

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Comptroller of the Treasury
Division:	Utility Management Review Board
Contact Person:	J. Seth May, board counsel
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Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Lela Shadrick
Address:	425 Rep. John Lewis Way North, Nashville, TN 37243
Phone:	615-401-7927
Email:	lela.shadrick@cot.tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Volunteer Conference Center, 2 nd Floor Cordell Hull Building		
Address 2:	425 Rep. John Lewis Way North, Nashville, TN 37243		
City:	Nashville		
Zip:	37243		
Hearing Date:	06/30/2022		
Hearing Time:	10:00am	<input checked="" type="checkbox"/> _x_CST/CDT	<input type="checkbox"/> _EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
1715-02	Utility District Revitalization Fund
Rule Number	Rule Title
1715-02-.01	Definitions
1715-02-.02	Criteria for Qualification for a Plan of Mitigation Payments from the UDRF
1715-02-.03	Grant Request for Plan of Mitigation Payments from the UDRF

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

This is a new section – no redline is included.

1715-02-.01 Definitions.

As used in these regulations:

- (1) Board is the Utility Management Review Board (“UMRB”) created in the office of the comptroller of the treasury by Tenn. Code Ann. § 7-82-701 et seq., or its successor entity.
- (2) Board staff is the Board's Technical Secretary, counsel to the Board, and any other employee of the Comptroller of the Treasury assigned as staff to the Board.
- (3) Financial Distress or Financially Distressed Utility (“FDU”) is used to describe a utility that, as shown by the audited annual financial reports, has a deficit in total net position, is in default on an indebtedness, or has a negative change in net position for two (2) consecutive years without regard to any grants or capital contributions. This determination may be made by any division of the Comptroller of the Treasury charged with evaluating the financial health of the utility.
- (4) Grant is the plan of mitigation payments from the UDRF authorized by the Board.
- (5) Merger is the consolidation of two utilities into one new utility or the integration of one utility into another utility with the dissolution of the non-surviving utility.
- (6) Order is the order entered by the Board ordering the merger of an FDU with another utility.
- (7) Utility is a water system, wastewater system, or any other system regulated by the Board under Tenn. Code Ann. § 7-82-701 et seq.
- (8) Utility District Revitalization Fund (“UDRF”) is the fund created by Tenn. Code Ann. §§ 7-82-704(b) and 710 to mitigate the financial stress placed on a utility when merging with an FDU.

Authority: T.C.A. §§ 4-5-202, 7-82-702(a)(1), 7-82-704(b), 7-82-710(a)(2).

1715-02-.02 Criteria for Qualification for a Grant from the UDRF.

- (1) The Board may approve a grant to a utility that merged with an FDU, or a utility created from two or more utilities, at least one of which was financially distressed.
- (2) A grant from the UDRF is only available where the merger with the FDU was ordered by the Board.
- (3) Mitigation payments may be approved to accomplish the merger or consolidation and offset, in whole or in part, the following expenditures:
 - a. Increased administrative costs related to the merger;
 - b. A default on indebtedness of the financially distressed utility district;
 - c. Renovation and repair of the financially distressed utility's facilities, but only to the level necessary to ensure continued service to the customers of the FDU; or,
 - d. Other payments necessary to mitigate the financial impact of the merger.
- (4) The Board will not favor any grand division, county, municipality, or service population over any other when determining whether a grant should be approved.
- (5) A grant will only be approved pursuant to a completed grant request for such payments in a form approved by the Board and timely submitted to Board staff.

- (6) The Board has sole discretion to adopt, approve, or enter a grant.
- (7) All mitigation payments are subject to the availability of funds in the UDRF.
- (8) The grant may take the form of a single payment or periodic payments before the utility has incurred any expenses, or of reimbursement for expenses incurred.

Authority: T.C.A. §§ 4-5-202, 7-82-702(a)(1), 7-82-704(b), 7-82-710(a)(2).

1715-02-.03 Request for a Grant from the UDRF.

- (1) A grant request must include the grant request form approved by the Board, or made pursuant to a public portal or website approved by the Board, if such is available.
 - a. The grant request must be completed, and must include the following supplementary information:
 - i. A summary of the need for a grant. This includes a summary of what the payments will be used for and why existing funds or customer revenue is insufficient to cover these expenses;
 - ii. The utility's most recent audit, or written explanation why such audit cannot be provided; and,
 - iii. A feasibility study performed by the Tennessee Association of Utility Districts ("TAUD") or other qualified entity. This feasibility study may be the study required by Tenn. Code Ann. § 7-82-704(a). Any entity other than TAUD must be approved by Board staff.
 - b. The grant request may include any supplementary information the applicant wishes to include.
- (2) The Board or Board staff may request any additional information necessary to determine whether the utility district qualifies for a grant, how or when payments should be made.
- (3) Grant requests and additional information may be submitted by the USPS or other delivery service, email, or by any other means made available by the Board.
- (4) Grant requests will only be approved upon a showing that the merged or consolidated district meets all eligibility requirements. This includes the requirements set forth above, in addition to any other statutory or other requirements. It is the burden of the applicant to establish eligibility for these payments.
- (5) Grants are presumed to take the form of reimbursement for expenses incurred and will be paid to the Utility when proof of expenditures is submitted to Board staff. Grants may take other forms upon Board approval.
- (6) Quarterly Reports
 - a. Any utility district that receives a grant under this section, or a district created from, or which absorbed a district that received a grant under this section, must submit a quarterly report to the Board on a form approved by the Board.
 - b. Reports must be submitted within 90 days from the date of the first disbursement of funds, and every 90 days thereafter.
 - c. Two quarterly reports must be submitted after the date of the last grant disbursement.
 - d. These reports may be submitted in the same manner as a grant request.

Authority: T.C.A. §§ 4-5-202, 7-82-702(a)(1), 7-82-704(b), 7-82-710(a)(2).

1715-02-.04 Miscellaneous Provisions

- (1) A grant request may be submitted prior to the Order, and up to 180 days after the Order. A grant request is received when Board staff receive the grant request on a form approved by the Board and all required supplemental information.

- (2) Board staff will review and acknowledge grant requests within 30 days of receipt of the initial grant request. The Board will review grant requests at the first meeting following Board staff's acknowledgement of the request. At this meeting the Board will approve, deny, or modify the grant, or request further information prior to issuing a final order.
- (3) If an ordered merger does not occur, any party that received grant payments must reimburse the UDRF in full within thirty (30) days.
- (4) Any grant amount that is not used for approved purposes must be reimbursed to the UDRF.

Authority: T.C.A. §§ 4-5-202, 7-82-702(a)(1), 7-82-704(b), 7-82-710(a)(2).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 5.9.22

Signature: _____

Name of Officer: J. Seth May

Title of Officer: Counsel to UMRB

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Secretary of State