

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF RUSS, INC. FOR)
APPROVAL OF COMMISSIONER TRAINING) CASE NO.
AND CONTINUING EDUCATION CREDIT) 2018-00065

ORDER

Russ, Inc. ("Russ") applied for accreditation and approval for training held on March 27, 2018, and March 28, 2018, in Powderly, Kentucky. On March 6, 2018, Commission Staff sent a letter to Russ stating that its application was deficient. Commission Staff stated that Russ's application failed to comply with 807 KAR 5:070, Section 1(6), which requires a copy of all written material given to water district commissioners be provided with the application. On March 8, 2018, Russ filed a request for a waiver of the requirement that materials be provided, stating that materials would not be provided at the session. Having carefully considered the application and materials, the Commission denies Russ's request for approval and accreditation.

DESCRIPTION OF TRAINING PROGRAM

Russ indicated the Training Program would consist of 12 hours of training on the topic of "water/wastewater training." Russ stated that the objective of the course was "to provide operators with new information to assist them in the operations of Water Treatment Plant, Distribution system, Wastewater Treatment Plant, and Collection System as serve as a fresher [sic] to aid them."¹ Russ indicated a proctor will be

¹ Application at 4.

present to ensure that all of the participants attend the courses. Russ stated that no written materials would be provided to attendants and thus requested a deviation from the requirement that written materials be provided. The Training Program was being offered at no cost.

Russ indicated the Training Program would consist of the following courses:

Title: Operator Ethics
Hours Requested: 1.0

...

Topic: This presentation will focus on [sic] importance of the operator's accountability with issue [sic] facing the water and wastewater industry.

Title: DOW Update
Hours Requested: 1.0

...

Topic: This presentation will focus on new upcoming regs and an update on current issues.

Title: Hydraulic Tools and Their Application
Hours Requested: 1.0

...

Topic: The speaker will display a variety [sic] of hydraulic tools and their [sic] use in the water and wastewater field. These tools include variety [sic] hydraulic chain saw, hydraulic pump, and hydraulic pipe clamp. These tools are used in the repair of water line [sic] and collection lines. There will be a demonstration of some of the tools.

Title: Scada, Communications, and Cyber Security
Hours Requested: 1.0

...

Topic: The presentation will provide a brief overview of the new technology that is being incorporated into Scada systems and what benefits and challenges this brings, A brief introduction to the new trends in communications infrastructure and the benefits and challenges this brings, and finally an overview of the increasing challenges and threats to the security of Water and Waste Water control systems and how these can be mitigated.

Title: Performance Contracts

Hours Requested: 1.0

...

Topic: This presentation looks at how a system may benefit from more efficient operations. Meter measuring accuracy as well as electrical motor efficiencies and how this saving [sic] may give an alternate source of revenue.

Title: Lab Procedures

Hours Requested: 1.0

...

Topic: This presentation will cover laboratory procedures, as well as, proper collections and preservation of samples and analytical data. It will also focus analysis tracking to insure [sic] the system remains current on all sample requirements.

Title: Chemical Feed Control Systems

Hours Requested: 1.0

...

Topic: This presentation looks at the automation of chemical feed equipment and the saving that a user can gain simply by not over feeding chemicals. The participants will see how the technology [sic] could be introduced into their operation and assist them in running a more efficient operation.

Title: Tank inspections and Maintenance

Hours Requested: 1.25

...

Topic: This presentation will focus on tank inspection and tank maintenance. Inspection regulations and safety will be reviewed. The participants will review [sic] a better understanding of state and federal regs governing their tanks as well as information on what they need in way of inspections.

Title: Chemical Feed Pump O&M:

Hours Requested: 1.0

...

Topic: The presentation will focus on feed pump Installation, Maintenance, proper Operation and Trouble Shooting. The participants some [sic] have a better understanding of the overall operations and maintenance of chemical feed pumps.

Title: Pump Station O&M

Hours Requested: 1.0

...

Topic: This presentation will focus on the proper O&M of pump station.

Title: Wrap up & Review
Hours Requested: 0.75

Topic: A review of the topics covered.²

The descriptions of the sessions quoted above are the only descriptions of the substance of the courses.

DISCUSSION

KRS 74.010 *et. seq.* authorizes the creation of water districts for the purpose of operating drinking water facilities and wastewater treatment and collection facilities. Water districts organized under KRS 74.010, *et. seq.* must be administered by a board of commissioners which shall control and manage the affairs of the district.³ KRS 74.020(8) requires each newly appointed water district commissioner to complete 12 instructional hours of training regarding the laws governing the management and operation of water districts, and other subjects as determined appropriate by the Commission within 12 months of the commissioners' initial appointment.⁴ KRS 74.020 (6) and (7) encourage water district commissioners who are not serving in their first year to complete six instructional hours of "water district management training approved by the Public Service Commission" in each additional year by allowing the commissioners to receive a raise if they complete that training each year.

² Application at 4-13.

³ See KRS 74.020(1).

⁴ KRS 74.020(8)(b) (discussing the training requirements for new water district commissioners).

Russ does not state whether it is seeking to have the Training Program approved to satisfy the initial training requirements of KRS 74.020(8) or to satisfy the training requirements of KRS 74.020 (6) and (7). However, “to ensure the adequacy and consistency of training for newly appointed water district commissioners, the Commission has determined that water district commissioners may no longer satisfy their initial training obligations by taking training courses offered by third parties,” but rather, must complete the initial training offered by the Commission.⁵ Moreover, the Commission is only permitted to approve a program to satisfy the initial water district training requirements if it deems the program “equivalent to its program of instruction,” which is “intended to train newly appointed commissioners in the laws governing the management and operation of water districts and other subjects [the Commission] deems appropriate.”⁶ Russ’s Training Program, which appears designed to provide training for water district operators as opposed to water district commissioners, is not equivalent to the Commission’s program of instruction and does not cover the responsibilities of water district commissioners in managing water districts.⁷ Thus, the Commission is not able to approve Russ’s Training Program to satisfy the initial training requirements for water district commissioners as set forth in KRS 74.020(8).

⁵ Case No. 2018-00085, *Review of Training Required and Authorized by KRS 74.020 for the Commissioners of Water Districts* (Ky. PSC Mar. 15, 2018), Order at 3 (“Water Training Order”); *see also* Water Training Order at 5 (“To satisfy his or her training obligations set forth in KRS 74.020(8), every newly appointed water district commissioner must complete, within the first 12 months following the water district commissioner's appointment, each and every core course described in the Appendix attached hereto, each of which will be offered at each of the Commission's seminars.”).

⁶ *See* 74.020(8)(a) (stating that the Commission “shall provide or cause to be conducted” the training program “[a]t least once annually”).

⁷ *See* Water Training Order at 5, Appendix (describing the Commission's program).

The Commission has discretion in approving “water district management training” offered by third parties to satisfy the six hours of subsequent training described in KRS 74.020 (6) and (7) if it determines that the programs are “high quality” and will “enhance a water district commissioner's understanding of his or her responsibilities and duties.”⁸ However, consistent with 807 KAR 5:070, Section 1, third parties applying for approval of a proposed water district commissioner training program must file the following documents and information with their application for water district training approval:

- (1) The name and address of the applicant;
- (2) The name and sponsor of the program and the subject matter covered by the program;
- (3) A summary of the content of the program in detail sufficient to describe how the program will enhance the management, operation, and maintenance of water treatment and distribution systems;
- (4) The number of credit hours requested for the program;
- (5) The name and relevant qualifications and credentials of each instructor presenting the program.
- (6) A copy of written materials given to water commissioners attending the program; and
- (7) If the program has been certified by an organization that provides training to persons associated with the water industry, the name of the certifying organization and a statement that the certification remains valid.

Moreover, the Commission expects written materials to be provided to water district commissioners, as indicated 807 KAR 5:070, Section 1(6), and that those materials will be provided to the Commission for review as part of the request for approval.⁹

Here, the Commission is not able to determine the quality of the Training Program or to find that it will enhance water district commissioners understanding of

⁸ See KRS 74.020(7)(c) (stating that the Commission “shall encourage and promote the offering of high quality water district management training programs that enhance a water district commissioner's understanding of his or her responsibilities and duties”).

⁹ Water Training Order 4-5; 807 KAR 5:070, Section 1.

their responsibilities and duties. The session descriptions provided with the application are cursory in nature with some descriptions providing little more information than was conveyed by the title of the session. It also appears that the program is largely intended for the benefit of operators as opposed to water district commissioners.¹⁰ Moreover, Russ indicated that no materials were provided to the water district commissioners at the Training Program. One purpose of providing materials at training sessions is to provide the water district commissioners with reference items to refresh their memory as to what they learned or the opportunity to expand upon what they learned; but those materials also serve to inform the Commission as to the quality of the program and how it will enhance water district commissioners understanding of their responsibilities and duties. Based on the material provided, the Commission is not able to approve the Training Program to satisfy the training requirements of KRS 74.020 (6) and (7).¹¹

IT IS THEREFORE ORDERED that:

1. Russ's request for approval and accreditation of the Training Program scheduled to take place on March 27, 2018, and March 28, 2018, is hereby denied.
2. Russ's Training Program may not be used by water district commissioners to satisfy their training obligations pursuant to KRS 74.020(6), KRS 74.020(7), or KRS 74.020(8).

¹⁰ The Commission observes that the Division of Water is empowered to review training programs for water district operators whereas the Commission is empowered to review training programs for water district commissioners. However, operators and commissioners serve different functions and have different responsibilities and duties. Thus, even where a program might be beneficial for an operator, it would not necessarily serve the purpose of required water district commissioner training.

¹¹ One of the sessions was a 45 minute review of the other sessions. Even in circumstances where the other sessions were exceptional, it would be hard to envision circumstances where such a session could be approved.

3. Russ's request for a deviation from 807 KAR 5:070, Section 1(6) is denied.

4. Within 10 days from the entry of this order, Russ shall:

a. Provide the Commission with a list of water district commissioners who attended the Training Program and, if known, their water districts; and

b. Certify to the Commission that a copy of this order was sent to each water district commissioner who attended the Training Program.

5. Any document filed pursuant to ordering paragraph 4 of this Order shall reference the number of this case and shall be retained in the post case correspondence file.

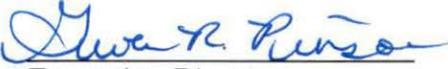
6. This case is closed and removed from the Commission's docket.

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By the Commission

ENTERED
APR 18 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2018-00065

*Gary Russ
80 Parkway Lane
Central City, KENTUCKY 42330