

807 KAR 5:031. Gas well determinations.

RELATES TO: KRS Chapter 278

STATUTORY AUTHORITY: KRS 278.010(4)(b), 278.040(3), 278.110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.010(4)(b) and 278.040 subject the production of natural or manufactured gas, or a mixture of the two (2), to or for the public for compensation, for heat or other uses, to jurisdiction and administrative regulation of the Public Service Commission. The federal Natural Gas Policy Act of 1978, effective December 1, 1978, sets forth and defines certain classifications of natural gas to which are assigned maximum lawful prices that may be obtained by gas producers. The Act further provides that the appropriate state regulatory agency shall make determinations as to the applicability of statutorily defined classifications to particular gas wells within that state. These determinations shall be forwarded to the Federal Energy Regulatory Commission for final determination.

Section 1. Definitions. "FERC" means the Federal Energy Regulatory Commission.

Section 2. Applications for Determinations. (1) Any owner or operator of a well producing natural gas within this state may obtain a determination as to whether such well qualifies for one or more of the classifications set forth in sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978 by making application to the Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

(2) Each application shall be on forms prescribed by the commission, filed in duplicate and include the following:

(a) A completed Federal Energy Regulatory Commission (FERC) Form Number 121;

(b) All information, records, documents, notices and affirmations required by 18 Code of Federal Regulations (CFR) Part 274, subpart B;

(c) Any other information, record, document, or affirmation necessary to substantiate and support the determination sought;

(d) Nonrefundable cash, a check or a United States Postal Money Order in the amount of fifty (50) dollars made payable to the Treasurer, Commonwealth of Kentucky.

(3) Application forms shall be available upon request to the commission.

Section 3. General Requirements. (1) An applicant shall not be limited to one (1) determination per well, but may obtain all determinations to which a given well is entitled pursuant to the Natural Gas Policy Act of 1978.

(2) A separate application shall be completed for each determination sought.

(3) If an application is filed by an individual, the application shall be signed by that person, or in the case of a minor or other legally disabled person, his qualified legal representative. If the application is filed by a corporation, partnership or trust, the application shall be signed by a responsible official or legal representative of the corporation, a general partner of the partnership or the trustee of the trust. When application is made by any other legal entity, the operator of the well may sign the application.

(4) An operator under a joint operating agreement may sign an application for a well covered by the operating agreement if notice of application is given by the operator to all other parties to the joint operation agreement and that fact is certified in the application.

(5) Where an application for a determination is sought for natural gas for which the applicant has an identified purchaser, the application shall include a statement that the applicant has delivered or mailed a copy of completed FERC Form No. 121 to the purchaser.

(6) The applicant may request confidentiality of any information, record or document submitted by the applicant pursuant to 807 KAR 5:001, Section 7.

Section 4. Processing of Applications. (1) Upon receipt of each application submitted in accordance with this administrative regulation, the commission will date-stamp the application and analyze the data submitted to determine whether applicant is entitled to the determination sought pursuant to the Natural Gas Policy Act of 1978 and 18 CFR Parts 271 and 274, subpart B.

(2) Based upon its review of the application, the commission will make an initial written determination if the application is acceptable as prescribed in 18 CFR Parts 271 and 274, subpart B. The commission shall publish notice of the initial determination in the legal notice section of a newspaper of statewide circulation.

(3) Any interested person may request a hearing on any application or initial determination by written notification to the commission specifically stating the grounds for such request. The request shall be made within ten (10) working days of the public notice.

(4) Upon receipt of a written request for hearing, the commission shall schedule a public hearing pursuant to 807 KAR 5:001, Section 4.

(5) On the basis of evidence presented at this hearing, or if no hearing is requested as prescribed, the commission shall issue a final order affirming or reversing the initial determination.

(6) Provisions of subsection (5) of this section notwithstanding, the commission may at any time prior to issuing the final order reevaluate any application or initial determination if the commission discovers additional pertinent information beyond the scope of the original application.

(7) Within fifteen (15) days after issuing a final order pursuant to this administrative regulation, the commission shall forward the order and the entire record upon which it was made to the Federal Energy Regulatory Commission in the manner prescribed by 18 CFR 274.104. (8 Ky.R. 813; eff. 4-7-82; Am. 16 Ky.R. 1467; eff. 3-8-90.)