

The finding of an emergency with respect to the matters affected by this regulation is concurred in by this office and the allowing of this regulation to become effective without the waiting period is deemed necessary to the public interest, all in accordance with KRS 13.085.

LEGISLATIVE RESEARCH COMMISSION

FILED

OCT 16 1972

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*Russell S. Ford*  
Governor  
Commonwealth of Kentucky

BEFORE THE PUBLIC SERVICE COMMISSION OF KENTUCKY  
Regulations Service

A meeting of the Public Service Commission was held this date. Present: Chairman William A. Logan, Vice Chairman Barkley J. Sturgill and Commissioners Charles W. Berger, Robert E. Spurlin and Joe S. Wheeler, Jr.

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In the Matter of

THE REVISION OF THE COMMISSION'S ) ADMINISTRATIVE  
RULES OF PROCEDURE ) CASE NO. 159

O R D E R

After due notice to all utilities affected and after public hearing held October 10, 1972 at the Commission's offices in Frankfort, Kentucky, the Commission hereby ORDERS that revised regulation PSC: Proc-1-IX attached hereto as Appendix "A" be and the same hereby is adopted.

The Commission finds that an emergency exists with respect to this regulation and deems it necessary to the administration of its affairs that this regulation be excepted from the provisional thirty (30) day filing notice period and become effective immediately upon its filing with the Legislative Research Commission, all in accordance with KRS 13.085.

Done at Frankfort, Kentucky, this 10th day of October, 1972.

PUBLIC SERVICE COMMISSION OF KENTUCKY

*William A. Logan*  
Chairman

*Barkley J. Sturgill*  
Vice Chairman

Approved as to form and legality:

*Morris E. Burton*  
Morris E. Burton  
Counsel

*Robert E. Spurlin*  
Commissioner

*Joe S. Wheeler, Jr.*  
Commissioner

ATTEST:

*Richard D. Loman, Jr.*  
Secretary

APPENDIX "A"

Appendix to the Order of the Public Service Commission in Administrative Case No. 159, dated October 10, 1972.

PSC Proc-1

Rules of Procedure

PSC: Proc-1-IX Application or Notice for Authority to Adjust Rates.

3. The Commission will not, on or after the effective date of this section, permit any tariff filing by any public utility except for those utilities qualifying for the small business exemption set forth in Title 6, Economic Stabilization, Section 101.51, Subpart E, and for other utilities as may be from time to time exempted by the Cost of Living Council, increasing rates to become effective unless the Commission finds and determines that:

(1) The increase is cost-justified and does not reflect future inflationary expectations;

(Comment: An application for a rate increase before this Commission must be accompanied by cost data, in the form of investment figures, revenues and expenses, for a recently concluded test year. There are situations where actual results are not available for an entire test period and the Commission may, therefore, permit some actual months experience and some estimated months experience, the estimated data to be subject to correction or verification during the course of the proceeding considering the proposed rate increase. Where statutory provisions or other special circumstances justify its use, a different test year may be utilized. In general, adjustments will be made in test year data to reflect changes in costs occurring during the test year not reflected in

test year data, and changes in cost occurring subsequent to the test year, but prior to, or contemporaneously with, the effectiveness of the rate increase may be considered. All known decreases in costs, as well as increases, will be included in the adjustments made. Adjustments also will be made to eliminate the effects of abnormal or unrepresentative conditions reflected in the test year data. Adjustments for changes in test year costs will not be made unless either (I) the change is subject to definite computation or reasonable estimation, or (II) in some instances, a cost adjustment may be dictated by overriding considerations of public policy and should be allowed despite difficulties in estimation. In the case of adjustments falling within the latter category, the Commission may require periodic reporting, or impose other protective conditions, to assure that the funds allowed are expended for the purpose intended. In no case will an adjustment be made on the basis of general predictions of future inflation.)

(2) The increase is the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements;

(Comment: Where rate increases are sought to cover costs associated with safety, expansion of service, improvement of service, or environmental or ecological protection, the increases will not be permitted except in instances where the costs qualify as test year adjustments within the scope of the preceding comment.)

(3) The increase will achieve the minimum rate of return needed to attract capital at reasonable costs and not to impair the credit of the public utility;

(Comment: The Commission may consider the capital structure of the applicant at or near the date the applicant's increased rates will become effective. Costs of various components of the capital structure will be computed as of that date. Adjustments generally will be made in the capital structure, and in the

costs of various types of capital, in some situations, as, for example, where: (A) adjustments may be required to reflect new financings which are known to be imminent; (B) adjustments are required in order to permit the applicant to eliminate a discrepancy between the existing capital structure and an objective capital structure intended to assure the financial soundness of the applicant (e.g. to permit the replacement of excessive amounts of debt with some form of equity financing when the financial soundness of the applicant otherwise would be impaired); (C) the applicant is a subsidiary of another company and the capital requirements of the latter are taken into consideration; or (D) adjustments are required to correct for excessive capital costs incurred as a result of improvident financing practices.

The rate of return allowed by the Commission will not reflect expectations of future inflation.)

(4) The increase does not reflect labor costs in excess of those allowed by policies of the Federal Price Commission;

(Comment: A wage or salary payment in excess of labor costs allowed by Price Commission regulations and policies will not be given effect for rate purposes. An application for a rate increase which is based in whole or in part on increased wages or salaries in excess of those allowed by the Price Commission regulations will be allowed only with respect to that portion of the wage settlement or salary increase which does not exceed Price Commission regulations or policies.

At the present time, the Price Commission's guidelines provide in general that wage or salary increases in excess of 5.5% per year are not allowable unless the increase is required by a contract which became binding before November 8, 1971, or unless the excess cost would work an undue hardship on the employer if it were disallowed.

Cases involving wage or salary increases in excess of 5.5% per year, not covered by prior contract, necessarily must be considered on a case by case basis in order to determine whether

undue hardship would result from disallowance of that portion of the increase in excess of 5.5% per year.)

(5) The increase takes into account expected and obtainable productivity gains;

(Comment: Expected productivity gains will be taken into account to the extent such gains are susceptible of quantitative measurement in accordance with the comment under subsection (1). In particular, all productivity gains associated with increases in costs for which adjustments are allowed must be considered with a view to achieving a consistent and balanced projection of future operating experience.

Obtainable productivity gains will be taken into account by identifying, to the extent practicable in a rate case, any present or projected expenditures of the applicant which are wasteful or unnecessary. Expenditures for promotion, including advertising, will receive particular attention. Where it is shown that an applicant can reduce the costs of its operations by eliminating or curtailing wasteful or unnecessary expenditures, the Commission will so find and such expenses will be disallowed in computing costs for ratemaking purposes.)

(A) Any utility which, on the effective date of Subsection 3 of this Rule has pending before the Commission a request or filing for an increase in its rates, shall, if such information is not already included in the utility's filing or in the record, make a showing that the conditions enumerated herein have been satisfied.

(B) Any utility which requests an increase in its rates on or after the effective date of Subsection 3 of this Rule shall, as a part of its filing, make a showing that the conditions enumerated herein have been satisfied.

(C) Subsection 3 of this Rule shall not apply to --

(1) Any rate increase intended to pass through specific allowable costs, including taxes (except income taxes), purchased gas expenses, and fuel costs, but not including labor

costs, under a previously approved tariff provision;

(2) Any rate increase intended to adjust relationships between classes of customers or resulting from a revision or alteration of the nature or type of services offered to customers which increase does not increase the utility's aggregate annual revenues by more than one percent (1%).

(D) The Secretary shall make available to the Price Commission such orders, regulations, periodic reports or other information as the Price Commission may require by regulation or otherwise.

(E) The Commission's procedures will continue to provide reasonable opportunity for participation by all interested parties, or their representative, in its proceedings. All interested parties are afforded an opportunity to intervene in such a proceeding, including participation as parties in public hearings mandated by statute or held at the Commission's discretion and in rehearings before the Commission. Written submissions by interested parties are considered in those minor cases in which oral hearings are not held.

(F) The criteria set out hereinabove shall remain in force during the duration of the Price Commission's rules and regulations affecting public utilities.