

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amendment)

4 807 KAR 5:075. Treated sewage adjustment for water districts and water associations.

5 RELATES TO: KRS 65.810, Chapter 74, 278.010, 278.012, 278.015, 278.030,  
6 278.040

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

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

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

14 (a) A completed Treated Sewage Adjustment Form 1;

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

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

17 (d) The calculation and all supporting documents used to determine the change  
18 in treated sewage costs sufficient to determine the accuracy of the calculation; and

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

1           ~~(f) If the applicant is a water district and proposes to increase any of its rates for~~  
2 ~~service, a statement from an authorized official of the district indicating the date its~~  
3 ~~proposed rate adjustment was reported to the governing body of the county in which the~~  
4 ~~largest number of its customers resides and the date it presented testimony, or is~~  
5 ~~scheduled to present testimony, to that governing body].~~

6           (2) "Changed rate" means the rate of a utility's provider after the most recent  
7 increase or decrease in the provider's base rate.

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

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

10          (5) "Provider's base rate" means the rate of a utility's provider in effect  
11 immediately prior to the most recent increase or decrease.

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

14          (7) "Utility" means:

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

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

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

20          Section 2. Change in Provider's Base Rate. (1) Upon an increase in its provider's  
21 base rate, a utility may, without prior commission approval, increase each of its rate  
22 schedules by a treated sewage adjustment factor determined in accordance with

1 Section 3 of this administrative regulation to pass through its increased treated sewage  
2 costs to its customers on a per unit basis regardless of customer classification.

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

8 Section 3. Treated Sewage Adjustment Factor. (1) The treated sewage  
9 adjustment factor to adjust a utility's rate to reflect a change in the utility's base rate  
10 shall be determined using the following formula:

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

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

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

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

3 Section 4. Submitting the Treated Sewage 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 provider'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 treated sewage costs  
11 due to the provider's changed rate.

12 Section 5. Notice. Upon filing an application for a treated sewage adjustment  
13 resulting from a provider'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. (a) If a utility has twenty (20) or fewer customers, it shall  
4 mail a written notice to each customer no later than the issuance of the first bill at the  
5 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;

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; or

14 4. Publishing notice in a trade publication or newsletter delivered to all customers  
15 no later than the issuance of the first bill at the increased rate.

16 (c) A utility that provides service in more than one (1) county may use a  
17 combination of the notice methods listed in paragraph (b) of this subsection~~[A utility~~  
18 ~~shall mail a written notice to each customer no later than the issuance of the first bill at~~  
19 ~~the increased rate].~~

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

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

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

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

9           (a) The effective date;

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

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

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

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

18           (f) A statement that a person may examine this application at the commission's  
19 offices located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday,  
20 8:00 a.m. to 4:30 p.m., or through the commission's Web site at <http://psc.ky.gov>.

21           Section 6. Orders of the Commission. (1) Within thirty (30) days of the  
22 submission of an application in accordance with this administrative regulation, the

1 commission shall enter its order approving the proposed rates or establishing revised  
2 rates.

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

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

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

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

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

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

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 customer 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 when 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) "Treated Sewage Adjustment Form 1",  
17 Treated Sewage 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 5:075

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 that provide sewage service to pass through to its customers the cost it pays another entity to treat its customer's sewage.

(b) The necessity of this administrative regulation: This regulation is necessary to provide a timely and simplified method for water districts and water associations that provide sewage service to adjust its rates to pass through to its customers the cost it pays another entity to treat its customer's sewage.

(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 and water association that provides sewage service to adjust its rates to pass through to its customers changes in costs it pays another entity to treat its customer's sewage.

(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 that sewage utilities mail customer notices. The amendment also 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 SB 123 and HB 192 which became law during the 2014 legislative session.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 278.030(1) provides that all rates charged by a utility subject to the jurisdiction of the Public Service Commission shall be fair, just, and reasonable. This amendment prescribes the requirements under which a water district or a water association may implement a treated sewage adjustment designed to recover the actual costs of treated

sewage.

(d) How the amendment will assist in the effective administration of the statutes: The amendment benefits sewage utilities by eliminating the requirement that it mail customer notices. Water districts no longer have 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 proposed amendment will affect water districts and water associations providing sewage service that pay another entity to treat its customer's sewage.

(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: This regulation does not require any additional action by the regulated entities identified in question 3.

(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.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Sewage utilities are no longer required to mail customer notices. 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: The 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 5:075

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; sewer 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 treated sewage adjustment applications is expected to result from 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 treated sewage adjustment applications is expected to result from the adoption of this administrative regulation. 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: