

KENTUCKY MUNICIPAL UTILITIES

FREQUENTLY ASKED GENERAL QUESTIONS

Does the PSC regulate all municipal utilities?

No. Municipal utilities are generally exempt from PSC jurisdiction.

When is a municipal utility not exempt from PSC regulation?

A municipal utility's provision of contracted wholesale service to a public utility is not exempt from PSC regulation.

What is a public utility?

KRS 278.010(3) provides a detailed legal definition, but for the purposes of this FAQ, it means water districts, sewer district, water associations, and investor-owned corporations that provide water service, sewer collection service, or sewer treatment service to the public for compensation.

Why does the PSC regulate a municipal utility's wholesale service to a public utility?

In January 1994 the Kentucky Supreme Court's ruling in *Simpson County Water District v. City of Franklin*, 872 S.W.2d 460 (Ky. 1994) confirmed the authority of the PSC under KRS 278.200 to regulate certain aspects of a municipal utility's relationship with utilities under the PSC's jurisdiction.

What portion of the municipal utility's operations fall under PSC regulation?

The PSC regulates only the municipal utility's rates and service to a public utility.

Does the PSC regulate a municipal utility's rates and service to another municipal utility?

No. If a municipal utility provides service to another municipal utility, that service is not subject to PSC regulation.

Does a municipal utility have to obtain a certificate or other type of approval from the PSC before constructing utility facilities?

No. A municipal utility is not required to obtain PSC approval before constructing any utility facilities.

The information contained herein represents Commission Staff's interpretation of the law, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

What documents should a municipal utility have on file with the PSC if it is currently providing wholesale service to a public utility?

A copy of the most recent contract between the municipal utility and the public utility should be on file as well as a tariff sheet listing the amount currently being charged for the service.

What if the municipal utility does not have these documents on file with the PSC?

It should immediately submit these documents to the PSC with a written explanation for the failure to file the documents earlier.

What are the potential consequences if a municipal utility does not have these documents on file with the PSC?

Courts and the PSC have found that charging a rate that is not on file with the PSC may require refunds for the unlawful charges and may also result in an administrative penalty for the municipal utility.

Is a municipal utility assessed a filing fee when it submits a filing to the PSC?

No. The PSC does not assess any fees to apply for a rate adjustment or to file a new tariff sheet.

In addition to the most recent contract and tariff sheet, is there anything else a municipal utility should have on file with the PSC?

Yes. A municipal utility should ensure the PSC has been given the current mailing address, email address, and name and title of the official designated as the person responsible for dealing with the PSC. It should promptly notify the PSC of any changes to this information via email at PSC.tariffs@ky.gov or by standard mail to: Executive Director, Public Service Commission, P.O. Box 615, Frankfort, Kentucky 40602-0615.

What is required if a municipal utility enters a new contract or amends an existing contract with a public utility?

A new contract or an amendment to the existing contract should be filed with the PSC once it has been executed. The new contract or amendment will not become legally effective until it has been filed with and accepted by the PSC.

Which party is responsible for filing a copy of the wholesale contract and/or amendments with the PSC?

The municipal utility is responsible for filing these documents with the PSC.

The information contained herein represents Commission Staff's interpretation of the law, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

What actions must a municipal utility take to change or adjust its rate(s) for wholesale service to a public utility?

A municipal utility must notify a public utility and the PSC of a proposed rate change in accordance with the contract, but at least 30-days prior to the proposed effective date. A public utility must be given a copy of the official notice while the PSC must be given (1) a tariff sheet that lists the proposed rate and effective date, and (2) a copy of the notice given to the public utility.

Does the PSC provide a sample of the notice to be given to public utility?

Yes. A sample can be found at ([Link to sample notice](#)).

Does the PSC provide a sample of a municipal utility tariff sheet?

Yes. A sample can be found at ([Link to sample tariff](#)).

Is a municipal utility required to publish the notice in a newspaper?

No. Customer notice to a public utility does not need to be published in the newspaper; it can be mailed or hand delivered.

In addition to the tariff sheet and copy of the notice, are there any other documents the municipal utility should include with its filing to the PSC?

If available, a municipal utility should also provide any written communication from the public utility that indicates there is no objection to the proposed rate change.

While not required, it is recommended that the municipal utility provide a copy of any studies or reports that were performed to develop the proposed rate along with any other information that describes and supports the need for the rate change.

How does a municipal utility submit a filing to the PSC?

The best advice is to contact PSC Tariff Staff for guidance and assistance with this process. If the municipal utility chooses to submit the filing on its own, it should be noted that PSC Tariff Staff no longer accepts paper filings as it has implemented an electronic Tariff Filing System (TFS) for the submission of tariff and contract filings. In order to utilize the TFS, a utility needs to register for an account, be approved, and then upload the documents into the system in an electronic format. Instructions for this process can be found on the PSC website by clicking [here](#). But again, the preferred (and easiest) method for a municipal utility is to contact PSC Tariff Staff.

The information contained herein represents Commission Staff's interpretation of the law, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.

What actions may the PSC take once a municipal utility submits documentation proposing a rate change for a public utility?

The PSC may request additional information regarding the proposed rate change, suspend the proposed rate to allow time for an investigation into its reasonableness, or allow the proposed rate to become effective.

Does the PSC generally suspend and/or investigate if there is no objection to the municipal utility's proposed rate adjustment?

The PSC generally accepts a municipal utility's proposed rate change if no objection to the new rate is received and the rates are fair, just, and reasonable.

How much time does the PSC have to determine whether it should accept the proposed rate or suspend it for further investigation?

The PSC must act to suspend a proposed rate before its stated effective date. For example, if the municipal utility provided the minimum 30-day notice, then the PSC has 30-days. But if the municipal utility provided a 40-day notice to the PSC, then the time for determining whether to accept or suspend the proposed rate would be 40-days.

How does the PSC inform a municipal utility of the action taken on a proposed change to a public utility?

If the PSC accepts the proposed rate schedule and allows the rate to become effective by operation of law, it will email the municipal utility an acceptance letter as well as a copy of the tariff sheet that has been stamped "EFFECTIVE". If the proposed rate is suspended, the municipal utility will receive a Commission Order by email that suspends the proposed wholesale rate and establishes a formal case to investigate the rate.

If a city has passed an ordinance changing rates for all customers of a municipal utility, does the PSC have any authority over the rates and/or effective date of the increase for any of the customers other than a public utility?

No. With the exception of the rates charged to a public utility, the PSC has no authority to change or delay a rate increase approved by a city or municipal utility.

Who should be contacted if there are additional questions?

Any questions and/or requests for assistance should be directed to PSC Tariff Staff via email at psc.tariffs@ky.gov or by telephone at 502-564-3940.

The information contained herein represents Commission Staff's interpretation of the law, is advisory in nature, and is not binding on the Commission should the issues herein be formally presented for Commission resolution.