

1 AN ACT relating to smart meters.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act:*

6 *(1) "Analog meter" means an electromechanical device that measures electrical*
7 *quantities using a needle that moves across a calibrated scale and requires*
8 *manual readings to physically transmit data to a utility provider;*

9 *(2) "Retail utility service provider" means any person, including a city and a*
10 *regional wastewater commission, who owns, controls, operates, or manages any*
11 *facility used or to be used for or in connection with:*

12 *(a) The generation, production, transmission, or distribution of electricity to or*
13 *for the public for compensation;*

14 *(b) The production, manufacture, storage, distribution, sale, or furnishing of*
15 *natural or manufactured gas, or a mixture of same, to or for the public for*
16 *compensation;*

17 *(c) The collection, transmission, or treatment of sewage for the public, for*
18 *compensation; or*

19 *(d) The furnishing or distributing of water to or for the public for*
20 *compensation;*

21 *(3) "Smart meter" means a time-based digital meter and related communication*
22 *equipment capable of being part of a system that receives, stores, measures, and*
23 *records electricity usage data on a time-differentiated basis and provides two-way*
24 *communication for real-time monitoring of electricity consumption; and*

25 *(4) "Underwriter Laboratories" or "UL" means the independent, nonprofit safety*
26 *science organization that certifies, validates, tests, and audits products to ensure*
27 *safety standards.*

1 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
2 READ AS FOLLOWS:

3 *(1) The requirements of this section shall only apply to utility service provided on*
4 *property owned by the utility customer.*

5 *(2) (a) A retail utility service provider shall give written notice of its intent to install*
6 *a smart meter to the customer not less than thirty (30) days before*
7 *commencing to replace an existing customer's analog meter with a smart*
8 *meter or install a smart meter for a customer with new service.*

9 *(b) The customer shall have thirty (30) days after receiving the notice to opt out*
10 *of having the smart meter installed.*

11 *(c) The retail utility service provider shall have no more than thirty (30) days*
12 *after the customer has selected a meter option to install the meter selected*
13 *by the customer.*

14 *(3) The right to opt out of a smart meter installation shall also apply to a customer*
15 *whose meter is not recording the usage at the premises accurately or the meter is*
16 *otherwise malfunctioning.*

17 *(4) An existing customer may request to replace a smart meter that is currently*
18 *installed with an analog meter, and the retail utility service provider shall install*
19 *the meter in accordance with subsection (2)(c) of this section.*

20 *(5) A retail utility service provider shall keep a quantity of analog meters sufficient to*
21 *fulfillment customer meter requests.*

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
23 READ AS FOLLOWS:

24 *(1) Customers of the retail utility provider shall not be charged:*

25 *(a) For the installation of the smart meter by the retail utility service provider*
26 *or by any company contracted by the retail utility service provider;*

27 *(b) A different rate based on the type of meter used; or*

- 1 (c) A surcharge or fee for opting out of having the smart meter installed.
- 2 (2) Customers shall be entitled to a refund of any improperly collected fees or
 3 charges paid by the customer to the retail utility service provider. Any customer
 4 seeking a reimbursement of improperly collected fees or charges not returned by
 5 the retail utility service provider shall have twelve (12) months from the date the
 6 fees or charges were imposed to file a written request through the Office of the
 7 Attorney General, Office of Rate Intervention.
- 8 (3) The Office of Rate Intervention shall:
- 9 (a) Review the fees or charges to determine if the fees or charges are in
 10 conformity with this section; and
- 11 (b) Send notice to the customer and retail utility service provider of a
 12 determination made under this subsection and provide a copy to the Public
 13 Service Commission if the retail utility service provider is regulated under
 14 KRS Chapter 278.
- 15 (4) Any fees or charges deemed by the Attorney General to be improperly collected by
 16 the retail utility service provider shall be automatically returned to the customer
 17 by crediting the customer account.
- 18 (5) This section shall be retroactive to January 1, 2015, and a customer seeking a
 19 credit or refund from the retail utility service provider for a charge, fee, or
 20 surcharge that the customer paid on or after that date shall be eligible to claim
 21 the credit or refund.

22 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
 23 READ AS FOLLOWS:

- 24 (1) (a) Any retail utility service provider along with the responding fire district
 25 shall submit a report of any fire involving a utility meter no later than thirty
 26 (30) days after the incident to the Office of the Attorney General and, if the
 27 retail utility service provider is regulated by the Public Service Commission,

1 to the commission.

2 (b) A report under this subsection shall include the date, location, meter type,
3 and suspected point of ignition and shall be made available to the public.

4 (2) All smart meters installed in the Commonwealth shall contain a warning label
5 that the meter emits radiofrequency radiation emissions that are possibly
6 carcinogenic to humans.

7 (3) (a) A smart meter shall not be installed or maintained unless it is certified by
8 Underwriter Laboratories under the most recent and relevant safety
9 standards for its specific device class. A property owner may request the
10 removal of a smart meter that lacks the most current UL certification.

11 (b) Within thirty (30) days of the request and at no cost to the customer, the
12 meter shall be replaced with either a smart meter that meets the UL
13 certification standard or an analog meter if requested by customer.

14 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO
15 READ AS FOLLOWS:

16 (1) In any civil action or administrative proceeding:

17 (a) Evidence of extreme radiofrequency radiation levels measuring at or
18 exceeding one hundred (100) milliwatts per square meter shall constitute
19 prima facie evidence that the meter is harmful. Measurements of
20 radiofrequency radiation may be established by any commercially available
21 measuring technology or certified testing equipment; and

22 (b) Damages may be recovered for any documentable disturbances attributable
23 to the smart meter, including but not limited to unwanted garage door
24 openings or negative impacts to human and animal health and the
25 environment.

26 (2) The retail utility service provider shall provide radiation protection at the
27 customer's request if radiation levels exceeding one hundred (100) milliwatts per

1 square meter are measured from a smart meter at a property owned by the
2 customer.

3 (3) Data collected by a retail utility service provider shall be confidential unless
4 waived by the customer or mandated to be provided to a court. Unauthorized use
5 of customer data collected by a retail utility service provider is strictly prohibited.

6 (4) A retail utility service provider or third-party entity shall not utilize a smart meter
7 or any infrastructure installed on a customer's private property as a node, relay,
8 or transmission point for obtaining data for any other reason than the provision
9 of utility service. The placement of a meter of any infrastructure on private
10 property used to transmit data for a wireless network shall be:

11 (a) An additional easement on the customer's property; and

12 (b) Prohibited without express written consent of the property owner and just
13 compensation to the property owner for use of the property as a
14 transmission hub.

15 (5) Sections 1 to 5 of this Act shall not:

16 (a) Prevent or impair a customer's private right of action for any civil damages
17 sustained by the customer due to a smart meter being installed on his or her
18 premises, or on the premises of an adjoining property owner who is within
19 the distance for electromagnetic radiation to penetrate the customer's
20 property; or

21 (b) Limit the liability of a customer for a legitimate outstanding balance to a
22 retail utility service provider.