

From: [Damon Talley](#)
To: [Wuetcher, Jerry \(PSC\)](#)
Subject: KRWA Comments to Amended Regs
Date: Monday, September 30, 2013 10:44:02 AM
Attachments: [KRWA Comments 9-30-13.docx](#)

Hon. Gerald Wuetcher
Kentucky Public Service Commission
PO Box 615
Frankfort, KY 40602-0615

RE: KRWA Comments

Dear Jerry,

Attached are the written comments of KRWA concerning the proposed amendments to 807 KAR 5:001, 5:069, and 5:076.

KRWA and its member utilities sincerely appreciate the opportunity to participate as one of the stakeholders throughout the amendment process.

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**WRITTEN COMMENTS OF
KENTUCKY RURAL WATER ASSOCIATION
RE: PROPOSED REVISIONS TO 807 KAR 5:001, 5:069, and 5:076**

The Kentucky Rural Water Association, Inc. (KRWA) submits these comments concerning the proposed amendments to existing Commission Regulations: 807 KAR 5:001 (Rules of Procedure); 807 KAR 5:069 (Filing Requirements for Federally Funded Construction Projects); and 807 KAR 5:076 (Alternative Rate Adjustment Procedure for Small Utilities). Some of these comments are specific in nature and some are general comments. The specific comments are listed first. The general comments are listed last.

SPECIFIC SUGGESTIONS

A. 807 KAR 5:001 - Rules of Procedure

- 1. Section 1(12), line 19:** After the word “utility”, insert “, except a water district or water association,”.

Rationale: This makes it clear that neither a water district nor a water association are deemed to be a “sewage utility”. Apparently, the Commission is using the new term “sewage utility” as synonymous with the term “sewerage corporation” contained in KRS 278.185. KRWA asserts that neither a water district nor a water association is a “sewerage corporation” within the meaning of KRS 278.185.

2. **Section 12(1)(b), lines 15-19:** KRWA concurs with the proposed language.

Rationale: By “tiering” the Financial Exhibit requirements based on gross annual revenues of \$5,000,000, the Commission will eliminate approximately 90% of motions for deviation from the requirement that financial statements be current within 90 days. Historically, most of these motions for deviation have been filed by utilities with gross annual revenues of less than \$5,000,000.

3. **Section 17(2)(a), line 21:** If the definition of “sewage utility” is modified as requested by KRWA, then no change needs to be made to this provision. If, however, the Commission does not accept KRWA’s recommendation, then after the word “utility” in line 21, insert “other than a water district or a water association”.

Rationale: KRWA asserts that neither a water district nor a water association is a “sewerage corporation” within the meaning of KRS 278.185. Therefore, a water district or a water association, which provides wastewater service and is seeking a rate adjustment, should not be required to provide written notice to all its wastewater customers. KRS 278.185 requires “sewerage corporations” which are seeking rate adjustments to provide written notice, not published notice, to all their customers. This statute does not define a “sewerage corporation”. The definition proposed by the Commission is overly broad and should not include a water district or a water association.

4. **Section 17(2)(b), line 1:** If the definition of “sewage utility” is modified as requested by KRWA, then no change needs to be made to this provision. If, however, the Commission does not accept KRWA’s recommendation, then after the word “utility” in line 1, insert “other than a water district or a water association”.

Rationale: See Rationale contained immediately above in Item #3.

5. **Section 17: Notice of General Rate Adjustment:** Other than the two (2) specific objections shown above under Items #3 & 4, KRWA is pleased with the overall content of Section 17 pertaining to Notice of a General Rate Adjustment.

Rationale: The proposed regulation affords a full menu of choices for providing customer notice. Subsection (2)(c) of this section will be extremely useful for utilities who provide service to multiple counties, but only serve a few customers in a particular county.

B. 807 KAR 5:069 - Filing Requirements for Federally Funded Construction Projects

- 1. General Comments:** KRWA concurs with the proposed language in this amended regulation.

Rationale: The Commission has appropriately addressed the concerns that KRWA and its member utilities had with prior drafts of this amended regulation. KRWA commends the Commission for being sensitive and responsive to these concerns.

C. 807 KAR 5:076 – Alternative Rate Adjustment Procedure for Small Utilities

- 1. Section 1(5), line 8:** After the word “utility”, insert “, except a water district or water association,”.

Rationale: This makes it clear that neither a water district nor a water association are deemed to be a “sewage utility”. Apparently, the Commission is using the new term “sewage utility” as synonymous with the term “sewerage corporation” contained in KRS 278.185.

- 2. Section 5(2)(a), lines 18-20:** If the definition of “sewage utility” is modified as requested by KRWA, then no change needs to be made to this provision. If, however, the Commission does not accept KRWA’s recommendation, then after the word “utility” in line 18, insert “other than a water district or a water association”.

Rationale: KRWA asserts that neither a water district nor a water association is a “sewerage corporation” within the meaning of KRS 278.185. Therefore, a water district or a water association, which provides wastewater service and is seeking a rate adjustment, should not be required to provide written notice to all its wastewater customers. KRS 278.185 requires “sewerage corporations” which are seeking rate adjustments to provide written notice, not published notice, to all their

customers. This statute does not define a “sewerage corporation”. The definition proposed by the Commission is overly broad and should not include a water district or a water association.

3. **Section 5(2)(b), lines 21-22:** If the definition of “sewage utility” is modified as requested by KRWA, then no change needs to be made to this provision. If, however, the Commission does not accept KRWA’s recommendation, then after the word “utility” in line 21, insert “other than a water district or a water association”.

Rationale: See Rationale contained immediately above in Item #2.

4. **Section 5(2)(c), lines 11-13:** See Items #1 and #2 immediately above.

Rationale: See Rationale contained immediately above in Item #2.

5. **Section 11(3)(f), line 13:** After the words “110 percent”, insert “or \$10,000, whichever is greater,”

Rationale: A de minimus provision should be included to prevent a utility from having to provide additional notice to its customers if the recommended revenue increase is more than 10% but less than \$10,000. For example, if the utility is seeking a revenue increase of \$50,000 and Commission Staff recommends a revenue increase of \$57,500 (\$7,500 or 15% more than requested), no additional notice should be required. This provision will prevent a utility from having to provide additional notice unless the increased revenue amount is at least \$10,000.

6. **Section 18(a). ARF Form 1:** This section incorporates ARF Form 1 dated September 2012. ARF Form 1 needs to be updated to conform to the provisions of Section 4(1)(i) of this regulation pertaining to House Bill 1.

Rationale: The current version of ARF Form 1 is inconsistent with the amended regulation. The existing ARF Form 1 does **not** contain any language concerning compliance with the provisions of House Bill 1. KRWA is concerned that some of its members will simply complete ARF Form 1 and its checklist and will not closely review the requirements of 807 KAR 5:076. Therefore, the Commission should update and revise ARF Form 1 so that it is consistent with the amended regulation.

GENERAL COMMENTS

KRWA is very pleased that many of the changes that were made to the other Commission Administrative Regulations in 2012 have been incorporated into the proposed amendments to 807 KAR 5:001, 807 KAR 5:069, and 807 KAR 5:076. In particular, KRWA commends the Commission for utilizing, to the extent possible, the same Notice provisions and options for providing public notice throughout all its Administrative Regulations. Also, KRWA commends the Commission for deleting the requirements that a water association or a corporate utility be required to file its Articles of Incorporation. This document is readily available to the Commission by accessing the Secretary of State's website.

CONCLUSION

KRWA appreciates the opportunity to participate as a stakeholder in the process of revising and improving existing Commission Regulations, including: 807 KAR 5:001 (Rules of Procedure); 807 KAR 5:069 (Filing Requirements for Federally Funded Construction Projects); and 807 KAR 5:076 (Alternative Rate Adjustment Procedure for Small Utilities). KRWA believes that participation by KRWA and other stakeholders in this process was a positive influence and improved the final result.