, or a written statement attesting that its~~
21 ~~articles and all amendments thereto have been filed with the commission in a prior~~
22 ~~proceeding and referencing the case number of the prior proceeding; or~~

1 3. ~~If the applicant is a limited partnership, a certified copy of its limited~~
2 ~~partnership agreement and all amendments thereto, or a written statement attesting that~~
3 ~~its partnership agreement and all amendments thereto have been filed with the~~
4 ~~commission in a prior proceeding and referencing the case number of the prior~~
5 ~~proceeding.]~~

6 (2) Except as provided in Section 8 of 807 KAR 5:001~~[Section 13 of this~~
7 ~~administrative regulation]~~ for electronic filings, the applicant shall:

8 (a) Submit one (1) original and five (5) paper copies of its application to the
9 executive director of the commission; and

10 (b) Deliver or mail one (1) paper copy to the Office of Rate Intervention, Office of
11 the Attorney General, 1024 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601-
12 8204 or transmit by electronic mail an electronic copy in portable document format to
13 the Office of Rate Intervention at rateintervention@ag.ky.gov.

14 (3)(a) If the application contains an individual's Social Security number, taxpayer
15 identification number, birth date, or a financial account number, the applicant shall
16 redact the document so the following information cannot be read:

- 17 1. The digits of the Social Security number or taxpayer identification number;
- 18 2. The month and day of an individual's birth; and
- 19 3. The digits of the financial account number.

20 (b) To redact the document, the applicant shall replace the identifiers with neutral
21 placeholders or cover the identifiers with an indelible mark, that so obscures the
22 identifiers that they cannot be read.

1 (4) The application shall not contain any request for relief from the commission
2 other than an adjustment of rates.

3 (5) A utility may make written request to the executive director for commission
4 staff assistance in preparing the application.

5 Section 5. Notice~~[to Customers of Proposed Rate Changes]~~. When filing an
6 application for an alternative rate adjustment, a utility shall provide notice as follows:

7 (1) Public postings.

8 (a) A utility shall post at its place of business a copy of the notice no later than the
9 date the application is submitted to the commission.

10 (b) A utility that maintains a Web site shall, within five (5) business days of the date
11 the application is submitted to the commission, post on its Web sites:

12 1. A copy of the public notice; and

13 2. A hyperlink to the location on the commission's Web site where the case
14 documents are available.

15 (c) The information required in paragraphs (a) and (b) of this subsection shall not
16 be removed until the commission issues a final decision on the application.

17 (2) Customer Notice.

18 (a) If a utility has twenty (20) or fewer customers or is a sewage utility, it shall
19 mail a written notice to each customer no later than the date on which the application is
20 submitted to the commission.

21 (b) If a utility has more than twenty (20) customers and is not a sewage utility, it
22 shall provide notice by:

1 1. Including notice with customer bills mailed no later than the date the
2 application is submitted to the commission;

3 2. Mailing a written notice to each customer no later than the date the application
4 is submitted to the commission;

5 3. Publishing notice once a week for three (3) consecutive weeks in a prominent
6 manner in a newspaper of general circulation in the utility's service area, the first
7 publication to be made no later than the date the application is submitted to the
8 commission; or

9 4. Publishing notice in a trade publication or newsletter delivered to all customers
10 no later than the date the application is submitted to the commission.

11 (c) A utility that provides service in more than one (1) county and is not a sewage
12 utility may use a combination of the notice methods listed in paragraph (b) of this
13 subsection.~~[If the applicant has twenty (20) or fewer customers or is a sewage utility, it~~
14 ~~shall:~~

15 ~~(a) Mail written notice in accordance with subsection (3) of this section to each~~
16 ~~customer no later than the date on which the application is filed with the commission;~~

17 ~~(b) Post at its place of business no later than the filed date of the application a~~
18 ~~sheet containing the information provided in the written notice to its customers; and~~

19 ~~(c) Keep the notice posted until the commission has issued a final decision on~~
20 ~~the application.~~

21 ~~(2) An applicant that has more than twenty (20) customers and is not a sewage~~
22 ~~utility shall post at its place of business a sheet containing the information required by~~
23 ~~subsection (3) of this section and shall:~~

1 ~~(a) Include notice with customer bills mailed by the date the application is filed;~~

2 ~~(b) Publish notice in a trade publication or newsletter going to all customers by~~
3 ~~the date the application is filed;~~

4 ~~(c) Publish notice once a week for three (3) consecutive weeks in a prominent~~
5 ~~manner in a newspaper of general circulation in the applicant's service area, the first~~
6 ~~publication to be made by the date the application is filed; or~~

7 ~~(d) If it provides service in more than one (1) county, use a combination of the~~
8 ~~methods established in this subsection.]~~

9 (3) Proof of Notice. A utility shall file with the commission no later than forty-five
10 (45) days from the date the application was initially submitted to the commission:

11 (a) If notice is mailed to its customers, an affidavit from an authorized
12 representative of the utility verifying the contents of the notice, that notice was mailed to
13 all customers, and the date of the mailing;

14 (b) If notice is published in a newspaper of general circulation in a utility's service
15 area, an affidavit from the publisher verifying the contents of the notice, that the notice
16 was published, and the dates of the notice's publication; or

17 (c) If notice is published in a trade publication or newsletter delivered to all
18 customers, an affidavit from an authorized representative of the utility verifying the
19 contents of the notice, the mailing of the trade publication or newsletter, that notice was
20 included in the publication or newsletter, and the date of mailing.

21 (4) Notice Content. Each notice issued in accordance with this section shall
22 contain[state]:

- 1 (a) The proposed effective date and the date the proposed rates are expected to
2 be filed with the commission;
- 3 (b) The present rates and proposed rates for each customer classification~~[class]~~
4 to which the proposed rates will apply;
- 5 (c)~~[(b)]~~ The amount of the change requested in both dollar amounts and
6 percentage change for each customer classification to which the proposed rates~~[rate~~
7 ~~change]~~ will apply;
- 8 (d)~~[(e)]~~ The amount of the average usage and the effect upon the average bill for
9 each customer classification~~[class]~~ to which the proposed rates~~[rate change]~~ will apply;
- 10 (e) A statement that a person may examine this application and any related
11 documents the utility has filed with the Public Service Commission at the offices of
12 (utility name) located at (utility address);
- 13 (f) A statement that a person may examine this application and any related
14 documents at the commission's offices located at 211 Sower Boulevard, Frankfort,
15 Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's
16 Web site at <http://psc.ky.gov>;
- 17 (g) A statement that comments regarding the application may be submitted to the
18 Public Service Commission through its Web site or by mail to Public Service
19 Commission, Post Office Box 615, Frankfort, Kentucky 40602;
- 20 (h) A statement~~[(d)]~~ that the rates contained in this notice are the rates proposed
21 by (utility name~~[of utility]~~) but that the Public Service Commission may order rates to be
22 charged that differ from the proposed rates contained in this notice;

1 (i) A statement that a person may submit a timely written request for intervention
2 to the Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602,
3 establishing the grounds for the request including the status and interest of the party;
4 and

5 (j) A statement that if the commission does not receive a written request for
6 intervention within thirty (30) days of initial publication or mailing of the notice, the
7 commission may take final action on the application.~~(e) That a corporation, association,~~
8 ~~or person may, within thirty (30) days after the initial publication or mailing of notice of~~
9 ~~the proposed rate change, submit a written request to intervene to the Public Service~~
10 ~~Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602,~~
11 ~~establishing the grounds for the request and including the status and interest of the~~
12 ~~party;~~

13 ~~(f) That a person may examine this application at the main offices of (the name of~~
14 ~~the utility) located at (the utility's address) and on the utility's Web site at (the utility's~~
15 ~~Web site address), if the utility maintains a public Web site; and~~

16 ~~(g) That the application and all documents filed with the Public Service~~
17 ~~Commission may be viewed and downloaded at the Public Service Commission's Web~~
18 ~~site at <http://psc.ky.gov/>.~~

19 ~~(4) Proof of notice. An applicant shall file with the commission no later than forty-~~
20 ~~five (45) days from the filed date of the application:~~

21 ~~(a) If its notice is published in a newspaper of general circulation in the~~
22 ~~applicant's service area, an affidavit from the publisher verifying the notice was~~

1 published, including the dates of the publication with an attached copy of the published
2 notice;

3 (b) If notice is published in a trade publication or newsletter going to all
4 customers, an affidavit from an authorized representative of the utility verifying the trade
5 publication or newsletter was mailed; or

6 (c) If the notice is mailed, an affidavit from an authorized representative of the
7 utility verifying the notice was mailed.

8 (5) If an applicant maintains a Web site, the applicant shall:

9 (a) Post on its Web site within seven (7) days of the filed date of the application:

10 1. A notice containing the information provided in the written notice to its
11 customers; and

12 2. A hyperlink to a copy of its application posted on the commission's Web site;
13 and

14 (b) Keep both items posted until the commission has finally determined the
15 utility's rates.]

16 Section 6. Except as provided in Section 8(2) of 807 KAR 5:001[~~13 of this~~
17 ~~administrative regulation~~], an applicant shall not be required to provide the commission
18 with advance notice of its intent to file an application for rate adjustment using the
19 procedure established in this administrative regulation.

20 Section 7. Effective Date of Proposed Rates. (1) An applicant shall not place the
21 proposed rates into effect until the commission has issued an order approving those
22 rates or six (6) months from the date of filing of its application, whichever occurs first.

1 (2) If the commission has not issued its order within six (6) months from the date
2 of filing of the application, the applicant may place its proposed rates in effect subject to
3 refund upon providing the commission with written notice of its intent to place the rates
4 into effect.

5 (3) The applicant shall maintain its records in a manner to enable it, or the
6 commission, to determine the amounts to be refunded and to whom is due a refund if
7 the commission orders a refund.

8 Section 8. Amendment of Proposed Rates. (1) Except when responding to the
9 findings set forth in a commission staff report filed in accordance with Section 11 of this
10 administrative regulation, an applicant shall not amend the proposed rates set forth in its
11 application unless the applicant:

12 (a) Files written notice of the proposed amendment with the commission; and

13 (b) Publishes notice of the amended proposed rates in the manner provided in
14 Section 5 of this administrative regulation.

15 (2) An applicant shall not place its amended proposed rates into effect until the
16 commission has issued an order approving those rates or six (6) months from the date
17 of filing of the written notice of proposed amendment, whichever occurs first.

18 (3) If the commission has not issued its order within six (6) months from the date
19 of filing of the notice of amended proposed rates, the applicant may place the amended
20 proposed rates in effect subject to refund upon providing the commission with written
21 notice of its intent to place the rates into effect but shall maintain its records in a manner
22 to enable it, or the commission, to determine the amounts to be refunded and to whom
23 is due a refund if the commission orders a refund.

1 Section 9. Test Period. The reasonableness of the proposed rates shall be
2 determined using a twelve (12) month historical test period, adjusted for known and
3 measureable changes, that coincides with the reporting period of the applicant's annual
4 report for the immediate past year.

5 Section 10[9]. Discovery. (1) The minimum discovery available to intervening
6 parties shall be as prescribed by this subsection.

7 (a) A party in the proceeding may serve written requests for information upon the
8 applicant within twenty-one (21) days of an order permitting that party to intervene in the
9 proceeding.

10 (b) Upon serving requests upon the applicant, the party shall file a copy of the
11 party's requests with the commission and serve a copy upon all other parties.

12 (c) Within twenty-one (21) days of service of timely requests for information from
13 a party, the applicant shall serve its written responses upon each party and shall file
14 with the commission one (1) original and five (5) copies.

15 (2) The commission may establish different arrangements for discovery if it finds
16 different arrangements are necessary to evaluate an application or to protect a party's
17 rights to due process.

18 Section 11[40]. Commission Staff Report. (1) Within thirty (30) days of the date
19 that an application is accepted for filing, the commission shall enter an order advising
20 the parties if commission staff will prepare a report on the application.

21 (2) If a commission staff report is prepared, the:

22 (a) Commission staff shall:

23 1. File the report with the commission; and

1 2. Serve a copy of the report on all parties of record; and

2 (b) Report shall contain the commission staff's findings and recommendations
3 regarding the proposed rates.

4 (3)(a) Each party shall file with the commission a written response to the
5 commission staff report within fourteen (14) days of the filing of the report.

6 (b) This written response shall contain:

7 1. All objections to and other comments on the findings and recommendations of
8 commission staff;

9 2. A request for hearing or informal conference, if applicable;

10 3. The reasons why a hearing or informal conference is necessary; and

11 4. If commission staff reports that the applicant's financial condition supports a
12 higher rate than the applicant proposed or recommends the assessment of an additional
13 rate or charge not proposed in the application, the filing party's position on if the
14 commission should authorize the assessment of the higher rate or the recommended
15 additional rate or charge.

16 (c) If a party's written response fails to contain an objection to a finding or
17 recommendation contained in the commission staff report, it shall be deemed to have
18 waived all objections to that finding or recommendation. A party's failure to request a
19 hearing or informal conference in the party's written response shall be deemed a waiver
20 of all rights to a hearing on the application and a request that the case stand submitted
21 for decision.

1 (d) If a party fails to file a written response with the commission within this time
2 period, it shall be deemed to have waived all objections to the findings and
3 recommendations contained in the report and all rights to a hearing on the application.

4 (e) Acceptance of the findings and recommendations contained in the
5 commission staff report by all parties in a proceeding shall not preclude the commission
6 from conducting a hearing on the application, taking evidence on the applicant's
7 financial operations, or ordering rates that differ from or conflict with the findings and
8 recommendations established in the commission staff report.

9 (f) If commission staff reports that the applicant's financial condition supports a
10 higher rate than the applicant proposed or commission staff recommends the
11 assessment of an additional rate or charge not proposed in the application and[the]
12 commission staff's proposed rates produce a total increase in revenues that exceeds
13 110 percent[in excess of 115 percent] of the total increase in revenues[revenue] that the
14 applicant's proposed rates will produce and the applicant amends its application to
15 request commission staff's proposed rates, the commission shall order the applicant to
16 provide notice of the finding or recommendation to its customers.

17 Section 12[14]. Notice of Hearing. (1) If the commission orders a hearing, the
18 applicant shall publish in a newspaper or mail to the applicant's customers notice of the
19 hearing.

20 (2) The notice shall state the purpose, time, place, and date of the hearing.

21 (3) Newspaper notice shall be published once in a newspaper of general
22 circulation in the applicant's service area no fewer than seven (7) and no more than
23 twenty-one (21) days prior to the hearing.

1 (4) Mailed notices shall be mailed at least fourteen (14) days prior to the date of
2 the hearing.

3 Section 13[142]. Utility Personnel Participation in Commission Proceedings. (1) An
4 authorized official or employee of the applicant who is not licensed to practice law in
5 Kentucky may, on behalf of an applicant that is a water district, corporation, partnership,
6 or limited liability company, file the application, responses to commission orders and
7 requests for information, as well as appear at conferences related to the application.

8 (2) An applicant that is a water district, corporation, partnership, or limited liability
9 company shall, at a hearing conducted on the application, be represented by an
10 attorney who is authorized to practice law in Kentucky.

11 Section 14. Filing Procedures. (1) Unless the commission orders otherwise or the
12 electronic filing procedures established in Section 8 of 807 KAR 5:001 are used, if a
13 document in paper medium is filed with the commission, five (5) additional copies in
14 paper medium shall also be filed.

15 (2) All documents filed with the commission shall conform to the requirements
16 established in this subsection.

17 (a) Form. Each filing shall be printed or typewritten, double spaced, and on one
18 (1) side of the page only.

19 (b) Size. Each filing shall be on eight and one-half (8 1/2) inches by eleven (11)
20 inches paper.

21 (c) Font. Except for ARF Form-1 and ARF Form-3, each filing shall be in type no
22 smaller than twelve (12) point, except footnotes, which may be in type no smaller than
23 ten (10) point.

1 (d) Binding. A side-bound or top-bound filing shall also include an identical
2 unbound copy.

3 (3) Except as provided for in Section 8 of 807 KAR 5:001, a filing made with the
4 commission outside its business hours shall be considered as filed on the commission's
5 next business day.

6 (4) A document submitted by facsimile transmission shall not be accepted.

7 Section 15[13]. Use of Electronic Filing Procedures in lieu of Submission of
8 Paper Documents.[(4)] Upon an applicant's[timely] election of the use of electronic filing
9 procedures within the time limits established in Section 8(2) of 807 KAR 5:001, the
10 procedures established in Section 8 of 807 KAR 5:001[this section] shall be used in lieu
11 of other filing procedures established in this administrative regulation.

12 ~~[(2) At least seven (7) days prior to the submission of its application, an applicant~~
13 ~~shall:~~

14 ~~(a) File with the commission written notice of the applicant's election using the~~
15 ~~ARF Form-2; and~~

16 ~~(b) If the applicant or its authorized agent does not have an account for electronic~~
17 ~~filing with the commission, register for an account at <http://psc.ky.gov/Account/Register>.~~

18 ~~(3) Each pleading, document, and exhibit shall be filed with the commission by~~
19 ~~uploading an electronic version of the document using the commission's E-Filing~~
20 ~~System at <http://psc.ky.gov>. In addition, the filing party shall file the original with the~~
21 ~~commission as required by subsection (11) of this section.~~

22 ~~(4) Each file in an electronic submission shall be:~~

23 ~~(a) In portable document format;~~

- 1 ~~(b) Search-capable;~~
- 2 ~~(c) Optimized for viewing over the Internet;~~
- 3 ~~(d) Bookmarked to distinguish sections of the pleading or document; and~~
- 4 ~~(e) If a scanned document, scanned at a resolution of no less than 300 dots per~~
- 5 ~~inch.~~

6 ~~(5)(a) Each electronic submission shall include an introductory file in portable~~
7 ~~document format that is named "Read1st" and that contains a:~~

- 8 ~~1. General description of the filing;~~
- 9 ~~2. List of all materials not included in the electronic filing; and~~
- 10 ~~3. Statement attesting that the electronically filed documents are a true~~
11 ~~representation of the original documents.~~

12 ~~(b) The "Read1st" file and any other document that normally contains a signature~~
13 ~~shall contain a signature in the electronically submitted document.~~

14 ~~(c) The electronic version of the cover letter accompanying the paper filing may~~
15 ~~be substituted for a general description.~~

16 ~~(d) If the electronic submission does not include all documents contained in the~~
17 ~~paper version, the absence of these documents shall be noted in the "Read1st"~~
18 ~~document.~~

19 ~~(6)(a) An electronic transmission or uploading session shall not exceed twenty~~
20 ~~(20) files.~~

21 ~~(b) An individual file shall not exceed fifty (50) megabytes.~~

1 ~~(c) If a filing party's submission exceeds the limitations established in paragraph~~
2 ~~(a) or (b) of this subsection, the filing party shall make its electronic submission in two~~
3 ~~(2) or more consecutive electronic transmission or uploading sessions.~~

4 ~~(7) If filing a document with the commission, the filing party shall certify that:~~

5 ~~(a) The electronic version of the filing is a true and accurate copy of each~~
6 ~~document filed in paper medium;~~

7 ~~(b) The electronic version of the filing has been transmitted to the commission;~~
8 ~~and~~

9 ~~(c) A copy of the filing in paper medium has been mailed to all parties that the~~
10 ~~commission has excused from participation by electronic means.~~

11 ~~(8)(a) Upon completion of a party's uploading of an electronic submission, the~~
12 ~~commission shall cause an electronic mail message to be sent to all parties of record~~
13 ~~advising that an electronic submission has been made to the commission.~~

14 ~~(b) Upon a party's receipt of this message, it shall be the receiving party's~~
15 ~~responsibility to access the commission's electronic file depository at <http://psc.ky.gov>~~
16 ~~and view or download a copy of the submission.~~

17 ~~(9) Unless a party states an objection to the use of electronic filing procedures in~~
18 ~~its motion for intervention, a party granted leave to intervene shall:~~

19 ~~(a) Be deemed to have consented to the use of electronic filing procedures and~~
20 ~~the service of all documents and pleadings, including orders of the commission, by~~
21 ~~electronic means; and~~

22 ~~(b) File with the commission within seven (7) days of the date of an order of the~~
23 ~~commission granting the party's intervention a written statement that:~~

1 ~~1. The party waives the right to service of commission orders by United States~~
2 ~~mail; and~~

3 ~~2. The party or the party's authorized agent, possesses the facilities to receive~~
4 ~~electronic transmissions.~~

5 ~~(10) If a party objects to the use of electronic filing procedures and if good cause~~
6 ~~exists to excuse that party from the use of electronic filing procedures, service of~~
7 ~~documents on that party and by that party shall be made in accordance with 807 KAR~~
8 ~~5:001, Section 4(8).~~

9 ~~(11)(a) A document shall be considered timely filed with the commission if the~~
10 ~~document:~~

11 ~~1. Has been successfully transmitted in electronic medium to the commission~~
12 ~~within the time allowed for filing and meets all other requirements established in this~~
13 ~~administrative regulation and an order of the commission; and~~

14 ~~2. Is filed, in paper medium at the commission's offices no later than the second~~
15 ~~business day following the electronic filing.~~

16 ~~(b) Each party shall attach to the top of the paper submission a paper copy of the~~
17 ~~electronic mail message from the commission confirming transmission and receipt of~~
18 ~~the party's electronic submission.~~

19 ~~(12) Except as expressly provided in this section, a party making a filing in~~
20 ~~accordance with the procedures established in this section shall not be required to~~
21 ~~comply with a provision of this administrative regulation that requires service of a~~
22 ~~document or material filed with the commission on other parties in the case.]~~

1 Section 16[44]. The provisions of 807 KAR 5:001, Sections 1 through 6, 8
2 through 11,~~[9, 10, 11,]~~ and 13, shall apply to commission proceedings involving
3 applications filed pursuant to this administrative regulation.

4 Section 17[45]. Upon a showing of good cause, the commission may permit
5 deviations from this administrative regulation. Requests for deviation shall be submitted
6 in writing by letter to the commission.

7 Section 18[46]. Incorporation by Reference. (1) The following material is
8 incorporated by reference:

9 (a) "Application for Rate Adjustment before the Public Service Commission", ARF
10 Form 1, September 2012; and

11 (b) [~~"Notice of Election of Use of Electronic Filing", ARF Form 2, September~~
12 ~~2011; and~~

13 ~~(c)~~ "Statement of Disclosure of Related Party Transactions", ARF Form 3,
14 September 2012.

15 (2) This material may be inspected, copied, or obtained, subject to applicable
16 copyright law at the commission's offices at 211 Sower Boulevard, Frankfort, Kentucky
17 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's
18 Web site at <http://psc.ky.gov/>.

David L. Armstrong, Chairman
Public Service Commission

DATE: _____

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 23, 2013, at 9:00 a.m., Eastern Daylight Time, at the Public Service Commission's office, 211 Sower Boulevard, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2013, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled.

This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until September 30, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Gerald E. Wuetcher
Executive Advisor/Attorney
Public Service Commission
211 Sower Boulevard
P. O. Box 615
Frankfort, Kentucky 40602
Tel: (502) 564-3940
Fax: (502) 564-3460
gerald.wuetcher@ky.gov

REGULATORY IMPACT ANALYSIS

Administrative Regulation #: 807 KAR 5:076

Contact Person: Gerald E. Wuetcher, Executive Advisor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides a simplified and less expensive procedure by which small utilities may apply to the commission for rate increases. A small utility may apply for rate adjustments using the formal procedure outlined in 807 KAR 5:001 or by using the procedure prescribed in this administrative regulation, which is intended to minimize the need for formal hearings, to reduce filing requirements, and to shorten the time period between application and commission order.

(b) The necessity of this administrative regulation: This regulation will assist the Public Service Commission in timely reviewing applications for rate adjustment, will reduce the expense of rate case proceedings, and is necessary to the Public Service Commission's authority to regulate the rates of small utilities. This regulation reflects reporting requirements to the governing bodies of counties that the recent enactment of KRS 65A.100 imposes upon water districts.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.030 permits utilities to demand and collect fair, just, and reasonable rates for services. KRS 278.040 confers exclusive jurisdiction on the Public Service Commission to regulate the rates and services of all utilities. KRS 278.160 requires all utilities to file their rate schedules with the Public Service Commission and to charge only rates that are filed with the Public Service Commission. KRS 278.180 - .192 provides a framework for utility rate adjustments. 807 KAR 5:076 permits a simplified and relatively inexpensive means for smaller utilities to obtain Public Service Commission approval of such adjustments and thus charge fair, just, and reasonable rates that reflect the actual cost of service.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides a more cost effective and simplified means for small utilities to apply for rate adjustments. It provides clear guidance to small utilities on the documents necessary for a rate adjustment and simplifies the procedures necessary for a rate adjustment. It reminds a water district that is adjusting its rates of its statutory obligation to advise the governing bodies of the counties in which it serves of its proposed rate adjustment in accordance with KRS 65A.100.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: It amends the regulation to clarify the actions that the applicant and the Commission must follow when an applicant amends the rates set forth in his application. It establishes rules for the contents and format of documents that are filed in a proceeding under 807 KAR 5:076. It eliminates the provisions related to electronic filing and instead references the Commission's rules of procedures and thus ensures a uniform set of rules for electronic filing in all Commission proceedings. It clarifies when an applicant must publish notice of his decision to accept Commission Staff-recommended rates that are higher than those the applicant originally requested.

(b) The necessity of the amendment to this administrative regulation: The amendment addresses technical issues arising from the amendment of 807 KAR 5:076 in 2012 and from the proposed amendment of 807 KAR 5:001 and 807 KAR 5:011. The amendment is necessary to correct drafting errors in the 2012 amendment and to reflect changes brought by the proposed amendment of 807 KAR 5:001 and 807 KAR 5:011. It is also necessary because the regulation did not contain filing procedures if an application was filed in paper medium and did not contain procedures for amending proposed rates.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.030 permits utilities to demand and collect fair, just, and reasonable rates for services. KRS 278.040 confers exclusive jurisdiction on the Public Service Commission to regulate the rates and services of all utilities. KRS 278.160 requires all utilities to file their rate schedules with the Public Service Commission and to charge only rates that are filed with the Public Service Commission. KRS 278.180 -.192 provides a framework for utility rate adjustments. 807 KAR 5:076 permits a simplified and relatively inexpensive means for smaller utilities to obtain Public Service Commission approval of such adjustments and thus charge fair, just, and reasonable rates that reflect the actual cost of service.

(d) How the amendment will assist in the effective administration of the statutes: The amendment seeks to reduce confusion among utilities regarding filing procedures and notice requirements by conforming those procedures to those in the Commission's Rules of Procedure. It clarifies the procedures to be used when filing for an alternative rate filing adjustment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment will affect 240 water, natural gas, and sewer utilities whose annual gross revenues are \$5 million or less and their customers.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action is necessary. The affected utilities may continue to use the rate filing procedures set forth in 807 KAR 5:001 in lieu of the alternative rate filing procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs to comply. The affected utilities may continue to use the rate filing procedures set forth in 807 KAR 5:001 in lieu of the alternative rate filing procedures.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment should enhance public awareness of utility rate adjustment applications made by small utilities. It provides greater certainty and stability in the ratemaking process that the Public Service Commission uses for small utilities.

(5) Provide an estimate of how much it will cost to the administrative body to implement this administrative regulation:

(a) Initially: Implementation of the proposed amendment will not involve additional costs.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary. No new fees or funding will be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? To the extent that the regulation establishes simplified procedures for utilities with annual revenues of less than \$5 million, tiering has been applied. The Public Service Commission believes that tiering is appropriate because the operations of smaller utilities are less complex, their recordkeeping practices are simpler, and the amount of documentary evidence to verify their financial operations is less than that of larger utilities. Moreover, given the smaller number of customers over which small utilities must spread rate case expense, the use of the same procedures as used for larger utilities will result in larger rate increases for smaller utilities.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No.: 807 KAR 5:076

Contact Person: Gerald Wuetcher
Phone Number: (502) 564-3940

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public Service Commission; Office of Attorney General (Utility Rate and Intervention Division); water districts

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 278.030 permits utilities to demand and collect fair, just, and reasonable rates for services. KRS 278.040 confers exclusive jurisdiction on the Public Service Commission to regulate the rates and services of all utilities. KRS 278.160 requires all utilities to file their rate schedules with the Public Service Commission and to charge only rates that are filed with the Public Service Commission. KRS 278.180 -.192 provides a framework for utility rate adjustments. 807 KAR 5:076 permits a simplified and relatively inexpensive means for smaller utilities to obtain Public Service Commission approval of such adjustments and thus charge fair, just, and reasonable rates that reflect the actual cost of service.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No direct increase in revenue will result from the adoption of the proposed amendment for any governmental agency. The proposed amendment does not provide for the Public Service Commission to assess any fee or charge.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No direct increase in revenue will result from the adoption of the proposed amendment for any governmental agency. The proposed amendment does not provide for the Public Service Commission to assess any fee or charge.

(c) How much will it cost to administer this program for the first year? No increase in the Public Service Commission's cost of reviewing applications for rate adjustment or otherwise regulate small public utilities is expected to result from the adoption of the proposed amendment. The Public Service Commission will be performing the same

level of review and require the same number of employees to conduct its review. No direct increase in costs will result from the adoption of proposed amendment for any governmental agency.

(d) How much will it cost to administer this program for subsequent years? No increase in the Public Service Commission's cost of reviewing applications for rate adjustment or otherwise regulate small public utilities is expected to result from the adoption of the proposed amendment. The Public Service Commission will be performing the same level of review and require the same number of employees to conduct its review. No direct increase in costs will result from the adoption of proposed amendment for any governmental agency.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: