Updates Affecting Kentucky Utilities

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Kentucky Rural Water Association

Rural Water

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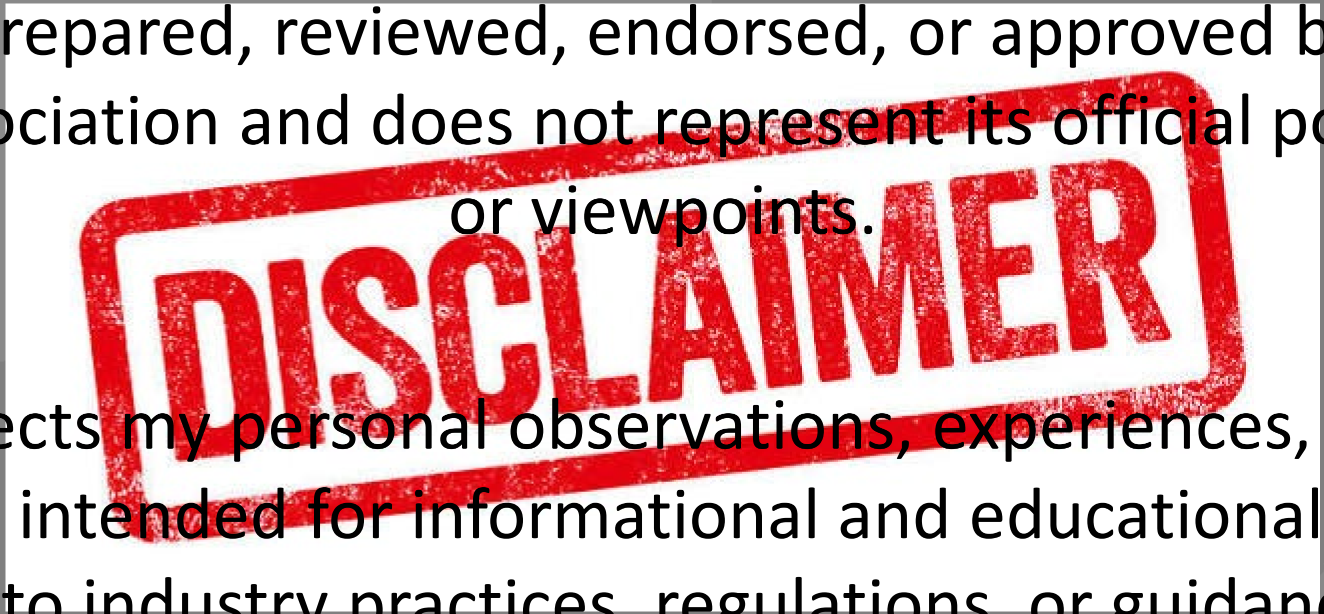

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Topics

- PSC Filings
- 2026 General Assembly
- Notable PSC Orders
- Minutes
- Comply with PSC Orders
- Borrowing Money

Notable House Bills

- HB 103 Fluoride
- HB 392 Bidding Threshold Increased
- HB 542 Eminent Domain (Condemnation)

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Fluoride

- “Local Option”
  - Decision to Have Drinking Water Fluoridation Program Will Be Optional
    - Local Control
    - Decision Made by Governing Board of Water Producer

Fluoride

- Immunity Granted to Water Producer
- Passed House: 67 to 29 (2-5-26)
- Senate: Died
- Committee on Committees (2-6-26)

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Bidding Threshold

- Raises Threshold from $40,000 to $50,000
- Amends KRS 424.260 & KRS 45A
- Threshold Increases By

$10,000 on 1-1-30 and Every Five Years After

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Bidding Threshold

- Passed House: 97 to 0
- Passed Senate: 38 to 0
- Governor Signed: 4-7-26

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Eminent Domain

- Limits Condemnation of Land Subject to Conversation Easement or Agricultural District
  - Utilities Exempt from Portions of these Requirements
  - Does Not Interfere with Agricultural Operations or Infrastructure

Eminent Domain

- All Condemnation Actions
  - Independent Appraisal – 60 Days
  - Utility May Be Required to Pay Landowner’s Costs & Attorney Fees
  - Additional Notice Requirements
  - More Hurdles

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Eminent Domain

• Passed House:	90 to 0
• Passed Senate:	38 to 0
• Governor Signed:	4-13-26
• Emergency Declared:	4-13-26

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Notable Senate Bills

- SB 8 PSC Changes
- SB 344 Mergers
- SJR 75 Affordability Study

PSC Changes

- What Does It Do?
- From 3 to 5 Commissioners
  - Governor – Appoints All 5
- Chair Elected by Commissioners
  - Four Year Term
- Specific Qualifications
  - Must Have 2 Attorneys

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PSC Changes

- Political Diversity
- Term Limits: 3 Terms
- Executive Director
- Now: Appointed by Gov.
  - SB8:   Appointed by Commissioners
  - SB8:   Senate Confirmation
  - Many Other Administrative Changes

PSC Changes

- Attorney Gen. Still Has Statutory Right to Intervene
- Intervention by Others
  - – Does Not Curtail this Right
  - – "Special Interest" Not Otherwise Adequately Represented
  - – Original Bill Almost Abolished Right to Intervene

PSC Changes

- Effective: 4-14-26
- Governor Has Until 5-14-26 to Appoint 2 Commissioners

Mergers

- Gives Fiscal Courts Right to Request PSC to "Study" Merger of Water Districts Within Its County
  - PSC Then Required to
    - Conduct Study
    - Prepare Feasibility Report
- PSC Already Has This Authority

Mergers

- Introduced: 03-02-26

By Senator Gex Williams

- Status: 03-02-26
  – Never Assigned to Committee
- Died w/o Committee Hearing

Affordability

- What Does It Do?
- Requires PSC to Study Affordability
  - Low & Fixed Income Individuals
  - Reduce Disconnections
- PSC Open Administrative Case
  - All Utilities
  - Data Requests
- Report to Legislature: 9-1-27

Affordability

- Introduced: 3-02-26
- Passed Senate: 36 to 0 (3-13-26)
- No Vote in House

PSC Assessment Increase

- PSC Financed by Assessment on Utility Revenues
- Current Rate: 1.595 mills ($1,590 per $1,000,000 Revenue
- New Rate: 2.300 mills   ($2,300 per $1,000,000 Revenue)
- 45% Increase

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PSC Orders

- PSC Case No. 2024-286
- Filed: 10-18-2024
- Utility: Warren County WD
- Type: CPCN – Construct Headquarters
- Decided: 02-18-2025

- Unique Features:
- Design Build Contract
- Emergency Operations Center Included in New Building

- PSC Case No. 2023 - 252
- Filed: 08-18-2023
- Utility: Oldham Co. W.D.
- Type: ARF Case
- Issue: Full Recovery of Cost of Employee Benefits
- Hearing: 04-19-24
- Decided: 06-18-24

- PSC Order (50 Pages):
- Applied BLS Reduction %
- Disallowed Recovery of $125,000 in Health Insurance Costs (OCWD Pays 100%)
- OCWD Failed to Meet Its Burden of Proof
  - Proof Insufficient to Overcome PSC Precedents
  - 43 Cases Align with BLS National Average

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- OCWD Appealed Decision
- July 18, 2024
- Franklin Circuit Court
- Case No: 24-CI-00725

Filed: July 18, 2024
PSC Answer: Aug. 09, 2024
Briefing Schedule: Nov. 22, 2024
Jan. 10, 2025
Oral Arguments: May 20, 2025
Decided: Sept. 24, 2025

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Issues on Appeal:

- PSC Acted Unlawfully
- BLS Reduction Not Supported by Substantial Evidence
- Denied Due Process
- PSC Violated KRS 13A.100

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Decision: PSC Order Reversed

Basis:

- PSC Violated KRS 13A.100
- BLS Reliance Was Arbitrary
- PSC Acted Unlawfully

Oldham Can Include 100% of its Employee Health Insurance Costs in its Rates

- $125,241 Per Year

Oldham Demonstrated That:

- Paying 100% of Health Insurance Benefits
  - Fair, Just & Reasonable
  - In the Market That It Served
  - Best Interest of Its Customers

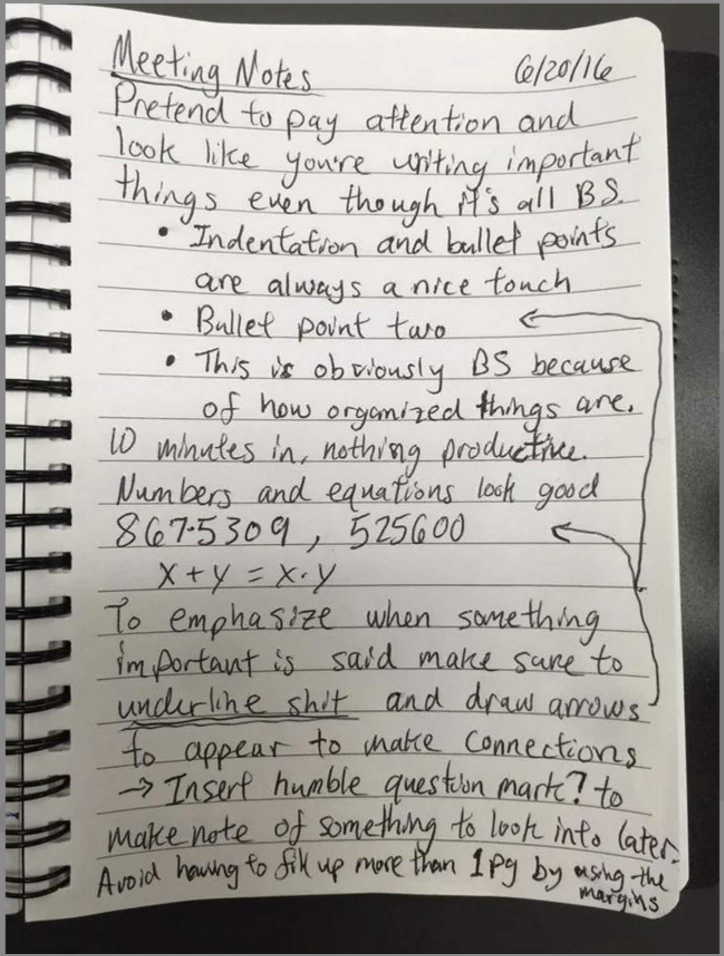
- Demonstrate That Total Compensation Package Is Fair, Just & Reasonable
  - Salary
  - Benefits
- Market Area
- Recruit & Retain Employees
- Robust Evidence
  - May Require Consultant

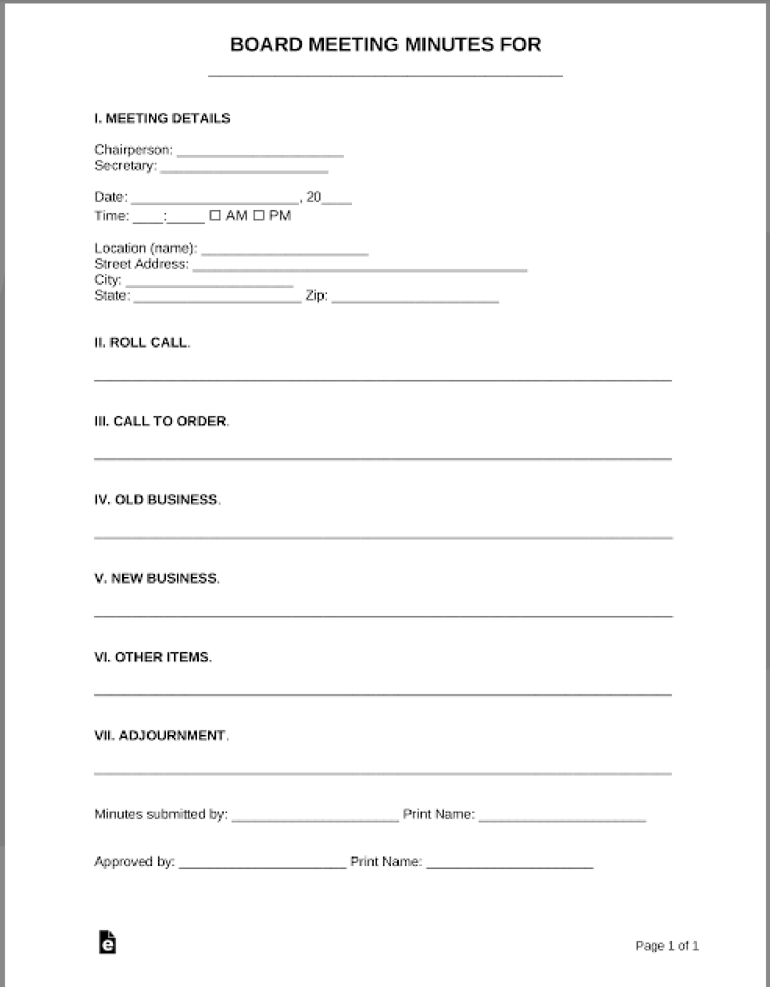
Minutes

"A meeting is something that reduces hours to minutes."

What Are Minutes?

- Official Record





BOARD MEETING MINUTES FOR

____

I. MEETING DETAILS

Chairperson: ____________________
Secretary: ____________________

Date: ____________________, 20____
Time: ____:____ ☐ AM ☐ PM

Location (name): ____________________
Street Address: ____
City: ____________________
State: ____________________ Zip: ____________________

II. ROLL CALL.

III. CALL TO ORDER.

IV. OLD BUSINESS.

V. NEW BUSINESS.

VI. OTHER ITEMS.

VII. ADJOURNMENT.

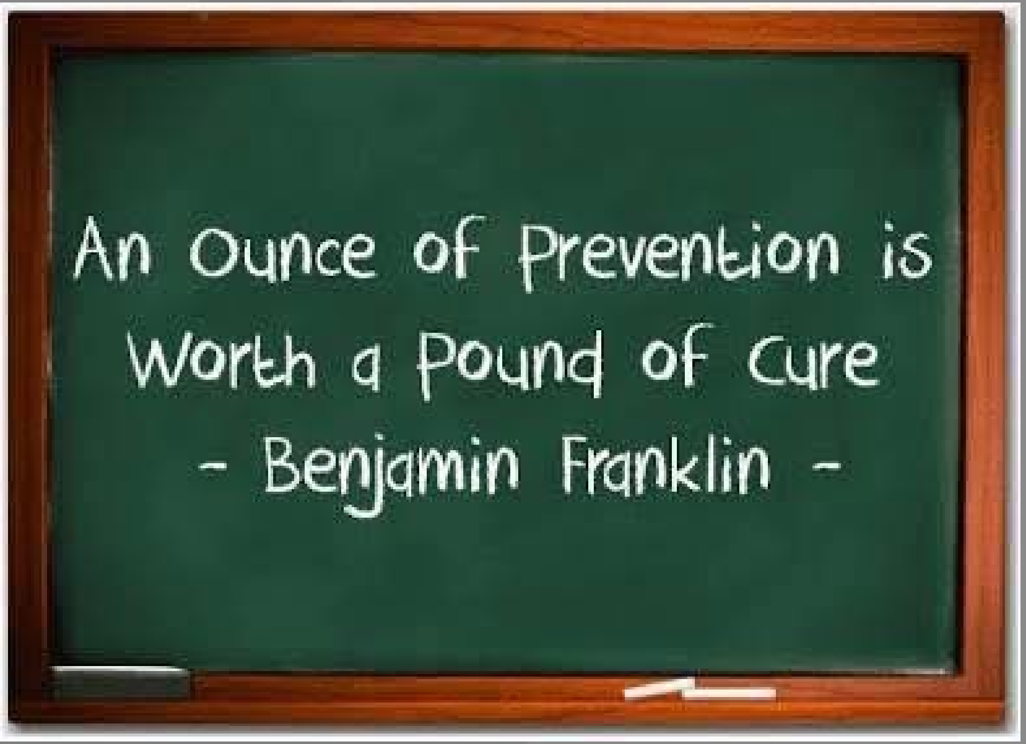
Minutes submitted by: ____________________ Print Name: ____________________

Approved by: ____________________ Print Name: ____________________

Page 1 of 1

How Much Info?

- No definitive answer
- Art not a science



- Guidelines . . .
  - Minutes are NOT a transcript
  - Minutes are NOT the Congressional Record
  - Include rationale for action taken if it might avoid lawsuit

"Conversations are NOT official actions of the Board."

Virigina W. Gregg

Former PSC Staff Attorney

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Why Include Summary of Conversations in Minutes?

- Document Board's Due Diligence

  (e.g. Water Loss)
- Document Board's Oversight Role (e.g. Compliance with PSC Orders)
- Avoid or Win Litigation

Tips

1. Who did not attend the meeting.
2. Who will not read the Minutes until at least one year later.
3. Who is employed by PSC.
4. Who will access Minutes via www.

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- “. . . for allegedly failing to comply with the Commission’s March 10, 2020 Order in Case No. 2019-00458. The willful failure to comply presents prima facie evidence of incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office sufficient to make [the District’s] officers and manager subject to the penalties of KRS 278.990 or removal pursuant to KRS 74.025. The Commission finds that a public hearing should be held on the merits of the allegations set forth in this Order.”

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KRS 278.300(1)

- No utility shall issue any securities or evidences of indebtedness… until it has been authorized to do so by order of the Commission.

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)
- Exception:
- 2 Years or Less
- Renewals
- (3 X 2 = 6 Years)
- (6 X 1 = 6 Years)

- Case No. 2022 - 00252
- Opened: 02-16-2023
- Issue: KRS 278.300 (4 Violations)
- Hearing: 08-01-2023
- Decided:10-17-2023

- Facts: Leased 4 Trucks

  4 & 5 Year Terms
- Issue: Is Long Term Lease

  An evidence of Indebtedness ?

- Outcome:
  - GM & Directors (Water Assoc.)
    - Fined $250 (Waived)
    - 12 Hours of Training
    - 6 More Hours Annually
  - Future Directors
    - 6 Hours Training Annually

Case No. 2025-00226

- Opened: 12-13-2025
- Type: Investigation
- Issue: City Charging Water
  District Unapproved
  Wholesale Rate
- Outcome: Case No. 2025-00390 was opened
- City and District agreed on a settlement of $130,461.58 refund to the District

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Facts:

- City's Wholesale Rate: $2.10 (Approved by PSC: 09-03-2009)
- Rate Increased to: $2.92
    - Increased Gradually Since 2018
    - Water District Did Not Notice   or Object to Increase

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- Nothing Filed by City With PSC Since 2009
- PSC Discovered in ARF Case Filed by Water District
- PSC Disallowed Recovery of Unapproved Rate by W.D.

- How Did This Happen?
    - City’s Bill Not Easy to Understand
    - Turnover in W.D. Staff

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Kentucky Rural Water Association

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CYBER HYGIENE

Matt Folker

ISTT, Inc.

WHO, WHAT, WHERE, WHEN, WHY?

- Who is this guy?
  - Matt Folker – CIO at ISTT, Inc.
- What do we do?
  - IT and Cyber Security
- Where do you serve?
  - Kentucky, Tennessee and Beyond!
- When can you help?
  - NOW! We serve the community 24/7
- Why?
  - It’s our job to keep OUR community SAFE!

- Use a computer? THIS IS FOR YOU!
- Your DATA has VALUE to CRIMINALS and TERRORISTS
- We must STAY CLEAN or we'll end up smelling like…

WHO IS THIS MESSAGE FOR?

DOES YOUR EMAIL PASS THE SNIFF TEST?

The NUMBER ONE cause of a CYBER SECURITY event is someone clicked on an email they shouldn't have clicked on.

- **Cattle Feed Manufacture**
- **600+ Employees**

- Purchasing a robot to stack feed on pallets
- Vendor’s email was compromised
- Cattle Feed company wired $250,000 to the criminal's bank account
- Insurance DID NOT PAY because there was no phone call to verify details

REAL WORLD EXAMPLE

- TRUST BUT VERIFY mentality
- Even the most BASIC SPAM filter can stop phishing emails from getting to you or your end users
- Are you using YAHOO or GMAIL? STOP!
- You get what you pay for – free email systems turns YOUR DATA into the PRODUCT

HOLY COW! HOW DO YOU STOP THAT?

- Are you using ONE PASSWORD for everything?

ARE YOU OVER SHARING?

- **Manufacturing Company**
- **250+ Employees**

- President/CEO had the same password for FACEBOOK and his WORK VPN
- Facebook account getting hacked led to a $530,000 Invoice for RANSOMWARE CLEAN UP
- Now pays $40,000 a year just in Cyber Security Insurance

DON'T BRUSH THIS STORY ASIDE…

- Never use the same PASSWORDS for different sites
- Odds are your passwords are already on the DARK WEB
- Use a password MANAGER to help! (Keeper, LastPass)
- Help a LOVED ONE change their PASSWORDS

ARE YOU OVER SHARING?

Are you keeping your systems
UP TO DATE?

RENSE AND REPEAT

- Printing/Copy Shop
- 50+ Employees

- Out of Date Operating Systems on Server AND Network
- Hackers easily penetrated systems and spread RANSOMWARE
- Owner ended up selling the business for pennies on the dollar (Said Goodbye to retirement plan)

NOT SO HEAD AND SHOULDERS ABOVE…

- Microsoft Releases Updates every TUESDAY
- Networks need updates too!
- Windows 10 and Windows Server 2016 Is now EOL!
- When the updates stop, the BREACHES start!

RENSE AND REPEAT – WEEKLY!

Wasting Money on Out-of-Date Antivirus Software?

AVOID THE 5 O'CLOCK SHADOW

- Businesses purchasing new Computers/Laptops buy whatever AV software is on sale that day
- Before you know it, you have 13 new computers and 9 different AV subscriptions
- Single Pane of Glass Solution so you can see what computer has it and is it actually working

KEEP YOUR SYSTEMS RUNNING SMOOTH

End User Education HELPS more than anything else!

Our COUNTRY is UNDER ATTACK!

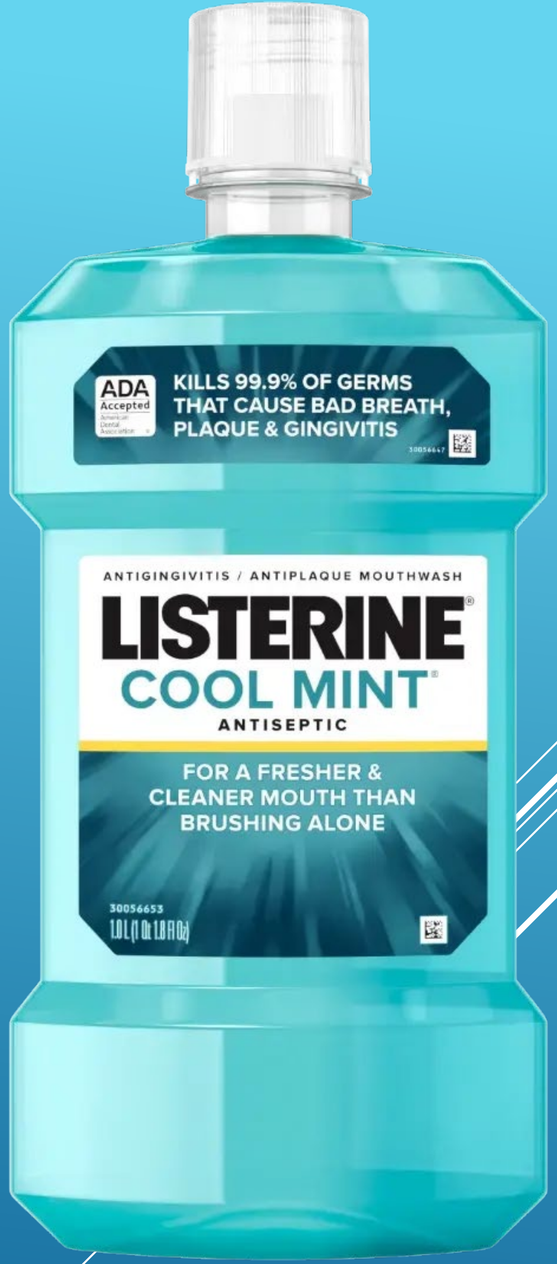
Cyber Security Awareness Training is the most affordable security product available, and it has the largest IMPACT

Make a game out of it!

Our MISSION is to help our COMMUNITY and to make the world a better place!

"Those Crazy enough to believe they can make an impact are the ones that do."

GET CLOSE AND TELL A FRIEND!



- Small City in Kentucky
- 5 Office Employees

- Received Malicious Email that looked like it was a vendor
- Email address was off by just 1 letter (rn instead of m)
- Requested $50,000 payment, user sent without verification
- Insurance paid, only out $500 deductible

IT'S AN EVERYDAY BATTLE

QUESTIONS?

THANK YOU!!

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Tariffs

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Kentucky Rural Water Association

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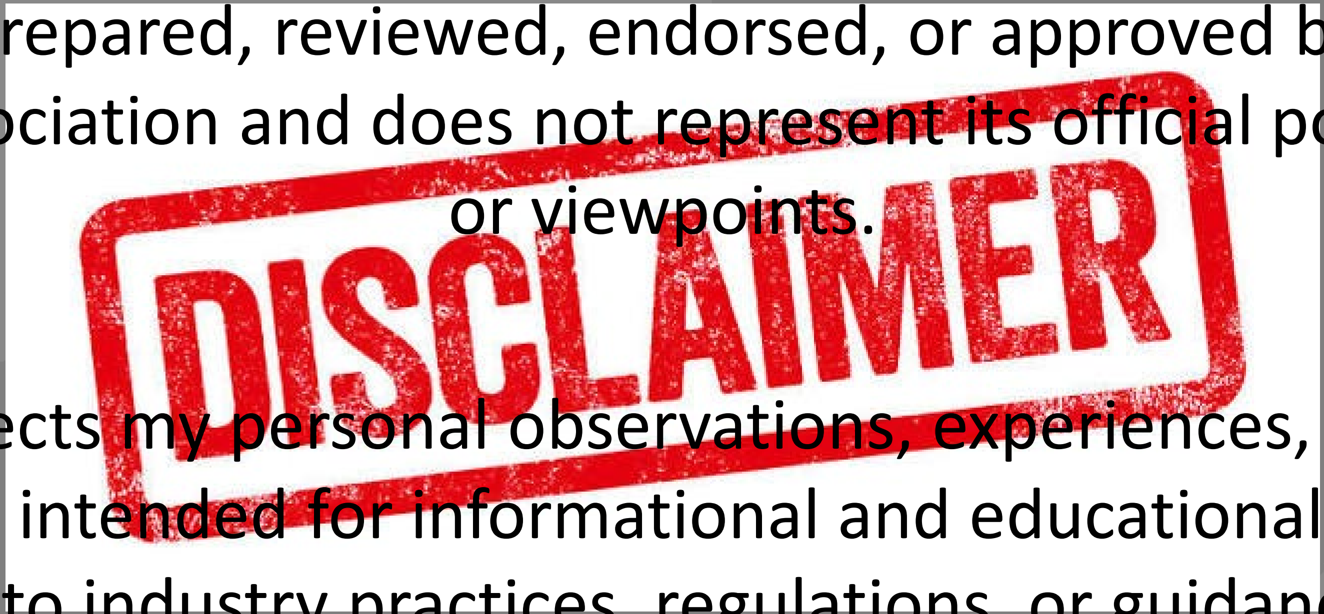

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Rural Water

Discussion

- Legal Framework
- Process of Revising Tariff
- Updates to Consider
- Managing Your Tariff

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Tariff Definition

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

KRS 278.160 (1)

- Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

KRS 278.160 (1)

- No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

What is a Rate?

"Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof

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“Rate” Examples

- Water Usage Charge
- Meter Tap Fee
- Billing Recalculation Policy
- Length of Time to Pay Bill
- Minimum Contract Period
- Rule/Regulation

Condition of Service

- Requirement, action or task that must be met or taken by an applicant for service as a prerequisite for receiving or continuing to receive service.

Condition of Service Examples

- Completing an Application Form
- Providing Evidence of an Inspection
- Deposit Requirement
- Easement Requirement
- Technical Specifications for Connection

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Tariff Has the Status of Law

- PSC has adopted a regulation to implement the provisions of KRS 278.160.

- 807 KAR 5:006, Section 6 provides that:
  - A utility shall not establish a special rule or requirement without obtaining PSC approval;
  - Unless specifically authorized by the PSC a utility shall not deny service to someone who has complied with all conditions of service in the utility's tariff.

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KRS 278.160 & 807 KAR 5:006

- Only Filed Rates May Be Charged
- Only Filed contracts of service May Be Imposed
- All Filed Rates and contracts of service must be enforced
- Tariff Governs Utility’s Relationship With Customer

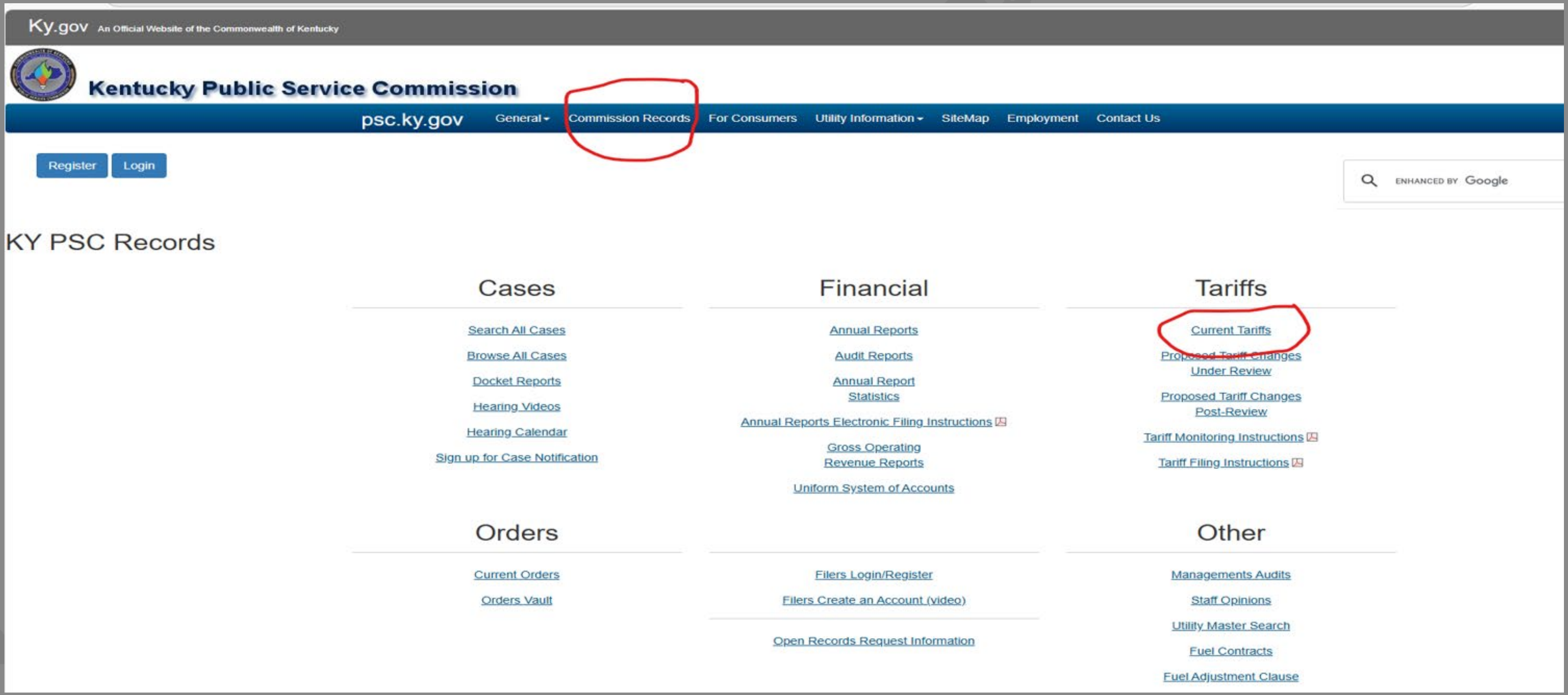
If its in your Tariff you <u>MUST</u> do it!

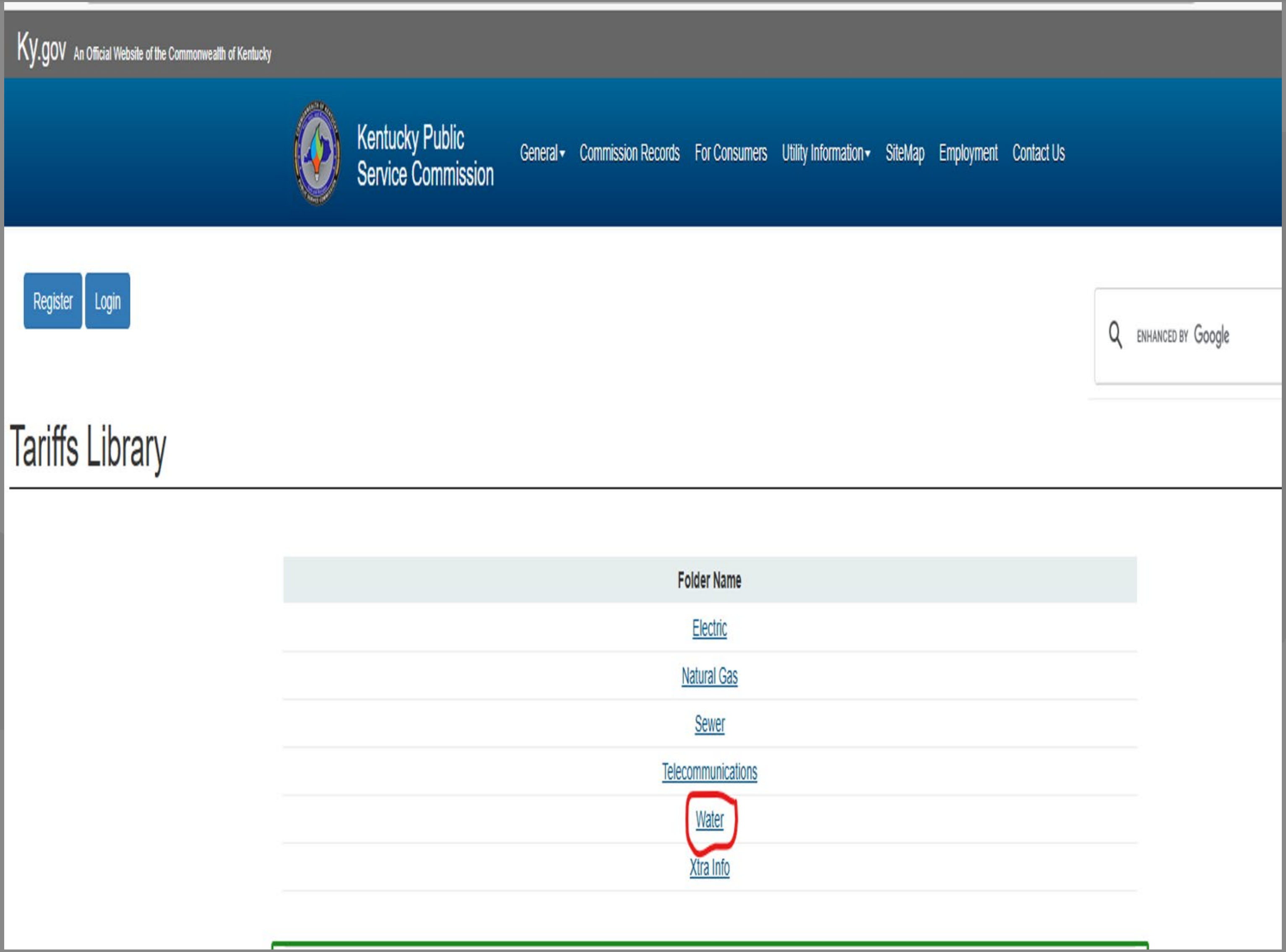
If its not in your Tariff, you <u>CAN NOT</u> do it!

Failure to Comply

- Refund/Back billing
- Assessment of Civil Penalties Against:
  - Utility
  - Manager
  - Water District Commissioners
- Removal of Water District Commissioners

Where Can I Find Our Tariff or Someone Else's





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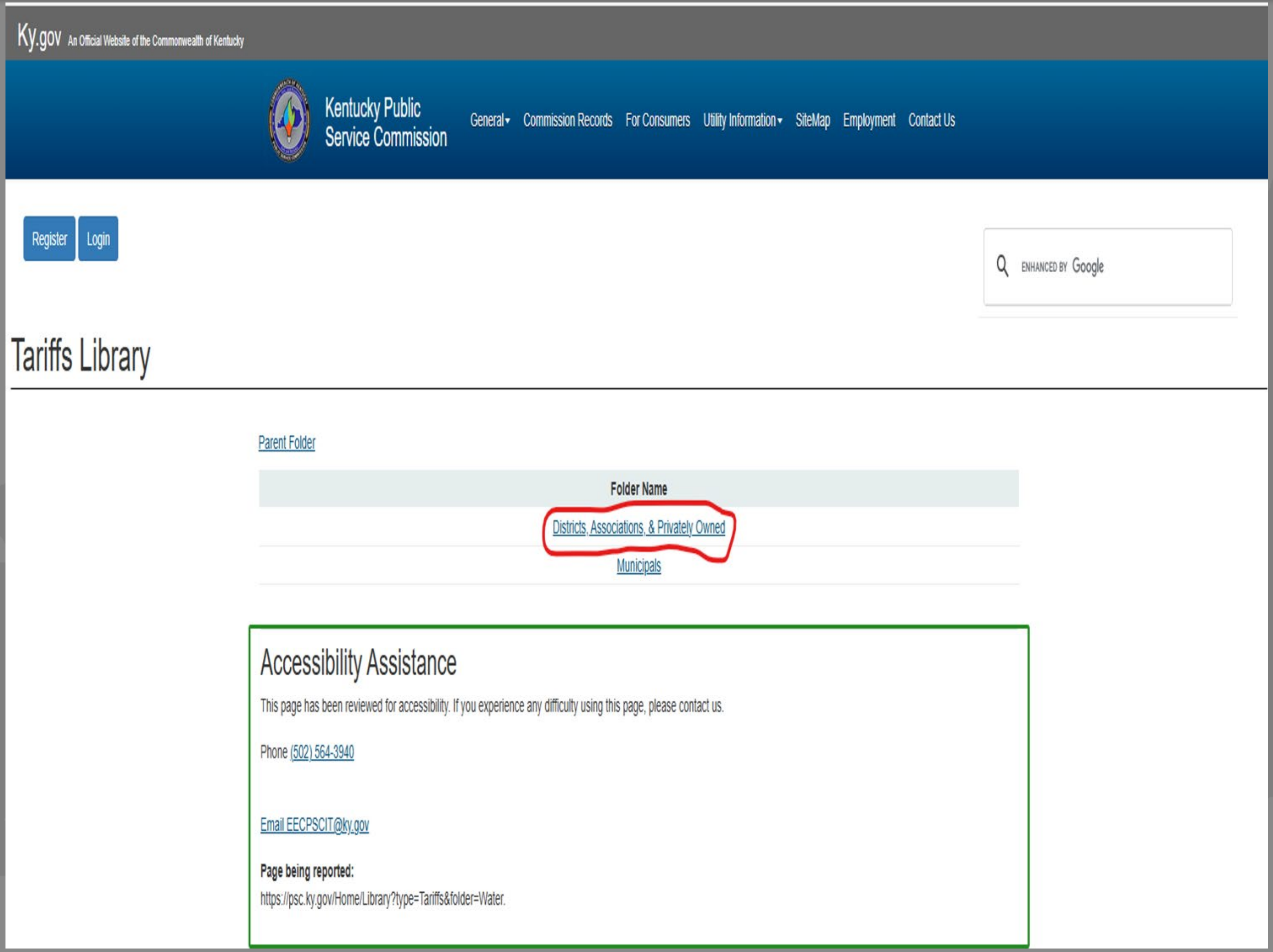
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Bath County Water District
Beech Grove Water System
Big Sandy Water District
Black Mountain Utility District
Bluegrass Water Operating Company
Boone County Water District
Bracken County Water District
Breathitt County Water District
Bronston Water Association
Buffalo Trail Water Association
Bullock Pen Water District
Butler County Water System
Caldwell County Water District
Cannonsburg Water District
Carroll County Water District #1
Cawood Water District
Christian County Water
Columbia-Adair Utilities District

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Revising Tariffs

- 30 days Notice to PSC
- "Notice" is filing of New Tariff Sheet
- Submit Cover Letter & Tariff Sheet
- Tariff Sheet must comply with PSC Regs
- PSC provides Tariff Sheet Templates on its website.

Tariff Sheets

FOR ______________________
Community, Town or City

P.S.C. KY. NO. ______1______
Original SHEET NO. 9-A

____
(Name of Utility)

CANCELLING P.S.C. KY. NO.________

____________SHEET NO.__________

Header

Footer

DATE OF ISSUE ______ October 24, 2024
Month / Date / Year

DATE EFFECTIVE ______ January 1, 2024
Month / Date / Year

ISSUED BY ______ /s/
(Signature of Officer)

TITLE ______ Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. __________ DATE __________

The following symbols shall be placed in the margin to indicate a change:

"(D)" to signify deletion;

"(I)" to signify increase;

"(N)" to signify a new rate or requirement;

"(R)" to signify reduction; or

"(T)" to signify a change in text

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Revising Tariffs Continued

General Procedures:

- Tariff Sheet Should State the Effective Date
- Attorney Is Not Required
- Public Notice Must be Provided

Public Notice

- Three options for providing “Customer” Notice:
  - – Mail Notice with customer bills mailed no later than the date the tariff is filed with the PSC
  - – Mail written notice to each customer
  - – Publish notice one a week for 3 consecutive weeks in local newspaper

Public Notice

- Must Make Public Postings
  - At Utility's Office
  - On The Utility's Website
  - On Any Social Media Page Maintained by the Utility
  - Follow 807 KAR 5:11, Section 8(4) concerning the Requirements for Notice Content

PSC Response to Tariff Filing

- Take No Action: Tariff becomes effective 30 days from filing
- Request Minor Modifications
- Suspend and Investigate (now an attorney is required)
- Final Action from PSC: within 10 months of filing

Nonrecurring Charges

- A charge designed to recover customer-specific cost incurred that would otherwise result in monetary loss to the utility or increased rates to other customers to whom no benefits accrue from the service provided or action taken.

Examples of Nonrecurring Charges

- Connection Fees
- Inspection Fees
- Returned Check Fees
- Turn-off/Turn-on Charges
- Service Call/Investigation Charges

Nonrecurring Charges

- Documents That Must be Filed with a Nonrecurring Charge Tariff Filing in Addition to Cover Letter & Tariff Sheet:
  - Specific Cost-Justification Sheets & Supporting Documentation
  - Income Statement & Balance Sheet for 12-month Period ending no more than 90 days before filing
  - Statement about Why Not Filed in a Rate Case

Nonrecurring Charge Cost Justification

Employee Position	Hourly Wage	Average Hourly Wage	Average Overtime Wage
Operations:			
Operator-Full time			
Operator-Full time			
Total	$0.00	$ -	$ -
Administration:			
Utility Clerk - Full Time			
	$ -	$ -	$ -
Employee Benefit Costs			
Benefit	**% of Wages**		
Retirement			
Workers Comp			
FICA Taxes			
Medicare			
Utility Responsibility			
Health Insurance			
Annual Health Insurance Premium			
Divided By Test Period Hours			
Health Insurance Cost Per Hr		#DIV/0!	
Benefits Calculations:			
Operational ($ x %)		$0.00	
Administrative ($ x %)		$0.00	
Average Hourly Wage w/ Benefits			
Operational		#DIV/0!	#DIV/0!
Administrative		#DIV/0!	#DIV/0!

Nonrecurring Charge Cost Justification

AVERAGE METER CONNECTION EXPENSE
COST JUSTIFICATION

Name of Utility ______________________________

The following is an itemization of expenses for providing a metered service connection.

A. **Meter Size**

5/8-Inch ☐ 3/4-Inch ☐ 1-Inch ☐ 1 1/2 -Inch ☐ 2-Inch ☐

Other (specify) ________________

B. **Materials Expense**

		Unit Quantity	Cost	Total Cost
1.	Water Meter	_____	_____	_____
2.	Meter Yoke	_____	_____	_____
3.	Corporation Stop	_____	_____	_____
4.	Meter Box and Top	_____	_____	_____
5.	Miscellaneous Fittings	_____	_____	_____
6.	Other (Itemize)			
	________________	_____	_____	_____
	________________	_____	_____	_____
	________________	_____	_____	_____

TOTAL MATERIALS EXPENSE $_____
(add total cost)

C. **Service Pipe Expense**

Type of Service Pipe ____________ Size of Service Pipe ________

		Unit Quantity	Cost	Total Cost
1.	Short Side Service	_____	_____	_____
2.	Long Side Service	_____	_____	_____

AVERAGE SERVICE PIPE EXPENSE $_____
(add total cost and divide by 2)

D. **Installation Labor Expense**

		Total Hours	Hourly Rate	Total Cost
1.	Short Side Service	_____	_____	_____
2.	Long Side Service	_____	_____	_____

AVERAGE INSTALLATION LABOR EXPENSE $_____
(add total cost and divide by 2)

E. **Installation Equipment Expense**

		Total Hours	Hourly Rate	Total Cost
1.	Short Side Service	_____	_____	_____
2.	Long Side Service	_____	_____	_____

AVERAGE INSTALLATION EQUIPMENT EXPENSE $_____
(add total cost and divide by 2)

F. **Installation Miscellaneous Expense**

		Total Hours	Hourly Rate	Total Cost
1.	Inspection	_____	_____	_____
2.	Site Clean-Up	_____	_____	_____
3.	Other			
	________________	_____	_____	_____
	________________	_____	_____	_____
	________________	_____	_____	_____

AVERAGE INSTALLATION MISCELLANEOUS EXPENSE $_____
(add total cost)

G. **Overhead Expense**

1. Installation expense ($_________) times overhead rate (____%) $_____

H. **Administrative Expense**

1. Office expense for establishing a new account and billing record. $_____

I. **Total Expenses**

Materials Expense	$_____
Service Pipe Expense	_____
Installation Labor Expense	_____
Installation Equipment Expense	_____
Installation Miscellaneous Expense	_____
Overhead Expense	_____
Administrative Expense	_____

TOTAL CONNECTION EXPENSE **$_____**

Common Filing Mistakes

- No Signature On Tariff Sheets
- No Effective Date
- Failure to Use Correct Tariff Format
- Failure To Give Proper Notice
- Failure to Adequately Explain Reasons for Proposed Rule or Rate AND to Document Those Reasons GOAL: AVOID SUSPENSION

How to Avoid Filing Mistakes

- Download/Use PSC Forms
- Provide Signature/Effective Date
- Notice – Timing (Provide at least 30 days Notice)
- Cover Letter Should Provide Lengthy Explanation for Rate/Rule
- Provide Supporting Documents (What Would Staff Want/Need To Know?)

Rural Water

Provisions to Consider

- Deposit Requirements
- Budget Payment Plans
- Reconnect Charge
- Requested Meter Test Charge
- All other “special” or nonrecurring charges
- Rules regarding size, design, material & installation of service lines
- Rules regarding service line installation & maintenance
- Customer Usage Monitoring procedures

Rural Water

Provisions to Consider

- Leak Adjustments
- "Hit Rock" provision in meter tap fee language
- Turn-on/Turn-off provisions for seasonal residences
- Billing provision for service to more than one residence from a single meter
- Line Extension provision that reduces or eliminates refunds to Real Estate Developers

Rural Water

Provisions to Consider

- Service Disconnection for waste of water
- Service Disconnection for tampering or interfering with facilities
- Imputed Liability to adults at service address
- Utility Liability Disclaimer for service interruption, failure to provide flows adequate for fire suppression, damage to customer facilities caused by water pressure fluctuation

Managing Your Tariff

- Know the contents of the tariff
- Bylaws do not belong in the tariff
- Review at least annually
- Encourage utility Staff involvement in review
- Realize that the tariff is not an internal Management & Practices Manual
- Sample bills, applications for service, and other forms required by the tariff should be included as attachments to the tariff

Managing Your Tariff

- How old are some of the provisions?
  - How many decades are represented in your tariff?
- Have the regulations applicable to a particular provision changed?
- What is the general appearance of the tariff?
- Do you follow policies and practices that are Not in your tariff?
- Are there issues you are facing regularly that your tariff does not address?

Rural Water

Tariff Language to Address Specific Concerns

"A service line running from the point of connection to the water main to the point of delivery shall not be located on any private property other than the Applicant's property. No service line running from the point of delivery to the point of consumption shall be located on property other than the Applicant's property unless the Applicant has obtained from the other property owners a private utility easement for the service line and recorded such easement with the County Clerk's office."

Rural Water

Tariff Language to Address Specific Concerns

Cost of Encountering Rock When Making a Meter Tap:

"An additional charge shall be made for meter connections where rock is encountered, such rock condition being defined as limestone or other hard stratified material in continuous volume of at least one cubic yard or more and which cannot be removed using ordinary excavation equipment. The charge shall be applied per linear trench foot and shall not exceed the actual cost of excavation."

Rural Water

Tariff Language to Address Specific Concerns

Cost of Encountering Rock When Making a Meter Tap:

“Meter Connection Fee does not include any expense for boring in rock areas or any expense for rock removal. Customer will be assessed an additional charge for any rock boring or removal. The charge for rock removal shall be applied per linear trench foot and shall not exceed the actual cost of excavation. Fee also does not include the exceptional directional bore costs in which the directional bore exceeds 35 feet. In such case, the actual cost incurred for directional boring in excess of 35 feet not reflected in the Meter Connection Fee will be added to the Fee”

Does Your Tariff Look Like This?

FOR South Eastern Pulaski Co.
Community, Town or City

P.S.C. KY. NO. ______________

SOUTH EASTERN WATER ASSOCIATION, INC
(Name of Utility)

RULES & REGULAT

WATER LEAK ADJUSTMENT POLICY

In the event of a Water Leak, which the system deems is beyond the reasonable control of the customer, there may be adjusted as follows:

A. Water Leak will be adjusted using the following formula:

1. The average usage of the customer for the previous twelve months shall be determined plus 10,000 gallons over the average. Then the excess of the current period shall be charged at the current wholesale rate, with the

PUBLIC SERVICE COMMISSION

Older Tariff Forms

Form for filing Rate Schedules

For ____________________
Community, Town or City

P.S.C. NO. ____________________

__________ SHEET NO. 1

Name of Issuing Corporation

CANCELLING P.S.C. NO. __________

__________ SHEET NO. 1

CLASSIFICATION OF SERVICE

	RATE PER UNIT
ALL BILLS ARE SENT OUT ON THE LAST WORKING DAY OF EACH MONTH. ALL BILLS ARE DUE ON THE 10th OF EACH MONTH. PENTALY OF 10percent IS ADDED TO THE UNPAID BALANCE ON THE 12th OF EACH MONTH. DELINQUENT NOTICES ARE SENT OUT ON THE 12th DAY OF THE MONTH. DISCONTINUANCE OF SERVICE SHALL BE EFFECTED NOT LESS THAN twenty (20) DAYS AFTER THE MAILING DATE OF THE ORIGINAL BILL.	

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE

OCT 02 1997

PURSUANT TO 807 KAR 5:011,
SECTION 9 (1)
BY: Stephan Bell
SECRETARY OF THE COMMISSION

DATE OF ISSUE __________ DATE EFFECTIVE __________

ISSUED BY Joe Richards, I
Name of Officer
TITLE President

Issued by authority of an Order of the Public Service Commission of Kentucky in Case No. __________ dated __________.

This Sheet:

- Crooked Print
- Inconsistent Stamp Location
- Prior to 807 KAR 5:011 Section 3(4)

1984

e of use. Charges on
ular tariff schedule
on file in the office
, Kentucky.

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
NOV 2 7 1984
PURSUANT TO 807 KAR 5:011,
SECTION 9 (1)
BY: Jordan C. Neel

DATE EFFECTIVE Nov. 27, 1984

TITLE Chairman

1994

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PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
SEP 1 1 1994
PURSUANT TO 807 KAR 5:011,
SECTION 9 (1)
BY: Jordan C. Neel
FOR THE PUBLIC SERVICE COMMISSION

2004

DATE OF ISSUE March 2 2004
Month / Date / Year

DATE EFFECTIVE
Month / Date / Year

ISSUED BY
(Signature of Officer)

TITLE Chairman

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION

IN CASE NO. DATED

PUBLIC SERVICE COMMISSION
OF KENTUCKY
EFFECTIVE
APR 0 4 2004
PURSUANT TO 807 KAR 5:011
SECTION 9 (1)
BY
EXECUTIVE DIRECTOR

Rural Water

Don’t Issue Strike-Through Sheets

~~Temporary Emergency Tariff~~ (T)

~~Due to the recent catastrophic floods in late July of 2022, Southern has instituted~~ (T)
~~a temporary emergency tariff for the purpose of assisting the community in its~~ (T)
~~flood relief and clean-up efforts:~~

~~If a customer’s water usage is greater than 25 percent more/above said customer’s~~ (T)
~~six-month water usage average during the August 2022 or September 2022 billing~~ (T)
~~cycles, Southern will issue bills based upon said customer’s six-month average~~ (T)
~~usage, rather than the actual metered usage.~~ (T)

Rural Water

Cover Page

- Does it have accurate information?
- Does it comply with 807 KAR 5:011, §3(2)
  - Mailing Address
  - Street Address
  - Web Address
  - Service Area

P.S.C. Ky. No. 10422

Cancels P.S.C. Ky. No. 9071

OF
Grayson, Carter County, KY.

Rates, Rules and Regulations for Furnishing

Water Service

AT

Rural portions of Carter, Elliott and Lawrence Counties KY.

PUBLIC SERVICE COMMISSION
OF KENTUCKY

JAN 20 1989

PURSUANT TO 807 KAR 5:011,
SECTION 9 (1)

BY: George L. Wheeler
PUBLIC SERVICE COMMISSION MANAGER

Filed with PUBLIC SERVICE COMMISSION OF
KENTUCKY

ISSUED *January 20*, 19*89* EFFECTIVE *January 20*, 19*89*

ISSUED BY ....
(Name of Utility)

BY *Bill Gilbert*

Chairman

PSC KY NO. 14
CANCELLING PSC KY NO. 13

HARDIN COUNTY WATER DISTRICT NO. 2

1951 WEST PARK RD
ELIZABETHTOWN, KENTUCKY 42701

P.O. Box 970
ELIZABETHTOWN, KENTUCKY 42701

www.hcwd2.org

RATES – CHARGES – RULES – REGULATIONS

FOR FURNISHING

WATER SERVICE

IN

HARDIN COUNTY, AND PORTIONS OF LARUE AND HART COUNTIES
KENTUCKY

FILED WITH THE
PUBLIC SERVICE COMMISSION
OF
KENTUCKY

DATE OF ISSUE March 25, 2025
MONTH / DATE / YEAR

DATE EFFECTIVE June 13, 2025
MONTH / DATE / YEAR

ISSUED BY /s/ Shaun Youravich
SIGNATURE OF OFFICER

TITLE General Manager

BY AUTHORITY OF ORDER OF THE PUBLIC SERVICE COMMISSION IN
CASE NO. ____ DATED ____

KENTUCKY
PUBLIC SERVICE COMMISSION
Linda C. Bridwell
Executive Director
Linda C. Bridwell
EFFECTIVE
6/13/2025
PURSUANT TO 807 KAR 5:011 SECTION 9 (1)

Rural Water

Jason Pennell

Compliance Specialist

Kentucky Rural Water Association

j.pennell@krwa.org

CAN I DO THAT?
A PRACTICAL GUIDE TO OPEN RECORDS AND OPEN MEETINGS

Presented by:
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555 Jefferson St., Suite 301
Paducah, KY 42001
Phone: 270-450-8253
Fax: 270-450-8259
E-Mail: gdenton@dentonfirm.com

Sunshine Laws

- A sunshine law is a statue(s) requiring a governmental department or agency to open its meetings or its records to public access. *See* Black's Law Dictionary, Ninth Edition (2009).
- At the federal level, there are two sources of law that govern open records and open meetings.
  - The Government in the Sunshine Act of 1976 (open meetings)
  - The Freedom of Information Act (FOIA) (open records)
    - Both can be found within 5 U.S.C. § 552.
    - These are primarily applicable to federal government and federal government agencies

There are two broad ways to handle open records and open meetings: good and bad

Kentucky Sunshine Laws

- In Kentucky, there are two sources of law governing open records and open meetings:
  - The Kentucky Open Records Act (KORA)
  - The Kentucky Open Meetings Act (KOMA)

Kentucky Open Records Act

In 1976, the Kentucky General Assembly first adopted the Kentucky Open Records Act which establishes a right of access to public records – seen in KRS 61.870 *et seq.*

The Kentucky General Assembly adopted the Kentucky Open Records Act because they recognized that the free and open examination of public records is in the public interest

There are limitations to the Act

Applicability

- Generally, all public records must be open for inspection unless they are exempted by statute
  - It does not matter if the records are stored physically or electronically *or does it
- The Kentucky Open Records Act applies to public records maintained by state and local government agencies

Entities Covered Under the Act

- State and local government officers, departments, and legislative bodies;
- County and city governing bodies, school district boards, special district boards, and municipal corporations;
- State or local government agencies created by statute or other executive and legislative acts;
- Bodies created by state or local authority in any branch of government;
- Bodies that receive at least 25% of their funds from state or local authority within any fiscal year (subject to a few exclusions);
- An entity where most of its governing body is appointed by a public agency;
- Agencies or committees created and controlled by public agencies; and
- Interagency bodies of two or more public agencies

What Does the KY Open Records Act Require?

Subject to certain specifically delineated exceptions, records that are prepared, owned, used, possessed, or retained by a public agency are public records and must be made available for inspection upon request from a <u>resident of the Commonwealth</u>

A covered entity only needs to make non-exempt records available for inspection to a resident of the Commonwealth during regular office hours of the agency

The public agency may require the request to be in writing, but the public agency must accept a request that has been submitted by mail, fax, or e-mail

In any circumstance, the requester must <u>precisely</u> describe the records sought to be inspected

Additionally…

- The Act requires every covered entity must adopt rules and regulations requiring:
  - The principal office of the public agency and its regular office hours;
  - The title and address of the official custodian of records;
  - The fees charged for copies; and
  - The procedures to be followed in requesting open records. *See* 200 KAR 1:020
- The public agency must display in a prominent location accessible to the public, a copy of its rules and regulations pertaining to public records, including the mailing address, e-mail address, and phone number of the official custodian of records and the form promulgated by the attorney general that may be used to request public records

“Resident of the Commonwealth” under KRS 61.870

- An individual residing in the Commonwealth;
- A domestic business entity with a location in the Commonwealth;
- A foreign business entity registered with the Secretary of State;
- An individual or business entity that owns real property within the Commonwealth;
- Any individual or business entity that has been authorized to act on behalf of an individual or business entity defined in paragraphs (a) to (e) of this subsection; or
- A news-gathering organization as defined in KRS 189.635(9)(b)(1)(a)-(e)

Procedure for Requesting Inspection of Public Records

If required by the public agency, a resident of the Commonwealth must make a specific request to the official custodian of the public agency's record.

- That request may be required to be in writing

The application must also include a declaration that the request is not for a commercial purpose and that it is from a resident of the Commonwealth

The application for inspection should be hand delivered, mailed, e-mailed, or sent via fax to the public agency's custodian of public records

The public agency must respond to the request in writing within five business days. However, the public agency is not required to produce records for inspection within five days

If the request is denied, the response must include a statement of the specific exception which authorizes the agency to withhold the record and how the exception is applicable

Exempt Records

KRS 61.878(1) provides a list of records that are exempt from inspection (barring a court order)

Generally, most exemptions are applicable to records that contain confidential, personal, or otherwise secretive information

What is a Commercial Purpose - KRS 61.870(4)(a)-(b)

- Commercial purpose means the direct or indirect use of any part of a public record or records, in any form, for sale, resale, solicitation, rent, or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee
- Commercial purpose shall not include:
  - *1. Publication or related use of a public record by a newspaper or periodical;*
  - *2. Use of a public record by a radio or television station in its news or other informational programs; or*
  - *3. Use of a public record in the preparation for prosecution or defense of litigation, or claims settlement by the parties to such action, or the attorneys representing the parties*

Open Records Requested for Commercial Purposes – KRS 61.874

- Unless an enactment of the General Assembly prohibits the disclosure of open records for commercial purposes, if copies of nonexempt public records are requested for commercial purposes, the agency may establish a reasonable fee
  - *Cost to the public agency of media, mechanical processing, and staff required to produce a copy of the public record or records;*
  - *Cost to the public agency of the creation, purchase, or other acquisition of the public records*
- The agency may also require a certified statement from the requestor stating what the commercial purpose is and may require the requestor to enter a contract which will permit the use of records for commercial purposes for a specified fee

Online Access

A public agency may provide online access to public records in electronic format

The agency may require that the requester enter a contract, license, or other agreement with the agency about the online records and may charge fees to access the online public records

However, the fees cannot exceed the cost of the physical connection to the system and the reasonable cost of computer time access

Appeals

- If a public agency denies a request for public records, the requester may file an appeal with the Kentucky Attorney General's Office for review of the agency's actions
- The Attorney General will review the appeal and issue a decision as to whether the agency violated the Act
- If the AG sides with the requester and the agency does not appeal, the AG's decision can be enforced in Circuit Court

Penalties

- If the requester prevails in Circuit Court, then they can be awarded costs, attorney's fees, and up to $25.00 per day for each day that they were denied the right to inspect the records
- The Open Records Act also contains criminal penalties for public officials who willfully conceal or destroy records with the intent to violate the act

AND NOW…

Kentucky Open Meetings Act

In 1974, the Kentucky General Assembly enacted the Kentucky Open Meetings Act (KRS 61.800, *et seq.*)

The General Assembly adopted the Kentucky Open Meetings Act because they recognized that the formation of public policy is public business and should not be conducted in secret

Generally, the Act requires that all meetings of quorum of members of a public agency where public business is discussed or action is taken must be held in public

Public meetings must always be open to the public unless the subject falls within one or more of thirteen exceptions found in statute

A public meeting is all meetings held by state and local government agencies

Agencies Covered Under Kentucky Open Meetings Act

- State and local government boards, commissions, and authorities;
- State and local legislative boards, commissions, and committees;
- County and city governing bodies, councils, school district boards, special district boards, and municipal corporations;
- State and local government agencies, including policy making boards of educational institutions, that are created by state or local statute or another legislative act;
- Bodies created by state or local statute or legislative act in the legislative or executive branch of the government;
- An entity where most of its governing body is appointed by a public agency;
- Agencies, including committees, advisory committees, and ad hoc committees, which are established, created, and controlled by a public agency; and
- Interagency bodies of two or more public agencies

General Requirements of Kentucky Open Meetings Act

- All meetings of public agencies, and committees or subcommittees thereof, must be held at specified times and places which are convenient to the public
- Public agencies must keep minutes of an action taken at every meeting which set forth an accurate record of votes and actions taken
  - These minutes must be open for inspection by the public no later than the conclusion of the agency’s next public meeting

Quorum of Committee of a Public Agency

- When a committee itself is a public agency, the quorum of threshold that triggers open meetings obligations is measured against the committee's own membership – not the membership of the parent board
- This is codified at KRS 61.805(2)(g) and says: "Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, and controlled by a 'public agency.'"
- A committee of a public agency that is established, created, and controlled by that agency should assume it is subject to the Open Meetings Act regardless of its size relative to the parent board
- Committees or subcommittees created by a public agency's governing body often fall within the OMA's scope if they exercise delegated authority or conduct deliberations that lead to binding decisions
  - *However, purely advisory committees or those without decision making power may be exempt*

General Requirements of Kentucky Open Meetings Act (cont.)

- To the extent possible, meeting room conditions should allow for effective public observation of the meetings
  - No person attending the meeting can be required to identify himself to attend a meeting
- Public agencies must permit news media coverage, including recording and broadcasting
- Public agencies should provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by other means

Kentucky House Bill 869 - Takes Immediate Effect As of April 27, 2026

- House Bill 869 includes new requirements for time references in public notices and open meetings requiring notices to include both Eastern and Central Standard Times when listing the time of day
- Section 38 of House Bill 869 amends KRS 424.110 to add a definition for “time” or the time of day, as being stated in <u>both</u> Eastern Standard Time and Central Standard Time
- Section 39 makes the same change under KRS 61.805 to apply to Kentucky’s open meetings law governing public agencies
- Public agencies should review notice and meeting procedures to ensure compliance with the updated statutory requirements

Public Participation at Open Meeting

- Under the Kentucky Open Meetings Act, there is no requirement that governmental bodies and public agencies allow members of the general public to speak
- Many governmental bodies and public agencies permit this as a civic courtesy
- Members of the public who desire to speak at an open meeting can be required to register/identify themselves as a speaker at a public meeting
- Additionally, members of the public who desire to speak at an open meeting can be required to adhere to time restrictions previously promulgated by the governmental body/agency

Special Meetings

All meetings which are not regularly scheduled meetings are special meetings and are subject to special requirements

The requirements for special meetings are found in KRS 61.823

Requirements for Holding Special Called Meetings

Who Can Call a Special Meeting?

- The presiding officer or a majority of the members of the public agency can call a special meeting

Notice Requirements:

- Contents: The public agency shall provide written notice of the special meeting consisting of the date, time, and place of the meeting and the agenda
  - Discussions and action at the meeting shall be limited to items listed on the agenda in the notice
- Delivery and Posting (to whom and how delivered)
  - Notice of a special meeting must be provided as soon as possible to all agency members and media organizations that have submitted a written request, including a mailing address. Notice may be delivered personally, by fax, or by mail and must be received at least 24 hours before the meeting. The agency may require media organizations to renew their requests no more than once per calendar year.

Posting Notice for Special Called Meetings

- When to Post:
  - As soon as possible, written notice shall also be placed in a conspicuous place in the building where the special meeting will take place and in a conspicuous place in the building which houses the headquarters of the agency. The notice shall be calculated so that it shall be posted at least twenty-four hours before the special meeting

Emergency Situations

In the case of emergency which prevents compliance with the ordinary notice requirements for special meetings, reasonable efforts must be undertaken to notify the public of the special meeting(s) and to limit discussion(s) to the topic(s) for which the emergency meeting was called

The emergency meeting shall be called by the presiding officer or a majority of the members of the public agency

The public agency shall make a reasonable effort, under emergency circumstances, to notify the members of the agency, media organizations which have filed a written request to be notified, and the public of the emergency meeting

At the beginning of the emergency meeting, the person chairing the meeting shall briefly describe for the record the emergency circumstances preventing compliance with the notice provisions; these comments need to appear in the minutes

Discussions and action at the emergency meeting shall be limited to the emergency for which the meeting is called

Video Teleconferencing of Meetings

- The Kentucky Open Meetings Act provides that a public agency may conduct any meeting through video teleconference
- Notice of a video teleconference must comply with the regular notice requirements of the Kentucky Open Meetings Act and clearly state that the meeting will be a video teleconference and provide specific information on how any member of the public or media organization may view the meeting electronically
- The same procedures regarding participation, distribution of materials, and other matters shall apply in all video teleconference locations
- Members of the public agency who participate in the video teleconference shall always remain visible on camera

Important Note on Video Teleconference Meetings

- Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored

What may be Discussed in a Closed Session?

The exceptions to the Kentucky Open Meetings act are found in KRS 61.810(1) and include:

(a) Deliberations for decisions of the Kentucky Parole Board;

(b) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;

(c) Discussions of proposed or pending litigation against or on behalf of the public agency;

(d) Grand and petit jury sessions;

(e)Collective bargaining negotiations between public employers and their employees or their representatives;

(f) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;

What may be Discussed in a Closed Session? (cont.)

(g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;

(h) State and local cabinet meetings and executive cabinet meetings;

(i) Committees of the General Assembly other than standing committees;

(j) Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;

(k) Meetings which federal or state law specifically require to be conducted in privacy;

(l) Meetings which the Constitution provides shall be held in secret; and

(m) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(m). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly.

Quorum Issues

The Open Meetings Act prohibits any series of less than quorum meetings, where the members attending one or more of the meetings collectively constitute at least a quorum of the members of the agency, if the meetings are held to avoid the requirements of the Act

This prohibition does not restrict discussions between individual members if the purpose of the discussion is to educate the members on specific issues

Remedies for Perceived Violations

If a person believes that a public agency has violated the Open Meetings Act, they may file a written complaint with the presiding officer of the agency

Within 3 business days of receipt of the complaint, the public agency must decide whether to correct the violation and notify the complaining party of its decision in writing

If the agency believes that no violation has occurred and rejects the proposed remedy, it must issue a written response which cites the statute authorizing its actions and briefly explain how the statute applies

Appeals Process

- The complaining party may appeal to the Attorney General for review of the agency's action within sixty days of receipt of the agency's response
- The appeal must include a copy of the written complaint and a copy of the agency's response, if the agency issued a denial
- The Attorney General will review the appeal and issue a decision stating whether the agency violated the Open Meetings Act within ten business days
- Both the complaining party and the agency will receive a copy of the decision
- Both may appeal the Attorney General's decision to the circuit court of the county where the public agency has its principal place of business or where the violation occurred
- If an appeal is not filed within thirty days, the Attorney General's decision has the force and effect of law and can be enforced in circuit court.

Damages

If the complaining party prevails against an agency in circuit court, they may be awarded costs, including attorney's fees, if the court finds that the violation was willful

The court may also award the complaining party up to $100.00 for each violation

INTERESTING EXAMPLES

In RE: Phillip Hamm/McCracken County Sheriff's Office

Example #1

<u>22-ORD-109</u>

- On February 17, 2022, the McCracken County Sherriff's Office executed a search warrant at the home of Phillip Hamm
- On February 22, 2022, Phillip Hamm submitted an open records request to the MCSO requesting various records pertaining to the execution of the search warrant at his home
- Mr. Hamm also requested, “any documents that mention [him] being involved in any type of drug activity
- The MCSO provided the following response: “The documentation requested will have to be obtained through filing a Motion of Discovery in his court process.”
- Mr. Hamm appealed

In RE: Phillip Hamm/McCracken County Sheriff's Office

22-ORD-109

- The AG's office found that the MCSO violated the Kentucky Open Records Act when it denied a request for records without citing an exception to the Act or explaining how the exception applied to the records withheld
- The AG's office also held that the fact that Mr. Hamm was involved in criminal litigation, with the opportunity to conduct discovery, did not alleviate the MCSO's duty to comply with the Kentucky Open Records Act
- On June 22, 2022, Phillip Hamm submitted a request to the MCSO to inspect all body camera footage related to the execution of a search warrant at a specific address on a specific date
- On June 30, 2022, having received no response from the MCSO, Mr. Hamm initiated an appeal

In RE: Phillip Hamm/McCracken County Sheriff's Office

22-ORD-109

- The AG's office found that the MCSO failed to respond to the open records request within five (5) business days, thereby violating the Kentucky Open Records Act
- The Takeaways:
  - *Public Agencies must respond to open records requests within five (5) business days; AND*
  - *In the event of a denial of a request for records, must cite the specific exemption upon which the denial is based*

Example #2

Kentucky Department of Fish and Wildlife Resources Commission v. Kentucky Open Government Coalition, Inc.

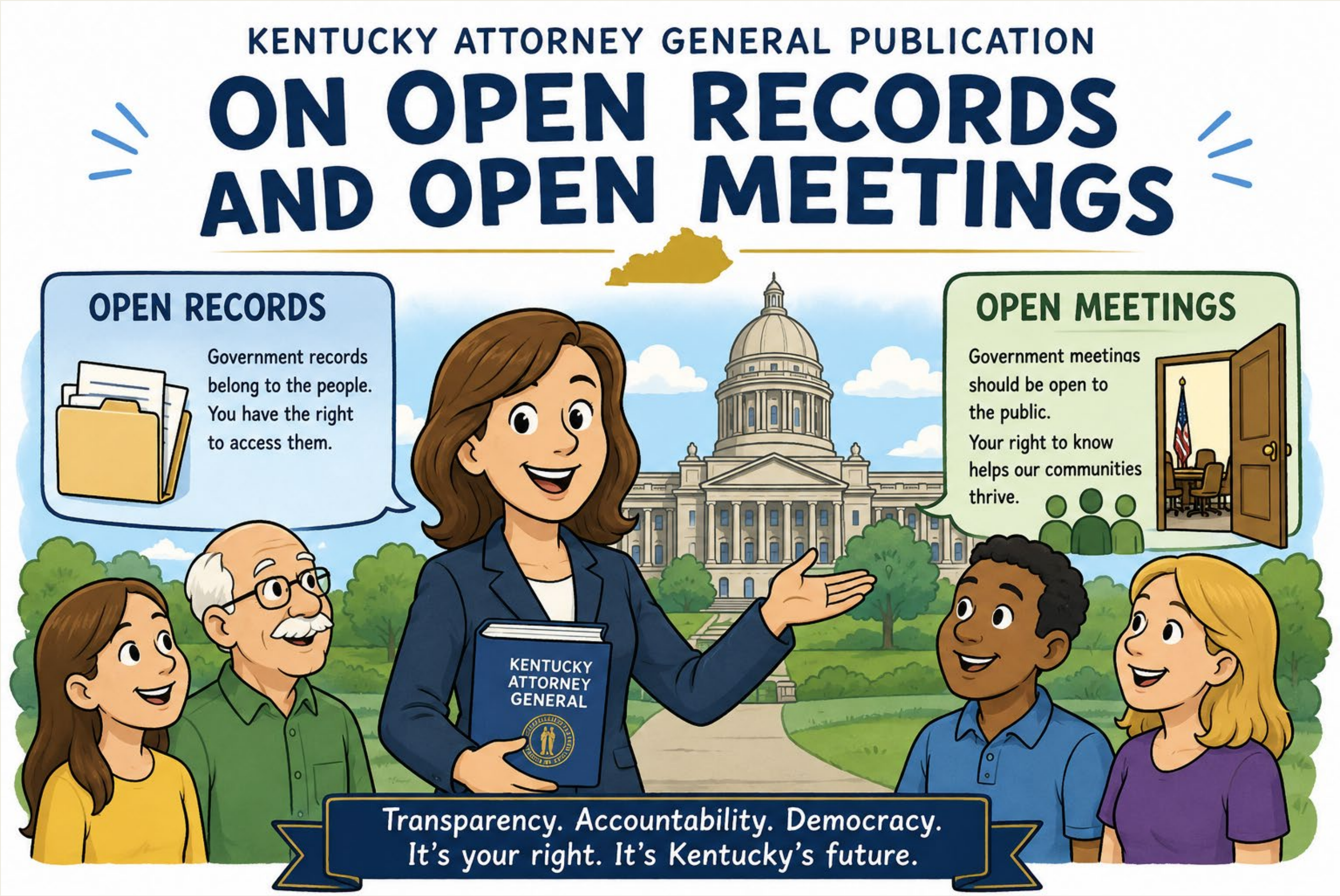
- On April 23, 2026, the Supreme Court published an opinion regarding a case where the Ky. Open Government Coalition requested emails and text messages, including those on private devices, from members of the KY Department of Fish and Wildlife Resources Commission
- The Commission refused to produce this requested material
- The Court held that records stored solely on private devices or in personal accounts of individual state volunteer board or commission members are not public records held by a public agency for purposes of the ORA and therefore are not subject to disclosure in response to an open records request

Reactions to this Opinion

- An article published out of Louisville notes that some critics say that it will create a legal loophole in the open records law. They also noted that a dissenting justice warned the ruling will weaken the public's right to know. Finally, they note that some Kentucky lawmakers are saying the General Assembly may need to revise the law.
- Another Louisville based publisher titled an article "Kentucky Supreme Court rules officials can hide public business on personal devices"

Other General Considerations

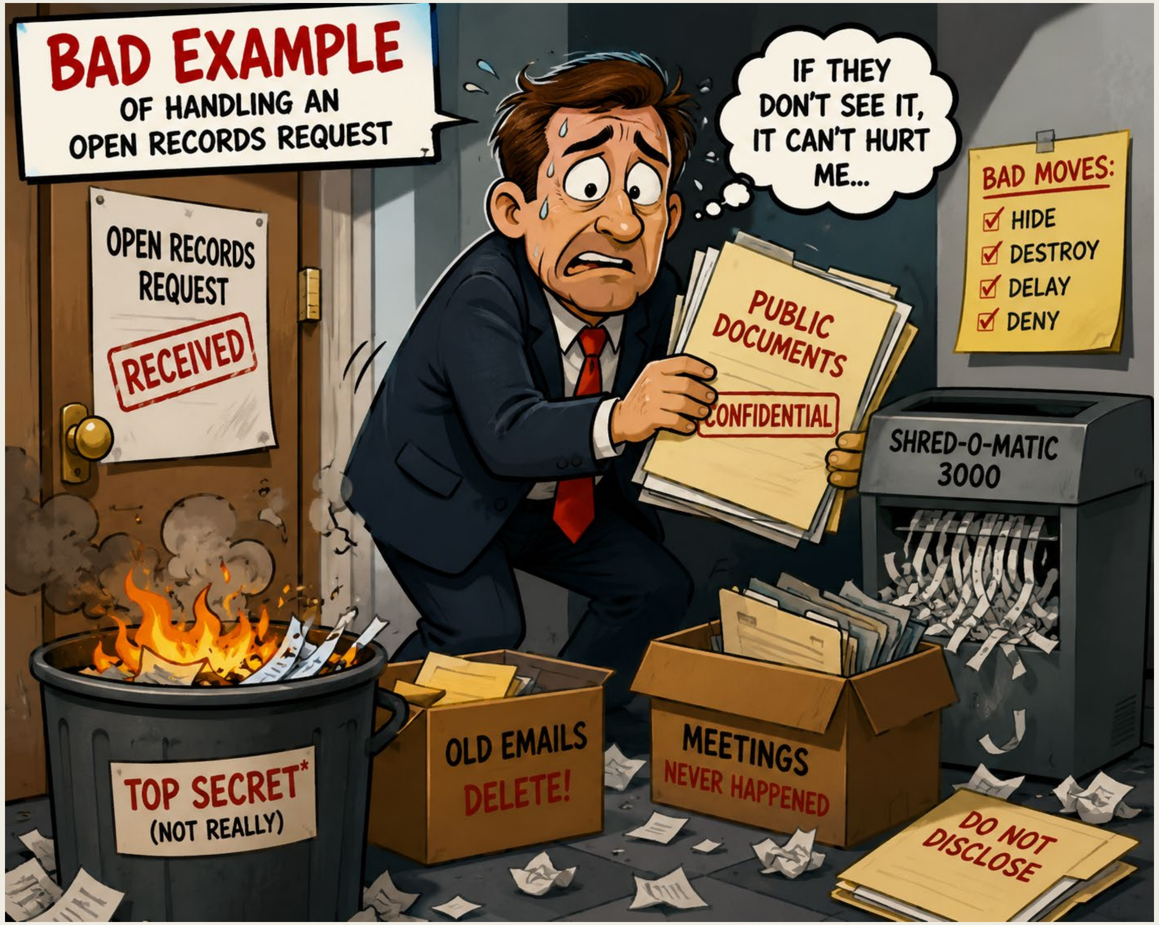
- All public agency board members must be provided with the Kentucky Attorney General's publication on open records and open meetings, and each public agency must require board members to acknowledge receipt of this guide



Example of a Proof of Receipt

- The Attorney General will send a copy of “The Kentucky Open Records and Open Meetings Act: A guide for the public and public agencies” and “Managing Public Records”
- These copies are sent within 60 days of the day newly elected or appointed officials take office

MAKE SURE TO BE THIS PERSON


BAD EXAMPLE
OF HANDLING AN
OPEN RECORDS REQUEST
IF THEY
DON'T SEE IT,
IT CAN'T HURT
ME...
OPEN RECORDS
REQUEST
RECEIVED
PUBLIC
DOCUMENTS
CONFIDENTIAL
BAD MOVES:
HIDE
DESTROY
DELAY
DENY
SHRED-O-MATIC
3000
OLD EMAILS
DELETE!
MEETINGS
NEVER HAPPENED
TOP SECRET*
(NOT REALLY)
DO NOT
DISCLOSE

... NOT THIS ONE


QUESTIONS?

Thank You for Your Time Today

- If you have any questions, please feel free to contact me at:

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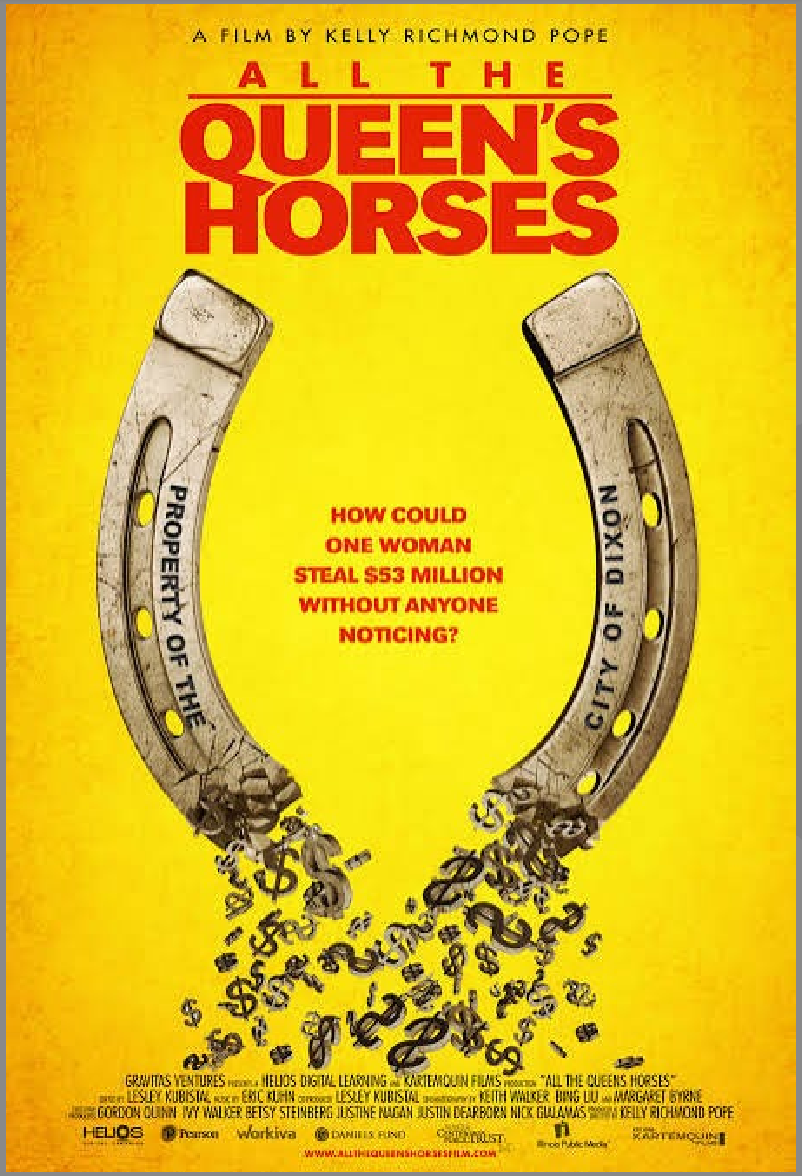
Effective Internal Controls

Rural Water

Internal controls are the cornerstone of organizational integrity, ensuring transparency, accountability, and the safeguarding of assets.

- Maintaining trust in others while also verifying the accuracy or truth of their statements or actions
- Be cautious and do not blindly accept everything at face value

Rural Water



A cautionary tale for small businesses, governments and nonprofits

Background

- Rita was the Comptroller and Treasurer of the City of Dixon
- Ronald Reagan's hometown
- City of Dixon, Illinois 16,000 residents
- Annual budget between $6 - $8 million
- Stole $53.7 Million over a twenty-year period (1991-2012)

Rural Water

How did this happen?

- Annual Audit never raised any red flags
- City’s bank never reported anything suspicious
- Rita won the trust of those around her - especially that of mayor and council
- One council member praised Rita calling her “a big asset to the city as she looks after every tax dollar as if it were her own”
- City Clerk discovered mystery bank account while Rita was on vacation

Rural Water

Control Weakness

- Rita provided auditors with fictitious invoices from the Illinois Dept. of Transportation. (Checks payable to Treasurer, State of Illinois)
- Auditors not independent

Control Weakness

- Lack of Segregation of Duties, Rita could:
- Write Checks
- Approve payments
- Create and monitor the budget
- Enter transactions into system
- Reconcile the bank statements
- Set up a bank account

Multiple people should perform accounting duties, not just one.

Rita's Fraud
$6,000,000
$5,000,000
$4,000,000
$3,000,000
$2,000,000
$1,000,000
$5,637,832
$5,599,247
$5,637,546
Rita's arrest
1991 1992 1993 1994 1995 1996 1997 1998 1999 2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012

What did she buy?

- She used the money to fund one of the top quarter horse ranches in the country.
- Her horses won lots of awards
- She owned around 300 quarter horses
- $2.1 million motor coach vehicle

Aftermath

- Rita was arrested in 2012 and sentenced to 19 years in prison
- Judge ordered Rita to pay the City of Dixon Restitution $53,740,394

  + Agreed Forfeiture Judgement in the same amount <u>$53,740,394</u>

  Total of $107,480,788
- Fun Fact: Based on her $65/per month prison salary = it would take over 120,000 years to pay back the city
- She spent less than 8.5 years (43% of her sentence) in prison before being released in mid-2021 to serve the remainder of her sentence in home confinement at her brother's 80 acres in Dixon.

City of Dixon

- Various avenues to recover stolen funds
- Sale of Assets (Rita's property, horses & vehicles)
- Insurance Claims
- Civil Lawsuits (Rita, Auditors, Bank)
- Bankruptcy Proceedings
- How much was paid in Attorney Fees?
- Unknown Impact (Delayed Projects/Reputation)?

Fraud Cases

- Under 6 months: Median loss is roughly $40,000.
- 12 months (Typical): Median loss reaches $76,000 to $104,000 depending on the specific sub-sector.
- 24 to 36 months: Median loss climbs to $250,000.
- Over 5 years: Median loss skyrockets past $1.1 million

*Data from Association of Certified Fraud Examiners

Average 14 months before detection

Rural Water

Fraud by Authority Level

- Executive / Board Member: Responsible for 39% of nonprofit cases, with a median loss of $250,000.
- Manager / Supervisor: Responsible for 35% of cases, with a median loss of $95,000.
- Regular Employee: Responsible for 23% of cases, with a median loss of $21,000

*Data from Association of Certified Fraud Examiners

What do you believe is the most common initial detection of fraud?

- Whistleblower Tips: Accounts for 43% of all detections, with more than half of those tips originating from internal employees with 33% coming from tipline or email.
- Internal Audits: Uncovers 17% of cases.
- Management Reviews: Uncovers 13% of cases.
- Accidental Discovery: Uncovers 7% of cases

*Data from Association of Certified Fraud Examiners

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What Contributes to Fraud?

- 32% — Lack of Internal Controls
- 19% — Override of Existing Internal Controls
- 18% — Lack of Management Review
- 10% — Lack of Competent Personnel in Oversight Roles
- 8% — Lack of Independent Checks/Audits
- 6% — Lack of Employee Awareness of Fraud Risks
- 5% — Lack of Clear Authority/Responsibility

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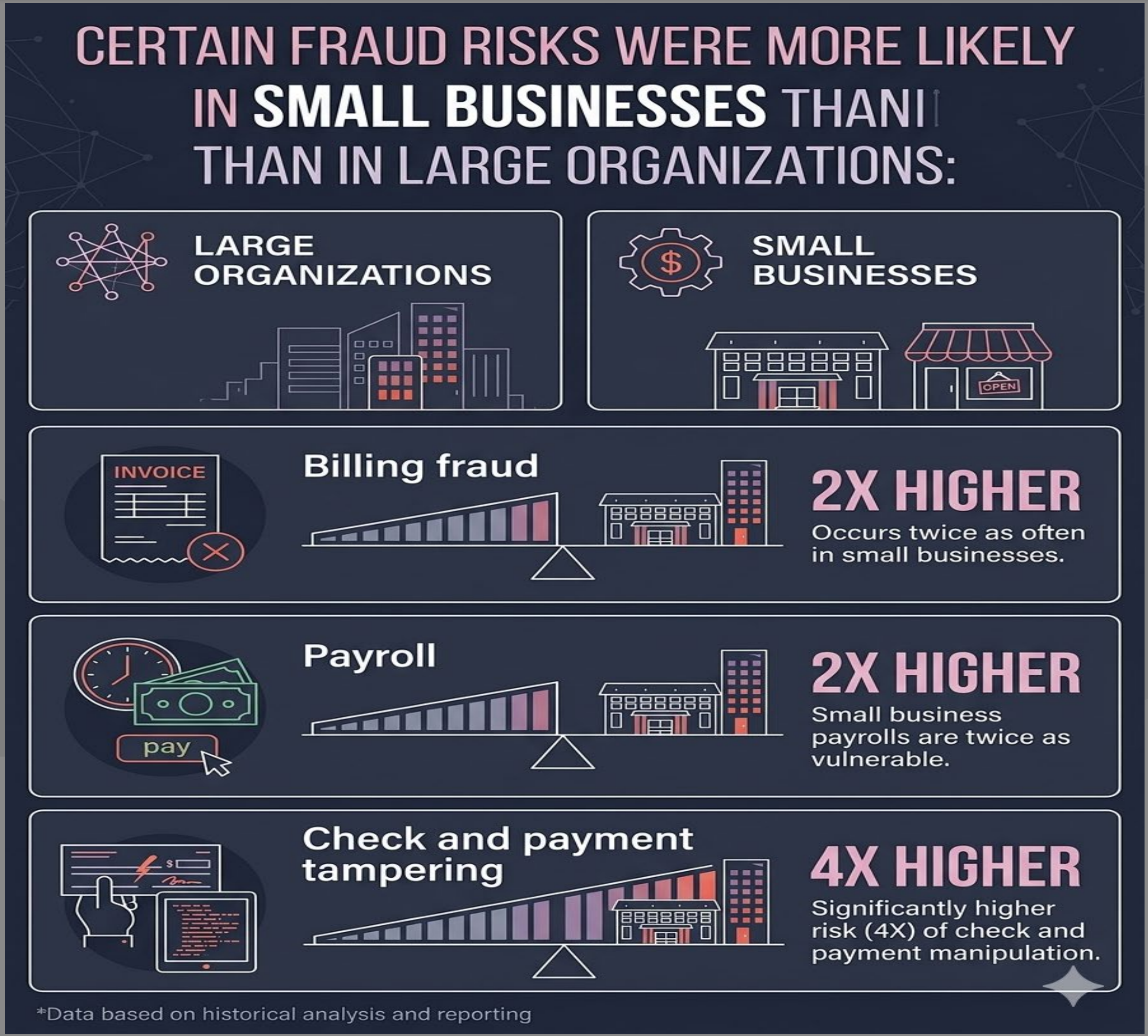
Small Businesses Fraud



Department Fraud

Fraud by Gender

Female- $85,000 median loss

Male $150,000 median loss

Men committed 72% of all occupational fraud

Internal Controls

Controls are the policies and procedures established to protect the utility and produce reliable records.

- Controls address recording, processing, summarizing, and reporting financial information.
- They help protect the utility's resources.
- They make theft more difficult and encourage honest behavior.
- They also maintain the accuracy of transaction reporting.
- Systems that place low priority on accurate financial statements are more exposed to fraud and embezzlement.

No control system is foolproof, but weak controls invite preventable risk.

Rural Water

Internal Control Puzzle

1. Control environment

The attitude of the board/council and management toward policies and procedures.

2. Accounting system

Methods and records used to identify, classify, record, and report transactions

3. Control procedures

Specific policies and procedures designed to achieve control objectives

Control Environment

Control environment factors

- Management’s philosophy and operating style.
- Personnel policies and practices.
- Methods of assigning authority and responsibility.

Accounting system requirements

- Identify, assemble, analyze, classify, record, and report transactions.
- Maintain accountability for related assets and liabilities.
- Keep documentation to support entries and generate financial statements.

Cash disbursement controls protect payments

Board approval
Invoices should be approved by the board or city council before payment.

Check support
Checks should be prepared with applicable invoices attached for review and signature.

Paid documentation
Invoice should be stamped paid and show check number, date paid, and category.

Organized filing
Paid invoices should be filed by category or vendor.

Variance review
Compare actual disbursements to budget and explain significant variances.

Independent reconciliation
Bank reconciliations should be prepared or reviewed independently; cash handlers should be bonded.

Budget comparisons and bank reconciliations are part of the control structure.

Cash receipt controls protect collections

Lock box
If practicable, customers mail payments to the financial institution, which prepares a listing.

Independent opening
If no lock box, an employee independent of accounting opens mail and prepares a receipt listing and duplicate deposit slip.

Independent posting
Someone independent of cash handling posts receipts; otherwise board/council reviews postings.

Monthly A/R list
Board receives current and past-due account information.

Delinquency approval
Board approves delinquent accounts and meters to be turned off.

The same person should not approve transactions, handle cash, and record transactions.

Preventative Internal Controls

Segregation of Duties

- Two approvals of each invoice & two board members approve weekly payment*
- Two signatures required on all checks*

*Different from the staff that can create checks or enter transactions in the system

Preventative Controls

- Different person deposits checks & cash to bank
- Background Checks on employees (hiring & periodically)
- Bank requires a Resolution by governing body to set up account
- Required Vacation

Rural Water

Preventative Controls

- Insurance - Bonding employees/board
- User access rights and permissions in accounting/utility system
- Physical Security Measures (locks, cameras)
  - Lock Check Stock

Preventative Controls

- Reconciliations and audit
- Cash is reconciled each month by a separate person then who makes deposits
- Bank Statements are accessible by more than the person completing the reconciliation
- Board Treasurer reviews Reconciliation of approved payment batches to the Check Register each month.

Preventative Controls

Reconciliations and audit

- General Journal Entries are reviewed
- Independent Auditors

Correcting Entries and Process Improvements

- Password Reset
- Data Restoration from backups in event of a loss

1. It is OK for small systems to have one person open the mail, authorize transactions, handle cash, and record transactions.

2. Which items are part of the board/council's responsibility for internal controls: approving invoices, letting the manager sign checks, understanding fund flow, or letting available staff handle money?

3. What practical review role should the board/council play when staffing is limited?

- Internal control begins with leadership attitude and becomes visible in daily procedures.
  - Board/council members have fiduciary responsibilities for funds and for compliance with accounting, purchasing, and recordkeeping standards.
- If leadership is not involved and interested, an effective internal control structure is unlikely.
  - Control procedures should design and use adequate documents and records.
- The highest-risk areas are cash receipts and cash disbursements.
  - Transactions and activities should be properly authorized.
  - A common rule: no one employee should authorize transactions, handle cash, and record transactions.
  - Small systems may need the board/council to serve as reviewer when personnel are limited.

Internal control is a process designed to provide reasonable assurance regarding:

A. Only fraud prevention
B. Reliable financial reporting, safeguarding assets, compliance, efficiency
C. Preparation of tax returns
D. Maximizing Profits

Explanation: Internal control ensures reliable reporting, operational efficiency, safeguarding of assets, and compliance with laws

One characteristic of internal control is that it:

A. Works the same for all organizations
B. Must be customized depending on size and nature of entity
C. Guarantees zero errors
D. Eliminates fraud completely

Explanation: Internal control varies depending on the organization’s size, complexity, and nature

Which of the following is not an objective of internal control?

A. Safeguarding assets
B. Ensuring compliance with laws
C. Reducing operating costs
D. Reliable financial reporting

Explanation: Cost reduction may result from controls, but it is not a primary objective

The foundation of internal control, influencing employees' awareness, is called:

A. Control Activities
B. Control Environment
C. Monitoring
D. Risk Assessment

Explanation: Control environment sets the tone at the top and is the foundation

Rural Water

Segregation of duties is best described as:

A. Assigning on person multiple roles
B. Assigning responsibilities to avoid conflicts
C. Management override
D. Eliminating human error

Explanation: Duties like custody, authorization, and recording should be separated.

Auditors’ role in internal control is to:

A. Establish and design the system
B. Assess and test the effectiveness of controls
C. Operate the controls daily
D. Eliminate all risks

Explanation: Auditors do not create controls, but they must understand and test them

Internal controls can feel uncomfortable to discuss, but fiduciary responsibility belongs to the governing body. The goal is to protect the utility as much as possible.

Rural Water

CONCLUSION

Trust but Verify

Good Internal Controls are VERY IMPORTANT, poor Internal Controls are a HUGE RISK

No control system is foolproof, but weak controls invite preventable risk.

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