

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN	)	
KENTUCKY WATER DISTRICT FOR	)	CASE NO.
ACCREDITATION OF WATER MANAGEMENT	)	2024-00090
TRAINING PROGRAM	)	

ORDER

On April 5, 2024, Northern Kentucky Water District (Northern Kentucky District) and Stoll Keenon Ogden PLLC (Joint Applicants) filed an application<sup>1</sup> for approval and accreditation, pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070, for the proposed water district management training titled *Northern Kentucky Water Training 2024*<sup>2</sup> (Training Program) scheduled to take place on May 8, 2024, at the Northern Kentucky District Office in Erlanger, Kentucky.

Having reviewed the Joint Applicants' request and being otherwise sufficiently advised, the Commission approves the Training Program to satisfy the six hours of training described by KRS 74.020(6) and (7), subject to the conditions discussed below. Northern Kentucky District did not request the Training Program be approved and accredited to satisfy any portion of the 12 hours of initial training for newly appointed commissioners required by KRS 74.020(8).

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<sup>1</sup> All applications should be filed in an optimized pdf format (searchable or OCR) and include bookmarks to distinguish sections. Any future applications from Northern Kentucky District not meeting this requirement will be rejected as deficient.

<sup>2</sup> The Application referred to the training as Northern Kentucky Water Training 2023, the Commission believes that was in error.

## DESCRIPTION OF TRAINING PROGRAM

The Training Program will be conducted in person on May 8, 2024, at the Northern Kentucky District Office in Erlanger, Kentucky. The Training Program will consist of the following sessions:

1. Recent Developments in Utility Regulation – Damon Talley (1.5 hour):

This presentation reviews recent developments in public utility law and regulation. Topics include revisions to the Sales Tax laws concerning “Residential” exemptions, borrowing money, compliance with Public Service Commission Orders, keeping Minutes, and laws enacted by the 2024 General Assembly. The presenter also examines and discusses recent court and PSC decisions.

2. Environmental Regulation Update: Lead and copper Rules/PFAS- Amy Stoffer and Tom Edge (1.5 hour):

This presentation reviews recent developments in the Environmental Protection Agency’s efforts to address lead and copper and PFAS chemicals in drinking water. It focuses on the requirements of the Lead and Copper Revisions, the proposed Lead and Copper Rule Improvements and the EPA’s proposed rules to monitor and regulate PFAS in drinking water. Presenters will discuss the interplay of these environmental regulations with the current constitutional, statutory, and regulatory framework for Kentucky public utilities and discuss current court cases.

3. Reducing Unaccounted-for Water Loss, Amy Stoffer, Tom Edge, Tina Frederick. (1 hour):

Since 2019 the Public Service Commission has engaged in a significant campaign to address water loss among Commission regulated utilities. The first half of this presentation addresses practical and technical approaches to reduce water loss, with an emphasis on those that Northern Kentucky Water District and other water utilities have successfully used. The second half of this presentation reviews the Public Service Commission’s efforts to encourage a reduction in water loss and the Commission’s regulations and recent regulatory decisions addressing unaccounted-for

water. It also examines the Commission's practices to establish and monitor water loss reduction surcharges to finance improvements and practices designed to reduce water loss.

4. Practical Suggestions for a Successful Rate Adjustment Filing, or Avoiding Common Mistakes in Rate Adjustment Proceedings – Gerald Wuetcher (1 hour):

This presentation provides practical suggestions for preparing and presenting applications for a rate adjustment to the Public Service Commission and discusses common mistakes made in rate adjustment proceedings. Topics addressed include frequency of rate applications, timing considerations for a rate filing, need for a rate consultant or attorney, strategies for preparing the rate application, common issues in ratemaking proceedings, responding to discovery requests, reviewing, and responding to Public Service Commission Staff's reports.

5. Legal Issues in the Operation & Management of Water Systems-Panel Discussion – Panelists: Tom Edge, Tina Frederick, Damon Talley, Gerald Wuetcher (1 hour):

A panel of attorneys entertain audience questions regarding frequently recurring legal issues faced by water utilities. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. Kentucky Public Service Commission regulatory requirements will also be discussed.<sup>3</sup>

## DISCUSSION

KRS Chapter 74 authorizes the creation of water districts for the purpose of operating drinking water facilities and wastewater treatment and collection facilities.

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<sup>3</sup> The agenda that was tendered with the application included two "Special Sessions" with the topic of PSC Consumer Services. These trainings were not listed in the application and the speaker's profile was not included with the application. As such the Commission believes the "Special Sessions" were not meant to be included in the 6 hours of training that Joint Applicants are seeking approval for.

Water districts organized under KRS Chapter 74 must be administered by a board of commissioners that shall control and manage the affairs of the district.<sup>4</sup> 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.<sup>5</sup> 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 the training each year.

Joint Applicants indicates that they are seeking to have the Training Program approved to satisfy six hours of annual training necessary for water district commissioners to satisfy KRS 74.020(6) and (7), but it is not seeking to have it approved to satisfy the initial training requirements of KRS 74.020(8). 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."<sup>6</sup> However, third parties applying for approval of a proposed water district commissioner training program must file their applications, including a detailed description of the program, a description of the

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<sup>4</sup> KRS 74.020(1).

<sup>5</sup> KRS 74.020(8)(b) (discussing the training requirements for new water district commissioners).

<sup>6</sup> 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").

qualifications of any presenters, and a copy of the written materials to be distributed at the program among other things, 30 days prior to the first date on which the program is to be offered.<sup>7</sup>

Joint Applicants provided the information required by 807 KAR 5:070 and the Commission's Order in Case No. 2018-00085 in a timely manner. The Training Program also covers topics that will be relevant and useful to water district commissioners. Moreover, the presenters appear to have knowledge of the topics they intend to discuss, and based on a review of the materials provided, the Training Program appears to be well developed and of a high quality.

The Commission finds that the Training Program will provide water district commissioners relevant and useful knowledge that will enhance the quality, management, operation, or maintenance of the water systems they operate, and therefore the Training Program should be conditionally approved to satisfy the training requirements set forth in KRS 74.020(6) and (7) or a portion thereof. This finding does not include the two Special Sessions listed in the agenda that was tendered with the application, as the Special Sessions were not listed in the application nor was the profile of the speaker included.

IT IS THEREFORE ORDERED that:

1. Joint Applicants Training Program scheduled to take place on May 8, 2024, is hereby conditionally approved and accredited for up to six hours of annual water district management training for water district commissioners seeking to satisfy training requirements set forth in KRS 74.020(6) and (7).

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<sup>7</sup> Case No. 2018-00085, *Review of Training Required and Authorized by KRS 74.020 for the Commission of Water Districts* (Ky. PSC Mar. 15, 2018), Order at 4–5.

2. Joint Applicants' Training Program may not be used by water district commissioners seeking to satisfy any portion of the initial training requirement for water district commissioners required by KRS 74.020(8).

3. Joint Applicants shall retain a record of all water district commissioners attending the Training Program.

4. No later than 45 days after each scheduled offering of the Training Program, Joint Applicants shall file with the Commission:

a. A sworn statement attesting that the accredited instruction was performed, including a statement that the materials regarding each session were distributed as required by the Commission herein;

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

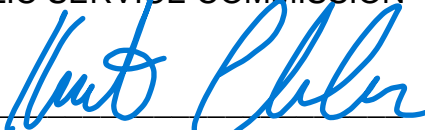
c. The name of each attending water district commissioner, his or her water district, the number of hours that he or she attended; and

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


5. Upon receipt of the materials identified in paragraph 4 and provided there are no material changes to the program, the Commission shall issue a final order approving and accrediting the Training Program.

6. Joint Applicants 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 for any other purpose deemed necessary by the Commission.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ENTERED  
APR 19 2024  
rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

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