

**RULES
OF
THE TENNESSEE COMPTROLLER OF THE TREASURY
UTILITY MANAGEMENT REVIEW BOARD**

**CHAPTER 1715-02
UTILITY DISTRICT REVITALIZATION FUND**

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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 T.C.A. §§ 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, pursuant to T.C.A. § 7-82-704(a)(8), 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 T.C.A. §§ 7-82-701, et seq.
- (8) Utility District Revitalization Fund (“UDRF”) is the fund created by T.C.A. §§ 7-82-704(b) and - 707 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), and 7-82-707(a)(2). **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023.

1715-02-.02 CRITERIA FOR QUALIFICATION FOR A GRANT FROM THE UDRF.

- (1) The Board may approve a grant request made by a Utility that merges with an FDU, an FDU ordered to merge with another Utility, or a Utility created from two or more Utilities, at least one of which was financially distressed, pursuant to an Order entered by the Board.
- (2) A grant from the UDRF is only available where the merger with the FDU was ordered by the Board.

(Rule 1715-02-.02, continued)

- (3) Mitigation payments may be approved to accomplish the merger and offset, in whole or in part, the following expenditures:
 - (a) Amounts to offset increased administrative costs relating to the merger, to the extent those costs cannot reasonably be recovered from customer revenues or other assets of the FDU;
 - (b) Amounts that may be necessary to cure a default on indebtedness of the FDU to the extent the defaults can, in the opinion of the Board, reasonably be cured;
 - (c) Amounts that may be necessary to renovate and repair the facilities of the FDU to the level necessary to enable the merged Utility to provide continued service to the public being served by the FDU; and,
 - (d) Other payments as may be necessary in the opinion of the Board to accomplish the merger and 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) A request for a grant may be approved prior to a merger of the Utilities, but grant payments will only be made to the consolidated or surviving Utility, and only after entry of the Order.

Authority: T.C.A. §§ 4-5-202, 7-82-702(a)(1), 7-82-704(b), and 7-82-707(a)(2). **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023.

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 be made pursuant to a public portal or website approved by the Board, if such is available.
 - (a) The grant request must be complete, and must include the following information:
 - 1. 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;
 - 2. The FDU's most recent audit, or written explanation why such audit cannot be provided; and
 - 3. 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 T.C.A. § 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.

(Rule 1715-02-.03, continued)

- (2) The Board or Board staff may request any additional information necessary to determine whether the Utility qualifies for a grant, and 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 all eligibility requirements are met. This includes the requirements set forth above, in addition to statutory and 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 merged Utility when proof of expenditures is submitted to Board staff. Grants may take other forms upon Board approval.
- (6) Quarterly Reports
 - (a) Any Utility that receives grant payments 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), and 7-82-707(a)(2). **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023.

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.
- (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), and 7-82-707(a)(2). **Administrative History:** New rules filed January 23, 2023; effective April 23, 2023.