

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY	)	
WATER DISTRICT FOR ACCREDITATION AND	)	CASE NO. 2008-00191
APPROVAL OF WATER COMMISSIONER	)	
TRAINING	)	

ORDER

Northern Kentucky Water District ("NKWD") has applied to the Commission for accreditation of 6 "in-house" water management training presentations. At issue is whether the Commission should accredit "in-house" training presentations for which NKWD failed to obtain prior Commission approval and whether the subject matter of these presentations is appropriate for accreditation. After review of the application, we grant NKWD a waiver from the advance notice requirements established by prior Commission Order, but deny accreditation to 4 of the presentations.

NKWD is the largest and oldest water district in the state of Kentucky. It provides water service to approximately 80,386 customers in Boone, Campbell, Grant, Kenton, and Pendleton counties.<sup>1</sup> A 6-member board of commissioners administers the water district. Each commissioner is currently authorized an annual salary of \$3,600, but may receive an additional \$2,400 annually if he or she attends 6 instructional hours of approved water district management training.<sup>2</sup>

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<sup>1</sup> Report of Northern Kentucky Water District to the Kentucky Public Service Commission for the Calendar Year Ending December 31, 2007 at 5 and 27.

<sup>2</sup> Application at 1.

Prior to 1998, KRS 74.020 limited the annual salary of water district commissioners to \$3,600. Wishing to raise this amount to better compensate water district commissioners for their increased responsibilities and liabilities and desiring a mechanism to improve the management skills and knowledge of water district commissioners, the General Assembly amended KRS 74.020 to provide an incentive for water district commissioners to attend management training annually. It authorized an increase in the maximum annual salary for a commissioner who attended annually 6 hours of "water district management training" from \$3,600 to \$6,000.<sup>3</sup>

The General Assembly entrusted responsibility for the management and certification of "water district management training" to the Public Service Commission. Two specific missions were assigned to the Commission. First, the Commission was to "be responsible for the regulation of all water district management training programs for commissioners of water districts."<sup>4</sup> Second, the Commission was to "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."<sup>5</sup> As part of the second mission, the Commission was directed to establish standards and procedures to evaluate, accredit, and approve water district management training programs. In response to the second mission, the Commission promulgated Administrative Regulation 807 KAR 5:070.

NKWD has applied to the Commission for 6 hours of training that was provided to its commissioners during meetings of its board of commissioners in the first 7 months of

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<sup>3</sup> 1998 Ky. Rev. Stat. & R. Serv. 228-229.

<sup>4</sup> KRS 74.020(7)(b).

<sup>5</sup> KRS 74.020(7)(c).

2008. The date, subject matter, length, and name of the instructor of this training are set forth in Table I. In each instance, NKWD provided the presentation either during or immediately after its Board of Commissioners meeting. NKWD employees conducted most of these presentations. The presentations are within the subject matter areas set forth in Administrative Regulation 807 KAR 5:070 and were open to the public.

**TABLE I**

Date	Number of Credit Hours	Instructor	Sponsor	Name	Summary of Content
1/16/2008	1	Richard Harrison VP, NKWD	NKWD Malcolm Pirnie, Inc	Asset Management Program	Presentation on how a structured asset management program can minimize the cost of owning and operating assets while delivering the service levels that customers desire
		Amy Kramer Engineering Manager NKWD			
		Greg Osthues Malcolm Pirnie, Inc.			
3/24/2008	1	Donna Marlin KY Division of Water	NKWD	Regulatory Overview	Presentation on recent revisions to state and federal drinking water regulations.
4/17/2008	1	Bradley Montgomery GRW Engineers	NKWD	Residuals Treatment	Presentation on NKWD residuals - their composition, NKWD's current method of disposal, future options for disposal, and estimated costs with future options.
5/15/2007	1	John T. Lyons Strand Associates	Strand Associates	Green Design	An overview of how green design can be used to augment traditional engineering solutions addressing: storm water discharges; combined sewer overflows; sanitary sewer overflows; and other public infrastructure.
6/19/2008	1	Mark Lofland NKWD VP, Accounts and Services	NKWD	Customer Service Overview	Presentation on the processes and procedures of NKWD's Account Services and Billing Department to address day-to-day operations, distribute water use and billing information, and provide customer services.
7/31/2008	1	Amy Kramer Engineering Manager NKWD	NKWD	Main Replacement Program	Presentation on the objectives and procedures followed by NKWD in assessing the replacement and rehabilitation needs of its distribution system, and the costs and benefits of implementing this program
		Jeff Schuchter Staff Engineer NKWD			

Administrative Regulation 807 KAR 5:070 is silent on "in-house" programs – programs that are completely conducted by water district employees or personnel who perform professional services under contract for the water district. In Case No. 2007-

00387,<sup>6</sup> the Commission held that “in-house” programs should not be denied accreditation solely because water district employees or retained professionals conduct the training. It expressed concerns, however, about such training:

Commission accreditation of in-house training programs raises several concerns. First, because of the relationship between the instructors and the attendees, the use of in-house training programs is more susceptible to abuse and more difficult to administer. Second, allowing such programs undercuts the purpose of HB 75, which was intended to encourage water district commissioners to seek educational opportunities that were not already available. Water district commissioners already must question and demand information from their water district’s employees and retained professionals to perform their duties. Accrediting this routine practice would allow certain water districts to increase the compensation of their commissioners without the extra training that the statute demands. Third, it places small water districts with smaller staffs at a disadvantage by requiring their commissioners to attend outside training programs while larger water districts can conduct such training with their existing employees and contract professionals.<sup>7</sup>

To address these concerns, the Commission directed that 807 KAR 5:070 be reviewed and revised to contain specific requirements on in-house training activities and to provide for greater accountability on the content of all training programs. It further instructed Commission Staff to increase the number and expand the subject matter of the training programs that it currently provides. The review of 807 KAR 5:070 is ongoing.

NKWD’s application presents two issues: (1) whether the Commission should accredit “in-house” training presentations for which NKWD failed to apply for

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<sup>6</sup> Case No. 2007-00387, Application of Northern Kentucky Water District for Accreditation and Approval of Training for Water District Commissioners (Ky. PSC Feb. 28, 2008).

<sup>7</sup> *Id.* at 4.

Commission approval 30 days prior to the presentation and (2) whether certain of these presentations are appropriate for accreditation.

As to the first issue, in Case No. 2007-0318,<sup>8</sup> the Commission directed NKWD to apply for accreditation of any in-house management training at least 30 days prior to the performance of the training. NKWD failed to comply with this directive for all but one of the training programs listed in its application. Contending that it was unable to meet this requirement for these sessions “due to the timing of the order, previously scheduled sessions and the timing of receipt of speakers’ acceptance and printed materials,” NKWD requests a waiver of this requirement.<sup>9</sup>

The Commission finds that NKWD’s request for waiver should be granted. NKWD has provided a reasonable explanation for its failure to meet the 30-day advance notice requirement. The date of issuance of our final Order in Case No. 2007-00387 made NKWD’s compliance with the advance notice requirement impossible for several of the presentations and very difficult to achieve for the others. We are of the opinion that granting a waiver in this instance will not encourage water districts to ignore the advance notice requirements.

As to the second issue, Commission finds that 4 of the proposed programs involve only limited training and are more concerned with aspects of NKWD’s management and operation. These programs are: Asset Management Program,

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<sup>8</sup> Case No. 2007-00318, Application of the Western Mason County Water District for (1) A Certificate of Public Convenience and Necessity, Authorizing and Permitting to Construct Water Distribution System Improvements, Consisting of the Construction of Extensions, Additions and Improvements; (2) Approval of the Proposed Plan of Financing Said Improvements; and (3) An Increase in the Rates and Charges for Water Service Provided by Western Mason County Water District.

<sup>9</sup> Application at 3.

Residuals Treatment, Customer Service Overview, and Main Replacement Program. In each program, a significant portion of the presentation appears devoted to summarizing and reviewing aspects of NKWD's operations. Each is designed less to provide general training or information related to water system management and operation than to provide a status report on NKWD's operations. While such presentations may be useful to NKWD's Board of Commissioners, they are part of routine management and oversight process and should not be accredited.

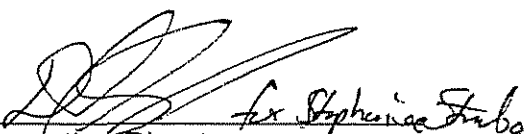
IT IS THEREFORE ORDERED that:

1. NKWD's request for a waiver from the 30-day advance notice requirement for in-house water training management programs is granted.
2. The presentations "Regulatory Overview" and "Green Design" are each approved for a maximum of 1.0 credit hour.
3. The remaining presentations listed in NKWD's application are denied accreditation.
4. NKWD shall retain a record of all persons attending the approved courses of instruction.

Done at Frankfort, Kentucky, this 7<sup>th</sup> day of November, 2008.

By the Commission

ATTEST:

  
Executive Director