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MEMORANDUM

TO: Gerald E. Wuetcher, Executive Advisor/Attorney
Public Service Commission

FROM: Donna Little
Regulations Compiler

RE: Acknowledgement of Proposed Administrative Regulations and/or Amendment –
807 KAR 5:009, 807 KAR 5:011, 807 KAR 5:067, 807 KAR 5:068, and 807 KAR
5:075

DATE: July 12, 2013

A copy of each administrative regulations listed above is enclosed for your files. These administrative regulations are tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **September 2013** meeting. We will notify you of the date and time of this meeting when it has been scheduled.

Pursuant to KRS 13A.280, **if** a public hearing is held or you receive written comments during the public comment period, the Statement of Consideration for these administrative regulations is due **by noon on September 13, 2013**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to public hearings and the Statement of Consideration.

If you have any questions, please do not hesitate to contact me at (502) 564-8100.

Enclosures

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (New Administrative Regulation)

4 807 KAR 5:075. Treated sewage adjustment for water districts and water associations.

5 RELATES TO: KRS Chapter 278

6 STATUTORY AUTHORITY: KRS 278.012, 278.015, 278.030(1), 278.040(3)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.030(1) provides that all
8 rates charged by a utility subject to the jurisdiction of the Public Service Commission shall
9 be fair, just, and reasonable. This administrative regulation prescribes the requirements
10 under which a water district or a water association may implement a treated sewage
11 adjustment to recover the costs of treated sewage.

12 Section 1. Definitions.

13 (1) "Application" means:

14 (a) A completed Treated Sewage Adjustment Form 1;

15 (b) A schedule listing current and proposed rates;

16 (c) A copy of the provider's notice showing a change in provider's base rate;

17 (d) The calculation and all supporting documents used to determine the change in
18 treated sewage costs sufficient to determine the accuracy of the calculation;

19 (e) A copy of the resolution or other document of the utility's governing body
20 authorizing the proposed rates; and

1 (f) If the applicant is a water district and proposes to increase any of its rates for
2 sewage service, a statement from an authorized utility official indicating the date its
3 proposed rate increase was reported to the governing body of the county in which the
4 largest number of its customers resides and the date it presented testimony, or is
5 scheduled to present testimony, to that governing body.

6 (2) "Changed rate" means the rate of a utility's provider after the most recent
7 increase or decrease in the provider's base rate.

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

9 (4) "Person" is defined by KRS 278.010(2).

10 (5) "Provider's base rate" means the rate of a utility's provider in effect immediately
11 prior to the most recent increase or decrease.

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

14 (7) "Utility" means:

15 (a) A water association formed as a non-profit corporation, association, or
16 cooperative corporation having as its purpose the furnishing of sewage service; or

17 (b) A water district formed pursuant to KRS 65.810 and KRS Chapter 74.

18 (8) "Web site" means an identifiable site on the Internet, including social media,
19 which is accessible to the public.

20 Section 2. Change in Provider's Base Rate. (1) Upon an increase in its provider's
21 base rate, a utility may, without prior commission approval, increase each of its rate
22 schedules by a treated sewage adjustment factor determined in accordance with Section

1 3 of this administrative regulation to pass through its increased treated sewage costs to
2 its customers on a per unit basis regardless of customer classification.

3 (2) Upon a decrease in the provider's base rate, a utility that has previously revised
4 its rates pursuant to this administrative regulation shall decrease each of its rate
5 schedules by a treated sewage adjustment factor determined in accordance with Section
6 3 of this administrative regulation to pass through its decreased treated sewage costs on
7 a per unit basis regardless of customer classification.

8 Section 3. Treated Sewage Adjustment Factor. (1) The treated sewage
9 adjustment factor to adjust a utility's rate to reflect a change in the utility's base rate
10 shall be determined using the following formula:

11

$$\begin{array}{l} \text{TSA} \\ \text{Adjustment} \\ \text{Factor} \end{array} = \frac{(\text{Changed Rate} \times \text{Total Treated Sewage}) - (\text{Base Rate} \times \text{Total Treated Sewage})}{\text{Total Utility Water Sales}}$$

12 (2) The treated sewage adjustment factor shall be expressed in cents per gallons
13 or cubic foot depending upon the unit of measure that the utility bases its customer bills.

14 (3) Total treated sewage shall be determined based upon the level of treated
15 sewage for a period of twelve (12) consecutive months ending within 90 days
16 immediately prior to the effective date of the utility rate adjustment month period.

17 (4) Total utility water sales shall be determined based upon the level of water
18 sales for a period of twelve (12) consecutive months ending within 90 days immediately
19 prior to the effective date of the utility rate adjustment month period. If the utility bases
20 its customer billings on a flat rate in lieu of a volumetric rate, the total number of
21 customers or residential equivalents billed for the period shall be used.

1 (5) The same twelve (12) month period will be used to determine total treated
2 sewage and total utility water sales.

3 Section 4. Submitting the Treated Sewage Adjustment Application. (1) A utility
4 adjusting its rates pursuant to this administrative regulation shall submit an application to
5 the commission.

6 (2) The application shall be submitted:

7 (a) In accordance with 807 KAR 5:001, Sections 7 and 8.

8 (b) No earlier than thirty (30) days prior to the proposed effective date of the
9 provider's changed rate and no later than twenty (20) days after the utility, without prior
10 commission approval, adjusts its rates to reflect the change in its treated sewage costs
11 due to the provider's changed rate.

12 Section 5. Notice. When filing an application for a treated sewage adjustment
13 resulting from a provider's increased rate, a utility shall provide notice as follows:

14 (1) Public postings.

15 (a) A utility shall post at its place of business a copy of the notice no later than the
16 date the application is submitted to the commission or the date the utility adjusts its rates,
17 whichever occurs first.

18 (b) A utility that maintains a Web site shall, within five (5) business days of the date
19 the application is submitted to the commission or the date the utility adjusts its rates,
20 whichever occurs first, post on its Web sites:

21 1. A copy of the public notice; and

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

1 (c) The information required in subsection 1(a) and 1(b) of this section shall not be
2 removed until the commission issues a final decision on the application.

3 (2) Customer Notice. A utility shall mail a written notice to each customer no later
4 than the issuance of the first bill at the increased rate.

5 (3) Proof of Notice. A utility shall file with the commission no later than thirty (30)
6 days from the date of the commission's order approving an adjustment to the utility's rates
7 pursuant to this administrative regulation an affidavit from an authorized representative of
8 the utility verifying the contents of the notice, that notice was mailed to all customers, and
9 the date of the mailing.

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

12 (a) The effective date;

13 (b) The present rates and proposed rates for each customer classification to which
14 the proposed rates will apply;

15 (c) The amount of the change requested in both dollar amounts and percentage
16 change for each customer classification to which the proposed rates will apply;

17 (d) The amount of the average usage and the effect upon the average bill for each
18 customer classification to which the proposed rates will apply;

19 (e) A statement that a person may examine this application and any related
20 documents the utility has filed with the Public Service Commission at the offices of (utility
21 name) located at (utility address); and

22 (f) A statement that a person may examine this application and any related
23 documents at the commission's offices located at 211 Sower Boulevard, Frankfort,

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

3 Section 6. Orders of the Commission. (1) Within thirty (30) days of the submission
4 of an application in accordance with this administrative regulation, the commission shall
5 enter its order approving the proposed rates or establishing revised rates.

6 (2) Within twenty (20) days of the date of the commission's order, the utility shall
7 submit its revised tariff sheet in accordance with 807 KAR 5:011 establishing the rates
8 approved by the commission.

9 (3) If the utility publishes notice of the proposed rates and the commission enters
10 an order requiring different rates, the utility shall publish notice of the commission ordered
11 rates in the manner prescribed in Section 5(2) of this administrative regulation.

12 Section 7. Refund from a Provider. (1) A utility that receives a refund from its
13 provider for previously paid for treated sewage due to a reduction in the provider's rate
14 shall notify the commission in writing of this refund within twenty (20) days of receipt of
15 the refund and shall distribute the refund to its customers by reducing each of its rate
16 schedules by a refund factor determined in accordance with subsection 2 of this section.
17 The notice to the commission shall include:

18 (a) A description of the circumstances surrounding the refund;

19 (b) A schedule showing the calculation of the refund factor;

20 (c) A copy of the provider's notice of the refund; and

21 (d) All supporting documents used to determine the refund factor in detail sufficient
22 to determine the accuracy of the calculation.

1 (2) Refund factor. (a) The refund factor shall be determined using the following
2 formula:

3

$$\text{Refund Factor} = \frac{\text{Refund Amount}}{\text{Estimated Total Utility Water Sales}}$$

4 (b) The refund factor shall be expressed in cents per gallons or cubic foot
5 depending upon the unit of measure that the utility bases its customer bills.

6 (c) Estimated total utility water sales shall be determined based upon the
7 estimated level of water sales for the two (2) month period beginning the first day of the
8 month following the utility's receipt of the refund. If the utility bases its customer billings
9 on a flat rate in lieu of a volumetric rate, the estimated total number of customers or
10 residential equivalents billed for the period shall be used.

11 (3) Effective with meter readings taken on and after the first day of the second
12 month following receipt of the refund, the utility shall reduce each of its rate schedules by
13 the refund factor when calculating customer bills for the next two (2) billing periods.

14 (4) If the commission determines that the utility has inaccurately calculated the
15 refund, the commission shall direct the utility to make revisions to the utility's refund plan.

16 Section 8. Deviations from Rules. In special cases, for good cause shown, the
17 commission shall permit deviations from this administrative regulation.

18 Section 9. Incorporation by Reference. (1) "Treated Sewage Adjustment Form 1",
19 Treated Sewage Adjustment for Water Districts and Associations, July 2013, is
20 incorporated by reference.

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

- 1 Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's
- 2 Web site at <http://psc.ky.gov>.

David L. Armstrong, Chairman
Public Service Commission

DATE: _____

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on August 21, 2013, at 9:00 a.m., Eastern Daylight Time, at the Public Service Commission's office, 211 Sower Boulevard, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 2013, five working days 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 cancelled.

This hearing is open to the public. Any person who attends 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until September 3, 2013. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Gerald E. Wuetcher
Executive Advisor/Attorney
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602
Tel: (502) 564-3940
Fax: (502) 564-3460

REGULATORY IMPACT ANALYSIS

Administrative Regulation #: 807 KAR 5:075

Contact Person: Gerald E. Wuetcher, Executive Advisor

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides the rules and guidelines for water districts and water associations that provide sewage service to pass through to its customers the cost it pays another entity to treat its customer's sewage.

(b) The necessity of this administrative regulation: This regulation is necessary to provide a timely and simplified method for water districts and water associations that provide sewage service to adjust its rates to pass through to its customers the cost it pays another entity to treat its customer's sewage.

(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 provides a cost effective and timely method for a water district and water association that provides sewage treatment service to pass through changes in costs of its treated sewage.

(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:
N/A

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statutes:
N/A

(d) How the amendment will assist in the effective administration of the statutes:
N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The proposed amendment will affect water districts and water associations providing sewage service that pay another entity to treat its customer's sewage.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation does not require any additional action by the regulated entities identified in question 3. This regulation promulgates longstanding Commission policies and procedures.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs to comply. This regulation promulgates longstanding Commission policies and procedures.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): For a utility that chooses the option to electronically file its treated sewage adjustment application, this regulation will reduce the number of documents that must be filed. Filing the application electronically in lieu of filing paper documents should result in reduced paper, printing, and postage costs for the utility.

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

(a) Initially: Implementation of the proposed amendment will not involve additional costs.

(b) On a continuing basis: No additional costs are expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding is required.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary or will be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? No.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No.: 807 KAR 5:075

Contact Person: Gerald Wuetcher
(502) 564-3940
gerald.wuetcher@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? Public Service Commission; Office of Attorney General (Utility Rate and Intervention Division); water districts; sewer districts.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 278.040(3) authorizes the commission to promulgate administrative regulations.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No direct increase in revenue will result from the adoption of this administrative regulation for any governmental agency. The proposed administrative regulation does not provide for the Public Service Commission to assess any fee or charge.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No direct increase in revenue will result from the adoption of this administrative regulation for any governmental agency. The proposed administrative regulation does not provide for the Public Service Commission to assess any fee or charge.

(c) How much will it cost to administer this program for the first year? No increase in the Public Service Commission's cost of reviewing treated sewage adjustment applications is expected to result from the adoption of this administrative regulation. The Public Service Commission will be performing the same level of review and require the same number of employees to conduct its review. If the proposed regulation is adopted a utility may experience lower expenses when filing treated sewage adjustment applications if the choice is made to electronically file the application. The exact amount of any savings is too difficult to quantify.

(d) How much will it cost to administer this program for subsequent years? No increase in the Public Service Commission's cost of reviewing treated sewage adjustment applications is expected to result from the adoption of this administrative regulation. The Public Service Commission will be performing the same level of review and require the same number of employees to conduct its review. If the proposed regulation is adopted a utility may experience lower expenses when filing treated sewage adjustment applications if the choice is made to electronically file the application. The exact amount of any savings is too difficult to quantify.

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:

SUMMARY OF INCORPORATED MATERIAL

(1) Treated Sewage Adjustment Form 1 – “Treated Sewage Adjustment for Water Districts and Associations” – is a three page form that a water district or association providing sewage service must complete in order to apply for a Treated Sewage Adjustment. When properly completed, it contains the required information necessary for a water district or association to calculate its treated sewage adjustment factor when its wholesale provider changes its rates. It aids the Public Service Commission in processing a Purchased Water Adjustment case by organizing all of the information on one form. KRS 278.015 provides a mechanism for water districts and associations to file for a Treated Sewage Adjustment.

**TREATED SEWAGE ADJUSTMENT
 FOR SEWER UTILITIES
 (807 KAR 5:075)**

Name of Utility			
Date			
Address			
City, State, Zip			
Telephone Number			

1.a. Name of all providers and the base (current) rate and changed rate of each. In the event the utility is billed by the provider on a rate that is not a flat rate schedule, the entire rate schedule must be shown. Attach additional sheets if necessary.

Provider(s)	Base Rate	Changed Rate

1.b. A copy of the provider's notice of the changed rate showing the effective date of the increase is attached as Exhibit

2. Twelve-month period upon which the treated sewage adjustment is based. (This twelve-month period must end within 90 days of this filing).

From		through	
	(month and year)		(month and year)

<p>3. Statement of sewage treated. Where sewage treatment is from more than one provider, sewage treatment from each provider must be shown separately. When water purchases are the basis for sewage treatment charges and the water is purchased through a declining block rate schedule, purchases for each month must be shown. Attach additional sheets if necessary.</p>	
Provider(s)	Gallons of Sewage Treated during 12 month period
TOTAL	
<p>4. Total gallons of water sold for the 12 month period</p>	
<p>5. Increased cost</p>	
<p>The increased cost is the difference between the Gallons at the base (current rate) and at the new rate.</p>	
<p>When water usage is the basis for the utility's sewage treatment charge, the treated sewage adjustment shall be calculated as a per 1,000 gallon factor.</p>	
<p>6. Treated sewage adjustment factor per 1,000 gallons*</p>	
<p>*The treated sewage adjustment factor is obtained by dividing the increased cost of the sewage treatment by the total gallons of water sold. (Number 5 ÷ (Number 4 ÷ 1,000))</p>	

<p>Note: The treated sewage adjustment factor is added to each thousand gallons sold. If the minimum usage is 2,000 gallons then the treated sewage adjustment factor would be added to the minimum bill twice.</p>	
<p>When the utility has a flat monthly rate the treated sewage adjustment factor shall be calculated as a flat monthly amount to be added to the current rate.</p>	
7. Number of customers or Residential Equivalents	
<p>8. Treated sewage adjustment (amount to be added to current monthly bill)**</p>	
<p>**The treated sewage adjustment factor is obtained by dividing the increased cost by the number of customers or residential equivalents and then by 12 months. (Number 5 ÷ (Number 7 ÷ 12)).</p>	
<p>9. Proposed schedule of rates must be attached showing the rate to be charged by the utility.</p>	
10. Proposed effective date	
<p>Signature of Utility Officer</p>	
<p>Title</p>	