

1 AN ACT relating to public 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 ***In setting residential rates for electric, natural gas, and water service, the commission***
6 ***shall adjust and set each utility's residential fixed customer charge to recover no more***
7 ***than fixed direct capital costs including depreciation, fair rate of return, and income***
8 ***taxes, and operations and maintenance expenses that are directly related to metering,***
9 ***billing, service connections, and the provision of customer service.***

10 ➔Section 2. KRS 278.010 is amended to read as follows:

11 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and
12 278.990, unless the context otherwise requires:

13 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,
14 agencies, and instrumentalities thereof, associations, joint-stock companies, and
15 business trusts;

16 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more
17 persons having a joint or common interest;

18 (3) "Utility" means any person except a regional wastewater commission established
19 pursuant to KRS 65.8905 and, for purposes of paragraphs (a), (b), (c), (d), and (f) of
20 this subsection, a city, who owns, controls, operates, or manages any facility used or
21 to be used for or in connection with:

22 (a) The generation, production, transmission, or distribution of electricity to or for
23 the public, for compensation, for lights, heat, power, or other uses;

24 (b) The production, manufacture, storage, distribution, sale, or furnishing of
25 natural or manufactured gas, or a mixture of same, to or for the public, for
26 compensation, for light, heat, power, or other uses;

27 (c) The transporting or conveying of gas, crude oil, or other fluid substance by

- 1 pipeline to or for the public, for compensation;
- 2 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
3 of water to or for the public, for compensation;
- 4 (e) The transmission or conveyance over wire, in air, or otherwise, of any
5 message by telephone or telegraph for the public, for compensation; or
- 6 (f) The collection, transmission, or treatment of sewage for the public, for
7 compensation, if the facility is a subdivision collection, transmission, or
8 treatment facility plant that is affixed to real property and is located in a
9 county containing a city of the first class or is a sewage collection,
10 transmission, or treatment facility that is affixed to real property, that is
11 located in any other county, and that is not subject to regulation by a
12 metropolitan sewer district or any sanitation district created pursuant to KRS
13 Chapter 220;
- 14 (4) "Retail electric supplier" means any person, firm, corporation, association, or
15 cooperative corporation, excluding municipal corporations, engaged in the
16 furnishing of retail electric service;
- 17 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS
18 278.017;
- 19 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is
20 being or has been substantially used to supply retail electric service and includes all
21 lines from the distribution substation to the electric consuming facility but does not
22 include any transmission facilities used primarily to transfer energy in bulk;
- 23 (7) "Retail electric service" means electric service furnished to a consumer for ultimate
24 consumption, but does not include wholesale electric energy furnished by an electric
25 supplier to another electric supplier for resale;
- 26 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a
27 central station source;

- 1 (9) "Generation and transmission cooperative" or "G&T" means a utility formed under
2 KRS Chapter 279 that provides electric generation and transmission services;
- 3 (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that
4 provides retail electric service;
- 5 (11) "Facility" includes all property, means, and instrumentalities owned, operated,
6 leased, licensed, used, furnished, or supplied for, by, or in connection with the
7 business of any utility;
- 8 (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation
9 for service rendered or to be rendered by any utility, and any rule, regulation,
10 practice, act, requirement, or privilege in any way relating to such fare, toll, charge,
11 rental, or other compensation, and any schedule or tariff or part of a schedule or
12 tariff thereof;
- 13 (13) "Service" includes any practice or requirement in any way relating to the service of
14 any utility, including the voltage of electricity, the heat units and pressure of gas, the
15 purity, pressure, and quantity of water, and in general the quality, quantity, and
16 pressure of any commodity or product used or to be used for or in connection with
17 the business of any utility, but does not include Voice over Internet Protocol (VoIP)
18 service;
- 19 (14) "Adequate service" means having sufficient capacity to meet the maximum
20 estimated requirements of the customer to be served during the year following the
21 commencement of permanent service and to meet the maximum estimated
22 requirements of other actual customers to be supplied from the same lines or
23 facilities during such year and to assure such customers of reasonable continuity of
24 service;
- 25 (15) "Commission" means the Public Service Commission of Kentucky;
- 26 (16) "Commissioner" means one (1) of the members of the commission;
- 27 (17) "Demand-side management" means any conservation, load management, or other

- 1 utility activity intended to influence the level or pattern of customer usage or
2 demand, including home energy assistance programs;
- 3 (18) "Affiliate" means a person that controls or that is controlled by, or is under common
4 control with, a utility;
- 5 (19) "Control" means the power to direct the management or policies of a person through
6 ownership, by contract, or otherwise;
- 7 (20) "CAM" means a cost allocation manual which is an indexed compilation and
8 documentation of a company's cost allocation policies and related procedures;
- 9 (21) "Nonregulated activity" means the provision of competitive retail gas or electric
10 services or other products or services over which the commission exerts no
11 regulatory authority;
- 12 (22) "Nonregulated" means that which is not subject to regulation by the commission;
- 13 (23) "Regulated activity" means a service provided by a utility or other person, the rates
14 and charges of which are regulated by the commission;
- 15 (24) "USoA" means uniform system of accounts which is a system of accounts for public
16 utilities established by the FERC and adopted by the commission;
- 17 (25) "Arm's length" means the standard of conduct under which unrelated parties, each
18 party acting in its own best interest, would negotiate and carry out a particular
19 transaction;
- 20 (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class
21 of customer, activity, or business unit that is attributable to another;
- 22 (27) "Solicit" means to engage in or offer for sale a good or service, either directly or
23 indirectly and irrespective of place or audience;
- 24 (28) "USDA" means the United States Department of Agriculture;
- 25 (29) "FERC" means the Federal Energy Regulatory Commission;
- 26 (30) "SEC" means the Securities and Exchange Commission;
- 27 (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec. 20.3

1 and includes the term "wireless" and service provided by any wireless real time two
 2 (2) way voice communication device, including radio-telephone communications
 3 used in cellular telephone service, personal communications service, and the
 4 functional or competitive equivalent of a radio-telephone communications line used
 5 in cellular telephone service, a personal communications service, or a network radio
 6 access line; ~~and~~

7 (32) "Voice over Internet Protocol" or "VoIP" has the same meaning as in federal law

8 **(33) "Customer charge" means the basic fee for utility service that:**

9 **(a) Does not fluctuate with usage; and**

10 **(b) Is intended to recover the direct, fixed customer-related costs.**

11 ➔Section 3. KRS 278.030 is amended to read as follows:

12 (1) Every utility may demand, collect and receive fair, just, ~~and~~ reasonable, **and**
 13 **affordable** rates for the services rendered or to be rendered by it to any person. **The**
 14 **commission may, on its own motion, examine the adequacy of a utility's rate if**
 15 **the utility has not requested a rate adjustment in three (3) years. If the**
 16 **commission finds that a rate is inadequate, the commission may order a full rate**
 17 **case to mitigate the impact of rate increases on the customer. In determining fair,**
 18 **just, reasonable, and affordable rates for services rendered under this subsection,**
 19 **the commission shall balance the interests of the customer, the utility, and in**
 20 **cases where the utility has investors, the interests of those investors.**

21 (2) Every utility shall furnish adequate, efficient, and reasonable service, and may
 22 establish reasonable rules governing the conduct of its business and the conditions
 23 under which it shall be required to render service.

24 (3) **In determining the rates for services rendered under subsection (1) of this**
 25 **section, the commission may consider whether the utility has furnished adequate,**
 26 **efficient, and reasonable service under subsection (2) of this section.**

27 **(4) In determining the rates for services rendered under subsection (1) of this**

1 section, except for charges approved for a federally funded construction project
 2 under KRS 278.023, it shall be the policy of the Commonwealth that all costs
 3 determined by the commission to be reasonable and within the direct control of
 4 the utility shall be recovered through base rates rather than through surcharges.

5 (5) When exercising its ratemaking function, the commission shall balance the
 6 interests of the utility, the utility investor where required, and the customer in
 7 establishing fair, just, reasonable, and affordable rates.

8 (6) Every utility may employ in the conduct of its business suitable and reasonable
 9 classifications of its service, patrons and rates. The classifications may, in any
 10 proper case, take into account the nature of the use, the quality used, the quantity
 11 used, the time when used, the purpose for which used, and any other reasonable
 12 consideration.

13 ~~(7)(4)~~ Notwithstanding the provisions of subsection (2) of this section, no utility
 14 shall energize power to an electrical service in a manufactured home or mobile
 15 home where the certified installer's seal is not present pursuant to KRS 227.570.

16 ~~(8)(5)~~ Notwithstanding the provisions of subsection (2) of this section, no utility
 17 shall energize power to an electrical service in a previously owned manufactured
 18 home or previously owned mobile home where the Class B1 seal is not present
 19 pursuant to KRS 227.600.

20 ➔Section 4. KRS 278.183 is amended to read as follows:

21 (1) Notwithstanding any other provision of this chapter, effective January 1, 1993, a
 22 utility shall be entitled to the current recovery of its costs of complying with the
 23 Federal Clean Air Act as amended and those federal, state, or local environmental
 24 requirements which apply to coal combustion wastes and by-products from facilities
 25 utilized for production of energy from coal in accordance with the utility's
 26 compliance plan as designated in subsection (2) of this section. These costs shall
 27 include a reasonable return on construction and other capital expenditures and

1 reasonable operating expenses for any plant, equipment, property, facility, or other
2 action to be used to comply with applicable environmental requirements set forth in
3 this section. Operating expenses include all costs of operating and maintaining
4 environmental facilities, income taxes, property taxes, other applicable taxes, and
5 depreciation expenses as these expenses relate to compliance with the
6 environmental requirements set forth in this section.

7 (2) Recovery of costs pursuant to subsection (1) of this section that are not already
8 included in existing rates shall be by environmental surcharge to existing rates
9 imposed as a positive or negative adjustment to customer bills in the second month
10 following the month in which costs are incurred. Each utility, before initially
11 imposing an environmental surcharge pursuant to this subsection, shall thirty (30)
12 days in advance file a notice of intent to file said plan and subsequently submit to
13 the commission a plan, including any application required by KRS 278.020(1), for
14 complying with the applicable environmental requirements set forth in subsection
15 (1) of this section. The plan shall include the utility's testimony concerning a
16 reasonable return on compliance-related capital expenditures and a tariff addition
17 containing the terms and conditions of a proposed surcharge as applied to individual
18 rate classes. Within six (6) months of submittal, the commission shall conduct a
19 hearing upon the request of a party, and shall, regardless of whether or not a hearing
20 is requested:

21 (a) Consider and approve the plan and rate surcharge if the commission finds the
22 plan and rate surcharge reasonable and cost-effective for compliance with the
23 applicable environmental requirements set forth in subsection (1) of this
24 section;

25 (b) Establish a reasonable return on compliance-related capital expenditures; and

26 (c) Approve the application of the surcharge.

27 (3) The amount of the monthly environmental surcharge shall be filed with the

1 commission ten (10) days before it is scheduled to go into effect, along with
2 supporting data to justify the amount of the surcharge which shall include data and
3 information as may be required by the commission. At six (6) month intervals, the
4 commission shall review past operations of the environmental surcharge of each
5 utility, and after hearing, as ordered, shall, by temporary adjustment in the
6 surcharge, disallow any surcharge amounts found not just and reasonable and
7 reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of
8 this section. Every two (2) years the commission shall review and evaluate past
9 operation of the surcharge, and after hearing, as ordered, shall disallow improper
10 expenses, and to the extent appropriate, incorporate surcharge amounts found just
11 and reasonable into the existing base rates of each utility *in accordance with*
12 *Section 3 of this Act.*

13 (4) The commission may employ competent, qualified independent consultants to assist
14 the commission in its review of the utility's plan of compliance as specified in
15 subsection (2) of this section. The cost of any consultant shall be included in the
16 surcharge approved by the commission.

17 (5) The commission shall retain all jurisdiction granted by this section and KRS
18 278.020 to review the environmental surcharge authorized by this section and any
19 complaints as to the amount of any environmental surcharge or the incorporation of
20 any environmental surcharge into the existing base rate of any utility.

21 ➔Section 5. KRS 278.190 is amended to read as follows:

22 (1) Whenever any utility files with the commission any schedule stating new rates, the
23 commission may, upon its own motion, or upon complaint as provided in KRS
24 278.260, and upon reasonable notice, hold a hearing concerning the reasonableness
25 of the new rates *and may also examine the costs as required under Section 1 of*
26 *this Act and subsections (1), (2), (3), (4), and (5) of Section 3 of this Act.*

27 (2) Pending the hearing and the decision thereon, and after notice to the utility, the

1 commission may, at any time before the schedule becomes effective, suspend the
2 operation of the schedule and defer the use of the rate, charge, classification, or
3 service, but not for a longer period than five (5) months beyond the time when it
4 would otherwise go into effect if an historical test period is used, or longer than six
5 (6) months if a forward-looking test period is used, pursuant to KRS 278.192; and
6 after such hearing, either completed before or after the rate, charge, classification, or
7 service goes into effect, the commission may make those orders with reference
8 thereto as it deems proper in the matter. If the proceeding has not been concluded
9 and an order made at the expiration of five (5) months, or six (6) months, as
10 appropriate, the utility may place the proposed change of rate, charge, classification,
11 or service in effect at the end of that period after notifying the commission, in
12 writing, of its intention so to do. Where increased rates or charges are thus made
13 effective, the commission may, by order, require the interested utility or utilities to
14 maintain their records in a manner as will enable them, or the commission, or any of
15 its customers, to determine the amounts to be refunded and to whom due in the
16 event a refund is ordered, and upon completion of the hearing and decision may, by
17 further order, require such utility or utilities to refund to the persons in whose behalf
18 the amounts were paid that portion of the increased rates or charges as by its
19 decision shall be found unreasonable. Provided, however, if the commission, at any
20 time, during the suspension period, finds that the company's credit or operations
21 will be materially impaired or damaged by the failure to permit the rates to become
22 effective during the period, the commission may, after any hearing or hearings,
23 permit all or a portion of the rates to become effective under terms and conditions
24 as the commission may, by order, prescribe.

25 (3) At any hearing involving the rate or charge sought to be increased, the burden of
26 proof to show that the increased rate or charge is just and reasonable, and that costs
27 are determined in accordance with Sections 1 and 3 of this Act, shall be upon the

1 utility, and the commission shall give to the hearing and decision of such questions
 2 preference over other questions pending before it and decide the same as speedily as
 3 possible, and in any event not later than ten (10) months after the filing of such
 4 schedules.

5 (4) If the commission, by order, directs any utility to make a refund, as hereinabove
 6 provided, of all or any portion of the increased rates or charges, the utility shall
 7 make the refund within sixty (60) days after a final determination of the proceeding
 8 by an order of the court or commission with or without interest in the discretion of
 9 the commission. If the utility fails to make the refund within sixty (60) days after
 10 the final determination, any party entitled to a refund may, after ten (10) days'
 11 written demand, bring an action in any court of competent jurisdiction of this state,
 12 and may recover, in addition to the amount of the refund due, legal interest, court
 13 costs, and reasonable attorney's fees. No such action may be maintained unless
 14 instituted within one (1) year after the final determination. Any number of persons
 15 entitled to refunds may join in as plaintiffs in a single action and the court shall
 16 render a judgment severally for each plaintiff as his interest may appear.

17 ➔Section 6. KRS 278.255 is amended to read as follows:

18 (1) **Beginning on the effective date of this Act, and except for a distribution**
 19 **cooperative,** the commission shall **require a** ~~[provide for periodic]~~ management and
 20 **operations audit to investigate management effectiveness and operating**
 21 **efficiency** ~~[operation audits]~~ of each utility with annual intra-Kentucky assessable
 22 revenue as of December 31, **2019** ~~[1983]~~, under KRS 278.150(1), **of** not less than
 23 one hundred million dollars (\$100,000,000) ~~[to investigate management~~
 24 ~~effectiveness and operating efficiency]~~. The commission shall complete or provide
 25 for **an initial** ~~[a]~~ full and comprehensive audit of each such utility **under this**
 26 **subsection that meets the intra-Kentucky assessable revenue requirement at any**
 27 **time after the effective date of this Act, except that all initial audits under this**

1 subsection shall be completed prior to January 1, ~~2023~~[1990]. After the initial audit
 2 of any utility, the commission may order a subsequent audit of that utility focusing
 3 on issues disclosed by the initial audit. After the initial audit of any utility, the
 4 commission shall provide for a management and operations audit to be filed with
 5 the commission every five (5) years following the first completed audit[A full and
 6 comprehensive audit of any utility initiated prior to July 13, 1984, may be deemed
 7 to satisfy the requirements of this subsection if the audit was required and directed
 8 by the commission and completed after July 1, 1983].

9 (2) Notwithstanding subsection (1) of this section, the commission may provide for
 10 management or operations audits, or both, of any utility under its jurisdiction on a
 11 regular or irregular schedule to investigate all or any portion of the management and
 12 operating procedures or any other internal workings of the utility, either upon
 13 complaint or by the commission's own motion.

14 (3) Audits provided under this section may, at the discretion of the commission, be
 15 performed by the commission staff or by a competent, qualified and independent
 16 firm. When the commission orders an audit to be performed by an independent
 17 firm, the commission shall select the audit firm, which shall work for and under the
 18 direction of the commission, with the cost to be borne by the utility. The
 19 commission shall include the cost of conducting any audits required in this section
 20 in the cost of service of the utility for ratemaking purposes.

21 (4) The commission shall adopt rules and regulations setting forth the scope and
 22 application of audits, and procedures for the conduct of management and operations
 23 audits. The audit procedures shall provide the utility being audited the opportunity
 24 to comment at various stages of the audit, including an opportunity to comment on
 25 the initial work plan and the opportunity to review and comment on preliminary
 26 audit drafts prior to issuance of a final document. The results of all audits shall be:

27 (a) Filed with the commission; ~~and shall be~~

- 1 **(b)** Open to public inspection; **and**
2 **(c)** **Available on the commission's and the utilities' Web sites.**

3 ➔Section 7. KRS 278.260 is amended to read as follows:

4 (1) The commission shall have original jurisdiction over complaints as to rates or
5 service of any utility, and upon a complaint in writing made against any utility by
6 any person that any rate in which the complainant is directly interested is
7 unreasonable or unjustly discriminatory, or that any regulation, measurement,
8 practice or act affecting or relating to the service of the utility or any service in
9 connection therewith is unreasonable, unsafe, insufficient or unjustly
10 discriminatory, or that any service is inadequate or cannot be obtained, the
11 commission shall proceed, with or without notice, to make such investigation as it
12 deems necessary or convenient. The commission may also make such an
13 investigation on its own motion. **Upon initiation of an investigation pursuant to**
14 **this subsection, the commission shall provide notice by mail or electronically to**
15 **the Attorney General's Office of Rate Intervention.** No order affecting the rates or
16 service complained of shall be entered by the commission without a formal public
17 hearing.

18 (2) The commission shall fix the time and place for each hearing held by it, and shall
19 serve notice thereof upon the utility and the complainant not less than twenty (20)
20 days before the time set for the hearing. The commission may dismiss any
21 complaint without a hearing if, in its opinion, a hearing is not necessary in the
22 public interest or for the protection of substantial rights.

23 (3) The complainant and the person complained of shall be entitled to be heard in
24 person or by an attorney and to introduce evidence.

25 ➔Section 8. KRS 96.120 is amended to read as follows:

26 (1) Any city that owns and operates its own water or light plant may acquire a franchise
27 to furnish water and light to any other city, in the same manner that any private

1 corporation or individual may acquire such a franchise.

2 (2) Any city that owns and operates its own water or light plant may contract with any
3 other city to furnish water and light to that other city. Those contracts may be
4 entered into by the legislative bodies of the cities, and the legislative bodies are
5 given full power to so contract in regard to the furnishing of water or light. Each
6 contract shall be specific in its terms. Any city may pay to any other city a rental for
7 water and light from year to year, or for a term of years.

8 (3) Any city may construct, lay, or maintain mains, pipes, lines, or other necessary
9 apparatus to convey water or light from any city that owns and operates its own
10 water or light plant, or may contract with the other city to do these things, and the
11 other city shall have the same power. For this purpose, any city may acquire rights
12 and rights-of-way in the same manner that private corporations or individuals may
13 acquire rights and rights-of-way, and may do any other things in carrying into effect
14 the provisions of this section that any individual or corporation may do.

15 **(4) Any contract entered into pursuant to this section shall be submitted for review**
16 **and approval by the Public Service Commission. The rates and service provided**
17 **in the contract shall be subject to review and regulation by the Public Service**
18 **Commission pursuant to KRS Chapter 278. The criteria for approval of the**
19 **contract shall include a determination that the contract shall provide for**
20 **adequate, efficient, and reasonable water or light service and that the rates of the**
21 **service are fair, just, and reasonable.**

22 ➔Section 9. KRS 96.150 is amended to read as follows:

23 (1) Any city that owns or operates a water supply or sanitary sewer system may extend
24 the system into, and furnish and sell water and provide sanitary sewers to any
25 person within, any territory contiguous to the city, and may install within that
26 territory necessary apparatus; provided, however, that the extension of a water
27 supply or sanitary sewer system shall not enter into any territory served by an

1 existing water supply or sanitary sewer district unless such district requests the
2 extension of water or sewer services from a city. For these purposes the city or
3 sanitation authority established by an interlocal agreement may condemn or
4 otherwise acquire franchises, rights, and rights-of-way, as private corporations may
5 do.

6 (2) When extending the system to any person, water district, or water association, the
7 city may consider the installation of fire hydrants on the extended lines. The city
8 may extend water lines which are incapable of servicing fire hydrants only if the
9 city determines that servicing hydrants is not feasible. The determination shall
10 include consideration of the incremental costs of adequately sized pipe and
11 associated pumps and towers, and the benefits of real estate development, water
12 sales, the availability of fire protection insurance, and the reduction in fire insurance
13 premiums which may result from the installation of hydrants at specified intervals.
14 When extending lines to a water district or water association, the determination may
15 be made in consultation with the district or association, taking into consideration
16 their fiscal capacity.

17 **(3) Any extension of a water or sewer system pursuant to this section shall be subject**
18 **to review and regulation by the Public Service Commission. The rates and service**
19 **provided by the project shall be approved and regulated by the Public Service**
20 **Commission pursuant to KRS Chapter 278. The criteria for approval of the**
21 **project shall include a determination that the project shall furnish adequate,**
22 **efficient, and reasonable water or sewer service and that the rates of the service**
23 **are fair, just, and reasonable.**

24 ➔Section 10. KRS 96.520 is amended to read as follows:

25 (1) Any city of the home rule class or urban-county government may purchase,
26 establish, erect, maintain, and operate electric light, heat, and power plants, with
27 extensions and necessary appurtenances, within or without the corporate limits of

1 the city or the urban-county government, for the purpose of supplying the city or
2 urban-county government and its inhabitants with electric light, heat, power, and
3 telecommunications. Any city-owned or urban-county government-owned utility
4 created under this section that provides telecommunications services shall be
5 regulated as to that service by KRS Chapter 278. Any city-owned or urban-county
6 government-owned utility created under this section that provides municipal
7 telephone service shall be regulated as to that service by KRS Chapter 278. For the
8 purpose of providing electric light, heat, power, and telephone services, a city of the
9 home rule class or urban-county government may enter into and fulfill the terms of
10 an interconnection agreement with any electric or combination electric or gas utility
11 whose rates and service are regulated by the Public Service Commission of
12 Kentucky (or, if not so regulated, operating and having customers only outside of
13 Kentucky), or an affiliate entirely owned by or under complete common ownership
14 with an electric or combination electric and gas utility whose rates and service are
15 regulated by the Public Service Commission of Kentucky. Any city of the home rule
16 class or urban-county government may establish, erect, maintain, and operate plants,
17 individually or jointly with any of these utilities or utility affiliate. In the case of any
18 joint action, a city or urban-county government and utility or utility affiliate may
19 provide by contract for their respective responsibilities, for operation and
20 maintenance and for the allocation of expenses, revenues, and power. If in the
21 accomplishment of this purpose a city or urban-county government at any time has
22 capacity or energy surplus to the immediate needs of the city or urban-county
23 government and its inhabitants, the surplus, if not disposed of for consumption
24 outside this state, may be disposed of to an electric or combination electric and gas
25 utility whose rates and service are regulated by the Public Service Commission of
26 Kentucky, to an affiliate entirely owned by or under complete common ownership
27 with such a utility, or to a city-owned or urban-county government-owned utility

1 established pursuant to KRS Chapter 96. *If a city or urban-county government*
2 *sells capacity or energy surplus to any electric or combination electric or gas*
3 *utility, or to any city-owned or urban-county government-owned utility pursuant*
4 *to KRS Chapter 96, the city or urban-county government shall make formal*
5 *application for approval of the sale to the Public Service Commission. The rates*
6 *and service provided by the city or urban-county government shall be reviewed*
7 *and regulated by the Public Service Commission pursuant to KRS Chapter 278.*

8 (2) The city or urban-county government shall proceed in the same manner and be
9 governed by the same conditions as are set forth in KRS 96.360 to 96.510 for the
10 acquisition and operation of a water system, with the following exceptions:

11 (a) A petition calling for an election on the proposition of purchasing an existing
12 plant shall be signed by at least two hundred (200) qualified voters of the city
13 or urban-county government, rather than by twenty-five percent (25%) of the
14 qualified voters of the city or urban-county government who voted at the last
15 preceding regular election.

16 (b) Notwithstanding any other laws, bonds may be issued bearing interest at a rate
17 or rates and may be sold on a basis to yield interest at a rate or rates as may be
18 determined upon the sale of the bonds.

19 (c) Bonds of an issue, or bonds of two (2) or more issues consolidated for the
20 purposes of sale, which equal or exceed \$10,000,000 in the aggregate
21 principal amount may be sold at public or private sale without compliance
22 with KRS 424.360.

23 (3) This section constitutes a method for the acquisition of an electric light, heat, and
24 power plant by any city of the home rule class or urban-county government in
25 addition or as an alternate to any other method authorized by statute, provided that
26 the city or urban-county government was operating an electric plant on June 1,
27 1942, and has not elected to operate under KRS 96.550 to 96.900. No proceedings

1 shall be required for the acquisition of any electric light, heat, or power plant or the
2 issuance of bonds under this section except the proceedings required by KRS
3 96.360 to 96.510.