

1 AN ACT relating to retail electric suppliers.

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 General Assembly hereby declares that it shall be the policy of the*
6 *Commonwealth that all retail electric suppliers subject to the jurisdiction of the*
7 *commission, except for distribution cooperatives organized under KRS Chapter*
8 *279, shall procure electric generation capacity sufficient to meet customer*
9 *demand in a manner that:*

10 *(a) Uses a competitive and open process;*

11 *(b) Prioritizes safe, secure, reliable, and resilient electricity service at the lowest*
12 *possible reasonable cost of forecasted estimates; and*

13 *(c) Allows for large customers with new load located in the service territory of*
14 *retail electric suppliers without sufficient electric generation capacity, or*
15 *with the retail electric supplier's consent, to determine whether they want to*
16 *take service from competitive retail suppliers or the relevant retail electric*
17 *supplier.*

18 *(2) Retail electric suppliers subject to this section shall conduct an integrated*
19 *resource planning process every three (3) years in order to ensure that each retail*
20 *electric supplier:*

21 *(a) Meets regulatory policies mandated by this chapter and the rules, and the*
22 *administrative regulations promulgated thereunder;*

23 *(b) Engages interested parties in the planning process, provides detailed*
24 *information about system planning to interested parties, and accounts for*
25 *information provided by interested parties;*

26 *(c) Discloses its planning models and methods to interested parties and to the*
27 *commission;*

- 1 (d) Accounts for and explains risks and opportunities in its system planning,
2 including those related to fuel costs, technology development, and wholesale
3 markets;
- 4 (e) Considers third-party and customer-owned supply resources and demand-
5 side management resources and programs on a comparable basis with
6 utility-owned resources; and
- 7 (f) Develops an integrated resource plan that reflects a scenario-based, least-
8 regrets approach and provides the utility with optionality, aligned with the
9 public interest, if actual conditions do not match forecasted expectations.
- 10 (3) Retail electric suppliers shall maintain adequate service through owning or
11 contracting for sufficient electric generation capacity to meet, with reasonable
12 reserves, customer demand.
- 13 (4) Within one hundred twenty (120) days of the effective date of this Act, the
14 commission shall promulgate administrative regulations in accordance with KRS
15 Chapter 13A requiring retail electric suppliers to file an integrated resource plan
16 with the commission triennially, unless the retail electric supplier is a distribution
17 company with less than ten million dollars (\$10,000,000) in annual revenue or a
18 distribution cooperative organized under KRS Chapter 279. In lieu of an
19 integrated resource plan, distribution cooperatives organized under KRS Chapter
20 279 and subject to the jurisdiction of the commission shall be presumed to have
21 met the requirements herein by entering into and maintaining contracts with a
22 generation and transmission cooperative organized under KRS Chapter 279 for
23 all of their energy, capacity, and transmission needs.
- 24 (5) Integrated resource plans shall include the utility's resource assessment and
25 acquisition plan for providing an adequate and reliable supply of electricity to
26 meet forecasted electricity requirements at the lowest reasonable cost of
27 forecasted estimates.

1 (6) The commission shall not allow the retail electric suppliers required to file
2 integrated resource plans under this section to purchase any meaningful capacity
3 or energy for any prolonged period of time from regional transmission
4 organizations or independent system operators to satisfy the requirements of this
5 section.

6 (7) The commission may require generation and transmission cooperatives organized
7 under KRS Chapter 279 to adhere to administrative regulations promulgated by
8 the commission pursuant to this section regarding integrated resource plans and
9 the use of the all-requirements contracts.

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) The exclusive privilege conferred to each retail electric supplier to furnish retail
13 electric service within its certified territory pursuant to Section 6 of this Act shall
14 be a property right of the Commonwealth.

15 (2) In any proceeding on an application filed pursuant to subsection (6) or (7) of
16 Section 7 of this Act regarding the acquisition, sale, or transfer of control of a
17 retail electric supplier, the commission shall:

18 (a) Consider the amount paid in excess of the retail electric supplier's net book
19 value to represent the value of the privilege conferred by Section 6 of this
20 Act; and

21 (b) Have the authority, in consideration of subsection (13) of Section 7 of this
22 Act to determine what amount of the proposed purchase price in excess of
23 net book value, if any, should be paid to the customers of the retail electric
24 supplier.

25 (3) As the privilege conferred to retail electric suppliers is a property right of the
26 Commonwealth, the commission may require any excess of net book value
27 proposed to be paid for the sale, acquisition, or transfer of control of the electric

1 retail supplier to be returned to customers of the retail electric supplier in the
2 form and manner prescribed by the commission.

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

5 (1) Beginning on June 30, 2027, and notwithstanding any provision of law to the
6 contrary, prospective customers of retail electric suppliers where the retail electric
7 suppliers that represent additional and incremental electric generating load in
8 excess of fifty (50) megawatts at a single site may choose to obtain retail electric
9 service from an entity other than the retail electric supplier designated by law
10 provided the retail electric supplier:

11 (a) Is not an electric distribution cooperative organized pursuant to KRS
12 Chapter 279; and

13 (b) Does not own sufficient capacity to serve current peak customer demand as
14 of January 1, 2026.

15 (2) With the electric distribution cooperative's written consent, prospective customers
16 located in the service territory of the relevant electric distribution cooperative that
17 represents additional and incremental load at a single site in excess of fifty (50)
18 megawatts may choose to obtain retail electric service from an entity other than
19 the distribution cooperative retail electric supplier.

20 (3) This designation of the prospective retail electric service provider by the retail
21 customer shall be made:

22 (a) Only one (1) time; and

23 (b) Prior to obtaining retail electric service for the load in question at the single
24 designated site.

25 (4) The commission shall promulgate administrative regulations in accordance with
26 KRS Chapter 13A effectuating this section. The administrative regulations shall
27 include appropriate cost recovery mechanisms for network direct and shared

1 expenses incurred because of or on behalf of these new customers. The
2 commission shall ensure that customers of relevant retail electric suppliers are
3 indifferent to or benefitted by new customers exercising their choice in retail
4 electric service.

5 ➔Section 4. KRS 278.010 is amended to read as follows:

6 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and
7 278.990, unless the context otherwise requires:

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

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

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

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

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

22 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
23 pipeline to or for the public, for compensation;

24 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
25 of water to or for the public, for compensation;

26 (e) The transmission or conveyance over wire, in air, or otherwise, of any
27 message by telephone or telegraph for the public, for compensation; or

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

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

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

1 access line;~~and~~

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

3 and

4 (33) "Integrated resource plan" means a utility assessment of how to cost effectively
5 meet forecasted demand over a specified future period in a manner that plan
6 provides resource planners with a way of evaluating plausible future resource
7 needs, resource uses, risks, and reliability.

8 ➔Section 5. KRS 278.016 is amended to read as follows:

9 It is hereby declared to be in the public interest that, in order to encourage the orderly
10 development of retail electric service, to avoid wasteful duplication of distribution
11 facilities, to avoid unnecessary encumbering of the landscape of the Commonwealth of
12 Kentucky, to prevent the waste of materials and natural resources, for the public
13 convenience and necessity and to minimize disputes between retail electric suppliers
14 which may result in inconvenience, diminished efficiency and higher costs in serving the
15 consumer, the state be divided into geographical areas, establishing the areas within
16 which each retail electric supplier has the privilege~~is~~ to provide the retail electric
17 service as provided in KRS 278.016 to 278.020 and, except as otherwise provided, no
18 retail electric supplier shall furnish retail electric service in the certified territory of
19 another retail electric supplier.

20 ➔Section 6. KRS 278.018 is amended to read as follows:

21 (1) Except as otherwise provided herein, each retail electric supplier shall have the
22 exclusive privilege~~right~~ to furnish retail electric service to all electric-consuming
23 facilities located within its certified territory, and shall not furnish, make available,
24 render or extend its retail electric service to a consumer for use in electric-
25 consuming facilities located within the certified territory of another retail electric
26 supplier; provided that any retail electric supplier may extend its facilities through
27 the certified territory of another retail electric supplier, if such extension is

1 necessary for such supplier to connect any of its facilities or to serve its consumers
2 within its own certified territory. In the event that a new electric-consuming facility
3 should locate in two (2) or more adjacent certified territories, the commission shall
4 determine which retail electric supplier shall serve said facility based on criteria in
5 KRS 278.017(3).

6 (2) Except as provided in subsections (3) and (5) of this section, any new electric-
7 consuming facility located in an area which has not as yet been included in a map
8 issued by the commission, pursuant to KRS 278.017(2), or certified, pursuant to
9 KRS 278.017(4), shall be furnished retail electric service by the retail electric
10 supplier which has an existing distribution line in closer proximity to such electric-
11 consuming facility than is the nearest existing distribution line of any other retail
12 electric supplier. Any disputes under this subsection shall be resolved by the
13 commission.

14 (3) The commission may, after a hearing had upon due notice, make such findings as
15 may be supported by proof as to whether any retail electric supplier operating in a
16 certified territory is rendering or proposes to render adequate service to an electric-
17 consuming facility and in the event the commission finds that such retail electric
18 supplier is not rendering or does not propose to render adequate service, the
19 commission may enter an order specifying in what particulars such retail electric
20 supplier has failed to render or propose to render adequate service and order that
21 such failure be corrected within a reasonable time, such time to be fixed in such
22 order.

23 (4) The commission may, after a hearing had upon due notice, make such findings
24 as may be supported by evidence as to whether any retail electric supplier is not
25 rendering adequate service as a result of having insufficient electric generation
26 capacity to meeting the customer demand in accordance with Section 1 of this
27 Act. If the commission finds that the retail electric supplier is not rendering or

1 does not propose to render adequate service, the commission may enter an order:

2 (a) Specifying how the retail electric supplier has failed to render or has not
3 proposed to render adequate service; and

4 (b) Requiring the failure be corrected within a reasonable time as determined
5 by the commission and fixed in the order.

6 (5) If, pursuant to subsection (3) or (4) of this section, the retail electric supplier so
7 ordered to correct such failure fails to comply with such order, the commission may
8 authorize another retail electric supplier or competitive retail supplier to furnish
9 retail electric service to the facilities within the initial retail electric supplier's
10 certified territory necessary to ensure each facility is provided adequate
11 service[such facility].

12 ~~(6)~~~~(4)~~ Except as provided in subsection (3) of this section, no retail electric supplier
13 shall furnish, make available, render or extend retail electric service to any electric-
14 consuming facility to which such service is being lawfully furnished by another
15 retail electric supplier on June 16, 1972, or to which retail electric service is
16 lawfully commenced thereafter in accordance with this section by another retail
17 electric supplier.

18 ~~(7)~~~~(5)~~ The provisions of KRS 278.016 to 278.020 shall not preclude any retail
19 electric supplier from extending its service after June 16, 1972, to property and
20 facilities owned and operated by said retail electric supplier.

21 ~~(8)~~~~(6)~~ Notwithstanding the effectuation of certified territories established by or
22 pursuant to KRS 278.016 to 278.020, and the exclusive right to service within such
23 territory, a retail electric supplier may contract with another retail electric supplier
24 for the purpose of allocating territories and consumers between such retail electric
25 suppliers and designating which territories and consumers are to be served by which
26 of said retail electric suppliers. Notwithstanding any other provisions of law, a
27 contract between retail electric suppliers as herein provided when approved by the

1 commission shall be valid and enforceable. The commission shall approve such a
2 contract if it finds that the contract will promote the purposes of KRS 278.016 and
3 will provide adequate and reasonable service to all areas and consumers affected
4 thereby.

5 ➔Section 7. KRS 278.020 is amended to read as follows:

6 (1) (a) No person, partnership, public or private corporation, or combination thereof
7 shall commence providing utility service to or for the public or begin the
8 construction of any plant, equipment, property, or facility for furnishing to the
9 public any of the services enumerated in KRS 278.010, except:

- 10 1. Retail electric suppliers for service connections to electric-consuming
11 facilities located within its certified territory;
- 12 2. Ordinary extensions of existing systems in the usual course of business;
13 or
- 14 3. A water district created under KRS Chapter 74 or a water association
15 formed under KRS Chapter 273 that undertakes a waterline extension or
16 improvement project if the water district or water association is a Class
17 A or B utility as defined in the uniform system of accounts established
18 by the commission according to KRS 278.220 and:
 - 19 a. The water line extension or improvement project will not cost
20 more than five hundred thousand dollars (\$500,000); or
 - 21 b. The water district or water association will not, as a result of the
22 water line extension or improvement project, incur obligations
23 requiring commission approval as required by KRS 278.300.

24 In either case, the water district or water association shall not, as a result
25 of the water line extension or improvement project, increase rates to its
26 customers;

27 until that person has obtained from the Public Service Commission a

1 certificate that public convenience and necessity require the service or
2 construction.

3 (b) Upon the filing of an application for a certificate, and after any public hearing
4 which the commission may in its discretion conduct for all interested parties,
5 the commission may issue or refuse to issue the certificate, or issue it in part
6 and refuse it in part, except that the commission shall not refuse or modify an
7 application submitted under KRS 278.023 without consent by the parties to
8 the agreement.

9 (c) The commission, when considering an application for a certificate to construct
10 a base load electric generating facility, may consider the policy of the General
11 Assembly to foster and encourage use of Kentucky coal by electric utilities
12 serving the Commonwealth.

13 (d) The commission, when considering an application for a certificate to construct
14 an electric transmission line, may consider the interstate benefits expected to
15 be achieved by the proposed construction or modification of electric
16 transmission facilities in the Commonwealth.

17 (e) Unless exercised within one (1) year from the grant thereof, exclusive of any
18 delay due to the order of any court or failure to obtain any necessary grant or
19 consent, the authority conferred by the issuance of the certificate of
20 convenience and necessity shall be void, but the beginning of any new
21 construction or facility in good faith within the time prescribed by the
22 commission and the prosecution thereof with reasonable diligence shall
23 constitute an exercise of authority under the certificate.

24 (2) For the purposes of this section, construction of any electric transmission line of
25 one hundred thirty-eight (138) kilovolts or more and of more than five thousand
26 two hundred eighty (5,280) feet in length shall not be considered an ordinary
27 extension of an existing system in the usual course of business and shall require a

1 certificate of public convenience and necessity. However, ordinary extensions of
2 existing systems in the usual course of business not requiring such a certificate shall
3 include:

- 4 (a) The replacement or upgrading of any existing electric transmission line; or
- 5 (b) The relocation of any existing electric transmission line to accommodate
6 construction or expansion of a roadway or other transportation infrastructure;
7 or
- 8 (c) An electric transmission line that is constructed solely to serve a single
9 customer and that will pass over no property other than that owned by the
10 customer to be served.

11 (3) Prior to granting a certificate of public convenience and necessity to construct
12 facilities to provide the services set forth in KRS 278.010(3)(f), the commission
13 shall require the applicant to provide a surety bond, or a reasonable guaranty that
14 the applicant shall operate the facilities in a reasonable and reliable manner for a
15 period of at least five (5) years. The surety bond or guaranty shall be in an amount
16 sufficient to ensure the full and faithful performance by the applicant or its
17 successors of the obligations and requirements of this chapter and of all applicable
18 federal and state environmental requirements. However, no surety bond or guaranty
19 shall be required for an applicant that is a water district or water association or for
20 an applicant that the commission finds has sufficient assets to ensure the continuity
21 of sewage service.

22 (4) No utility shall exercise any right or privilege under any franchise or permit, after
23 the exercise of that right or privilege has been voluntarily suspended or
24 discontinued for more than one (1) year, without first obtaining from the
25 commission, in the manner provided in subsection (1) of this section, a certificate of
26 convenience and necessity authorizing the exercise of that right or privilege.

27 (5) No utility shall apply for or obtain any franchise, license, or permit from any city or

1 other governmental agency until it has obtained from the commission, in the
2 manner provided in subsection (1) of this section, a certificate of convenience and
3 necessity showing that there is a demand and need for the service sought to be
4 rendered.

5 (6) No person shall acquire or transfer ownership of, or control, or the right to control,
6 any utility under the jurisdiction of the commission by sale of assets, transfer of
7 stock, or otherwise, or abandon the same, without prior approval by the
8 commission. The commission shall grant its approval if the person acquiring the
9 utility has the financial, technical, and managerial abilities to provide reasonable
10 service.

11 (7) No individual, group, syndicate, general or limited partnership, association,
12 corporation, joint stock company, trust, or other entity (an "acquirer"), whether or
13 not organized under the laws of this state, shall acquire control, either directly or
14 indirectly, of any utility furnishing utility service in this state, without having first
15 obtained the approval of the commission. Any acquisition of control without prior
16 authorization shall be void and of no effect. As used in this subsection, the term
17 "control" means the possession, directly or indirectly, of the power to direct or
18 cause the direction of the management and policies of a utility, whether through the
19 ownership of voting securities, by effecting a change in the composition of the
20 board of directors, by contract or otherwise. Control shall be presumed to exist if
21 any individual or entity, directly or indirectly, owns ten percent (10%) or more of
22 the voting securities of the utility. This presumption may be rebutted by a showing
23 that ownership does not in fact confer control. Application for any approval or
24 authorization shall be made to the commission in writing, verified by oath or
25 affirmation, and be in a form and contain the information as the commission
26 requires. The commission shall approve any proposed acquisition when it finds that
27 the same is to be made in accordance with law, for a proper purpose and is

1 consistent with the public interest. The commission may make investigation and
2 hold hearings in the matter as it deems necessary, and thereafter may grant any
3 application under this subsection in whole or in part and with modification and
4 upon terms and conditions as it deems necessary or appropriate. The commission
5 shall grant, modify, refuse, or prescribe appropriate terms and conditions with
6 respect to every such application within sixty (60) days after the filing of the
7 application therefor, unless it is necessary, for good cause shown, to continue the
8 application for up to sixty (60) additional days. The order continuing the application
9 shall state fully the facts that make continuance necessary. In the absence of that
10 action within that period of time, any proposed acquisition shall be deemed to be
11 approved.

12 (8) Subsection (7) of this section shall not apply to any acquisition of control of any:

13 (a) Utility which derives a greater percentage of its gross revenue from business
14 in another jurisdiction than from business in this state if the commission
15 determines that the other jurisdiction has statutes or rules which are applicable
16 and are being applied and which afford protection to ratepayers in this state
17 substantially equal to that afforded such ratepayers by subsection (7) of this
18 section;

19 (b) Utility by an acquirer who directly, or indirectly through one (1) or more
20 intermediaries, controls, or is controlled by, or is under common control with,
21 the utility, including any entity created at the direction of such utility for
22 purposes of corporate reorganization; or

23 (c) Utility pursuant to the terms of any indebtedness of the utility, provided the
24 issuance of indebtedness was approved by the commission.

25 (9) In a proceeding on an application filed pursuant to this section, any interested
26 person, including a person over whose property the proposed transmission line will
27 cross, may request intervention, and the commission shall, if requested, conduct a

1 public hearing in the county in which the transmission line is proposed to be
2 constructed, or, if the transmission line is proposed to be constructed in more than
3 one county, in one of those counties. The commission shall issue its decision no
4 later than ninety (90) days after the application is filed, unless the commission
5 extends this period, for good cause, to one hundred twenty (120) days. The
6 commission may utilize the provisions of KRS 278.255(3) if, in the exercise of its
7 discretion, it deems it necessary to hire a competent, qualified and independent firm
8 to assist it in reaching its decision. The issuance by the commission of a certificate
9 that public convenience and necessity require the construction of an electric
10 transmission line shall be deemed to be a determination by the commission that, as
11 of the date of issuance, the construction of the line is a prudent investment.

12 (10) The commission shall not approve any application under subsection (6) or (7) of
13 this section for the transfer of control of a utility described in KRS 278.010(3)(f)
14 unless the commission finds, in addition to findings required by those subsections,
15 that the person acquiring the utility has provided evidence of financial integrity to
16 ensure the continuity of sewage service in the event that the acquirer cannot
17 continue to provide service.

18 (11) The commission shall not accept for filing an application requesting authority to
19 abandon facilities that provide services as set forth in KRS 278.010(3)(f) or to cease
20 providing services unless the applicant has provided written notice of the filing to
21 the following:

- 22 (a) Kentucky Division of Water;
- 23 (b) Office of the Attorney General; and
- 24 (c) The county judge/executive, mayor, health department, planning and zoning
25 commission, and public sewage service provider of each county and each city
26 in which the utility provides utility service.

27 (12) The commission may grant any application requesting authority to abandon

1 facilities that provide services as set forth in KRS 278.010(3)(f) or to cease
2 providing services upon terms and conditions as the commission deems necessary
3 or appropriate, but not before holding a hearing on the application and no earlier
4 than ninety (90) days from the date of the commission's acceptance of the
5 application for filing, unless the commission finds it necessary for good cause to act
6 upon the application earlier.

7 (13) In a proceeding on an application filed pursuant to subsection (6) or (7) of this
8 section regarding the acquisition, sale, or transfer of control of a retail electric
9 supplier, the commission shall have the authority to determine whether public
10 ownership is more beneficial than private ownership, based on which ownership
11 may achieve lower rates or better service. A determination under this subsection
12 may include but not be limited to a review of the price paid for the acquisition,
13 sale, or transfer of control, and the likelihood public ownership would have been
14 possible based on the sale price. For purposes of this section, a retail electric
15 supplier organized under KRS Chapter 279 shall be deemed to have public
16 ownership.

17 (14) If any provision of this section or the application thereof to any person or
18 circumstance is held invalid, the invalidity shall not affect other provisions or
19 applications of this section which can be given effect without the invalid provision
20 or application, and to that end the provisions are declared to be severable.

21 (15) (a) In a proceeding in which a utility seeks a certificate of public convenience
22 and necessity for generation, the commission, in making its determination
23 to grant or deny the certificate, may consider the utility's:

24 1. Adherence to Section 1 of this Act; and

25 2. Planning processes generally.

26 (b) While generation and transmission cooperatives organized under KRS
27 Chapter 279 are not subject to the requirements of Section 1 of this Act, the

1 commission may consider the cooperative's planning processes when
2 making the determination to grant or deny the certificate.

3 ➔Section 8. KRS 278.300 is amended to read as follows:

4 (1) (a) No utility shall issue any securities or evidences of indebtedness, or assume
5 any obligation or liability in respect to the securities or evidences of
6 indebtedness of any other person until it has been authorized so to do by order
7 of the commission.

8 (b) In a proceeding where a utility seeks commission approval for any
9 agreement related to energy or generating capacity pursuant to this section,
10 the commission, in making its determination to grant or deny the request,
11 may consider the retail electric supplier's:

12 1. Adherence to Section 1 of this Act; and

13 2. Planning processes generally.

14 (c) While generation and transmission cooperatives organized under KRS
15 Chapter 279 are not subject to requirements for integrated resource
16 planning in Section 1 of this Act, the commission may consider the
17 cooperative's own resource planning processes when making the
18 determination to grant or deny the certificate.

19 (2) Application for authority to issue or assume securities or evidences of indebtedness
20 shall be made in such form as the commission prescribes. Every such application
21 shall be made under oath, and shall be signed and filed on behalf of the utility by its
22 president, or by a vice president, auditor, comptroller, or other executive officer
23 having knowledge of the matters set forth and duly designated by the utility. Every
24 such application shall be placed at the head of the docket of the commission and
25 disposed of promptly within sixty (60) days after it is filed with the commission,
26 unless it is necessary for good cause to continue the application for longer time than
27 sixty (60) days, in which case the order making the continuance shall state fully the

1 facts that make it necessary.

2 (3) The commission shall not approve any issue or assumption unless, after
3 investigation of the purposes and uses of the proposed issue and the proceeds
4 thereof, or of the proposed assumption of obligation or liability, the commission
5 finds that the issue or assumption is for some lawful object within the corporate
6 purposes of the utility, is necessary or appropriate for or consistent with the proper
7 performance by the utility of its service to the public and will not impair its ability
8 to perform that service, and is reasonably necessary and appropriate for such
9 purpose.

10 (4) The commission may grant or deny the application in whole or in part, or may grant
11 it with such modifications and upon such terms and conditions as the commission
12 deems necessary or appropriate. The order of the commission shall specify that the
13 securities or evidences of indebtedness, or the proceeds thereof, shall be used only
14 for the lawful purposes specified in the application, and both the application of the
15 utility and the order of the commission shall state in general terms the purpose of
16 the issuance or assumption.

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

21 (6) Securities and evidences of indebtedness issued and obligations and liabilities
22 assumed by a utility, for which, under the provisions of this section, the
23 authorization of the commission is required, shall comply with the terms and
24 conditions of the order of authorization entered prior to the issue or assumption, and
25 where the order has been fully complied with the validity of the issue or assumption
26 shall not be affected by a failure to comply with any provision of this section or rule
27 of the commission relating to procedure or other matters preceding the entry of the

- 1 order of authorization or order supplemental thereto.
- 2 (7) The commission may require periodical or special reports from the utility issuing
3 any security or evidence of indebtedness. The report shall show, in such detail as
4 the commission requires, the disposition made of such securities or evidences of
5 indebtedness, and the application of the proceeds thereof.
- 6 (8) This section does not apply to notes issued by a utility, for proper purposes and not
7 in violation of law, that are payable at periods of not more than two (2) years from
8 the date thereof, or to like notes, payable at a period of not more than two (2) years
9 from date thereof, that are issued to pay or refund in whole or in part any such
10 notes, or to renewals of such notes from time to time, not exceeding in the
11 aggregate six (6) years from the date of the issue of the original notes so renewed or
12 refunded.
- 13 (9) Nothing in this section implies any guarantee of securities or evidences of
14 indebtedness by the state, or any obligation on the part of the state with respect
15 thereto, and nothing in this section limits the power of any court having jurisdiction
16 to authorize or cause receiver's certificates or debentures to be issued according to
17 the rules and practice obtaining in receivership proceedings in courts of equity.
- 18 (10) This section does not apply in any instance where the issuance of securities or
19 evidences of indebtedness is subject to the supervision or control of the federal
20 government or any agency thereof, but the commission may appear as a party to
21 any proceeding filed or pending before any federal agency if the issuance of the
22 securities or evidences of indebtedness will materially affect any utility over which
23 the commission has jurisdiction.
- 24 (11) This section also does not apply to the issuance of securities or evidence of
25 indebtedness by a utility principally engaged in transportation of gas by pipeline in
26 interstate commerce and subject to the supervision, control or jurisdiction of the
27 federal government or any agency, board or commission thereof.