



Kentucky Rural Water Association

Helping water and wastewater utilities help themselves

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September 1, 2016

SEP 6 2016

Public Service
Commission

Ms. Talina R. Mathews, Executive Director
Public Service Commission
P. O. Box 615
Frankfort, KY 40602-0615

Dear Ms. Mathews:

Kentucky Rural Water Association will present a training session entitled **2016 Water Law Series - Utility Law Seminar** on October 25, 2016, at the Holiday Inn University Plaza/Sloan Convention Center in Bowling Green, Kentucky. This one-day seminar will offer six (6) hours of continuing education credit for water district commissioners.

Please find enclosed an agenda for the session which includes a description of each topic and a bio for all speakers. With this letter and enclosure, Kentucky Rural Water Association respectfully requests that this training be approved for continuing education credit for commissioners as referenced in regulation 807 KAR 5:070. If additional information is needed, please do not hesitate to contact our office.

Sincerely,

Janet Cole
Education Coordinator
j.cole@krwa.org

Enclosure
(Original and 10 packets)

Utility Law Seminar
Presented by
Kentucky Rural Water Association
Stoll Keenon Ogden PLLC
October 25, 2016
Holiday Inn University Plaza/Sloan Convention Center
Bowling Green, Kentucky

8:30 - 9:30 Utility Litigation Update

Damon R. Talley/Gerald Wuetcher, Stoll Keenon Ogden, PLLC

This presentation reviews recent court decisions involving public and municipal utilities and discusses courses of action to mitigate the decisions' effect on utility operations. Special emphasis will be given to recent decisions addressing a local government's authority to assess a tax to support 911 emergency services. The presenters will also discuss the likely effect of these decisions on local governments' efforts to tax water service to support 911 services and possible water utility responses, various approaches that a water utility may use to respond to such efforts, how to properly bill and collect any imposed fees , and avoid potential regulatory problems with PSC. Presenters will also examine recent litigation between public and municipal utilities before the Public Service Commission and lessons to be learned from such litigation.

9:40 – 10:40 Basics of Bond Finance

Mark S. Franklin, Stoll Keenon Ogden, PLLC

Presentation will review various methods of financing water improvements that are available to cities and water districts, discuss the implications of tax-exempt financing, and examine the requirements for various financing methods and their advantages and disadvantages.

10:50 - 11:30 Clean Water Rule: Definition of Waters of the United States

Lajuana S. Wilcher, English Lucas Priest & Owsley, LLP

Presentation will review U.S. Environment Protection Agency's recently promulgated rule defining the scope of waters protected by the Clean Water Act and discuss the rule's potential effects on water and wastewater utilities. Presenter will briefly discuss prior EPA efforts to develop the Rule and the litigation that the Rule has spawned.

11:30 - 12:10 Clean Air Act – Risk Management Program Rule and Water Utilities

Sarah P. Jarboe, English Lucas Priest & Owsley, LLP

Presentation will review the U.S. Environment Protection Agency's Risk Management Program Rule, which addresses chemical accident prevention at facilities that use certain hazardous substances, and discuss the Rule's potential impacts on water and wastewater utilities.

12:10 – 1:10 Lunch

1:10 - 2:10 EEO nol An Employment Law Primer

Stacy L. Miller, Stoll Keenon Ogden, PLLC

It has often been said that the best defense is a good offense. That was never truer than in the field of employment law. In this session, the presenter will survey some of the most common bases for employment litigation and discuss how to manage your personnel decisions to sidestep these legal pitfalls.

2:20 - 3:20 GASB 68 and Government Utilities – Accounting for Pension Liability**Brian S. Woosley, CPA, Stiles, Carter & Associates**

Government Standards Accounting Board Statement Policy No. 68 significantly changes the manner in which municipal utilities, water districts, and sanitation districts account for and report their pension liabilities. This presentation reviews the requirements of GASB 68, discusses how it may affect a government utility's balance sheet, and the impact, if any, that it may have on a government utility's rates for service. It will also identify specific areas that government utility officials should address with their auditors.

3:30 – 4:30 Recent Developments In Utility Regulation**Gerald Wuetcher/Damon R. Talley, Stoll Keenon Ogden, PLLC**

This presentation reviews recent developments in public utility law and regulation. Laws enacted by the 2016 General Assembly and their effect on water utility operations will be discussed. Recent court decisions that may affect water and wastewater utilities will also be examined. Presenters will identify and discuss significant Public Service Commission decisions since January 1, 2015 and possible trends represented by these decisions, as well as changing personnel. Special emphasis will be given to recent municipal utility rate proceedings before the Commission.

Speaker Bios**Damon R. Talley, Stoll Keenon Ogden PLLC**

Damon joined Stoll Keenon Ogden PLLC on May 1, 2015. He is a member of the Utility & Energy practice. He practices out of the Hodgenville, Louisville, and Lexington, Kentucky offices. Damon brings to SKO more than 35 years of experience working in private practice focusing on public utility work. He serves as General Counsel of the Kentucky Rural Water Association and has served in this capacity since 1979. He is a frequent speaker at training sessions sponsored by the Kentucky Rural Water Association, Public Service Commission, Division of Water, Utility Management Institute, and other Utility Industry Groups.

Damon received his J.D. from the University of Kentucky College of Law in 1975, and earned his B.S.M.E. in 1972 from the University of Kentucky College of Engineering. He served as a board member of the Kentucky Infrastructure Authority for 15 years (2000-2015), and was a charter member, a long-time board member and Board Chairman for two terms of the KY FFA Foundation, Inc. He also serves as a board member for a variety of other non-profit organizations.

Gerald E. Wuetcher, Stoll Keenon Ogden PLLC

Jerry is Counsel to the Firm and a member of the Utility & Energy practice. He brings to Stoll Keenon Ogden more than 25 years of experience working at the Kentucky Public Service Commission, where he served as a staff attorney, deputy general counsel and executive advisor. He frequently appeared before the Commission in administrative proceedings involving electric, natural gas, water and sewer utility issues and represented the Commission in state and federal courts. Jerry also served as the Commission's representative in a number of interagency groups addressing water and wastewater issues. Between 2009 and 2013, he was the Commission's representative on the Board of the Kentucky Infrastructure Authority. Jerry developed and implemented the Commission's training program for water utility officials in 1998 and served as one of its principal instructors during his tenure with the Commission.

Jerry served for 27 years in the United States Army as a judge advocate before retiring at the rank of Colonel in 2011. His service encompassed numerous roles on active duty and in a reserve status, including claims officer, trial and defense counsel and legal assistance officer. He commanded the 139th Legal Support Organization – an Army Reserve unit consisting of four legal services teams in Kentucky and Tennessee – and has served as the Staff Judge Advocate to the 100th Division (Training). His military awards include the Legion of Merit and Meritorious Service Medal.

Jerry received his J.D. from Emory University in 1984, and earned his B.A. in History in 1981 from Johns Hopkins University. Jerry also serves as a member of Board of Trustees of the Woodford County Library and has previously served as an adjunct professor at the University of Louisville Brandeis School of Law.

Mark S. Franklin, Stoll Keenon Ogden PLLC

Mark concentrates his focus on the areas of public finance and employee stock ownership plan transactions. A member in our Louisville office, Mark has been with the firm since 2007 and is AV Preeminent® Peer Review Rated by *Martindale-Hubbell®*.

With respect to public finance transactions, Mark regularly serves as bond counsel, issuer's counsel and lender's counsel. He has recently served as bond counsel on behalf of several Kentucky cities with respect to their general obligation and revenue bond financings, as issuer's counsel for a state-wide conduit bond issuing agency and as lender's counsel for several conduit and governmental financings involving Kentucky nonprofit institutions.

With respect to employee stock ownership plans, Mark has recently represented a corporate trustee with regard to the negotiation and purchase of corporate stock. As trustee counsel, Mark has performed due diligence and has drafted and negotiated the related acquisition documents.

Mark is a member of the Louisville, Kentucky and American Bar associations and is also a member of the National Association of Bond Lawyers and The ESOP Association. He volunteers on two committees at the Home of the Innocents and regularly volunteers with other members of his church at a local Alzheimer's facility.

LaJuana S. Wilcher, English Lucas Priest & Owsley, LLP

LaJuana Wilcher is a Partner at English Lucas Priest & Owsley LLP (ELPO) in Bowling Green, Kentucky. She began working with NACWA (then AMSA) in 1989, when she was nominated by the President and confirmed by the U.S. Senate to serve as the U.S. Environmental Protection Agency's Assistant Administrator for Water. In that position, she was responsible for national water policy, and promulgated stormwater, biosolids, and Total Maximum Daily Load (TMDL) regulations, among others. She also convened and worked closely with the FACA group that developed the 1994 Combined Sewer Overflow (CSO) Policy.

Ms. Wilcher worked on environmental law issues in Washington DC for almost 20 years. She was a Partner in the DC offices of Winston & Strawn and LeBoeuf, Lamb Greene and MacRae LLP, where she served as legal counsel for NACWA and numerous municipalities in federal Clean Water Act (CWA) litigation, permitting and enforcement matters. She has also served as a group facilitator, expert witness and legislative counsel on various CWA matters.

Returning to private law practice in her home state of Kentucky in 2002, Ms. Wilcher was a partner at ELPO until being tapped by Kentucky's Governor to be Secretary of Kentucky's Environmental and Public Protection Cabinet from 2003-2006, where she orchestrated a novel Consent Decree strategy with Louisville MSD.

Ms. Wilcher has developed and taught environmental law and policy courses at Vermont Law School and Vanderbilt University Law School. She was awarded NACWA's Special Recognition Award in 1993 and State Public Service Award in 2006. She has been selected as a Lifetime Honorary Member of AWWA and has been recognized in The Best Lawyers in America every year since 2009. She speaks frequently throughout the country on environmental law and leadership issues.

Ms. Wilcher was a founding Board Member of America's Clean Water Alliance and Friends of Mammoth Cave National Park, and is a Supervisor of the Warren County Conservation District. She owns and operates Scuffle Hill Farm, growing grass-fed Angus cattle, hay and horses.

Sarah P. Jarboe, English Lucas Priest & Owsley, LLP

Sarah grew up in rural Kentucky near Owensboro, and has always been a nature enthusiast. At the University of Louisville, she majored in both psychology and philosophy, and found a second love: analytical reasoning. Pursuing a career in environmental law allowed her to combine her two interests into a fulfilling career. Vanderbilt University Law School provided excellent preparation for the practice of law, Sarah says. In her case, it was particularly useful because it features a robust environmental law program. LaJuana Wilcher, a partner at ELPO who has worked extensively in the field of environmental law, taught Sarah's Environmental Law course at Vanderbilt.

Sarah joined ELPO earlier this year after serving as a law clerk for two years for Chief Justice Minton of the Kentucky Supreme Court. "I learned many things during my clerkship. Most importantly, I gained a perspective from behind the bench and learned what is more likely to persuade a judge in his or her decision-making," Sarah says. Sarah worked in Chief Justice Minton's Bowling Green office, allowing her the opportunity to learn about the local legal community as she gained valuable experience. She became active in the Bowling Green-Warren County Bar Association and got to know other attorneys. "ELPO's positive reputation was readily apparent," Sarah says. "I immediately knew that I wanted to work for ELPO following my judicial clerkship. The attorneys at ELPO are experienced, knowledgeable, and personable. ELPO also has a vital environmental law practice, which makes it a perfect fit for me with my environmental law background." Sarah is married and lives in Bowling Green.

Stacy E. Miller, Stoll Keenon and Ogden

Stacy is a Member of the Labor, Employment & Employee Benefits practice in Stoll Keenon Ogden's Lexington office. Stacy concentrates her practice on counseling, civil litigation and administrative defense with emphasis on employee benefits, the Family and Medical Leave Act, the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Fair Labor Standards Act, the Kentucky Civil Rights Act, wrongful termination and noncompetition and other employment agreements.

Stacy received her J.D. from the University of Kentucky College of Law in 2005. Prior to that, she earned her Master's degree from the Patterson School of Diplomacy and International Commerce at the University of Kentucky in 2001.

Stacy serves as a member of the Board of Directors for the Foster Care Council of LexKy, and is a member of the Society for Human Resources Management (SHRM). Stacy is the author of "Discrimination Based Upon Disability," UK/CLE Employment Law in Kentucky Handbook, 4th ed., 2013, Chapter 6. She is a regular presenter at seminars and trainings on employment law issues.

Brian S. Woolley, Stiles, Carter & Associates CPAs

Brian serves as director of audits and quality control at Stiles, Carter & Associates, CPAs, PSC in Elizabethtown, Kentucky. Brian is a graduate of Western Kentucky University with a Bachelor of Science in Accounting and a Master of Professional Accountancy. He serves as an instructor at the University of Kentucky, School of Financial Management Institute and conducts numerous training sessions for governments. He has also served as the Chair of the Kentucky Society of CPAs Governmental Accounting and Auditing Committee. His specialty is governmental accounting and auditing with a focus on school districts, water districts, municipal utilities, and city and county governments.