807 KAR 5:100. Application fees.

RELATES TO: KRS 278.702, 278.704, 278.706, 278.708, 278.710, 278.712, 278.714, 278.716

STATUTORY AUTHORITY: KRS 278.702(3), 278.706(3), 278.706(5), 278.714

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 278.702 authorizes the Kentucky State Board on Electric Generation and Transmission Siting. KRS 278.702(3) requires the permanent members of the board to promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 278.700 to 278.716. KRS 278.706(3) requires that application fees for a construction certificate shall be established by the board and deposited into a trust and agency account to the credit of the Kentucky Public Service Commission. KRS 278.706(5) requires the board to promulgate administrative regulations establishing fees to cover the expenses associated with review of applications filed pursuant to KRS 278.700 to 278.716. KRS 278.706(5) also requires that, if a majority of the members of the board find that an applicant's initial fees are insufficient to pay the board's expenses for review of the application, including the board's expenses associated with legal review of the application, the board shall assess a supplemental application fee to cover the additional expenses. KRS 278.706(5) requires that an applicant's failure to pay a fee assessed pursuant to KRS 278.706 shall be grounds for denial of the application. KRS 278.714(6)(a) requires the board to promulgate administrative regulations to establish an application fee for a construction certificate for nonregulated electric transmission lines and carbon dioxide transmission pipelines. This administrative regulation establishes an initial application fee for each type of application filed with the board and specifies the method by which a supplemental fee shall be assessed.

Section 1. Application Fee to be Filed with an Application to Construct a Merchant Electricity Generating Plant. A person seeking to obtain a certificate to construct a merchant electricity generating plant shall submit with the application submitted in accordance with 807 KAR 5:110 to the Kentucky State Board on Electric Generation and Transmission Siting, at the offices of the Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky, an initial application fee of $1,000 per megawatt of electricity generating capacity, based on the manufacturer's nameplate rated capacity of the proposed construction, except that the initial application fee for each application for each plant shall be in an amount not less than $40,000 and not more than $200,000.

Section 2. Application Fee to be Filed with an Application to Construct a Nonregulated Transmission Line. A person seeking board approval of construction of a nonregulated transmission line shall file with the application submitted in accordance with 807 KAR 5:110 to the board a fee of fifty (50) dollars per kilovolt of rated capacity per mile of length, except that the initial application fee shall be in an amount not less than $10,000 and not more than $200,000.

Section 3. Application Fee to be Filed with an Application to Construct a Carbon Dioxide Transmission Pipeline. A person seeking board approval of construction of a carbon dioxide transmission pipeline shall file with the application submitted in accordance with 807 KAR 5:110 to the board a fee of $500 per mile of length, except that the initial application fee shall be in an amount not less than $10,000 and not more than $200,000.

Section 4. Application Fee to be Filed with an Application to Transfer a Certificate to Construct a Merchant Electricity Generating Facility. A person seeking board approval to transfer a right or obligation associated with a certificate granted by the board to construct a merchant electricity generating facility shall file with the application submitted in accordance with 807 KAR 5:110 to the board, an initial application fee of $5,000.

Section 5. Supplemental Application Fee.

(1) No sooner than thirty (30) days after an application has been filed and no later than sixty (60) days after issuance of the board's final decision on an application or, if an applicant has sought judicial review in accordance with KRS 278.712(5), no later than sixty (60) days after all appeals of the board's decision have been exhausted, the board shall assess a supplemental application fee to cover an expense related to review of an application filed pursuant to KRS 278.704, 278.710, or 278.714, for which the initial application fee is insufficient.

(2) The supplemental fee shall be assessed by order containing an accounting of each expense for which the supplemental fee is assessed.

Section 6. Refund. No later than sixty (60) days after issuance of the board's final decision on an application or, if judicial review has been sought, no later than sixty (60) days after all appeals of the board's decision have been exhausted, the board shall refund to the applicant any amount paid that exceeds the amount expended by the board.

(29 Ky.R. 610; 958; eff. 10-9-2002; 38 Ky.R. 841; 1136; eff. 1-6-2012; Crt eff. 4-1-2019; Crt eff. 3-23-2026.)