

**EXHIBIT H**

Andy Beshear
Governor

Rebecca W. Goodman
Secretary
Energy and Environment Cabinet

Commonwealth of Kentucky
Public Service Commission
211 Sower Blvd.
P.O. Box 615
Frankfort, Kentucky 40602-0615
Telephone: (502) 564-3940
psc.ky.gov

Angie Hatton
Chair

Mary Pat Regan
Commissioner

Andrew W. Wood
Commissioner

September 4, 2025

Mr. Albert Jackson
Mayor, City of Earlington, Kentucky
103 W. Main Street
Earlington, Kentucky 42401

And

Mr. Daniel N. Thomas
Thomas, Arvin & Adams, PLLC
1209 S. Virginia Street
Hopkinsville, KY 42240

Dear Mayor Jackson,

The Commission has received your letter, date May 7, 2025, in which you have requested the Commission's intervention "to ensure that the City of Madisonville complies with the statutory and regulatory requirements as a wastewater utility provider." You state that since 1978 your city has owned and operated a wastewater and collection system, which then conveys the wastewater to the City of Madisonville for treatment for a contracted rate. This arrangement is pursuant to an Environmental Protection Agency Grant under which the cities of Hanson, Earlington, and Madisonville would operate their own collection and transmission systems, which would then send the wastewater to Madisonville for treatment.

You further state that the methodology for the wholesale rate for treatment has remained largely unchanged, with minor exceptions. You state that the Commission approved one of the exceptions in 2001. You state that Madisonville has significantly increased its wholesale treatment rate to your city and it appears that your city is being treated as a retail customer, with a rate that includes the operation and transmission of Madisonville's collection system.

You also allege that Madisonville has violated 807 KAR Chapter 5 and KRS Chapter 278 by, *inter alia*, failing to file schedules with the Commission or give notice of rate increases. Your letter concludes with a request that the Commission investigate the matter and enforce Madisonville's compliance with the applicable laws or regulations.



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The Commission lacks the jurisdiction to act as you have requested. As an initial matter the Commission's jurisdiction in the Commonwealth is limited to regulating utilities. KRS 278.040. Utilities are defined as "any person except a regional wastewater commission established pursuant to KRS 65.8905 and, for purposes of paragraphs (a), (b), (c), (d), and (f) of this subsection, a city, who owns, controls, operates, or manages any facility used or to be used for or in connection with . . ." the provision of utility service. KRS 278.010(3). Furthermore, the Commission jurisdiction is not intended, "to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions." KRS 278.040(2). Based on the above, the Commission does not believe that it has jurisdiction to investigate the matter or that the City of Madisonville must comply with KRS Chapter 278 or 807 KAR Chapter 5 regarding its contracts with entities not regulated by the Commission.

As an exception under the above statutory authority, the Commission does have limited jurisdiction over municipal utilities. KRS 278.200 provides that the Commission has jurisdiction over any rate or service between a utility and a city. This jurisdiction, however, is limited to agreements between a utility, as defined in KRS 278.010(3), and a city. Thus, the jurisdiction does not extend to agreements between municipal utilities.

Concerning the statement that the Commission approved a change to the wholesale wastewater rate in 2001, the Commission has reviewed the matter. The Commission determined that in late December 2000 the City of Madisonville sent the Commission documents informing the Commission that the City of Madisonville was increasing the wholesale wastewater treatment rate charged to the cities of Hanson and Earlington. Commission Staff responded to the City of Madisonville with cover letters stating that the respective contracts had been received and reviewed.

Commission Staff issued those letters in error. Commission Staff should have returned the documents to the City of Madisonville and informed the City that the Commission had no jurisdiction over the wholesale wastewater rate and that the City of Madisonville did not need to make such a filing. Thus, to the extent that it appears that the Commission approved any such rate, it is not the case. Rather, the filings were erroneously accepted for filing and the Commission took no action to approve any rate.

TEAM
KENTUCKY



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If you have any questions regarding this letter, you may contact J.E.B. Pinney, Executive Advisor, at (502) 545-6180, or at jeb.pinney@ky.gov.

Sincerely,

A handwritten signature in cursive script that reads "Linda C. Bridwell".

Linda C. Bridwell, P.E.
Executive Director

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