

1 AN ACT relating to the acquisition of water or sewer utilities.

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

3 ➔SECTION 1. A NEW SECTION OF KRS 278.010 TO 278.450 IS CREATED  
4 TO READ AS FOLLOWS:

5 *(1) As used in this section:*

6 *(a) "Acquisition" means a voluntary sale to an acquiring utility of the assets of*  
7 *an existing utility between a willing buyer and a willing seller;*

8 *(b) "Acquisition agreement" means the document reflecting the terms and*  
9 *provisions of an acquisition; and*

10 *(c) "Debt" means a sum certain, which is due and owing.*

11 *(2) If an investor-owned water or sewer utility acquires an existing water or sewer*  
12 *utility or its assets, including but not limited to city-owned assets that provide*  
13 *water or sewer services, the commission shall, in the acquiring utility's next base*  
14 *rate case, include in the acquiring utility's rate base the entire value of all assets*  
15 *acquired as measured by the fair market value as of the date of the acquisition or*  
16 *by the purchase price paid by the acquiring utility, whichever is less.*

17 *(3) The fair market value of an acquisition under this section shall be established by*  
18 *the average of three (3) appraisals, the costs of which shall be paid by the*  
19 *acquiring utility. Appraisers shall be chosen as follows:*

20 *(a) One (1) appraiser shall be chosen by the utility that is to be acquired. The*  
21 *choice shall be made within thirty (30) days of receiving a written request to*  
22 *do so from the acquiring utility;*

23 *(b) One (1) appraiser shall be chosen by the acquiring utility; and*

24 *(c) The appraisers chosen in paragraphs (a) and (b) of this subsection shall*  
25 *choose a third appraiser by mutual agreement.*

26 *(4) The entities choosing appraisers under subsection (3) of this section shall only*  
27 *choose appraisers that:*

1        (a) Have the expertise, technical knowledge, and qualifications to make a fair  
2                    and proper appraisal and valuation of the type of property involved in the  
3                    acquisition;

4        (b) Have no financial or other interest in the acquisition; and

5        (c) Are neither residents nor taxpayers of the service area of the utility being  
6                    acquired.

7        (5) Each appraiser chosen under subsection (3) of this section shall:

8                    (a) Separately determine the fair market value of the utility or the assets in the  
9                    acquisition, in compliance with the latest version of the Uniform Standards  
10                   of Professional Appraisal Practice; and

11                   (b) Arrive at a current value for all assets without regard to the original  
12                   purchase price or the origin of the assets.

13        (6) The acquisition agreement shall provide for the repayment of any debt owed on  
14                   the assets being acquired and owed to any person or government entity.