

**65.8921 Procedure for establishing or changing rates or charges for service.**

- (1) The rates and charges to be assessed by the commission to its member entities and other parties shall be the verified cost of providing the services as prescribed in this section, and shall be allocated based on usage and the cost of service. However, if continuity of consumer service or the preservation of water quality is threatened by special circumstances affecting a public wastewater utility, the commission may establish special rates for that entity for a period not to exceed one (1) year so long as benefits to member entities are not jeopardized and nonmembers are not adversely affected in any manner.
- (2) The commission shall establish wholesale charges, rates, and terms for its services to its member entities and to any other party to which it provides service under contract that are fair, just, and reasonable and shall be sufficient at all times to:
  - (a) Pay the cost of operation and maintenance of any facility that it may own or lease to provide wastewater services contracted to its member entities or other parties;
  - (b) Pay the principal and interest on any bonds, loans, or other instruments or obligations secured in the name of the commission; and
  - (c) Provide an adequate fund for renewals, replacements, and reserves.
- (3) The commission's procedure for establishing or changing rates and charges levied on member entities and other parties that contract for service shall be as follows:
  - (a) Every five (5) years, or more often if circumstances warrant, the commission shall procure, pursuant to KRS 45A.343, 45A.345 to 45A.460, 45A.735, 45A.740, 45A.745, and 45A.750, the professional consulting services of an independent accounting firm or individual accountant qualified and experienced in conducting cost-of-service studies. The commission shall invite the governing body of each member entity to designate a special representative to participate in the consultant selection process;
  - (b) The firm or individual selected in consultation with the commission's designated engineers, operators, and other knowledgeable individuals shall perform a cost-of-service study to:
    1. Determine the actual or probable cost of operating and maintaining the commission's respective wastewater facilities;
    2. Determine the cost of servicing any associated debt obligations and administrative costs;
    3. Devise a comprehensive cost allocation plan and recommend that the commission establish and levy specific rates for treatment services and appropriate charges for other services to offset these costs; and
    4. Devise and recommend a standard method of formulary whereby the commission may conduct regular financial analyses internally, based on sound accounting policy, allowing for the application of inflation indices and other equitable methods of determining service rates;

- (c) The commission shall determine and set final rates and charges based on and only after:
1. The cost-of-service study and recommendations of the consultant are received;
  2. Consultation with the governing bodies of member entities during the cost-of-service study; and
  3. For a rate increase greater than five percent (5%), a vote approving the final rate by a majority of the legislative bodies of the member entities that comprise the wastewater commission or, in the case of a special district or government agency, by the fiscal court of the county that contains the district or agency, which shall take action thirty (30) days after notice of the proposed final rate. Each legislative body of a member entity, or fiscal court in the case of a special district or government agency, shall have equal weight. Absent a majority vote, rates shall remain provisional and must be reset by the wastewater commission;
- (d) Initial rates and charges and any subsequent changes to rates and charges of five percent (5%) or less shall be approved by the commission, but not more than once in a twelve (12) month period. Increases above five percent (5%) shall remain provisional until action by the legislative bodies pursuant to paragraph (c) of this subsection; and
- (e) The commission shall provide not less than sixty (60) days' written notice to the governing bodies of the member entities prior to the effective date of any change in rates or charges for service, which shall remain provisional until action by the legislative bodies of the member entities pursuant to paragraph (c) of this subsection.

**Effective:** June 8, 2011

**History:** Created 2011 Ky. Acts ch. 98, sec. 11, effective June 8, 2011.