

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amendment)

4 807 KAR 5:068. Purchased water adjustment for water districts and water associations.

5 RELATES TO: KRS 65.810, Chapter 74, 278.010, 278.012, 278.015

6 STATUTORY AUTHORITY: KRS 278.012, 278.015, 278.030(1), 278.040(3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.030(1) requires that all  
8 rates charged by a utility subject to the jurisdiction of the Public Service Commission  
9 shall be fair, just, and reasonable. This administrative regulation prescribes the  
10 requirements under which a water district or a water association may implement a  
11 purchased water adjustment to recover the cost of water purchased.

12 Section 1. Definitions. (1) "Application" means:

13 (a) A completed Purchased Water Adjustment Form 1;

14 (b) A schedule listing current and proposed rates;

15 (c) A copy of the supplier's notice showing a change in supplier's base rate;

16 (d) The calculation and all supporting documents used to determine the change  
17 in purchased water costs sufficient to determine the accuracy of the calculation; and

18 (e) A copy of the resolution or other document of the utility's governing body  
19 authorizing the proposed rates[; ~~and~~

20 (f) ~~If the applicant is a water district and proposes to increase any of its rates for~~  
21 ~~service, a statement from an authorized official of the district indicating the date its~~

1 ~~proposed rate adjustment was reported to the governing body of the county in which the~~  
2 ~~largest number of its customers reside and the date it presented testimony, or is~~  
3 ~~scheduled to present testimony, to that governing body].~~

4 (2) "Changed rate" means the rate of a utility's supplier after the most recent  
5 increase or decrease in the supplier's base rate.

6 (3) "Commission" is defined by KRS 278.010(15).

7 (4) "Person" is defined by KRS 278.010(2).

8 (5) "Supplier's base rate" means the rate of a utility's supplier in effect  
9 immediately prior to the most recent increase or decrease.

10 (6) "Tariff" means the schedules of a utility's rates, charges, regulations, rules,  
11 tolls, terms, and conditions of service over which the commission has jurisdiction.

12 (7) "Utility" means:

13 (a) A water association formed as a non-profit corporation, association, or  
14 cooperative corporation having as its purpose the furnishing of water service; or

15 (b) A water district formed pursuant to KRS 65.810 and KRS Chapter 74.

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

18 Section 2. Change in Supplier's Base Rate. (1) Upon an increase in its supplier's  
19 base rate, a utility may, without prior commission approval, increase each of its rate  
20 schedules by a purchased water adjustment factor determined in accordance with  
21 Section 3 of this administrative regulation to pass through its increased purchased water  
22 costs to its customers on a per unit basis regardless of customer classification.

1 (2) Upon a decrease in the supplier's base rate, a utility that has previously  
2 revised its rates pursuant to this administrative regulation shall decrease each of its rate  
3 schedules by a purchased water adjustment factor determined in accordance with  
4 Section 3 of this administrative regulation to pass through its decreased purchased  
5 water costs on a per unit basis regardless of customer classification.

6 Section 3. Purchased Water Adjustment Factor. (1) The purchased water  
7 adjustment factor to adjust a utility's rate to reflect a change in the utility's base rate  
8 shall be determined using the following formula:

9

$$\text{PWA Adjustment Factor} = \frac{(\text{Changed Rate} \times \text{Total Utility Water Purchases}) - (\text{Base Rate} \times \text{Total Utility Water Purchases})}{\text{Total Utility Water Sales}}$$

10

11 (2) The purchased water adjustment factor shall be expressed in cents per  
12 gallons or cubic feet, depending upon the unit of measure that the utility bases its  
13 customers' bills.

14 (3) Total utility water purchases shall be determined based upon the level of  
15 water purchases for a period of twelve (12) consecutive months ending within ninety  
16 (90) days immediately prior to the effective date of the utility rate adjustment month  
17 period.

18 (4) Total utility water sales shall be determined based upon the level of water  
19 sales for a period of twelve (12) consecutive months ending within ninety (90) days  
20 immediately prior to the effective date of the utility rate adjustment month period. If the  
21 utility bases its customer billings on a flat rate in lieu of a volumetric rate, the total  
22 number of customers or residential equivalents billed for the period shall be used.

1 (5) The same twelve (12) month period shall be used to determine total utility  
2 water purchases and total water utility sales.

3 Section 4. Submitting the Purchased Water Adjustment Application. (1) A utility  
4 adjusting its rates pursuant to this administrative regulation shall submit an application  
5 to the commission.

6 (2) The application shall be submitted:

7 (a) In accordance with 807 KAR 5:001, Sections 7 and 8; and

8 (b) No earlier than thirty (30) days prior to the proposed effective date of the  
9 supplier's changed rate and no later than twenty (20) days after the utility, without prior  
10 commission approval, adjusts its rates to reflect the change in its purchased water costs  
11 due to the supplier's changed rate.

12 Section 5. Notice. Upon filing an application for a purchased water adjustment  
13 resulting from a supplier's increased rate, a utility shall provide notice as follows:

14 (1) Public postings.

15 (a) A utility shall post at its place of business a copy of the notice no later than  
16 the date the application is submitted to the commission or the date the utility adjusts its  
17 rates, whichever occurs first.

18 (b) A utility that maintains a Web site shall, within five (5) business days of the  
19 date the application is submitted to the commission or the date the utility adjusts its  
20 rates, whichever occurs first, post on its Web sites:

21 1. A copy of the public notice; and

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

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

3 (2) Customer Notice.

4 (a) If a utility has twenty (20) or fewer customers, it shall mail a written notice to  
5 each customer no later than the issuance of the first bill at the increased rate.

6 (b) If a utility has more than twenty (20) customers, it shall provide notice by:

7 1. Including notice with customer bills mailed no later than the issuance of the  
8 first bill at the increased rate;

9 2. Mailing a written notice to each customer no later than the issuance of the first  
10 bill at the increased rate; or

11 3. Publishing notice one (1) time in a prominent manner in a newspaper of  
12 general circulation in the utility's service area no later than the issuance of the first bill at  
13 the increased rate.

14 (c) A utility that provides service in more than one (1) county may use a  
15 combination of the notice methods listed in paragraph (b) of this subsection.

16 (3) Proof of Notice. A utility shall file with the commission no later than thirty (30)  
17 days from the date of the commission's order approving an adjustment to the utility's  
18 rates pursuant to this administrative regulation:

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

1 (b) If notice is published in a newspaper of general circulation in the utility's  
2 service area, an affidavit from the publisher verifying the contents of the notice, that the  
3 notice was published, and the date of the notice's publication.

4 (4) Notice Content. Each notice issued in accordance with this section shall  
5 contain:

6 (a) The effective date;

7 (b) The present rates and proposed rates for each customer classification to  
8 which the proposed rates will apply;

9 (c) The amount of the change requested in both dollar amounts and percentage  
10 change for each customer classification to which the proposed rates will apply;

11 (d) The amount of the average usage and the effect upon the average bill for  
12 each customer classification to which the proposed rates will apply;

13 (e) A statement that a person may examine this application at the offices of  
14 (utility name) located at (utility address); and

15 (f) A statement that a person may examine this application at the commission's  
16 offices located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday,  
17 8:00 a.m. to 4:30 p.m., or through the commission's Web site at <http://psc.ky.gov>.

18 Section 6. Orders of the Commission. (1) Within thirty (30) days of the  
19 submission of an application in accordance with this administrative regulation, the  
20 commission shall enter its order approving the proposed rates or establishing revised  
21 rates.

1 (2) Within twenty (20) days of the date of the commission's order, the utility shall  
2 submit its revised tariff sheet in accordance with 807 KAR 5:011 establishing the rates  
3 approved by the commission.

4 (3) If the utility publishes notice of the proposed rates and the commission enters  
5 an order requiring different rates, the utility shall publish notice of the commission  
6 ordered rates in the manner prescribed in Section 5(2) of this administrative regulation.

7 Section 7. Refund from a Supplier. (1) A utility that receives a refund from its  
8 supplier for previously paid for water service due to a reduction in the supplier's rate  
9 shall notify the commission in writing of this refund within twenty (20) days of receipt of  
10 the refund and shall distribute the refund to its customers by reducing each of its rate  
11 schedules by a refund factor determined in accordance with subsection (2) of this  
12 section. The notice to the commission shall include:

- 13 (a) A description of the circumstances surrounding the refund;
- 14 (b) A schedule showing the calculation of the refund factor;
- 15 (c) A copy of the supplier's notice of the refund; and
- 16 (d) All supporting documents used to determine the refund factor in detail  
17 sufficient to determine the accuracy of the calculation.

18 (2) Refund factor. (a) The refund factor shall be determined using the following  
19 formula:

20

$$\text{Refund Factor} = \frac{\text{Refund Amount}}{\text{Estimated Total Utility Water Sales}}$$

21

1 (b) The refund factor shall be expressed in cents per gallons or cubic feet,  
2 depending upon the unit of measure that the utility bases its customers' bills.

3 (c) Estimated total utility water sales shall be determined based upon the  
4 estimated level of water sales for the two (2) month period beginning the first day of the  
5 month following the utility's receipt of the refund. If the utility bases its customer billings  
6 on a flat rate in lieu of a volumetric rate, the estimated total number of customers or  
7 residential equivalents billed for the period shall be used.

8 (3) Effective with meter readings taken on and after the first day of the second  
9 month following receipt of the refund, the utility shall reduce each of its rate schedules  
10 by the refund factor upon calculating customer bills for the next two (2) billing periods.

11 (4) If the commission determines that the utility has inaccurately calculated the  
12 refund, the commission shall direct the utility to make revisions to the utility's refund  
13 plan.

14 Section 8. Deviations from Rules. In special cases, for good cause shown, the  
15 commission shall permit deviations from this administrative regulation.

16 Section 9. Incorporation by Reference. (1) "Purchased Water Adjustment Form  
17 1", Purchased Water Adjustment for Water Districts and Associations, July 2013, is  
18 incorporated by reference.

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



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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 Tuesday, July 22, 2014, 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 Tuesday July 15, 2014, 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 Thursday, July 31, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Stephanie Bell  
Deputy Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602  
Tel: (502) 564-3940  
Fax: (502) 564-3460  
Stephanie.Bell@ky.gov

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation Number: 807 KAR 5:068

Contact Person: Stephanie Bell  
Deputy Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the rules and guidelines for water districts and water associations to pass its purchased water costs through to its customers.

(b) The necessity of this administrative regulation: This regulation is necessary to provide a timely and simplified method for a water district or water association to adjust its rates in accordance with a rate adjustment from its wholesale water supplier.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It provides a cost effective and timely method for a water district or water association to pass through changes in costs of the water it purchases.

(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: The amendment eliminates the requirement for water districts requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with HB 192 which was became law during the 2014 legislative session.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.040(3) authorizes the Commission to adopt reasonable regulations to implement the provisions of KRS Chapter 278. This amendment eliminates the requirement for water districts requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(d) How the amendment will assist in the effective administration of the statutes: The amendment benefits water districts by eliminating the requirement to present testimony or be scheduled to present testimony to its governing body when requesting

fee increases.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment will affect water districts that purchase water from a wholesale provider.

(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 additional actions are required. This amendment eliminates a requirement for the water district when requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not costs to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Water Districts seeking fee increases are no longer required to present or schedule to present testimony to its governing body.

(5) Provide an estimate of how much it will cost 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 or will be required.

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

(9) TIERING: Is tiering applied? No. Tiering is not applicable.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 807 KAR 5:068

Contact Person: Stephanie Bell

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 278.040(3) authorizes the commission to promulgate administrative regulations.

(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 purchased water adjustment applications 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.

(d) How much will it cost to administer this program for subsequent years? No increase in the Public Service Commission's cost of reviewing purchased water adjustment applications 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.

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: