

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amended After Comments)

4 807 KAR 5:001. Rules of procedure.

5 RELATES TO: KRS 61.870-884, 278.020(3), 278.300~~[Chapter 278]~~

6 STATUTORY AUTHORITY: KRS 278.040(3), 278.310~~[(2)]~~

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the
8 commission to promulgate reasonable administrative regulations to implement the
9 provisions of KRS Chapter 278. KRS 278.310~~[(2)]~~ provides that all hearings and
10 investigations before the commission or any commissioner shall be governed by rules
11 adopted by the commission. This administrative regulation prescribes requirements with
12 respect to formal and informal proceedings before the commission.

13 Section 1. Definitions.(1) "Case" means a matter coming formally before the
14 commission.

15 (2) "Commission" is defined by KRS 278.010(15).

16 (3) "Electronic mail" means an electronic message that is sent to an electronic mail
17 address and transmitted between two (2) or more telecommunications devices,
18 computers, or electronic devices capable of receiving electronic messages.

19 (4) "Electronic mail address" means a destination, commonly expressed as a string of
20 characters, to which electronic mail can be sent or delivered, and consists of a user

1 name or mailbox and a reference to an Internet domain.

2 (5) "Executive Director" means the person appointed to the position established in
3 KRS 278.100 or a person that he or she has designated to perform a duty or duties
4 assigned to that position.

5 **(6) "Paper" means, regardless of the medium on which it is recorded, an**
6 **application, petition, or other initiating document, motion, complaint, answer,**
7 **response, reply, notice, request for information, or other document that this**
8 **administrative regulation or the commission directs or permits a party to file in a**
9 **case.**

10 **(7)[(6)] "Party" means any person who:**

11 **(a) Initiates action through the filing of a formal complaint, application, or petition;**

12 **(b) Files a tariff or tariff sheet with the commission pursuant to KRS 278.180 and 807**
13 **KAR 5:011 that the commission has suspended and established a case to investigate or**
14 **review;**

15 **(c) Is named as a defendant in a formal complaint filed pursuant to Section 19 of this**
16 **administrative regulation;**

17 **(d) Is granted leave to intervene pursuant to Section 4(11) of this administrative**
18 **regulation; or**

19 **(e) Is joined as a party to a commission proceeding.**

20 **(8)[(7)] "Person" is defined by KRS 278.010(2).**

21 **(9)[(8)] "Sewage" means a utility that meets the requirements of KRS 278.010(12).**

22 **(10)[(9)] "Signature" means an original signature or an electronic signature as**
23 **defined by KRS 369.102(8).**

1 ~~(11)~~~~(10)~~ "Utility" is defined by KRS 278.010(3).

2 Section 2. General Offices and Hearings. (1) The commission shall be in continuous
3 session for the performance of administrative duties.

4 (2) Meetings of the commission for the consideration of all matters requiring formal
5 hearings shall be held on days, at hours and at places as the commission may
6 designate.

7 (3) The commission shall provide notice of hearing in a case by order except when a
8 hearing is not concluded on the designated day and the presiding officer verbally
9 announces the date for continuation of the hearing. Verbal announcements made by the
10 presiding officer shall be deemed proper notice of the continued hearing.

11 Section 3. Executive Director to Furnish Information. (1) Upon request, the executive
12 director shall:

13 (a) Advise any person as to the form of a petition, complaint, answer, application, or
14 other document desired to be filed;

15 (b) Provide general information regarding the commission's procedures and
16 practices; and

17 (c) Make available from the commission's files, upon request, any document or
18 record pertinent to any matter before the commission unless KRS 61.878 expressly
19 exempts the document or record from inspection or release.

20 (2) The executive director may reject for filing any document which on its face does
21 not comply with the administrative regulations of the commission.

22 Section 4. General Matters Pertaining to All Formal Proceedings. (1) Address of the
23 commission. All communications shall be addressed to "Public Service Commission,

1 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40601."

2 (2) Case numbers and styles. Each case shall receive a number and a style
3 descriptive of the subject matter. The number and style shall be placed on all
4 subsequent documents filed in the case.

5 (3) Signing of **papers [pleadings]**.

6 (a) A **paper [pleading]** shall be signed by the submitting party or attorney and shall
7 include the name, address, telephone number, facsimile number, and electronic mail
8 address, if any, of the attorney of record or filing party.

9 (b) A **paper [pleading]** shall be verified or under oath when required by statute,
10 administrative regulation, or order of the commission.

11 (4) A person shall not file any **paper [pleading]** on behalf of another person, or
12 otherwise represent another person, unless the person is an attorney licensed to
13 practice law in Kentucky or an attorney who has complied with SCR 3.030(2). An
14 attorney who is not licensed to practice law in Kentucky shall present evidence of his or
15 her compliance with SCR 3.030(2) when appearing before the commission.

16 (5) Amendments. Upon motion of a party, the commission may allow any complaint,
17 application, answer, or other **paper [pleading or document]** to be amended or
18 corrected or any omission supplied therein. Unless the commission orders otherwise,
19 the amendment shall not relate back to the date of the original **paper [pleading or**
20 **document]**.

21 (6) Witnesses and subpoenas.

22 (a) Upon the **written request [application]** of any party to a proceeding, subpoenas
23 requiring the attendance of witnesses for the purpose of taking testimony may be signed

1 and issued by a member of the commission.

2 (b) Subpoenas for the production of books, accounts, documents, or records (unless
3 directed to issue by the commission on its own authority) may be issued by the
4 commission, or any commissioner, upon **written request [application in writing],**
5 stating as nearly as possible the books, accounts, documents, or records desired to be
6 produced.

7 (c) A party shall submit a completed subpoena with its **written request [application]**
8 when necessary.

9 (d) Every subpoena shall be served, in the manner prescribed by subsection (8) of
10 this section, on each party and any person whose information is being requested.

11 (e) Copies of all documents received in response to a subpoena shall be filed with
12 the commission and furnished to all other parties to the case, except on motion and for
13 good cause shown. Any other tangible evidence received in response to the subpoena
14 shall be made available for inspection by the commission and all other parties to the
15 action.

16 (7) Computation of Time.

17 (a) In computing any period of time prescribed or allowed by order of the commission
18 or by any applicable administrative regulation or statute, the day of the act, event, or
19 default after which the designated period of time begins to run shall not be included.

20 (b) The last day of the period so computed shall be included, unless it is a Saturday,
21 a Sunday, a legal holiday, or other day commission offices are legally closed, in which
22 event the period shall run until the end of the next day which is not a Saturday, a
23 Sunday, a legal holiday, or other day commission offices are legally closed.

1 (8) Service.

2 (a) Unless the commission orders otherwise, service shall be made upon the party's
3 attorney when the party is represented by an attorney.

4 (b) Service upon an attorney or upon a party shall be made by delivering a copy to
5 the attorney or party or by mailing it **by United States mail or other recognized mail**
6 **carrier** to the attorney or party at the last known address or by sending it by electronic
7 means to the electronic mail address listed on **papers [pleadings]** that the attorney or
8 party has submitted in the case. Service shall be complete upon mailing or electronic
9 transmission. **If a serving party learns that the mailing or electronic transmission**
10 **did not reach the person to be served, the serving party shall take reasonable**
11 **steps to immediately re-serve the party to be served, unless service is refused, in**
12 **which case the serving party shall not be required to take additional action. [~~but~~**
13 ~~**electronic transmission shall not be effective if the serving party learns that it did**~~
14 ~~**not reach the person to be served.**~~

15 (9) Filing.

16 (a) Unless electronic filing procedures set forth in Section 8 of this administrative
17 regulation are used, a document shall not be deemed filed with the commission until it is
18 physically received by the executive director at the commission's offices during the
19 commission's official business hours.

20 (b) The executive director shall endorse upon each **paper [pleading]** or document
21 accepted for filing the date of its filing. The endorsement shall constitute the filing of the
22 **paper [pleading]** or document.

23 (10) Privacy protection for filings.

1 (a) If a party files a document containing an individual's social security number,
2 taxpayer identification number, birth date, or a financial account number, the party shall
3 redact the document so the following information cannot be read:

4 1. The digits of the Social Security number or taxpayer identification number;

5 2. The month and day of an individual's birth; and

6 3. The digits of the financial account number.

7 (b) To redact the document, the filing party shall replace the identifiers with neutral
8 placeholders or cover the identifiers with an indelible mark, that so obscures the
9 identifiers that they cannot be read.

10 (c) The executive director shall not be required to review documents for compliance
11 with this section. The responsibility to redact a document shall rest with the party that
12 files the document.

13 (11) Intervention and parties.

14 (a) In any formal proceeding, any person who wishes to become a party to a
15 proceeding before the commission may by timely motion request that leave to intervene
16 be granted. The motion shall include the movant's name and address and shall state his
17 or her interest in the proceeding and how intervention is likely to present issues or
18 develop facts that will assist the commission in fully considering the matter without
19 unduly complicating or disrupting the proceedings.

20 (b) The commission shall grant a person leave to intervene if it finds that a person
21 has a special interest in the case which is not otherwise adequately represented or that
22 intervention is likely to present issues or to develop facts that assist the commission in
23 fully considering the matter without unduly complicating or disrupting the proceedings.

1 (c) Unless electronic filing procedures established in Section 8 of this
2 administrative regulation are used, a party shall serve a person [Persons] granted
3 leave to intervene [shall be served] with filed testimony, exhibits, papers [pleadings],
4 correspondence, and all other documents that the party submits [submitted by the
5 parties] in the case after the Order granting intervention, but is not required to
6 provide any documents submitted prior to the issuance of that Order.

7 (d) Any person who the commission has not granted leave to intervene in a case may
8 file written comments regarding the subject matter of the case. These comments shall
9 be filed in the case record. A person filing written comments shall not be deemed a
10 party to the proceeding and need not be named as a party to an appeal.

11 Section 5. Motion Practice. (1) All requests for relief which are not required to be
12 made in an application, petition, or written request [a pleading] shall be by motion.
13 A motion shall state precisely the relief requested.

14 (2) Unless the commission orders otherwise, a party to a case shall file any response
15 to a motion no later than seven (7) days from the date of filing of a motion.

16 (3) Unless the commission orders otherwise, a party shall file any reply no later than
17 five (5) days of the filing of the most recent response to the party's motion. The reply
18 shall be confined to points raised [limited to the matters initially raised] in the
19 responses to which they are addressed, and shall not reiterate an argument
20 already presented [to the party's motion].

21 Section 6. Certificate of Service. All documents served under these administrative
22 regulations shall have a proof of service certification. Proof of service shall state the
23 date and method of service and shall be signed by a person who can verify service.

1 Section 7. Filing Procedures. (1) Unless the commission orders otherwise or the
2 electronic filing procedures set forth in Section 8 of this administrative regulation are
3 used, when a ~~[an original]~~ document **in paper medium** is filed with the commission,
4 ten (10) additional copies **in paper medium** shall also be filed.

5 (2) All documents filed with the commission shall conform to the requirements
6 established in this subsection.

7 (a) Form. Filings shall be printed or typewritten, double spaced and on one (1) side of
8 the **page [paper]** only.

9 (b) Size. Filings shall be on eight and one-half (8 1/2) inches by eleven (11) inches
10 paper stock.

11 (c) Font. Filings shall be in type no smaller than twelve (12) point, except footnotes
12 which may be in type no smaller than ten (10) point.

13 (d) Binding. Any side-bound or top-bound filing shall also include an identical
14 unbound copy.

15 (3) Except as provided for in Section 8 of this administrative regulation, any filing
16 made with the commission outside its business hours shall be considered as filed on the
17 commission's next business day.

18 (4) Documents submitted by facsimile transmission shall not be accepted.

19 Section 8. Electronic Filing Procedures. (1) Upon an applicant's timely election of the
20 use of electronic filing procedures or upon **order [motion]** of the commission **in a case**
21 **that the commission has initiated on its own motion**, the procedures established in
22 this section shall be used in lieu of other filing procedures set forth in this administrative
23 regulation.

1 (2) At least seven (7) days prior to the submission of its application, an applicant
2 shall:

3 (a) File with the commission written notice of its election to use electronic filing
4 procedures using the Notice of Election of Electronic Filing Procedures Form; and

5 (b) If it does not have an account for electronic filing with the commission, register for
6 an account at <http://psc.ky.gov/Account/Register>.

7 (3) All **papers [pleadings]**, documents, and exhibits shall be filed with the
8 commission by uploading an electronic version of the document using the commission's
9 E-Filing System at <http://psc.ky.gov>. In addition, the filing party shall file one (1) original
10 with the commission as required by subsection (12)(a)2. of this section.

11 (4) Each file in an electronic submission shall be:

12 (a) In portable document format;

13 (b) Search-capable;

14 (c) Optimized for viewing over the Internet;

15 (d) Bookmarked to distinguish sections of the **paper, except that documents filed**
16 **in response to requests for information need not be individually bookmarked**
17 **[pleading or document]**; and

18 (e) If a scanned document, scanned at a resolution of no less than 300 dots per inch.

19 (5)(a) All electronic submissions shall include an introductory file in portable
20 document format that is named "Read1st" and that contains:

21 1. A general description of the filing;

22 2. A list of all materials not included in the electronic filing; and

23 3. A statement attesting that the electronically filed documents are a true

1 representation of the original documents.

2 (b) The "Read1st" file and any other document that normally contains a signature
3 shall contain a signature in the electronically submitted document.

4 (c) The electronic version of the cover letter accompanying the paper **medium** filing
5 may be substituted for a general description.

6 (d) If the electronic submission does not include all documents contained in the paper
7 **medium** version (e.g., confidential materials, materials that are too large to transfer by
8 electronic medium), the absence of these documents shall be noted in the "Read1st"
9 document.

10 (6)(a) An electronic transmission or uploading session shall not exceed twenty (20)
11 files.

12 (b) An individual file shall not exceed fifty (50) megabytes.

13 (c) If a filing party's submission exceeds the limitations established in paragraph (a)
14 or (b) of this subsection, the filer shall make its electronic submission in two (2) or more
15 consecutive electronic transmission or uploading sessions.

16 (7) If filing any document with the commission, the filing party shall certify that:

17 (a) The electronic version of the filing is a true and accurate copy of each document
18 filed in paper medium;

19 (b) The electronic version of the filing has been transmitted to the commission; and

20 (c) A copy of the filing in paper medium has been mailed to all parties that the
21 commission has excused from participation by electronic means.

22 (8)(a) Upon completion of a party's uploading of an electronic submission, the
23 commission shall cause an electronic mail message to be sent to all parties of record

1 advising that an electronic submission has been made to the commission.

2 (b) Upon a party's receipt of this message, it shall be the receiving party's
3 responsibility to access the commission's electronic file depository at <http://psc.ky.gov>
4 and view or download the submission.

5 (9) Unless it states its objection to the use of electronic filing procedures in its motion
6 for intervention, a party granted leave to intervene shall:

7 (a) Be deemed to have consented to the use of electronic filing procedures and the
8 service of all **papers [documents and pleadings]**, including orders of the commission,
9 by electronic means; and

10 (b) File with the commission within seven (7) days of the date of an order of the
11 commission granting its intervention a written statement that:

12 1. It waives any right to service of commission orders by United States mail; and
13 2. It, or its authorized agent, possesses the facilities to receive electronic
14 transmissions.

15 (10) Unless a party to a case states its objection to the use of electronic filing
16 procedures within seven (7) days of issuance of an order in which the commission
17 orders the use of electronic filing procedures on its own motion, that party shall:

18 (a) Be deemed to have consented to the use of electronic filing procedures and the
19 service of all documents and **papers [pleadings]**, including orders of the commission,
20 by electronic means; and

21 (b) File with the commission within seven (7) days of the date of an order directing
22 the use of electronic filing procedures a written statement that:

23 1. It waives any right to service of commission orders by United States mail; and

1 2. It, or its authorized agent, possesses the facilities to receive electronic
2 transmissions.

3 (11) If a party objects to the use of electronic filing procedures and the commission
4 determines that good cause exists to excuse that party from the use of electronic filing
5 procedures, service of documents on that party and by that party shall be made in
6 accordance with Section 4(8) of this administrative regulation.

7 (12)(a) A document shall be considered timely filed with the commission if:

8 1. It has been successfully transmitted in electronic medium to the commission within
9 the time allowed for filing and meets all other requirements imposed by this
10 administrative regulation and any order of the commission; and

11 2. The original document, in paper medium, is filed at the commission's offices no
12 later than the second business day following the electronic filing.

13 (b) Parties shall attach to the top of the paper submission a **[paper]** copy in paper
14 **medium** of the electronic mail message from the commission confirming transmission
15 and receipt of its electronic submission.

16 (13) Except as expressly provided in this section, a party making a filing in
17 accordance with the procedures set forth in this section shall not be required to comply
18 with Section 4(8) of this administrative regulation.

19 Section 9. Hearings and Rehearings. (1) Except as otherwise determined in specific
20 cases, the commission shall grant a hearing in the following classes of cases:

21 (a) If an order to satisfy or answer a complaint has been made and the person
22 complained of has not satisfied the complaint to the satisfaction of the commission; or

23 (b) If an application has been made in a formal proceeding.

1 (2) Publication of notice. (a) Upon the filing of any application, the commission may
2 order an applicant to give notice on all other persons who may be affected by service of
3 a copy of the application upon those persons or by publication. The applicant shall bear
4 the expense of providing the notice. If the notice is given by publication, the commission
5 may designate the length of time and the newspaper in which the notice shall appear.
6 Proof of the publication shall be filed at or before the hearing.

7 **(b) The commission may order an applicant to give notice to the public of any**
8 **hearing on the applicant's application. If notice of a hearing pursuant to KRS**
9 **424.300 is published by the applicant in a newspaper, it shall be published in a**
10 **newspaper of general circulation in the areas that will be affected one (1) time not**
11 **less than seven (7) nor more than twenty-one (21) days prior to the hearing giving**
12 **the purpose, time, place, and date of hearing. The applicant shall bear the**
13 **expense of providing the notice.**

14 (3) Investigation on commission's own motion. The commission may at any time, on
15 its own motion, make investigations and order hearings into any act or thing done or
16 omitted to be done by a utility, which the commission may believe is in violation of any
17 law or of any order or administrative regulation of the commission. It may also through
18 its own experts or employees, or otherwise, obtain any evidence as it may consider
19 necessary or desirable in any formal proceeding in addition to the evidence presented
20 by the parties.

21 (4) Conferences with commission staff. The commission, on its own motion, through
22 its executive director or upon a **motion [request]** of a party, may convene a conference
23 **[either prior to, or during the course of hearings]** in a case **for the purpose of**

1 considering the possibility of settlement, the simplification or clarification of
2 issues, or any other matter that may aid in the handling and disposition of the
3 case. Unless the commission directs otherwise or the parties otherwise agree,
4 participation [To provide opportunity for settlement of a proceeding or any
5 issues, the parties to a proceeding may meet in the presence of commission staff
6 upon approval of the executive director. Participation] in conferences with
7 commission staff shall be limited to parties of the subject proceeding and their
8 representatives.

9 (5) Conduct of hearings. Hearings shall be conducted before the commission or a
10 commissioner or before a person designated by the commission to conduct a specific
11 hearing.

12 (6) Stipulation of facts. By a stipulation in writing filed with the commission, the
13 parties to any proceeding or investigation by the commission may agree upon the facts
14 or any portion of the facts involved in the controversy, which stipulation shall be
15 regarded and used as evidence at the hearing.

16 (7) Testimony. All testimony given before the commission shall be given under oath
17 or affirmation.

18 (8) Objections and exceptions. A party objecting to the admission or exclusion of
19 evidence before the commission shall state the grounds for its objection. Formal
20 exceptions shall not be necessary and shall not be taken to rulings on objection.

21 (9) Record of evidence. (a) The commission shall cause to be made a record of all
22 hearings. Unless the commission orders otherwise, this record shall be in digital video
23 recording. A party to a case may, by motion made prior to the hearing, request that a

1 stenographic transcript be made by a reporter approved by the commission. The
2 commission shall grant the motion. The requesting party shall bear the cost of the
3 stenographic transcript and shall ensure a copy of the transcript is filed with the
4 commission within a reasonable time after completion of the hearing.

5 (b) The commission shall cause to be made a written exhibit list, a written hearing
6 log, and a written log listing the date and time of where each witness' testimony begins
7 and ends on the digital video recording.

8 (c) If a party introduces an exhibit that is neither a document nor a photograph, the
9 commission may direct a photograph of the exhibit be substituted for the exhibit.

10 Section 10. Briefs. (1) All briefs shall be filed within the time fixed. The commission
11 may refuse to consider any brief filed beyond the time fixed. Any request for extension
12 of time to file a brief shall be made to the commission by written motion.

13 (2) Form of briefs. All briefs filed with the commission shall be in the form prescribed
14 by the commission.

15 ~~**[(3) A person wishing to submit an amicus curiae brief shall file a motion with**~~
16 ~~**the commission specifying with particularity the nature of his or her interest, the**~~
17 ~~**points to be presented, and their relevance to the disposition of the case. This**~~
18 ~~**motion shall be filed within fifteen (15) days of the time fixed for the filing of the**~~
19 ~~**parties' briefs. An amicus curiae brief shall be tendered with the motion.]**~~

20 Section 11. Documentary Evidence. (1) If documentary evidence is offered, the
21 commission, in lieu of requiring the originals to be filed, may accept certified, or
22 otherwise authenticated, copies of the documents or portions of the same as may be
23 relevant, or may require evidence to be entered as a part of the record.

1 (2) Where relevant and material matter offered in evidence by any party is embraced
2 in a book, paper, or document containing other matter not material or relevant, the party
3 shall plainly designate the matter so offered. If any immaterial matter unnecessarily
4 encumbers the record, the book, paper or document shall not be received in evidence,
5 but may be described for identification, and if properly authenticated, the relevant and
6 material matter may be read into the record, or if the commission, or commissioner
7 conducting the hearing, so directs, a true copy of the matter in proper form shall be
8 received as an exhibit, and like copies delivered by the parties offering same to
9 opposing parties, or their attorneys, appearing at the hearing, who shall be offered the
10 opportunity to examine the book, paper or document, and to offer evidence in like
11 manner other portions thereof if found to be material and relevant.

12 (3) The sheets of each exhibit ~~[and the lines of each sheet]~~ shall be numbered. If
13 practical, the lines of each sheet shall also be numbered. If ~~[and if]~~ the exhibit
14 consists of two (2) or more sheets, the first sheet or title page shall contain a brief
15 statement of what the exhibit purports to show, with reference by sheet and line to
16 illustrative or typical examples contained in the exhibit. Rate comparisons and other
17 evidence shall be condensed into tables.

18 (4) Except as may be expressly permitted in particular instances, the commission
19 shall not receive in evidence or consider as a part of the record any book, paper, or
20 other document for consideration in connection with the proceeding after the close of
21 the testimony.

22 (5) Upon motion of any party to a proceeding, any case in the commission's files or
23 any document on file with the commission may be made a part of the record by

1 "reference only." By reference only, the case or document made a part of the record
2 shall not be physically incorporated into the record. Upon action in the Franklin Circuit
3 Court, excerpts from any case or part of any document may be made a part of the
4 record before the court, at the request of any party.

5 Section 12. Financial Exhibit. If this administrative regulation requires that a financial
6 exhibit be annexed to the application, the exhibit shall cover operations for a twelve (12)
7 month period, the period ending not more than ninety (90) days prior to the date the
8 application is filed. The exhibit shall disclose the following information in the order
9 indicated below:

10 (1) Amount and kinds of stock authorized;

11 (2) Amount and kinds of stock issued and outstanding;

12 (3) Terms of preference of preferred stock whether cumulative or participating, or on
13 dividends or assets or otherwise;

14 (4) Brief description of each mortgage on property of applicant, giving date of
15 execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness
16 authorized to be secured, and the amount of indebtedness actually secured, together
17 with any sinking fund provisions;

18 (5) Amount of bonds authorized, and amount issued, giving the name of the public
19 utility which issued the same, describing each class separately, and giving date of
20 issue, face value, rate of interest, date of maturity, and how secured, together with
21 amount of interest paid during the last fiscal year;

22 (6) Each note outstanding, giving date of issue, amount, date of maturity, rate of
23 interest, in whose favor, together with amount of interest paid during the last fiscal year;

1 (7) Other indebtedness, giving same by classes and describing security, if any, with a
2 brief statement of the devolution or assumption of any portion of the indebtedness upon
3 or by person or corporation if the original liability has been transferred, together with
4 amount of interest paid during the last fiscal year.;

5 (8) Rate and amount of dividends paid during the five (5) previous fiscal years, and
6 the amount of capital stock on which dividends were paid each year; and

7 (9) Detailed income statement and balance sheet.

8 Section 13. Confidential Material. (1) All material on file with the commission shall be
9 available for examination by the public unless the commission or the official custodian of
10 the commission's records determines the material is confidential.

11 (2) Procedure for determining confidentiality of material submitted in a case.

12 (a) Any person requesting confidential treatment of any material shall file a motion
13 that:

14 1. Sets forth specific grounds pursuant to KRS 61.878, upon which the commission
15 should classify that material as confidential;

16 **2. States the time period in which the material should be treated as confidential**
17 **and the reasons for this time period; and**

18 **3. Includes, in a separate sealed envelope marked confidential, ~~and 2.~~**
19 **Attaches** one (1) copy of the material **in paper medium** which identifies by
20 underscoring, highlighting with transparent ink, or other reasonable means only those
21 portions which unless redacted would disclose confidential material. Text pages or
22 portions thereof which do not contain confidential material shall not be included in this
23 identification. **If confidential treatment is sought for an entire document,**

1 **unambiguous written notification that the entire document is confidential may be**
2 **filed with the document in lieu of the required highlighting.**

3 (b) The motion, one (1) copy of the material in paper medium which is identified by
4 underscoring or highlighting, and ten (10) copies of the material in paper medium with
5 those portions obscured for which confidentiality is sought, shall be filed with the
6 commission. **If confidential treatment is sought for an entire document, the filer**
7 **may file a sheet noting that the entire document is confidential in lieu of redacting**
8 **the document.**

9 (c) The motion and one (1) copy of the material in paper medium, with only those
10 portions for which confidentiality is sought obscured, shall be served on all parties. The
11 motion shall contain a certificate of service on all parties.

12 (d) The burden of proof to show that the material falls within the exclusions from
13 disclosure requirements enumerated in KRS 61.878 **and to demonstrate the time**
14 **period for which the material should be considered as confidential** shall be upon
15 the party requesting confidential treatment.

16 (e) Any party may respond to a motion for confidential treatment within seven (7)
17 days after it is filed with the commission.

18 (f) If the case is being conducted using electronic filing procedures set forth in
19 Section 8 of this administrative regulation, the parties shall comply with those
20 procedures except that an unobscured copy of the material for which confidentiality is
21 sought shall not be transmitted electronically.

22 (3) Procedure for determining confidentiality of material submitted outside of a formal
23 proceeding.

1 (a) Any person requesting confidential treatment of any material filed with the
2 commission outside of a case shall submit a written request to the executive director
3 that:

4 1. Sets forth specific grounds upon which the material should be classified as
5 confidential;

6 **2. States the time period in which the material should be treated as confidential**
7 **and the reasons for this time period; and**

8 **3. Includes, in a separate sealed envelope marked confidential, ~~and 2.~~**
9 **Attaches** one (1) copy of the material in paper medium which identifies by
10 underscoring, highlighting with transparent ink, or other reasonable means only those
11 portions which unless redacted would disclose confidential material. Text pages or
12 portions thereof which do not contain confidential material shall not be included in this
13 identification. **If confidential treatment is sought for an entire document,**
14 **unambiguous written notification that the entire document is confidential may be**
15 **filed with the document in lieu of the required highlighting.**

16 (b) The written request, one (1) copy of the material in paper medium which is
17 identified by underscoring or highlighting, and one (1) copy of the material in paper
18 **medium** with those portions obscured for which confidentiality is sought, shall be filed
19 with the commission. **If confidential treatment is sought for an entire document,**
20 **the filer may file a sheet noting that the entire document is confidential in lieu of**
21 **redacting the document.**

22 (c) The burden of proof to show that the material falls within the exclusions from
23 disclosure requirements set forth in KRS 61.878 and to demonstrate the time period

1 for which the material should be considered as confidential shall be upon the
2 person requesting confidential treatment.

3 (d) The executive director, as official custodian of the commission's records, shall
4 determine if the material falls within the exclusions from disclosure requirements set
5 forth in KRS 61.878 and the time period for which the material should be
6 considered as confidential and shall advise the requestor of the determination by
7 letter.

8 (e) A person whose request for confidential treatment is denied, in whole or in part,
9 by the executive director may petition the commission for confidential treatment of the
10 material in accordance with the procedures set forth in subsection (2) of this section.
11 The commission shall review the petition without regard to the executive director's
12 determination.

13 (4) Pending commission action on a request or motion for confidential treatment, the
14 material specifically identified shall be accorded confidential treatment.

15 (5) If the petition, motion or request for confidential treatment of material is denied,
16 the material shall not be placed in the public record for the period permitted pursuant
17 to KRS 278.410 to bring an action for review [twenty (20) days to allow the
18 petitioner to seek any remedy afforded by law].

19 (6) Procedure for any party to request access to confidential material filed in any
20 proceeding.

21 (a) A party to any proceeding before the commission shall not fail to respond to
22 discovery by the commission or its staff or any other party to the proceeding on grounds
23 of confidentiality. If any party responding to discovery requests seeks to have a portion

1 or all of the response held confidential by the commission, it shall follow the procedures
2 for petitioning for confidentiality contained in this administrative regulation. Any party's
3 response to discovery requests shall be served upon all parties, with only those portions
4 for which confidential treatment is sought obscured.

5 (b) If the commission grants confidential protection to the responsive material and if
6 parties have not entered into protective agreements, then any party may petition the
7 commission requesting access to the material on the grounds that it is essential to a
8 meaningful participation in the proceeding. The petition shall include a description of
9 efforts to enter into a protective agreement and any unwillingness to enter into a
10 protective agreement shall be fully explained. Any party may respond to the petition
11 within seven (7) days after it is filed with the commission. The commission shall
12 determine if the petitioner is entitled to the material, and the manner and extent of the
13 disclosure necessary to protect confidentiality.

14 (7) Requests for access to records pursuant to KRS 61.870 to 61.884. A time period
15 prescribed in this section shall not limit the right of any person to request access to
16 commission records pursuant to KRS 61.870 to 61.884. Upon a request filed pursuant
17 to KRS 61.870 to 61.884, the commission shall respond in accordance with the
18 procedure prescribed in KRS 61.880.

19 (8) Procedure for request for access to confidential material. Any person denied
20 access to records requested pursuant to KRS 61.870 to 61.884 or to material deemed
21 confidential by the commission in accordance with the procedures set out in this
22 section, may obtain this information only pursuant to KRS 61.870 to 61.884 and other
23 applicable law.

1 (9) Use of confidential material during formal proceedings. (a) Any party that files
2 material that contains or reveals material that has previously been deemed confidential
3 shall submit with the filed material:

4 1. A written notice identifying the date on which the confidentiality of the original
5 material was determined and, if applicable, the case number in which the determination
6 was made; and

7 2. One (1) copy of the filed material which is identified by underscoring or
8 highlighting, and ten (10) copies of the material with those portions obscured for which
9 confidentiality has previously been granted.

10 (b) Any material deemed confidential by the commission may be addressed and
11 relied upon during a formal hearing by the procedure established in this paragraph.

12 1. The party seeking to address the confidential material shall advise the commission
13 prior to the use of the material.

14 2. All persons other than commission employees not a party to a protective
15 agreement related to the confidential material shall be excused from the hearing room
16 during direct testimony and cross-examination directly related to confidential material.

17 3. Any portion of the record directly related to the confidential material shall be
18 sealed.

19 (10) Material granted confidentiality which later becomes publicly available or
20 otherwise no longer warrants confidential treatment.

21 (a) Except as provided for in paragraphs (c) and (d) of this subsection,
22 confidential [~~Unless the commission orders otherwise, confidential~~] treatment
23 shall be afforded to material for the period specified in the commission's order or

1 executive director's written decision. [no more than two (2) years.] At the end of
2 this period, [the person who sought confidential treatment for the material shall
3 request that the material continue to be treated as confidential and shall
4 demonstrate that the material still falls within the exclusions from disclosure
5 requirements set forth in KRS 61.878. Absent any showing, the material will be
6 placed in the public record. If no request is made for continued confidential
7 treatment,] the material shall be placed in the public record without notice to the person
8 who originally requested confidential treatment. The person who sought confidential
9 treatment for the material may request that the material continue to be treated as
10 confidential but shall demonstrate that the material still falls within the exclusions
11 from disclosure requirements established in KRS 61.878.

12 (b) The petitioner who sought confidential protection shall inform the commission in
13 writing at any time when any material granted confidentiality becomes publicly available.

14 (c) If the commission becomes aware that material granted confidentiality is publicly
15 available or otherwise no longer qualifies for confidential treatment, it shall by order so
16 advise the petitioner who sought confidential protection, giving ten (10) days to respond.
17 If the commission finds that material has been disclosed by someone other than the
18 person who requested confidential treatment, in violation of a protective agreement or
19 commission order, the information shall not be deemed or considered to be publicly
20 available and shall not be placed in the public record.

21 (d) If a request to inspect material granted confidential treatment is made
22 during the period specified in the commission's order or executive director's
23 written decision, the commission shall notify in writing the person who originally

1 sought confidential treatment for the material and direct him to demonstrate
2 within twenty (20) days of his receipt of the notice that the material still falls
3 within the exclusions from disclosure requirements established in KRS 61.878. If
4 he is unable to make the demonstration, the commission shall make the
5 requested materials available for public inspection. Otherwise, the commission
6 shall deny the request for inspection.

7 (e) [(d)] The material shall not be placed in the public record for twenty (20) days
8 following any order finding that the material no longer qualifies for confidential treatment
9 to allow the petitioner to seek any remedy afforded by law.

10 Section 14. Applications. (1) Contents of application. All applications shall be by
11 petition. The petition shall set forth the full name, mailing address, and electronic mail
12 address of the applicant, and shall contain fully the facts on which the application is
13 based, with a request for the order, authorization, permission, or certificate desired and
14 a reference to the particular law requiring or providing for same.

15 (2) Articles of incorporation.

16 (a) If the applicant is a corporation, a certified copy of its articles of incorporation and
17 all amendments, if any, shall be annexed to the application, or a written statement
18 attesting that its articles and all amendments have been filed with the commission in a
19 prior proceeding and referencing the case number of the prior proceeding.

20 (b) If the applicant is a limited liability company, a certified copy of its articles of
21 organization and all amendments, if any, shall be annexed to the application, or a
22 written statement attesting that its articles and all amendments have been filed with the
23 commission in a prior proceeding and referencing the case number of the prior

1 proceeding.

2 (c) If the applicant is a limited partnership, a certified copy of its limited partnership
3 agreement and all amendments, if any, shall be annexed to the application, or a written
4 statement attesting that its partnership agreement and all amendments have been filed
5 with the commission in a prior proceeding and referencing the case number of the prior
6 proceeding.

7 Section 15. Applications for Certificates of Public Convenience and Necessity. (1)
8 Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the
9 commission by the utility for a certificate of convenience and necessity authorizing the
10 applicant to bid on a franchise, license, or permit offered by any governmental agency,
11 the applicant shall submit with its application, the following:

12 (a) A copy of its articles of incorporation, partnership agreement, or articles of
13 organization pursuant to Section 14(2) of this administrative regulation;

14 (b) The name of the governmental agency offering the franchise;

15 (c) The type of franchise offered; and

16 (d) A statement showing the need and demand for service. If the applicant is
17 successful in acquiring the franchise, license or permit, it shall file a copy with the
18 commission.

19 (2) New construction or extension. When application is made by the utility, person,
20 firm, or corporation for a certificate that the present or future public convenience or
21 necessity requires, or will require, the construction or extension of any plant, equipment,
22 property or facility, the applicant, in addition to complying with Section 14 of this
23 administrative regulation, shall submit the following data, either in the application or as

1 attached exhibits:

2 (a) The facts relied upon to show that the proposed new construction is or will be
3 required by public convenience or necessity;

4 (b) Copies of franchises or permits, if any, from the proper public authority for the
5 proposed new construction or extension, if not previously filed with the commission;

6 (c) A full description of the proposed location, route, or routes of the new construction
7 or extension, including a description of the manner in which same will be constructed,
8 and also the names of all public utilities, corporations, or persons with whom the
9 proposed new construction or extension is likely to compete;

10 (d) Maps to suitable scale showing the location or route of the proposed new
11 construction or extension, as well as the location to scale of any like facilities owned by
12 others located anywhere within the map area with adequate identification as to the
13 ownership of the other facilities. The utility shall supply one (1) copy of each map in an
14 electronic format and one (1) copy of each map in a paper format;

15 (e) The manner in detail in which it is proposed to finance the new construction or
16 extension;

17 (f) An estimated **annual** cost of operation [~~thirty (30) days~~] after the proposed
18 facilities are **placed into service [completed]**; and

19 (g) All other information necessary to afford the commission a complete
20 understanding of the situation.

21 (3) Extensions in the ordinary course of business. A certificate of public convenience
22 and necessity shall not be required for extensions that do not create wasteful
23 duplication of plant, equipment, property or facilities, or conflict with the existing

1 certificates or service of other utilities operating in the same area and under the
2 jurisdiction of the commission that are in the general or contiguous area in which the
3 utility renders service, and that do not involve sufficient capital outlay to materially affect
4 the existing financial condition of the utility involved, or will not result in increased
5 charges to its customers.

6 (4) Renewal applications. Insofar as procedure is concerned, applications for a
7 renewal of a certificate of convenience and necessity shall be treated as an original
8 application.

9 Section 16. Applications for General Adjustments in Existing Rates. (1) All
10 applications requesting a general adjustment in existing rates shall:

11 (a) Be supported by:

12 1. A twelve (12) month historical test period which may include adjustments for
13 known and measurable changes; or

14 2. A fully forecasted test period; and

15 (b) Include:

16 1. A statement of the reason the adjustment is required;

17 2. If the utility is incorporated or is a limited partnership, a certificate of good standing
18 or certificate of authorization dated within sixty (60) days of the date the application is
19 filed;

20 3. A certified copy of a certificate of assumed name as required by KRS 365.015 or a
21 statement that a certificate is not necessary;

22 4. Any new or revised tariff sheets in a format which complies with 807 KAR 5:011
23 with an effective date not less than thirty (30) days from the date the application is filed;

- 1 5. Any new or revised tariff sheets identified in compliance with 807 KAR 5:011,
2 shown either by:
- 3 a. Providing the present and proposed tariffs in comparative form on the same sheet
4 side by side or on facing sheets side by side; or
- 5 b. Providing a copy of the present tariff indicating proposed additions by italicized
6 inserts or underscoring and striking over proposed deletions; and
- 7 6. A statement that customer notice has been given in compliance with subsections
8 (3) and (4) of this section with a copy of the notice.
- 9 7. For the purposes of this administrative regulation, an affiliate is an entity:
- 10 a. That is wholly owned by a utility;
11 b. In which a utility has a controlling interest;
12 c. That wholly owns a utility;
13 d. That has a controlling interest in a utility; or
14 e. That is under common control with the utility.
- 15 8. For the purposes of this administrative regulation, a utility, or other entity, shall be
16 deemed to have a controlling interest in, or be under common control with, an entity or
17 utility if it:
- 18 a. Directly or indirectly has the power to direct, or to cause the direction of, the
19 management or policies of any entity; and
- 20 b. Exercises that power:
- 21 (i) Through one (1) or more intermediary companies, or alone;
22 (ii) In conjunction with, or pursuant to an agreement;
23 (iii) Through ownership of ten (10) percent or more of the voting securities;

1 (iv) Through common directors, officers, stockholders, voting or holding trusts,
2 associated companies;

3 (v) Contract; or

4 (vi) Any other direct or indirect means.

5 (2) Notice of intent. A utility with gross annual revenues greater than \$5,000,000 shall
6 notify the commission in writing of intent to file a rate application at least thirty (30) days,
7 but not more than sixty (60) days, prior to filing its application. The notice of intent shall
8 state whether the rate application will be supported by a historical test period or a fully
9 forecasted test period. When filing the notice of intent, an application may be made to
10 the commission for permission to use an abbreviated form of newspaper notice of
11 proposed rate increases provided the notice includes a coupon which may be used to
12 obtain a copy from the applicant of the full schedule of increases or rate changes. The
13 applicant shall also transmit by electronic mail a copy of the notice in a portable
14 document format to the Attorney General's Office of Rate Intervention at
15 rateintervention@ag.ky.gov.

16 (3) Manner of notification. (a) If the utility has twenty (20) or fewer customers or is a
17 sewage utility, it shall:

18 1. Mail written notice to each customer no later than the date on which the application
19 is filed with the commission. The notice shall meet the requirements set forth in
20 subsection (4) of this section;

21 2. Post at its place of business no later than the filed date of the application a sheet
22 containing the information provided in the written notice to its customers; and

23 3. Keep the notice posted until the commission has issued a final decision on the

1 application.

2 (b) An applicant that has more than twenty (20) customers and is not a sewage utility
3 shall post at its place of business a sheet containing the information required by
4 subsection (4) of this section and shall:

5 1. Include notice with customer bills mailed by the date the application is filed;

6 2. Publish notice in a trade publication or newsletter going to all customers by the
7 date the application is filed; or

8 3. Publish notice once a week for three (3) consecutive weeks in a prominent manner
9 in a newspaper of general circulation in the utility's service area, the first publication to
10 be made by the date the application is filed.

11 (c) Utilities providing service in multiple counties may use a combination of the notice
12 methods listed in **paragraph (b) of this subsection.**

13 **(d) Notice given pursuant to this administrative regulation shall satisfy the**
14 **requirements of 807 KAR 5:051, Section 2. [~~subsection (3)(b) of this section.~~]**

15 (4) Notice Requirements. Each notice shall contain the following information:

16 (a) The present rates and proposed rates for each customer class to which the
17 proposed rates will apply;

18 (b) The amount of the change requested in both dollar amounts and percentage
19 change for customer classification to which the proposed rate change will apply;

20 (c) The amount of the average usage and the effect upon the average bill for each
21 customer class to which the proposed rate change will apply, except for local exchange
22 companies which shall include the effect upon the average bill for each customer class
23 for the proposed rate change in basic local service;

1 (d) A statement that the rates contained in this notice are the rates proposed by
2 (name of utility) but that the Public Service Commission may order rates to be charged
3 that differ from the proposed rates contained in this notice;

4 (e) A statement that any corporation, association, or person may within thirty (30)
5 days after the initial publication or mailing of notice of the proposed rate changes,
6 submit a written request to intervene to the Public Service Commission, 211 Sower
7 Boulevard, P.O. Box 615, Frankfort, Kentucky 40602 that sets forth the grounds for the
8 request including the status and interest of the party, and states that intervention may
9 be granted beyond the thirty (30) day period for good cause shown;

10 **(f) A statement that written comments regarding the proposed rate may be**
11 **submitted to the Public Service Commission by mail or through the Public**
12 **Service Commission's Web site;**

13 (g)[(f)] A statement that any person may examine this filing and any other documents
14 the utility has filed with the Public Service Commission at the offices of (the name of the
15 utility) located at (the utility's address) and on the utility's Web site at (the utility's Web
16 site address), if the utility maintains a public Web site; and

17 (h)[(g)] A statement that this filing and any other related documents can be found on
18 the Public Service Commission's Web site at <http://psc.ky.gov/>.

19 (5) Proof of notice. An applicant shall file with the commission no later than forty-five
20 (45) days from the date of the initial filing;

21 (a) If its notice is published, an affidavit from the publisher verifying the notice was
22 published, including the dates of the publication with an attached copy of the published
23 notice;

1 (b) If its notice is published in a trade publication or newsletter going to all customers,
2 an affidavit from an authorized representative of the utility verifying the trade publication
3 or newsletter was mailed; or

4 (c) If the notice is mailed, an affidavit from an authorized representative of the utility
5 verifying the notice was mailed.

6 (6) Additional notice requirements. In addition to the notice requirements listed in
7 subsection (4) of this section:

8 (a) A utility shall post a sample copy of the required notification at its place of
9 business no later than the date on which the application is filed and shall not remove the
10 notification until issuance of a final order from the commission establishing the utility's
11 approved rates; and

12 (b) A utility that maintains a public web site shall, within seven (7) days of filing an
13 application, post a copy of the public notice as well as a hyperlink to its filed application
14 on the commission's Web site and shall not remove the notification until issuance of a
15 final order from the commission establishing the utility's approved rates.

16 (7) Abbreviated form of notice. Upon written request, the commission may grant a
17 utility permission to use an abbreviated form of published notice of the proposed rates
18 provided the notice includes a coupon which may be used to obtain all of the required
19 information.

20 (8) Notice of hearing scheduled by the commission upon application by a utility for a
21 general adjustment in rates shall be advertised by the utility by newspaper publication in
22 the areas that will be affected in compliance with KRS 424.300.

23 (9) All applications supported by a historical test period shall include the following

1 information or a statement explaining why the required information does not exist and is
2 not applicable to the utility's application:

3 (a) A complete description and quantified explanation for all proposed adjustments
4 with proper support for any proposed changes in price or activity levels, and any other
5 factors which may affect the adjustment;

6 (b) If the utility has gross annual revenues greater than \$5,000,000, the prepared
7 testimony of each witness the utility proposes to use to support its application;

8 (c) If the utility has gross annual revenues less than \$5,000,000, the prepared
9 testimony of each witness the utility proposes to use to support its application or a
10 statement that the utility does not plan to submit any prepared testimony;

11 (d) A statement estimating the effect that each new rate will have upon the revenues
12 of the utility including, at minimum, the total amount of revenues resulting from the
13 increase or decrease and the percentage of the increase or decrease;

14 (e) If the utility provides electric, gas, water, or sewer service, the effect upon the
15 average bill for each customer classification to which the proposed rate change will
16 apply;

17 (f) If the utility is an incumbent local exchange company, the effect upon the average
18 bill for each customer class for the proposed rate change in basic local service;

19 (g) A detailed analysis of customers' bills whereby revenues from the present and
20 proposed rates can be readily determined for each customer class;

21 (h) A summary of the utility's determination of its revenue requirements based on
22 return on net investment rate base, return on capitalization, interest coverage, debt
23 service coverage, or operating ratio, with supporting schedules;

- 1 (i) A reconciliation of the rate base and capital used to determine its revenue
2 requirements;
- 3 (j) A current chart of accounts if more detailed than the Uniform System of Accounts
4 prescribed by the commission;
- 5 (k) The independent auditor's annual opinion report, with any written communication
6 from the independent auditor to the utility which indicates the existence of a material
7 weakness in the utility's internal controls;
- 8 (l) The most recent Federal Energy Regulatory Commission or Federal
9 Communication Commission audit reports;
- 10 (m) The most recent Federal Energy Regulatory Commission Form 1 (electric),
11 Federal Energy Regulatory Commission Form 2 (gas), or Public Service Commission
12 Form T (telephone);
- 13 (n) A summary of the utility's latest depreciation study with schedules by major plant
14 accounts, except that telecommunications utilities that have adopted the commission's
15 average depreciation rates shall provide a schedule that identifies the current and test
16 period depreciation rates used by major plant accounts. If the required information has
17 been filed in another commission case, a reference to that case's number ~~[and style]~~
18 shall be sufficient;
- 19 (o) A list of all commercially available or in-house developed computer software,
20 programs, and models used in the development of the schedules and work papers
21 associated with the filing of the utility's application. This list shall include each software,
22 program, or model; what the software, program, or model was used for; identify the
23 supplier of each software, program, or model; a brief description of the software,

1 program, or model; the specifications for the computer hardware and the operating
2 system required to run the program;

3 (p) Prospectuses of the most recent stock or bond offerings;

4 (q) Annual report to shareholders, or members, and statistical supplements covering
5 the two (2) most recent years from the utility's application filing date;

6 (r) The monthly managerial reports providing financial results of operations for the
7 twelve (12) months in the test period;

8 (s) A copy of the utility's annual report on Form 10-K as filed with the Securities and
9 Exchange Commission for the most recent two (2) years, any Form 8-K issued during
10 the past two (2) years, and any Form 10-Q issued during the past six (6) quarters
11 updated as current information becomes available;

12 (t) If the utility had any amounts charged or allocated to it by an affiliate or general or
13 home office or paid any monies to an affiliate or general or home office during the test
14 period or during the previous three (3) calendar years, the utility shall file:

15 1. A detailed description of the method and amounts allocated or charged to the
16 utility by the affiliate or general or home office for each charge allocation or payment;

17 2. An explanation of how the allocator for the test period was determined; and

18 3. All facts relied upon, including other regulatory approval, to demonstrate that each
19 amount charged, allocated, or paid during the test period was reasonable;

20 (u) If the utility provides gas, electric, water, or sewage utility service and has annual
21 gross revenues greater than \$5,000,000, a cost of service study based on a
22 methodology generally accepted within the industry and based on current and reliable
23 data from a single time period; and

1 (v) Incumbent local exchange carriers with fewer than 50,000 access lines shall not
2 be required to file cost of service studies, except as specifically directed by the
3 commission. Local exchange carriers with more than 50,000 access lines shall file:

4 1. A jurisdictional separations study consistent with Part 36 of the Federal
5 Communications Commission's rules and regulations; and

6 2. Service specific cost studies to support the pricing of all services that generate
7 annual revenue greater than \$1,000,000, except local exchange access:

8 a. Based on current and reliable data from a single time period; and
9 b. Using generally recognized fully allocated, embedded, or incremental cost
10 principles.

11 (10) Upon good cause shown, a utility may request pro forma adjustments for known
12 and measurable changes to ensure fair, just and reasonable rates based on the
13 historical test period. The following information shall be filed with applications requesting
14 pro forma adjustments or a statement explaining why the required information does not
15 exist and is not applicable to the utility's application:

16 (a) A detailed income statement and balance sheet reflecting the impact of all
17 proposed adjustments;

18 (b) The most recent capital construction budget containing at least the period of time
19 as proposed for any pro forma adjustment for plant additions;

20 (c) For each proposed pro forma adjustment reflecting plant additions, provide the
21 following information:

22 1. The starting date of the construction of each major component of plant;
23 2. The proposed in-service date;

- 1 3. The total estimated cost of construction at completion;
- 2 4. The amount contained in construction work in progress at the end of the test
3 period;
- 4 5. A schedule containing a complete description of actual plant retirements and
5 anticipated plant retirements related to the pro forma plant additions including the actual
6 or anticipated date of retirement;
- 7 6. The original cost, cost of removal and salvage for each component of plant to be
8 retired during the period of the proposed pro forma adjustment for plant additions;
- 9 7. An explanation of any differences in the amounts contained in the capital
10 construction budget and the amounts of capital construction cost contained in the pro
11 forma adjustment period; and
- 12 8. The impact on depreciation expense of all proposed pro forma adjustments for
13 plant additions and retirements;
- 14 (d) The operating budget for each month of the period encompassing the pro forma
15 adjustments; and
- 16 (e) The number of customers to be added to the test period end level of customers
17 and the related revenue requirements impact for all pro forma adjustments with
18 complete details and supporting work papers.
- 19 (11) All applications requesting a general adjustment in rates supported by a fully
20 forecasted test period shall comply with the requirements established in this subsection.
- 21 (a) The financial data for the forecasted period shall be presented in the form of pro
22 forma adjustments to the base period.
- 23 (b) Forecasted adjustments shall be limited to the twelve (12) months immediately

1 following the suspension period.

2 (c) Capitalization and net investment rate base shall be based on a thirteen (13)
3 month average for the forecasted period.

4 (d) After an application based on a forecasted test period is filed, there shall be no
5 revisions to the forecast, except for the correction of mathematical errors, unless the
6 revisions reflect statutory or regulatory enactments that could not, with reasonable
7 diligence, have been included in the forecast on the date it was filed. There shall be no
8 revisions filed within thirty (30) days of a scheduled hearing on the rate application.

9 (e) The commission may require the utility to prepare an alternative forecast based
10 on a reasonable number of changes in the variables, assumptions, and other factors
11 used as the basis for the utility's forecast.

12 (f) The utility shall provide a reconciliation of the rate base and capital used to
13 determine its revenue requirements.

14 (12) All applications requesting a general adjustment in rates supported by a fully
15 forecasted test period shall include the following or a statement explaining why the
16 required information does not exist and is not applicable to the utility's application:

17 (a) The prepared testimony of each witness the utility proposes to use to support its
18 application which shall include testimony from the utility's chief officer in charge of
19 Kentucky operations on the existing programs to achieve improvements in efficiency
20 and productivity, including an explanation of the purpose of the program;

21 (b) The utility's most recent capital construction budget containing at a minimum a
22 three (3) year forecast of construction expenditures;

23 (c) A complete description, which may be filed in prefiled testimony form, of all factors

1 used in preparing the utility's forecast period. All econometric models, variables,
2 assumptions, escalation factors, contingency provisions, and changes in activity levels
3 shall be quantified, explained, and properly supported;

4 (d) The utility's annual and monthly budget for the twelve (12) months preceding the
5 filing date, the base period and forecasted period;

6 (e) A statement of attestation signed by the utility's chief officer in charge of Kentucky
7 operations which shall provide:

8 1. That the forecast is reasonable, reliable, made in good faith and that all basic
9 assumptions used in the forecast have been identified and justified;

10 2. That the forecast contains the same assumptions and methodologies as used in
11 the forecast prepared for use by management, or an identification and explanation for
12 any differences that exist; and

13 3. That productivity and efficiency gains are included in the forecast;

14 (f) For each major construction project which constitutes five (5) percent or more of
15 the annual construction budget within the three (3) year forecast, the following
16 information shall be filed:

17 1. The date the project was started or estimated starting date;

18 2. The estimated completion date;

19 3. The total estimated cost of construction by year exclusive and inclusive of
20 allowance for funds used during construction ("AFUDC") or interest during construction
21 credit; and

22 4. The most recent available total costs incurred exclusive and inclusive of AFUDC or
23 interest during construction credit;

1 (g) For all construction projects which constitute less than five (5) percent of the
2 annual construction budget within the three (3) year forecast, the utility shall file an
3 aggregate of the information requested in paragraph (f)3 and 4 of this subsection;

4 (h) A financial forecast corresponding to each of the three (3) forecasted years
5 included in the capital construction budget. The financial forecast shall be supported by
6 the underlying assumptions made in projecting the results of operations and shall
7 include the following information:

8 1. Operating income statement (exclusive of dividends per share or earnings per
9 share);

10 2. Balance sheet;

11 3. Statement of cash flows;

12 4. Revenue requirements necessary to support the forecasted rate of return;

13 5. Load forecast including energy and demand (electric);

14 6. Access line forecast (telephone);

15 7. Mix of generation (electric);

16 8. Mix of gas supply (gas);

17 9. Employee level;

18 10. Labor cost changes;

19 11. Capital structure requirements;

20 12. Rate base;

21 13. Gallons of water projected to be sold (water);

22 14. Customer forecast (gas, water);

23 15. MCF sales forecasts (gas);

- 1 16. Toll and access forecast of number of calls and number of minutes (telephone);
2 and
- 3 17. A detailed explanation of any other information provided;
- 4 (i) The most recent Federal Energy Regulatory Commission or Federal
5 Communications Commission audit reports;
- 6 (j) The prospectuses of the most recent stock or bond offerings;
- 7 (k) The most recent Federal Energy Regulatory Commission Form 1 (electric),
8 Federal Energy Regulatory Commission Form 2 (gas), or Public Service Commission
9 Form T (telephone);
- 10 (l) The annual report to shareholders or members and the statistical supplements
11 covering the most recent two (2) years from the application filing date;
- 12 (m) The current chart of accounts if more detailed than the Uniform System of
13 Accounts chart prescribed by the commission;
- 14 (n) The latest twelve (12) months of the monthly managerial reports providing
15 financial results of operations in comparison to the forecast;
- 16 (o) Complete monthly budget variance reports, with narrative explanations, for the
17 twelve (12) months immediately prior to the base period, each month of the base period,
18 and any subsequent months, as they become available;
- 19 (p) A copy of the utility's annual report on Form 10-K as filed with the Securities and
20 Exchange Commission for the most recent two (2) years, and any Form 8-K issued
21 during the past two (2) years, and any Form 10-Q issued during the past six (6)
22 quarters;
- 23 (q) The independent auditor's annual opinion report, with any written communication

1 from the independent auditor to the utility which indicates the existence of a material
2 weakness in the utility's internal controls;

3 (r) The quarterly reports to the stockholders for the most recent five (5) quarters;

4 (s) The summary of the latest depreciation study with schedules itemized by major
5 plant accounts, except that telecommunications utilities that have adopted the
6 commission's average depreciation rates shall provide a schedule that identifies the
7 current and base period depreciation rates used by major plant accounts. If the required
8 information has been filed in another commission case, a reference to that case's
9 number ~~[and style]~~ shall be sufficient;

10 (t) A list of all commercially available or in-house developed computer software,
11 programs, and models used in the development of the schedules and work papers
12 associated with the filing of the utility's application. This list shall include each software,
13 program, or model; what the software, program, or model was used for; identify the
14 supplier of each software, program, or model; a brief description of the software,
15 program, or model; the specifications for the computer hardware and the operating
16 system required to run the program;

17 (u) If the utility had any amounts charged or allocated to it by an affiliate or a general
18 or home office or paid any monies to an affiliate or a general or home office during the
19 base period or during the previous three (3) calendar years, the utility shall file:

20 1. A detailed description of the method and amounts allocated or charged to the
21 utility by the affiliate or general or home office for each allocation or payment;

22 2. The method and amounts allocated during the base period and the method and
23 estimated amounts to be allocated during the forecasted test period;

1 3. An explanation of how the allocator for both the base period and the forecasted
2 test period were determined; and

3 4. All facts relied upon, including other regulatory approval, to demonstrate that each
4 amount charged, allocated or paid during the base period is reasonable;

5 (v) If the utility provides gas, electric, sewage utility, or water utility service and has
6 annual gross revenues greater than \$5,000,000, a cost of service study based on a
7 methodology generally accepted within the industry and based on current and reliable
8 data from a single time period; and

9 (w) Incumbent local exchange carriers with fewer than 50,000 access lines shall not
10 be required to file cost of service studies, except as specifically directed by the
11 commission. Local exchange carriers with more than 50,000 access lines shall file:

12 1. A jurisdictional separations study consistent with Part 36 of the Federal
13 Communications Commission's rules and regulations; and

14 2. Service specific cost studies to support the pricing of all services that generate
15 annual revenue greater than \$1,000,000 except local exchange access:

16 a. Based on current and reliable data from a single time period; and

17 b. Using generally recognized fully allocated, embedded, or incremental cost
18 principles.

19 (13) All applications seeking a general adjustment in rates supported by a forecasted
20 test period shall include the following data:

21 (a) A jurisdictional financial summary for both the base period and the forecasted
22 period which details how the utility derived the amount of the requested revenue
23 increase;

1 (b) A jurisdictional rate base summary for both the base period and the forecasted
2 period with supporting schedules which include detailed analyses of each component of
3 the rate base;

4 (c) A jurisdictional operating income summary for both the base period and the
5 forecasted period with supporting schedules which provide breakdowns by major
6 account group and by individual account;

7 (d) A summary of jurisdictional adjustments to operating income by major account
8 with supporting schedules for individual adjustments and jurisdictional factors;

9 (e) A jurisdictional federal and state income tax summary for both the base period
10 and the forecasted period with all supporting schedules of the various components of
11 jurisdictional income taxes;

12 (f) Summary schedules for both the base period and the forecasted period (the utility
13 may also provide a summary segregating those items it proposes to recover in rates) of
14 organization membership dues; initiation fees; expenditures at country clubs; charitable
15 contributions; marketing, sales, and advertising expenditures; professional service
16 expenses; civic and political activity expenses; expenditures for employee parties and
17 outings; employee gift expenses; and rate case expenses;

18 (g) Analyses of payroll costs including schedules for wages and salaries, employee
19 benefits, payroll taxes, straight time and overtime hours, and executive compensation
20 by title;

21 (h) A computation of the gross revenue conversion factor for the forecasted period;

22 (i) Comparative income statements (exclusive of dividends per share or earnings per
23 share), revenue statistics and sales statistics for the five (5) most recent calendar years

1 from the application filing date, the base period, the forecasted period, and two (2)
2 calendar years beyond the forecast period;

3 (j) A cost of capital summary for both the base period and forecasted period with
4 supporting schedules providing details on each component of the capital structure;

5 (k) Comparative financial data and earnings measures for the ten (10) most recent
6 calendar years, the base period, and the forecast period;

7 (l) A narrative description and explanation of all proposed tariff changes;

8 (m) A revenue summary for both the base period and forecasted period with
9 supporting schedules which provide detailed billing analyses for all customer classes;
10 and

11 (n) A typical bill comparison under present and proposed rates for all customer
12 classes.

13 (14) The commission shall notify the utility of any deficiencies in the application within
14 thirty (30) days of receiving it. For the application to be considered filed with the
15 commission, the utility shall cure any deficiencies within thirty (30) days of the
16 commission giving notice of any deficiencies.

17 (15) A request for waiver of any of the provisions of these filing requirements shall set
18 forth the specific reasons for the request. The commission shall grant the request for
19 waiver upon good cause shown by the utility. In determining whether good cause has
20 been shown, the commission may consider:

21 (a) Whether other information which the utility would provide if the waiver is granted
22 is sufficient to allow the commission to effectively and efficiently review the rate
23 application;

1 (b) Whether the information which is the subject of the waiver request is normally
2 maintained by the utility or reasonably available to it from the information which it
3 maintains; and

4 (c) The expense to the utility in providing the information which is the subject of the
5 waiver request.

6 Section 17. Application for Authority to Issue Securities, Notes, Bonds, Stocks or
7 Other Evidences of Indebtedness. (1) When application is made by the utility for an
8 order authorizing the issuance of securities, notes, bonds, stocks or other evidences of
9 indebtedness payable at periods of more than two (2) years from the date thereof,
10 under the provisions of KRS 278.300, the application, in addition to complying with the
11 requirements of Section 14 of this administrative regulation, shall contain:

12 (a) A general description of the applicant's property and the field of its operation,
13 together with a statement of the original cost of the same and the cost to the applicant, if
14 it is impossible to state the original cost, the facts creating the impossibility shall be
15 stated;

16 (b) The amount and kinds of stock, if any, which the utility desires to issue, and, if
17 preferred, the nature and extent of the preference; the amount of notes, bonds or other
18 evidences of indebtedness, if any, which the utility desires to issue, with terms, rate of
19 interest and whether and how to be secured;

20 (c) The use to be made of the proceeds of the issue of any securities, notes, bonds,
21 stocks or other evidence of indebtedness with a statement indicating how much is to be
22 used for the acquisition of property, the construction, completion, extension, or
23 improvement of facilities, the improvement of service, the maintenance of service, and

1 the discharge or refunding of obligations;

2 (d) The property in detail which is to be acquired, constructed, improved, or extended
3 with its cost, a detailed description of the contemplated construction, completion,
4 extension, or improvement of facilities set forth in a manner whereby an estimate of the
5 cost may be made, a statement of the character of the improvement of service
6 proposed, and of the reasons why the service should be maintained from its capital.
7 Whether any contracts have been made for the acquisition of any property, or for any
8 construction, completion, extension or improvement of facilities, or for the disposition of
9 any of the securities, notes, bonds, stocks or other evidence of indebtedness which it
10 proposes to issue or the proceeds thereof and if any contracts have been made, copies
11 thereof shall be annexed to the petition;

12 (e) If it is proposed to discharge or refund obligations, a statement of the nature and
13 description of the obligations including their par value, the amount for which they were
14 actually sold, the associated expenses, and the application of the proceeds from the
15 sales. If notes are to be refunded, the petition shall show the date, amount, time, rate of
16 interest, and payee of each and the purpose for which their proceeds were expended;
17 and

18 (f) Any other facts as may be pertinent to the application.

19 (2) The following exhibits shall be filed with the application:

20 (a) Financial exhibit (see Section 12 of this administrative regulation);

21 (b) Copies of trust deeds or mortgages, if any, unless they have already been filed
22 with the commission, in which case reference shall be made ~~by [, by style and]~~ case
23 number[;] to the proceeding in which the trust deeds or mortgages have been filed; and

1 (c) Maps and plans of the proposed property and constructions together with detailed
2 estimates in a form that they can be reviewed by the commission's engineering division.
3 Estimates shall be arranged according to the uniform system of accounts prescribed by
4 the commission for the various classes of utilities.

5 Section 18. **Application [Petition]** for Declaratory Order. (1) The commission may,
6 upon application by any person substantially affected, issue a declaratory order with
7 respect to the jurisdiction of the commission, the applicability to any person, property or
8 state of facts of any order or administrative regulation of the commission or provision of
9 KRS Chapter 278, or with respect to the meaning and scope of any order or
10 administrative regulation of the commission or provision of KRS Chapter 278.

11 (2) An application for declaratory order shall:

12 (a) Be in writing;

13 (b) Contain a complete, accurate, and concise statement of the facts upon which the
14 application is based;

15 (c) Fully disclose the applicant's interest;

16 (d) Identify all statutes, administrative regulations, and orders to which the application
17 relates order or administrative regulation; and

18 (e) State the applicant's proposed resolution or conclusion.

19 (3) The commission may in its discretion direct that a copy of the application for a
20 declaratory order be served on any person the commission deems may be affected by
21 the application.

22 (4) Responses, if any, to an application for declaratory order shall be filed with the
23 commission within twenty-one (21) days after the date on which the application was

1 filed with the commission or within the time the commission directs; and be served upon
2 the applicant.

3 (5) Replies to responses may be filed with the commission within fourteen (14) days
4 after service, or within the time the commission directs.

5 (6) All applications, responses and replies containing allegations of fact shall be
6 supported by affidavit or verified.

7 (7) The commission may in its sole discretion dispose of an application for a
8 declaratory order solely on the basis of the written submissions filed before it.

9 (8) The commission may take any action necessary to ensure a complete record, to
10 include holding oral arguments on the application and requiring the production of
11 additional documents and materials.

12 Section 19. Formal Complaints. (1) Contents of complaint. Each complaint shall be
13 headed "Before the Public Service Commission," shall set out the names of the
14 complainant and the name of the defendant, and shall state:

15 (a) The full name and post office address of the complainant;

16 (b) The full name and post office address of the defendant; and

17 (c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be
18 done, of which complaint is made, with a reference, where practicable, to the law, order,
19 or section, and subsections, of which a violation is claimed, and other matters, or facts,
20 if any, as may be necessary to acquaint the commission fully with the details of the
21 alleged violation. The complainant shall set forth definitely the exact relief which is
22 desired.

23 (2) Signature. The complaint shall be signed by the complainant or his or her

1 attorney, if any, and if signed by an attorney, shall show the attorney's post office
2 address. Complaints by corporations or associations, or any other organization having
3 the right to file a complaint, shall be signed by its attorney.

4 (3) Number of copies required. When the complainant files his or her original
5 complaint, the complainant shall also file two (2) more copies than the number of
6 persons or corporations to be served.

7 (4) Procedure on filing of complaint.

8 (a) Upon the filing of a complaint, the commission shall immediately examine the
9 same to ascertain whether it establishes a prima facie case and conforms to this
10 administrative regulation. If the commission is of the opinion that the complaint does not
11 establish a prima facie case or does not conform to this administrative regulation, it shall
12 notify the complainant or his or her attorney to that effect, and opportunity may be given
13 to amend the complaint within a specified time. If the complaint is not so amended
14 within the time or the extension as the commission, for good cause shown, may grant, it
15 shall be dismissed.

16 (b) If the commission is of the opinion that the complaint, either as originally filed or
17 as amended, does establish a prima facie case and conforms to this administrative
18 regulation, the commission shall serve an order upon any person complained of under
19 the hand of its executive director and attested by its seal, accompanied by a copy of the
20 complaint, directed to the person and requiring that the matter complained of be
21 satisfied, or that the complaint be answered in writing within ten (10) days from the date
22 of service of the order, provided that the commission may, in particular cases, require
23 the answer to be filed within a shorter **or longer period [time].**

1 (5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he
2 or she shall submit to the commission, within the time allowed for satisfaction or answer,
3 a statement of the relief which the defendant is willing to give. Upon the acceptance of
4 this offer by the complainant and the approval of the commission, further proceedings
5 shall not be taken.

6 (6) Answer to complaint. If the complainant is not satisfied with the relief offered, the
7 person complained of shall file an answer to the complaint, with certificate of service on
8 other endorsed parties, within the time specified in the order or the extension as the
9 commission, for good cause shown, may grant. The answer shall contain a specific
10 denial of the material allegations of the complaint as controverted by the defendant and
11 also a statement of any new matter constituting a defense. If the answering party has no
12 information or belief upon the subject sufficient to enable him or her to answer an
13 allegation of the complaint, the answering party may so state in the answer and place
14 the denial upon that ground.

15 Section 20. Informal Complaints. (1) Informal complaints shall be made to the
16 commission's division of consumer services in any manner that specifically states the
17 complainant's concerns and identifies the utility.

18 (2) The commission's division of consumer services shall address by correspondence
19 or other means the complaint. If an informal complaint is referred to a utility, the utility
20 shall acknowledge to the commission's division of consumer services referral of the
21 complaint and shall report on its efforts to contact the complainant within three (3)
22 business days of the referral, or a lesser period as commission staff may require. If
23 commission staff requires a period less than three (3) business days for a response,

1 that period shall be reasonable under the circumstances.

2 (3) Upon resolution of the informal complaint, the utility shall notify the commission's
3 division of consumer services.

4 (4) In the event of failure to bring about satisfaction of the complaint because of the
5 inability of the parties to agree as to the facts involved, or from other causes, the
6 proceeding shall be held to be without prejudice to the complainant's right to file and
7 prosecute a formal complaint whereupon the informal proceedings shall be
8 discontinued.

9 Section 21. Deviations from Rules. In special cases, for good cause shown, the
10 commission may permit deviations from these rules.

11 Section 22. Incorporation by Reference. (1) The following material is incorporated by
12 reference:

13 (a) "FERC Form-1", Annual Report of Major Electric Utilities, Licensees and Others,
14 March 2007;

15 (b) "FERC Form-2", Annual Report of Major Natural Gas Companies, December
16 2007;

17 (c) "PSC Notice of Electronic Filing Procedures Form", July 2012;

18 (d) "PSC Form-T (telephone)", August 2005;

19 (e) "SEC Form-8K", January 2012;

20 (f) "SEC Form-10K", January 2012; and

21 (g) "SEC Form-10Q", January 2012;

22 (2) This material may be inspected, copied, or obtained, subject to applicable
23 copyright law, at the commission's offices located at 211 Sower Boulevard, Frankfort,

1 Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the
2 commission's Web site at <http://psc.ky.gov/>. [~~Section 1. General Offices and Hearings.~~

3 ~~(1) The commission will be in continuous session for the performance of administrative~~
4 ~~duties.~~

5 ~~(2) Meetings of the commission for the consideration of all matters requiring formal~~
6 ~~hearings will be held on such days, at such hours and at such places as the commission~~
7 ~~may designate.~~

8 ~~(3) Notice of hearing will be given by the secretary to parties to proceedings before~~
9 ~~the commission, except when a hearing is not concluded on the day appointed therefor~~
10 ~~and verbal announcement is made by the presiding commissioner or hearing examiner~~
11 ~~of an adjourned date. Verbal announcements so made shall be deemed due notice of~~
12 ~~continued hearing.~~

13 ~~Section 2. Secretary to Furnish Information. (1) Upon request, the secretary will~~
14 ~~advise any party as to the form of a petition, complaint, answer, application or other~~
15 ~~paper desired to be filed; and he will make available from the commission's files, upon~~
16 ~~request, any document or record pertinent to any matter before the commission.~~

17 ~~(2) The secretary may reject for filing any document which on its face does not~~
18 ~~comply with the rules and administrative regulations of the commission.~~

19 ~~Section 3. General Matters Pertaining to All Formal Proceedings. (1) Address of the~~
20 ~~commission. All communications should be addressed to "Public Service Commission,~~
21 ~~Frankfort, Kentucky."~~

22 ~~(2) Case numbers and styles. Each matter coming formally before the commission~~
23 ~~will be known as a case and will receive a number and style, descriptive of the subject~~

1 matter. Such number and style shall be placed on all subsequent papers in such case.

2 (3) Form of papers filed. All pleadings and applications filed with the commission in
3 formal proceedings shall be printed or typewritten on one (1) side of the paper only, and
4 typewriting shall be double spaced.

5 (4) Signing of pleadings. Every pleading of a party represented by an attorney shall
6 be signed by at least one (1) attorney of record in his individual name and shall state his
7 address. Except when otherwise specifically provided by statute, pleadings need not be
8 verified or accompanied by affidavit.

9 (5) Amendment. At its discretion, the commission may allow any complaint,
10 application, answer or other paper to be amended or corrected or any omission supplied
11 therein.

12 (6) Witnesses and subpoenas.

13 (a) Upon the application of any party to a proceeding, subpoenas requiring the
14 attendance of witnesses for the purpose of taking testimony may be signed and issued
15 by a member of the commission.

16 (b) Subpoenas for the production of books, accounts, papers or records (unless
17 directed to issue by the commission on its own authority) will be issued only at the
18 discretion of the commission, or any commissioner, upon application in writing, stating
19 as nearly as possible the books, accounts, papers or records desired to be produced.

20 (7) Service of process. When any party has appeared by attorney, service upon such
21 attorney will be deemed proper service upon the party.

22 (8) Intervention and parties. In any formal proceeding, any person who wishes to
23 become a party to a proceeding before the commission may by timely motion request

1 ~~that he be granted leave to intervene. Such motion shall include his name and address~~
2 ~~and the name and address of any party he represents and in what capacity he is~~
3 ~~employed by such party.~~

4 ~~(a) Each person granted leave to intervene shall be considered as making a limited~~
5 ~~intervention unless he submits to the secretary a written request for full intervention. A~~
6 ~~person making only a limited intervention shall be entitled to the full rights of a party at~~
7 ~~the hearing in which he appears and shall be served with the commission's order, but~~
8 ~~he shall not be served with filed testimony, exhibits, pleadings, correspondence and all~~
9 ~~other documents submitted by parties. A person making a limited appearance will not~~
10 ~~be certified as a party for the purposes of receiving service of any petition for rehearing~~
11 ~~or petition for judicial review.~~

12 ~~(b) If a person granted leave to intervene desires to be served with filed testimony,~~
13 ~~exhibits, pleadings, correspondence and all other documents submitted by parties, and~~
14 ~~to be certified as a party for the purposes of receiving service of any petition for~~
15 ~~rehearing or petition for judicial review, he shall submit in writing to the secretary a~~
16 ~~request for full intervention, which shall specify his interest in the proceeding. If the~~
17 ~~commission determines that a person has a special interest in the proceeding which is~~
18 ~~not otherwise adequately represented or that full intervention by party is likely to present~~
19 ~~issues or to develop facts that assist the commission in fully considering the matter~~
20 ~~without unduly complicating or disrupting the proceedings, such person shall be granted~~
21 ~~full intervention.~~

22 ~~Section 4. Hearings and Rehearings. (1) When hearings will be granted. Except as~~
23 ~~otherwise determined in specific cases, the commission will grant a hearing in the~~

1 following classes of cases:

2 (a) ~~When an order to satisfy a complaint or to make answer thereto has been made~~
3 ~~and the corporation or person complained of has not satisfied the complaint to the~~
4 ~~satisfaction of the commission.~~

5 (b) ~~When application has been made in a formal proceeding.~~

6 (2) ~~Publication of notice. Upon the filing of any application the commission may, in its~~
7 ~~discretion, give all other corporations or persons who may be affected thereby an~~
8 ~~opportunity to be heard by service upon them of a copy of the petition or by publication~~
9 ~~of the substance thereof, at the expense of the applicant, for such length of time and in~~
10 ~~such newspaper or newspapers as the commission may designate. In such cases the~~
11 ~~form of notice will be prepared by the secretary, and a proof of the publication thereof~~
12 ~~must be filed at or before the hearing.~~

13 (3) ~~Investigation on commission's own motion. The commission may at any time, on~~
14 ~~its own motion, make investigations and order hearings into any act or thing done or~~
15 ~~omitted to be done by the public utility, which the commission may believe is in violation~~
16 ~~of any provision of law or of any order or administrative regulation of the commission. It~~
17 ~~may also through its own experts or employees, or otherwise, obtain such evidence as it~~
18 ~~may consider necessary or desirable in any formal proceeding in addition to the~~
19 ~~evidence presented by the parties.~~

20 (4) ~~Conferences with commission staff. In order to provide opportunity for settlement~~
21 ~~of a proceeding or any of the issues therein, an informal conference with the~~
22 ~~commission staff may be arranged through the secretary of the commission either prior~~
23 ~~to, or during the course of hearings in any proceeding, at the request of any party.~~

1 ~~(5) Conduct of hearings. Hearings will be conducted before the commission or a~~
2 ~~commissioner or before a person designated by the commission to conduct a specific~~
3 ~~hearing.~~

4 ~~(6) Stipulation of facts. By a stipulation in writing, filed with the secretary, the parties~~
5 ~~to any proceeding or investigation by the commission may agree upon the facts or any~~
6 ~~portion of the facts involved in the controversy, which stipulation shall be regarded and~~
7 ~~used as evidence at the hearing.~~

8 ~~(7) Testimony. All testimony given before the commission will be given under oath or~~
9 ~~affirmation.~~

10 ~~(8) Objections and exceptions. When objections are made to the admission or~~
11 ~~exclusion of evidence before the commission, the grounds relied upon shall be stated~~
12 ~~briefly. Formal exceptions are unnecessary and will not be taken to rulings therein.~~

13 ~~(9) Transcript of evidence. The commission will cause to be made a stenographic~~
14 ~~record of all public hearings and such copies of the transcript thereof as it requires for~~
15 ~~its own purposes. Participants desiring copies of such transcripts may obtain the same~~
16 ~~from the official reporter upon payment of the fees fixed therefor.~~

17 ~~(10) Briefs and petitions for rehearing. All briefs and petitions for rehearing in any~~
18 ~~proceeding must be accompanied with notice, showing service upon all other parties or~~
19 ~~their attorneys, and, in addition to the filed original, ten (10) copies of each such~~
20 ~~document shall be furnished for the use of the commission.~~

21 ~~(11) Filing of briefs. All briefs must be filed within the time fixed, and the commission~~
22 ~~may refuse to consider any brief filed thereafter. Applications for extensions of time to~~
23 ~~file briefs must be made to the commission in writing.~~

1 ~~(12) Form of briefs. All briefs filed with the commission shall be in the form prescribed~~
2 ~~by the commission.~~

3 ~~Section 5. Documentary Evidence. (1) If documentary evidence is offered, the~~
4 ~~commission, in lieu of requiring the originals to be filed may, in its discretion, accept~~
5 ~~certified, or otherwise authenticated, copies of such documents or such portions of the~~
6 ~~same as may be relevant, or may require such evidence to be transcribed as a part of~~
7 ~~the record.~~

8 ~~(2) Where relevant and material matter offered in evidence by any party is embraced~~
9 ~~in a book, paper or document containing other matter not material or relevant the party~~
10 ~~must plainly designate the matter so offered. If such immaterial matter unnecessarily~~
11 ~~encumbers the record, such book, paper or document will not be received in evidence,~~
12 ~~but may be described for identification, and if properly authenticated, the relevant and~~
13 ~~material matter may be read into the record, or if the commission, or commissioner~~
14 ~~conducting the hearing, so directs, a true copy of such matter in proper form shall be~~
15 ~~received as an exhibit, and like copies delivered by the parties offering same to~~
16 ~~opposing parties, or their attorneys, appearing at the hearing, who shall be offered the~~
17 ~~opportunity to examine such book, paper or document, and to offer evidence in like~~
18 ~~manner other portions thereof if found to be material and relevant.~~

19 ~~(3) Whenever practicable the sheets of each exhibit and the lines of each sheet shall~~
20 ~~be numbered and if the exhibit consists of two (2) or more sheets, the first sheet or title~~
21 ~~page shall contain a brief statement of what the exhibit purports to show, with reference~~
22 ~~by sheet and line to illustrative or typical examples contained in the exhibit. Wherever~~
23 ~~practicable, rate comparisons and other such evidence shall be condensed into tables.~~

1 ~~(4) Except as may be expressly permitted in particular instances, the commission will~~
2 ~~not receive in evidence or consider as a part of the record any book, paper or other~~
3 ~~document for consideration in connection with the proceeding after the close of the~~
4 ~~testimony.~~

5 ~~(5) Upon motion of any party to a proceeding, any case in the commission's files or~~
6 ~~any document on file with the commission, at the discretion of the commission may be~~
7 ~~made a part of the record by "reference only." By reference only, the case or document~~
8 ~~made a part of the record will not be physically incorporated into the record. Upon action~~
9 ~~in the Franklin Circuit Court, excerpts from any case or part of any document may be~~
10 ~~made a part of the record before such court, at the instance of any party.~~

11 ~~Section 6. Financial Exhibit. Whenever in these rules it is provided that a financial~~
12 ~~exhibit shall be annexed to the application, the said exhibit shall cover operations for a~~
13 ~~twelve (12) month period, said period ending not more than ninety (90) days prior to the~~
14 ~~date the application is filed. The said exhibit shall disclose the following information in~~
15 ~~the order indicated below:~~

16 ~~(1) Amount and kinds of stock authorized.~~

17 ~~(2) Amount and kinds of stock issued and outstanding.~~

18 ~~(3) Terms of preference of preferred stock whether cumulative or participating, or on~~
19 ~~dividends or assets or otherwise.~~

20 ~~(4) Brief description of each mortgage on property of applicant, giving date of~~
21 ~~execution, name of mortgagor, name of mortgagee, or trustee, amount of indebtedness~~
22 ~~authorized to be secured thereby, and the amount of indebtedness actually secured,~~
23 ~~together with any sinking fund provisions.~~

1 ~~(5) Amount of bonds authorized, and amount issued, giving the name of the public~~
2 ~~utility which issued the same, describing each class separately, and giving date of~~
3 ~~issue, face value, rate of interest, date of maturity and how secured, together with~~
4 ~~amount of interest paid thereon during the last fiscal year.~~

5 ~~(6) Each note outstanding, giving date of issue, amount, date of maturity, rate of~~
6 ~~interest, in whose favor, together with amount of interest paid thereon during the last~~
7 ~~fiscal year.~~

8 ~~(7) Other indebtedness, giving same by classes and describing security, if any, with a~~
9 ~~brief statement of the devolution or assumption of any portion of such indebtedness~~
10 ~~upon or by person or corporation if the original liability has been transferred, together~~
11 ~~with amount of interest paid thereon during the last fiscal year.~~

12 ~~(8) Rate and amount of dividends paid during the five (5) previous fiscal years, and~~
13 ~~the amount of capital stock on which dividends were paid each year.~~

14 ~~(9) Detailed income statement and balance sheet.~~

15 ~~Section 7. Confidential Material. (1) All material on file with the commission shall be~~
16 ~~available for examination by the public unless the material is confidential as provided~~
17 ~~herein.~~

18 ~~(2) Procedure for determining confidentiality.~~

19 ~~(a) Any person requesting confidential treatment of any material shall file a petition~~
20 ~~which:~~

21 ~~1. Sets forth specific grounds pursuant to KRS 61.870 et seq., the Kentucky Open~~
22 ~~Records Act, upon which the commission should classify that material as confidential;~~
23 ~~and~~

1 ~~2. Attaches one (1) copy of the material which identifies by underscoring, highlighting~~
2 ~~with transparent ink, or other reasonable means only those portions which unless~~
3 ~~deleted would disclose confidential material. Text pages or portions thereof which do~~
4 ~~not contain confidential material shall not be included in this identification.~~

5 ~~(b) The petition, one (1) copy of the material which is identified by underscoring or~~
6 ~~highlighting, and ten (10) copies of the material with those portions obscured for which~~
7 ~~confidentiality is sought, shall be filed with the commission.~~

8 ~~(c) The petition and a copy of the material, with only those portions for which~~
9 ~~confidentiality is sought obscured, shall be served on all parties. The petition shall~~
10 ~~contain a certificate of service on all parties.~~

11 ~~(d) The burden of proof to show that the material falls within the exclusions from~~
12 ~~disclosure requirements enumerated in KRS 61.870 et seq., shall be upon the person~~
13 ~~requesting confidential treatment.~~

14 ~~(e) Any person may respond to the petition for confidential treatment within ten (10)~~
15 ~~days after it is filed with the commission.~~

16 ~~(3) Pending commission action on the petition, the material specifically identified shall~~
17 ~~be temporarily accorded confidential treatment.~~

18 ~~(4) If the commission denies the petition for confidential treatment of material, the~~
19 ~~material shall not be placed in the public record for twenty (20) days to allow the~~
20 ~~petitioner to seek any remedy afforded by law.~~

21 ~~(5) Procedure for any party to request access to confidential material filed in any~~
22 ~~proceeding.~~

23 ~~(a) No party to any proceeding before the commission shall fail to respond to~~

1 ~~discovery by the commission or its staff or any other party to the proceeding on grounds~~
2 ~~of confidentiality. If any party responding to discovery requests seeks to have a portion~~
3 ~~or all of the response held confidential by the commission, it shall follow the procedures~~
4 ~~for petitioning for confidentiality contained in this administrative regulation. Any party's~~
5 ~~response to discovery requests shall be served upon all parties, with only those portions~~
6 ~~for which confidential treatment is sought obscured.~~

7 ~~(b) If the commission grants confidential protection to the responsive material and if~~
8 ~~parties have not entered into protective agreements, then any party may petition the~~
9 ~~commission requesting access to the material on the grounds that it is essential to a~~
10 ~~meaningful participation in the proceeding. The petition shall include a description of~~
11 ~~efforts to enter into a protective agreement and any unwillingness to enter into a~~
12 ~~protective agreement shall be fully explained. Any party may respond to the petition~~
13 ~~within ten (10) days after it is filed with the commission. The commission shall~~
14 ~~determine if the petitioner is entitled to the material, and the manner and extent of the~~
15 ~~disclosure necessary to protect confidentiality.~~

16 ~~(6) Requests for access to records pursuant to KRS 61.870-884. No time period~~
17 ~~prescribed in this section shall limit the right of any person to request access to~~
18 ~~commission records pursuant to KRS 61.870-884. Upon a request filed pursuant to KRS~~
19 ~~61.870-884, the commission shall respond in accordance with the procedure prescribed~~
20 ~~in KRS 61.880.~~

21 ~~(7) Procedure for request for access to confidential material. Any person denied~~
22 ~~access to records requested pursuant to KRS 61.870-884 or to material deemed~~
23 ~~confidential by the commission in accordance with the procedures set out in this~~

1 section, may obtain this information only pursuant to KRS 61.870-884, and other
2 applicable law.

3 ~~(8) Use of confidential material during formal proceedings. Any material deemed~~
4 ~~confidential by the commission may be addressed and relied upon during a formal~~
5 ~~hearing by the following procedure:~~

6 ~~(a) The person seeking to address the confidential material shall advise the~~
7 ~~commission prior to the use of such material.~~

8 ~~(b) All persons other than commission employees not a party to a protective~~
9 ~~agreement related to the confidential material shall be excused from the hearing room~~
10 ~~during direct testimony and cross-examination directly related to confidential material.~~

11 ~~(c) The court reporter shall produce a sealed transcript of that portion of the record~~
12 ~~directly related to the confidential material.~~

13 ~~(9) Material granted confidentiality which later becomes publicly available or~~
14 ~~otherwise no longer warrants confidential treatment.~~

15 ~~(a) The petitioner who sought confidential protection shall inform the commission in~~
16 ~~writing at any time when any material granted confidentiality becomes publicly available.~~

17 ~~(b) If the commission becomes aware that material granted confidentiality is publicly~~
18 ~~available or otherwise no longer qualifies for confidential treatment, it shall by order so~~
19 ~~advise the petitioner who sought confidential protection, giving ten (10) days to respond.~~

20 ~~If the commission finds that material has been disclosed by someone other than the~~
21 ~~person who requested confidential treatment, in violation of a protective agreement or~~
22 ~~commission order, such information shall not be deemed or considered to be publicly~~
23 ~~available and shall not be placed in the public record.~~

1 ~~(c) The material shall not be placed in the public record for twenty (20) days following~~
2 ~~any order finding that the material no longer qualifies for confidential treatment to allow~~
3 ~~the petitioner to seek any remedy afforded by law.~~

4 ~~Section 8. Applications. (1) Contents of application. All applications must be by~~
5 ~~petition in writing. The petition must set forth the full name and post office address of the~~
6 ~~applicant, and must contain fully the facts on which the application is based, with a~~
7 ~~request for the order, authorization, permission or certificate desired and a reference to~~
8 ~~the particular provision of law requiring or providing for same.~~

9 ~~(2) Number of copies. At the time the original application is filed, ten (10) additional~~
10 ~~copies must also be filed, and where parties interested in the subject matter of the~~
11 ~~application are named therein, there shall be filed an additional copy for each named~~
12 ~~party and such other additional copies as may be required by the secretary.~~

13 ~~(3) Articles of incorporation. If the applicant is a corporation, a certified copy of its~~
14 ~~articles of incorporation, and all amendments thereto, if any, shall be annexed to the~~
15 ~~application. If applicant's articles of incorporation and amendments thereto, if any, have~~
16 ~~already been filed with the commission in some prior proceeding, it will be sufficient if~~
17 ~~this fact is stated in the application and reference is made to the style and case number~~
18 ~~of the prior proceeding.~~

19 ~~Section 9. Applications for Certificates of Public Convenience and Necessity. (1)~~
20 ~~Application to bid on a franchise pursuant to KRS 278.020(3). Upon application to the~~
21 ~~commission by the utility for a certificate of convenience and necessity authorizing~~
22 ~~applicant to bid on a franchise, license or permit offered by any governmental agency,~~
23 ~~the applicant shall submit with its application, the following:~~

1 ~~(a) A copy of its articles of incorporation (see Section 8(3) of this administrative~~
2 ~~regulation).~~

3 ~~(b) The name of the governmental agency offering the franchise.~~

4 ~~(c) The type of franchise offered.~~

5 ~~(d) A statement showing the need and demand for service. Should the applicant be~~
6 ~~successful in acquiring said franchise, license or permit, it shall file a copy thereof with~~
7 ~~the commission.~~

8 ~~(2) New construction or extension. When application is made by the utility, person,~~
9 ~~firm, or corporation for a certificate that the present or future public convenience or~~
10 ~~necessity requires, or will require, the construction or extension of any plant, equipment,~~
11 ~~property or facility, the applicant, in addition to complying with Section 8 of this~~
12 ~~administrative regulation, shall submit the following data, either in the application or as~~
13 ~~exhibits attached thereto:~~

14 ~~(a) The facts relied upon to show that the proposed new construction is or will be~~
15 ~~required by public convenience or necessity.~~

16 ~~(b) Copies of franchises or permits, if any, from the proper public authority for the~~
17 ~~proposed new construction or extension, if not previously filed with the commission.~~

18 ~~(c) A full description of the proposed location, route, or routes of the new construction~~
19 ~~or extension, including a description of the manner in which same will be constructed,~~
20 ~~and also the names of all public utilities, corporations, or persons with whom the~~
21 ~~proposed new construction or extension is likely to compete.~~

22 ~~(d) Three (3) maps to suitable scale (preferably not more than two (2) miles per inch)~~
23 ~~showing the location or route of the proposed new construction or extension, as well as~~

1 ~~the location to scale of any like facilities owned by others located anywhere within the~~
2 ~~map area with adequate identification as to the ownership of such other facilities.~~

3 ~~(e) The manner in detail in which it is proposed to finance the new construction or~~
4 ~~extension.~~

5 ~~(f) An estimated cost of operation after the proposed facilities are completed.~~

6 ~~(g) All other information necessary to afford the commission a complete~~
7 ~~understanding of the situation.~~

8 ~~(3) Extensions in the ordinary course of business. No certificate of public~~
9 ~~convenience and necessity will be required for extensions that do not create wasteful~~
10 ~~duplication of plant, equipment, property or facilities, or conflict with the existing~~
11 ~~certificates or service of other utilities operating in the same area and under the~~
12 ~~jurisdiction of the commission that are in the general area in which the utility renders~~
13 ~~service or contiguous thereto, and that do not involve sufficient capital outlay to~~
14 ~~materially affect the existing financial condition of the utility involved, or will not result in~~
15 ~~increased charges to its customers.~~

16 ~~(4) Renewal applications. Insofar as procedure is concerned, applications for a~~
17 ~~renewal of a certificate of convenience and necessity will be treated as an original~~
18 ~~application.~~

19 ~~Section 10. Applications for General Adjustments in Existing Rates. (1) All~~
20 ~~applications requesting a general adjustment in existing rates shall be supported by:~~

21 ~~(a) A twelve (12) month historical test period which may include adjustments for~~
22 ~~known and measurable changes; or~~

23 ~~(b) A fully forecasted test period and shall include:~~

- 1 ~~1. A statement of the reason the adjustment is required;~~
- 2 ~~2. A statement that the utility's annual reports, including the annual report for the~~
3 ~~most recent calendar year, are on file with the commission in accordance with 807 KAR~~
4 ~~5:006, Section 3(1);~~
- 5 ~~3. If the utility is incorporated, a certified copy of the utility's articles of incorporation~~
6 ~~and all amendments thereto or out-of-state documents of similar import. If the utility's~~
7 ~~articles of incorporation and amendments have already been filed with the commission~~
8 ~~in a prior proceeding, the application may state this fact making reference to the style~~
9 ~~and case number of the prior proceeding;~~
- 10 ~~4. If the utility is a limited partnership, a certified copy of the limited partnership~~
11 ~~agreement and all amendments thereto or out-of-state documents of similar import. If~~
12 ~~the utility's limited partnership agreement and amendments have already been filed with~~
13 ~~the commission in a prior proceeding, the application may state this fact making~~
14 ~~reference to the style and case number of the prior proceeding;~~
- 15 ~~5. If the utility is incorporated or is a limited partnership, a certificate of good standing~~
16 ~~or certificate of authorization dated within sixty (60) days of the date the application is~~
17 ~~filed;~~
- 18 ~~6. A certified copy of a certificate of assumed name as required by KRS 365.015 or a~~
19 ~~statement that such a certificate is not necessary;~~
- 20 ~~7. The proposed tariff in a form which complies with 807 KAR 5:011 with an effective~~
21 ~~date not less than thirty (30) days from the date the application is filed;~~
- 22 ~~8. The utility's proposed tariff changes, identified in compliance with 807 KAR 5:011,~~
23 ~~shown either by:~~

- 1 ~~a. Providing the present and proposed tariffs in comparative form on the same sheet~~
2 ~~side by side or on facing sheets side by side; or~~
- 3 ~~b. Providing a copy of the present tariff indicating proposed additions by italicized~~
4 ~~inserts or underscoring and striking over proposed deletions; and~~
- 5 ~~9. A statement that customer notice has been given in compliance with subsections~~
6 ~~(3) and (4) of this section with a copy of the notice.~~
- 7 ~~10. For the purposes of this administrative regulation, an affiliate is an entity that:~~
- 8 ~~a. Is wholly owned by a utility; or~~
- 9 ~~b. In which a utility has a controlling interest; or~~
- 10 ~~c. That wholly owns a utility; or~~
- 11 ~~d. That has a controlling interest in a utility; or~~
- 12 ~~e. That is under common control with the utility.~~
- 13 ~~11. For the purposes of this administrative regulation, a utility, or other entity, shall be~~
14 ~~deemed to have a controlling interest in, or be under common control with, an entity or~~
15 ~~utility if it:~~
- 16 ~~a. Directly or indirectly has the power to direct, or to cause the direction of, the~~
17 ~~management or policies of any entity; and~~
- 18 ~~b. Exercises such power:~~
- 19 ~~(i) Through one (1) or more intermediary companies, or alone; or~~
- 20 ~~(ii) In conjunction with, or pursuant to an agreement; or~~
- 21 ~~(iii) Through ownership of ten (10) percent or more of the voting securities; or~~
- 22 ~~(iv) Through common directors, officers, stockholders, voting or holding trusts,~~
23 ~~associated companies; or~~

1 ~~(v) Contract; or~~

2 ~~(vi) Any other direct or indirect means.~~

3 ~~(2) Notice of intent. Utilities with gross annual revenues greater than \$1,000,000 shall~~
4 ~~file with the commission a written notice of intent to file a rate application at least four (4)~~
5 ~~weeks prior to filing their application. The notice of intent shall state whether the rate~~
6 ~~application will be supported by a historical test period or a fully forecasted test period.~~
7 ~~This notice shall be served upon the Attorney General, Utility Intervention and Rate~~
8 ~~Division.~~

9 ~~(3) Form of notice to customers. Every utility filing an application pursuant to this~~
10 ~~section shall notify all affected customers in the manner prescribed herein. The notice~~
11 ~~shall include the following information:~~

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

14 ~~(b) The present rates and the proposed rates for each customer class to which the~~
15 ~~proposed rates would apply;~~

16 ~~(c) Electric, gas, water and sewer utilities shall include the effect upon the average~~
17 ~~bill for each customer class to which the proposed rate change will apply;~~

18 ~~(d) Local exchange companies shall include the effect upon the average bill for each~~
19 ~~customer class for the proposed rate change in basic local service;~~

20 ~~(e) A statement that the rates contained in this notice are the rates proposed by~~
21 ~~(name of utility); however, the Public Service Commission may order rates to be~~
22 ~~charged that differ from the proposed rates contained in this notice;~~

23 ~~(f) A statement that any corporation, association, or person with a substantial interest~~

1 in the matter may, by written request, within thirty (30) days after publication or mailing
2 of this notice of the proposed rate changes request to intervene; intervention may be
3 granted beyond the thirty (30) day period for good cause shown;

4 ~~(g) A statement that any person who has been granted intervention by the~~
5 ~~commission may obtain copies of the rate application and any other filings made by the~~
6 ~~utility by contacting the utility through a name and address and phone number stated in~~
7 ~~this notice;~~

8 ~~(h) A statement that any person may examine the rate application and any other~~
9 ~~filings made by the utility at the main office of the utility or at the commission's office~~
10 ~~indicating the addresses and telephone numbers of both the utility and the commission;~~
11 ~~and~~

12 ~~(i) The commission may grant a utility with annual gross revenues greater than~~
13 ~~\$1,000,000, upon written request, permission to use an abbreviated form of published~~
14 ~~notice of the proposed rates provided the notice includes a coupon which may be used~~
15 ~~to obtain all of the information required herein.~~

16 ~~(4) Manner of notification.~~

17 ~~(a) Sewer utilities shall give the required typewritten notice by mail to all of their~~
18 ~~customers pursuant to KRS 278.185.~~

19 ~~(b) Applicants with twenty (20) or fewer customers affected by the proposed general~~
20 ~~rate adjustment shall mail the required typewritten notice to each customer no later than~~
21 ~~the date the application is filed with the commission.~~

22 ~~(c) Except for sewer utilities, applicants with more than twenty (20) customers~~
23 ~~affected by the proposed general rate adjustment shall give the required notice by one~~

1 ~~(1) of the following methods:~~

2 ~~1. A typewritten notice mailed to all customers no later than the date the application is~~
3 ~~filed with the commission;~~

4 ~~2. Publishing the notice in a trade publication or newsletter which is mailed to all~~
5 ~~customers no later than the date on which the application is filed with the commission;~~
6 ~~or~~

7 ~~3. Publishing the notice once a week for three (3) consecutive weeks in a prominent~~
8 ~~manner in a newspaper of general circulation in the utility's service area, the first~~
9 ~~publication to be made within seven (7) days of the filing of the application with the~~
10 ~~commission.~~

11 ~~(d) If the notice is published, an affidavit from the publisher verifying the notice was~~
12 ~~published, including the dates of the publication with an attached copy of the published~~
13 ~~notice, shall be filed with the commission no later than forty five (45) days of the filed~~
14 ~~date of the application.~~

15 ~~(e) If the notice is mailed, a written statement signed by the utility's chief officer in~~
16 ~~charge of Kentucky operations verifying the notice was mailed shall be filed with the~~
17 ~~commission no later than thirty (30) days of the filed date of the application.~~

18 ~~(f) All utilities, in addition to the above notification, shall post a sample copy of the~~
19 ~~required notification at their place of business no later than the date on which the~~
20 ~~application is filed which shall remain posted until the commission has finally~~
21 ~~determined the utility's rates.~~

22 ~~(g) Compliance with this subsection shall constitute compliance with 807 KAR 5:051,~~
23 ~~Section 2.~~

1 ~~(5) Notice of hearing scheduled by the commission upon application by a utility for a~~
2 ~~general adjustment in rates shall be advertised by the utility by newspaper publication in~~
3 ~~the areas that will be affected in compliance with KRS 424.300.~~

4 ~~(6) All applications supported by a historical test period shall include the following~~
5 ~~information or a statement explaining why the required information does not exist and is~~
6 ~~not applicable to the utility's application:~~

7 ~~(a) A complete description and quantified explanation for all proposed adjustments~~
8 ~~with proper support for any proposed changes in price or activity levels, and any other~~
9 ~~factors which may affect the adjustment;~~

10 ~~(b) If the utility has gross annual revenues greater than \$1,000,000, the prepared~~
11 ~~testimony of each witness the utility proposes to use to support its application;~~

12 ~~(c) If the utility has gross annual revenues less than \$1,000,000, the prepared~~
13 ~~testimony of each witness the utility proposes to use to support its application or a~~
14 ~~statement that the utility does not plan to submit any prepared testimony;~~

15 ~~(d) A statement estimating the effect that the new rate(s) will have upon the revenues~~
16 ~~of the utility including, at minimum, the total amount of revenues resulting from the~~
17 ~~increase or decrease and the percentage of the increase or decrease;~~

18 ~~(e) If the utility provides electric, gas, water or sewer service the effect upon the~~
19 ~~average bill for each customer classification to which the proposed rate change will~~
20 ~~apply;~~

21 ~~(f) If the utility is a local exchange company the effect upon the average bill for each~~
22 ~~customer class for the proposed rate change in basic local service;~~

23 ~~(g) An analysis of customers' bills in such detail that revenues from the present and~~

1 ~~proposed rates can be readily determined for each customer class;~~

2 ~~(h) A summary of the utility's determination of its revenue requirements based on~~
3 ~~return on net investment rate base, return on capitalization, interest coverage, debt~~
4 ~~service coverage, or operating ratio, with supporting schedules;~~

5 ~~(i) A reconciliation of the rate base and capital used to determine its revenue~~
6 ~~requirements;~~

7 ~~(j) A current chart of accounts if more detailed than the Uniform System of Accounts~~
8 ~~prescribed by the commission;~~

9 ~~(k) The independent auditor's annual opinion report, with any written communication~~
10 ~~from the independent auditor to the utility which indicates the existence of a material~~
11 ~~weakness in the utility's internal controls;~~

12 ~~(l) The most recent Federal Energy Regulatory Commission or Federal~~
13 ~~Communication Commission audit reports;~~

14 ~~(m) The most recent Federal Energy Regulatory Commission Form 1 (electric),~~
15 ~~Federal Energy Regulatory Commission Form 2 (gas), or Automated Reporting~~
16 ~~Management Information System Report (telephone) and Public Service Commission~~
17 ~~Form T (telephone);~~

18 ~~(n) A summary of the utility's latest depreciation study with schedules by major plant~~
19 ~~accounts, except that telecommunications utilities that have adopted the commission's~~
20 ~~average depreciation rates shall provide a schedule that identifies the current and test~~
21 ~~period depreciation rates used by major plant accounts. If the required information has~~
22 ~~been filed in another commission case a reference to that case's number and style will~~
23 ~~be sufficient;~~

1 ~~(o) A list of all commercially available or in-house developed computer software,~~
2 ~~programs, and models used in the development of the schedules and work papers~~
3 ~~associated with the filing of the utility's application. This list shall include each software,~~
4 ~~program, or model; what the software, program, or model was used for; identify the~~
5 ~~supplier of each software, program, or model; a brief description of the software,~~
6 ~~program, or model; the specifications for the computer hardware and the operating~~
7 ~~system required to run the program;~~

8 ~~(p) Prospectuses of the most recent stock or bond offerings;~~

9 ~~(q) Annual report to shareholders, or members, and statistical supplements covering~~
10 ~~the two (2) most recent years from the utility's application filing date;~~

11 ~~(r) The monthly managerial reports providing financial results of operations for the~~
12 ~~twelve (12) months in the test period;~~

13 ~~(s) Securities and Exchange Commission's annual report for the most recent two (2)~~
14 ~~years, Form 10-Ks and any Form 8-Ks issued within the past two (2) years, and Form~~
15 ~~10-Qs issued during the past six (6) quarters updated as current information becomes~~
16 ~~available;~~

17 ~~(t) If the utility had any amounts charged or allocated to it by an affiliate or general or~~
18 ~~home office or paid any monies to an affiliate or general or home office during the test~~
19 ~~period or during the previous three (3) calendar years, the utility shall file:~~

20 ~~1. A detailed description of the method and amounts allocated or charged to the~~
21 ~~utility by the affiliate or general or home office for each charge allocation or payment;~~

22 ~~2. An explanation of how the allocator for the test period was determined; and~~

23 ~~3. All facts relied upon, including other regulatory approval, to demonstrate that each~~

1 amount charged, allocated or paid during the test period was reasonable;

2 (u) ~~If the utility provides gas, electric or water utility service and has annual gross~~
3 ~~revenues greater than \$5,000,000, a cost of service study based on a methodology~~
4 ~~generally accepted within the industry and based on current and reliable data from a~~
5 ~~single time period; and~~

6 (v) ~~Local exchange carriers with fewer than 50,000 access lines shall not be required~~
7 ~~to file cost of service studies, except as specifically directed by the commission. Local~~
8 ~~exchange carriers with more than 50,000 access lines shall file:~~

9 1. ~~A jurisdictional separations study consistent with Part 36 of the Federal~~
10 ~~Communications Commission's rules and regulations; and~~

11 2. ~~Service specific cost studies to support the pricing of all services that generate~~
12 ~~annual revenue greater than \$1,000,000, except local exchange access:~~

13 a. ~~Based on current and reliable data from a single time period; and~~

14 b. ~~Using generally recognized fully allocated, embedded, or incremental cost~~
15 ~~principles.~~

16 (7) ~~Upon good cause shown, a utility may request pro forma adjustments for known~~
17 ~~and measurable changes to ensure fair, just and reasonable rates based on the~~
18 ~~historical test period. The following information shall be filed with applications requesting~~
19 ~~pro forma adjustments or a statement explaining why the required information does not~~
20 ~~exist and is not applicable to the utility's application:~~

21 (a) ~~A detailed income statement and balance sheet reflecting the impact of all~~
22 ~~proposed adjustments;~~

23 (b) ~~The most recent capital construction budget containing at least the period of time~~

1 as proposed for any pro forma adjustment for plant additions;

2 (c) For each proposed pro forma adjustment reflecting plant additions provide the
3 following information:

4 1. The starting date of the construction of each major component of plant;

5 2. The proposed in-service date;

6 3. The total estimated cost of construction at completion;

7 4. The amount contained in construction work in progress at the end of the test
8 period;

9 5. A schedule containing a complete description of actual plant retirements and
10 anticipated plant retirements related to the pro forma plant additions including the actual
11 or anticipated date of retirement;

12 6. The original cost, cost of removal and salvage for each component of plant to be
13 retired during the period of the proposed pro forma adjustment for plant additions;

14 7. An explanation of any differences in the amounts contained in the capital
15 construction budget and the amounts of capital construction cost contained in the pro
16 forma adjustment period; and

17 8. The impact on depreciation expense of all proposed pro forma adjustments for
18 plant additions and retirements;

19 (d) The operating budget for each month of the period encompassing the pro forma
20 adjustments;

21 (e) The number of customers to be added to the test period - end level of customers
22 and the related revenue requirements impact for all pro forma adjustments with
23 complete details and supporting work papers.

1 ~~(8) All applications requesting a general adjustment in rates supported by a fully~~
2 ~~forecasted test period shall comply with the following requirements:~~

3 ~~(a) The financial data for the forecasted period shall be presented in the form of pro~~
4 ~~forma adjustments to the base period.~~

5 ~~(b) Forecasted adjustments shall be limited to the twelve (12) months immediately~~
6 ~~following the suspension period.~~

7 ~~(c) Capitalization and net investment rate base shall be based on a thirteen (13)~~
8 ~~month average for the forecasted period.~~

9 ~~(d) After an application based on a forecasted test period is filed, there shall be no~~
10 ~~revisions to the forecast, except for the correction of mathematical errors, unless such~~
11 ~~revisions reflect statutory or regulatory enactments that could not, with reasonable~~
12 ~~diligence, have been included in the forecast on the date it was filed. There shall be no~~
13 ~~revisions filed within thirty (30) days of a scheduled hearing on the rate application.~~

14 ~~(e) The commission may require the utility to prepare an alternative forecast based~~
15 ~~on a reasonable number of changes in the variables, assumptions, and other factors~~
16 ~~used as the basis for the utility's forecast.~~

17 ~~(f) The utility shall provide a reconciliation of the rate base and capital used to~~
18 ~~determine its revenue requirements.~~

19 ~~(9) All applications requesting a general adjustment in rates supported by a fully~~
20 ~~forecasted test period shall include the following or a statement explaining why the~~
21 ~~required information does not exist and is not applicable to the utility's application:~~

22 ~~(a) The prepared testimony of each witness the utility proposes to use to support its~~
23 ~~application which shall include testimony from the utility's chief officer in charge of~~

1 ~~Kentucky operations on the existing programs to achieve improvements in efficiency~~
2 ~~and productivity, including an explanation of the purpose of the program;~~

3 ~~(b) The utility's most recent capital construction budget containing at minimum a~~
4 ~~three (3) year forecast of construction expenditures;~~

5 ~~(c) A complete description, which may be filed in prefiled testimony form, of all factors~~
6 ~~used in preparing the utility's forecast period. All econometric models, variables,~~
7 ~~assumptions, escalation factors, contingency provisions, and changes in activity levels~~
8 ~~shall be quantified, explained, and properly supported;~~

9 ~~(d) The utility's annual and monthly budget for the twelve (12) months preceding the~~
10 ~~filing date, the base period and forecasted period;~~

11 ~~(e) A statement of attestation signed by the utility's chief officer in charge of Kentucky~~
12 ~~operations which shall provide:~~

13 ~~1. That the forecast is reasonable, reliable, made in good faith and that all basic~~
14 ~~assumptions used in the forecast have been identified and justified; and~~

15 ~~2. That the forecast contains the same assumptions and methodologies as used in~~
16 ~~the forecast prepared for use by management, or an identification and explanation for~~
17 ~~any differences that exist; and~~

18 ~~3. That productivity and efficiency gains are included in the forecast;~~

19 ~~(f) For each major construction project which constitutes five (5) percent or more of~~
20 ~~the annual construction budget within the three (3) year forecast the following~~
21 ~~information shall be filed:~~

22 ~~1. The date the project was started or estimated starting date;~~

23 ~~2. The estimated completion date;~~

1 ~~3. The total estimated cost of construction by year exclusive and inclusive of~~
2 ~~allowance for funds used during construction ("AFUDC") or interest during construction~~
3 ~~credit; and~~

4 ~~4. The most recent available total costs incurred exclusive and inclusive of AFUDC or~~
5 ~~interest during construction credit;~~

6 ~~(g) For all construction projects which constitute less than five (5) percent of the~~
7 ~~annual construction budget within the three (3) year forecast, the utility shall file an~~
8 ~~aggregate of the information requested in paragraph (f)3 and 4 of this subsection;~~

9 ~~(h) A financial forecast corresponding to each of the three (3) forecasted years~~
10 ~~included in the capital construction budget. The financial forecast shall be supported by~~
11 ~~the underlying assumptions made in projecting the results of operations and shall~~
12 ~~include the following information:~~

13 ~~1. Operating income statement (exclusive of dividends per share or earnings per~~
14 ~~share);~~

15 ~~2. Balance sheet;~~

16 ~~3. Statement of cash flows;~~

17 ~~4. Revenue requirements necessary to support the forecasted rate of return;~~

18 ~~5. Load forecast including energy and demand (electric);~~

19 ~~6. Access line forecast (telephone);~~

20 ~~7. Mix of generation (electric);~~

21 ~~8. Mix of gas supply (gas);~~

22 ~~9. Employee level;~~

23 ~~10. Labor cost changes;~~

- 1 ~~11. Capital structure requirements;~~
- 2 ~~12. Rate base;~~
- 3 ~~13. Gallons of water projected to be sold (water);~~
- 4 ~~14. Customer forecast (gas, water);~~
- 5 ~~15. MCF sales forecasts (gas);~~
- 6 ~~16. Toll and access forecast of number of calls and number of minutes (telephone);~~
- 7 and
- 8 ~~17. A detailed explanation of any other information provided;~~
- 9 ~~(i) The most recent Federal Energy Regulatory Commission or Federal~~
- 10 ~~Communications Commission audit reports;~~
- 11 ~~(j) The prospectuses of the most recent stock or bond offerings;~~
- 12 ~~(k) The most recent Federal Energy Regulatory Commission Form 1 (electric),~~
- 13 ~~Federal Energy Regulatory Commission Form 2 (gas), or the Automated Reporting~~
- 14 ~~Management Information System Report (telephone) and Public Service Commission~~
- 15 ~~Form T (telephone);~~
- 16 ~~(l) The annual report to shareholders or members and the statistical supplements~~
- 17 ~~covering the most recent five (5) years from the application filing date;~~
- 18 ~~(m) The current chart of accounts if more detailed than the Uniform System of~~
- 19 ~~Accounts chart prescribed by the commission;~~
- 20 ~~(n) The latest twelve (12) months of the monthly managerial reports providing~~
- 21 ~~financial results of operations in comparison to the forecast;~~
- 22 ~~(o) Complete monthly budget variance reports, with narrative explanations, for the~~
- 23 ~~twelve (12) months immediately prior to the base period, each month of the base period,~~

1 and any subsequent months, as they become available;

2 (p) ~~The Securities and Exchange Commission's annual report for the most recent two~~
3 ~~(2) years, Form 10-Ks and any Form 8-Ks issued during the prior two (2) years and any~~
4 ~~Form 10-Qs issued during the past six (6) quarters;~~

5 (q) ~~The independent auditor's annual opinion report, with any written communication~~
6 ~~from the independent auditor to the utility which indicates the existence of a material~~
7 ~~weakness in the utility's internal controls;~~

8 (r) ~~The quarterly reports to the stockholders for the most recent five (5) quarters;~~

9 (s) ~~The summary of the latest depreciation study with schedules itemized by major~~
10 ~~plant accounts, except that telecommunications utilities that have adopted the~~
11 ~~commission's average depreciation rates shall provide a schedule that identifies the~~
12 ~~current and base period depreciation rates used by major plant accounts. If the required~~
13 ~~information has been filed in another commission case a reference to that case's~~
14 ~~number and style will be sufficient;~~

15 (t) ~~A list of all commercially available or in-house developed computer software,~~
16 ~~programs, and models used in the development of the schedules and work papers~~
17 ~~associated with the filing of the utility's application. This list shall include each software,~~
18 ~~program, or model; what the software, program, or model was used for; identify the~~
19 ~~supplier of each software, program, or model; a brief description of the software,~~
20 ~~program, or model; the specifications for the computer hardware and the operating~~
21 ~~system required to run the program;~~

22 (u) ~~If the utility had any amounts charged or allocated to it by an affiliate or a general~~
23 ~~or home office or paid any monies to an affiliate or a general or home office during the~~

1 ~~base period or during the previous three (3) calendar years, the utility shall file:~~

2 ~~1. A detailed description of the method and amounts allocated or charged to the~~

3 ~~utility by the affiliate or general or home office for each allocation or payment;~~

4 ~~2. The method and amounts allocated during the base period and the method and~~

5 ~~estimated amounts to be allocated during the forecasted test period;~~

6 ~~3. An explanation of how the allocator for both the base period and the forecasted~~

7 ~~test period were determined; and~~

8 ~~4. All facts relied upon, including other regulatory approval, to demonstrate that each~~

9 ~~amount charged, allocated or paid during the base period is reasonable;~~

10 ~~(v) If the utility provides gas, electric or water utility service and has annual gross~~

11 ~~revenues greater than \$5,000,000, a cost of service study based on a methodology~~

12 ~~generally accepted within the industry and based on current and reliable data from a~~

13 ~~single time period; and~~

14 ~~(w) Local exchange carriers with fewer than 50,000 access lines shall not be required~~

15 ~~to file cost of service studies, except as specifically directed by the commission. Local~~

16 ~~exchange carriers with more than 50,000 access lines shall file:~~

17 ~~1. A jurisdictional separations study consistent with Part 36 of the Federal~~

18 ~~Communications Commission's rules and regulations; and~~

19 ~~2. Service specific cost studies to support the pricing of all services that generate~~

20 ~~annual revenue greater than \$1,000,000 except local exchange access:~~

21 ~~a. Based on current and reliable data from a single time period; and~~

22 ~~b. Using generally recognized fully allocated, embedded, or incremental cost~~

23 ~~principles.~~

1 ~~(10) All applications seeking a general adjustment in rates supported by a forecasted~~
2 ~~test period shall include the following data to be submitted using schedule forms hereby~~
3 ~~incorporated by reference and which may be inspected, copied or obtained at the~~
4 ~~commission's offices at 211 Sower Boulevard, Frankfort, Kentucky, Monday through~~
5 ~~Friday between the hours of 8 a.m. and 4:30 p.m., local time. The commission shall~~
6 ~~notify the utility of any deficiencies in the application within thirty (30) days of receiving~~
7 ~~it. The utility may cure such filing deficiencies within thirty (30) days' written notice from~~
8 ~~the commission.~~

9 ~~(a) A jurisdictional financial summary for both the base period and the forecasted~~
10 ~~period which details how the utility derived the amount of the requested revenue~~
11 ~~increase;~~

12 ~~(b) A jurisdictional rate base summary for both the base period and the forecasted~~
13 ~~period with supporting schedules which include detailed analyses of each component of~~
14 ~~the rate base;~~

15 ~~(c) A jurisdictional operating income summary for both the base period and the~~
16 ~~forecasted period with supporting schedules which provide breakdowns by major~~
17 ~~account group and by individual account;~~

18 ~~(d) A summary of jurisdictional adjustments to operating income by major account~~
19 ~~with supporting schedules for individual adjustments and jurisdictional factors;~~

20 ~~(e) A jurisdictional federal and state income tax summary for both the base period~~
21 ~~and the forecasted period with all supporting schedules of the various components of~~
22 ~~jurisdictional income taxes;~~

23 ~~(f) Summary schedules for both the base period and the forecasted period (the utility~~

1 may also provide a summary segregating those items it proposes to recover in rates) of
2 organization membership dues; initiation fees; expenditures at country clubs; charitable
3 contributions; marketing, sales, and advertising expenditures; professional service
4 expenses; civic and political activity expenses; expenditures for employee parties and
5 outings; employee gift expenses; and rate case expenses;

6 (g) Analyses of payroll costs including schedules for wages and salaries, employee
7 benefits, payroll taxes, straight time and overtime hours, and executive compensation
8 by title;

9 (h) A computation of the gross revenue conversion factor for the forecasted period;

10 (i) Comparative income statements (exclusive of dividends per share or earnings per
11 share), revenue statistics and sales statistics for the five (5) most recent calendar years
12 from the application filing date, the base period, the forecasted period, and two (2)
13 calendar years beyond the forecast period;

14 (j) A cost of capital summary for both the base period and forecasted period with
15 supporting schedules providing details on each component of the capital structure;

16 (k) Comparative financial data and earnings measures for the ten (10) most recent
17 calendar years, the base period, and the forecast period;

18 (l) A narrative description and explanation of all proposed tariff changes;

19 (m) A revenue summary for both the base period and forecasted period with
20 supporting schedules which provide detailed billing analyses for all customer classes;

21 and

22 (n) A typical bill comparison under present and proposed rates for all customer
23 classes.

1 ~~(11) A request for waiver of any of the provisions of these filing requirements must~~
2 ~~set forth the specific reasons for the request. The commission shall grant the request for~~
3 ~~waiver upon good cause shown by the utility. In determining whether good cause has~~
4 ~~been shown, the commission may consider:~~

5 ~~(a) Whether other information which the utility would provide if the waiver is granted~~
6 ~~is sufficient to allow the commission to effectively and efficiently review the rate~~
7 ~~application;~~

8 ~~(b) Whether the information which is the subject of the waiver request is normally~~
9 ~~maintained by the utility or reasonably available to it from the information which it~~
10 ~~maintains; and~~

11 ~~(c) The expense to the utility in providing the information which is the subject of the~~
12 ~~waiver request.~~

13 ~~Section 11. Application for Authority to Issue Securities, Notes, Bonds, Stocks or~~
14 ~~Other Evidences of Indebtedness. (1) When application is made by the utility for an~~
15 ~~order authorizing the issuance of securities, notes, bonds, stocks or other evidences of~~
16 ~~indebtedness payable at periods of more than two (2) years from the date thereof,~~
17 ~~under the provisions of KRS 278.300, said application, in addition to complying with the~~
18 ~~requirements of Section 8 of this administrative regulation, shall contain:~~

19 ~~(a) A general description of applicant's property and the field of its operation, together~~
20 ~~with a statement of the original cost of the same and the cost to the applicant, if it is~~
21 ~~impossible to state the original cost, the facts creating such impossibility shall be stated.~~

22 ~~(b) The amount and kinds of stock, if any, which the utility desires to issue, and, if~~
23 ~~preferred, the nature and extent of the preference; the amount of notes, bonds or other~~

1 evidences of indebtedness, if any, which the utility desires to issue, with terms, rate of
2 interest and whether and how to be secured.

3 (c) The use to be made of the proceeds of the issue of such securities, notes, bonds,
4 stocks or other evidence of indebtedness with a statement indicating how much is to be
5 used for the acquisition of property, the construction, completion, extension or
6 improvement of facilities, the improvement of service, the maintenance of service and
7 the discharge or refunding of obligations.

8 (d) The property in detail which is to be acquired, constructed, improved or extended
9 with its cost, a detailed description of the contemplated construction, completion,
10 extension or improvement of facilities set forth in such a manner that an estimate of cost
11 may be made, a statement of the character of the improvement of service proposed,
12 and of the reasons why the service should be maintained from its capital. Whether any
13 contracts have been made for the acquisition of such property, or for such construction,
14 completion, extension or improvement of facilities, or for the disposition of any of the
15 securities, notes, bonds, stocks or other evidence of indebtedness which it proposes to
16 issue or the proceeds thereof and if any contracts have been made, copies thereof shall
17 be annexed to the petition.

18 (e) If it is proposed to discharge or refund obligations, a statement of the nature and
19 description of such obligations including their par value, the amount for which they were
20 actually sold, the expenses associated therewith, and the application of the proceeds
21 from such sales. If notes are to be refunded, the petition must show the date, amount,
22 time, rate of interest, and payee of each and the purpose for which their proceeds were
23 expended.

1 ~~(f) Such other facts as may be pertinent to the application.~~

2 ~~(2) The following exhibits must be filed with the application:~~

3 ~~(a) Financial exhibit (see Section 6 of this administrative regulation).~~

4 ~~(b) Copies of trust deeds or mortgages, if any, unless they have already been filed~~
5 ~~with the commission, in which case reference should be made, by style and case~~
6 ~~number, to the proceeding in which the trust deeds or mortgages have been filed.~~

7 ~~(c) Maps and plans of the proposed property and constructions together with detailed~~
8 ~~estimates in such form that they can be checked over by the commission's engineering~~
9 ~~division. Estimates must be arranged according to the uniform system of accounts~~
10 ~~prescribed by the commission for the various classes of utilities.~~

11 ~~Section 12. Formal Complaints. (1) Contents of complaint. Each complaint shall be~~
12 ~~headed "Before the Public Service Commission," shall set out the names of the~~
13 ~~complainant and the name of the defendant, and shall state:~~

14 ~~(a) The full name and post office address of the complainant.~~

15 ~~(b) The full name and post office address of the defendant.~~

16 ~~(c) Fully, clearly, and with reasonable certainty, the act or thing done or omitted to be~~
17 ~~done, of which complaint is made, with a reference, where practicable, to the law, order,~~
18 ~~or section, and subsections, of which a violation is claimed, and such other matters, or~~
19 ~~facts, if any, as may be necessary to acquaint the commission fully with the details of~~
20 ~~the alleged violation. The complainant shall set forth definitely the exact relief which is~~
21 ~~desired (see Section 15(1) of this administrative regulation).~~

22 ~~(2) Signature. The complaint shall be signed by the complainant or his attorney, if~~
23 ~~any, and if signed by such attorney, shall show his post office address. Complaints by~~

1 ~~corporations or associations, or any other organization having the right to file a~~
2 ~~complaint, must be signed by its attorney and show his post office address. No oral or~~
3 ~~unsigned complaints will be entertained or acted upon by the commission.~~

4 ~~(3) Number of copies required. At the time the complainant files his original~~
5 ~~complaint, he must also file copies thereof equal in number to ten (10) more than the~~
6 ~~number of persons or corporations to be served.~~

7 ~~(4) Procedure on filing of complaint.~~

8 ~~(a) Upon the filing of such complaint, the commission will immediately examine the~~
9 ~~same to ascertain whether it establishes a prima facie case and conforms to this~~
10 ~~administrative regulation. If the commission is of the opinion that the complaint does not~~
11 ~~establish a prima facie case or does not conform to this administrative regulation, it will~~
12 ~~notify the complainant or his attorney to that effect, and opportunity may be given to~~
13 ~~amend the complaint within a specified time. If the complaint is not so amended within~~
14 ~~such time or such extension thereof as the commission, for good cause shown, may~~
15 ~~grant, it will be dismissed.~~

16 ~~(b) If the commission is of the opinion that such complaint, either as originally filed or~~
17 ~~as amended, does establish a prima facie case and conforms to this administrative~~
18 ~~regulation, the commission will serve an order upon such corporations or persons~~
19 ~~complained of under the hand of its secretary and attested by its seal, accompanied by~~
20 ~~a copy of said complaint, directed to such corporation or person and requiring that the~~
21 ~~matter complained of be satisfied, or that the complaint be answered in writing within~~
22 ~~ten (10) days from the date of service of such order, provided that the commission may,~~
23 ~~in particular cases, require the answer to be filed within a shorter time.~~

1 ~~(5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he~~
2 ~~shall submit to the commission, within the time allowed for satisfaction or answer, a~~
3 ~~statement of the relief which he is willing to give. Upon the acceptance of this offer by~~
4 ~~the complainant and the approval of the commission, no further proceedings need be~~
5 ~~taken.~~

6 ~~(6) Answer to complaint. If satisfaction be not made as aforesaid, the corporation or~~
7 ~~person complained of must file an answer to the complaint, with certificate of service on~~
8 ~~other parties endorsed thereon, within the time specified in the order or such extension~~
9 ~~thereof as the commission, for good cause shown, may grant. The answer must contain~~
10 ~~a specific denial of such material allegations of the complaint as controverted by the~~
11 ~~defendant and also a statement of any new matter constituting a defense. If the~~
12 ~~answering party has no information or belief upon the subject sufficient to enable him to~~
13 ~~answer an allegation of the complaint, he may so state in his answer and place his~~
14 ~~denial upon that ground (see Section 15(2) of this administrative regulation).~~

15 ~~Section 13. Informal Complaints. (1) Informal complaints must be made in writing.~~
16 ~~Matters thus presented are, if their nature warrants, taken up by correspondence with~~
17 ~~the utility complained against in an endeavor to bring about satisfaction of the complaint~~
18 ~~without formal hearing.~~

19 ~~(2) No form of informal complaint is prescribed, but in substance it must contain the~~
20 ~~essential elements of a complaint, including the name and address of complainant, the~~
21 ~~correct name and post office address of the utility against whom complaint is made, a~~
22 ~~clear and concise statement of the facts involved, and the relief requested.~~

23 ~~(3) In the event of failure to bring about satisfaction of the complaint because of the~~

1 inability of the parties to agree as to the facts involved, or from other causes, the
2 proceeding is held to be without prejudice to the complainant's right to file and
3 prosecute a formal complaint whereupon the informal proceedings will be discontinued.

4 ~~Section 14. Deviations from Rules. In special cases, for good cause shown, the~~
5 ~~commission may permit deviations from these rules.~~

6 ~~Section 15. Forms. (1) In all practice before the commission the following forms shall~~
7 ~~be followed insofar as practicable:~~

8 ~~(a) Formal complaint.~~

9 ~~(b) Answer.~~

10 ~~(c) Application.~~

11 ~~(d) Notice of adjustment of rates.~~

12 ~~(2) Forms of formal complaint.~~

13 ~~Before the Public Service Commission~~

14 ~~(Insert name of complainant.)~~

15 ~~Complainant }~~

16 ~~) No. _____~~

17 ~~vs.) (To be inserted by the~~

18 ~~) secretary)~~

19 ~~(Insert name of each defendant.)~~

20 ~~Defendant }~~

21

22

23

1 COMPLAINT

2 The complaint of ~~(here insert full name of each complainant)~~ respectfully shows:

3 ~~(a) That (here state name, occupation and post office address of each complainant).~~

4 ~~(b) That (here insert full name, occupation and post office address of each~~
5 ~~defendant).~~

6 ~~(c) That (here insert fully and clearly the specific act or thing complained of, such~~
7 ~~facts as are necessary to give a full understanding of the situation, and the law, order,~~
8 ~~or rule, and the section or sections thereof, of which a violation is claimed).~~

9 WHEREFORE, complainant asks ~~(here state specifically the relief desired).~~

10 Dated at _____, Kentucky, this _____ day of _____, 19_____

11 ~~(Name of each complainant)~~

12 ~~Name and address of attorney, if any)~~

13 ~~(3) Form of answer to formal complaint.~~

14 ~~Before the Public Service Commission~~

15 ~~(Insert name of complainant.)~~

16 COMPLAINANT)

17) No. _____

18 vs.) (To be inserted by the

19) secretary)

20 ~~(Insert name of each defendant.)~~

21 DEFENDANT)

22

23 ANSWER

1 ~~The above-named defendant, for answer to the complaint in the proceeding,~~
2 ~~respectfully states:~~

3 ~~That (here follow specific denials of such material, allegations as are controverted by~~
4 ~~the defendant and also a statement of any new matter constituting a defense. Continue~~
5 ~~lettering each succeeding paragraph).~~

6 ~~WHEREFORE, the defendant prays that the complaint be dismissed (or other~~
7 ~~appropriate prayer).~~

8 ~~(Name of defendant)~~

9 ~~(Name and address of attorney, if any)~~

10 ~~(4) Form of application.~~

11 ~~Before the Public Service Commission~~

12 ~~In the matter of the application of)~~

13 ~~(here insert name of each)~~

14 ~~applicant) for (here insert desired) No. _____~~

15 ~~order, authorization, permission) (To be inserted by the~~

16 ~~or certificate, thus: "Order) secretary)~~

17 ~~authorizing issue of stocks)~~

18 ~~and bonds)~~

19

20 APPLICATION

21 ~~The petition of (here insert name of each applicant) respectfully shows:~~

22 ~~(a) That applicant is engaged in the business of (here insert nature of business and~~
23 ~~territorial extent thereof).~~

1 ~~(b) That the post office address of each applicant is _____.~~

2 ~~(c) That (here state fully and clearly the facts required by these rules, and any~~
3 ~~additional facts which applicant desires to state).~~

4 ~~WHEREFORE, applicant asks that the Public Service Commission of the~~
5 ~~Commonwealth of Kentucky make its order authorizing applicant to (here state~~
6 ~~specifically the action which the applicant desires the commission to take).~~

7 Dated at _____, Kentucky, this _____ day of _____, 19____.

8 (Name of applicant)

9 (Name and address of attorney, if any)

10 ~~(5) Form of notice to the commission of adjustment of rates.~~

11 ~~Before the Public Service Commission~~

12 ~~In the matter of adjustment) No. _____~~

13 ~~of rate of the (state name) (To be inserted by the~~
14 ~~of corporation).) the secretary)~~

15 ~~The (here insert name of company) informs the commission that it is engaged in the~~
16 ~~business of (set out character of business) in (set out place of operation) and does~~
17 ~~hereby propose to adjust its rates, effective the _____ day of _____, 19____, in~~
18 ~~conformity with the attached schedule.~~

19 ~~(See Section 9 of this administrative regulation for required information.)~~

20 (Name and address of company)

21 (Name and address of attorney)]

David L. Armstrong, Chairman
Public Service Commission

DATE: _____

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gerald E. Wuetcher

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the rules of procedures for the hearings and formal proceedings before the Public Service Commission.

(b) The necessity of this administrative regulation: This administrative regulation is needed to provide the structural framework for hearings and formal proceedings that the Public Service Commission conducts.

(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 sets forth the rules of procedure that utilities and the 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: It clarifies the procedures for obtaining confidential treatment of materials submitted to the commission and places a person seeking such treatment on notice that he must propose a time period for which confidential treatment will be afforded. It further clarifies the types of documents which are subject to the commission's rules of procedure. It also clarifies the contents of notices that an applicant must provide to the public to announce a proposed rate change and the scheduling of a hearing.

(b) The necessity of the amendment to this administrative regulation: There is considerable confusion regarding the commission's procedures for reviewing petitions for confidential treatment. This regulation establishes a procedure for expedited and prompt review of requests made outside of formal proceedings and addresses areas of uncertainty that have existed since the regulation's last amendment in 1993.

(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 278.310 provides that all proceedings before the commission or any commissioner shall be governed by rules adopted by the commission.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides an administrative framework for addressing issues arising under KRS 61.870-.884 that arise before the commission in both formal and informal proceedings.

(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 utilities regulated by the Public Service Commission.

(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 amendment will not require additional actions by the utilities, but rather provides more choices and flexibility when filing with the commission.

(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 with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The proposed amendment generally reflects and incorporates informal practices and procedural devices that the Public Service Commission has developed and used in formal proceedings since the last revision to its rules of procedure. For a utility that electronically files a case before the commission, this amendment is expected to reduce litigation costs and expedite a final decision.

(5) Provide an estimate of how much it will cost to 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 establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

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; municipalities.

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 278.310 provides that all hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission.

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? 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:

STATEMENT OF CONSIDERATION
RELATING TO 807 KAR 5:001
Energy and Environment Cabinet
Public Service Commission
(Amended After Comments)

1. A public hearing was held on the above regulation on Monday, August 27, 2012 at 9:00 a.m. Eastern Time, in Hearing Room 1, Public Service Commission Building, 211 Sower Boulevard, Frankfort, Kentucky.

2. The following persons attended this public hearing or submitted comments:

<u>Name</u>	<u>Affiliation</u>
Pam Jagers	AT&T
Mary Keyer	AT&T
Mark Martin	Atmos Energy
Roger Hickman	Big Rivers Electric Corporation
Chris Brewer	Blue Grass Energy Cooperative
Donald Smothers	Blue Grass Energy Cooperative
Judy Cooper	Columbia Gas of Kentucky
Brooke Leslie	Columbia Gas of Kentucky
Brack Marquette	Columbia Gas of Kentucky
Herb Miller	Columbia Gas of Kentucky
Richard S. Taylor	Columbia Gas of Kentucky
Monica Braun	Delta Natural Gas
Matt Wesolosky	Delta Natural Gas
Rocco D'Ascenzo	Duke Energy
Isaac Scott	East Kentucky Power Cooperative
Chris Perry	Fleming-Mason Energy Cooperative
Jim Bruce	Hardin County Water District No. 1
Scott Schmuck	Hardin County Water District No. 1
Jim Jacobus	Inter-County Energy
Mark Keene	Jackson Energy Cooperative
Don Schaefer	Jackson Energy Cooperative
Carol Wright	Jackson Energy Cooperative
G. Kelly Nuckols	Jackson Purchase Energy Corporation
Bill Corum	Kentucky Association of Electric Cooperatives
Tip Depp	Kentucky Association of Electric Cooperatives
Lila Munsey	Kentucky Power Company

<u>Name</u>	<u>Affiliation</u>
Mark Overstreet	Kentucky Power Company
Judy Roquist	Kentucky Power Company
Tom Fitzgerald	Kentucky Resources Council
Damon Talley	Kentucky Rural Water Association
Forest Skaggs	Kentucky Telecom Association
Lonnie Bellar	Louisville Gas & Electric Co./Kentucky Utilities Co.
Rick Lovekamp	Louisville Gas & Electric Co./Kentucky Utilities Co.
Kendrick Riggs	Louisville Gas & Electric Co./Kentucky Utilities Co.
Allyson Sturgeon	Louisville Gas & Electric Co./Kentucky Utilities Co.
Linda Hunt	Lightyear Network Solutions/SE Acquisitions
Michael Miller	Nolin RECC
Mark Stallons	Owen Electric Cooperative
Rebecca Witt	Owen Electric Cooperative
Jennifer Hans	Office of the Attorney General
Debra J. Martin	Shelby Energy Cooperative
Jeff Greer	South Kentucky RECC
Dennis Holt	South Kentucky RECC
Doug Brent	tw telecom/ Sprint/Verizon Business

3. The following persons from the Public Service Commission attended this public hearing or responded to written comments:

<u>Name</u>	<u>Title</u>
Gerald Wuetcher	Executive Advisor/Attorney
Brent Kirtley	Manager, Tariff Branch
Daniel Hinton	Public Utility Rate Analyst IV, Tariff Branch

4. Summary of Comments and Responses:

(1) Section 1 - Definitions

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Throughout the regulation, the term “pleading” is used in contradistinction to the terms “document,” “correspondence,” “testimony,” “exhibit,” and “motion.” To aid persons new to Commission practice or unfamiliar with the regulation, the term “pleading” should be defined.

(b) Response: The term “pleading” been replaced throughout the regulation with the term “paper.” In the Kentucky Civil Rules the term “pleading” is limited to a complaint, answer, cross-claim, third-party complaint, and third-party answer. The term “paper” is intended in this regulation to cover a much broader class of documents. A definition of “paper” has been added. To avoid confusion, where the term “paper” was previously used to reference the medium in which a document was provided, the words “paper medium” have been substituted. In addition, Section 18(1) was amended to ensure consistent use of the term “application” throughout the regulation.

(2) Section 1(1) - Definitions

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: The proposed revisions fail to distinguish between informal and formal proceedings. Amend the definition of “case” to define a case as any matter coming before the Commission that is initiated by a party or by the commission.

(b) Response: No action taken. The proposed revisions already describe in detail the proceedings that may be considered informal. As informal proceedings can be initiated by the Commission, e.g., an informal investigation, the proposed definition would extend to matters for which the Rules of Procedure are not intended to apply.

(3) Section 4 – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4 should be amended to require all final Commission Orders to advise the parties of their right to rehearing under KRS 278.400, their right to appellate review under KRS 278.410, and their obligation under KRS 278.420 to designate the record when bringing an action for review. Such notice is consistent with the requirements of Chapter 13B and will aid parties and practitioners new to practice before the Commission.

(b) Response: No action taken. The Commission is exempted from the provisions of KRS Chapter 13B. A party’s right to rehearing and to judicial review, as well as its obligation to designate the record upon bring an action for review, are clearly set forth in statute. Counsel for a party before the Commission are presumed to know the law or to be able to find the applicable law by exercising due diligence. Moreover, should a party have questions regarding its appeal rights, Section 3(1)(b) imposes an affirmative obligation upon the Commission’s executive director to provide general information regarding the commission’s procedures and practices.

(4) Section 4(3) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Proposed regulation requires only pleadings to be signed. Current Commission practice requires several other types of documents to be signed. Section 4(3) should be revised to reflect the current practice.

(b) Response: The term “pleadings” has been deleted and the term “papers” substituted. Section 1(6) has been added to define “papers”.

(5) Section 4(6) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4(6) should be amended to substitute the term “motion” for “application” as application generally refers to a filing that initiates a case.

(b) Response: The section has been revised to substitute “written request” for “application.”

(6) Section 4(8)(b) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: The last sentence of Section 4(8)(b) should be amended to read: “Service shall be complete upon mailing or electronic transmission. If a serving party

learns that the mailing or electronic transmission did not reach the person to be served, the serving party shall take reasonable steps to immediately re-serve the party to be served.”

(b) Response: The section has been revised as suggested.

(7) Section 4(8)(b) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4(8)(b) should be amended to provide that, if service of a paper or document is made by mail, the responding party should have an additional three days to file its response. This proposal is similar to the treatment that Kentucky Civil Rule 6.05 provides when documents are served by mail and reflects the degradation of mail service.

(b) Response: No action taken. The proposed revision would reduce the time available for Commission review of applications that have strict statutory time limitations. The Commission’s current practice is to establish a procedural schedule for each case. These schedules take into account the time required to transmit documents. The Commission also posts scanned images of all non-confidential documents filed in a proceeding on its website within one (1) business day of filing. The availability of electronic filing procedures as set forth in Section 8 of this regulation and proposed revisions that permit service of documents by electronic mail allow for instant availability of documents filed with the Commission reduces the need for the proposed revision.

(8) Section 4(8)(b) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4(8)(b) should be amended to recognize delivery by overnight courier as an appropriate means of service.

(b) Response: The section has been revised to recognize “mailing by United States mail or other recognized carrier.” This revision incorporates language similar to that used in Kentucky Civil Rule 76.40.

(9) Section 4(9) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Roger Hickman (Big Rivers Electric Corporation)

Comment: Section 4(9) should be amended to permit a filing party discretion to file documents in a medium of its own choosing (e.g., paper, CD-ROM, electronic storage device) without requesting the option to file documents in the manner of its choosing without requesting Commission approval to use an alternative medium.

(b) Response: No action taken. The proposed regulation, as well as present Commission practice, allows a party that must file a significant number of documents to request a deviation from filing requirements to permit filing in a non-paper medium where use of paper medium would be onerous or pose significant problems and expense for the filing party, the Commission and other parties. Under the proposed regulations, an applicant may anticipate the possibility of large filings and elect to use electronic procedures. The proposed revision confers unlimited discretion upon the party to determine the medium in which a document is delivered and makes no consideration for the Commission’s storage and archival responsibilities under present statutes.

(10) Section 4(9) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 4(9) should be amended to reflect that filing occurs when accepted by the Executive Director (or designee) or when the filing is stamped as received.

(b) Response: No action taken. The definition of executive director includes his designee.

(11) Section 4(11) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 4(11) should be amended to state: “If the commission has established a procedural schedule in the formal proceeding, any party granted leave to intervene by the commission shall accept the existing procedural schedule as it exists on the date intervention is granted.”

(b) Response: No action taken. While the Commission generally will not modify a procedural schedule when a party has been permitted to intervene, establishment of an inflexible rule against modification is inappropriate and may result in the violation of the intervening party’s right to due process under the law. Modification of an existing procedural schedule to permit the intervening party the opportunity for discovery or introduction of evidence may not be possible because of the lateness of the intervening party’s request for intervention and strict statutory time restrictions on Commission review. When such time constraints are not present or when other compelling circumstances exist that would make modifications of the procedural schedule in the public interest, the Commission should be afforded the discretion to modify an existing procedural schedule.

(12) Section 4(11) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 4(11) should be amended to state: “No party granted leave to intervene in a case shall submit a request for information or other discovery request prior to the date the commission grants intervention, with the exception of the Attorney General whose intervention is established pursuant to KRS 367.150(8).” This addition will guard against last minute information requests from parties who intervene at the last moment and prevent utilities/other parties from responding to needless requests or the Commission altering an existing procedural schedule.

Response: No action taken. The proposed revision likely violates the intervening party’s right to due process. It also unnecessarily impedes and restricts the discovery process. Where a request is made within the time limits specified by the Commission’s procedural order and the requesting party has a pending request for intervention, the requesting party has acted consistent with the established procedural order, has placed the requested party on notice as to its intentions regarding discovery, and has enabled the discovery process to proceed in an orderly manner.

(13) Section 4(11)(b) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 4(11)(b) should be amend to substitute the words “its intervention” for “his intervention”.

(b) Response: No action taken. The Administrative Regulations Compiler has already made the requested revisions.

(14) Section 4(11)(c) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 4(11)(c) should be amended to clarify that those granted intervention shall only be required to be served with copies of documents of other parties that are filed after the party was granted intervention.

Response: The section has been revised to make the requested clarification and to clarify that the section is not applicable where electronic filing procedures are used.

(15)Section 4(11)(d) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4(11)(d) should be amended to state: “Persons filing such written comments shall not be deemed parties to the proceeding and need not be named as parties to any appeal.” The statement is intended to address the lack of clarity in Kentucky case law and KRS 278.410 concerning the need to name as parties to an appeal those persons who participate in Commission proceedings in some form other than as parties.

(b) Response: The section has been revised to implement the commentor’s suggestions.

(16)Section 4(11)(d) – General Matters Pertaining to All Formal Proceedings

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 4(11)(d) should be amended to state: “These comments shall be filed in the case record but shall not be treated as evidence in the proceeding.” This addition is to address written comments made by persons who are not intervening parties. Because these written comments are not under oath and not subject to cross-examination, such comments should be treated in the same fashion as oral public comments are not treated.

(b) Response: No action taken. Constitutional and statutory provisions govern the appropriate weight that the Commission must afford to the materials contained in the case record.

(17)Section 5(2) – Motion Practice

(a) Commenter: Eileen Ordover (Legal Aid Society)

Comment: Section 5(2) should be amended to allow responses to motions be filed “no later than ten (10) days from the date of filing of a motion.” A shorter time period places small, non-profit community-based intervenors at disadvantage as they lack staff and legal resources.

(b) Response: No action taken. Most matters before the Commission have a statutory time limit that cannot be changed. Providing 10 days to respond to a motion may severely restrict the Commission's ability to meet those limits. Section 21 permits Commission discretion to extend time for response when circumstances dictate. Where a party desires additional time to respond to a motion, it made request additional time.

(18) Section 5(3) – Motion Practice

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 5(3) should be amended to state: "The reply shall be confined to points raised in the responses to which they are addressed, and shall not reiterate arguments already presented." This statement is similar to that found in Kentucky Civil Rule 76.12(4)(c) and would clarify and limit the issues raised in replies to responses.

(b) Response: The section has been revised as suggested.

(19) Section 7(1) – Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 7(1) should be amended to recognize an exception for lengthy filings as the issue often arises in connection with responses to data requests. Parties filing data request responses containing 500 or more pages should be permitted to file the original document in paper form, provide paper copies to all parties to the proceeding, and file ten copies with the Commission in electronic form on a compact disc or other appropriate medium.

(b) Response: No action taken. The proposed regulation, as well as present Commission practice, allows a party that must file significant number of documents to request a deviation from filing requirements to permit filing in a non-paper medium where use of paper medium would be onerous and would pose significant problems and expense for the filing party, the Commission or other parties to the Commission proceeding. Moreover, an applicant may anticipate the possibility of large filings and elect to use electronic procedures.

(20) Section 7(1) – Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 7(1) should be amended to reduce the number of required copies from ten to a lower number.

(b) Response: No action taken. The present number is necessary to ensure that the Commission and its assigned staff have a copy of documents that are filed in a proceeding. If utility believes that, given the circumstances, the number of copies should be reduced, it may request a deviation from this requirement. The utility may also elect the use of electronic filing procedures, which will reduce the number of copies to file to one.

(21) Section 7(1) – Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 7(1) should be amended to substitute the phrase “when a filing in any medium is made with the commission” with the phrase “when an original document is filed with the Commission.”

(b) Response: Section 7(1) has been revised to provide that, if a document in paper medium is filed with the commission, ten (10) additional copies of that document in paper medium shall also be filed. This revision is intended to differentiate between electronic and paper medium filings and eliminate any impression that, if a filer files a document on an electronic medium (e.g., CD-ROM or portable storage device), 10 copies of the electronic document is required.

(22) Section 8 – Electronic Filing Procedures

(a) Commenters: Roger Hickman (Big Rivers Electric Corporation), Kelly Nuckols (Jackson Purchase Electric Cooperative Corporation), Judy Cooper (Columbia Gas of Kentucky), and Jim Jacobus (Inter-County Energy).

Comment: Section 8 should be amended to eliminate the requirement that a paper copy must be filed when electronic filing procedures are used.

(b) Response: No action taken. The Commission’s existing archival system is paper-based. Its present information infrastructure is not sufficiently stable or secure to ensure the safety of a totally electronic based records system. This risk is increased by recently announced plans to restructure information technology services within the Executive Branch. Such restructuring raises questions about maintenance of the Commission’s electronic filing system and its ability to rapidly respond to system problems. The proposed regulation, while not totally eliminating the filing of paper copies, reduces that number of copies by 90 percent, eliminates the service of paper copies on parties to Commission proceedings, and thus produces significant savings for parties to Commission proceedings where the proposed procedures are used.

(23) Section 8 – Electronic Filing Procedures

(a) Commenter: Eileen Ordover (Legal Aid Society)

Comment: Section 8 should be amended to state: “Any electronic filing of a motion or response to a motion made with the Commission outside its business hours shall be considered as filed on the Commission’s next business day.” As currently written, the regulation has the potential to reduce the time available to respond to pleadings.

(b) Response: No action taken. Proposed revision eliminates a major incentive for electronic filing – the ability to file throughout the day. As written, the proposed regulation does not favor any party. All parties are free to file at any time during the day. Moreover, as soon as documents are filed, they become available to all parties and the public.

(24) Section 8 – Electronic Filing Procedures

(a) Commenter: Judy Cooper (Columbia Gas of Kentucky)

Comment: Section 8 should be amended to restrict the Commission from requiring the use of electronic filing procedures on its own motion. As written, the Commission may order the use of such procedures when the utility has chosen to use non-electronic filing procedures.

(b) Response: Section 8 has been amended to restrict the Commission's authority to require the use of electronic filing procedures to those cases that the Commission has initiated on its own motion (e.g., investigations, show cause proceedings) and those in which the applicant has elected the use of such procedures.

(25) Section 8 – Electronic Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Amend Section 8 to require the use of electronic filing procedures in all proceedings unless the applicant elects not to use such procedures.

(b) Response: No action taken. The Commission's existing archival system is paper-based. Its present information infrastructure is not sufficiently stable or secure to ensure the safety of a totally electronic based records system. This risk is increased by recently announced plans to restructure information technology services within the Executive Branch. Such restructuring raises questions about maintenance of the Commission's electronic filing system and the Commission's ability to rapidly respond to system problems. The proposed regulation, while not totally eliminating the filing of paper copies, reduces that number of copies by 90 percent, eliminates the service of paper copies on parties to Commission proceedings, and thus produces significant savings for parties to Commission proceedings where the proposed procedures are used. It allows utilities and other stakeholders to gradually transition to electronic filing procedures at their own pace and takes into account the varying levels of sophistication that exist within different utility sectors.

(26) Section 8 – Electronic Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 8 should be amended to require a party or an entity seeking intervention to identify in its initial filing in a case its counsel and authorized representative. The proposed regulation is unclear how representatives and counsel of a party will become associated with the party in the Commission's filing system so that the representatives and counsel receive electronic notices of filing in a case. The proposed amendment would allow previously registered counsel and authorized representatives to receive electronic notification of all filings in the case.

Response: No action taken. Pursuant to Section 4(3)(a), any paper submitted by a party, including a motion for intervention, must identify the party's counsel or representative. Where electronic filing procedures are used, this information will be entered into the electronic filing system by Commission Staff to ensure electronic notices related to that case are sent to a party's counsel. Counsel becomes associated with a party when it files a paper on behalf of the party. The electronic filing system is not intended to provide potential intervenors with notice of the filing of an application or initiation of a case of interest. Existing regulations currently specify the notice that an

applicant must provide to the public and its customers. Electronic filing rules should not be used to expand these obligations or create new rights. While the Commission is redesigning its electronic records system to enable members of the public to receive notifications when a utility of interest makes a filing or a specific type of proceeding is initiated, these efforts are the rights and obligations of a party to a Commission proceeding.

(27) Section 8 – Electronic Filing Procedures

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 8 should be amended to require all utilities to maintain a public access copy of all cases, including all filings by parties, through a reading room that has a table and computer access to allow public access to the filings.

Response: No action taken regarding 807 KAR 5:001. 807 KAR 5:011 has been amended to provide that a utility must maintain and make available for public inspection a copy of all documents and filings related to any rate application or tariff filing. There is no evidence that the public has a sufficient interest in all utility cases before the Commission to require a public access copy of non-rate proceedings. As the Commission posts a copy of all public documents on its website, these documents can easily be accessed by computer through the internet. As most local public libraries have internet access, adequate public access currently exists to utility filings.

(28) Section 8(1) – Electronic Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 8(1) should be revised to substitute “upon order of the commission” instead of “upon motion of the commission”.

Response: The section has been revised as suggested.

(29) Section 8(3) – Electronic Filing Procedures

(a) Commenters: Kendrick Riggs (Louisville Gas & Electric Company/Kentucky Utilities Company), Mark Stallons (Owen Electric Cooperative), Mark Overstreet (Kentucky Power Company)

Comment: Section 8(1) should be amended to delete the requirement that a paper “original” copy must be filed in an electronically filed case and instead permit the Commission to require paper copies on a case-by-case basis.

(b) Response: No action taken. The Commission’s existing archival system is paper-based. Its present information infrastructure is not sufficiently stable or secure to ensure the safety of a totally electronic based records system. This risk is increased by recently announced plans to restructure information technology services within the Executive Branch. Such restructuring raises questions about maintenance of the Commission’s electronic filing system and the Commission’s ability to rapidly respond to system problems. The proposed regulation, while not totally eliminating the filing of paper copies, reduces that number of copies by 90 percent, eliminates the service of paper copies on parties to Commission proceedings, and thus produces significant savings for parties to Commission proceedings where the proposed procedures are used.

(30) Section 8(4)(d) – Electronic Filing Procedures

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 8(4)(d) should be amended to clarify that, while responses to individual requests for information must be bookmarked, voluminous attachments contained in those responses do not need to be bookmarked.

Response: The section has been revised as proposed.

(31) Section 9(4) – Public Hearings and Rehearings

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 9(4) should be amended to broaden the permissible subject matter of staff conferences beyond settlement of all or part of a case. It should state: “To provide opportunity for clarification of the issues to be adjudicated at the hearing, for stipulation of evidence or witnesses, and other procedural matters, and to explore the possibility of settlement, the parties to a proceeding may meet in the presence of commission staff upon the approval of the executive director.”

Response: The section has been revised to broaden the permissible subject matter of staff conferences.

(32) Section 9(8) – Public Hearings and Rehearings

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 9(8) should be amended to require that objections to pre-filed testimony or evidence be made in a timely manner within a specified number of days of service of the testimony or evidence and to specify the time period in which replies to such objections may be made.

Response: No action taken. Because the statutory period for Commission review varies with the requested relief, the establishment of a specific time period for all cases is not possible. This matter is more appropriately addressed in the procedural orders that the Commission issues at the beginning of a case.

(33) Section 10(3) - Briefs

(a) Commenters: Mary Keyer (AT&T), Mark Overstreet (Kentucky Power Company), Kendrick Riggs (Louisville Gas & Electric Company/Kentucky Utilities Company)

Comment: Section 10(3) should be deleted. The submission of amicus briefs by non-parties is unnecessary. Current and proposed regulations permit interested parties to intervene in a Commission proceeding and to fully participate. They further permit non-parties to submit comments. Rather than use the filing of amicus briefs to obtain address questions with significant policy implications, the Commission should initiate administrative cases that allow all stakeholders within a utility sector to participate and provide comment.

Response: Section 10(3) has been deleted.

(34) Section 11(3) – Documentary Evidence

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 11(3) should be amended to require page and line numbering only where practicable as the current regulation provides. The burdens associated with complying with the amended numbering requirement will far outweigh the benefits and will disproportionality affect smaller parties and individuals. The proposed revision will make it impossible for a party to impeach a witness with a document not previously intended to be an exhibit.

(b) Response: To ensure that the Commission and the parties can accurately refer to the record of a proceeding and that a reviewing court and the public can correctly comprehend the Commission's or a party's reasoning, each page of a submission should be numbered. The need for numbering the lines of a page, however, is not as compelling. Section 11(3), therefore, has been amended to require the numbering of lines where practicable.

(35) Section 13(2)(a)2. – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: If an entire document is appropriate for confidential treatment, a filer should be permitted to file a statement that the entire document is confidential in lieu of highlighting the entire document. Section 13(2)(a)2 should be revised to state: "If confidential treatment is sought for an entire document, unambiguous written notification that the entire document is confidential may be filed with the document in lieu of the required highlighting." Section 13(2)(a)2 should also be revised to require the filing party to submit confidential material in a sealed envelope marked "confidential".

(b) Response: The section, as well as Section 13(3)(a), has been revised as suggested. Because of other amendments to the proposed revisions, Section 13(2)(a)2 has been renumber as Section 13(2)(a)3.

(36) Section 13(2)(b) – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 13(2)(b) should be amended to reduce the number of required redacted copies.

(b) Response: Section 13 has been modified to require the submission of materials in paper medium, but no action has been taken to change the number of required copies in paper medium. The number of required redacted copies is consistent with 807 KAR 5:001, Section 7(1). If a filing party believes that, given the circumstances, the number of copies should be reduced, it may request a deviation.

(37) Section 13(2)(b) – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 13(2)(b) should be amended to permit a filer to submit a statement that the entire document is confidential in lieu of redacting the entire document when that document in its entirety is confidential. The section should be revised to state: "If confidential treatment is sought for an entire document, the filer may file a sheet noting that the entire document is confidential in lieu of redacting the document."

(b) Response: The section, as well as Section 13(3)(b), has been revised as suggested.

(38) Section 13(5) – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 13(5) should be revised to state: “If the petition, motion, or request for confidential treatment of material is denied, the material shall not be placed in the public record for the period permitted under KRS 278.410 for appeals.”

(b) Response: The section has been revised to state: “If the petition, motion, or request for confidential treatment of material is denied, the material shall not be placed in the public record for the period permitted under KRS 278.410 to bring an action for review.”

(39) Section 13(5) – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 13(5) should be amended to provide that the material for which confidential treatment is sought will be afforded confidential treatment by the Commission while the petitioner prosecutes any remedy afforded by law. This amendment will allow parties to avoid injunction practice before the Franklin Circuit Court to protect the material in question from public disclosure while an appeal is pending.

(b) Response: No action taken. The Open Records Act does not require that the material remain confidential pending judicial review. Such revision would permit a filer to bring its action and then take no further steps to prosecute that action. The proposed regulation appropriately places the burden upon the party seeking to prevent public disclosure to seek injunctive relief, which KRS 278.410 permits. Moreover, it will lead to prompt judicial review of the underlying action.

(40) Section 13(6)(b) – Confidential Material

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 13(6)(b) should be deleted. Past practice has shown that this provision is not needed. The Commission is not authorized under the provisions of the Open Records Act to order, even under limited circumstances, the disclosure of information exempted from disclosure by KRS 61.878. Specifically, Sub-section (1) of that statute exempts from inspection, except upon the order of a court of competent jurisdiction, records that meet the requirements of KRS 67.878(l)(a) – KRS 61.878(l)(n). Because the Commission is not a court, to the extent 807 KAR 5:001, Section 13(6)(b) permits such inspection it seemingly violates KRS 13A.130(1) and would be unenforceable under KRS 13A.130(2) and well-established principles of agency rule-making.

Response: No action taken. The section addresses extraordinary circumstances where a party’s constitutional right to due process would be violated if information was not provided. It has been a part of the regulation since its promulgation in the 1990s.

(41) Section 13(10) – Confidential Material

(a) Commenters: Mary Keyer (AT&T), Mark Martin (Atmos Energy), Roger Hickman (Big Rivers Electric Corporation), Brooke Leslie and Judy Cooper (Columbia Gas of Kentucky), Matthew Wesolosky (Delta Natural Gas Company), Jim Jacobus (Inter-County Energy Cooperative), Rocco D'Ascenzo (Duke Kentucky), Kendrick Riggs (Louisville Gas and Electric Company/Kentucky Utilities Company), Kelly Nuckols (Jackson Purchase Energy Corporation), Mark Stallons (Owen Electric Corporation), Debra Martin (Shelby Energy Cooperative), Doug Brent (Sprint/tw telecom of ky./Verizon Business).

Comment: Section 13(10)(a) should be deleted. This section would unnecessarily and substantially increase the costs and burdens of utilities and the Commission and is contrary to KRS 61.878 as no specific time periods are provided in that statute. A significant amount of confidential materials require confidential treatment for a period longer than the two-year period specified in the proposed section. Upon deletion of Section 13(10)(a), Section 13(10) should be revised to place the burden of proof on the release of confidential materials on the person seeking the release of the information and to ensure that the owner of the confidential material is notified of any request for public release of the material and is provided an opportunity to oppose such request. As an alternative, Section 13(10) should not specify any specific time limitation on the period that materials are afforded confidential treatment, but the person seeking confidential treatment should specify in its motion or request the time period for which the materials should be treated as confidential. Section 13(10) should not be applied to materials that the Commission has previously afforded confidential treatment.

(b) Response: Section 13 has been revised to eliminate a specific time period that materials will be afforded confidential treatment, to require a person requesting confidential treatment to specify the time period for which the materials should be treated as confidential, and to ensure that the party that originally requested confidential treatment of material is notified of a request for public release of that material and provided an opportunity to respond to such request. Based upon the requesting party's evidence and arguments, the Commission will determine the appropriate time period that the materials should be afforded confidential treatment. Such determination is subject to judicial review. Section 13 has been further revised to place burden of proof of proving that material continues to meet the exemptions of KRS 61.878 upon the party that originally requested confidential treatment when a request for release of that material is made to the Commission. Section 13 has also been revised to permit a person requesting confidential treatment in a non-formal proceeding to request Commission review of a decision of the Executive Director related to the time period that the materials will be afforded confidential treatment.

(42) Section 13(10) – Confidential Material

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 13(10) should be revised to clarify when the two-year period of confidential treatment begins and to expand the time period for confidential treatment to five-years.

(b) Response: Revisions in response to previous comment render action on this comment unnecessary. Time period for holding material confidential will be based upon the requesting party's evidence and arguments and the circumstances of case.

(43) Section 15(2)(f) – Applications for Certificates of Public Convenience and Necessity

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: The phrase “within thirty (30) days after the proposed facilities are completed” that appears in Section 15(2)(f) should be deleted or clarified.

(b) Response: Section 15(2)(f) has been revised to read: “An estimated annual cost of operation after the proposed facilities are placed into service”.

(44) Section 15(2)(f) – Applications for Certificates of Public Convenience and Necessity

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 15(2)(f) should be revised to state: “An estimated annual cost of operation beginning thirty (30) days after the proposed facilities are completed.”

(b) Response: Revisions in response to previous comment render action on this comment unnecessary.

(45) Section 15(5) – Applications for Certificates of Public Convenience and Necessity

(a) Commenter: Mark Stallons (Owen Electric)

Comment: Section 15(5) should be revised to clarify “extensions in the ordinary course of business.”

(b) Response: No action taken. The term “extensions in the ordinary course of business” appears in KRS 278.020(1) and has been defined in judicial decisions.

(46) Section 16(3)(b) – Applications for General Adjustments in Existing Rates

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 16(3)(b) should be revised to add the following sentence: “Notice given pursuant to this regulation shall satisfy the requirements of 807 KAR 5:051 Section 2.”

(b) Response: The section has been revised as suggested.

(47) Section 16(4)(e) – Applications for General Adjustments in Existing Rates

(a) Commenter: Tom Fitzgerald (Kentucky Resources Council)

Comment: Section 16(4)(e) should be revised to require publication of the following notice: “A statement that any person with a special interest in the matter or whose participation as a party would present issues or develop facts that would assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings may submit a written request to intervene to the Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602; setting out the grounds for the request including the special interest of the party or the facts and issues that the party wishes to present. The statement shall also provide that a person not wishing to intervene may submit written comments and provide oral comments at the hearing on the case, which shall be made part of the record of the proceeding.”

(b) Response: An additional subsection to Section 16(4) has been added, which requires the notice to contain “A statement that written comments regarding the

proposed rate may be submitted to the Public Service Commission by mail or through the Public Service Commission's website." To ensure that the public has notice of any hearing on any proposed rate, Section 9(2)(b) had been added to prescribe the contents and time requirements for publishing notice of a hearing. No additional changes have been made. The additional proposed language states the legal standard currently employed for permissive intervention and will increase the likelihood of confusion and misunderstanding by lay persons.

(48) Section 16(9)(n) – Applications for General Adjustments in Existing Rates

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 16(9)(n) should be revised to delete the phrase "and style."

(b) Response: The section has been revised as suggested.

(49) Section 16(12)(s) – Applications for General Adjustment in Existing Rates

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 16(12)(s) should be revised to delete the phrase "and style."

(b) Response: The section has been revised as suggested.

(50) Section 16(14) – Applications for General Adjustment in Existing Rates

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 16(14) should be revised to make clear that, subject to a Commission order to the contrary, in those instances where the deficiency materially impairs the ability of the Commission or any party to review and investigate to the application, cured deficiencies will relate back to the original filing date so that all statutory timing deadlines, including those contained in KRS 278.190, will continue to run from the original filing date. The section should be revised to state: "Unless the Commission orders to the contrary upon finding that the deficiency materially impairs the ability of the Commission or any party to review and respond to the application, the cure shall relate back to the initial filing of the application."

(b) Response: No action taken. Many Commission proceedings have strict statutory time limits. Acceptance of proposed revision would limit the Commission's time to conduct its review. Moreover, the ability to ensure an application's compliance with Commission requirements and to cure any deficiencies lies solely with the application. The proposed revision would encourage incomplete and non-compliant filings since the application would still be deemed filed as of the date of the initial incorrect or incomplete filing.

(51) Section 17 – Application for Authority to Issue Securities, Notes, Bonds, Stocks or Other Evidences of Indebtedness

(a) Commenter: Doug Brent (Sprint/tw telecom of ky./Verizon Business)

Comment: Section 17 should be revised to clarify that competitive local exchange providers and long distance providers are not required to obtain Commission approval to issue securities or other evidences of indebtedness.

(b) Response: No action taken. Pursuant to KRS 278.512, the Commission has exempted by order certain telecommunications utilities from certain statutory requirements. This administrative regulation cannot add to or modify or limit statutory provisions. The proposed language would be superfluous.

(52) Section 17 – Application for Authority to Issue Securities, Notes, Bonds, Stocks or Other Evidences of Indebtedness

(a) Commenter: Mary Keyer (AT&T)

Comment: Exemption of certain telecommunications utilities from certain statutory requirements should not be specifically set forth in 807 KAR 5:001.

(b) Response: No action taken. See previous comment.

(53) Section 17(2)(b) – Application for Authority to Issue Securities, Notes, Bonds, Stocks, or Other Evidences of Indebtedness

(a) Commenter: Isaac Scott (East Kentucky Power Cooperative)

Comment: Section 17(2)(b) should be revised to delete the phrase “and style”.

(b) Response: The section has been revised as proposed.

(54) Section 18(6) – Petition for Declaratory Order

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 18(6) should be amended to state: All factual statements in applications, responses, and replies shall be supported by affidavit or verified.” Applications, responses, and replies are likely to contain legal arguments, which by nature are not subject to verification.

(b) Response: No action taken. The proposed regulation as written permits the submitting party to make such distinction in its verification statement.

(55) Section 19(4)(b) – Formal Complaints

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 19(4)(b) should be revised to recognize the Commission's inherent authority to extend the period for an answer. Final sentence should read: “require the answer to be filed within a shorter or longer period.”

(b) Response: The section has been revised as proposed.

(67) Section 19(5) – Formal Complaints

(a) Commenter: Mark Overstreet (Kentucky Power Company)

Comment: Section 19(5) makes no provision for Complainant's response to offer to satisfy complaint and should be revised to state: “If the complainant is not satisfied with the relief offered, the complainant shall file with the Commission a written notice of rejection of the offer with a certificate showing service on the defendant and other parties. The defendant shall file an answer to the complaint or motion to dismiss within ten days of the date of the filing of the complainant's written notice of rejection, with certificate of service.”

(b) Response: No action taken. Most complainants are customers representing themselves pro se and do not necessarily possess the sophistication necessary for and familiarity with complex proceedings. Accordingly, the burden of responding is better

placed upon the utility. To the extent that a utility has made an offer to satisfy and the customer's response is pending or the customer has rejected the offer, the burden of notifying the Commission of this event is better placed upon the utility.

5. Summary of the Statement of Consideration and Action Taken By Promulgating Administrative Body

The Public Service Commission has responded to the comments from the public hearing and public comment period regarding the proposed amendments to 807 KAR 5:001. The Public Service Commission proposes the following amendments after comments:

Page 2

Section 1(5) and (6)

Lines 3 and 4

After "position.", insert the following:

(6) "Paper" means, regardless of the medium on which it is recorded, an application, petition, or other initiating document, motion, complaint, answer, response, reply, notice, request for information, or other document that this administrative regulation or the commission directs or permits a party to file in a case.

(7)

Delete "(6)".

Page 2

Section 1(6)(e) and (7)

Lines 13 and 14

After "proceeding.", insert "(8)".

Delete "(7)".

Page 2

Section 1(7) and (8)

Lines 14 and 15

After "KRS 278.010(2).", insert "(9)".

Delete "(8)".

Page 2

Section 1(8) and (9)

Lines 15 and 16

After "KRS 278.010(12).", insert "(10)".

Delete "(9)".

Page 2

Section 1(9) and (10)

Lines 17 and 18

After "KRS 369.102(8).", insert "(11)".

Delete "(10)".

Page 3

Section 4(3)

Line 22

After "Signing of", insert "papers".

Delete "pleadings".

Page 4

Section 4(3)(a)

Line 1

After "(a) A", insert "paper".

Delete "pleading".

Page 4

Section 4(3)(b)

Line 4

After "(b) A", insert "paper".

Delete "pleading".

Page 4

Section 4(4)

Line 6

After "file any", insert "paper".

Delete "pleading".

Page 4

Section 4(5)

Line 12

After "or other", insert "paper".

Delete "pleading or document".

Line 14

After "original", insert "paper".

Delete "pleading or document".

Page 4

Section 4(6)(a)

Line 16

After "Upon the", insert "written request".

Delete "application".

Page 4

Section 4(6)(b)

Line 21

After "upon", insert "written request".

Delete "application in writing".

Page 5
Section 4(6)(c)
Line 1

After “with its”, insert “written request”.
Delete “application”.

Page 5
Section 4(8)(b)
Line 23

After “mailing it”, insert the following:
by United States mail or other recognized mail carrier

Page 6
Section 4(8)(b)
Line 1

After “listed on”, insert “papers”.
Delete “pleadings”.

Lines 2 through 4

After “or electronic transmission”, insert the following:
. If a serving party learns that the mailing or electronic transmission did not reach the person to be served, the serving party shall take reasonable steps to immediately re-serve the party to be served, unless service is refused, in which case the serving party shall not be required to take additional action.”

Delete the following:
, but electronic transmission shall not be effective if the serving party learns that it did not reach the person to be served.

Page 6
Section 4(9)(b)
Line 10

After “upon each”, insert “paper”.
Delete “pleading”.

Lines 11 and 12

After “filing of the”, insert “paper”.
Delete “pleading”.

Page 7
Section 4(11)(c)
Line 15

After “(c)”, insert the following:
Unless electronic filing procedures established in Section 8 of this administrative regulation are used, a party shall serve a person

Delete “Persons”.
After “intervene”, delete “shall be served”.

Line 16

After “exhibits,”, insert “papers”.

Delete “pleadings”.

After “documents”, insert “that the party submits”.

Delete “submitted by the parties”.

Line 17

After “case”, insert the following:

after the Order granting intervention, but is not required to provide any documents submitted prior to the issuance of that Order

Page 7

Section 4(11)(d)

Line 20

After “case record.”, insert the following:

A person filing written comments shall not be deemed a party to the proceeding and need not be named as a party to an appeal.

Page 7

Section 5(1)

Line 22

After “made in”, insert the following:

an application, petition, or written request

Delete “a pleading”.

Page 8

Section 5(3)

Line 5

After “shall be”, insert “confined to points raised”.

Delete the following:

limited to the matters initially raised

After “responses”, insert the following:

to which they are addressed, and shall not reiterate an argument already presented

Delete “to the party’s motion”.

Page 8

Section 7(1)

Line 11

After “used, when”, insert “a”.

Delete “an original”

After “document”, insert “in paper medium”.

Line 12

After “additional copies”, insert “in paper medium”.

Page 8
Section 7(2)(a)
Line 16

After “side of the”, insert “page”.
Delete “paper”.

Page 9
Section 8(1)
Line 6

After “or upon”, insert “order”.
Delete “motion”.
After “of the commission”, insert the following:
in a case that the commission has initiated on its own motion

Page 9
Section 8(3)
Line 15

After “(3) All”, insert “papers”.
Delete “pleadings”.

Page 9
Section 8(4)(d)
Line 23

After “sections of the”, insert the following:
paper, except that documents filed in response to requests for information
need not be individually bookmarked
Delete “pleading or document”.

Page 10
Section 8(5)(c)
Line 11

After “paper”, insert “medium”.

Page 10
Section 8(5)(d)
Line 14

After “paper”, insert “medium”.

Page 11
Section 8(9)(a)
Line 15

After “service of all”, insert “papers”.
Delete “documents and pleadings”.

Page 12
Section 8(10)(a)
Line 5

After “documents and”, insert “papers”.
Delete “pleadings”.

Page 13
Section 8(12)(b)
Line 1

After “submission a”, delete “paper”.
After “copy”, insert “in paper medium”.

Page 13
Section 9(2)
Line 12

After “Publication of notice.”, insert “(a)”.

Lines 17 and 18

After “before the hearing.”, insert the following:

(b) The commission may order an applicant to give notice to the public of any hearing on the applicant’s application. If notice of a hearing pursuant to KRS 424.300 is published by the applicant in a newspaper, it shall be published in a newspaper of general circulation in the areas that will be affected one (1) time not less than seven (7) nor more than twenty-one (21) days prior to the hearing giving the purpose, time, place, and date of hearing. The applicant shall bear the expense of providing the notice.

Page 14
Section 9(4)
Line 4

After “upon a”, insert “motion”.
Delete “request”.

Lines 4 through 5

After “conference”, delete the following:
either prior to, or during the course of hearings

Lines 5 through 7

After “case”, insert the following:

for the purpose of considering the possibility of settlement, the simplification or clarification of issues, or any other matter that may aid in the handling and disposition of the case. Unless the commission directs otherwise or the parties otherwise agree, participation

Delete the following:

To provide opportunity for settlement of a proceeding or any issues, the parties to a proceeding may meet in the presence of commission staff upon approval of the executive director. Participation

Page 15

Section 10(2) and (3)

Lines 15 through 20

After “commission.”, delete subsection (3) in its entirety.

Page 16

Section 11(3)

Line 14

After “exhibit”, delete the following:
and the lines of each sheet

After “numbered”, insert the following:

. If practical, the lines of each sheet shall also be numbered. If
Delete “and if”.

Page 18

Section 13(2)(a)1. through 2.

Lines 17 through 18

After “confidential;”, insert the following:

2. States the time period in which the material should be treated as confidential and the reasons for this time period; and

3. Includes, in a separate sealed envelope marked confidential,

Delete “and 2. Attaches”.

Page 18

Section 13(2)(a)2.

Line 18

After “the material”, insert “in paper medium”.

Line 21

After “identification.”, insert the following:

If confidential treatment is sought for an entire document, unambiguous written notification that the entire document is confidential may be filed with the document in lieu of the required highlighting.

Page 19

Section 13(2)(b)

Line 1

After “the material”, insert “in paper medium”.

Line 2

After “the material”, insert “in paper medium”.

Line 3

After “commission.”, insert the following:

If confidential treatment is sought for an entire document, the filer may file a sheet noting that the entire document is confidential in lieu of redacting the document.

Page 19
Section 13(2)(c)
Line 4

After “the material”, insert “in paper medium”.

Page 19
Section 13(2)(d)
Line 8

After “KRS 61.878”, insert the following:
and to demonstrate the time period for which the material should be considered as confidential

Page 19
Section 13(3)(a)1. through 2.
Lines 21 through 22

After “confidential;”, insert the following:
2. States the time period in which the material should be treated as confidential and the reasons for this time period; and
3. Includes, in a separate sealed envelope marked confidential,
Delete “and 2. Attaches”.

Page 19
Section 13(3)(a)2.
Line 22

After “the material”, insert “in paper medium”.

Page 20
Section 13(3)(a)2.
Line 2

After “identification.”, insert the following:
If confidential treatment is sought for an entire document, unambiguous written notification that the entire document is confidential may be filed with the document in lieu of the required highlighting.

Page 20
Section 13(3)(b)
Line 3

After “the material”, insert “in paper medium”.

Line 4

After “the material”, insert “in paper medium”.

Line 5

After “commission.”, insert the following:
If confidential treatment is sought for an entire document, the filer may file a sheet noting that the entire document is confidential in lieu of redacting the document.

Page 20
Section 13(3)(c)
Line 7

After "KRS 61.878", insert the following:
and to demonstrate the time period for which the material should be considered as confidential

Page 20
Section 13(3)(d)
Line 11

After "KRS 61.878", insert the following:
and the time period for which the material should be considered as confidential

Page 20
Section 13(3)(e)
Line 12

After "treatment is denied", insert the following:
, in whole or in part,

Page 20
Section 13(5)
Lines 20 through 21

After "record for", insert the following:
the period permitted pursuant to KRS 278.410 to bring an action for review

Delete the following:
twenty (20) days to allow the petitioner to seek any remedy afforded by law

Page 23
Section 13(10)(a)
Line 1

After "(a)", insert the following:
Except as provided for in paragraphs (c) and (d) of this subsection, confidential

Delete the following:
Unless the commission orders otherwise, confidential

Line 2

After "material for", insert the following:
the period specified in the commission's order or executive director's written decision.

Delete the following:
no more than two (2) years.

Lines 2 through 7

After "period," delete the following:
the person who sought confidential treatment for the material shall request that the material continue to be treated as confidential and shall demonstrate

that the material still falls within the exclusions from disclosure requirements set forth in KRS 61.878. Absent any showing, the material will be placed in the public record. If no request is made for continued confidential treatment,

Line 8

After “treatment.”, insert the following:

The person who sought confidential treatment for the material may request that the material continue to be treated as confidential but shall demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878.

Page 23

Section 13(10)(c) through (d)

Line 17 through 18

After “public record.”, insert the following:

(d) If a request to inspect material granted confidential treatment is made during the period specified in the commission’s order or executive director’s written decision, the commission shall notify in writing the person who originally sought confidential treatment for the material and direct him to demonstrate within twenty (20) days of his receipt of the notice that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If he is unable to make the demonstration, the commission shall make the requested materials available for public inspection. Otherwise, the commission shall deny the request for inspection.

(e)

Delete “(d)”.

Page 26

Section 15(2)(f)

Line 6

After “An estimated”, insert “annual”.

After “operation”, delete “thirty (30) days”.

Lines 6 through 7

After “are”, insert “placed into service”.

Delete “completed”.

Page 30

Section 16(3)(c)

Line 2

After “methods listed in”, insert the following:

paragraph (b) of this subsection.

(d) Notice given pursuant to this administrative regulation shall satisfy the requirements of 807 KAR 5:051, Section 2.

Delete the following:

subsection (3)(b) of this section.

Page 30

Section 16(4)(e) and (f)

Lines 20 through 21

After “shown;”, insert the following:

(f) A statement that written comments regarding the proposed rate may be submitted to the Public Service Commission by mail or through the Public Service Commission’s Web site;

(g)

Delete “(f)”.

Page 31

Section 16(4)(f) and (g)

Lines 2 through 3

After “Web site; and”, insert “(h)”

Delete “(g)”

Page 34

Section 16(9)(n)

Line 3 through 4

After “case’s number”, delete “and style”.

Page 41

Section 16(12)(s)

Lines 17 and 18

After “case’s number”, delete “and style”.

Page 47

Section 17(2)(b)

Line 7

After “shall be made”, insert “by”.

Delete “, by style and”.

After “case number”, delete “,”.

Page 47

Section 18

Line 13

After “Section 18.”, insert “Application”

Delete “Petition”.

Page 50

Section 19(4)(b)

Line 8

After “shorter”, insert “or longer period”.

Delete “time”.