

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF NORTHERN	)	
KENTUCKY WATER DISTRICT AND STOLL	)	CASE NO.
KEENON OGDEN PLLC FOR ACCREDITATION	)	2022-00338
AND APPROVAL OF A PROPOSED WATER	)	
DISTRICT MANAGEMENT TRAINING PROGRAM	)	

ORDER

On October 7, 2022, Northern Kentucky Water District (Northern Kentucky District) and Stoll Keenon Ogden PLLC (Joint Applicants) filed an application for approval and accreditation of a training program scheduled to take place on November 9, 2022. The program is entitled *Northern Kentucky Water Training 2022* (Training Program). The training is intended to be in-person at the Northern Kentucky District's office in Erlanger, Kentucky, pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070. 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 herein. Joint Applicants did not request that 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).

DESCRIPTION OF TRAINING PROGRAM

The Training Program will be conducted in-person at the Northern Kentucky District office on November 9, 2022. The Training Program will consist of the following sessions:

1. Sexual Harassment and Respectful Workplace Training (1 hour): This presentation covers unlawful discrimination and sexual harassment in the workplace. It discusses best practices for fostering a respectful workplace and avoiding claims of retaliation for good-faith reports of discrimination or sexual harassment.

2. Recent Developments in Utility Regulation (1 hour): This presentation provides an update as to recent changes in public utility law and regulations, with discussion of recent case law and PSC decisions. Other topics include unaccounted water loss, revisions to the Sales Tax laws concerning “Residential” exemptions, borrowing money, compliance with PSC Orders, keeping Minutes, and laws enacted by the 2022 General Assembly.

3. Litigation Involving Water Utilities (1 hour): This presentation covers different types of litigation involving government-owned water utilities and ideas that can lead to prevention or a successful defense and offers several caselaw examples. Topics include employment disputes, the open records/meeting act, and the steps that a water utility needs to take when turning off service or when there’s a water line break.

4. Kentucky Water Workforce Survey Results (1 hour): This presentation discusses the data collected from two surveys. One survey collected feedback directly from water operators while the second survey asked managers and decision makers to provide feedback from the perspective of the utility. The surveys were designed to identify the challenges and barriers that utilities face in recruiting and retaining drinking water and clean water operators.

5. Everything You Wanted to Know about Certificates of Public Convenience and Necessity and Debt Authorizations but were Afraid to Ask (1 hour): This presentation

offers a step-by-step guide to the requirements that water and wastewater utilities must meet when constructing new facilities and issuing the debt necessary to finance such construction.

6. Legal Issues in the Operation & Management of Water Systems Panel Discussion (1 hour): Attorneys Talley and Wuetcher will entertain audience questions regarding frequently recurring legal issues faced by water utilities, including KRS Chapter 74 and its effects on water districts, other law relevant to water utilities, and PSC regulatory requirements.

The presenters at the Training Program will be attorneys from Stoll Keenon Ogden, PLLC, Gerald E. Wuetcher, Elizabeth Muyskens, and Damon Tally; attorney M. Todd Osterloh from Sturgill, Turner, Barker & Moloney, PLLC; Valerie Lucas, the Executive Director of Clean Water Professionals of Kentucky and Tennessee; and Donna McNeil, Research Engineer with the University of Kentucky Water Resources Research Institute.

#### 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.<sup>1</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

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

months of the commissioners' initial appointment.<sup>2</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 indicated 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 they are not seeking to have the Training Program 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>3</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 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>4</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

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

<sup>3</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").

<sup>4</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.

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 November 9, 2022, 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).

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.

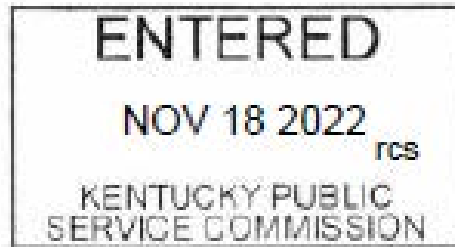
6. Joint Applicants shall permit a representative of the Commission to attend the Training Program at the Commission's discretion, without charge, to assess compliance with this Order or the quality of instruction for any other purpose deemed necessary by the Commission.

PUBLIC SERVICE COMMISSION

  
Chairman

\_\_\_\_\_  
Vice Chairman

  
Commissioner



ATTEST:

  
Executive Director

Case No. 2022-00338

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