

1 ENERGY AND ENVIRONMENT CABINET

2 Public Service Commission

3 (Amended After Comments)

4 807 KAR 5:068. Purchased water adjustment for water districts and water associations.

5 RELATES TO: KRS 65.810, Chapter 74, 278.010, 278.012, 278.015

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

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

12 Section 1. Definitions. (1) "Application" means:

13 (a) A completed Purchased Water Adjustment Form 1;

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

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

16 (d) The calculation and all supporting documents used to determine the change  
17 in purchased water costs sufficient to determine the accuracy of the calculation; and

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

20 (f) ~~If the applicant is a water district and proposes to increase any of its rates for~~  
21 ~~service, a statement from an authorized official of the district indicating the date its~~

1 ~~proposed rate adjustment was reported to the governing body of the county in which the~~  
2 ~~largest number of its customers reside and the date it presented testimony, or is~~  
3 ~~scheduled to present testimony, to that governing body].~~

4 (2) "Changed rate" means the rate of a utility's supplier after the most recent  
5 increase or decrease in the supplier's base rate.

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

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

8 (5) "Supplier's base rate" means the rate of a utility's supplier in effect  
9 immediately prior to the most recent increase or decrease.

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

12 (7) "Utility" means:

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

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

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

18 Section 2. Change in Supplier's Base Rate. (1) Upon an increase in its supplier's  
19 base rate, a utility may, without prior commission approval, increase each of its rate  
20 schedules by a purchased water adjustment factor determined in accordance with  
21 Section 3 of this administrative regulation to pass through its increased purchased water  
22 costs to its customers on a per unit basis regardless of customer classification.

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

6 Section 3. Purchased Water Adjustment Factor. (1) The purchased water  
7 adjustment factor to adjust a utility's rate to reflect a change in the utility's base rate  
8 shall be determined using the following formula:

$$\text{PWA Adjustment Factor} = \frac{(\text{Changed Rate} \times \text{Total Utility Water Purchases}) - (\text{Base Rate} \times \text{Total Utility Water Purchases})}{\text{Total Utility Water Sales}}$$

9 (2) The purchased water adjustment factor shall be expressed in cents per  
10 gallons or cubic feet, depending upon the unit of measure that the utility bases its  
11 customers' bills.

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

16 (4)(a) Total utility water sales shall be determined based upon the level of water  
17 sales for a period of twelve (12) consecutive months ending within ninety (90) days  
18 immediately prior to the effective date of the utility rate adjustment month period.

19 (b) If the utility bases its customer billings on a flat rate in lieu of a volumetric  
20 rate, the total number of customers or residential equivalents billed for the period shall  
21 be used.

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

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

6 (2) The application shall be submitted:

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

8 (b) No earlier than thirty (30) days prior to the proposed effective date of the  
9 supplier'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 purchased water costs  
11 due to the supplier's changed rate.

12 Section 5. Notice. Upon filing an application for a purchased water adjustment  
13 resulting from a supplier'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  
16 the date the application is submitted to the commission or the date the utility adjusts its  
17 rates, whichever occurs first.

18 (b) A utility that maintains a Web site shall, within five (5) business days of the  
19 date the application is submitted to the commission or the date the utility adjusts its  
20 rates, 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 paragraphs (a) and (b) of this subsection shall not  
2 be removed until the commission issues a final decision on the application.

3 (2) Customer Notice.

4 (a) If a utility has twenty (20) or fewer customers, it shall mail a written notice to  
5 each customer no later than the issuance of the first bill at the increased rate.

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

7 1. Including notice with customer bills mailed no later than the issuance of the  
8 first bill at the increased rate;

9 2. Mailing a written notice to each customer no later than the issuance of the first  
10 bill at the increased rate;~~or~~

11 3. Publishing notice one (1) time in a prominent manner in a newspaper of  
12 general circulation in the utility's service area no later than the issuance of the first bill at  
13 the increased rate; or

14 **4. Publishing notice in a trade publication or newsletter delivered to all**  
15 **customers no later than the issuance of the first bill at the increased rate.**

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

18 (3) Proof of Notice. A utility shall file with the commission no later than thirty (30)  
19 days from the date of the commission's order approving an adjustment to the utility's  
20 rates pursuant to this administrative regulation:

21 (a) If notice is mailed to its customers, an affidavit from an authorized  
22 representative of the utility verifying the contents of the notice, that notice was mailed to  
23 all customers, and the date of the mailing;~~or~~

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

4 **(c) If notice is published in a trade publication or newsletter delivered to all**  
5 **customers, an affidavit from an authorized representative of the utility verifying**  
6 **the contents of the notice, the mailing of the trade publication or newsletter, that**  
7 **notice was included in the publication or newsletter, and the date of mailing.**

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

10 (a) The effective date;

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

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

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

17 (e) A statement that a person may examine this application at the offices of  
18 (utility name) located at (utility address); and

19 (f) A statement that a person may examine this application at the commission's  
20 offices located at 211 Sower Boulevard, Frankfort, Kentucky, Monday through Friday,  
21 8:00 a.m. to 4:30 p.m., or through the commission's Web site at <http://psc.ky.gov>.

22 Section 6. Orders of the Commission. (1) Within thirty (30) days of the  
23 submission of an application in accordance with this administrative regulation, the

1 commission shall enter its order approving or denying the proposed rates or  
2 establishing revised rates.

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

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

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

- 15 (a) A description of the circumstances surrounding the refund;
- 16 (b) A schedule showing the calculation of the refund factor;
- 17 (c) A copy of the supplier's notice of the refund; and
- 18 (d) All supporting documents used to determine the refund factor in detail  
19 sufficient to determine the accuracy of the calculation.

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

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

1 (b) The refund factor shall be expressed in cents per gallons or cubic feet,  
2 depending upon the unit of measure that the utility bases its customers' bills.

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

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

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

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

16 Section 9. Incorporation by Reference. (1) "Purchased Water Adjustment Form  
17 1", July 2014~~[Purchased Water Adjustment for Water Districts and Associations,~~  
18 ~~July 2013]~~, is incorporated by reference.

19 (2) This material may be inspected, copied, or obtained, subject to applicable  
20 copyright law, at the commission's offices located at 211 Sower Boulevard, Frankfort,  
21 Kentucky, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through the commission's  
22 Web site at <http://psc.ky.gov>.



---

David L. Armstrong, Chairman  
Public Service Commission

Date: \_\_\_\_\_

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT  
Regulation Number: 807 KAR 5:068

Contact Person: Stephanie Bell  
Deputy Executive Director

(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 to pass its purchased water costs through to its customers.

(b) The necessity of this administrative regulation: This regulation is necessary to provide a timely and simplified method for a water district or water association to adjust its rates in accordance with a rate adjustment from its wholesale water supplier.

(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 or water association to pass through changes in costs of the water it purchases.

(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 amendment eliminates the requirement for water districts requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to comply with HB 192 which was became law during the 2014 legislative session.

(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. This amendment eliminates the requirement for water districts requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(d) How the amendment will assist in the effective administration of the statutes: The amendment benefits water districts by eliminating the requirement to present testimony or be scheduled to present testimony to its governing body when requesting fee increases.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The amendment will affect water districts that purchase water from a wholesale provider.

(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 are required. This amendment eliminates a requirement for the water district when requesting fee increases to present testimony or be scheduled to present testimony to its governing body.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not costs to comply.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Water Districts seeking fee increases are no longer required to present or schedule to present testimony to its governing body.

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

(9) TIERING: Is tiering applied? No. Tiering is not applicable.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 807 KAR 5:068

Contact Person: Stephanie Bell

Phone number: (502) 564-3940

(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.

(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 the proposed amendment for any governmental agency. The proposed amendment does not provide for the Public Service Commission to assess any fee or charge.

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

(c) How much will it cost to administer this program for the first year? No increase in the Public Service Commission's cost of reviewing purchased water adjustment applications is expected to result from the adoption of the proposed amendment. The Public Service Commission will be performing the same level of review and require the same number of employees to conduct its review.

(d) How much will it cost to administer this program for subsequent years? No increase in the Public Service Commission's cost of reviewing purchased water adjustment applications is expected to result from the adoption of the proposed amendment. The Public Service commission will be performing the same level of review and require the same number of employees to conduct its review.

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

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

## SUMMARY OF INCORPORATED MATERIAL

(1) Purchased Water Adjustment Form 1 is a two-page form an that applicant for a purchase water adjustment made pursuant to 807 KAR 5:068 must complete. To comply with new legislation and the amended regulations, minor changes were made to the previously approved form. In the first section, a place has been added for the applicant's email address so the Commission may issue orders electronically to the applicant in compliance with SB 91. Paragraph 6 on sheet 2 deletes the requirement that tariff sheets be attached to the application. The regulation no longer requires that tariff sheets be attached to the application. Paragraph 5 on sheet 2 adds the requirement that supporting documents be attached to the application. A new Paragraph 7 on sheet 2 adds the requirement that a schedule listing the current and proposed rates be attached to the application. A new Paragraph 8 on sheet 2 adds the requirement that a copy of the resolution or other document authorizing the proposed rates be attached. The additions to Paragraphs 5, 7, and 8 on sheet 2 are already required under Section 1(1) of the regulation.

**PURCHASED WATER ADJUSTMENT FOR  
WATER DISTRICTS AND WATER ASSOCIATIONS  
(807 KAR 5:068)**

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

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

Supplier(s)	Base Rate	Changed Rate

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

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

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

3. Statement of water purchases. Where water is purchased from more than one supplier, purchases from each supplier must be shown separately. If water is purchased through a declining block rate schedule, purchases for each month must be shown. Attach an additional sheet if necessary.

Supplier(s)	Gallons Purchased during 12 month period
<b>TOTAL PURCHASES</b>	
4. Total gallons sold for the 12 month period	
5. Increased water cost	
<p>The increased water cost is the cost difference between purchases at base (current rate) and purchases at new rate. The calculation and all supporting documents used to determine the change in purchased water costs sufficient to determine the accuracy of the calculation is attached as Exhibit</p>	
6. Purchased water adjustment factor	
<p>The purchased water adjustment factor is obtained by dividing the increased cost of water by the total gallons sold.</p> <p>Note: The purchased water adjustment factor is added to each thousand gallons sold. If the minimum usage is 2,000 gallons then the purchased water adjustment factor would be added to the minimum bill twice.</p>	
7. A schedule listing the current and proposed rates is attached as Exhibit	
8. A copy of the resolution or other document of the utility's governing body authorizing the proposed rates is attached as Exhibit	
9. Proposed effective date	
Signature of Utility Officer	
Title	



**PURCHASED WATER ADJUSTMENT FOR  
WATER DISTRICTS AND WATER ASSOCIATIONS  
(807 KAR 5:068)**

Name of Utility			
Date			
Address			
City, State, Zip			
Telephone Number			
<u>Email Address</u>			

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

Supplier(s)	Base Rate	Changed Rate

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

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

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

3. Statement of water purchases. Where water is purchased from more than one supplier, purchases from each supplier must be shown separately. If water is purchased through a declining block rate schedule, purchases for each month must be shown. Attach an additional sheet if necessary.

Supplier(s)	Gallons Purchased during 12 month period
TOTAL PURCHASES	
4. Total gallons sold for the 12 month period	
5. Increased water cost	
<p>The increased water cost is the cost difference between purchases at base (current rate) and purchases at new rate. <u>The calculation and all supporting documents used to determine the change in purchased water costs sufficient to determine the accuracy of the calculation is attached as Exhibit</u></p>	
6. Purchased water adjustment factor	
<p>The purchased water adjustment factor is obtained by dividing the increased cost of water by the total gallons sold.</p> <p>Note: The purchased water adjustment factor is added to each thousand gallons sold. If the minimum usage is 2,000 gallons then the purchased water adjustment factor would be added to the minimum bill twice. [<del>Revised tariff sheets must be attached showing the rate to be charged by the utility and the effective date of the increased rates.</del>]</p>	
7. <u>A schedule listing the current and proposed rates is attached as Exhibit</u>	
8. <u>A copy of the resolution or other document of the utility's governing body authorizing the proposed rates is attached as Exhibit</u>	
9. Proposed effective date	
Signature of Utility Officer	
Title	

STATEMENT OF CONSIDERATION  
Relating to 807 KAR 5:068  
(Amended After Comments)

I. The public hearing on 807 KAR 5:068, scheduled for July 22, 2013 at 9:00 a.m. at the Public Service Commission's office was cancelled; however, written comments were received during the public comment period.

II. The following people submitted written comments:

<u>Name and Title</u>	<u>Agency/Organization/Entity/Other</u>
Damon Talley, Attorney	Kentucky Rural Water Association
Ann Ramser	Public Service Commission

III. The following people from the promulgating body responded to the written comments.

Name and Title

Ann Ramser  
Staff Attorney III

IV. Summary of Comments and Responses

(1) Subject Matter: Section 5 – Customer Notice

(a) Comment: Ann Ramser (Public Service Commission) - This regulation does not currently allow for water districts or associations to provide customer notice by publishing the notice in a trade publication or newsletter delivered to all customers no later than the issuance of the first bill at the increased rate.

(b) Response: Section 5(2) – Customer Notice and Section 5(3) – Proof of Notice are revised in response to the commenter's concerns.

(2) Subject Matter: Section 9(1) – Purchased Water Adjustment Form 1

1.(a) Comment: Damon Talley (Kentucky Rural Water Association) - If PWA Form 1 is part of this regulation, then it also needs to be amended to delete the reference to the date which the water district plans to appear before the County Fiscal Court. If PWA Form 1 is not part of this regulation, then the Commission should correct the Form posthaste.

(b) Response: No action necessary. The requirement that a water district advises the Commission of the date which it plans to appear before the County Fiscal Court was never included on PWA Form 1.

2.(a) Comment: Ann Ramser (Public Service Commission) - PWA Form 1 contains the requirement that tariff sheets be attached to the application. The regulation no longer requires the attachment of the tariff sheets. The application fails to require the attachment of documents that the regulation requires to be attached to the application. The application should include a place for the applicant's email address.

(b) Response: In response to the commenter's concerns, the application will be revised and Section 9(1) of the regulation will be revised to show the correct version date of the form.

#### IV. Summary of Action Taken by Promulgating Agency

The Public Service Commission reviewed the comments and, as a result, is amending the regulation as follows:

Page 3

Section 3(4)

Line 18

After "(4)", insert "(a)".

Line 20

After "adjustment month period.", insert "(b)".

Page 5

Section 5(2)(b)

Line 10

After "at the increased rate;", delete "or".

Line 13

After "the increased rate", insert the following:

; or

4. Publishing notice in a trade publication or newsletter delivered to all customers no later than the issuance of the first bill at the increased rate

Page 5

Section 5(3)

Line 21

After "date of the mailing;", delete "or".

Page 6

Section 5(3)

Line 3

After "the notices publication", insert the following:

; or

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

Page 6

Section 6(1)

Line 20

After "its order approving", insert "or denying"

Page 8

Section 9(1)

Line 17

After "1", insert "July 2014"

Delete the following:

Purchased Water Adjustment for Water Districts and Associations, July 2013