

## CHAPTER 7

( HB 330 )

AN ACT relating to public utilities.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 278.021 is amended to read as follows:

- (1) If the commission~~[determines]~~, after notice and hearing, **enters an order in which it finds** that a~~[any]~~ utility is abandoned, the commission may **bring an action in** ~~[petition]~~ the Franklin Circuit Court for an order attaching the assets of the utility and placing **those assets**~~[it]~~ under the sole control and responsibility of a receiver.
- (2) **For purposes of this section, a utility shall be considered abandoned if it:**
  - (a) **Disclaims, renounces, relinquishes, or surrenders all property interests or all rights to utility property, real or personal, necessary to provide service;**
  - (b) **Notifies the commission of its intent to abandon the operation of the facilities used to provide service;**
  - (c) **Fails to comply with an order of the commission in which the commission determined that the utility is not rendering adequate service, specified the actions necessary for the utility to render adequate service, and fixed a reasonable time for the utility to perform such actions, and the failure of the utility to comply with the order presents a serious and imminent threat to the health or safety of a significant portion of its customers; or**
  - (d) **Fails to meet its financial obligations to its suppliers and is unable or unwilling to take necessary actions to correct the failure after receiving reasonable notice from the commission and the failure poses an imminent threat to the continued availability of gas, water, electric, or sewer utility service to its customers.**
- (3) **Within twenty (20) days after commencing an action in Franklin Circuit Court, the commission shall file a certified copy of the record of the administrative proceeding in which the commission entered its finding of abandonment.**
- (4) **Any action brought pursuant to KRS 278.410 for review of an order of the commission containing a finding that a utility is abandoned shall be consolidated with any action brought pursuant to subsection (1) of this section and based upon the same order.**
- (5)~~(2)~~ Any receiver appointed by the court shall file a bond~~[unless the court finds it unnecessary]~~ **in an amount fixed by the court.** The receiver shall operate the utility to preserve its assets, **to restore or maintain a reasonable level of service**, and to serve the best interests of its customers.
- (6) **During the pendency of any receivership, the receiver may bring or defend any cause of action on behalf of the utility and generally perform acts on behalf of the utility as the court may authorize.**
- (7) **The receiver shall control and manage the assets and operations of the utility until the Franklin Circuit Court, after reasonable notice and hearing, orders the receiver to return control of those assets to the utility or to liquidate those assets as provided by law.**
- (8) (a) **Notwithstanding subsection (1) of this section, the commission may petition the Franklin Circuit Court to appoint temporarily a receiver to operate and manage the assets of an abandoned utility. After notice to the utility and a hearing, the court may grant a petition, upon terms and conditions as it deems appropriate, upon a showing by a preponderance of the evidence:**
  1. **That a utility has been abandoned;**
  2. **That the abandonment is an immediate threat to the public health, safety, or the continued availability of service to the utility's customers; and**
  3. **That the delay required for the commission to conduct a hearing would place the public health, safety, or continued utility service at unnecessary risk.**
- (b) **Sixty (60) days after its entry, the order of temporary receivership shall terminate and control and responsibility for the assets and operations of the utility shall revert to the utility without further action of the court unless the commission brings an action under subsection (1) of this section.**

➔ SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *If a gas, water, electric, or sewer utility receives notice of discontinuance or termination of service from one (1) or more of its suppliers for breach or default under the terms of the service contract or tariff and the discontinuance or termination will prevent the provision of gas, water, electric, or sewer utility service to its customers, the utility shall within one (1) business day of receipt of the notice:*
  - (a) *Notify the commission in writing of the supplier's notice of discontinuance or termination; and*
  - (b) *Furnish a copy of the supplier's notice of discontinuance or termination to the commission.*
- (2) *Any gas, water, electric, or sewer utility that intends to terminate service to another utility that is subject to the jurisdiction of the commission shall not terminate service without notifying the commission in writing of its intent to terminate service at least thirty (30) days prior to the date of termination.*

**Signed by Governor March 9, 2011.**