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IN THE KENTUCKY PUBLIC SERVICE COMMISSION

IN RE: INVESTIGATION:

Case No. 2003-00433  
AN ADJUSTMENT OF THE GAS AND ELECTRIC RATES,  
TERMS, AND CONDITIONS OF LOUISVILLE GAS AND  
ELECTRIC COMPANY

and

Case No. 2003-00434  
AN ADJUSTMENT OF THE ELECTRIC RATES, TERMS, AND  
CONDITIONS OF KENTUCKY UTILITIES COMPANY

\* \* \*

SWORN STATEMENT

OF

ROBERT A. AMATO, SR.

JULY 26, 2005

---

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8/5/05 BOA

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I N D E X

Exhibit No. 1..... 14  
(Page 20 of PSC Employee Information  
Handbook)

A P P E A R A N C E S

SPECIAL GENERAL COUNSEL TO THE PUBLIC SERVICE  
COMMISSION:

JONATHAN D. GOLDBERG  
Goldberg & Simpson  
3000 National City Tower  
101 South Fifth Street  
Louisville, Kentucky 40202

1                   The sworn statement of ROBERT A.  
2 AMATO, SR., taken in the offices of the Public  
3 Service Commission, 211 Sower Boulevard, Frankfort,  
4 Kentucky, on Tuesday, the 26th day of July, 2005, at  
5 approximately 11:50 a.m.

6

7

EXAMINATION

8

9 BY MR. GOLDBERG:

10                   Q.        Would you state your name, please.

11                   A.        Robert Alexander Amato, Sr.

12                   Q.        All right, sir. And your home  
13 address?

14                   A.        304 Stonehenge Drive, Frankfort,  
15 Kentucky.

16                   Q.        All right, sir. And your occupation?

17                   A.        Deputy executive director of the  
18 Kentucky Public Service Commission.

19                   Q.        All right. And the place where you  
20 work is Sower Boulevard?

21                   A.        Yes.

22                   Q.        Fair enough. Tell me what your duties  
23 are as the deputy executive director.

24                   A.        Generally, I assist -- assist in  
25 administration of -- or administrative duties of the

1 commission, and ensure that the case work and  
2 regulatory oversight work is -- is being performed by  
3 the staff.

4 Q. Okay. Is that a personnel function?

5 A. Partially.

6 Q. Okay. When you say "partially," what  
7 are you thinking of?

8 A. Well, when you -- my personnel  
9 function, I -- I'm not -- I'm not sure what you mean  
10 by personnel function.

11 Q. All right, sir. How do you make sure  
12 that your job function as it relates to the staff  
13 gets done?

14 A. Yeah. It -- meeting this --  
15 discussing cases, reviewing our docket with directors  
16 and sometimes other staff, I do -- do read memos,  
17 decision memos for -- that are to the commission to  
18 see if -- that they're complete, have -- have  
19 relevant information in them and if -- and provide  
20 input into anything that I think may -- additional  
21 information that the commission may need and do that  
22 with the directors.

23 Q. All right. Is it fair to say that a  
24 lot of your duties are procedural in terms of cases  
25 that are filed before the Public Service Commission?

1           A.       I -- can you help me -- help me define  
2 procedural?

3           Q.       Sure.  When I say "procedural," what I  
4 mean is is it your job duty to move cases along on an  
5 administrative basis, as opposed to actually  
6 participate, like some of your staff members do, in  
7 the actual content of a case?

8           A.       Yes.

9           Q.       Is that a fair analogy?

10          A.       That -- that is a fair analogy.

11          Q.       All right, sir.

12          A.       Primarily it is procedural.

13          Q.       Okay.  And by way of further example,  
14 a case is given a chronology of events that are  
15 supposed to occur at certain times, i.e., such as  
16 data requests are supposed to be back.  It's your job  
17 to monitor those things, those items and make sure  
18 the case is moved along to a decision.

19          A.       That's correct.

20          Q.       All right, sir.  Now, tell me who you  
21 report to.

22          A.       I report to the executive director,  
23 Beth O'Donnell.

24          Q.       All right.  And how long have you  
25 reported to her?

1           A.       Approximately -- well, a little bit  
2 over a year, I think. Since May of 2004, I believe  
3 is ...

4           Q.       Okay. And prior to that point in  
5 time, who did you report to?

6           A.       Tom Dorman.

7           Q.       Okay. And how long had you reported  
8 to Mr. Dorman?

9           A.       Approximately four years, since  
10 somewhere in 2000.

11          Q.       Okay. Tell me what the role of the  
12 executive director was at the time Mr. Dorman held  
13 the position.

14          A.       A lot -- a lot -- or the executive  
15 director's role was similar to what I described as my  
16 role in ensuring that cases progressed and -- and  
17 on -- timely and -- and fully. There's other roles  
18 as -- dealing with proposed legislation and -- or  
19 proposed regulation changes and things like that that  
20 he -- that he took care of or that he oversaw, I  
21 guess, more so than -- than is done now by the  
22 executive director.

23          Q.       Do I take it that your job as deputy  
24 executive director has not changed much under either  
25 Mr. Dorman or --

1 A. Well --

2 Q. -- Ms. O'Donnell?

3 A. Well, let me clarify. I was under --  
4 under Mr. Dorman, I was -- I was not in this  
5 position.

6 Q. All right, sir.

7 A. I was director of engineering division  
8 from -- from actually December of 1999 until I  
9 believe May of 2004.

10 Q. In May of 2004, you became the deputy  
11 director?

12 A. Yes.

13 Q. All right. Let's -- tell me what your  
14 duties were as head of the engineering division.

15 A. In the engineering division, I --  
16 similar in nature to -- as far as case work, as I  
17 described for deputy executive director, I -- I was  
18 more directly involved in engineering matters in  
19 cases, but had staff persons that actually handled  
20 the cases. One -- one difference, I did get more  
21 involved in the issues in cases and in meeting  
22 directly with the staff and discussing relevant  
23 issues in the cases and how -- would answer their  
24 questions if they had any questions as how to proceed  
25 in a particular matter.

1 Q. Okay. And those questions that you  
2 answered would be engineering-related questions?

3 A. Yes.

4 Q. All right. How many people --

5 A. And -- for the commission engineering  
6 related is -- typically can be defined as service  
7 related.

8 Q. Okay. How many folks did you manage  
9 during that period of time?

10 A. It varied from 20 to 29, the people in  
11 the division. And I had four branch managers that I  
12 supervised directly, and then there was folks under  
13 them.

14 Q. What were the names of the branch  
15 managers from 1999 through 2004?

16 A. We had a gas branch manager was  
17 Eddie B. Smith. The electric branch manager  
18 initially was Martha Morton, and I believe in 2002 or  
19 2003 Gary Grubbs became electric branch manager.  
20 Telecommunications branch manager was Wayne Bates  
21 initially and later Kyle Willard. And the water --  
22 water/sewer branch manager is George Wakim.

23 Q. All right, sir. Did you become aware  
24 in November 2003 or December, of a -- of two rate  
25 cases being filed, one by LG&E and one by KU? And



1 For purposes of reference, the LG&E case is  
2 2003-00433 and the KU case is 2003-00434.

3 A. Yes, I was aware of those.

4 Q. Okay. And how did you become aware of  
5 them?

6 A. Through -- I -- I believe through the  
7 filing of the application.

8 Q. All right, sir. And did you  
9 participate as a team member in either of those two?

10 A. No, I did not.

11 Q. Okay. Can you tell me what, if any,  
12 participation you had in these two cases?

13 A. I can't say with certainty, but I  
14 believe I may have sat in on a team meeting.  
15 I attended for a brief period an informal conference  
16 at some point.

17 Q. All right. And that would have been  
18 April 28, 2004.

19 A. I will -- I'll take your word for  
20 that. I haven't checked my records, but --

21 Q. All right.

22 A. And as -- and I do -- I recall that  
23 meeting. I don't know if it was because earlier --  
24 or going through my schedules for purposes of  
25 investigation that the attorney general had started,

1 I went through my mail logs and calendars for that.  
2 That particular meeting, since you mentioned it, was,  
3 I believe in our hearing room 2, and seems like I  
4 attended from about 10:00 to 11:00 in the afternoon,  
5 something like that.

6 Q. Okay. Subsequent to that I'm  
7 representing to you that on the following week,  
8 May 3rd, 4th, 5th and 6th were set for hearing and/or  
9 what ultimately became a negotiation of a settlement  
10 agreement. Did you participate in any of the  
11 settlement discussions?

12 A. No, I did not.

13 Q. Okay. And did you participate in any  
14 of the hearings?

15 A. No, I did not.

16 Q. All right, sir. Did you assign  
17 personnel from the engineering division in 2003 to  
18 one or both of the rate cases?

19 A. Yes.

20 Q. Okay. Do you have a recollection of  
21 who you assigned?

22 A. I believe it --

23 Q. If you don't, you don't.

24 A. I can't speak with certainty, but it  
25 would be one of two or three people.

1 Q. All right.

2 A. It would be probably Martha Morton or  
3 Elie Russell. I don't recall.

4 Q. Okay. Did Mr. Sharifi work in your  
5 division?

6 A. Yes, he did.

7 Q. Do you have a recollection of  
8 Mr. Sharifi participating?

9 A. Yes, he was on the case, and he was in  
10 the gas branch. And LG&E does have a gas system, so  
11 it was ...

12 Q. Okay. Would you have assigned  
13 Ms. Morton?

14 A. Likely.

15 Q. All right, sir. If she was on the  
16 team, she would have been one of the persons --

17 A. Yes.

18 Q. -- in the engineering division?

19 You talked about Mr. Sharifi. Andrea  
20 Edwards?

21 A. She was in the financial analysis  
22 division.

23 Q. All right, sir.

24 A. Or still is.

25 Q. And Mr. Newby, Daryl Newby?

1 A. Also financial analysis.

2 Q. Tim Blakley?

3 A. Financial analysis.

4 Q. Okay. And Dawn McGee?

5 A. Financial analysis.

6 Q. All right. So only Ms. Morton and  
7 Mr. Sharifi would have been engineering people.

8 A. Yes.

9 Q. Okay. During the course of the  
10 rate-making case, do you have a recollection of ever  
11 having discussed the case -- cases with either  
12 Ms. Morton or Mr. Sharifi?

13 A. I don't recall specific instances, but  
14 I -- it's likely that I would have discussed them in  
15 some -- some level of detail with Ms. Morton more --  
16 probably more so than Mr. Sharifi.

17 Q. Why is that?

18 A. Why would I have discussed with her  
19 more?

20 Q. Yes.

21 A. She -- the -- I guess I viewed the  
22 electric portion of the case as being more important  
23 or more -- a larger portion of the case, I guess,  
24 since it did involve both LG&E and KU. And  
25 Ms. Morton would have been better situated to give me

1 a summary of what was going on.

2 Q. Okay. We've taken Mr. Sharifi's  
3 statement. He said the only participation he had was  
4 dealing with depreciation schedules --

5 A. Okay.

6 Q. -- on a gas side and had nothing to do  
7 with the electrical side.

8 A. That would be normal for that kind of  
9 case.

10 Q. All right, sir. Fair enough. Now, do  
11 you have a recollection of having discussed either of  
12 the two rate-making cases at any time -- and any time  
13 here is November of 2003 through May of 2004 -- with  
14 the commissioners?

15 A. I don't have -- I don't have direct  
16 recollection of any discussion with them.

17 Q. All right. Do you have recollection  
18 of having had a discussion with Mr. Dorman about the  
19 two rate-making cases during that same time period?

20 A. I don't have a recollection of any --

21 Q. You have no recollection.

22 A. No.

23 Q. Now, I take it that with regard to  
24 procedural issues, moving the case along, you would  
25 not be surprised if you had some conversations with

1 Mr. Dorman that you simply cannot recollect, correct?

2 A. Yes.

3 (DEPOSITION EXHIBIT NO. 1 PREVIOUSLY  
4 MARKED)

5 Q. Okay. Now, let me show you what we've  
6 previously asked other persons to look at, and that  
7 is the employee handbook -- information handbook.  
8 And first let me ask you if you can identify the  
9 document.

10 A. Yes. This is our employee handbook.

11 Q. All right, sir. And that's been in  
12 existence, by its own writing, since 1993, that  
13 particular draft. I want you to look at page 20, and  
14 you'll see Section G, discussion of ex parte  
15 communication.

16 A. Mm-hmm.

17 Q. Do you see that?

18 A. Yes.

19 Q. Are you familiar with and do you have  
20 an understanding of the Public Service Commission's  
21 view of ex parte communication?

22 A. Yes.

23 Q. Okay. And I take it you have an  
24 understanding that it's simply not allowed, correct?

25 A. Yes. Improper ex parte communication

1 is not permitted -- yeah, not allowed by the --

2 Q. All right, sir. With that as a frame  
3 of reference, did you yourself have any contacts  
4 related to the rate-making cases with either LG&E and  
5 KU personnel during the time the rate-making cases  
6 were pending?

7 A. No.

8 Q. Okay. Let me ask you the same  
9 question, did you have any contact with any of the  
10 interveners -- and the interveners are defined as  
11 KIUC and what we euphemistically call the low income  
12 interveners -- with regard to the two rate-making  
13 cases?

14 A. No, I did not.

15 Q. And finally, did you have any contact  
16 with the attorney general's staff or the attorney  
17 general with regard to the two rate-making cases?

18 A. No.

19 Q. Okay. Are you now the responsible  
20 person for educating persons here at the Public  
21 Service Commission about ex parte policy?

22 A. No.

23 Q. Okay. Who would be that person?

24 A. Hal Brady.

25 Q. All right. Do I take it that there is

1 some training with regard to all of the procedures in  
2 the employee handbook?

3 A. Yes.

4 Q. And that the ex parte communication  
5 would be part of that training?

6 A. Yes.

7 Q. Okay. How often is the training  
8 given?

9 A. It's given when a new employee is  
10 hired, and that -- that's really the only time it's  
11 prescribed to be -- to be given, individual directors  
12 can discuss it at their regular staff meetings, but I  
13 don't know that there's a regular schedule to -- to  
14 review it.

15 Q. Well, you yourself have no personal  
16 knowledge, as I understand your statement, about any  
17 ex parte communication. Have you been advised by any  
18 of the personnel here of any ex parte communications  
19 related to the LG&E and KU cases?

20 A. No.

21 Q. All right, sir. So I take it you're  
22 not aware of any ex parte communication with either  
23 any member of the staff and anyone from KU/LG&E or  
24 the interveners?

25 A. That -- that's correct.



1           Q.       And I trust you're further aware of no  
2 ex parte communication between any of the commission  
3 members and KU/LG&E or any member of the staff.

4           A.       That's correct.

5                   MR. GOLDBERG: All right. All right.  
6 That's all I have. Thanks much.

7                   THE WITNESS: All right. Thank you.

8

9                               (STATEMENT CONCLUDED AT 12:10 P.M.)

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I, the undersigned, ROBERT AMATO, do hereby certify that I have read the foregoing sworn statement, and that, to the best of my knowledge, said sworn statement is true and accurate, with the exception of the corrections, if any, listed on the errata sheet.



ROBERT AMATO

Subscribed and sworn to before me this 13<sup>th</sup> day of October, 2005.

  
NOTARY PUBLIC

My commission expires 11/30/08

COULTER REPORTING, LLC  
101 EAST KENTUCKY STREET, SUITE 200  
LOUISVILLE, KY 40203

ERRATA SHEET

NAME ROBERT AMATO DATE OF DEPOSITION 7/26/05

After having read my deposition, I wish to make the following changes:

Page 10 Line 4  
Change "afternoon" to "morning"  
Reason for change the meeting was in the morning.

Page \_\_\_\_\_ Line \_\_\_\_\_  
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*Robert A. Amato* 10-12-05

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EMPLOYEE INFORMATION HANDBOOK

**EXHIBIT**

*ADATO #1*  
*7-26 05*

The contents of this Employee Information Handbook reflect the current policies and procedures in effect at the PSC at the time of its printing.

Amendments to personnel law, regulations and policies may modify or supercede all statements in this information handbook.

It is the policy of the Public Service Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation.

Printed with State Funds

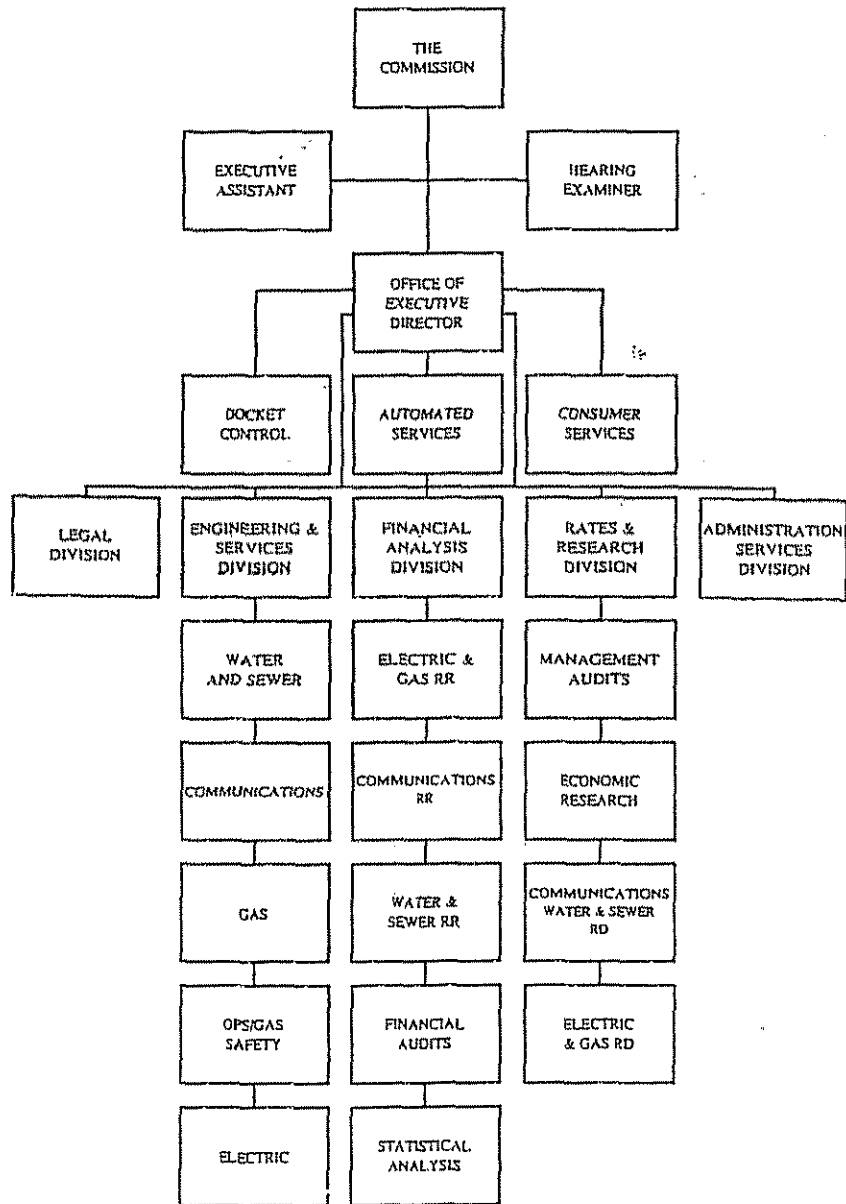
Effective 10-1-93

# PSC EMPLOYEE HANDBOOK

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# Public Service Commission Organizational Chart





# PSC INFORMATION HANDBOOK

## Introduction

The Commissioners and management team of the Kentucky Public Service Commission (PSC) recognize their employees as their most valuable asset. This booklet has been prepared to help employees learn about their commission, its structure and functions, and some of the many facets of the employment relationship into which they have entered. In referring to employees, "he" shall mean male or female.

Questions concerning employment should be directed to your immediate supervisor, or to your agency Personnel Administrator.

The Public Service Commission is an independent administrative body established by the Legislature in 1934 with quasi-legislative and quasi-judicial duties.

The Commission regulates intrastate rates and services of investor-owned electric, natural gas, telephone, water and sewage utilities, rural electric and telephone cooperatives, and water districts and associations. The Commission performs its regulatory functions through written orders following adjudicative and rulemaking procedures outlined in Chapter 278 of the Kentucky Revised Statutes and administrative regulations promulgated by the Commission in Title 807 of the Kentucky Administrative Regulations.

The Commission's goal is to ensure that every utility within its jurisdiction charges fair, just and reasonable rates for the services rendered and that those services are safe, adequate, efficient and reasonable.

The PSC consists of three (3) members appointed by the Governor with the advice and consent of the Senate. Commissioners are appointed for staggered four year terms. Appointments run from July 1 to June 30, with each commissioner staying in the office until his successor is sworn into office. The Governor designates one commissioner to act as Chairman and Chief Executive Officer and a second commissioner to serve as Vice Chairman and act for the Chairman in the latter's absence.

The PSC is divided into the following units: General Counsel (Legal), Engineering, Rates and Research, Financial Analysis, and Administrative Services. The Commission appoints an Executive Director, to serve at its pleasure, and to act as Chief Administrative Officer directing day-to-day operation of the Commission.

## **Affirmative Action Policy**

The Commission is committed to the law of the Commonwealth in establishing a work place free from the injustices of discrimination. It is the policy of the Commission to affirm equal opportunity for employment and advancement to all qualified persons without regard to race, color, religion, national origin, disability, sex, age, or sexual orientation. Any employee who believes he has been subjected to discriminatory treatment in the workplace has the responsibility immediately to bring the problem to the attention of the agency Personnel Administrator.

## **The Americans With Disabilities Act of 1990 (ADA)**

The Americans With Disabilities Act, 42 U.S.C. § 12101 et seq., is a federal law that requires that public facilities and programs, when viewed in their entirety, be accessible to persons with all types of disabilities. The ADA also makes it unlawful to discriminate against a qualified person with a disability in any aspect of employment. The ADA applies to Commission employment practices and the terms, conditions and privileges of employment. The ADA protects qualified persons with a disability. This includes current Commission employees, qualified applicants seeking Commission employment and citizens seeking to utilize Commission facilities and programs. Contact the agency Personnel Administrator for further information.

## **Sexual Harassment Policy**

The Commission does not tolerate sexual harassment of any kind. Sexual harassment in the workplace is a serious offense against the dignity of fellow workers and a violation of both state and federal law. Sexual harassment is viewed as misconduct and will subject any offending employee to disciplinary action up to and including dismissal. Any employee who has a complaint of sexual harassment at work by supervisors, co-workers, visitors or clients should immediately bring the problem to the attention of his supervisor, or, if the complaint involves supervisory personnel in the employee's line of command, complaints may be made to another supervisor, the agency Personnel Administrator or the Cabinet Personnel Administrator.

---

## Vacancies

When a vacancy occurs in the Commission, it is usual practice to attempt to fill the position from within the agency or state government through promotion or transfer. When recruiting from the outside for a merit position, a register of names is requested from the Department of Personnel for the vacant position. A selection is made from this register. The new employee serves a probationary period of six months to obtain merit status. Non-merit appointments are made by the Commission to serve at the pleasure of the Commission.

## Probationary Period

1. Initial probationary period is the period an agency observes an employee's job performance and determines to continue his employment or terminate it. The initial probationary period is six months. Employees who perform satisfactorily gain merit system status.
2. Promotional probationary period is the six months following a promotion during which the agency observes the employee's job performance. With satisfactory performance, the employee gains merit system status in the new job. If performance is not satisfactory, the employee is returned to his former position or to a position in the same job classification as the former position.

## Transfers

If an employee wishes to transfer to another position or location within the Commission, he should submit the request in writing to his supervisor. If an employee wishes to transfer to another state agency, it is his responsibility to locate the new position. The Commission and the hiring agency will coordinate the transfer of Personnel records. The employee is responsible for notifying his immediate supervisor and negotiating a transfer date.

## Promotions

Promotion is a change from a position in one class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility. Employees who are promoted are required to serve a **promotional probationary period**. Employees who are promoted retain their status in the class from which they are promoted; if an employee does not successfully complete the promotional probation he must revert to a position in his former class. An employee who is promoted receives a salary increase of at least five percent or advances to the minimum of the grade for the new position (whichever is greater). An agency may give a five percent promotional increase to an employee who successfully completes promotional probation. If the promotion is to a position which constitutes an unusual increase in the level of responsibility, the agency, with the prior written approval of the Commissioner of Personnel, may grant upon promotion a ten percent or fifteen percent salary increase over the employee's previous salary.

## Reclassifications

A reclassification occurs when an employee is given a different job classification because of a **material and permanent change** in his duties or responsibilities. An employee who is advanced to a higher pay grade through reclassification shall receive a salary increase of five percent except that in no case shall the employee's salary be below the minimum for the new pay grade. An employee placed in a lower pay grade through reclassification shall receive the same salary he received before reclassification.

## Hours of Work

Full-time state employees are required to work 7.5 hours per day. Part-time and hourly employees shall be scheduled to work hours in accordance with the needs of the position. The normal work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, unless flextime has been approved by the Executive Director. The employee shall not be scheduled to begin work earlier than 7:30 a.m. nor later than 8:30 a.m. Habitual tardiness or excessive absenteeism from work stations shall constitute grounds for disciplinary action.

## Training

The Commission encourages all employees interested in career development to take advantage of courses offered at the Governmental Services Center at Kentucky State University. The Commission also encourages job enrichment through work-related workshops and seminars of a technical nature to improve job efficiency and effectiveness if within the budgetary allowance.

## Performance Evaluations

Performance evaluations enable both the supervisor and employee to determine whether the employee is meeting the requirements of the job. Performance evaluations, updated job descriptions, standards and goals are to be completed for merit employees on June 30 (mid-year) and December 31 (year-end) of each year. An employee is not eligible to begin the evaluation process unless his probationary period is completed by January 1 of the year for which he is to be evaluated.

## Job Classification

The goal of the classification process is to maintain a system that accurately matches what the employee does with how the employee is classified. Each employee has a detailed position description (PD) of his job duties. The PD is developed and monitored as a joint effort of both the employee and his supervisor.

## Compensation (Pay) System

When jobs are classified, they are evaluated on thirteen (13) factors and compared to jobs in their proposed class. The following factors are included in the evaluation: minimum education requirement; minimum experience requirement; supervisory responsibilities; responsibilities for following, interpreting, enforcing, or developing policies or procedures; responsibility for materials and supplies; authority to handle and spend money; responsibility for personal contacts; responsibility for records and reports; responsibility for machinery and equipment; types of mental skills required; types of mental demands required; types of physical demands; and types of working conditions. This evaluation provides a basis for internal ranking of classes. In addition, the Department of Personnel maintains information about the salaries other employers pay for similar jobs. Using all available information, each class is assigned a pay range on the salary schedule.

## Paychecks

All payroll checks are paid two weeks in arrears. For example, a new employee will not receive his first paycheck for four weeks. If the appointment date is September 1, he will receive his first check on September 30 for the September 1 - 15 pay period. Payday is always on the 15th and 30th of each month, unless payday falls on a Saturday or Sunday, in which case paychecks are delivered on the preceding Friday.

## Resignation

An employee who desires to terminate his service with the state shall submit a written resignation to the agency. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

## Retirement

All salaried employees and hourly Commission employees working an average of 100 hours a month are members of the Kentucky Employees Retirement System and contribute 5% of their base pay to the retirement system. The state contributes 7.65% of the employee's base salary to his retirement account. The following are benefits provided by the Retirement System:

### Normal Retirement

1. A member who has attained age 65 and has acquired at least 48 months of service credit (12 months must be current service) is eligible for an annual retirement benefit as determined by the following formula:

**YEARS OF SERVICE X 1.97% X FINAL COMPENSATION\***

**EXAMPLE:** A member has 20 years of service and final compensation of \$15,000.

$$20 \times 1.97 = 39.4\%$$

$$39.4\% \text{ of } \$15,000 = \$5,910 \text{ annual payment}$$

$$\$5,910 \text{ divided by } 12 = \$492.50 \text{ monthly payment}$$

\*Final compensation is the average annual salary earned during the five fiscal years when the member's salary was highest.

2. A member who has attained age 65 but has less than 48 months of service is eligible for a monthly benefit equal to the actuarial equivalent of twice the member's accumulated contributions. This amount must be calculated by the retirement system.

#### Early Retirement

1. A member may elect early retirement at any age with no decrease in benefits if the member has 27 years of service credit. At least 15 years of the service must be current service.
2. A member may choose early retirement if he is age 55 or older and has at least 60 months of service credit.
3. A member may also choose early retirement if he is under age 55, and has at least 25 years of service, 15 of which must be current service. The benefits are calculated the same as for normal retirement and are reduced 5% for each year of service credit under 27.
4. Under early retirement, the benefit is calculated the same as under normal retirement, except that benefits are reduced depending on the member's age or years of service.

#### Disability Retirement

A member who has acquired 60 months of service credit (12 months must be current service) is eligible for a monthly disability benefit if he should become disabled while actively contributing to the retirement system. Application for disability benefits must be made within 12 months of termination of employment. Disability benefits are calculated in the same manner as Normal Retirement benefits except that additional years of service credit may be added to the member's account and years of service at the time of disability.

Any questions should be referred to the Kentucky Employees Retirement System office at (502) 564-4646.

## Deferred Compensation

All Kentucky state government employees may participate in the Deferred Compensation program. Deferred Compensation lets the employee set aside income from his paycheck for retirement. Money set aside for Deferred Compensation is

automatically payroll deducted twice each month. The employee pays no state or federal income tax on the money deferred until he begins receiving benefit payments at retirement or early retirement, when he may be in a lower tax bracket. For additional information, contact the Kentucky Public Employees Deferred Compensation System at 564-7240.

## U.S. Savings Bonds

Savings Bonds are available to all employees through payroll deduction. Employees should contact the agency Personnel Administrator for forms and information.

## Credit Unions

A state employee may join the Commonwealth Credit Union or the Kentucky Employees Credit Union. Each offers a wide range of financial services, including secured and unsecured loans, savings plans, and payroll deductions. Information may be obtained by calling:

Commonwealth Credit Union	(502) 564-4775
Kentucky Employees Credit Union	(502) 564-5597

## Workers' Compensation

All Commission employees are protected by Workers' Compensation. If an employee is injured at work, he should advise his supervisor immediately. Reporting should be coordinated through the Personnel Administrator's office. Failure to report injuries to the supervisor within 24 hours may jeopardize an employee's entitlement to Workers' Compensation benefits.

## Unemployment Insurance

All employees of the Commission (except Commissioners) are eligible for unemployment compensation under certain circumstances. Direct any questions to the agency Personnel Administrator.



## Agency Leave Procedures

Accumulation and use of the following leave are controlled by 101 KAR 2:100:

Annual	Voting
Sick	Blood Donation
Compensatory	Military
Court	

## Family and Medical Leave Act of 1993 (FMLA)

FMLA, 29 U.S.C. §2601 et seq., requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to "eligible" employees for certain family and medical reasons. Unpaid leave must be granted for any of the following reasons:

- > to care for the employee's child after birth, or after placement of a child with the employee for adoption or foster care;
- > to care for the employee's spouse, child, or parent, who has a serious health condition; or
- > for a serious health condition that makes the employee unable to perform his job.

### Job Benefits and Protection:

- > For the duration of FMLA leave, the employer must maintain the employee's health coverage under any "group health plan."
- > Return from FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

For additional information regarding FMLA, please contact the agency Personnel Administrator.

## Holidays for State Personnel

State offices shall be closed and state employees shall be given a holiday on the following days:

- (a) The 1st day of January plus one extra day;
- (b) The 3rd Monday in February;
- (c) Good Friday, one-half day;
- (d) The last Monday in May;
- (e) The 4th day of July;
- (f) The 1st Monday in September;
- (g) Presidential election day as required under KRS 2.190;
- (h) The 4th Thursday in November plus one extra day;
- (i) The 25th day of December plus one extra day.

## Smoking Policy

To provide a workplace that respects the rights of non-smokers, while ensuring smokers are not deprived of their rights, smoking is permitted only in specifically designated areas. This policy is in effect at all times.

## Health Insurance

An employee has the option of receiving coverage through the carrier holding the state health insurance contract or if he lives or works within a defined service area, he may choose coverage through one of the health maintenance organizations (HMO's). Health coverage becomes effective the first day of the second month following the date of employment. When his employment terminates, the employee remains covered for the following month by the state's contributions.

The Retirement System provides hospital/medical insurance or Health Maintenance Organization coverage for recipients of a retirement benefit. Participation in these plans is optional and a recipient may purchase, at his own expense, coverage for his beneficiaries and dependents. The cost of coverage for the retirement system member may be partly paid by the retirement system depending on the number of years of service that the member accumulated. Percentages of the premium that will be paid by the system are as follows:

Less than 4 years	0%
4 - 9	25%
10 - 14	50%
15 - 19	75%
20 or more years	100%

## Life Insurance

All eligible employees receive term life insurance coverage paid for by the state in the amount of \$6,560.00. To be eligible for life insurance benefits, a state employee must be a contributing member to one of the state administered retirement systems. The insurance becomes effective the first day of the second month following the date of employment. As with health insurance coverage, an employee will be covered by the state term life insurance one month following his separation from state service. State employees also have the option of purchasing additional life insurance. See the agency Personnel Administrator for additional information.

## Other Insurance

Several dental insurance options are available for state employees through payroll deduction. The state does not contribute toward any of these premiums. Many premiums can be payroll deducted. See the agency Personnel Administrator for additional information.

## Commonwealth Choice

Commonwealth Choice is a tax-saving opportunity that can benefit employees and their families who have dependent day care or out-of-pocket healthcare expenses. **Commonwealth Choice is not an insurance plan.** This optional benefit was implemented by the Kentucky Department of Personnel to help reduce taxes and increase spendable income. The cost-saving advantage of the plan is simple: any eligible dependent care and health care expenses paid through the plan are tax free. No federal or state income tax or Social Security tax on the money used to pay these eligible expenses is owed. Any full-time or permanent part-time, active state government employee who is eligible for state-sponsored health insurance coverage and will have completed one full year of continuous service by December 31 of a given year, can enroll in this tax-saving plan. For additional information on Commonwealth Choice, contact the agency Personnel Administrator.

## Kentucky Employee Assistance Program (KEAP)

The Kentucky Employee Assistance Program (KEAP) is dedicated to helping employees find solutions to personal problems that may hinder effectiveness at work. Problems concerning marital, family, or emotional distress, alcoholism and drug abuse, financial or legal difficulties, or even medical problems can seriously diminish an individual's job performance. As a progressive employer, the Commonwealth of Kentucky recognizes that there are positive, workable solutions to many of these problems which trouble employees. All state employees and their families are eligible for KEAP services, and there is no cost for its information or referral services. All contact with KEAP is strictly confidential; any personal information disclosed will be kept confidential to the full extent permitted by state and federal law.

## Drugfree Workplace

The Drug Free Workplace Act of 1988, 41 U.S.C. §701 et. seq., provides that recipients of federal grants shall inform their employees that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol and other controlled drugs in any designated workplace is prohibited. Conviction for such conduct may subject the employee to appropriate disciplinary action under state law, up to and including dismissal. The state may, in lieu of disciplinary personnel action, require an employee convicted of such conduct to participate in a drug abuse assistance or rehabilitation program.

## Health and Safety

The Commission adheres to federal and state laws established to guarantee the health and safety of all employees in the workplace. Employees must follow the safety rules and procedures pertaining to their work unit. They must also maintain a personal commitment to exercising safe work habits and practices. For further information regarding health and safety in the workplace, please contact the agency Safety Coordinator.

## Disciplinary Action

Supervisors are responsible for disciplining employees for just cause including conduct while on or off duty which may be prejudicial or detrimental to the Commonwealth or otherwise affect adversely the confidence of the public in the integrity of the Commission. Discipline may range from written reprimand to suspension or dismissal from state service. If an employee disagrees with any discipline received, he may appeal the action. The steps outlining these procedures are described in the Grievances Section.

## Grievances

A grievance is a complaint filed by an employee which concerns some aspect of his employment. A grievance must be filed within thirty (30) days of the date of the action complained of or the date upon which the employee, exercising due diligence, became aware of the action.

### Procedures

1. A grievance shall be filed with the employee's immediate supervisor.
2. The employee shall set forth in writing the basis of his grievance or complaint together with the corrective action desired. If the employee wishes to submit additional information or documentation, he may attach it to the grievance.
3. When a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age (forty (40) or over), the supervisor shall immediately notify the agency Personnel Administrator in compliance with affirmative action requirements.
4. Interviews to evaluate or investigate the grievance held with the complainant or other employees shall not require the use of leave time. For interviews held outside of normal working hours, compensatory time shall be granted.

5. All parties may have a representative present at each step of the grievance procedure.

To obtain additional information, contact the agency Personnel Administrator.

## Misuse of Facilities or Equipment

No employee shall use any equipment, supplies, or properties of the Commonwealth for other than officially designated purposes. Any questions in this area should be directed to the employee's immediate supervisor.

Telephones are to be used for state business. If it is necessary for employees to make personal long-distance calls, they shall reimburse the state for personal calls in cash or by personal check payable to Kentucky State Treasurer.

## PROFESSIONAL CONDUCT AND ETHICAL RESPONSIBILITIES

Employees of the Commission work for the benefit of the people of the Commonwealth of Kentucky. As public servants, employees are bound to adhere faithfully to standards of professional and ethical conduct. Employees represent the Commission and are expected to conduct themselves in a manner which will inspire the confidence, trust, and respect of the public.

Principles of ethical behavior are based on the belief that public servants must be independent and impartial; government policy and decisions must be made through established processes; public servants must not use public office to obtain private benefits; and the public should be able to have confidence in the integrity of its government. KRS 11A.005. The Commission requires its employees to avoid conflicts of interest, improper ex parte communications, and participation in activities which present the appearance of impropriety.

The following guidelines are set forth to illuminate areas of concern:

### A. Adverse Pecuniary Interest

Commissioners are statutorily prohibited from holding an official position or owning stocks, bonds, or any other pecuniary interest in a utility. KRS 278.060(2). The Commission has adopted the same prohibition for its staff. The Commission has determined that participation in an investment plan where utility stocks or bonds are purchased as part of a total portfolio and where the Commission staff member has no control over the company chosen for investment (such as a mutual fund), does not constitute a violation of this prohibition. Any staff member who is in violation of this policy shall immediately disclose that fact to the Executive Director.

All employees are subject to the provisions of the Kentucky Model Procurement Act ("Act") which detail prohibited conflicts of interest for public officers and employees. An employee cannot be interested, either directly or indirectly, in any contract in which he may be called to act or vote. KRS 45A.430. Likewise, the Executive Branch Ethics Code ("Code"), applying to all employees of the Commission, prevents a public servant from acting as a representative of the state in a business transaction with himself or in any business in which he or a family member has a greater than five percent interest. KRS 11A.040(3). "Family" is defined in KRS 11A.010(4) to mean a person's "spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption:

parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister."

Another Code provision, KRS 11A.040(4), could affect employees by providing that they and their family members holding more than a five percent interest in a business cannot be parties, directly or by virtue of their partial ownership of the business, to any contract, agreement, lease, sale or purchase between that business and any state agency. For example, it is impermissible for the owner of a computer business to sell products to the Department of Human Resources if at least five percent of its shares are owned by the spouse of a Commission employee. Violation of this statute is a Class D felony.

#### B. Gifts and Favors

The Code provides that a public servant cannot knowingly accept compensation, other than that provided by law for public servants whose salary is paid by the Commonwealth, for the performance of any activity included in his official duties. KRS 11A.010(5). Compensation is defined as "any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another." KRS 11A.010(3).

The Executive Branch Ethics Commission has concluded that when dealing with a civic organization or other organization not comprised of entities regulated by the commission:

"an executive branch employee may accept a free meal at an event in which he is invited to participate in furtherance of his official duties, provided these tests are met:

1. The meal is an integral part of the event and the employee's role in the program occurs immediately before, during, or immediately after the meal.
2. The employee's meal is the same available to all others at the event and is consumed on the premises.

We also approve acceptance of a small token of appreciation such as a coffee mug. Public servants are encouraged to make speeches and presentations for the benefit of citizens of the Commonwealth, but public servants shall be zealous to accept nothing more than a small token of appreciation." AO 90-10.



The Executive Branch Ethics Commission states that employees involved in regulating utilities should not accept meals or beverages from those utilities or trade associations whose members are regulated utilities. AO 93-50.

The Commission prohibits its employees from accepting any item, including food or entertainment, from any employee of or executive agency lobbyist for a regulated utility. The Commission strives to avoid the public perception that an improper relationship may exist between regulated utilities and the Commission or its staff.

#### C. Representing Non-State Interests

No employee shall represent or act as an agent for any private interest, whether for compensation or not, in any transaction in which the state has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employee and his official state responsibilities.

#### D. Misuse of Information

The Code prohibits Commission employees from knowingly disclosing or using confidential information acquired during the course of their work. KRS 11A.040(1).

Employees should carefully and conservatively evaluate a document before providing it or describing its contents to anyone other than another Commission employee. Consult the Commission's General Counsel for assistance if you are unable to determine whether a particular document should be released.

#### E. Outside Employment

Members of the Commission are required by statute to devote their entire time to the duties of their offices. KRS 278.050(1). Members of the Commission's staff are not legally prohibited from having other jobs. However, employees who do seek outside employment are expected to ensure there is no conflict with their Commission duties. Employees who are unsure whether outside employment conflicts with their Commission duties should notify the Executive Director or consult the General Counsel.

#### F. Post-Commission Employment

The Code places three restrictions on the type of employment a public servant is permitted to accept after leaving state government:

1. A former public servant may not act as a lobbyist or lobbyist's principal for a period of one year after the date he leaves state employment or his term of office expires, whichever is later.
2. A former public servant may not represent a person in a matter before a state agency in which the former public servant was directly involved for a period of one year after the date he leaves employment or his term of office expires, whichever is later.
3. A present or former public servant may not, within six months of the termination of his state employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This prohibition does not apply to individuals returning to the same business, firm, occupation, or profession in which they were involved prior to state government employment. The Executive Branch Ethics Commission has indicated through its Executive Director that it considers the Commission to be "doing business with" the utilities it regulates.

#### G. Improper Ex Parte Communication

1. "Ex parte communication" means an oral or written communication which relates to the merits of a formal proceeding pending before the Commission, or which the employee reasonably anticipates will be filed with the Commission, and which is not included in the public record, without notice and opportunity for all parties or interested persons to participate. A communication relevant to the merits includes any issue of fact or law relative to the matter pending.
2. The following types of communication are not prohibited ex parte communications if such communication is reasonably limited to the matter at hand:
  - (a) Any procedural inquiry, including prefiling inquiries.
  - (b) Staff's communications when performing routine operational inspections and safety inspections not for the purpose of investigating a matter pending before the Commission.
  - (c) Staff's communications when performing management audits pursuant to KRS 278.255 and routine field audits of accounts, books, and the Commission.

- (d) Staff's communications when performing cell site field inspections.
  - (e) Staff's communications when performing field reviews or inspections for preparation of Commission staff reports to be filed in pending or anticipated rate cases.
  - (f) Staff's communications in cases without intervenors, unless the staff determines intervention is likely.
3. Commissioners or Commission staff shall not participate in any prohibited ex parte communication with any interested person regarding the merits of any formal case or proceeding pending before the Commission or a case or proceeding that the employee anticipates will be filed with the Commission. It is improper to disclose a Commission decision prior to the issuance of an Order on the matter.
  4. If an employee participates in a prohibited ex parte communication, he shall immediately disclose the relevant details of the communication to the General Counsel.

#### H. Executive Agency Lobbyists

As of September 16, 1993, any individual who is engaged to promote, oppose, or otherwise influence the outcome of an executive agency decision is considered an executive agency lobbyist and is required to register with and make certain disclosures to the Kentucky Executive Branch Ethics Commission.

An "executive agency decision" is narrowly defined to include only those agency decisions regarding the expenditure of state or agency funds with respect to the award of a contract, grant, lease, or other financial arrangement under which those funds are distributed or allocated. PSC employees are rarely involved in agency decisions affecting the disbursement or allocation of state or agency funds.

However, executive agency lobbyists are required to report on a quarterly basis all expenditures made on behalf of or financial transactions with any executive branch employee in any agency, whether or not the employee works for the agency the executive agency lobbyist was engaged to influence. All Commission employees must be aware that disclosure of expenditures and financial transactions involving them could be detrimental to the public's perception of the Commission and act accordingly.

**Kentucky Public Service Commission**  
**730 Schenkel Lane**  
**Frankfort, Kentucky 40601**  
**(502) 564-3940**  
**(502) 564-7279 fax**  
**(800) 772-4636 Public Information Hot Line**

WHEN THE PUBLIC ASKS FOR DIRECTIONS TO PUBLIC SERVICE COMMISSION:

Take I-64 to the Frankfort/Versailles exit (Exit 58). Turn off the exit onto U.S. 60 (Versailles Road) toward Frankfort. Follow U.S. 60 all the way in until you reach the intersection of U.S. 60, 460 and 421 (approximately 3 miles). As you approach the intersection, the road will widen to 5 lanes and a sign will read "Capital Plaza Complex". Continue straight through the light onto U.S. 421 (Wilkinson Boulevard) for approximately 1 mile. At the first light (at Hardee's) you will turn right onto Schenkel Lane. We are on the second block, in a two-story brick building located on the right, across from the Chrysler dealership (Frankfort Auto Sales) and right before you get to the liquor store.

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