

1 AN ACT relating to the acquisition of water or sewer utilities.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED
4 TO READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Acquisition" means a voluntary sale to an acquiring utility of the assets of*
7 *an existing utility between a willing buyer and a willing seller;*

8 *(b) "Acquisition agreement" means the document reflecting the terms and*
9 *provisions of an acquisition; and*

10 *(c) "Debt" means a sum certain, which is due and owing.*

11 *(2) If an investor-owned water or sewer utility acquires an existing water or sewer*
12 *utility or its assets, including but not limited to city-owned assets that provide*
13 *water or sewer services, the acquiring utility's next base rate application may seek*
14 *to include in the rate base the entire value of all assets acquired as measured by*
15 *the fair market value as of the date of the acquisition or by the purchase price*
16 *paid by the acquiring utility, whichever is less.*

17 *(3) In reviewing the acquiring utility's request to include the value of the acquired*
18 *assets in the rate base, the commission shall consider, among other factors,*
19 *whether operational economies were achieved through the acquisition and*
20 *whether inclusion of the value of the acquired assets in the rate base will result in*
21 *utility rates that are fair, just, and reasonable as required by KRS 278.030.*

22 *(4) The fair market value of an acquisition under this section shall be established by*
23 *the average of three (3) appraisals, the costs of which shall be paid by the*
24 *acquiring utility. Appraisers shall be chosen as follows:*

25 *(a) One (1) appraiser shall be chosen by the utility that is to be acquired. The*
26 *choice shall be made within thirty (30) days of receiving a written request to*
27 *do so from the acquiring utility;*

- 1 (b) One (1) appraiser shall be chosen by the acquiring utility; and
- 2 (c) The appraisers chosen in paragraphs (a) and (b) of this subsection shall
- 3 choose a third appraiser by mutual agreement.
- 4 (5) The entities choosing appraisers under subsection (4) of this section shall only
- 5 choose appraisers that:
- 6 (a) Have the expertise, technical knowledge, and qualifications to make a fair
- 7 and proper appraisal and valuation of the type of property involved in the
- 8 acquisition;
- 9 (b) Have no financial or other interest in the acquisition; and
- 10 (c) Are neither residents nor taxpayers of the service area of the utility being
- 11 acquired.
- 12 (6) Each appraiser chosen under subsection (4) of this section shall separately
- 13 determine the fair market value of the utility or the assets in the acquisition in
- 14 compliance with the latest version of the Uniform Standards of Professional
- 15 Appraisal Practice. The determination of the current value for all assets shall not
- 16 be limited to or by the original purchase price or the original value of the assets.
- 17 (7) The acquisition agreement shall provide for the repayment to any person or
- 18 government entity of any debt owed on the assets being acquired.
- 19 (8) Nothing in this section shall affect the commission's jurisdiction as set forth in
- 20 KRS 278.040.