

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY WATER)	
RESOURCES RESEARCH INSTITUTE FOR)	CASE NO.
APPROVAL OF COMMISSIONER TRAINING)	2018-00262
AND CONTINUING EDUCATION CREDIT)	

ORDER

On August 8, 2018, Kentucky Water Resources Research Institute (KWRRRI) filed an application for approval and accreditation for a training program titled *Sustainable Management of Rural and Small Systems Workshop* (hereinafter the Training Program) that it intends to offer on August 16, 2018, at the offices of Martin County Water District in Inez, Kentucky, and on August 22, 2018, at Tompkinsville Water Utility in Tompkinsville, Kentucky. Having carefully considered KWRRRI's request, the Commission approves the program to satisfy up to 5.5 hours of annual training described by KRS 74.020(6) and KRS 74.020(7). However, the Training Program is not approved to satisfy any of the 12 hours of initial training required by KRS 74.020(8) for newly appointed water district commissioners.

DESCRIPTION OF TRAINING PROGRAM

The Training Program will consist of 6 sessions of varying lengths totaling 5.5 hours. The Training Program was developed by the U.S. Environmental Protection Agency and the U.S. Department of Agriculture (USDA) and focuses on ten key management areas for small water and wastewater utilities, including financial viability, infrastructure stability, operational optimization, operational resiliency, and employee and

leadership development. The program is being offered at no cost to participants through financial support provided by USDA.

The Training Program being offered on August 16, 2018, will be identical to the program being offered on August 22, 2018, except for the presenters of the programs. KWRRI also stated that it intends to offer the same program in eastern Kentucky in September 2018, but indicated that the date and location of that offering has not been finalized. KWRRI did not state who would present the program to be scheduled in September 2018.

The August 16, 2018 program will be presented by Greg Heitzman, P.E., who formerly worked as the chief engineer for the Louisville Water Company, president and CEO of the Louisville Water Company, and president and CEO of the Louisville Metropolitan Sewer District. The August 22, 2018 program will be presented by Lindell Ormsbee, P.E., Ph.D., and Steven J. Evans. Dr. Ormsbee is the current director of KWRRI and a professor of civil engineering at the University of Kentucky. Mr. Evans is the current assistant director of KWRRI and has experience working as an environmental scientist in a number of capacities related to water and wastewater utilities.

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.¹ KRS 74.020(8) requires each newly appointed water district commissioner to complete 12 instructional

¹ See KRS 74.020(1).

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.² KRS 74.020(6) and (7) encourage water district commissioners to complete six instructional hours of "water district management training approved by the Public Service Commission" in each calendar year by allowing the commissioners to receive a raise if they complete that training each calendar year.³

KWRRI does not state whether it is seeking to have its Training Program approved to satisfy the initial training requirements of KRS 74.020(8) or to satisfy the annual 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.⁴ Moreover, the Commission is only permitted to approve a program to satisfy the initial water district training requirements if

² KRS 74.020(8)(b) (discussing the training requirements for new water district commissioners).

³ The Commission observes that KWRRI's Training Program is only 5.5 hours, so KWRRI requested that it be approved and accredited for 5.5 hours of credit. However, as noted, water district commissioners are required to obtain six hours of credit annually to receive increased compensation authorized by KRS 74.020(6) and (7). Although it is not required to do so, in the future the Commission would encourage KWRRI to investigate whether it would be possible and beneficial to offer an additional 30 minutes of training as part of the program to permit water district commissioners to satisfy all of their annual training requirement by attending one of KWRRI's programs. Such a change might encourage increased attendance at KWRRI's programs.

⁴ 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.").

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.”⁵ KWRRRI’s Training Program is not equivalent to the Commission’s program of instruction.⁶ Thus, the Commission is not able to approve KWRRRI’s Training Program to satisfy the initial training requirements for newly appointed water district commissioners as set forth in KRS 74.020(8).

The Commission has discretion in approving “water district management training” offered by third parties to satisfy the six hours of annual 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.”⁷ However, third parties applying for approval of a proposed water district commissioner training program must file, at least 30 days prior to the first date on which the program is to be offered, an application that includes the program details, the qualifications of the presenters, and a copy of all written materials to be distributed to program participants.⁸

KWRRRI did not submit its application 30 days prior to the first date on which the Training Program will be offered. However, KWRRRI requested that it be granted a deviation from that requirement. KWRRRI believed that it could not request certification

⁵ See KRS 74.020(8)(a) (stating that the Commission “shall provide or cause to be conducted” the training program “[a]t least once annually”).

⁶ See Water Training Order at 5, Appendix (describing the Commissions program).

⁷ 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”).

⁸ Water Training Order at 4–5.

from the Commission until the training had been approved or accredited by other organizations. KWRRRI submitted the program for approval by the Kentucky Division of Compliance Assistance in early July and had been holding the application to the Commission as it waited for that certification. That certification was delayed and KWRRRI's representative contacted the Commission Staff to discuss the issue. He was informed that there was no need to wait for the certification from the Kentucky Division of Compliance Assistance; he then promptly submitted this application for approval and accreditation.

The Commission finds that KWRRRI made a genuine effort to comply with the Commission's filing requirements. Moreover, the Commission notes that this is the first application for training approval that KWRRRI has made in approximately one year and in the intervening period the Commission clarified its expectations with respect to the filing of applications seeking approval and accreditation for water district management training. Thus, the Commission grants KWRRRI's request for a deviation from the requirement that applications be filed 30 days prior to the date on which the program is first scheduled to be offered, but reminds KWRRRI that future applications should comply with that requirement.

Based on the information provided in KWRRRI's application regarding the substance of program, including the PowerPoint slides that will be distributed, the Commission finds that KWRRRI's Training Program is of "high quality" and will enhance water district commissioners' understanding of their responsibilities and duties. Thus, the Commission conditionally approves and accredits the programs scheduled to take place on August 16, 2018, and August 22, 2018, for up to 5.5 hours of annual water district management

training for water district commissioners seeking to satisfy the training requirements set forth in KRS 74.020(6) and (7). Although KWRRRI did not identify the exact date or location for the program it will offer in September 2018 in eastern Kentucky, the Commission will also grant conditional approval and accreditation for that offering of the Training Program, provided there are no material changes in the content of Training Program or the instructors for the program.

IT IS THEREFORE ORDERED that:

1. KWRRRI's Training Program scheduled to take place on August 16, 2018, and August 22, 2018, is hereby conditionally approved and accredited for up to 5.5 hours of annual water district management training for water district commissioners seeking to satisfy the annual training requirements set forth in KRS 74.020(6) and (7).

2. KWRRRI's Training Program scheduled to take place in or about September 2018 is hereby conditionally approved and accredited for up to 5.5 hours of annual water district management training for water district commissioners seeking to satisfy the annual training requirements set forth in KRS 74.020(6) and (7) provided there are no material changes in the content of Training Program or the instructors for the program.

3. KWRRRI's Training Program may not be used by water district commissioners seeking to satisfy any portion of the initial training required by KRS 74.020(8) for newly appointed water district commissioners.

4. KWRRRI shall retain a record of all water district commissioners attending the Training Program.

5. No later than 30 days after each scheduled offering of the Training Program, KWRRRI shall file with the Commission:

a. A sworn statement attesting that the accredited instruction was performed;

b. A description of any changes in the presenters or purposed curriculum that occurred after the application;

c. The name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended; and

d. A copy of any written material given to water district commissioners attending the sessions that was not previously provided to the Commission.

6. Upon receipt of the materials identified in Ordering Paragraph No. 5 and provided there are no material changes to the program, the Commission shall grant final approval of the program.

7. KWRRRI shall permit a representative of the Commission to attend the Training Program at the Commission's discretion, without charge, to assess compliance with this Order or the quality of instruction or for any other purpose deemed necessary by the Commission.

By the Commission

ENTERED
AUG 15 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

For  Executive Director

Case No. 2018-00262

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