

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
RURAL WATER ASSOCIATION FOR)	CASE NO.
ACCREDITATION APPROVAL OF)	2022-00320
COMMISSIONER TRAINING AND CONTINUING)	
EDUCATION CREDIT)	

ORDER

On September 23, 2022, Kentucky Rural Water Association (KRWA) and Stoll Keenon Ogden PLLC (Joint Applicants) filed an application¹ for approval and accreditation of a training program scheduled to take place on October 26, 2022. The program is entitled *Seventh Annual Water Law Series* (Training Program). The Training Program is intended to be in person at the Holiday Inn University/Sloan Convention Center in Bowling Green, Kentucky. Having reviewed the Joint Applicants' request and being otherwise sufficiently advised, the Commission approves the program to satisfy the six hours of training described by KRS 74.020(6) and (7), subject to the conditions discussed below. Joint Applicants 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).

¹ All applications should be filed in an optimized pdf format (searchable or OCR) and include bookmarks to distinguish sections. Any future applications from Joint Applicants not meeting this requirement will be rejected as deficient.

DESCRIPTION OF THE TRAINING PROGRAM

The Training Program will be conducted in person at Holiday Inn University/Sloan Convention Center in Bowling Green, Kentucky, on October 26, 2022. The Training Program will consist of the following sessions:

Wednesday, October 26, 2022

1. Recent Developments in Utility Regulation (1 hour): This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, revisions to the Sales Tax laws concerning “Residential” exemptions, borrowing money, compliance with PSC Orders, keeping Minutes, laws enacted by the 2022 General Assembly, and examine and discuss recent court and PSC decisions.

2. Sexual Harassment and Respectful Workplace (1 hour): This presentation discusses the role of the Board and the role of Management in developing and implementing best practices to foster a workplace environment that is the envy of other utilities. The presentation will address Board members duty of the utility to maintain a safe, respectful workplace that is free from unlawful discrimination, harassment, or retaliation for all employees.

3. What to Expect During a Rate Study (1 hour): This presentation focuses on the responsibility of water district commissioners during a rate study. It defines a rate study; describes the first steps of getting started; describes three types of rate studies, provides lessons learned for water district commissioners; and differentiates the water district Board of Commissioners’ role from the PSC’s role.

4. Disaster Preparedness for Water Utilities (1 hour): This presentation will provide a summary of the challenges faced by small, remote water utilities, and how KRWA and Kentucky WARN responded to recent natural disasters with mutual aid resources from utilities, state agencies, and nonprofit organizations. A summary of lessons learned from these experiences will help prepare for future natural disasters.

5. Hot Water Topics (1 hour): This presentation focuses on bringing attendees up to date on environmental law issues that impact water and wastewater utilities. Topics include EPA's recent Lead and Copper Rule Revisions guidance, the evolving PFAS landscape, the Biden Administration's proposed rule to change the definition of Waters of the U.S., developments in Clean Water Act point source liability for discharges via groundwater and 401 water quality certification, and the recently published proposed rule to change aspects of the Risk Management Program.

6. Everything You Wanted to Know About CPCN's and Debt Authorization But Were Afraid to Ask the PSC (1 hour): This presentation reviews all aspects of Certificates of Public Convenience and Necessity, including when a CPCN is needed, extensions in the ordinary course of business, preparing the application, tips for obtaining an expedited review of the application, and when a water district must obtain PSC approval before issuing any securities or evidence of indebtedness.

The presenters at the Training Program will be Gerald E. Wuetcher, Damon R. Talley, and Elizabeth S. Muyskens of Stoll Keenon Ogden; Sarah P. Jarboe, Joye Beth Spinks, and John West of English, Lucas, Priest & Owsley; Senior Program Coordinator for KRWA, Joe Burns; President of BlueWater Kentucky, Greg C. Heitzman; and consultant with StraightLine Kentucky, Robert K. Miller.

DISCUSSION

KRS Chapter 74 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 Chapter 74 must be administered by a board of commissioners that shall control and manage the affairs of the district.² 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.³ 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 indicate that it is 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

² See KRS 74.020(1).

³ KRS 74.020(8)(b) (discussing the training requirements for new water district commissioners).

responsibilities and duties.”⁴ 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 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.⁵

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 will conditionally approve the Training Program to satisfy the training requirements set forth in KRS 74.020(6) and (7) or a portion thereof.

IT IS THEREFORE ORDERED that:

1. Joint Applicants’ Training Program scheduled to take place on October 26, 2022, is hereby conditionally approved and accredited for up to six hours of annual water

⁴ 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”).

⁵ 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

district management training for water district commissioners seeking to satisfy training requirements set forth in KRS 74.020(6) and (7).

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.

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PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



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