

1 AN ACT relating to securitization of public utilities.

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

3 ➔Section 1. KRS 278.300 is amended to read as follows:

- 4 (1) No utility ***until authorized by the commission*** shall:
- 5 ***(a)*** Issue any securities or evidences of indebtedness; ~~or~~
- 6 ***(b)*** Assume any obligation or liability in respect to the securities or evidences of  
7 indebtedness of any other person ~~until it has been authorized so to do by~~  
8 ~~order of the commission~~.
- 9 (2) Application for authority to issue or assume securities or evidences of indebtedness  
10 shall be made in ***the*** ~~such~~ form as the commission prescribes. Every ~~such~~  
11 application shall be made under oath, and shall be signed and filed on behalf of the  
12 utility by its president, ~~or by a~~ vice president, auditor, comptroller, or other  
13 executive officer having knowledge of the matters set forth and duly designated by  
14 the utility. Every ~~such~~ application shall be placed at the head of the docket of the  
15 commission and disposed of ~~promptly~~ within sixty (60) days after it is filed with  
16 the commission, unless it is necessary for good cause to continue the application for  
17 longer time than sixty (60) days, in which case the order making the continuance  
18 shall state fully the facts that make it necessary.
- 19 (3) The commission shall not approve any issue or assumption unless, after  
20 investigation of the purposes, ~~and~~ uses, ***obligations, liability,*** ~~of the proposed~~  
21 ~~issue~~ and ~~the~~ proceeds ***of the issue or assumption*** ~~thereof, or of the proposed~~  
22 ~~assumption of obligation or liability~~, the commission finds that the issue or  
23 assumption:
- 24 ***(a)*** Is for some lawful object within the corporate purposes of the utility; ~~or~~
- 25 ***(b)*** Is necessary, ~~or~~ appropriate for, or consistent with the proper performance by  
26 the utility of its service to the public; ~~and~~
- 27 ***(c)*** Will not impair ***the utility's*** ~~its~~ ability to perform ***its*** ~~that~~ service; ~~or~~ and

1        (d) Is reasonably necessary and appropriate for ~~the~~<sup>[such]</sup> purpose of performing  
2                    the service.

3        (4) The commission may grant or deny the application, in whole or in part, or may grant  
4                    the application~~[it]~~ with any~~[such]~~ modifications,~~[and upon such]~~ terms, and  
5                    conditions as the commission deems necessary or appropriate. The order of the  
6                    commission shall specify that the securities or evidences of indebtedness, or the  
7                    proceeds thereof, shall be used only for the lawful purposes specified in the  
8                    application, and both the application of the utility and the order of the commission  
9                    shall state in general terms the purpose of the issuance or assumption.

10        (5) A copy of any order made and entered by the commission under this section, duly  
11                    certified by the executive director of the commission, shall be sufficient evidence  
12                    for all purposes of full and complete compliance by the utility with all procedural  
13                    and other matters required precedent to the entry of the order.

14        (6) Securities and evidences of indebtedness issued and obligations and liabilities  
15                    assumed by a utility, for which, under the provisions of this section, the  
16                    authorization of the commission is required, shall comply with the terms and  
17                    conditions of the order of authorization entered prior to the issue or assumption, and  
18                    where the order has been fully complied with the validity of the issue or assumption  
19                    shall not be affected by a failure to comply with any provision of this section or rule  
20                    of the commission relating to procedure or other matters preceding the entry of the  
21                    order of authorization or order supplemental thereto.

22        (7) The commission may require periodical or special reports from the utility issuing  
23                    any security or evidence of indebtedness. The report shall show, in such detail as the  
24                    commission requires, the disposition made of ~~the~~<sup>[such]</sup> securities or evidences of  
25                    indebtedness, and the application of the proceeds thereof.

26        (8) This section does not apply to notes issued by a utility, for proper purposes and not  
27                    in violation of law, that are payable at periods of not more than two (2) years from

1 the date thereof, or to like notes, payable at a period of not more than two (2) years  
2 from date thereof, that are issued to pay or refund in whole or in part any~~[-such]~~  
3 notes, or to renewals of ~~[such]~~ notes from time to time, not exceeding in the  
4 aggregate six (6) years from the date of the issue of the original notes so renewed or  
5 refunded.

6 (9) Nothing in this section implies any guarantee of securities or evidences of  
7 indebtedness by the state, or any obligation on the part of the state with respect  
8 thereto, and nothing in this section limits the power of any court having jurisdiction  
9 to authorize or cause receiver's certificates or debentures to be issued according to  
10 the rules and practice obtaining in receivership proceedings in courts of equity.

11 (10) This section does not apply in any instance where the issuance of securities or  
12 evidences of indebtedness is subject to the supervision or control of the federal  
13 government or any agency thereof, but the commission may appear as a party to any  
14 proceeding filed or pending before any federal agency if the issuance of the  
15 securities or evidences of indebtedness will materially affect any utility over which  
16 the commission has jurisdiction.

17 (11) This section also does not apply to the issuance of securities or evidence of  
18 indebtedness by a utility principally engaged in transportation of gas by pipeline in  
19 interstate commerce and subject to the supervision, control or jurisdiction of the  
20 federal government or any agency, board or commission thereof.