

278.674 Application proceedings -- Commission findings -- Retention of consultants -- Issuance advice letter.

- (1) Proceedings on an application submitted pursuant to KRS 278.672 shall begin with the filing of an application by an electric utility and shall be disposed of in accordance with the requirements of this section and the rules and administrative regulations promulgated by the commission, except as follows:
 - (a) The commission shall establish a procedural schedule that requires that not later than one hundred eighty (180) days after the application is filed:
 1. A decision approving the application, approving the application subject to conditions, or denying the application is issued; and
 2. A financing order is issued if the application is approved and the conditions are met, if conditions are imposed; and
 - (b) The commission shall approve the application for a financing order with or without conditions if the commission finds:
 1. The application is in the public interest; and
 2. The resulting estimated securitized surcharge and other rates are fair, just, and reasonable.
- (2) Judicial review of a financing order shall only be done in accordance with KRS 278.410.
- (3) In performing the responsibilities under KRS 278.670 to 278.696 and 65.114, the commission may retain counsel, one (1) or more financial advisors, or other consultants as the commission deems appropriate. Outside counsel, advisors, or other consultants engaged by the commission shall have no interest in the proposed securitized bonds and shall not direct the placement of securitized bonds. The costs associated with retaining counsel or advisors shall:
 - (a) Be paid by the applicant and be included as financing costs in the securitized surcharge;
 - (b) Be assigned solely to the subject transaction; and
 - (c) Not be an obligation of the Commonwealth.
- (4) The commission may designate one (1) or more representatives from commission staff who may be advised by one (1) or more financial advisors contracted with the commission to provide:
 - (a) Input to and collaboration with the electric utility during the process undertaken to place the securitized bonds to market; and
 - (b) An opinion to the commission on the reasonableness of the pricing, terms, and conditions of the securitized bonds on an expedited basis.
- (5) The designated commission staff and any financial advisor providing advice to commission staff shall:
 - (a) Have no authority to direct how the electric utility places the bonds to market; and
 - (b) Be permitted to attend meetings convened by the electric utility to address placement of the bonds to market.

- (6) If an electric utility's application for a financing order is denied or withdrawn, or for any reason securitized bonds are not issued, any costs of retaining financial advisors, consultants, and counsel on behalf of the commission shall be:
 - (a) Paid by the applicant;
 - (b) Recorded on the books of the utility using appropriate deferral accounting as a regulatory asset; and
 - (c) Be eligible for full recovery, including carrying costs, subject to commission approval.
- (7) Prior to the issuance of each series of securitized bonds, the electric utility shall provide an issuance advice letter to the commission following the determination of the final terms of the series of securitized bonds no later than three (3) business days after the pricing of the securitized bonds.
- (8) The issuance advice letter shall:
 - (a) Report the initial securitized surcharges and other information specific to the securitized bonds as required by the commission;
 - (b) Be included in the financing order which may contain additional provisions relating to the issuance advice letter process as the commission deems appropriate and not inconsistent with KRS 278.670 to 278.696 and 65.114;
 - (c) Indicate the final structure of the securitized bonds; and
 - (d) Provide the best available estimate of total ongoing financing costs.

Effective: June 29, 2023

History: Created 2023 Ky. Acts ch. 72, sec. 3, effective June 29, 2023.