

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amendment)

4 807 KAR 5:120. Applications for certificate of public convenience and necessity for  
5 certain electric transmission lines.

6 RELATES TO: KRS 278.020(2), (8)

7 STATUTORY AUTHORITY: KRS 278.040(3)

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the  
9 commission to promulgate reasonable administrative regulations to implement the  
10 provisions of KRS Chapter 278. KRS 278.020(2) provides that a certificate of public  
11 convenience and necessity must be obtained prior to construction of an electric  
12 transmission line of 138 kilovolts or more and of more than 5,280 feet in length. KRS  
13 278.020(8) includes "a person over whose property the proposed transmission line will  
14 cross" among those persons who are an "interested party" who may move to intervene  
15 in the proceeding. This administrative regulation establishes procedures and minimum  
16 filing requirements for an application to construct an electric transmission line of 138  
17 kilovolts or more and of more than 5,280 feet in length.

18 Section 1. Notice of Intent to File Application. (1) At least thirty (30) days but no  
19 more than six (6) months prior to filing an application to construct an electric  
20 transmission line of 138 kilovolts or more and of more than 5,280 feet in length, an  
21 applicant shall file with the commission a notice of intent to file application. If an

1 applicant fails to file an application within six (6) months of the filing of such a notice, the  
2 notice shall automatically expire without further notice to the applicant.

3 (2) A notice of intent to file application shall include:

4 (a) The name, address, ~~and~~ telephone number, and electronic mail address of the  
5 utility that intends to file the application;

6 (b) A description of the proposed construction that will be the subject of the  
7 application; and

8 (c) The name of the county or counties in which the construction will be proposed.

9 Section 2. Application. To apply for a certificate of public convenience and  
10 necessity to construct an electric transmission line of 138 kilovolts or more and more  
11 than 5,280 feet, a utility shall file with the commission the following:

12 (1) All documents and information required by:

13 (a) 807 KAR 5:001, Section 14, except that the applicant shall file the original and  
14 six (6) copies of the application; and

15 (b) 807 KAR 5:001, Section 15(2)(a) through (c) and (e) through (f) ~~[(g)]~~;

16 (2) Three (3) maps of suitable scale, but no less than one (1) inch equals 1,000 feet  
17 for the project proposed. The map detail shall show the location of the proposed  
18 transmission line centerline and right of way, and boundaries of each property crossed  
19 by the transmission line right of way as indicated on the property valuation  
20 administrator's maps, modified as required. Sketches of proposed typical transmission  
21 line support structures shall also be provided. A separate map of the same scale shall  
22 show any alternative routes that were considered;

1 (3) A verified statement that, according to county property valuation administrator  
2 records, each property owner over whose property the transmission line right-of-way is  
3 proposed to cross has been sent by first-class mail, addressed to the property owner at  
4 the owner's address as indicated by the county property valuation administrator records,  
5 or hand delivered:

6 (a) Notice of the proposed construction;

7 (b) The commission docket number under which the application will be processed  
8 and a map showing the proposed route of the line;

9 (c) The address and telephone number of the executive director of the commission;

10 (d) A description of his or her rights to request a local public hearing and to request  
11 to intervene in the case; and

12 (e) A description of the project;

13 (4) A sample copy of each notice provided to a property owner, pursuant to the  
14 preceding paragraph, and a list of the names and addresses of the property owners to  
15 whom the notice has been sent.

16 (5) A statement that a notice of the intent to construct the proposed transmission  
17 line has been published in a newspaper of general circulation in the county or counties  
18 in which the construction is proposed, which notice included:

19 (a) A map showing the proposed route;

20 (b) A statement of the right to request a local public hearing; and

21 (c) A statement that interested persons have the right to request to intervene;

22 (6) A copy of the newspaper notice described in subsection 5 of this section; and

1 (7) A statement as to whether the project involves sufficient capital outlay to  
2 materially affect the existing financial condition of the utility involved.

3 Section 3. Local Public Hearing. (1) Any interested person under KRS 278.020(8)  
4 may request that a local public hearing be held by sending a written request complying  
5 with subsections (2) and (3) of this section to the Executive Director, Public Service  
6 Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602. This  
7 hearing shall be requested no later than thirty (30) days after filing of an application for a  
8 certificate of public convenience and necessity.

9 (2) A request for a local public hearing shall contain:

10 (a) The docket number of the case to which the request refers;

11 (b) The name, address, and telephone number of the person requesting the hearing;

12 and

13 (c) A statement as to whether the person requesting the hearing wishes to  
14 participate in an evidentiary hearing or to make unsworn public comment.

15 (3) If a person requesting a local public hearing wishes to participate in an  
16 evidentiary hearing as well, that person shall also apply to intervene in the commission  
17 proceeding on the application pursuant to 807 KAR 5:001, Section 4(11).

18 (4) At least five (5) days before the date established by the commission for a local  
19 public hearing, the applicant shall submit to the commission proof that it has given the  
20 general public notice of the hearing in a newspaper of general circulation in the county  
21 or counties in which the construction is proposed.

22 Section 4. Deviation from Rules. The provisions of 807 KAR 5:001, Section 22 [24]  
23 apply to applications filed under this administrative regulation, except that the

- 1 commission shall not permit a deviation from the requirements of this administrative
- 2 regulation unless the commission finds that failure to permit the deviation will adversely
- 3 affect utility rates or service.

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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 5:120

Contact Person: Stephanie Bell  
Deputy Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures related to applications, filings, notice requirements, and hearings before the Public Service Commission.

(b) The necessity of this administrative regulation: This administrative regulation establishes the procedural rules and minimum filing requirements for an application to construct an electric transmission line of 138 kilovolts or more and of more than 5,280 feet in length.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the procedural rules necessary to implement the authorizing statutes, KRS 278.020(2) and 278.020(8).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets forth the rules of procedure that utilities and the Public Service Commission must follow.

(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 proposed amendment will add the requirement of including an electronic mailing address to the notice of intent and will delete a requirement to what should be included in an application for a certificate of public convenience and necessity to construct an electric transmission line.

(b) The necessity of the amendment to this administrative regulation: The proposed amendment allows the regulation to conform to changes in 807 KAR 5:001 as well as recent revisions to KRS 278.380, which changed the method of delivery of the commission's orders from United States mail to electronic transmission.

(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. KRS 278.020(2) provides that a certificate of public convenience and necessity must be obtained prior to construction of an electric transmission line that is 138 kilovolts or more and more than 5,280 feet in length. KRS



278.020(8) includes a person whose property the proposed electric transmission line will cross among those persons who are an interested party who may move to intervene in the proceeding.

(d) How the amendment will assist in the effective administration of the statutes: This amendment provides more guidance to utilities in regards to proceedings before the Commission and conforms the regulation to recent changes in KRS 278.380 and 807 KAR 5:001.

(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 all electric utilities who intend to construct an electric transmission line of 138 kilovolts or more and of more than 5,280 feet in length.

(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: In filing its notice of intent, an electric utility will be responsible for providing the Commission with its electronic mail address.

(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 additional costs to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The amendment provides clarity regarding proceedings before the Commission.

(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 5:120

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).

(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 adopt reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.020(2) provides that a certificate of public convenience and necessity must be obtained prior to construction of an electric transmission line that is 138 kilovolts or more and more than 5,280 feet in length. KRS 278.020(8) includes a person whose property the proposed electric transmission line will cross among those persons who are an interested party who may move to intervene in the proceeding.

(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 amendments for any governmental agency. The proposed amendments do 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? There should be no increase in the Public Service Commission's cost of operations related to the revision of the administrative regulation for the first year. The Public Service Commission will continue 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? There should be no increase in the Public Service Commission's cost of operations related to the revision of the administrative regulation for subsequent years. The Public Service Commission will continue 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: