

**96.580 Proceedings to agree upon sale price of existing plant required before condemnation or construction of competing plant.**

- (1) Before a board or municipality may condemn an existing electric plant under the provisions of KRS 96.550 to 96.900 the board shall notify the owner of the existing electric plant, hereinafter referred to as the owner, in writing of its desire to purchase the plant or that portion thereof located or situated within said municipality and of its desire to enter into an agreement as to the value thereof. If no fair and reasonable price and terms of purchase and sale shall be agreed upon between the board and the owner within sixty (60) days after the aforesaid notice has been given the owner, and if either party desires that further efforts to determine a fair price and terms of purchase and sale be made, a board of appraisers consisting of two (2) members shall be appointed, one (1) by the board and the other by the owner. Such appointments shall be made within thirty (30) days after the expiration of the time given the board and the owner to agree upon the value of the existing electric plant, or that part thereof which the board desires to purchase. Should the two (2) members of the board of appraisers be unable to agree within thirty (30) days after their appointment upon a fair and reasonable price, a third member of the board of appraisers shall be selected by them. In the event the two (2) appraisers cannot agree upon the third member of the board of appraisers, then upon application of either the board or the owner, the Governor of the Commonwealth shall name the third appraiser. The board of appraisers shall consult with the state Public Service Commission in its efforts to arrive at a fair price for the electric plant, and the state Public Service Commission shall make available to the board of appraisers its facilities and any information in its possession bearing on the value of the electric plant. It shall be the duty of the board of appraisers to make a survey of, appraise and submit to the board and the owner in writing, its valuation of the electric plant. The board shall file its written report within six (6) months from the date of the appointment of the first two (2) members. The value fixed by two (2) of the three (3) members of the board of appraisers shall be the finding of the board. In the event two (2) of the three (3) members cannot agree within six (6) months after the appointment of the first two (2) members, the entire first board, unless given further time by agreement between the board and the owner, shall be discharged, and a second board, if desired by both the board and the owner, may be appointed as provided herein, which shall make its final report within six (6) months after the appointment of the first two (2) members thereof. The board shall pay all compensation to the member appointed by it, and the owner shall pay all compensation to the member appointed by it, and the board and the owner shall each pay one-half (1/2) of the compensation due the third member and one-half (1/2) of all other costs incurred in connection with the work of the board of appraisers. These costs may be included as a part of the purchase price agreed upon. Neither the board nor the owner shall be required to accept the report of the board of appraisers. If the owner fails or refuses to appoint an appraiser or appraisers as and within the time limits hereinabove provided, the board may proceed to exercise all of the powers granted by KRS 96.550 to 96.900 without waiting for the expiration of all or any part of the time authorized for making the appraisal herein

provided for.

- (2) After the board has complied with the provisions of this section, it may proceed in the manner and subject to the terms and conditions in KRS 96.590 to 96.900 provided to (a) enter into a contract with the owner for the purchase from the owner of the electric plant; or (b) institute condemnation proceedings and acquire the electric plant by the exercise of the powers of eminent domain. The governing authority of the municipality shall determine which of the courses hereinabove authorized shall be followed by the board.

**History:** Amended 1968 Ky. Acts ch. 152, sec. 76. -- Created 1942 Ky. Acts ch. 18, sec. 3.