

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF UNION COUNTY)	CASE NO.
WATER DISTRICT FOR A DECLARATORY)	2025-00182
ORDER)	

ORDER

On June 5, 2025, Union County Water District (Union District) filed an application for a declaratory order seeking a determination that a Certificate of Public Convenience and Necessity (CPCN) is not necessary for it to repair or replace its tornado damaged water tower and chlorine pump house. In addition, Union District also requested a declaratory order granting a waiver from advertising bids for the repair and rebuilding services.¹

As the basis for the filing, Union District stated its Davis Water Tower on Robinson Road as well as a chlorine pump house were damaged, as a result of an EF-3 tornado that occurred on May 16, 2025. Union District stated it intended to repair or replace the water tower and chlorine pump house as a result.²

LEGAL STANDARD

KRS 278.020(1)(a) states that

[n]o person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant,

¹ Application for a Declaratory Order (filed June 5, 2025) at 1.

² [Overview of the Tornado Outbreak of May 16, 2025](#) (last accessed June 13, 2025).

equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, except:

(1) Retail electric suppliers for service connections to electric-consuming facilities located within its certified territory;

(2) Ordinary extensions of existing systems in the usual course of business; or ...

These exceptions are further described in 807 KAR 5:001 Section 15(3), which states:

A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders services, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers.

A utility may request a declaratory Order pursuant to 807 KAR 5:001 Section 19.

The commission may . . . issue a declaratory order with respect to the jurisdiction of the commission, the applicability to a person, property, or state of facts of an order or administrative regulation of the commission or provision of KRS Chapter 278, or with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.³

As it relates to the request to forego advertising for bids, Kentucky has adopted KRS Chapter 45A, the Kentucky Model Procurement Code. Pursuant to KRS 45A.020, the Kentucky Model Procurement Code applies to every expenditure of public funds by this Commonwealth.

³ 807 KAR 5:001 Section 19(1).

KRS 424.260 sets forth exceptions to the requirement to obtain bids. Specifically, KRS 424.260(4) states

This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.

DISCUSSION AND FINDINGS

Union District is a water district organized pursuant to KRS Chapter 74. Union County serves 2,248 residential customers, 50 commercial customers, and two industrial customers all located in Union County, Kentucky.⁴

By Executive Order 2025-305,⁵ on May 16, 2025, Governor Andy Beshear declared a state of emergency because of the imminent threat of a severe weather system generating heavy rain, intense straight-line winds hail and tornados impact on the Commonwealth. On May 16, 2025, several counties in southern and western Kentucky, including Union County, were materially impacted by at least one tornado subsequently determined to be an EF-3 tornado in that area.⁶ On May 16, 2025, at 8:16 p.m., a tornado

⁴ *Annual Report of Union County Water District to the Public Service Commission for the Year Ended December 31, 2023* at 12, 49.

⁵ Office of Andy Beshear, Executive Order No. 2025-305 (issued May 16, 2025), https://governor.ky.gov/attachments/20250516_Executive-Order_2025-305_State-of-Emergency-Related-to-Continuing-Weather-Event.pdf; Commission Response to Emergency Declaration (issued June 6, 2025), https://psc.ky.gov/agencies/psc/letter/20250606_Public_Service_Commission_Response_Emergency_Declaration_2025-305.pdf (last accessed June 13, 2025).

⁶ [Overview of the Tornado Outbreak of May 16, 2025](#) (last accessed June 13, 2025).

touched down in Union County, Kentucky.⁷ The tornado traveled approximately 9.9 miles and had a width of up to 500 yards.⁸

According to the application, Union District's Davis Water Tower on Robinson Road and a chlorine pump house were damaged as a result of the tornado.⁹ Union District stated it intended to repair or replace the water tower and chlorine pump house. Union District stated its insurance company, Tokio Marine and or the Federal Emergency Management Agency (FEMA) would be covering the costs of repairs or rebuilding.¹⁰ As a result of these events, Union District seeks to repair or rebuild its water tower and chlorine pump house and, as a result of maintaining insurance coverage, averred it will not be paying for any of the rebuilding or repairing of its water tower or chlorine pump house.¹¹ Union District reasoned that since this construction project is strictly rebuilding and repairing existing buildings as the result of the tornado, it does not believe that an application for a CPCN would be necessary.¹²

In addition, Union District stated that it needed to repair and rebuild these facilities as soon as possible. Although the water tower and the chlorine pump house are operational, the damage is impacting its ability to provide safe, adequate service.¹³ As a

⁷ [Overview of the Tornado Outbreak of May 16, 2025](#) (last accessed June 13, 2025).

⁸ [Overview of the Tornado Outbreak of May 16, 2025](#) (last accessed June 13, 2025).

⁹ Application at 1.

¹⁰ Application at 2.

¹¹ Application at 2.

¹² Application at 2-3.

¹³ Application at 1-3.

result, Union District also requested that the Commission issue a declaratory Order that it did not need to comply with the requirement to advertise for bids.¹⁴

Having reviewed the application and being aware of the circumstances of May 16, 2025, the Commission finds that the request for a Declaratory Order should be granted, in part, and denied, in part. The Commission finds that Union District does not need to apply for a CPCN for the repairs or reconstruction of the water tower and the chlorine pump house. The Commission issues this Order recognizing that the circumstances related to this event are unusual and emergent.¹⁵ But for a natural disaster, Union District would not be engaging in the activities of repairing and rebuilding either of these assets. Although significant repairs or rebuilding of water towers and chlorine pump houses normally require a CPCN, under these narrow circumstances, the Commission finds that repairs and rebuilding of the water tower and the chlorine pump house should be considered to be in the ordinary course of business exception set forth in KRS 278.020(1)(a)(2).

While this finding should not be cited as precedent, the basis for the finding is not unprecedented. In September 2022, the Commission proposed an emergency regulation amendment related to the ordinary course of business exception to the CPCN. As part of the basis for the emergency promulgation of that regulation, there was a recognition of the necessity facilitate and expediate repairs to the benefit of the customers of the utility.¹⁶

¹⁴ Application at 1-2.

¹⁵ [List of tornadoes in the outbreak of May 15–16, 2025 - Wikipedia](#) (last accessed June 13, 2025).

¹⁶ In September 2022, in response to severe flooding damage that occurred, the Commission proposed, and an emergency regulation was adopted allowing water utilities to make repairs in the ordinary course of business. 807 KAR 5:001E effective September 14, 2022. See attached Appendix.

While the Commission strives to support the recovery of the areas impacted by the May 16, 2025 storms, it must continue to ensure utility expenditures are reasonable and prudent. Accordingly, Union District should file a specific breakdown of rebuilding and repairs for the facilities (together, Project) including: expenditures, funding, reimbursements, and, if necessary, financing, even if it does not require Commission approval pursuant to KRS 278.300.¹⁷ This filing should be made every 45 days. Union District should also file Project related progress reports on a monthly basis. The progress reports should reflect any actions taken to rebuild or repair the water tower and the chlorine pump house. In addition, the Commission expects Union District to rebuild in like size and kind to the original structure as stated in its application.¹⁸ The utility should not materially change either asset in the repairs or rebuild. If Union District decides to materially change or alter the Project, Union District should file a motion related to the material change(s) in this matter. The Commission may find, subsequently, that a CPCN is required.

The Commission must balance expediency and need due to a natural disaster as well as a utility's obligation to provide service with the Commission's statutory and regulatory obligations. Accordingly, the Commission emphasizes that it will review these filings to ensure that all expenditures are reasonable and prudent. This review will not preempt Union District's obligations from including the information in a subsequent application for a general rate adjustment or an alternative rate adjustment filing.

¹⁷ This Order does not constitute a waiver of any application pursuant to KRS 278.300.

¹⁸ Application at 2.

Finally, having reviewed the application, the Commission must deny the request for a Declaratory Order as it relates to the procurement process. The Commission is tasked with the regulation of rates and services¹⁹ of utilities²⁰ in the Commonwealth. Procurement is governed by either KRS Chapter 45A or applicable sections of KRS Chapter 424, neither of which the Commission administers. Accordingly, any determinations related to the applicability of KRS Chapter 45A, KRS 424.260, or any exceptions thereto, outside of a collateral assessment of utility operations, are outside of the Commission's jurisdiction in this matter.

IT IS THEREFORE ORDERED that:

1. The application for a declaratory Order is granted, in part, and denied, in part.
2. Union District's request for a declaratory Order related to procurement is denied.
3. Union District does not need to file for an application for a CPCN as set out in this Order and in the following ordering paragraphs.
4. Every 45 days beginning from the date of issuance of this Order, Union District shall file the following:
 - a. Specific breakdown of expenditures,
 - b. Specific breakdown of funding, including reimbursements;
 - c. If necessary, financing, even if it does not require Commission approval pursuant to KRS 278.300; and

¹⁹ KRS 278.040.

²⁰ As defined by KRS 278.010.

d. Progress reports reflecting any actions taken to rebuild or repair the water tower or the chlorine pump house.

5. Union District shall obtain the approval of the Commission prior to performing any additional construction not expressly authorized by this Order.

6. Union District shall furnish documentation of the total costs of this project, including the cost of construction and all other capitalized costs, together with, but not limited to, engineering, legal, and administrative expenses, within 60 days of the date construction is substantially completed.


7. Any documents filed in the future pursuant to ordering paragraphs 3 and 5 herein shall reference this case number and shall be retained in the utility's post-case correspondence file, referencing this case number.

8. This case is closed and removed from the Commission's docket.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner

ATTEST:


Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2025-00182 DATED JUN 17 2025

SIXTY-EIGHT PAGES TO FOLLOW

SENATE MEMBERS

Robert Stivers
President, LRC Co-Chair
David Givens
President Pro Tempore
Damon Thayer
Majority Floor Leader
Morgan McGarvey
Minority Floor Leader
Julie Raque Adams
Majority Caucus Chair
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LEGISLATIVE RESEARCH COMMISSION

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Minority Caucus Chair
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Majority Whip
Angie Hatton
Minority Whip

MEMORANDUM

To: John E.B. Pinney, Executive Advisor, Kentucky Public Service Commission

FROM: Emily Caudill, Regulations Compiler

RE: Acknowledgement of Emergency Regulation – 807 KAR 005:001E

DATE: September 14, 2022

A copy of the above listed emergency administrative regulation is enclosed for your files. This emergency administrative regulation became effective on **September 14, 2022** and will expire in 270 days on **June 11, 2023** or when replaced by an ordinary administrative regulation, whichever occurs first.

This emergency administrative regulation is scheduled to be reviewed by the Administrative Regulation Review Subcommittee at its **November 2022**, meeting.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments on this emergency administrative regulation, the Statement of Consideration for this emergency regulation is due by noon on **November 15, 2022**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public comment periods and Statements of Consideration.

If you have questions, please contact us at RegsCompiler@LRC.ky.gov or (502) 564-8100.

Enclosure

STATEMENT OF EMERGENCY

807 KAR 5:001E

This emergency administrative regulation amendment is being promulgated to meet an imminent threat to public health, safety, or welfare caused by flooding in Eastern Kentucky between July 26, 2022, and July 30, 2022. Several gas, water, and sewer utilities, as a result of damage from flooding, will need to replace treatment and transmission facilities in order to meet necessary health and sanitation needs of the residents of Eastern Kentucky. This administrative regulation is being filed on an emergency basis to expedite the replacement of damaged infrastructure by temporarily removing the requirement that a water, gas, or sewer utility received a certificate of public convenience and necessity from the Public Service Commission before beginning construction to repair or replace damaged infrastructure. Temporarily removing this requirement will hasten repair by several weeks. This emergency regulation will not be replaced by an ordinary administrative regulation because the emergency repairs would have been initiated by Spring 2023.

Chy Besh

Andy Beshear, Governor

Kurt Cobain.

Kent A. Chandler, Chairman

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Emergency Amendment)

4 807 KAR 5:001E. Rules of Procedure

5 RELATES TO: KRS 61.870 - 884, 61.931 - 934, 65.810, Chapter 74, 278.010, 278.020(3),
6 278.100, 278.180, 278.300, 278.410, 322.340, 365.015, 369.102, 424.300, 45 C.F.R.
7 160.103, 47 C.F.R. 36, 20 U.S.C. 1232g

8 STATUTORY AUTHORITY: 278.040(3), 278.260(2), 278.310

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.040(3) authorizes the
10 commission to promulgate administrative regulations to implement the provisions of KRS
11 Chapter 278. KRS 278.040(3) authorizes the commission to promulgate reasonable
12 administrative regulations to implement the provisions of KRS Chapter 278. KRS 278.310
13 requires that all hearings and investigations before the commission shall be governed by
14 rules promulgated by the commission. This administrative regulation establishes
15 requirements with respect to formal and informal proceedings before the commission.

16 Section 1. Definitions. (1) "Affiliate" means an entity:

17 (a) That is wholly owned by a utility;

18 (b) In which a utility has a controlling interest;

19 (c) That wholly owns a utility;

20 (d) That has a controlling interest in a utility; or

21 (e) That is under common control with the utility.

1 (2) "Case" means a matter coming formally before the commission.

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

3 (4) "Controlling interest in" and "under common control with" mean a utility or other
4 entity if the utility or entity:

5 (a) Directly or indirectly has the power to direct, or to cause the direction of, the
6 management or policies of another entity; and

7 (b) Exercises that power:

8 1. Alone or through one (1) or more intermediary companies;

9 2. In conjunction with, or pursuant to an agreement;

10 3. Through ownership of ten (10) percent or more of the voting securities;

11 4. Through common directors, officers, stockholders, voting or holding trusts, or
12 associated companies;

13 5. By contract; or

14 6. Through direct or indirect means.

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

18 (6) "Electronic mail address" means a destination, commonly expressed as a string of
19 characters, to which electronic mail can be sent or delivered, and consists of a user
20 name or mailbox and a reference to an Internet domain.

21 (7) "Electronic signature" is defined by KRS 369.102(8).

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

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

8 (10) "Party" means a person who:

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

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

13 (c) Is named as a defendant in a formal complaint filed pursuant to Section 20 of this
14 administrative regulation;

15 (d) Is granted leave to intervene pursuant to Section 4(11) of this administrative
16 regulation; or

17 (e) Is joined to a commission proceeding.

18 (11) "Person" is defined by KRS 278.010(2).

19 (12) "Signature" means a manual, facsimile, conformed, or electronic signatures.

20 (13) "Tariff" means the schedules of a utility's rates, charges, regulations, rules, tolls,
21 terms, and conditions of service over which the commission has jurisdiction.

22 (14) "Utility" is defined by KRS 278.010(3).

(15) "Water district" means a special district formed pursuant to KRS 65.810 and Chapter 74.

(16) "Web site" means an identifiable site on the internet, including social media, which is accessible to the public.

Section 2. Hearings. The commission shall provide notice of hearing in a case by order except if a hearing is not concluded on the designated day and the presiding officer verbally announces the date for continuation of the hearing. A verbal announcement made by the presiding officer shall be deemed proper notice of the continued hearing.

Section 3. Duties of Executive Director. (1) Upon request, the executive director shall:

(a) Advise as to the form of a paper desired to be filed;

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

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

(2) The executive director shall reject for filing a document that on its face does not comply with 807 KAR Chapter 5.

Section 4. General Matters Pertaining to All Cases. (1) Address of the commission. All communications shall be addressed to: Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

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

1 (3) Signing of papers.

2 (a) A paper shall be signed by the submitting party or attorney and shall include the
3 name, address, telephone number, facsimile number, and electronic mail address, if
4 any, of the attorney of record or submitting party.

5 (b) A paper shall be verified or under oath if required by statute, administrative
6 regulation, or order of the commission.

7 (4) A person shall not file a paper on behalf of another person, or otherwise represent
8 another person, unless the person is an attorney licensed to practice law in Kentucky or
9 an attorney who has complied with SCR 3.030(2). An attorney who is not licensed to
10 practice law in Kentucky shall present evidence of his or her compliance with SCR
11 3.030(2) if appearing before the commission.

12 (5) Amendments. Upon motion of a party and for good cause shown, the commission
13 shall allow a complaint, application, answer, or other paper to be amended or corrected
14 or an omission supplied. Unless the commission orders otherwise, the amendment shall
15 not relate back to the date of the original paper.

16 (6) Witnesses and subpoenas.

17 (a) Upon the written request of a party to a proceeding or commission staff, subpoenas
18 requiring the attendance of witnesses for the purpose of taking testimony may be signed
19 and issued by a member of the commission.

20 (b) Subpoenas for the production of books, accounts, documents, or records (unless
21 directed to issue by the commission on its own authority) may be issued by the
22 commission or a commissioner, upon written request, stating as nearly as possible the
23 books, accounts, documents, or records desired to be produced.

1 (c) A party shall submit a completed subpoena form with its written request as
2 necessary.

3 (d) Every subpoena shall be served, in the manner prescribed by subsection (8) of this
4 section, on a person whose information is being requested.

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

10 (7) Computation of time.

11 (a) In computing a period of time prescribed or allowed by order of the commission or by
12 807 KAR Chapter 5 or KRS Chapter 74 or 278, the day of the act, event, or default after
13 which the designated period of time begins to run shall not be included.

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

18 (8) Service.

19 (a) Unless the commission orders service upon a party and the party's attorney, service
20 shall be made upon the party's attorney if the party is represented by an attorney.

21 (b) Service upon an attorney or upon a party by the commission shall be made by
22 sending a copy by electronic mail to the electronic mail address listed on papers that the
23 attorney or party has submitted in the case. A paper that is served via electronic mail

1 shall comply with Section 8(4) of this administrative regulation and shall include the
2 sending of an electronic mail message that contains an electronic version of the
3 commission order or a hyperlink that enables the recipient to access, view, and
4 download an electronic copy of the commission order from the commission's Web site.

5 (c) If good cause exists, and upon the filing of a motion by a party to excuse a party
6 from receiving service by electronic mail from the commission, the commission shall
7 order service of papers on the party to be made in accordance with paragraph (d)1. or
8 2. of this subsection.

9 (d) Service upon an attorney or upon a party by the parties in a case shall be made by:

10 1. Delivering a copy to the attorney or party;

11 2. Mailing a copy by United States mail or other recognized mail carrier to the attorney
12 or party at the last known address; or

13 3. Sending a copy by electronic mail to the electronic mail address listed on papers that
14 the attorney or party has submitted in the case. A paper that is served via electronic
15 mail shall comply with Section 8(4) of this administrative regulation.

16 (e) Service shall be complete upon mailing or electronic transmission. If a serving party
17 learns that the mailing or electronic transmission did not reach the person to be served,
18 the serving party shall take reasonable steps to immediately re-serve the party to be
19 served, unless service is refused, in which case the serving party shall not be required
20 to take additional action.

21 (9) Filing.

(a) Unless electronic filing procedures established in Section 8 of this administrative regulation are used, a paper shall not be deemed filed with the commission until the paper:

1. Is physically received by the executive director at the commission's offices during the commission's official business hours; and

2. Meets all applicable requirements of KRS Chapter 278 and KAR Title 807.

(b) The executive director shall endorse upon each paper or document accepted for filing the date of its filing. The endorsement shall constitute the filing of the paper or document.

(10) Privacy protection for filings.

(a) If a person files a paper containing personal information, the person shall encrypt or redact the paper so that personal information cannot be read. Personal information shall include a business name; an individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

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

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

3. The digits of an account number, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;

4. A driver's license number, state identification card number, or other individual identification number issued by any agency;

1 5. A passport number or other identification number issued by the United States
2 government;

3 6. "Individually identifiable health information" as defined by 45 C.F.R. 160.103, except
4 for education records covered by the Family Educational Rights and Privacy Act, as
5 amended, 20 U.S.C. 1232g; or

6 7. The address, phone number, or email address of an individual who is not a party and
7 has not requested to be a party.

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

11 (c) The responsibility to review for compliance with this section and redact a paper shall
12 rest with the party that files the paper.

13 (11) Intervention and parties.

14 (a) A person who wishes to become a party to a case before the commission may, by
15 timely motion, request leave to intervene.

16 1. The motion shall include the movant's full name, mailing address, and electronic mail
17 address and shall state his or her interest in the case and how intervention is likely to
18 present issues or develop facts that will assist the commission in fully considering the
19 matter without unduly complicating or disrupting the proceedings.

20 2. The motion may include a request by movant for delivery of commission orders by
21 United States mail and shall state how good cause exists for that means of delivery to
22 movant.

1 (b) The commission shall grant a person leave to intervene if the commission finds that
2 he or she has made a timely motion for intervention and that he or she has a special
3 interest in the case that is not otherwise adequately represented or that his or her
4 intervention is likely to present issues or to develop facts that assist the commission in
5 fully considering the matter without unduly complicating or disrupting the proceedings.

6 (c) Unless electronic filing procedures established in Section 8 of this administrative
7 regulation are used in the case, a party shall serve a person granted leave to intervene
8 with all papers that the party submits in the case after the order granting intervention,
9 but the party is not required to provide any papers submitted prior to the issuance of
10 that order unless the commission otherwise orders.

11 (d) Unless the commission finds good cause to order otherwise, a person granted leave
12 to intervene in a case shall, as a condition of his or her intervention, be subject to the
13 procedural schedule in existence in that case when the order granting the person's
14 intervention is issued.

15 (e) A person who the commission has not granted leave to intervene in a case may file
16 written comments regarding the subject matter of the case.

17 1. These comments shall be filed in the case record.

18 2. A person filing written comments shall not be deemed a party to the proceeding and
19 need not be named as a party to an appeal.

20 (12) Requests for information.

21 (a) If permitted by administrative regulation or by order of the commission, a party may
22 in accordance with this section request information from another party to the case. The

1 requesting party shall serve its request upon the party from which it seeks the requested
2 information and shall also file its request with the commission.

3 (b) Commission staff, through the commission's executive director, may request
4 information from any party to a case on the commission's behalf.

5 (c) Unless otherwise established in administrative regulation, the commission shall
6 establish by order in a case the time for parties to issue and to respond to requests for
7 information.

8 (d) Responses to requests for information.

9 1. Responses to requests for information shall be appropriately bound, tabbed, and
10 indexed.

11 2. Each response shall:

12 a. Include the name of the witness responsible for responding to the questions related
13 to the information provided; and

14 b. Be answered under oath or, for representatives of a public or private corporation, a
15 partnership, an association, or a governmental agency, be accompanied by a signed
16 certification of the preparer or person supervising the preparation of the response on
17 behalf of the person that the response is true and accurate to the best of that person's
18 knowledge, information, and belief formed after a reasonable inquiry.

19 3. If the requested information has previously been provided in the case, a responding
20 party may, in lieu of providing the requested information, provide a reference to the
21 specific location of the requested information in the case record.

1 4. A responding party shall make timely amendment to its prior response if the party
2 obtains information that indicates that the response was incorrect when made or,
3 though correct when made, is subsequently incorrect in any material respect.

4 5. If a party served with a request for information fails or refuses to furnish all or part of
5 the requested information, the party shall provide a written explanation of the specific
6 grounds for the failure to completely and precisely respond.

7 6. The responding party shall file with the commission the party's response to a request
8 for information and shall serve it upon all parties to a case.

9 (e) A party shall compel compliance with the party's request for information by motion to
10 the commission, which shall include:

11 1. A description of the information requested;

12 2. The reasons why it is relevant to the issues in the case; and

13 3. The efforts taken to resolve any disagreement over the production of the requested
14 information.

15 (13) Each report, specification, drawing, and plan that a professional engineer or
16 professional land surveyor prepared and that is filed with the commission shall contain
17 the seal or stamp and signature of that professional engineer or land surveyor in
18 accordance with KRS 322.340.

19 (14) Consolidation of cases.

20 (a) The commission may order two (2) or more proceedings involving a similar question
21 of law or fact to be consolidated if rights of the parties or the public interest will not be
22 prejudiced.

1 (b) Upon ordering the consolidation of cases, the commission shall specify into which
2 case the other case shall be consolidated.

3 (c) All papers received after the order of consolidation has been issued shall be filed in
4 the record of the designated case.

5 (d) Papers filed prior to the order of consolidation shall remain in their respective case
6 files.

7 Section 5. Motion Practice. (1) All requests for relief that are not required to be made in
8 an application, petition, or written request shall be by motion. A motion shall state
9 precisely the relief requested.

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

12 (3) Unless the commission orders otherwise, a party shall file a reply no later than five
13 (5) days of the filing of the most recent response to the party's motion. The reply shall
14 be confined to points raised in the responses to which they are addressed, and shall not
15 reiterate an argument already presented.

16 Section 6. Proof of Service. (1) Except as provided in Section 8 of this administrative
17 regulation, all papers filed in a case shall contain proof of the date and manner of
18 service of the papers on all parties.

19 (2) Proof shall be made by certificate of the filer's attorney, by affidavit of the person
20 who served the papers, or by a comparable proof.

21 (3) The certificate or affidavit shall identify by name the person served and the date and
22 method of service.

1 (4) Proof of electronic service shall state the electronic notification address of the
2 person served.

3 Section 7. Filing Procedures. (1) Unless the commission orders otherwise or the
4 electronic filing procedures established in Section 8 of this administrative regulation are
5 used, if a paper is filed with the commission, an original unbound and ten (10) additional
6 copies in paper medium shall be filed.

7 (2) Each paper filed with the commission shall conform to the requirements established
8 in this subsection.

9 (a) Form. Each filing shall be printed or typewritten, double spaced, and on one (1) side
10 of the page only.

11 (b) Size. Each filing shall be on eight and one-half (8 1/2) inches by eleven (11) inches
12 paper.

13 (c) Font. Each filing shall be in type no smaller than twelve (12) point, except footnotes,
14 which may be in type no smaller than ten (10) point.

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

18 (4) A paper 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 of the commission in a case that the
21 commission has initiated on its own motion, the procedures established in this section
22 shall be used in lieu of other filing procedures established in this administrative
23 regulation.

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

2 (a) File with the commission written notice of its election to use electronic filing

3 procedures using the Notice of Election of Use of Electronic Filing Procedures form; and

4 (b) If the applicant does not have an account for electronic filing with the commission,

5 register for an account at <http://psc.ky.gov/Account/Register> .

6 (3) All papers shall be filed with the commission by uploading an electronic version

7 using the commission's E-Filing System at <http://psc.ky.gov> . In addition, the filing party

8 shall file one (1) copy in paper medium with the commission as required by subsection

9 (12)(a)2. of this section.

10 (4) (a) Audio or video files.

11 1. A file containing audio material shall be submitted in MP3 format.

12 2. A file containing video material shall be submitted in MPEG-4 format.

13 (b) Except as established in paragraph (a) of this subsection, each file in an electronic

14 submission shall be:

15 1. In portable document format;

16 2. Search-capable;

17 3. Optimized for viewing over the Internet;

18 4. Bookmarked to distinguish sections of the paper, except that documents filed in

19 response to requests for information need not be individually bookmarked; and

20 5. If scanned material, scanned at a resolution of 300 dots per inch.

21 (c) If, pursuant to Section 4(12) of this administrative regulation, a party is requested to

22 provide information in the form of an electronic spreadsheet, the file containing the

23 spreadsheet shall be submitted in an Excel spreadsheet format.

(5) (a) Each electronic submission shall include an introductory file in portable document format that is named "Read1st" and that contains:

1. A general description of the filing;

2. A list of all material to be filed in paper or physical medium but not included in the electronic submission; and

3. A statement that the materials in the electronic submission are a true representation of the materials in paper medium.

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

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

(6) (a) An uploading session shall not exceed twenty (20) files or 100 megabytes.

(b) An individual file shall not exceed thirty (30) megabytes.

(c) If a submission exceeds the limitations established in paragraph (a) of this subsection, the filer shall make electronic submission in two (2) or more consecutive uploading sessions.

(7) If filing a paper with the commission, the filing party shall certify that:

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

(b) The electronic version of the paper has been submitted to the commission; and

(c) A copy of the paper in paper medium has been mailed to all parties that the commission has excused from electronic filing procedures.

1 (8) (a) Upon completion of an uploading session, the commission shall notify all parties
2 of record by electronic mail that an electronic submission has been made.

3 (b) Upon a party's receipt of this notification, each party shall be solely responsible for
4 accessing the commission's Web site at <http://psc.ky.gov> to view or download the
5 submission.

6 (9) Unless a party objects to the use of electronic filing procedures in the party's motion
7 for intervention, the party shall:

8 (a) Be deemed to have consented to the use of electronic filing procedures and the
9 service of all papers, including orders of the commission, 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 the party's intervention a written statement that the party, or the
12 party's authorized agent, possesses the facilities to receive electronic transmissions.

13 (10) In cases in which the commission has ordered the use of electronic filing
14 procedures on its own motion, unless a party files with the commission an objection to
15 the use of electronic filing procedures within seven (7) days of issuance of the order
16 directing the use of electronic filing procedures, the party shall:

17 (a) Be deemed to have consented to the use of electronic filing procedures and the
18 service of all papers, including orders of the commission, by electronic means; and

19 (b) File with the commission within seven (7) days of the date of an order directing the
20 use of electronic filing procedures a written statement that the party, or the party's
21 authorized agent, possesses the facilities to receive electronic transmissions.

22 (11) If a party objects to the use of electronic filing procedures and good cause exists to
23 excuse the party from the use of electronic filing procedures, service of papers on and

by it shall be made by mailing a copy by United States mail or other recognized mail carrier to the attorney or party at the last known address.

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

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

2. The paper, in paper medium, is filed at the commission's offices no later than the second business day following the successful electronic transmission.

(b) Each party shall attach to the top of the paper medium submission a copy in paper medium of the electronic notification from the commission confirming receipt of its electronic submission.

(13) Except as established in this section, a party making a filing in accordance with the procedures established in this section shall not be required to comply with Section 4(8) of this administrative regulation.

Section 9. Hearings and Rehearings. (1) Unless a hearing is not required by statute, is waived by the parties in the case, or is found by the commission to be unnecessary for protection of substantial rights or not in the public interest, the commission shall conduct a hearing if:

(a) An order to satisfy or answer a complaint has been made and the person complained of has not satisfied the complaint; or

(b) A request for hearing has been made.

(2) Publication of notice.

1 (a) Upon the filing of an application, the commission may order an applicant to give
2 notice on all persons who may be affected by serving a copy of the application upon
3 those persons or by publishing notice of the filing.

4 1. The applicant shall bear the expense of providing the notice.
5

6 2. If the notice is provided by publication, the commission may designate the contents of
7 the notice, the number of times and the time period in which the notice shall be
8 published, and the newspaper in which the notice shall be published.

9 (b) 1. The commission may order an applicant to give notice to the public of any hearing
10 on the applicant's application, and shall order an applicant for a general adjustment of
11 rates or reduction or discontinuance of service to give notice of any hearing on its
12 application.

13 2. If notice of a hearing is published by the applicant in a newspaper, it shall be
14 published at least one (1) time and not less than seven (7) nor more than twenty-one
15 (21) days prior to the hearing in a newspaper of general circulation in the areas that will
16 be affected.

17 3. Notice by mail shall be mailed not less than fourteen (14) days nor more than twenty-
18 one (21) days prior to the hearing.

19 4. Notice of hearing shall state the purpose, time, place, and date of hearing.

20 5. The applicant shall bear the expense of providing the notice.

21 6. Proof of publication shall be filed at or before the hearing.

22 (3) Investigation on commission's own motion.

1 (a) The commission may, on its own motion, conduct investigations and order hearings
2 into any act or thing done or omitted to be done by a utility, which the commission
3 believes is in violation of an order of the commission or KRS Chapters 74 or 278 or 807
4 KAR Chapter 5.

5 (b) The commission may, through its own experts, employees, or otherwise, obtain
6 evidence the commission finds necessary or desirable in a formal proceeding in addition
7 to the evidence presented by the parties.

8 (4) Conferences with commission staff. The commission, on its own motion, through its
9 executive director or upon a motion of a party, may convene a conference in a case for
10 the purpose of considering the possibility of settlement, the simplification or clarification
11 of issues, or any other matter that may aid in the handling and disposition of the case.

12 Unless the commission directs otherwise or the parties otherwise agree, participation in
13 conferences with commission staff shall be limited to parties of the subject proceeding
14 and their representatives.

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

18 (6) Stipulation of facts. By a stipulation in writing filed with the commission, the parties to
19 a case may agree among themselves or with commission staff upon the facts or any
20 portion of the facts involved in the controversy, which stipulation shall be regarded and
21 used as evidence at the hearing.

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

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

4 (9) Record of evidence.

5 (a) The commission shall cause to be made a record of all hearings. Unless the
6 commission orders otherwise, this record shall be a digital video recording.

7 1. A party to a case may, by motion made prior to the hearing, request that a
8 stenographic transcript be made by a qualified reporter.

9 2. The commission shall grant the motion.

10 3. The requesting party shall bear the cost of the stenographic transcript and shall file a
11 copy of the transcript with the commission within a reasonable time after completion of
12 the hearing.

13 (b) The executive director shall cause to be made a written exhibit list, a written hearing
14 log, and a written log listing the date and time of where each witness' testimony begins
15 and ends on the digital video recording.

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

18 Section 10. Briefs. Each brief shall be filed within the time fixed. A request for extension
19 of time to file a brief shall be made to the commission by written 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 relevant portions, or may require
23 evidence to be entered as a part of the record.

1 (2) (a) If relevant and material matter offered in evidence by any party is part of a book,
2 paper, or document containing other matter not material or relevant, the party shall
3 plainly designate the matter so offered.

4 (b) If immaterial matter unnecessarily encumbers the record, the book, paper, or
5 document shall not be received in evidence, but may be described for identification, and
6 if properly authenticated, the relevant and material matter may be read into the record.

7 (3) (a) The sheets of each exhibit shall be numbered.

8 (b) If practical, the lines of each sheet shall also be numbered.

9 (c) If the exhibit consists of two (2) or more sheets, the first sheet or title page shall
10 contain a brief statement of what the exhibit purports to show, with reference by sheet
11 and line to illustrative or typical examples contained in the exhibit.

12 (d) Rate comparisons and other evidence shall be condensed into tables.

13 (4) Unless so ordered by the commission, the commission shall not receive in evidence
14 or consider as a part of the record a book, paper, or other document for consideration in
15 connection with the proceeding after the close of the testimony.

16 (5) Upon motion of a party to a proceeding, or upon the commission's own motion, the
17 record of a case in the commission's files or any document on file with the commission
18 may be made a part of the record by "reference only."

19 (a) The case or document made a part of the record by reference only shall not be
20 physically incorporated into the record.

21 (b) Upon action in the Franklin Circuit Court, excerpts from the record of a case or part
22 of a document may be made a part of the record before the court, at the request of a
23 party.

1 Section 12. Financial Exhibit. (1) If this administrative regulation requires that a financial
2 exhibit be annexed to the application, the exhibit shall:

3 (a) For a utility that had \$5,000,000 or more in gross annual revenue in the immediate
4 past calendar year, cover operations for a twelve (12) month period, the period ending
5 not more than ninety (90) days prior to the date the application is filed; or

6 (b) For a utility that had less than \$5,000,000 in gross annual revenue in the immediate
7 past calendar year, comply with paragraph (a) of this subsection or cover operations for
8 the twelve (12) month period contained in the utility's most recent annual report on file
9 with the commission, and contain a statement that:

10 1. Material changes have not occurred since the end of that twelve (12) month period;
11 or

12 2. Identifies all material changes that have occurred since the end of that twelve (12)
13 month period.

14 (2) The exhibit shall disclose the following information in the order indicated:

15 (a) The amount and kinds of stock authorized;

16 (b) The amount and kinds of stock issued and outstanding;

17 (c) Terms of preference of preferred stock, cumulative or participating, or on dividends
18 or assets or otherwise;

19 (d) A brief description of each mortgage on property of applicant, giving date of
20 execution, name of mortgagor, name of mortgagee or trustee, amount of indebtedness
21 authorized to be secured, and the amount of indebtedness actually secured, together
22 with sinking fund provisions, if applicable;

- (e) The amount of bonds authorized and amount issued, giving the name of the public utility that issued the same, describing each class separately and giving the date of issue, face value, rate of interest, date of maturity, and how secured, together with amount of interest paid during the last fiscal year;
- (f) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid during the last fiscal year;
- (g) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of a portion of the indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid during the last fiscal year;
- (h) The rate and amount of dividends paid during the five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year; and
- (i) A detailed income statement and balance sheet.
- Section 13. Confidential Material. (1) All material on file with the commission shall be available for examination by the public unless the material is confidential.
- (2) Procedure for determining confidentiality of material submitted in a case.
- (a) A request for confidential treatment of material shall be made by motion that:
1. Establishes specific grounds pursuant to KRS 61.878 for classification of that material as confidential;
 2. States the time period for the material to be treated as confidential and the reasons for this time period; and
 3. Includes ten (10) copies of the material in paper medium with those portions redacted for which confidentiality is sought, and, in a separate sealed envelope marked

confidential, one (1) copy of the material in paper medium which identifies by underscoring, highlighting with transparent ink, or other reasonable means only those portions that unless redacted would disclose confidential material.

a. Text pages or portions thereof that do not contain confidential material shall not be included in this identification.

b. If confidential treatment is sought for an entire document, written notification that the entire document is confidential may be filed with the document in lieu of the required highlighting.

(b) The motion and one (1) copy of the material in paper medium, with only those portions for which confidentiality is sought redacted, shall be served on all parties.

(c) The burden of proof to show that the material falls within the exclusions from disclosure requirements established in KRS 61.878 and to demonstrate the time period for the material to be considered as confidential shall be upon the moving party.

(d) Unless the commission orders otherwise, a party may respond to a motion for confidential treatment within seven (7) days after the motion is filed with the commission.

(e) If the case is being conducted using electronic filing procedures established in Section 8 of this administrative regulation, the parties shall comply with those procedures except that an unredacted copy of the material for which confidentiality is sought shall not be transmitted electronically.

(3) Procedure for determining confidentiality of material submitted outside of a case.

(a) A person who requests confidential treatment of material filed with the commission outside of a case shall submit a written request to the executive director that:

1 1. Establishes specific grounds pursuant to KRS 61.878 for classification of that material
2 as confidential;

3 2. States the time period for the material to be treated as confidential and the reasons
4 for this time period; and

5 3. Includes one (1) copy of the material in paper medium with those portions redacted
6 for which confidentiality is sought, and, in a separate sealed envelope marked
7 confidential, one (1) copy of the material in paper medium which identifies by
8 underscoring, highlighting with transparent ink, or other reasonable means only those
9 portions that unless redacted would disclose confidential material.

10 a. Text pages or portions thereof that do not contain confidential material shall not be
11 included in this identification.

12 b. If confidential treatment is sought for an entire document, written notification that the
13 entire document is confidential may be filed with the document in lieu of the required
14 highlighting.

15 (b) The burden of proof to show that the material falls within the exclusions from
16 disclosure requirements established in KRS 61.878 and to demonstrate the time period
17 for the material to be considered as confidential shall be upon the person requesting
18 confidential treatment.

19 (c) The executive director, as official custodian of the commission's records, shall
20 determine if the material is within an exclusion established in KRS 61.878 and the time
21 period for the material to be considered as confidential and shall advise the requestor of
22 the determination by letter.

1 (d) A person whose request for confidential treatment is denied, in whole or in part, by
2 the executive director may make application within twenty (20) days of the executive
3 director's decision to the commission for confidential treatment of the material in
4 accordance with the procedures established in subsection (2) of this section.

5 1. The commission shall establish a case and shall review the application without regard
6 to the executive director's determination and in the same manner as it would review a
7 motion for confidential treatment made pursuant to subsection (2) of this section.

8 2. The application shall comply with the requirements of subsection (2)(a) of this
9 section.

10 (e) If the executive director denies a request for confidential treatment, the material for
11 which confidential treatment was sought shall not be placed in the public record for
12 twenty (20) days following the decision.

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

16 (5) If the motion for confidential treatment of material is denied, the material shall not be
17 placed in the public record for the period permitted pursuant to KRS 278.410 to bring an
18 action for review.

19 (6) Procedure for a party to request access to confidential material filed in a case.

20 (a) A party to a case before the commission shall not fail to respond to a request for
21 information by the commission, commission staff, or another party on grounds of
22 confidentiality.

1 1. A party seeking confidential treatment for its response to information requests shall
2 follow the procedures for requesting confidentiality established in this administrative
3 regulation.

4 2. A party's response to requests for information shall be served upon all parties, with
5 only those portions for which confidential treatment is sought redacted.

6 (b) If the commission grants confidential protection to the responsive material and if
7 parties have not entered into protective agreements, then a party may, by motion,
8 request access to the material on the grounds that it is essential to the party's
9 meaningful participation in the proceeding.

10 1. The motion shall include a description of efforts to enter into a protective agreement
11 and unwillingness, if applicable, to enter into a protective agreement shall be fully
12 explained.

13 2. A party may respond to the motion within seven (7) days after it is filed with the
14 commission.

15 3. The commission shall determine if the movant is entitled to the material, and the
16 manner and extent of the disclosure necessary to protect confidentiality.

17 (7) Requests for access to records pursuant to KRS 61.870 to 61.884.

18 (a) A time period prescribed in subsection (10)(a) of this section shall not limit the right
19 of a person to request access to commission records pursuant to KRS 61.870 to
20 61.884.

21 (b) Upon a request filed pursuant to KRS 61.870 to 61.884, the commission shall
22 respond in accordance with the procedure established in KRS 61.880.

1 (8) Procedure for request for access to confidential material. A person denied access to
2 records requested pursuant to KRS 61.870 to 61.884 or to material deemed confidential
3 by the commission in accordance with the procedures established in this section, may
4 obtain this information only pursuant to KRS 61.870 to 61.884 and other applicable law.

5 (9) Use of confidential material. (a) A person who files any paper that contains material
6 that has previously been deemed confidential or for which a request or motion for
7 confidential treatment is pending shall submit one (1) copy of the paper with the
8 adjudged or alleged confidential material underscored or highlighted, and ten (10)
9 copies of the paper with those portions redacted; and

10 1. If the confidential status of the material has been determined previously, a written
11 notice identifying the person who originally submitted the material, the date on which a
12 determination on the materials confidentiality was made and, if applicable, the case
13 number in which the determination was made; or

14 2. If a request for confidential treatment of the material is pending, a written notice
15 identifying the person who made the request and the date on which the request was
16 submitted.

17 (b) Material deemed confidential by the commission may be addressed and relied upon
18 during a formal hearing by the procedure established in this paragraph.

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

21 2. A person other than commission employees not a party to a protective agreement
22 related to the confidential material shall be excluded from the hearing room during
23 testimony directly related to confidential material.

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

2 (10) Material granted confidentiality that later becomes publicly available or otherwise
3 no longer warrants confidential treatment.

4 (a) Except as provided for in paragraphs (c) and (d) of this subsection, confidential
5 treatment shall be afforded to material for the period specified in the commission's order
6 or executive director's written decision.

7 1. At the end of this period, the material shall be placed in the public record without
8 notice to the person who originally requested confidential treatment.

9 2. The person who sought confidential treatment for the material may request that the
10 material continue to be treated as confidential but shall demonstrate that the material
11 still falls within the exclusions from disclosure requirements established in KRS 61.878.

12 (b) The person who sought confidential protection shall inform the commission in writing
13 if 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 person who sought confidential protection, giving ten (10) days to respond. If
17 that material has been disclosed by someone other than the person who requested
18 confidential treatment, in violation of a protective agreement or commission order, the
19 information shall not be deemed to be publicly available and shall not be placed in the
20 public record.

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

1 for the material and direct that party to demonstrate within twenty (20) days of receipt of
2 the notice that the material still falls within the exclusions from disclosure requirements
3 established in KRS 61.878.

4 1. If the party is unable to make the demonstration, the commission shall make the
5 requested materials available for public inspection; or

6 2. If the party is able to make the demonstration, the commission shall deny the request
7 for inspection.

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

11 Section 14. Applications. (1) Each application shall state the full name, mailing address,
12 and electronic mail address of the applicant, and shall contain fully the facts on which
13 the application is based, with a request for the order, authorization, permission, or
14 certificate desired and a reference to the particular law requiring or providing for the
15 information.

16 (2) If a corporation, the applicant shall identify in the application the state in which it is
17 incorporated and the date of its incorporation, attest that it is currently in good standing
18 in the state in which it is incorporated, and, if it is not a Kentucky corporation, state if it is
19 authorized to transact business in Kentucky.

20 (3) If a limited liability company, the applicant shall identify in the application the state in
21 which it is organized and the date on which it was organized, attest that it is in good
22 standing in the state in which it is organized, and, if it is not a Kentucky limited liability
23 company, state if it is authorized to transact business in Kentucky.

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

6 Section 15. Applications for Certificates of Public Convenience and Necessity. (1)

7 Application to bid on a franchise pursuant to KRS 278.020(3).

8 (a) Upon application to the commission by the utility for a certificate of convenience and
9 necessity authorizing the applicant to bid on a franchise, license, or permit offered by a
10 governmental agency, the applicant shall submit with its application:

- 11 1. The information required pursuant to Section 14 of this administrative regulation;
- 12 2. The name of the governmental agency offering the franchise;
- 13 3. The type of franchise offered; and
- 14 4. A statement showing the need and demand for service.

15 (b) If an applicant is successful in acquiring the franchise, license, or permit, the
16 applicant shall file a copy with the commission using the commission's electronic tariff
17 filing system.

18 (2) New construction or extension. Upon application for a certificate that the present or
19 future public convenience or necessity requires, or will require, the construction or
20 extension of any plant, equipment, property, or facility, the applicant, in addition to
21 complying with Section 14 of this administrative regulation, shall submit with its
22 application:

- 1 (a) The facts relied upon to show that the proposed construction or extension is or will
2 be required by public convenience or necessity;
- 3 (b) Copies of franchises or permits, if any, from the proper public authority for the
4 proposed construction or extension, if not previously filed with the commission;
- 5 (c) A full description of the proposed location, route, or routes of the proposed
6 construction or extension, including a description of the manner of the construction and
7 the names of all public utilities, corporations, or persons with whom the proposed
8 construction or extension is likely to compete;
- 9 (d) One (1) copy in portable document format on electronic storage medium and two (2)
10 copies in paper medium of:
- 11 1. Maps to suitable scale showing the location or route of the proposed construction or
12 extension, as well as the location to scale of like facilities owned by others located
13 anywhere within the map area with adequate identification as to the ownership of the
14 other facilities; and
- 15 2. Plans and specifications and drawings of the proposed plant, equipment, and
16 facilities;
- 17 (e) The manner in detail in which the applicant proposes to finance the proposed
18 construction or extension; and
- 19 (f) An estimated annual cost of operation after the proposed facilities are placed into
20 service.
- 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. A certificate of public convenience and necessity shall not be
6 required for any water district created pursuant to KRS Chapter 74, water association
7 formed under KRS Chapter 273, or any other utility that provides the services described
8 in KRS Chapter 278.010(3)(b) or KRS Chapter 278.010(3)(f) that intends to replace in-
9 kind, restore, repair or fix any facility as a result of weather events occurring on or
10 between July 26, 2022 and July 30, 2022. Any replacement, restoration, repair or fix
11 shall be deemed extensions in the ordinary course of business. This section does not
12 alter any requirement to seek commission approval pursuant to KRS Chapter 278.300
13 prior to incurring obligations related to these facilities.

14 (4) Renewal applications. An application for a renewal of a certificate of convenience
15 and necessity shall be treated as an original application.

16 Section 16. Applications for General Adjustments of Existing Rates. (1) Each application
17 requesting a general adjustment of existing rates shall:

18 (a) Be supported by:

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

21 2. A fully forecasted test period; and

22 (b) Include:

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

- 1 2. A certified copy of a certificate of assumed name as required by KRS 365.015 or a
- 2 statement that a certificate is not necessary;
- 3 3. New or revised tariff sheets, if applicable in a format that complies with 807 KAR
- 4 5:011 with an effective date not less than thirty (30) days from the date the application is
- 5 filed;
- 6 4. New or revised tariff sheets, if applicable, identified in compliance with 807 KAR
- 7 5:011, shown either by providing:
- 8 a. The present and proposed tariffs in comparative form on the same sheet side by side
- 9 or on facing sheets side by side; or
- 10 b. A copy of the present tariff indicating proposed additions by italicized inserts or
- 11 underscoring and striking over proposed deletions; and
- 12 5. A statement that notice has been given in compliance with Section 17 of this
- 13 administrative regulation with a copy of the notice.
- 14 (2) Notice of intent. A utility with gross annual revenues greater than \$5,000,000 shall
- 15 notify the commission in writing of its intent to file a rate application at least thirty (30)
- 16 days, but not more than sixty (60) days, prior to filing its application.
- 17 (a) The notice of intent shall state if the rate application will be supported by a historical
- 18 test period or a fully forecasted test period.
- 19 (b) Upon filing the notice of intent, an application may be made to the commission for
- 20 permission to use an abbreviated form of newspaper notice of proposed rate increases
- 21 provided the notice includes a coupon that may be used to obtain a copy from the
- 22 applicant of the full schedule of increases or rate changes.

1 (c) Upon filing the notice of intent with the commission, the applicant shall mail to the
2 Attorney General's Office of Rate Intervention a copy of the notice of intent or send by
3 electronic mail in a portable document format, to rateintervention@ag.ky.gov.

4 (3) Notice given pursuant to Section 17 of this administrative regulation shall satisfy the
5 requirements of 807 KAR 5:051, Section 2.

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

9 (a) A complete description and quantified explanation for all proposed adjustments with
10 proper support for proposed changes in price or activity levels, if applicable, and other
11 factors that may affect the adjustment;

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

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

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

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

- 1 (f) If the utility is an incumbent local exchange company, the effect upon the average bill
2 for each customer class for the proposed rate change in basic local service;
- 3 (g) A detailed analysis of customers' bills whereby revenues from the present and
4 proposed rates can be readily determined for each customer class;
- 5 (h) A summary of the utility's determination of its revenue requirements based on return
6 on net investment rate base, return on capitalization, interest coverage, debt service
7 coverage, or operating ratio, with supporting schedules;
- 8 (i) A reconciliation of the rate base and capital used to determine its revenue
9 requirements;
- 10 (j) A current chart of accounts if more detailed than the Uniform System of Accounts;
- 11 (k) The independent auditor's annual opinion report, with written communication from
12 the independent auditor to the utility, if applicable, which indicates the existence of a
13 material weakness in the utility's internal controls;
- 14 (l) The most recent Federal Energy Regulatory Commission or Federal Communication
15 Commission audit reports;
- 16 (m) The most recent FERC Financial Report FERC Form No.1, FERC Financial Report
17 FERC Form No. 2, or Public Service Commission 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 shall be
23 sufficient;

- (o) A list of all commercially available or in-house developed computer software, programs, and models used in the development of the schedules and work papers associated with the filing of the utility's application. This list shall include:
1. Each software, program, or model;
 2. What the software, program, or model was used for;
 3. The supplier of each software, program, or model;
 4. A brief description of the software, program, or model; and
 5. The specifications for the computer hardware and the operating system required to run the program;
- (p) Prospectuses of the most recent stock or bond offerings;
- (q) The annual report to shareholders or members and statistical supplements covering the two (2) most recent years from the utility's application filing date;
- (r) The monthly managerial reports providing financial results of operations for the twelve (12) months in the test period;
- (s) A copy of the utility's annual report on Form 10-K as filed with the Securities and Exchange Commission for the most recent two (2) years, any Form 8-K issued during the past two (2) years, and any Form 10-Q issued during the past six (6) quarters updated as current information becomes available;
- (t) If the utility had amounts charged or allocated to it by an affiliate or general or home office or paid monies to an affiliate or general or home office during the test period or during the previous three (3) calendar years, the utility shall file:
1. A detailed description of the method and amounts allocated or charged to the utility by the affiliate or general or home office for each charge allocation or payment;

2. An explanation of how the allocator for the test period was determined; and
3. All facts relied upon, including other regulatory approval, to demonstrate that each amount charged, allocated, or paid during the test period was reasonable;
- (u) If the utility provides gas, electric, water, or sewage utility service and has annual gross revenues greater than \$5,000,000, a cost of service study based on a methodology generally accepted within the industry and based on current and reliable data from a single time period; and
- (v) Local exchange carriers with more than 50,000 access lines shall file:
 1. A jurisdictional separations study consistent with 47 C.F.R. Part 36; and
 2. Service specific cost studies to support the pricing of all services that generate annual revenue greater than \$1,000,000 except local exchange access:
 - a. Based on current and reliable data from a single time period; and
 - b. Using generally recognized fully allocated, embedded, or incremental cost principles.
- (5) Upon good cause shown, a utility may request pro forma adjustments for known and measurable changes to ensure fair, just, and reasonable rates based on the historical test period. The following information shall be filed with each application requesting pro forma adjustments or a statement explaining why the required information does not exist and is not applicable to the utility's application:
 - (a) A detailed income statement and balance sheet reflecting the impact of all proposed adjustments;
 - (b) The most recent capital construction budget containing at least the period of time as proposed for any pro forma adjustment for plant additions;

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

1. The starting date of the construction of each major component of plant;
2. The proposed in-service date;
3. The total estimated cost of construction at completion;
4. The amount contained in construction work in progress at the end of the test period;
5. A schedule containing a complete description of actual plant retirements and anticipated plant retirements related to the pro forma plant additions including the actual or anticipated date of retirement;
6. The original cost and the cost of removal and salvage for each component of plant to be retired during the period of the proposed pro forma adjustment for plant additions;
7. An explanation of differences, if applicable, in the amounts contained in the capital construction budget and the amounts of capital construction cost contained in the pro forma adjustment period; and
8. The impact on depreciation expense of all proposed pro forma adjustments for plant additions and retirements;

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

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

(6) All applications requesting a general adjustment in rates supported by a fully forecasted test period shall comply with the requirements established in this subsection.

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

3 (b) Forecasted adjustments shall be limited to the twelve (12) months immediately
4 following the suspension period.

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

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

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

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

17 (7) Each application requesting a general adjustment in rates supported by a fully
18 forecasted test period shall include the following or a statement explaining why the
19 required information does not exist and is not applicable to the utility's application:

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

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

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

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

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

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

13 2. That the forecast contains the same assumptions and methodologies as used in the
14 forecast prepared for use by management, or an identification and explanation for
15 differences that exist, if applicable; and

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

17 (f) For each major construction project that constitutes five (5) percent or more of the
18 annual construction budget within the three (3) year forecast, the following information
19 shall be filed:

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

21 2. The estimated completion date;

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

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

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

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

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

11 2. Balance sheet;

12 3. Statement of cash flows;

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

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

15 6. Access line forecast (telephone);

16 7. Mix of generation (electric);

17 8. Mix of gas supply (gas);

18 9. Employee level;

19 10. Labor cost changes;

20 11. Capital structure requirements;

21 12. Rate base;

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

23 14. Customer forecast (gas, water);

- 1 15. Sales volume forecasts in cubic feet (gas);
- 2 16. Toll and access forecast of number of calls and number of minutes (telephone); and
- 3 17. A detailed explanation of other information provided, if applicable;
- 4 (i) The most recent Federal Energy Regulatory Commission or Federal Communications
- 5 Commission audit reports;
- 6 (j) The prospectuses of the most recent stock or bond offerings;
- 7 (k) The most recent FERC Financial Report FERC Form No.1, FERC Financial Report
- 8 FERC Form No.2, or Public Service Commission Form T (telephone);
- 9 (l) The annual report to shareholders or members and the statistical supplements
- 10 covering the most recent two (2) years from the application filing date;
- 11 (m) The current chart of accounts if more detailed than the Uniform System of Accounts
- 12 chart;
- 13 (n) The latest twelve (12) months of the monthly managerial reports providing financial
- 14 results of operations in comparison to the forecast;
- 15 (o) Complete monthly budget variance reports, with narrative explanations, for the
- 16 twelve (12) months immediately prior to the base period, each month of the base period,
- 17 and any subsequent months, as they become available;
- 18 (p) A copy of the utility's annual report on Form 10-K as filed with the Securities and
- 19 Exchange Commission for the most recent two (2) years, and any Form 8-K issued
- 20 during the past two (2) years, and any Form 10-Q issued during the past six (6)
- 21 quarters;

- 1 (q) The independent auditor's annual opinion report, with any written communication
2 from the independent auditor to the utility that indicates the existence of a material
3 weakness in the utility's internal controls;
- 4 (r) The quarterly reports to the stockholders for the most recent five (5) quarters;
- 5 (s) The summary of the latest depreciation study with schedules itemized by major plant
6 accounts, except that telecommunications utilities that have adopted the commission's
7 average depreciation rates shall provide a schedule that identifies the current and base
8 period depreciation rates used by major plant accounts. If the required information has
9 been filed in another commission case, a reference to that case's number shall be
10 sufficient;
- 11 (t) A list of all commercially available or in-house developed computer software,
12 programs, and models used in the development of the schedules and work papers
13 associated with the filing of the utility's application. This list shall include:
- 14 1. Each software, program, or model;
 - 15 2. What the software, program, or model was used for;
 - 16 3. The supplier of each software, program, or model;
 - 17 4. A brief description of the software, program, or model; and
 - 18 5. The specifications for the computer hardware and the operating system required to
19 run the program;
- 20 (u) If the utility had amounts charged or allocated to it by an affiliate or a general or
21 home office or paid monies to an affiliate or a general or home office during the base
22 period or during the previous three (3) calendar years, the utility shall file:

- 1 1. A detailed description of the method and amounts allocated or charged to the utility
- 2 by the affiliate or general or home office for each allocation or payment;
- 3 2. The method and amounts allocated during the base period and the method and
- 4 estimated amounts to be allocated during the forecasted test period;
- 5 3. An explanation of how the allocator for both the base period and the forecasted test
- 6 period were determined; and
- 7 4. All facts relied upon, including other regulatory approval, to demonstrate that each
- 8 amount charged, allocated, or paid during the base period is reasonable;
- 9 (v) If the utility provides gas, electric, sewage, or water utility service and has annual
- 10 gross revenues greater than \$5,000,000 in the division for which a rate adjustment is
- 11 sought, a cost of service study based on a methodology generally accepted within the
- 12 industry and based on current and reliable data from a single time period; and
- 13 (w) Incumbent local exchange carriers with fewer than 50,000 access lines shall not be
- 14 required to file cost of service studies, except as directed by the commission. Local
- 15 exchange carriers with more than 50,000 access lines shall file:
- 16 1. A jurisdictional separations study consistent with 47 C.F.R. Part 36; and
- 17 2. Service specific cost studies to support the pricing of all services that generate
- 18 annual revenue greater than \$1,000,000 except local exchange access:
- 19 a. Based on current and reliable data from a single time period; and
- 20 b. Using generally recognized fully allocated, embedded, or incremental cost principles.
- 21 (8) Each application seeking a general adjustment in rates supported by a forecasted
- 22 test period shall include:

- 1 (a) A jurisdictional financial summary for both the base period and the forecasted period
2 that details how the utility derived the amount of the requested revenue increase;
- 3 (b) A jurisdictional rate base summary for both the base period and the forecasted
4 period with supporting schedules, which include detailed analyses of each component
5 of the rate base;
- 6 (c) A jurisdictional operating income summary for both the base period and the
7 forecasted period with supporting schedules, which provide breakdowns by major
8 account group and by individual account;
- 9 (d) A summary of jurisdictional adjustments to operating income by major account with
10 supporting schedules for individual adjustments and jurisdictional factors;
- 11 (e) A jurisdictional federal and state income tax summary for both the base period and
12 the forecasted period with all supporting schedules of the various components of
13 jurisdictional income taxes;
- 14 (f) Summary schedules for both the base period and the forecasted period (the utility
15 may also provide a summary segregating those items it proposes to recover in rates) of
16 organization membership dues; initiation fees; expenditures at country clubs; charitable
17 contributions; marketing, sales, and advertising expenditures; professional service
18 expenses; civic and political activity expenses; expenditures for employee parties and
19 outings; employee gift expenses; and rate case expenses;
- 20 (g) Analyses of payroll costs including schedules for wages and salaries, employee
21 benefits, payroll taxes, straight time and overtime hours, and executive compensation
22 by title;
- 23 (h) A computation of the gross revenue conversion factor for the forecasted period;

- (i) Comparative income statements (exclusive of dividends per share or earnings per share), revenue statistics and sales statistics for the five (5) most recent calendar years from the application filing date, the base period, the forecasted period, and two (2) calendar years beyond the forecast period;
- (j) A cost of capital summary for both the base period and forecasted period with supporting schedules providing details on each component of the capital structure;
- (k) Comparative financial data and earnings measures for the ten (10) most recent calendar years, the base period, and the forecast period;
- (l) A narrative description and explanation of all proposed tariff changes;
- (m) A revenue summary for both the base period and forecasted period with supporting schedules, which provide detailed billing analyses for all customer classes; and
- (n) A typical bill comparison under present and proposed rates for all customer classes.
- (9) The commission shall notify the applicant of any deficiencies in the application within thirty (30) days of the application's submission. An application shall not be accepted for filing until the utility has cured all noted deficiencies.
- (10) A request for a waiver from the requirements of this section shall include the specific reasons for the request. The commission shall grant the request upon good cause shown by the utility. In determining if good cause has been shown, the commission shall consider:
- (a) If other information that the utility would provide if the waiver is granted is sufficient to allow the commission to effectively and efficiently review the rate application;
- (b) If the information that is the subject of the waiver request is normally maintained by the utility or reasonably available to it from the information that it maintains; and

1 (c) The expense to the utility in providing the information that is the subject of the waiver
2 request.

3 Section 17. Notice of General Rate Adjustment. Upon filing an application for a general
4 rate adjustment, a utility shall provide notice as established in this section.

5 (1) Public postings.

6 (a) A utility shall post at its place of business a copy of the notice no later than the date
7 the application is submitted to the commission.

8 (b) A utility that maintains a Web site shall, within five (5) business days of the date the
9 application is submitted to the commission, post on its Web sites:

10 1. A copy of the public notice; and

11 2. A hyperlink to the location on the commission's Web site where the case documents
12 are available.

13 (c) The information required in paragraphs (a) and (b) of this subsection shall not be
14 removed until the commission issues a final decision on the application.

15 (2) Customer Notice.

16 (a) If a utility has twenty (20) or fewer customers, the utility shall mail a written notice to
17 each customer no later than the date on which the application is submitted to the
18 commission.

19 (b) If a utility has more than twenty (20) customers, it shall provide notice by:

20 1. Including notice with customer bills mailed no later than the date the application is
21 submitted to the commission;

22 2. Mailing a written notice to each customer no later than the date the application is
23 submitted to the commission;

1 3. Publishing notice once a week for three (3) consecutive weeks in a prominent
2 manner in a newspaper of general circulation in the utility's service area, the first
3 publication to be made no later than the date the application is submitted to the
4 commission; or

5 4. Publishing notice in a trade publication or newsletter delivered to all customers no
6 later than the date the application is submitted to the commission.

7 (c) A utility that provides service in more than one (1) county may use a combination of
8 the notice methods listed in paragraph (b) of this subsection.

9 (3) Proof of Notice. A utility shall file with the commission no later than forty-five (45)
10 days from the date the application was initially submitted to the commission:

11 (a) If notice is mailed to its customers, an affidavit from an authorized representative of
12 the utility verifying the contents of the notice, that notice was mailed to all customers,
13 and the date of the mailing;

14 (b) If notice is published in a newspaper of general circulation in the utility's service
15 area, an affidavit from the publisher verifying the contents of the notice, that the notice
16 was published, and the dates of the notice's publication; or

17 (c) If notice is published in a trade publication or newsletter delivered to all customers,
18 an affidavit from an authorized representative of the utility verifying the contents of the
19 notice, the mailing of the trade publication or newsletter, that notice was included in the
20 publication or newsletter, and the date of mailing.

21 (4) Notice Content. Each notice issued in accordance with this section shall contain:

22 (a) The proposed effective date and the date the proposed rates are expected to be
23 filed with the commission;

- 1 (b) The present rates and proposed rates for each customer classification to which the
2 proposed rates will apply;
- 3 (c) The amount of the change requested in both dollar amounts and percentage change
4 for each customer classification to which the proposed rates will apply;
- 5 (d) The amount of the average usage and the effect upon the average bill for each
6 customer classification to which the proposed rates will apply, except for local exchange
7 companies, which shall include the effect upon the average bill for each customer
8 classification for the proposed rate change in basic local service;
- 9 (e) A statement that a person may examine this application at the offices of (utility
10 name) located at (utility address);
- 11 (f) A statement that a person may examine this application at the commission's offices
12 located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday, 8:00 a.m.
13 to 4:30 p.m., or through the commission's Web site at <http://psc.ky.gov>;
- 14 (g) A statement that comments regarding the application may be submitted to the Public
15 Service Commission through its Web site or by mail to Public Service Commission, Post
16 Office Box 615, Frankfort, Kentucky 40602;
- 17 (h) A statement that the rates contained in this notice are the rates proposed by (utility
18 name) but that the Public Service Commission may order rates to be charged that differ
19 from the proposed rates contained in this notice;
- 20 (i) A statement that a person may submit a timely written request for intervention to the
21 Public Service Commission, Post Office Box 615, Frankfort, Kentucky 40602,
22 establishing the grounds for the request including the status and interest of the party;
23 and

1 (j) A statement that if the commission does not receive a written request for intervention
2 within thirty (30) days of initial publication or mailing of the notice, the commission may
3 take final action on the application.

4 (5) Abbreviated form of notice. Upon written request, the commission may grant a utility
5 permission to use an abbreviated form of published notice of the proposed rates,
6 provided the notice includes a coupon that may be used to obtain all of the required
7 information.

8 Section 18. Application for Authority to Issue Securities, Notes, Bonds, Stocks, or Other
9 Evidences of Indebtedness. (1) An application for authority to issue securities, notes,
10 bonds, stocks, or other evidences of indebtedness payable at periods of more than two
11 (2) years from the date thereof shall contain:

12 (a) The information required by Section 14 of this administrative regulation;

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

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

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

1 of facilities, the improvement of service, the maintenance of service, and the discharge
2 or refunding of obligations;

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

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

19 (g) If the applicant is a water district, a copy of the applicant's written notification to the
20 state local debt officer regarding the proposed issuance.

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

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

1 (b) Copies of trust deeds or mortgages, if applicable, unless they have already been
2 filed with the commission, in which case reference shall be made by case number to the
3 proceeding in which the trust deeds or mortgages have been filed; and

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

8 Section 19. Application for Declaratory Order. (1) The commission may, upon
9 application by a person substantially affected, issue a declaratory order with respect to
10 the jurisdiction of the commission, the applicability to a person, property, or state of
11 facts of an order or administrative regulation of the commission or provision of KRS
12 Chapter 278, or with respect to the meaning and scope of an order or administrative
13 regulation of the commission or provision of KRS Chapter 278.

14 (2) An application for declaratory order shall:

15 (a) Be in writing;

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

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

19 (d) Identify all statutes, administrative regulations, and orders to which the application
20 relates; and

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

22 (3) The commission may direct that a copy of the application for a declaratory order be
23 served on a person who may be affected by the application.

1 (4) Unless the commission orders otherwise, responses, if applicable, to an application
2 for declaratory order shall be filed with the commission within twenty-one (21) days after
3 the date on which the application was filed with the commission and shall be served
4 upon the applicant.

5 (5) A reply to a response shall be filed with the commission within fourteen (14) days
6 after service.

7 (6) Each application, response, and reply containing an allegation of fact shall be
8 supported by affidavit or shall be verified.

9 (7) The commission may dispose of an application for a declaratory order solely on the
10 basis of the written submissions filed.

11 (8) The commission may take any action necessary to ensure a complete record, to
12 include holding oral arguments on the application and requiring the production of
13 additional documents and materials, and may extend the time for the filing of a reply or
14 response under this section.

15 Section 20. Formal Complaints. (1) Contents of complaint. Each complaint shall be
16 headed "Before the Public Service Commission," shall establish the names of the
17 complainant and the defendant, and shall state:

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

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

20 (c) Fully, clearly, and with reasonable certainty, the act or omission, of which complaint
21 is made, with a reference, if practicable, to the law, order, or administrative regulation,
22 of which a failure to comply is alleged, and other matters, or facts, if any, as necessary
23 to acquaint the commission fully with the details of the alleged failure; and

1 (d) The relief sought.

2 (2) Signature. The complainant or his or her attorney, if applicable, shall sign the
3 complaint. A complaint by a corporation, association, or another organization with the
4 right to file a complaint, shall be signed by its attorney.

5 (3) Number of copies required. Upon the filing of an original complaint, the complainant
6 shall also file two (2) more copies than the number of persons 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 complaint to ascertain if it establishes a prima facie case and conforms to this
10 administrative regulation.

11 1. If the commission finds that the complaint does not establish a prima facie case or
12 does not conform to this administrative regulation, the commission shall notify the
13 complainant and provide the complainant an opportunity to amend the complaint within
14 a specified time.

15 2. If the complaint is not amended within the time or the extension as the commission,
16 for good cause shown, shall grant, the complaint shall be dismissed.

17 (b) If the complaint, either as originally filed or as amended, establishes a prima facie
18 case and conforms to this administrative regulation, the commission shall serve an
19 order upon the person complained of, accompanied by a copy of the complaint, directed
20 to the person complained of and requiring that the matter complained of be satisfied, or
21 that the complaint be answered in writing within ten (10) days from the date of service of
22 the order, provided that the commission may require the answer to be filed within a

1 shorter period if the complaint involves an emergency situation or otherwise would be
2 detrimental to the public interest.

3 (5) Satisfaction of the complaint. If the defendant desires to satisfy the complaint, he or
4 she shall submit to the commission, within the time allowed for satisfaction or answer, a
5 statement of the relief that the defendant is willing to give. Upon the acceptance of this
6 offer by the complainant and with the approval of the commission, the case shall be
7 dismissed.

8 (6) Answer to complaint. If the complainant is not satisfied with the relief offered, the
9 defendant shall file an answer to the complaint within the time specified in the order or
10 the extension as the commission, for good cause shown, shall grant.

11 (a) The answer shall contain a specific denial of the material allegations of the complaint
12 as controverted by the defendant and also a statement of any new matters constituting
13 a defense.

14 (b) If the defendant does not have information sufficient to answer an allegation of the
15 complaint, the defendant may so state in the answer and place the denial upon that
16 ground.

17 Section 21. Informal Complaints. (1) An informal complaint shall be made to the
18 commission's division of consumer services in a manner that specifically states the
19 complainant's concerns and identifies the utility.

20 (2) The commission's division of consumer services shall address by correspondence or
21 other means the complaint.

22 (a) If an informal complaint is referred to a utility, the utility shall acknowledge to the
23 commission's division of consumer services referral of the complaint and shall report on

1 its efforts to contact the complainant within three (3) business days of the referral, or a
2 lesser period if the complaint involves an emergency situation or otherwise would be
3 detrimental to the public interest.

4 (b) If commission staff requires a period less than three (3) business days for a
5 response, that period shall be reasonable under the circumstances.

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

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

13 Section 22. Deviations from Rules. In special cases, for good cause shown, the
14 commission may permit deviations from these rules.

15 Section 23. Incorporation by Reference. (1) The following material is incorporated by
16 reference:

17 (a) "FERC Financial Report FERC Form No. 1" March 2007;

18 (b) "FERC Financial Report FERC Form No. 2" December 2007;

19 (c) "Notice of Election of Use of Electronic Filing Procedures" June 2014;

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

21 (e) "Form 8-K" January 2012;

22 (f) "Form 10-K" January 2012;

23 (g) "Form 10-Q" January 2012; and

1 (h) "Subpoena Form" August 2013.
2 (2) This material may be inspected, copied, or obtained, subject to applicable copyright
3 law, at the commission's offices located at 211 Sower Boulevard, Frankfort, Kentucky
4 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's
5 Web site at <http://psc.ky.gov>.

This is to certify that the Public Service Commission approved promulgation of this emergency administrative regulation, pursuant to KRS 278.040(3), on September 9, 2022.


Linda Bridwell, P.E., Executive Director
Public Service Commission

9/9/2022
Date


Kent A. Chandler, Chairman
Public Service Commission

9/9/2022
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2022, at 9:00 a.m. eastern standard time at the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public and instructions on how to attend and participate virtually will be published on the commission's website at psc.ky.gov. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2022. Written notification of intent to be heard at the public hearing and written comments on the proposed amendment should be sent or delivered to the contact person listed below.

Contact person: John E.B. Pinney, Executive Advisor, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, phone (502) 782-2587, mobile (502) 545-6180, fax (502) 564-7279, email Jeb.Pinney@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

807 KAR 5:001

Contact Person: John E.B. Pinney, phone 502-782-2587, mobile email Jeb.Pinney@ky.gov

(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

(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: The proposed emergency amendment will facilitate, by temporarily removing certain filing requirements, construction and repair of gas, water, and sewer infrastructure damaged by flooding in Eastern Kentucky in late July 2022.

(b) The necessity of the amendment to this administrative regulation: Currently if water, gas, and sewer utilities seek to begin large construction projects, they must apply for and receive a certificate of public convenience and necessity from the commission. The emergency amendment will temporarily suspend that requirement of seeking Public Service Commission approval for construction to replace infrastructure damaged by flooding.

(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.

(d) How the amendment will assist in the effective administration of the statutes: The proposed emergency amendment will temporarily remove certain regulatory requirements with which water, gas, and sewer utilities must comply before beginning construction.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation will affect regulated gas, water, and sewer utilities in Eastern Kentucky of which there are approximately 30.

(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: No additional actions. The proposed amendment will temporarily remove certain required actions

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Zero Dollars; no fiscal impact.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): There will be fewer regulatory requirements prior to beginning construction to replace flood-damaged infrastructure.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Zero Dollars; no fiscal impact.

(b) On a continuing basis: Zero Dollars; no fiscal impact.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission does not anticipate this amendment increasing its enforcement cost. The commission currently funds enforcement of this regulation through its general operating budget funded through annual assessments paid by regulated utilities pursuant to KRS 278.130, *et. seq.*, and this amendment has no effect on that funding.

(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 fiscal impact.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No new fees are established and existing fees will not be affected.

(9) TIERING: Is tiering applied? No

FISCAL NOTE

Contact Person: John E.B. Pinney, phone 502-782-2587, mobile 502-545-6180, email Jeb.Pinney@ky.gov

(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? May impact water districts formed under KRS Chapter 74.

(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) 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. Water districts, and combined water and sewer districts will forego the expense of applying to the Public Service Commission to receive approval for construction to replace damaged facilities.

(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? Zero dollars; no additional revenue.

(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? Zero dollars; no additional revenue.

(c) How much will it cost to administer this program for the first year? Zero dollars.

(d) How much will it cost to administer this program for subsequent years? Zero dollars; the emergency amendment will not be replaced with an ordinary regulation.

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:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? Zero dollars

(c) How much will it cost the regulated entities for the first year? Zero dollars.

(d) How much will it cost the regulated entities for subsequent years? Zero dollars; the emergency amendment will not be replaced with an ordinary regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: the water, sewer, and gas utilities affected by this emergency amendment will forego the expenses associated with applying to the Public Service Commission for approval of construction to replace damaged facilities. Affected utilities will not have to pay for, *inter alia*, legal fees and costs of preparing applications.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. "Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. No major economic impact.

FEDERAL MANDATE ANALYSIS COMPARISON

807 KAR 5:001

Contact Person: John E.B. Pinney, phone 502-782-2587, mobile 502-545-6180, email Jeb.Pinney@ky.gov

- (1) Federal statute or regulation constituting the federal mandate: None.
- (2) State compliance standards: N/A
- (3) Minimum or uniform standards contained in the federal mandate: N/A
- (4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?
N/A
- (5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

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