

1 AN ACT relating to public utilities and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The Public Service Commission shall consist of five (5) members appointed by the*
6 *Governor as follows:*

7 *(a) Two (2) shall be licensed attorneys who have actively practiced law in the*
8 *Commonwealth for at least seven (7) years; and*

9 *(b) Three (3) shall have education or training, and five (5) years of actual*
10 *experience, in one (1) or more of the following fields:*

11 *1. Economics;*

12 *2. Engineering;*

13 *3. Accounting;*

14 *4. Finance;*

15 *5. Utility regulation, operation, or management;*

16 *6. Pipeline or utility infrastructure safety;*

17 *7. Business management; or*

18 *8. Environmental management.*

19 *(2) Appointments and reappointments to the commission shall be subject to*
20 *confirmation by the Senate as provided in KRS 11.160.*

21 *(3) (a) Every four (4) years, the commissioners shall elect a chair from among the*
22 *commissioners, who shall serve a four (4) year term or until his or her term*
23 *expires without reappointment, whichever comes first.*

24 *(b) Members of the commission may serve multiple terms as chair subject to the*
25 *term limitations set forth in subsection (5) of this section.*

26 *(c) The chair shall be the chief executive officer of the commission and shall*
27 *designate one (1) of the commissioners to serve as vice chair to act for the*

1 chair in his or her absence.

2 (d) The chair may designate in writing one (1) or more commissioners or the
3 executive director to act for him or her in the event of his or her absence or
4 inability for any reason to discharge the duties of the position. The designee
5 of the chair shall have all of the duties and powers of the chair for the
6 duration of the designation, except that the executive director shall not
7 serve as a member of the commission on any cases before the commission.

8 (4) Vacancies for unexpired terms shall be filled in the same manner as the original
9 appointments, but the appointee shall hold office only until the end of the
10 unexpired term and shall be subject to confirmation by the Senate as provided in
11 KRS 11.160.

12 (5) Members of the commission shall serve no more than three (3) terms, but any
13 terms or partial terms served prior to the effective date of this Act shall not be
14 counted toward the term limits established by this subsection.

15 (6) After the initial appointments, a member of the commission shall serve for a term
16 of four (4) years and until a successor is appointed and qualified.

17 (7) No more than three (3) members of the commission shall be of the same political
18 party, and members of the commission shall not serve on any other regulatory
19 bodies during their terms on the commission.

20 ➔Section 2. KRS 278.040 is amended to read as follows:

21 (1) (a) The Public Service Commission shall constitute an independent department
22 of state government within the meaning of KRS Chapter 12 and shall be
23 administratively attached to the Energy and Environment Cabinet only for
24 those limited functions and purposes expressly requested by the commission
25 to be performed by the Energy and Environment Cabinet.

26 (b) The commission shall have sole discretion as to which functions shall be
27 deemed necessary for its efficient operation.

1 (c) The commission shall consist of the five (5) commissioners appointed under
2 Section 1 of this Act, an executive director appointed under Section 5 of this
3 Act, and other agents and employees as necessary to carry out the
4 commission's obligations under this chapter.

5 (2) Notwithstanding any provision of law to the contrary:

6 (a) The commission shall conduct all procurements necessary for the
7 performance of its duties in accordance with the procurement procedures
8 outlined in KRS Chapter 45A, this chapter, and the administrative
9 regulations promulgated under this chapter, but the commission shall not
10 be subject to any provision of KRS Chapter 45A that requires the approval
11 of any Finance and Administration Cabinet official for the commission to
12 proceed with any aspect of the procurement process;

13 (b) Upon approval of the commission, the executive director shall be deemed
14 the chief purchasing officer for the purposes of conducting procurements
15 for the commission and shall have all of the authority and responsibility
16 with regard to the commission's procurements as the secretary of the
17 Finance and Administration Cabinet has for procurements under KRS
18 Chapter 45A; and

19 (c) In the bidding and negotiation processes, the executive director, upon
20 approval of the commission, shall perform his or her own bidding and
21 procurement in accordance with the procedures established by KRS Chapter
22 45A.

23 (3) (a) Except as provided in paragraph (b) of this subsection, in any matter to be
24 decided by the commission, the chair of the commission shall assign three
25 (3) commissioners to hear and decide the matter. No more than two (2) of
26 the assigned commissioners shall be of the same political party.

27 (b) In his or her sole discretion, the chair may assign all five (5) commissioners

1 to hear and decide a matter before the commission.

2 (4) (a) Notwithstanding Section 8 of this Act or any provision of KRS Chapter 18A
 3 to the contrary, the commission may, in its sole discretion, identify and
 4 determine the compensation for categories of its professional employees at
 5 the amounts it deems necessary to recruit and retain employees who have
 6 the experience, expertise, and education required to perform their job
 7 responsibilities with the commission.

8 (b) Noncontractual employees of the commission shall otherwise be subject to
 9 the requirements and benefits of KRS Chapter 18A.

10 (5) The commission may engage hearing officers, consultants, and other persons and
 11 entities on a contractual basis as needed to assist with the performance of the
 12 commission's duties under this chapter and the administrative regulations
 13 promulgated thereunder. The scope of responsibilities and duties held by a
 14 hearing officer shall be established by the commission by rule.

15 (6) All personal service contracts entered into by the commission shall be subject to
 16 review by the Government Contract Review Committee established by KRS
 17 45A.705.

18 (7) The ~~Public Service~~ commission shall regulate utilities, ~~and~~ enforce the
 19 provisions of this chapter and the rules and administrative regulations
 20 promulgated hereunder, and exercise all powers necessary and incidental thereto.

21 The commission shall be a body corporate, with power to sue and be sued in its
 22 corporate name. The commission may adopt a seal bearing the name "Public
 23 Service Commission of Kentucky," which seal shall be affixed to all writs and
 24 official documents, and to such other instruments as the commission directs, and all
 25 courts shall take judicial note of the seal.

26 (8)~~(2)~~ The jurisdiction of the commission shall extend to all utilities in this state. The
 27 commission shall have exclusive jurisdiction over the regulation of rates and

1 service of utilities, but with that exception nothing in this chapter is intended to
 2 limit or restrict the police jurisdiction, contract rights or powers of cities or political
 3 subdivisions.

4 ~~(9)~~~~(3)~~ The commission may promulgate~~[adopt,]~~ in accordance~~[keeping]~~ with KRS
 5 Chapter 13A~~[,]~~ reasonable administrative regulations to implement the provisions
 6 of KRS Chapter 278 and investigate the methods and practices of utilities to require
 7 them to conform to the laws of this state, and to all reasonable rules, regulations and
 8 orders of the commission not contrary to law.

9 **(10) The commission shall not be subject to reorganization under KRS Chapter 12.**

10 ➔Section 3. KRS 278.060 is amended to read as follows:

11 (1) Each commissioner shall be a resident and qualified voter of this state, not less than
 12 twenty-five (25) years of age at the time of his or her appointment and
 13 qualification, and shall have resided in this state for at least three (3) years prior to
 14 his or her appointment and qualification. Each commissioner shall take and
 15 subscribe to the constitutional oath of office, which shall be recorded in the office
 16 of the Secretary of State.

17 (2) No person shall be appointed to or hold the office of commissioner who holds, or
 18 whose immediate family member holds, any official relationship to any utility, or
 19 who owns any stocks or bonds thereof, or who has any pecuniary interest therein,
 20 except for a pension or retirement savings account if no contributions have been
 21 made to it for at least one (1) year prior to the appointment.

22 (3) No commissioner shall receive any rebate, pass, percentage of contract or other
 23 thing of value from any utility.

24 (4) In addition to the restrictions on members of the commission set forth in Section 1
 25 of this Act~~[KRS 278.050(1)]~~, no commissioner shall engage in any occupation or
 26 business inconsistent with his or her duties as such commissioner.

27 (5) If any commissioner becomes a member of any political party committee, his or her

1 office as commissioner shall be thereby vacated.†

2 ~~(6) In making appointments to the commission, the Governor shall consider the various~~
 3 ~~kinds of expertise relevant to utility regulation and the varied interests to be~~
 4 ~~protected by the commission, including those of consumers as well as utility~~
 5 ~~investors, and no more than two (2) members shall be of the same occupation or~~
 6 ~~profession.]~~

7 ➔Section 4. KRS 278.070 is amended to read as follows:

8 **(1)** The Governor may remove any commissioner for cause, after giving him ***or her*** a
 9 copy of the charges against him ***or her*** and an opportunity of being publicly heard
 10 in person or by counsel in his ***or her*** own defense upon not less than ten (10) days'
 11 notice.

12 **(2)** If a commissioner is removed, the Governor shall file in the office of the Secretary
 13 of State a complete statement of all charges against the commissioner and his ***or her***
 14 findings thereon, and a complete record of the proceedings.

15 **(3)** Any commissioner so removed may bring action in the proper court to determine
 16 whether or not he ***or she*** was legally removed in accordance with this section.

17 ➔Section 5. KRS 278.100 is amended to read as follows:

18 **(1)** The commission shall ***have the sole authority to*** appoint an executive director, ***by a***
 19 ***majority vote of the members of the commission and subject to confirmation by***
 20 ***the Senate pursuant to KRS 11.160,*** who shall hold office ***at the***~~[during its]~~
 21 pleasure ***of the commission*** and shall devote his ***or her*** entire time to the duties of
 22 ***the***~~[his]~~ office.

23 **(2)** The executive director shall be selected on the basis of experience and training
 24 demonstrating capacity to deal with the problems of management and governmental
 25 regulation and knowledge relatable to utility regulation.

26 **(3)** The executive director shall be the chief administrative officer for the commission
 27 and shall be responsible for implementing the programs, directing the staff, and

1 maintaining the official records of commission proceedings, including all approved
2 orders.

3 ➔Section 6. KRS 278.120 is amended to read as follows:

4 (1)~~[(1)]~~ ~~The chairman and the other two (2) members of the commission shall be paid a~~
5 ~~salary fixed under KRS 64.640 to be paid monthly.~~

6 ~~(2)]~~ **Notwithstanding Section 8 of this Act or any provision of KRS Chapter 18A to the**
7 **contrary,** the executive director of the commission shall be paid a salary to be fixed
8 **solely** by the commission~~[(2)]~~, ~~with the approval of the Governor~~.

9 ~~(2)]~~ ~~(3)]~~ The commissioners, the executive director, and employees of the commission
10 are entitled to all expenses, including hotel bills, incurred in traveling on business
11 of the commission.

12 ~~(3)]~~ ~~(4)]~~ The salaries and expenses provided for by this section, and all other expenses
13 of the commission incurred in the administration of this chapter, shall be paid out of
14 appropriations as provided by law out of the general expenditure fund.

15 ➔Section 7. KRS 278.702 is amended to read as follows:

16 (1) There is hereby established the Kentucky State Board on Electric Generation and
17 Transmission Siting. The board shall be composed of **nine (9)**~~[(7)]~~ members
18 as follows:

- 19 (a) The **five (5)**~~[(3)]~~ members of the Kentucky Public Service Commission;
- 20 (b) The secretary of the Energy and Environment Cabinet or the secretary's
21 designee;
- 22 (c) The secretary of the Cabinet for Economic Development or the secretary's
23 designee;
- 24 (d) 1. If the facility subject to board approval is proposed to be located in one
25 (1) county, two (2) ad hoc public members to be appointed by the
26 Governor from a county where a facility subject to board approval is
27 proposed to be located:

- 1 a. One (1) of the ad hoc public members shall be the chairman of the
2 planning commission with jurisdiction over an area in which a
3 facility subject to board approval is proposed to be located. If the
4 proposed location is not within a jurisdiction with a planning
5 commission, then the Governor shall appoint either the county
6 judge/executive of a county that contains the proposed location of
7 the facility or the mayor of a city, if the facility is proposed to be
8 within a city; and
- 9 b. One (1) of the ad hoc public members shall be appointed by the
10 Governor and shall be a resident of the county in which the facility
11 is proposed to be located.
- 12 2. If the facility subject to board approval is proposed to be located in more
13 than one (1) county, two (2) ad hoc public members to be chosen as
14 follows:
- 15 a. One (1) ad hoc public member shall be the county judge/executive
16 of a county in which the facility is proposed to be located, to be
17 chosen by majority vote of the county judge/executives of the
18 counties in which the facility is proposed to be located; and
- 19 b. One (1) ad hoc public member shall be a resident of a county in
20 which the facility is proposed to be located, and shall be appointed
21 by the Governor.
- 22 If a member has not been chosen by majority vote, as provided in
23 subdivision a. of this subparagraph, by thirty (30) days after the filing of
24 the application, the Governor shall directly appoint the member.
- 25 3. Ad hoc public members appointed to the board **and their immediate**
26 **family members** shall have no direct financial interest in the facility
27 proposed to be constructed **and shall be subject to the executive branch**

1 *code of ethics established in KRS Chapter 11A.*

- 2 (2) The term of service for the ad hoc members of the board shall continue until the
3 merchant electric generating facility for which they were appointed has been
4 constructed and begins generating electricity for sale or the construction certificate
5 expires. The remaining members of the board shall be permanent members.
- 6 (3) The board shall be attached to the Public Service Commission for administrative
7 purposes. The commission staff shall serve as permanent administrative staff for the
8 board. The members of the board identified in subsection (1)(a) to (d) of this
9 section shall promulgate administrative regulations in accordance with KRS
10 Chapter 13A to implement KRS 278.700 to 278.716.
- 11 (4) No member of the board shall receive any salary or fee for service on the board or
12 shall have any financial interest in any facility the application for which comes
13 before the board, but each member shall be reimbursed for actual travel and
14 expenses directly related to service on the board.
- 15 (5) The *chair*~~[chairman]~~ of the Public Service Commission shall be the
16 *chair*~~[chairman]~~ of the board. The *chair*~~[chairman]~~ shall designate one (1) member
17 of the board as vice *chair*~~[chairman]~~. A majority of the members of the board shall
18 constitute a quorum for the transaction of business. No vacancy on the board shall
19 impair the right of the remaining members to exercise all of the powers of the
20 board. The board shall convene upon the call of the *chair*~~[chairman]~~.
- 21 ➔Section 8. KRS 64.640 is amended to read as follows:
- 22 (1) Except as otherwise provided in subsection (2) of this section, and excepting
23 officers elected by popular vote, employees of the General Assembly, including
24 employees of the Legislative Research Commission, members of boards and
25 commissions, those officers and employees of Kentucky Educational Television
26 exempt from classified service as provided in KRS 18A.115, presidents and
27 employees of the state universities and the state colleges, officers employed by the

1 Department of Kentucky State Police under KRS Chapter 16, employees whose
2 compensation is set by the Public Service Commission under subsection (4) of
3 Section 2 of this Act and subsection (1) of Section 6 of this Act, and persons
4 employed by the commissioner of parks on a temporary basis under KRS 148.026,
5 the Personnel Cabinet shall prepare schedules of compensation, payable out of the
6 State Treasury, with a minimum salary rate, and other salary rates as are deemed
7 necessary or advisable, for the office or position of employment of every state
8 officer and employee, including specifically the offices and positions of
9 employment in every constitutional administrative department, statutory
10 administrative department, independent agency, board, commission, or other unit of
11 state government. The language of any statute empowering a board, commission,
12 authority, or other administrative body for which the Personnel Cabinet provides
13 personnel and payroll services, except for any board governing any of the Kentucky
14 Retirement Systems, the County Employees Retirement System, the Kentucky
15 Public Pensions Authority, the Kentucky Higher Education Assistance Authority,
16 the Kentucky Authority for Educational Television, or the Council on
17 Postsecondary Education, to establish, set, or approve the salaries of its
18 administrative head and other employees to the contrary notwithstanding, the
19 establishment or setting of salaries for administrative heads or other employees
20 shall be subject to the approval of the secretary of the Personnel Cabinet. The
21 schedules and rates shall be based upon studies of the duties and responsibilities of
22 the offices and positions and upon a comparison with rates being paid for similar or
23 comparable services elsewhere, and in the preparation of such schedules, the
24 Personnel Cabinet shall ascertain and record the duties, responsibilities, and
25 authority pertaining to the various offices and positions in the state service, and
26 classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110,
27 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become

1 effective until it has been approved by the Governor by executive order.

2 (2) The Governor shall set the compensation payable out of the State Treasury to each
3 officer or position in the state service, which officer or position heads a statutory
4 administrative department, independent agency, or other unit of state government,
5 except for those excluded under subsection (1) of this section. Such compensation
6 shall be based upon studies of the duties and responsibilities and classification of
7 the positions by the Governor and upon a comparison with compensation being paid
8 for similar or comparable services elsewhere, provided, however, such
9 compensation shall not exceed the total taxable compensation of the Governor
10 derived from state sources, the provisions of KRS 64.660 to the contrary
11 notwithstanding. For the purposes of this section, the total taxable compensation of
12 the Governor from state sources shall include the amount provided for
13 compensation to the Governor under KRS 64.480 and any benefits or discretionary
14 spending accounts that are imputed as taxable income for federal tax purposes.

15 (3) The compensation payable out of the State Treasury to officers and employees
16 subordinate to any office or position covered by subsection (2) of this section shall
17 not exceed the maximum rate established pursuant to subsection (2) of this section
18 for such office or position, except with respect to physicians as provided in KRS
19 64.655 and employees of the Public Service Commission ***not otherwise exempt***
20 ***from the requirements of this section under subsection (4) of Section 2 of this Act***
21 ***and subsection (1) of Section 6 of this Act***~~[of Kentucky]~~ whose compensation shall
22 be fixed, within constitutional limits, by the Personnel Cabinet with the approval of
23 the Governor as provided in subsection (1) of this section.

24 (4) Nothing in this section shall preclude the allowance of maintenance to officers and
25 employees of the state.

26 ➔Section 9. KRS 160.617 is amended to read as follows:

27 Notwithstanding KRS 278.040~~(8)~~~~(2)~~, or any other provision to the contrary, any utility,

1 cable service provider, or satellite broadcast and wireless cable service provider required
2 to pay the tax authorized by KRS 160.613 or 160.614 may increase its rates in any school
3 district in which it is required to pay the school tax by the amount of the school tax
4 imposed, up to three percent (3%). Any utility, cable service provider, or satellite
5 broadcast and wireless cable service provider so increasing its rates shall separately state
6 on the bills sent to its customers the amount of the increase and shall identify the amount
7 as: "Rate increase for school tax."

8 →Section 10. KRS 278.010 is amended to read as follows:

9 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and
10 278.990, unless the context otherwise requires:

- 11 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,
12 agencies, and instrumentalities thereof, associations, joint-stock companies, and
13 business trusts;
- 14 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more
15 persons having a joint or common interest;
- 16 (3) "Utility" means any person except a regional wastewater commission established
17 pursuant to KRS 65.8905 and, for purposes of paragraphs (a), (b), (c), (d), and (f) of
18 this subsection, a city or a municipal interlocal gas utility, who owns, controls,
19 operates, or manages any facility used or to be used for or in connection with:
- 20 (a) The generation, production, transmission, or distribution of electricity to or
21 for the public, for compensation, for lights, heat, power, or other uses;
- 22 (b) The production, manufacture, storage, distribution, sale, or furnishing of
23 natural or manufactured gas, or a mixture of same, to or for the public, for
24 compensation, for light, heat, power, or other uses;
- 25 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
26 pipeline to or for the public, for compensation;
- 27 (d) The diverting, developing, pumping, impounding, distributing, or furnishing

- 1 of water to or for the public, for compensation;
- 2 (e) The transmission or conveyance over wire, in air, or otherwise, of any
3 message by telephone or telegraph for the public, for compensation; or
- 4 (f) The collection, transmission, or treatment of sewage for the public, for
5 compensation, if the facility is a subdivision collection, transmission, or
6 treatment facility plant that is affixed to real property and is located in a
7 county containing a city of the first class or is a sewage collection,
8 transmission, or treatment facility that is affixed to real property, that is
9 located in any other county, and that is not subject to regulation by a
10 metropolitan sewer district or any sanitation district created pursuant to KRS
11 Chapter 220;
- 12 (4) "Retail electric supplier" means any person, firm, corporation, association, or
13 cooperative corporation, excluding municipal corporations, engaged in the
14 furnishing of retail electric service;
- 15 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS
16 278.017;
- 17 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is
18 being or has been substantially used to supply retail electric service and includes all
19 lines from the distribution substation to the electric consuming facility but does not
20 include any transmission facilities used primarily to transfer energy in bulk;
- 21 (7) "Retail electric service" means electric service furnished to a consumer for ultimate
22 consumption, but does not include wholesale electric energy furnished by an
23 electric supplier to another electric supplier for resale;
- 24 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a
25 central station source;
- 26 (9) "Generation and transmission cooperative" or "G&T" means a utility formed under
27 KRS Chapter 279 that provides electric generation and transmission services;

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

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

1 used in cellular telephone service, personal communications service, and the
 2 functional or competitive equivalent of a radio-telephone communications line used
 3 in cellular telephone service, a personal communications service, or a network radio
 4 access line;~~and~~

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

6 and

7 (33) "Municipal interlocal gas utility" has the same meaning as in Section 11 of this

8 Act.

9 ➔Section 11. KRS 65.230 is amended to read as follows:

10 As used in KRS 65.210 to 65.300, unless the context otherwise requires:

11 (1) "Interlocal agency" means a separate legal or administrative entity with a governing
 12 board that is created in an agreement entered into by public agencies pursuant to the
 13 provisions of KRS 65.210 to 65.300;

14 (2) "Local government" means any:

15 (a) City;

16 (b) County;

17 (c) Consolidated local government;

18 (d) Urban-county government;

19 (e) Charter county government; or

20 (f) Unified local government;

21 (3) "Municipal interlocal gas utility" means an interlocal agency whose membership
 22 is only composed of city governments formed for the purpose of constructing and
 23 operating a system that is capable of acquiring, distributing, transmitting,
 24 furnishing, or selling natural gas to a federal military installation and other
 25 customers; and

26 (4) "Public agency" means:

27 (a) Any local government;

- 1 (b) Any political subdivision of this state or of another state;
- 2 (c) Any agency, board instrumentality, or commission created by a local
3 government;
- 4 (d) Any taxing district as defined by KRS 65.180;
- 5 (e) Any special purpose government entity as defined in KRS 65A.010(9)(a) to
6 (c), including those entities that are exempt from the definition of special
7 purpose governmental entity under the provisions of KRS 65A.010(9)(d)7. to
8 9.;
- 9 (f) Any interlocal agency;
- 10 (g) The Commonwealth or any agency or instrumentality of the state government
11 or of the United States, including but not limited to a state-supported
12 institution of higher education;
- 13 (h) Any county school district or independent school district; and
- 14 (i) Any private institution of higher education entering into an agreement
15 authorized by KRS 65.240(4) with another public agency.

16 ➔Section 12. KRS 65.240 is amended to read as follows:

- 17 (1) Any powers, privileges, or authorities exercised or capable of exercise by a public
18 agency of this state may be exercised and enjoyed jointly with any other public
19 agency of this state, and jointly with any public agency of any other state or of the
20 United States to the extent that the laws of the United States permit such joint
21 exercise or enjoyment. Any agency of the state government when acting jointly
22 with any public agency may exercise and enjoy all of the powers, privileges and
23 authority conferred by KRS 65.210 to 65.300 upon a public agency.
- 24 (2) Any two (2) or more public agencies may enter into agreements with one another
25 for joint or cooperative action pursuant to the provisions of KRS 65.210 to 65.300,
26 including but not limited to for the sharing of revenues and physical assets.
27 Appropriate action by ordinance, resolution or otherwise pursuant to law, of the

1 governing bodies of the participating public agencies shall be necessary before any
2 such agreement may enter into force.

3 (3) Any public agency may enter into agreements with another public agency or
4 agencies pursuant to KRS 65.210 to 65.300 to acquire by purchase or lease, any real
5 or personal property, or any interest, right, easement, or privilege therein, outside of
6 its municipal or jurisdictional boundaries, in connection with the acquisition,
7 construction, operation, repair, or maintenance of any water, sewage, wastewater,
8 natural gas, or storm water facilities, notwithstanding any other provision of the
9 Kentucky Revised Statutes restricting, qualifying, or limiting their authority to do
10 so, except as set forth in KRS Chapter 278.

11 (4) A private institution of higher education and one (1) or more county school districts
12 or independent school districts may enter into agreements under KRS 65.210 to
13 65.300 for the purposes of establishing and operating a program or facility,
14 including a center for child learning and study, designed to help one (1) or more
15 schools meet the goals set out in KRS 158.6451, or for the investment of funds if
16 the Attorney General determines that the proposal is compatible with the United
17 States Constitution as part of the review of the agreement provided in KRS
18 65.260(2), notwithstanding any other provision of the statutes restricting, qualifying
19 or limiting their authority to do so.

20 ➔Section 13. KRS 96.5375 is amended to read as follows:

21 (1) Subject to the limitations of subsection (4) of this section and KRS 96.045 and
22 96.538, any city that owns and operates a municipal system for the acquisition,
23 distribution, or transmission of natural gas may extend the system or construct a
24 new system as authorized in KRS 96.170 and 96.542, to~~into and~~ furnish and sell
25 natural gas to any person or entity within the boundaries of the city or within any
26 territory outside of the city's boundaries. Municipal interlocal gas utilities shall
27 have the same authority to extend existing natural gas systems or construct new

1 systems to furnish and sell natural gas in territory inside or outside of their
2 constituent cities' boundaries. In exercising the authority provided by this
3 subsection, the city may install the necessary apparatus to provide natural gas
4 distribution or transmission service and may also condemn or otherwise acquire
5 rights-of-way as private utilities may do. The provisions of this subsection shall
6 apply to all cities of this Commonwealth transporting or distributing natural gas as
7 well as any board, commission, or agency thereof.

8 (2) A city, other than a city of the first class or a consolidated local government, may
9 acquire the entire plant of an existing natural gas distribution system only under the
10 same process and subject to the same limitations established by KRS 96.580,
11 96.590, and 96.600.

12 (3) No property owned or operated by an existing natural gas distribution system
13 located within the Commonwealth may be condemned by a city from another state.

14 (4) A natural gas utility, which, for purposes of this subsection, means a public, private
15 or municipally owned gas utility distributing or transporting natural gas to
16 customers within this Commonwealth, shall not:

17 (a) Extend its system for the purposes of furnishing or selling natural gas to any
18 person or entity that is currently being served by another natural gas utility; or

19 (b) Extend its system to furnish or sell natural gas to any person or entity when
20 there is another natural gas utility in closer proximity to the person or entity to
21 be served, unless the natural gas utility in closer proximity has declined to
22 provide service.

23 (5) The provisions of subsection (4) of this section shall only apply to extension of
24 service issues between a municipally owned natural gas utility servicing customers
25 located outside its municipal boundaries and a private or investor-owned natural gas
26 utility. The term "municipally owned" shall include systems distributing or
27 transporting natural gas that are owned by a city from another state.

1 **(6) As used in this section, "municipal interlocal gas utility" has the same meaning**
2 **as in Section 11 of this Act.**

3 ➔Section 14. The following KRS section is repealed:

4 278.050 Membership of Public Service Commission -- Appointment -- Terms --
5 Chairman -- Vacancies.

6 ➔Section 15. (1) Within thirty days of the effective date of this Act, the
7 Governor shall appoint two members of the Public Service Commission for terms
8 expiring July 1, 2028.

9 (2) All current members of the Public Service Commission on the effective date
10 of this Act may serve out the remainder of their terms and any subsequent terms upon
11 reappointment without being subject to the qualifications and appointment limitations in
12 subsection (1) of Section 1 of this Act, but they shall be subject to subsections (2) to (7)
13 of Section 1 of this Act.

14 (3) On the effective date of this Act, copies of any records, files, or documents,
15 including legal documents or memoranda, associated with functions of the Public Service
16 Commission that were previously performed by the Energy and Environment Cabinet but
17 for which it is no longer deemed responsible, shall be transferred or transmitted to the
18 Public Service Commission.

19 ➔Section 16. Sections 10 to 13 of this Act shall apply retroactively to January 1,
20 2020, including with regard to any activities undertaken prior to the effective date of this
21 Act by an entity to which Sections 10 to 13 of this Act apply.

22 ➔Section 17. Whereas it is critical that changes to the organization, membership,
23 and authority of the Public Service Commission be enacted as soon as possible to apply
24 to any membership vacancies or matters before the commission to which the changes
25 may apply, an emergency is declared to exist, and this Act takes effect upon its passage
26 and approval by the Governor or upon its otherwise becoming a law.