

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(Amendment)

103 KAR 8:090. Classification of property; public service corporations.

RELATES TO: KRS 136.120, 136.130

STATUTORY AUTHORITY: KRS 131.130[Chapter 13A]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of Revenue to promulgate administrative regulations for the administration and enforcement of all tax laws of this state. KRS 136.130 requires all public service corporations performing any public service in Kentucky to report certain facts prescribed by the department annually for purposes of the ad valorem tax on public service corporations imposed by KRS 136.120. KRS 136.120(2) states that the property of all taxpayers shall be classified as operating property, nonoperating tangible property and nonoperating intangible property. This administrative regulation specifies the classification of certain operating property commonly held by public service corporations[classifies certain property] as real estate, personalty and manufacturing machinery.[The property involved has been the subject of some confusion in the past. This information is helpful to public service companies in classifying new property.]

Section 1. Definitions (1) "Base Gas" means the volume of gas, including native gas, needed as a permanent inventory in a storage reservoir to maintain adequate pressure and deliverability rates throughout the withdrawal season.

(2) "Gathering line" means:

(a) Any pipeline that is installed or used for the purpose of transporting crude oil or natural gas from a well or production facility to the point of interconnection with another gathering line, an existing storage facility, or a transmission or main line, including all lines between interconnections, except those lines or portions subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195;

(b) For hazardous liquids, a pipeline 219.1 mm (8 5/8 in) or less in nominal outside diameter that transports petroleum products from a production facility; and

(c) For natural gas, a pipeline that transports gas from a current production facility to a transmission pipeline or main as determined using an industry standard determined pursuant to 49 C.F.R. 192.8, including a pipeline 219.1 mm (8 5/8 in) or less in nominal outside diameter and less than fifty (50) miles in length that transports natural gas or natural gas liquids acted upon by a manufacturing process between two (2) manufacturing facilities.

(3) "Transmission pipeline" means any pipeline that is subject to the exclusive jurisdiction of the United States Department of Transportation under 49 C.F.R. Parts 191, 192, 194 and 195, including all crude oil trunk lines subject to the reporting requirements of the Interstate Commerce Act, Sections 20 and 18 C.F.R. Parts 357.2 and 357.4.

(4) "Working Gas" means the volume of gas in the reservoir above the designated level of base gas.

Section 2. Classification of Public Service Company Property. The department [The Revenue Cabinet] prescribes the following classification of property to be used by public service corporations in reporting under KRS 136.120 et seq. This list is not intended to be complete and comprehends only those items of property whose proper classification has been subject to some confusion in the past.

<u>Type of Property</u>	<u>Classification</u>
-------------------------	-----------------------

<u>Unmined Coal</u>	<u>Real Estate</u>
<u>Undeveloped Oil & Gas Reserves</u>	<u>Real Estate</u>
<u>Leasehold</u>	<u>Real Estate</u>
<u>Oil & Gas Wells</u>	<u>Real Estate</u>
<u>Transmission Pipelines (Oil, Gas & Water)</u>	<u>Real Estate</u>
<u>Conduits</u>	<u>Real Estate</u>
<u>Base & Nonrecoverable Gas Stored</u>	<u>Real Estate</u>
<u>Working Gas Stored</u>	<u>Tangible Personal</u>
<u>Other Gas Stored</u>	<u>Tangible Personal</u>
<u>Gas Compressors</u>	<u>Tangible Personal</u>
<u>Oil Lifting Units</u>	<u>Tangible Personal</u>
<u>Oil Storage Tanks (over 30,000 Gallons)</u>	<u>Real Estate</u>
<u>Oil Storage Tanks (under 30,000 Gallons)</u>	<u>Tangible Personal</u>
<u>Oil Inventory</u>	<u>Tangible Personal</u>
<u>Television Cable</u>	<u>Tangible Personal</u>
<u>Oil & Gas Gathering Lines</u>	<u>Tangible Personal</u>
<u>Electric Transmission Lines</u>	<u>Tangible Personal</u>
<u>Electric Distribution Lines</u>	<u>Tangible Personal</u>
<u>Meters & Regulators</u>	<u>Tangible Personal</u>
<u>Underground Cables</u>	<u>Tangible Personal</u>
<u>Telephone Lines</u>	<u>Tangible Personal</u>
<u>Wire in Underground Conduits</u>	<u>Tangible Personal</u>
<u>Towers, Structures & Supports</u>	<u>Tangible Personal</u>
<u>Electric Substations/Transformers</u>	<u>Manufacturing Machinery</u>
<u>Machinery & Equipment used in the Manufacture of Gas</u>	<u>Manufacturing Machinery</u>
<u>Solar Energy Panels</u>	<u>Manufacturing Machinery</u>
<u>Wind Energy Turbines</u>	<u>Manufacturing Machinery</u>
<u>Inverters; Converters; Transformers; Substations; Mounting Systems; Trackers; and Direct Current (DC) Meters, Regulators, Bat-</u>	<u>Manufacturing Machinery</u>

<u>teries, Cables, Conduits, Connectors, Junction Boxes, Combiner Boxes, Fuses, Circuit Breakers, and Switches for Solar & Wind Energy Systems</u>	
<u>Water Treatment Equipment</u>	<u>Manufacturing Machinery</u>
<u>Personal Property Certified Under KRS 224.1-300</u>	<u>Pollution Control</u>

<u>Class of Property</u>	<u>Classification by Revenue Cabinet</u>
Leasehold	Real Estate
Oil wells	Real Estate
Gas wells	Real Estate
Gathering lines	Personalty
Pipe lines (transmission)	Real Estate
Electric transmission lines	Personalty
Electric distribution lines	Personalty
Telephone lines	Personalty
Underground cables	Personalty
Electric substations and transformers	Manufacturing Machinery
Machinery & equipment used in manufacture of gas	Machinery
Conduits	Real Estate
Wire contained in underground conduits	Personalty

THOMAS MILLER, Commissioner

APPROVED BY AGENCY: July 13, 2021

FILED WITH LRC: July 13, 2021 at 1:16 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 22, 2021, at 10:00 a.m. in Room 11A, State Office Building, 501 High Street, Frankfort, Kentucky 40601. The hearing may be conducted by video teleconference at the discretion of the agency. An individual interested in being heard at this hearing shall provide written notification to the agency of the intention to attend the hearing at least five (5) business days prior to the date scheduled for the hearing.. If no notification of intent to attend the hearing is received by that date, the hearing will be cancelled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the

public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Gary Morris, Executive Director, Office of Tax Policy and Regulation, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky 40601, phone (502) 564-0424, fax (502) 564-3875, email Gary.Morris@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gary Morris

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 103 KAR 8:090 to provide updated classifications of certain commonly held properties of public service corporations (PSC's) pursuant to KRS 136.130(1).

(b) The necessity of this administrative regulation: To comply with statutory requirements; add new utility technology; and remove outdated guidance.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed regulatory language conforms with KRS 13A, 131.130, 132.020, 132.200, and 136.130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation outlines the administrative process for the classification of property owned by PSC's and provides them with a list of assets and classifications as guidance, creating uniformity in how they classify their property for tax purposes.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment updates department guidance relating to property classification to include new technology and administration standards.

(b) The necessity of the amendment to this administrative regulation: see 1(b)

(c) How the amendment conforms to the content of the authorizing statutes: see 1(c)

(d) How the amendment will assist in the effective administration of the statutes: see 1(d)

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 251 public service corporations across the Commonwealth will be able to utilize the guidance contained herein.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None that the Department of Revenue is aware of other than updating their reporting pursuant to KRS 136.120.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no costs known to the Department.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will have a greater understanding of the requirements for filing, and experience more efficient and timely tax filings with the Department of Revenue.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Current department staff and resources will be used to absorb the implementation costs of this administrative regulation.

(b) On a continuing basis: None, until amendments are made in the future.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Currently budgeted agency funding.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees established or increased in this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied because all PSC's using the classification and guidance contained in this administrative regulation will be treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Only the Finance and Administration Cabinet, Department of Revenue will be impacted.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS Chapter 13A and 131.130.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on expenditures and revenues for government agencies as a result of amending this administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? None.

(d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: