

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF NORTHERN KENTUCKY)	
WATER FOR ACCREDITATION AND)	
APPROVAL OF A PROPOSED WATER	)	CASE NO. 2017-00114
DISTRICT MANAGEMENT TRAINING)	
PROGRAM)	

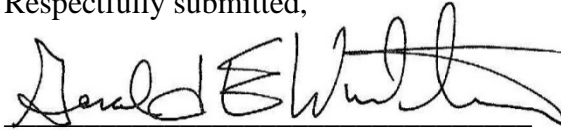
NOTICE OF FILING

In compliance with the Commission’s Order of March 23, 2017, Northern Kentucky Water District (“NKWD”) gives notice of the filing of the following documents:

1. A sworn statement attesting that the proposed course of instruction entitled “Northern Kentucky Water Training 2017” was performed on March 31, 2017 (**Exhibit 1**);
2. A description of any changes in the presenters or the proposed curriculum that occurred after the submission of the application for accreditation (**Exhibit 2**);
3. The name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended (**Exhibit 3**);
4. A copy of the written materials given to program attendees (**Exhibit 4**);
5. Approval of proposed program for continuing legal education accreditation by the Kentucky Bar Association (**Exhibit 5**);
6. Approval of proposed program for accreditation by the Department of Local Government for Elected County Officials Training Incentive Program (**Exhibit 6**).
7. Approval of proposed program for accreditation by the Division of Compliance Assistance for Continuing Education for Drinking Water and Waste Water System Operators (**Exhibit 7**).

Dated: April 27, 2017

Respectfully submitted,

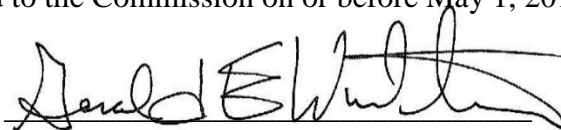


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Counsel for Northern Kentucky Water District

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the Joint Applicants' April 27, 2017 electronic filing of this Notice of Filing is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on April 27, 2017; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original paper medium of this Application will be delivered to the Commission on or before May 1, 2017.



Gerald E. Wuetcher

EXHIBIT 1

EXHIBIT 2

There were no changes in the program agenda submitted with the Application.

EXHIBIT 3

**WATER DISTRICT COMMISSIONER ATTENDEES
2017 NORTHERN KENTUCKY WATER TRAINING PROGRAM**

LAST NAME	FIRST NAME	TITLE	ORGANIZATION	HRS
ADAMS	Rick	Commissioner	Pendleton County Water District	6.0
ALEXANDER	Tim	Commissioner	Boone County Water District	6.0
BEALL	Tom	Commissioner	Jessamine South Elkhorn Water District	6.0
BELL	Mike	Commissioner	Hardin County Water District No. 2	6.0
BEST	Tony	Commissioner	North Mercer Water District	6.0
BODEN	David	Commissioner	Pendleton County Water District	6.0
CAIN	Charlie	Commissioner	Boone County Water District	6.0
CORMAN	Clay	Commissioner	Jessamine South Elkhorn Water District	6.0
CUNNINGHAM	Clyde	Commissioner	Northern Kentucky Water District	6.0
DAUGHERTY	James	Commissioner	Boone County Water District	6.0
DAVIS	Tim	Commissioner	Hardin County Water District No. 2	6.0
DURBIN	Bob	Commissioner	Oldham County Water District	6.0
FAULKNER	L.R.	Commissioner	Pendleton County Water District	6.0
FLAUGHER	Bill	Commissioner	East Pendleton County Water District	6.0
HAWS	Jerry	Commissioner	Jessamine South Elkhorn Water District	6.0
KNOCK	Richard	Commissioner	Boone County Water District	6.0
KOESTER	Joe	Commissioner	Northern Kentucky Water District	6.0
LARREE	Ray	Commissioner	West Shelby Water District	6.0
MACKE	Fred	Commissioner	Northern Kentucky Water District	6.0
MOORE	Brent	Commissioner	Pendleton County Water District	6.0
SATCHWELL	Vic	Commissioner	Gallatin County Water District	6.0
SHEPSON	Gerald	Commissioner	North Mercer Water District	6.0
SHORT	Roy	Commissioner	North Mercer Water District	6.0
SOMMERKAMP	Pat	Commissioner	Northern Kentucky Water District	6.0

LAST NAME	FIRST NAME	TITLE	ORGANIZATION	HRS
SPAULDING	David	Commissioner	Northern Kentucky Water District	6.0
STRANGE	Joe	Commissioner	Pendleton County Water District	6.0
STRONG	Nick	Commissioner	Jessamine South Elkhorn Water District	6.0
TABB	Cordell	Commissioner	Hardin County Water District No. 2	6.0
THOMPSON	William	Commissioner	East Pendleton County Water District	6.0
WAGNER	Doug	Commissioner	Northern Kentucky Water District	6.0
WILLIAMS	Raymond	Commissioner	West Shelby Water District	6.0

EXHIBIT 4

HANDOUTS TO PROGRAM ATTENDEES

Handout No.	Title
1	Table of Contents of Digital Library
2	PSC Organizational Chart
3	Executive Order No. 2016-832
4	Order of 02/15/2016, PSC Case No. 2015-00353
5	Order of 09/15/2016, PSC Case No. 2015-00312
6	Order of 02/06/2017, PSC Case No. 2016-00169
7	Order of 02/23/2017, PSC Case No. 2016-00338
8	Certificate of Public Convenience and Necessity Continuum Chart
9	Presentation: Recent Developments in Utility Regulation
10	Presentation: State of Clean Drinking Water in the Commonwealth of Kentucky
11	Presentation: An Update from the Kentucky Public Service Commission
12	Presentation: PSC Division of Inspections



DIGITAL LIBRARY

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The Kentucky PSC and Water Utility Inspections (PDF Format) (PowerPoint Format)

Prior Presentations

2016 Flint Water Crisis (PDF Format) (PowerPoint Format)

911Funding (PDF Format)

Accounting and Auditing Issues for Water Utilities (PDF Format)

Accounting and Auditing Issues for Water Utilities – Appendix (PDF Format)

All Things Meter (PDF Format) (PowerPoint Format)

Basics of Kentucky Water System Financings (PDF Format)

EEO No! An Employment Law Update (PDF Format)

Commissioner Board Meetings (PDF Format)

Drinking Water Law Basics (PDF Format)

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EEO No! A Discrimination Law Primer (PDF Format)

PSC Review of Municipal Utility Rates (PDF Format) (PowerPoint Format)

Water Utilities and Fire Departments (PowerPoint Format)

When Bad Things Happen: PSC Investigations (PDF Format) (PowerPoint Format)

Why Did They Do That? Lessons Learned From Municipal Rate Cases (PDF Format)

General Reference

American Water Works Association - Glossary of Terms

Compilation of Kentucky Public Utility Laws as of July 15, 2016

Kentucky Division of Water, Organization Chart (As of March 1, 2016)

Institute of Public Utilities Regulatory Research & Education (IPU) - Glossary of Terms
Used in Water Regulation

IPU – Primer on Water Pricing

Kentucky League of Cities, Insurance Vocabulary 101

Office of Financial Management and Administration, Department of Local Government,
Special Districts Manual (2012)

Public Service Commission Organization Chart

Public Service Commission Staff Directory

Public Service Commission, Letter Guidance on the Implementation of House Bill 201 (Aug. 19, 2010)
Rural Community Assistance Partnership (RCAP) – Non-Operator’s Guide to Drinking Water Systems
RCAP – Non-Operator’s Guide to Wastewater Systems
RCAP – USDA Rural Utilities Service Borrower’s Guide
Timeline for A Rate Adjustment Proceeding – Historical Test Period
U.S. Fire Administration, Water Supply Systems and Evaluation Methods, Volume 1: Water Supply System Concepts (Oct. 2008)
U.S. Fire Administration, Water Supply Systems and Evaluation Methods, Volume 2: Water Supply Evaluation Methods (Oct. 2008)

911 Fees

City of Lancaster v. Garrard County, Kentucky, No. 2013-CA-000716-MR (Ky. Ct. App. July 3, 2014)
Greater Cincinnati/Northern Kentucky Apartment Association, Inc., 2014-SC-000383-TG (Ky. Oct. 29, 2015)
Whitley County Fiscal Court Ordinance No. 2016-02 (Apr. 19, 2016)

Asset Management

Environmental Finance Center - Asset Management: A Guide for Water and Wastewater Systems (2006)
General Accounting Office, Water Infrastructure: Comprehensive Asset Management Has Potential to Help Utilities Better Identify Needs and Plan Future Investments (GAO-04-461) (Mar. 2004)
National Rural Water Association – An Introduction to Water System Operation and Maintenance (2007)
Office of Water, Environmental Protection Agency, EPA 816-B-14-001, A Reference Guide for Asset Management Tools (May 2014)

Auditor of Public Accounts

Recommendations to Strengthen Technology Security (Aug. 2009)
Recommendations for Public and Nonprofit Boards (Mar. 2010)
Examination of Certain Bullitt County Internal Controls and Procedures Governing the Process of Automated Payroll Transactions (Sept. 2009)
Examination of Certain Financial Transactions, Policies, and Procedures of the Kentucky Association of Counties, Inc. (Oct. 29, 2009)
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Examination of Certain Policies, Procedures, Controls, and Financial Activity of Mountain Water District (Jan. 2011)
Examination of Certain Policies, Procedures, Controls, and Financial Activity of Sanitation District No. 1 (Aug. 2011)

Examination of Certain Policies, Procedures, Controls, and Financial Activity of Metropolitan Sewer District (Dec. 2011)
Ghost Government: Report on Special Districts (Nov. 2012)

Auditing Issues

General Accounting Office, *Public Accounting Firms: Required Study on the Potential Effects of Mandatory Audit Firm Rotation* (GAO-04-216) (Mar. 2004)
GuideStar, *The Sarbanes-Oxley Act and Implications for Nonprofit Organizations* (Mar. 2003)
Sarbanes-Oxley Act of 2002
Vincent Ryan, *PCAOB Abandons Auditor Rotation*, CFO.com (Nov. 2003)

Board Member Guidance

Gerald Wuetcher, *Legal Issues in the Operation and Management of Water Districts* (Dec. 6, 2016)
Rural Community Assistance Partnership (RCAP), *The Big Guide for Small Systems: A Resource for Board Members* (2011)
Rural Development Letter of Conditions Re: Code of Conduct for Board Members

Certificates of Public Convenience and Necessity

Aqua Corporation, Case No. 89-307 (Ky. PSC Dec. 7, 1989)
Beech Grove Water System, Case No. 2016-00255 (Ky. PSC Aug. 3, 2016)
Columbia Natural Gas of Kentucky, Case No. 2016-00181 (Ky. PSC Sept. 9, 2016)
Continuum of PSC Certificate Holdings
Northern Kentucky Water District, Case No. 2014-00171 (Ky. PSC Aug. 6, 2014)
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PSC Staff Opinion 2017-005

Credit Cards

David Mims, *Using Online Payments to Reduce Cost and Increase Quality of Service*, Kentucky City (Mar. 2012)
Jim Plunkett, *Credit Card Companies Change Rules on Convenience Fees*, Treasury Management Newsletter (Nov. 2008)
Mastercard, *The MasterCard® Convenience Fee Program for Government and Education*
Tamara E. Holmes, *Convenience fees: When is it OK to charge extra to use a credit card?*, CreditCards.com (Dec. 20, 2012)

Cyber Security

American Water Works Association, *Process Control System Security Guidance for the Water Sector* (2014)

Auditor of Public Accounts, Recommendations to Strengthen Technology Security (Aug. 2009)

Centre for Protection of National Infrastructure, Configuring and Managing Remote Access for Industrial Control Systems (Nov. 2010)

Congressional Record (Oct. 20, 2015), Debate on Senate Amendment SA2713 to S.754 (Cybersecurity Information Sharing Act of 2015)

Environmental Protection Agency, Cyber Security 101 for Water Utilities (July 2012)

Environmental Protection Agency, Response to Executive Order 13636 (undated)

ICS-CERT, *ICS-CERT Monitor* (Oct.-Dec. 2012)

Marshall Abrams and Joe Weiss, *Malicious Control System Cyber Security Attack Case Study–Maroochy Water Services, Australia*

NAS Insurance Services, *Cyber Risks in Industrial Control Systems* (Oct. 2015)

National Institute of Standards and Technology, Guide to Industrial Control Systems (ICS) Security (NIST Special Publication 800-82 Rev. 2) (May 2015)

Senate Report No. 114-32 (Apr. 15, 2015), Report on S. 754 (Cybersecurity Information Sharing Act of 2015)

Trend Micro, IT Security for Dummies

Water ISAC, “10 Basic Cybersecurity Measures: Best Practices to Reduce Exploitable Weaknesses and Attacks” (June 2015)

Denial of Service

U.S. Dept. of Justice, Refusal to Provide Social Security Number Improper Grounds For Denial of Service, Overview of the Privacy Act of 1974 (2012 ed.)

Depreciation Practices

Commission on Rural Water, Guide for the Support of Rural Water-Wastewater Systems (1974)

National Association of Regulatory Utility Commissioners, Depreciation Practices for Small Water Utilities (1979)

Electronic Filing – Public Service Commission

How to Register and Create Your E-Filing Account: Training Video

How to Prepare Your Documents for Tariff Filing System (Part 1): Training Video

How to Prepare Your Documents for Tariff Filing System (Part 2): Training Video

How to Upload Your Filing Into Tariff Filing System: Training Video

Emergency Planning

CIPAC Workgroup, All-Hazard Consequence Management Planning for the Water Sector (Nov. 2009)

Environmental Protection Agency (EPA), Planning for an Emergency – Drinking Water Supply (June 2011)

EPA, EPA 816-K11-003, How to Develop a Multi-Year Training & Exercise (T&E) Plan (May 2011)
Kentucky Division of Water, Drinking Water Emergency Response Planning (Mar. 29, 2011) (Power Point Presentation)
Kentucky Division of Water, Emergency Response Plan Template: Public Drinking Water Systems (Dec. 3, 2012)
Kentucky Public Service Commission, Guidance on Notification Procedures for Utility Related Incidents (Mar. 27, 2015)
Water and Emergency Management Agency Coordination: A Vital Component of A Successful Response (Webcast) (Note: Must first install player)

Employment Law

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Stacy Miller, EEO No! A Discrimination Law Primer (May 4, 2016)
U.S. Equal Employment Opportunity Commission, Notice No. 915.003, EEOC Enforcement Guidance on Pregnancy Discrimination and Related Issues (June 25, 2015)

Energy Efficiency

Chris Barren and Jeremy Boyer, "Water Utility Infrastructure Management - Reducing Energy Costs in Water Utilities," Water Utility Infrastructure Management (July 1, 2010)
David Denig-Chakroff, National Regulatory Research Institute, Reducing Electricity Used for Water Production: Questions State Commissions Should Ask Regulated Utilities (June 13, 2008)
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New York State Energy Research & Development Authority, Water & Wastewater Energy Management: Best Practices Handbook (Sept. 2010)
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Ethics Problems for Utility Board Members and Attorneys
OAG, Incompatible Offices and Conflicts of Interest (1995)
Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District

Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District – Disclosure Statement
Ethics Policy for the Louisville and Jefferson County Metropolitan Sewer District – Hearing Procedures
House Bill 276 (2014 Ky. General Session)
House Bill 348 (2015 Ky. General Session)

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Application for Purchased Water Adjustment (Water Districts and Water Associations)
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Application to Transfer Control/Ownership of Facilities

Financial Management

RCAP, The Basics of Financial Management for Small-Community Utilities (2011)
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Fire Protection

807 KAR 5:095, Fire Protection Service For Water Utilities
An Investigation into Fees for Fire Protection Services, Administrative Case No. 385 (Ky. PSC Dec. 7, 2001)
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Letter from Thomas M. Dorman, Executive Director, PSC, to Dr. William H. Tudor (Jan 31, 2002)
Letter from Thomas M. Dorman, Executive Director, PSC, to David Wilson, Counsel, Hardin County Water District No. 1 (Sept. 20, 2002)

Letter from Thomas M. Dorman, Executive Director, PSC, to William Ballard, East Clark County Water District No. 1 (Feb. 13, 2003)
Letter from David M. Samford, PSC General Counsel, to David Wilson, Counsel, Hardin County Water District No. 1 (Dec. 1, 2008)
North Mercer Water District, Case No. 99-486 (Ky. PSC Mar. 2, 2001)
North Shelby Water Company, Case No. 2013-00027 (Ky. PSC Sept. 20, 2013)
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OAG Opinion 78-790
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PSC Staff Opinion 2011-007 (Apr. 19, 2008)
Michael Lippert, "How Can We Coordinate Fire Hydrant Maintenance Better?" *Opflow* (Oct. 2012)
William Lauer, "How Do I Ensure Proper Fire Hydrant Use When So Many People Have Access?" *Opflow* (May 2012)
John Stubbart, "Who Controls the Fire Hydrants?" *Opflow* (April 2006)
Kenton County Water District No. 1, Case No. 96-020 (Ky. PSC June 24, 1996)
U.S. Fire Administration, *Water Supply Systems and Evaluation Methods*, Volume 1: *Water Supply System Concepts* (Oct. 2008)
U.S. Fire Administration, *Water Supply Systems and Evaluation Methods*, Volume 2: *Water Supply Evaluation Methods* (Oct. 2008)

Government Pensions

Cavanaugh McDonald Consulting LLC, GASB Statement No. 68 Report for the County Employees Retirement System Prepared as of June 30, 2014 (May 13, 2015)
Lee Ann Watters, Jonathan M. Hollinger, and R. Douglas Martin, *New Accounting Standards for Government Pensions*, Kentucky Bench and Bar Magazine, Mar. 2014
Government Accounting Standards Board, *Guide to Implementation of GASB Statement 67 on Financial Reporting for Pensions*
Government Accounting Standards Board, *Guide to Implementation of GASB Statement 68 on Accounting and Financial Reporting for Pensions*
Government Accounting Standards Board, *Statement No. 67, Financial Reporting for Pension Plans*
Government Accounting Standards Board, *Statement No. 68, Accounting and Financial Reporting for Pension Plans*
Government Accounting Standards Board, *Pension Plan Implementation Kit*
PSC Staff Memorandum, *Marion County Water District*, Case No. 2016-00068 (Ky. PSC Filed Sept. 16, 2016)
PSC Staff Report, *Marion County Water District*, Case No. 2016-00068 (Ky. PSC Filed Aug. 11, 2016)

House Bill 1

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House Bill 192 (2014 General Session)
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109 KAR 16:010
Department of Local Government, House Bill 1 Compliance Website
DLG, Registration and Board Reporting Tutorial
Kentucky Rural Water Association, “House Bill 1 Impact on Utilities” (Mar. 14, 2013)
Legislative Research Commission, “Final Report of The Task Force on Local Taxation”
Research Memorandum No. 500 (June 27, 2006)
Legislative Research Commission, “Special Districts in Kentucky” Research Report
No. 48 (July 1968)
M. Todd Osterloh and Charles D. Cole, *Taxpayer Revolt, Enhanced Scrutiny of Special Districts, and House Bill 1*, Kentucky Bench and Bar Magazine, Mar. 2014.

Identity Theft Prevention and Notification

Department of Local Government, Protection of Personal Information: Security and Incident Investigation Procedures and Practices for Local Governmental Units (Fall 2014)
Destruction of Records Act (KRS 365.720 .730)
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Federal Trade Commission, Fighting Identity Theft with the Red Flags Rule: A How-To Guide for Business (May 2013)
House Bill 5
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Kara Millonzi, Coates' Canons Blog: Utility Bill Postcards (Sept. 23, 2010)
Kentucky Rural Water Association, Identity Theft Prevention Program Compliance Model (Sep. 29, 2009)
Red Flag Program Clarification Act of 2010, Pub. L. 111-319

Municipal Separate Storm Sewer System

Steve Kaelble, *MS4 for Dummies* (Wiley Publishing 2011)

Municipal Utility Rate Issues

Frequently Asked Questions Regarding PSC Regulation of Municipal Utilities
PSC Guidance Letter to Municipal Utilities (Dec. 18, 1998)
PSC Guidance Letter to Municipal Utilities (Oct. 16, 2007)
Carl Brown, “Sued: A Quick Lesson in Water Litigation”, *Utility Infrastructure Management*
Damon Talley, *Why Did They Do That? Lessons Learned From Municipal Rate Cases* (Oct. 27, 2015)
Gerald Wuetcher, *PSC Review of Municipal Utility Rates* (Oct. 27, 2015)
City of Olive Hill v. Public Service Commission, 203 S.W.2d 68 (Ky. 1947)
McClellan v. Louisville Water Co., 351 S.W.2d 197 (Ky. 1961)

City of Georgetown v. Public Service Commission, 516 S.W.2d 842 (Ky. 1976)
Simpson County Water District v. City of Franklin, 872 S.W.2d 460 (Ky. 1994)
City of Greenup v. Public Service Commission, 182 S.W.3d 535 (Ky.App. 2005)
Submission of Contracts and Rates of Municipal Utilities, Adm. Case No. 351 (Ky. PSC Aug. 10, 1994)
South Shores Water Works v. City of Greenup, Ky., Case No. 2009-00247 (Ky. PSC Oct. 5, 2010)
City of Franklin v. Simpson County Water District, Case No. 92-084 (Ky. PSC Jan. 18, 1996)
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Kentucky-American Water Co., Case No. 2001-230 (Ky. PSC Oct. 19, 2001)
Hopkinsville Water Environment Authority, Case No. 2009-00373 (Ky. PSC July 2, 2010)
City of Danville, Kentucky, Case No. 2014-00392 (Ky. PSC Aug. 13, 2015)
City of Versailles, Kentucky, Case No. 2011-00419 (Ky. PSC Aug. 12, 2014)

Open Meetings/Records Act Materials

Open Meetings Statutes, KRS 61.800-.850
Open Records Statutes, KRS 61.870-.884
Open Records and Open Meetings Decisions – Administrative Regulations, 40 KAR 1:030
Legislative Research Commission, Kentucky Open Meetings and Open Records Laws – Questions and Answers (Sept. 2005)
Office of Attorney General (OAG), Managing Government Records: A Cooperative Undertaking (Aug. 2012)
OAG, Open Records and Open Meetings: Outline (Feb. 2006)
OAG, Promoting the Public Trust (Video)
OAG, Protecting Your Right to Know: Kentucky Open Records and Open Meetings Acts (Jan. 2008)
OAG, Your Duty Under the Law (July 2013)
Sample Open Records Act Policy (Kentucky Rural Water Ass'n Form) (MS Word Format)

Privacy Protection

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Public-Private Partnerships

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PSC Investigations

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PSC Regulatory Issues

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Common Mistakes When Dealing with the Public Service Commission (Power Point Presentation)

Revenue Requirements: A Primer (Dec. 2013) (PDF Presentation)

PSC Reorganization

Executive Order No. 2016-832
Public Service Commission Organization Chart
Senate Bill 183

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Model Resolution for Board of Directors/Commissioners
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Purchased Water Adjustment Form for Water Associations/Water Districts (PDF) (MS Word)
Treated Sewage Adjustment for Water Associations/Water Districts (PDF) (MS Word)

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Recent Legislation – 2016 General Assembly

House Bill 189 (Interlocal Government Agreements)
House Bill 261 (Utility Abandonment)
House Bill 303 (Executive Branch Budget)
House Bill 309 (Public Private Partnerships)
House Bill 529 (Kentucky Water Resources Board)

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Kentucky Department of Libraries and Archives, Managing Government Records
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Reciprocal Preference Bidding Law

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Required Affidavit for Bidders, Offerors and Contractors Claiming Qualified Bidder Status
General Preference Clause (Microsoft Word Document)
Preference Clause for Sealed Bid Solicitation (Microsoft Word Document)
Preference Clause – Request for Proposal (Microsoft Word Document)

Reduction of Lead In Drinking Water Act

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Environmental Protection Agency, EPA 815-S-13-001, Summary of the Reduction of Lead in Drinking Water Act and Frequently Asked Questions (Oct. 2013)

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Security

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Security Deposits

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Kentucky Public Service Commission, 2013 Guidance on Security Deposit Interest Rates

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Kentucky Public Service Commission, 2017 Guidance on Security Deposit Interest Rates

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PSC Staff Opinion 2013-001

Tariff Materials

Adoption Notice Form (MS Word Format)
Cover Page Form (MS Word Format)
Blank Tariff Page Form (MS Word Format)
Non-Recurring Charge Cost Justification Form (MS-Word Format)
Request to PSC Revise Non-Recurring Charge (MS-Word Format)
Tap-On Fee Cost Justification Form (MS-Word Format)
Sample Tariff Pages

Uniform System of Accounts

Uniform System of Accounts for Class A/B Water Associations and Districts (2002)
Uniform System of Accounts for Class A/B Water Companies (2002)
Uniform System of Accounts for Class C Water Associations and Districts (2002)
Uniform System of Accounts for Class C Water Companies (2002)
Uniform System of Accounts for Sewer Utilities (2002)

Water District Commissioner Appointments

Letter to All County Judges Regarding Water District Commissioner Appointments
(Aug. 19, 2010)

Water Commissioner Show Cause Proceedings

Mountain Water District, Case No. 2015-00353 (Ky. PSC Feb. 15, 2016)
North Mercer Water District, Case No. 2016-00310 (Ky. PSC Oct. 12, 2016)
U.S. 60 Water District, Case No. 2015-00037 (Ky. PSC Apr. 2, 2015)
U.S. 60 Water District, Case No. 2015-00037 (Ky. PSC Aug. 17, 2015)
Western Fleming County Water District, Case No. 2014-00400 (Ky. PSC Dec. 16, 2014)
Western Fleming County Water District, Case No. 2014-00400 (Ky. PSC Mar. 16, 2015)
Western Mason County Water District Commissioners, Case No. 2015-00155 (Ky. PSC
June 9, 2015)
Western Mason County Water District Commissioners, Case No. 2015-00155 (Ky. PSC
Sept. 11, 2015)
Wood Creek Water District, Case No. 2016-00338 (Ky. PSC Feb. 23, 2017)

Water District Commissioner Training

Breathitt County Water District, Case No. 2007-00493 (Ky. PSC Mar. 20, 2008).
Jessamine County Water District No. 1, Case No. 2015-00313 (Nov. 17, 2015)
Rebekah Johnson, Case No. 2012-00449 (Ky. PSC Apr. 2, 2013)
Letter to All Water Districts Re: Implementation of House Bill 201 (Aug. 19, 2010)
PSC Staff Opinion 2014-017 (Dec. 16, 2014)

Water Meter Testing

AWWA Standards Subcommittee on Magnetic Devices, "Committee Report: Magnetic Inductive Flowmeters," *AWWA Journal*, June 2007

Damon Talley, All Things Meter (Oct. 27, 2015) (PDF Format) (PowerPoint Format)

Gene R. Barker, "Water Meter Testing Used to Raise Revenues," 13 *Opflow*, no. 12 (Dec. 1987)

Graves County Water District, Case No. 2011-00233 (Ky. PSC Nov. 3, 2011)

Ken Mercer, "How Often Should Residential Water Meters Be Replaced?," *Opflow*, Feb. 2011 at 1

Kentucky-American Water Co., Case No. 2009-00253 (Ky. PSC Oct. 5, 2011)

Muhlenberg County Water District, Case No. 2013-00043 (Ky. PSC Feb. 7, 2015)

S.E. Davis, Residential Water Meter Replacement Economics (2005)

Warren County Water District, Case No. 2011-00220 (Ky. PSC Mar. 5, 2013)

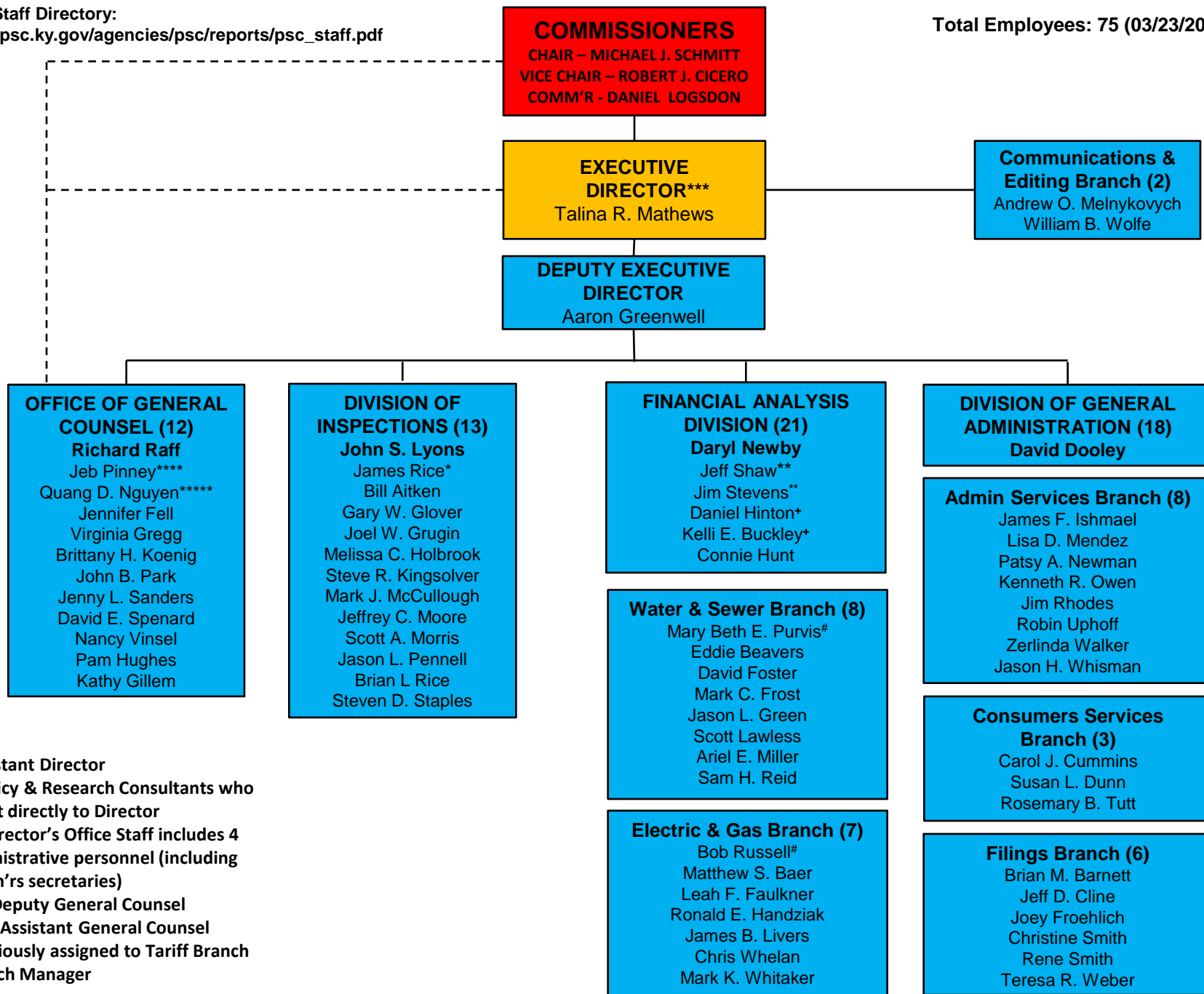
Warren County Water District v. Public Service Commission, No. 13-CI-1078 (Franklin Cir. Ct. Jan. 13, 2014)

Water System Management and Sustainability

Department of Agriculture (USDA)/Environmental Protection Agency (EPA), Rural and Small Systems Guidebook to Sustainable Utility Management (Oct. 2013)

USDA/EPA, Workshop in a Box: Sustainable Management of Rural and Small Systems Workshops (Oct. 2013)

Water Advisory Group, Effective Utility Management: A Primer for Water and Wastewater Utilities (June 2008)



KEY:
*Assistant Director
**Policy & Research Consultants who report directly to Director
***Director's Office Staff includes 4 administrative personnel (including Comm'rs secretaries)
****Deputy General Counsel
*****Assistant General Counsel
+Previously assigned to Tariff Branch
#Branch Manager



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

RECEIVED AND FILED
DATE November 21, 2016
2:41pm

Secretary of State
Frankfort
Kentucky

2016-832
November 18, 2016

ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

RELATING TO THE REORGANIZATION OF THE
ENERGY AND ENVIRONMENT CABINET
PUBLIC SERVICE COMMISSION

WHEREAS, this Administration desires and will implement more effective and efficient management of state government operations; and

WHEREAS, greater efficiency, economy and improved administration will result from the alteration of current organizational units as set out in this Executive Order; and

WHEREAS, the Public Service Commission, which is administratively attached to the Energy and Environment Cabinet, is charged with ensuring safe and reliable service at a reasonable price to the customers of jurisdictional utilities while providing for the financial stability of those utilities by setting fair and just rates, and supporting their operational competence by overseeing regulated activities:

NOW THEREFORE, I, Matthew G. Bevin, Governor of the Commonwealth of Kentucky, under the authority vested in me by the Constitution, Sections 69 and 81, and Kentucky Revised Statutes 12.028, do hereby Order and Direct the following organizational changes within the Public Service Commission:

- I. The Office of General Counsel is hereby created, and shall be headed by an executive director who shall report to the executive director of the Public Service Commission.
- II. The Division of General Administration is hereby created, and shall be headed by a director who shall report to the executive director of the Public Service Commission.
- III. The Division of Inspections is hereby created, and shall be headed by a director who shall report to the executive director of the Public Service Commission.



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2016-832
November 18, 2016

- IV. The Division of Engineering is hereby abolished. All files, funds, personnel, records and equipment are hereby transferred to the newly established Division of Inspections.
- V. The Division of Consumer Services is hereby abolished. All files, funds, personnel, records and equipment are hereby transferred to the newly established Division of General Administration.
- VI. The Division of Filings is hereby abolished. All files, funds, personnel, records and equipment are hereby transferred to the newly established Division of General Administration and the Division of Financial Analysis.
- VII. The Division of General Counsel is hereby abolished. All files, funds, personnel, records and equipment are hereby transferred to the newly established Office of General Counsel.
- VIII. The Energy and Environment Cabinet, Finance and Administration Cabinet, Office of State Budget Director, and Personnel Cabinet are directed to initiate all actions that are necessary to effectuate the provisions of this Order.

This Order is effective November 16, 2016.


MATTHEW G. BEVIN, Governor
Commonwealth of Kentucky


ALISON LUNDERGAN GRIMES
Secretary of State



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2016-832
November 18, 2016

REORGANIZATION PLAN

INTRODUCTION

The Public Service Commission's mission is to foster the provision of safe and reliable service at a reasonable price to the customers of jurisdictional utilities while providing for the financial stability of those utilities by setting fair and just rates, and supporting their operational competence by overseeing regulated activities. In order to promote the efficient and effective management of state government resources, the Public Service Commission is recommending a reorganization of its current structure. This reorganization will streamline the operations of the Commission by appropriately allocating agency functions, funds, personnel, and other resources to provide improved service to the citizens of the Commonwealth.

Five (5) divisions within the Commission will be affected as a result of this reorganization: The Division of General Counsel, Division of Engineering, Division of Financial Analysis, Division of Filings, and the Division of Consumer Services. This proposal creates one (1) new office, two (2) new divisions, and six (6) new branches and abolishes four (4) divisions and thirteen (13) branches. All personnel, funds, records, files and equipment shall be maintained by the Commission.

SUMMARY OF PLAN

The Division of General Counsel will be abolished and the Office of General Counsel will be created. All existing staff of the Division of General Counsel will transfer to the newly created Office of General Counsel. This Division is being elevated to an Office to provide a better organizational structure for the management of the General Counsel functions. This will allow for better supervision, attorney management, and long term retention of institutional knowledge.

The Administrative Services Branch will be abolished and the Division of General Administration will be created to consolidate the support functions such as rotational phone coverage and special project assignments. within the Commission into one division. These functions previously were located in three separate divisions under multiple directors and branch managers. This consolidation will allow for more efficient scheduling of personnel resources into the areas where they are needed. Three (3) branches will be established within this newly created division: the Consumer Services Branch, the Filings Branch, and the Administrative Services Branch. All existing staff from the Administrative Services Branch will transfer to the new Administrative Services Branch within the newly created Division.

The Division of Engineering, along with the three (3) branches located within, the Gas Pipeline Safety Branch, the Water and Sewer Branch, and the Electric and Communications Branch, will be abolished and the Division of Inspections will be created. All positions within the former Division of Engineering will transfer to the newly created Division of Inspections, which will more accurately reflect the functions of the division. The focus of the Division of Inspections is to ensure safe and reliable service to the customers of the regulated utilities. The Commission no longer relies on engineering services given the evolution of the utility industry.



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2016-832
November 18, 2016

The Division of Consumer Services is abolished and all positions will transfer to the Consumer Services Branch, under the newly created Division of General Administration. This abolishment and transfer of staff into the Division of General Administration/Consumer Services Branch is due to a decreased workload due to changing regulations. It is more efficient to consolidate into the General Administrative Support Division as it provides support to the Commission's core mission of safe and reliable services, at fair, just and reasonable rates. Further, the administrative functions of this branch are transferrable between the other branches within this division, allowing for cross training of functions and duties.

The Division of Filings as well as its four (4) branches, the Docket Branch, the Annual Report Branch, the Tariff Review Branch, and the Information Technology Branch, will be abolished. All positions within the Docket Branch and the Annual Report Branch will transfer to the newly created Filings Branch, Division of General Administration. This transfer of personnel and consolidation of branches will allow for more efficient services within the General Administrative Support Division, as it provides support to the Commission's core mission of safe and reliable services, at fair, just and reasonable rates. Further, the administrative functions of this branch are transferrable between the other branches within this division, allowing for cross training of functions and duties. All positions within the Tariff Review Branch will transfer to the Division of Financial Analysis to more closely align their job duties as Public Utility Rate Analysts within the organization. This consolidation will ensure that tariff review will be done more efficiently. All positions within the Information Technology Branch will transfer to the newly created Administrative Services Branch, Division of General Administration, due to the information technology functions being a support function of the Commission. Further, the maintenance of the in house docket system is primarily a support function for multiple divisions within the agency, similar to other support functions within the Administrative Services Branch.

While the Division of Financial Analysis will remain, all five (5) branches within this organizational unit will be abolished. The Electric and Gas Revenue Requirements Branch, Water Revenue Requirements Branch, Electric and Gas Rate Design Branch, Water and Sewer Rate Design Branch, and the Audit and Telecommunications Branch will be abolished. The Water and Sewer Branch and the Electric and Gas Branch will be created. All positions from the abolished Water and Sewer Rate Design Branch and the Water Revenue Requirements Branch will transfer to the newly created Water and Sewer Branch. All positions from the Electric and Gas Revenue Requirements Branch, the Electric and Gas Rate Design Branch, and the Audit and Telecommunications Branch will transfer to the newly created Electric and Gas Branch. Abolishing the former branches and establishing joint new branches allows employees responsible for casework involving specific utility types to become cross trained between rate design and revenue requirements. Additionally, combining the personnel and resources of the former branches enables the Commission to more efficiently use the positions involved in the financial analysis of water and sewer utilities and electric and gas utilities. The creation of these new branches will utilize existing knowledge and skills which will benefit the Division of Financial Analysis as a whole, by allowing cross training and greater collaboration.



MATTHEW G. BEVIN
GOVERNOR

EXECUTIVE ORDER

Secretary of State
Frankfort
Kentucky

2016-832
November 18, 2016

The Communications and Editing Branch will be established and will report directly to the Executive Director of the Public Service Commission. This branch shall process, edit, and distribute press releases, Commission Orders, and all other documents for the Public Service Commission as needed. This branch shall be comprised of three existing positions that will transfer from the office of the Public Service Commission.

FISCAL IMPACT

There will be no fiscal impact associated with this reorganization.

PERSONNEL IMPACT

All staff of the Commission affected within this reorganization will be reassigned to newly created divisions and branches within the Commission. There will be no increase in the personnel cap. The personnel changes as a result of this reorganization would be one (1) less division director, and three (3) fewer branch manager positions. Employees currently in management positions within branches being abolished will be reclassified into accurate job classifications after the reorganization is complete.

NET EFFECT

There will be no increase in personnel cap or budget for the Public Service Commission on the effective date of this reorganization. There has been a concentrated effort to streamline several program areas and shifting duties to effectively align with the objectives of the new structures to better serve the Commission. This reorganization is anticipated to increase efficiency and effectiveness of staff due to streamlining of program areas and duties.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAIN WATER DISTRICT;)	
RHONDA JAMES, COMMISSIONER AND)	
CHAIRPERSON; LESTER "JOHN" COLLINS,	)	CASE NO.
COMMISSIONER; TONI AKERS, FORMER	)	2015-00353
COMMISSIONER; AND MIKE LITAFIK,)	
FORMER COMMISSIONER)	
_____)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.300(1))	

ORDER

By Order entered November 2, 2015, the Commission initiated this proceeding to determine whether Mountain Water District ("Mountain District"); Rhonda James, former commissioner and chairperson; Lester "John" Collins, former commissioner; Toni Akers, former commissioner; and Mike Litafik, former commissioner (collectively "Respondents") should be subject to the penalties prescribed in KRS 278.990 for aiding and abetting an alleged violation of KRS 278.300(1), which states that no utility shall issue any form of indebtedness until it has been authorized to do so by an order of the Commission.¹

The alleged violation giving rise to this case is Mountain District's execution of a \$500,000 "forgivable loan" payable to Utility Management Group, LLC ("UMG"), for

¹ Respondents James, Collins, Akers, and Litafik are all former members of the Mountain District Board of Commissioners. See Stipulation of Facts and Settlement Agreement (Ky. PSC filed Jan. 20, 2016) at 4.

which prior Commission approval was required under KRS 278.300, but was never sought or obtained. Commission Staff alleges that it discovered this forgivable loan during an examination of Mountain District's financial record in the course of reviewing Mountain District's application for a rate adjustment in Case No. 2014-00342.² The "forgivable loan" was executed as part of the "Amendment to Agreement for Operations, Maintenance and Management Service" dated April 29, 2009, wherein UMG agreed to provide Mountain District a \$500,000 forgivable loan to be amortized over a five-year period at a simple interest rate of 5 percent per annum.³

The minutes of the Mountain District Board Special Meeting held on April 3, 2009, reflect that UMG had proposed to provide Mountain District with a \$500,000 forgivable loan in exchange for Mountain District's extending its contract with UMG.⁴ The minutes of the Mountain District Board Special Meeting held on April 6, 2009, reflect that all Mountain District Commissioners then serving, with the exception of Earl Sullivan, voted to approve a proposed amended contract with UMG containing the loan provision.⁵ The minutes of the Mountain District Board Regular Meeting held on April 29, 2009, reflect that then-serving Commissioner and Chairperson Akers,

² Case No. 2014-00342, *Application of Mountain Water District for an Adjustment of Water and Sewer Rates* (Ky. PSC Oct. 9, 2015).

³ *Id.*, Mountain District's Response to Commission Staff's First Request for Information, Vol. 1 of 7 (filed Dec. 3, 2014), Item 3.c.

⁴ *Id.*, Item 3.b. Minutes of Mountain District Board of Commissioners Special Meeting, April 3, 2009.

⁵ *Id.*, Minutes of Mountain District Board of Commissioners Special Meeting, April 6, 2009.

Commissioner Litafik, and Commissioner Collins again voted to approve the amended contract containing the loan provision.⁶

Commission Staff conducted an informal conference in this matter, and discussions ultimately led to the filing of a Stipulation of Facts and Settlement Agreement (“Stipulation”) on January 20, 2016. The Stipulation, attached hereto as the Appendix, sets forth an agreed-upon summary of the facts and provides for remedial action by each Respondent in full settlement of this proceeding. In complete resolution of this proceeding, Mountain District agrees to pay a \$500 civil fine pursuant to KRS 278.990. Should any of the remaining Respondents assume the role of commissioner of Mountain District, they agree to attend five extra hours of Commission-accredited training within 12 months of his or her appointment, in addition to the mandatory new-commissioner training requirement.

In determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the circumstances surrounding the alleged violation and the terms of the Stipulation requiring Mountain District to pay a civil fine and the remaining Respondents to complete, in addition to the mandatory new-commissioner training requirement, five extra hours of Commission-accredited water training should any of them again assume the role as commissioner of Mountain District. Such training programs cover a wide variety of issues relating to the operation of water utilities, including a review of applicable statutes and regulations. Thus, should they again assume the role as commissioner of Mountain District, their completion of this enhanced training requirement will benefit Mountain District. Based on the evidence of record, and being otherwise sufficiently advised, the Commission

⁶ *Id.*, Minutes of Mountain District Board of Commissioners Regular Meeting, April 29, 2009.

finds that the Stipulation is in accordance with law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:


1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. In the event that Rhonda James, Lester "John" Collins, Toni Akers, or Mike Litafik assume the role as commissioner of Mountain District in the future, each as a new Commissioner shall complete the mandatory new-commissioner training required pursuant to KRS 74.020(8)(a), and as a new commissioner shall, in addition to the mandatory training, complete an extra five hours of Commission accredited training within 12 months of his or her appointment.

3. Mountain District shall pay \$500 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40602.

4. Upon payment of the \$500 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED 
FEB 15 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00353 DATED **FEB 15 2016**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MOUNTAIN WATER DISTRICT;)	
RHONDA JAMES, COMMISSIONER AND)	
CHAIRPERSON; LESTER "JOHN" COLLINS,	)	CASE NO.
COMMISSIONER; TONI AKERS, FORMER	)	2015-00353
COMMISSIONER; AND MIKE LITAFIK,)	
FORMER COMMISSIONER)	
_____)	
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.300(1))	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order entered November 2, 2015, the Commission initiated this proceeding to determine whether Mountain Water District ("MWD"); Rhonda James, Former Commissioner and Chairperson; Lester "John" Collins, Former Commissioner; Toni Akers, Former Commissioner; and Mike Litafik, Former Commissioner (collectively "Respondents") should be subject to the penalties prescribed in KRS 278.990 for aiding and abetting an alleged violation of KRS 278.300(1), which states that no utility shall issue any form of indebtedness until it has been authorized to do so by an order of the Commission.

The alleged violation giving rise to this case is MWD's execution of a \$500,000 "forgivable loan" payable to Utility Management Group, LLC ("UMG"), for which prior Commission approval was required under KRS 278.300, but was never sought or obtained. Commission Staff alleges that it discovered this "forgivable loan" during an examination of MWD's financial records in the course of reviewing MWD's application

for a rate adjustment pursuant to 807 KAR 5:076.¹ The "forgivable loan" was executed as part of the "Amendment to Agreement for Operations, Maintenance and Management Services" dated April 29, 2009, wherein UMG agreed to provide MWD a \$500,000 forgivable loan, to be amortized over a five-year period at a simple interest rate of five percent per annum.²

The minutes of the MWD Board Special Meeting held on April 3, 2009, reflect that UMG had proposed to provide MWD with a \$500,000 forgivable loan in exchange for MWD extending its contract with UMG.³ The minutes of the MWD Board Special Meeting held on April 6, 2009, reflect that all MWD Commissioners then serving, with the exception of Commissioner Earl Sullivan, voted in favor of approving a proposed amended contract with UMG containing the loan provision.⁴ The minutes of the MWD Board Regular Meeting held on April 29, 2009, reflect that then serving Commissioner and Chairperson Akers, Commissioner Litafik, and Commissioner Collins again voted to approve the amended contract containing the loan provision.⁵

On November 23, 2015, each of the Respondents filed responses to the Commission's Order. They each admitted that one of the provisions of the April 29, 2009 Operating Agreement with UMG was a "forgivable loan" in the amount of

¹ Case No. 2014-00342, *Application of Mountain Water District for an Adjustment of Water and Sewer Rates* (Ky. PSC Oct. 9, 2015).

² Case No. 2014-00342, MWD Response to PSC First Request for Information ("PSC First Request"), Vol. 1 of 7, Item 3(c) (attached hereto as Appendix A).

³ Case No. 2014-00342, MWD Response to PSC First Request, Vol. 1 of 7, Item 3(b). Minutes of MWD Board of Commissioners Special Meeting, April 3, 2009 (attached hereto as Appendix B).

⁴ Case No. 2014-00342, MWD Response to PSC First Request, Vol. 1 of 7, Item 3(b). Minutes of MWD Board of Commissioners Special Meeting, April 6, 2009 (attached hereto as Appendix C).

⁵ Case No. 2014-00342, MWD Response to PSC First Request, Vol. 1 of 7, Item 3(b). Minutes of MWD Board of Commissioners Regular Meeting, April 29, 2009 (attached hereto as Appendix D).

\$500,000, but disputed whether the "forgivable loan" was in fact an "evidence of indebtedness" or otherwise set to expire after two years so as to fall under KRS 278.300, and they argued that this action was barred by the statute of limitations. Each of the named former commissioners also disputed any "willful" action on their respective part in committing the alleged violation, emphasizing their reliance on MWD's legal counsel. Each former commissioner further maintained that the Commission received reasonable notice of the "forgivable loan" by way of MWD's financial disclosure statement in July 2010, as well as MWD's financial audit in September 2010. Additionally, each commissioner argued that this action was barred by statutory immunity and that the proceedings violate their respective due process rights. Respondent Rhonda James also stated that she is a former Commissioner and Chairperson of MWD's Board of Commissioners,⁶ while respondent Lester "John" Collins stated that he too is a former Commissioner of MWD's Board of Commissioners.⁷

At Respondents' request, Commission Staff conducted an informal conference on January 5, 2016. At that conference, Respondents' responses to the allegations were discussed, as well as possible terms of a stipulation agreement.

Respondents and Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. MWD is a water district organized pursuant to KRS Chapter 74.

⁶ Respondent Rhonda James' Response to the Commission's Order of November 2, 2015 (filed Nov. 23, 2015) at 1.

⁷ Respondent Lester "John" Collins' Response to the Commission's Order of November 2, 2015 (filed Nov. 23, 2015) at 1.

2. MWD is a utility and is subject to the provisions of KRS Chapter 278.
3. A five-member board of commissioners controls and manages MWD's affairs.
4. Former members of MWD's Board of Commissioners include Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik.
5. Minutes of the MWD Board of Commissioners Special Meeting held on April 3, 2009 and April 6, 2009 are attached hereto, in addition to minutes of the MWD Board of Commissioners Regular Meeting held on April 29, 2009.
6. Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik approved the "forgivable loan" with UMG in their capacity as commissioners of MWD and in furtherance of their duties as commissioners, as reflected by the Board minutes attached hereto.
7. Should Rhonda James, Lester "John" Collins, Toni Akers, and Mike Litafik assume the role as commissioner of MWD in the future, they shall attend the mandatory new commissioner training required pursuant to KRS 74.020(8)(a), and they shall, in addition to the mandatory training, attend an extra five hours of Commission accredited training within twelve months of his or her appointment.
8. MWD shall pay a fine of \$500, pursuant to KRS 278.990, which allows for the imposition of a fine for a violation of KRS 278.300.
9. The Commission's acceptance of this Stipulation will satisfy and resolve any and all claims against the Respondents, individually or collectively, and MWD for any violation of KRS Chapter 278 or for any penalty under KRS 278.990 arising out of MWD's execution of the "forgivable loan" at issue.

10. This Stipulation is not an admission of any Respondent that any Respondent aided or abetted any violation of KRS 278.300 or of any other provision of KRS Chapter 278 or that MWD violated KRS 278.300. The Commission's acceptance of this Stipulation shall not be construed as a finding that MWD violated any statute or that any of the Respondents aided or abetted any violation of KRS Chapter 278.

11. In the event the Commission does not accept this Stipulation in its entirety, Respondents reserve the right to withdraw therefrom and require that a hearing be held on any and all issues herein, and that none of the provisions contained herein shall be used as an admission by Respondents of any liability in any legal proceeding or lawsuit arising out of the facts set forth in this Stipulation.

12. This Stipulation is for use in PSC Case No. 2015-00353. None of its provisions establishes any precedent for any other case. Neither Respondents nor Commission Staff shall be bound by any part of this Stipulation in any other proceeding, except that it may be used in any proceeding by the Commission to investigate or enforce the terms of this Stipulation. Respondents shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

13. If the Commission accepts and adopts this Stipulation, any Respondent failing to comply with Paragraphs 7 or 8 of this Stipulation shall have failed to obey a Commission Order and may be subject to civil penalties under KRS 278.990(1) for his or her failure.

14. The Commission's acceptance and adoption of this Stipulation does not result in any change or alteration to the forfeiture provision of KRS 74.020(8)(b) for a

failure of any Respondent to complete the program of instruction described in KRS 74.020(8)(a).

15. Respondents and Commission Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If adopted by the Commission, Respondents waive their right to a hearing in this matter and will not petition for rehearing or bring an action for review in Franklin Circuit Court.

MOUNTAIN WATER DISTRICT FORMER COMMISSIONER

By: (Print name) MIKE LITAFIK

(Sign name) Mike Litafik

Title FORMER COMMISSIONER

Date 1/14/16

MOUNTAIN WATER DISTRICT FORMER COMMISSIONER

By: (Print name) Toni Akers

(Sign name) Toni Akers

Title Former Commissioner

Date 1-13-15

MOUNTAIN WATER DISTRICT FORMER COMMISSIONER

By: (Print name) Rhonda James

(Sign name) Rhonda James

Title Former Commissioner

Date 1/15/2016

MOUNTAIN WATER DISTRICT FORMER COMMISSIONER

By: (Print name) Lester "John" Collins

(Sign name) Lester Collins

Title Former Commissioner

Date 1/13/14

MOUNTAIN WATER DISTRICT

By: (Print name) Anc. E Casey
(Sign name) Ancie Casey
Title Chairman
Date 1-13-16

STAFF OF THE PUBLIC SERVICE COMMISSION

By: (Print name) David Edward Speward
(Sign name) David Speward
Title Staff Attorney
Date 1/19/2016

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENERGY CORP.)	
FOR A GENERAL ADJUSTMENT	)	CASE NO.
IN RATES	)	2015-00312

ORDER

On October 29, 2015, Kenergy Corp. ("Kenergy") applied for a \$2,563,807 increase in retail electric service rates. The proposed rates reflect a 0.56 percent increase above total normalized test-year revenues. Excluding the direct served industrial revenues, the increase is 1.93 percent. Kenergy states that the proposed increase is needed to offset a decline in revenues and an increase in costs it has incurred since its last rate increase. A review revealed that Kenergy's application did not meet the minimum filing requirements set forth in 807 KAR 5:001 Sections 4, 16, and 17, and a notice of filing deficiencies was issued on November 9, 2015. On November 13, 2015, Kenergy filed information to cure all deficiencies. Kenergy also requested two deviations from the Commission's filing requirements; one deviation was contained in Kenergy's application and the other was in a motion filed on November 12, 2015. The Commission granted the deviations by Orders entered on November 16, 2015, and November 20, 2015, respectively, and Kenergy's application was deemed filed as of November 20, 2015.¹

¹ Based on a November 20, 2015 filed date, the earliest date the proposed rates could be effective was December 20, 2015.

Finding that an investigation would be necessary to determine the reasonableness of Kenergy's proposed increase, the Commission suspended the proposed rates for five months, up to and including May 19, 2016, pursuant to KRS 278.190(2).

On May 18, 2016, Kenergy notified the Commission of its intent to put into effect on May 20, 2016, the proposed rates set forth in its application. Kenergy's notice was made pursuant to KRS 278.190(2). By Order dated May 24, 2016, the Commission found that it was unable to complete its investigation within the suspension period and that Kenergy had complied with the statutory provisions to place the proposed rates into effect. The May 24, 2016 Order directed that Kenergy's proposed rates should be collected subject to refund and that Kenergy should maintain its records to allow it, the Commission, or any customer to determine the amounts to be refunded, and to whom, in the event a refund is ordered upon final resolution of this matter.

BACKGROUND

Kenergy is a consumer-owned rural electric cooperative corporation, organized under KRS Chapter 279, engaged in the distribution and sale of electric energy to approximately 55,800 member-consumers in the Kentucky counties of Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McLean, Muhlenberg, Ohio, Union, and Webster. Kenergy has no electric generating facilities and purchases its total power requirements from Big Rivers Electric Corporation ("Big Rivers").

The Commission granted motions to intervene filed by the Attorney General of the Commonwealth of Kentucky, by and through his Office for Rate Intervention ("AG"),

additional adjustment that should be made to the directors' fees and expenses for the cost to conduct director elections.²³

Kenergy included in its test-year expense an amount of \$5,688 for a contract with Survey and Ballot Systems to conduct the 2015 director elections.²⁴ Kenergy stated this was an expense incurred annually and should be included for ratemaking purposes; however, because no director faced any opposition, an election was not held in 2015. As a result, Kenergy executed a contract extension with Survey and Ballot Systems to carry the amount over to 2016. Kenergy proposed that the expense of director elections for ratemaking purposes should be based on a five-year average, and proposed to reduce the test-year expense \$1,550, from \$5,688 to the five-year average of \$4,138. The Commission concurs with Kenergy's proposal to base this adjustment on the five-year average, and will reduce test-year expense by \$1,550.

Labor and Labor Overhead

Kenergy proposed adjustments to its labor and labor overhead expenses for the test year. Kenergy proposed an adjustment of \$210,127 to normalize total wages and salaries, of which \$67,898 was capitalized²⁵ and \$142,231 was an increase in expense.²⁶ Kenergy's calculations for full-time employees were based on 2,080 hours for the test year. Its calculations for its part-time employees were based on the number of hours actually worked during the test year. Test-year actual overtime and double-

²³ Kenergy's Response to Commission Staff's Third Request for Information, Item 6.I.

²⁴ Application, Exhibit 5B, at 81 of 116.

²⁵ The capitalized portion reflects actual capitalized costs, accounts receivable and non-operating accounts.

²⁶ Application, Exhibit 5A at 5A.

time hours of each employee were calculated by multiplying the test-year-end wage rates for each employee by 1.5 and 2.0, respectively.

The Commission has identified an additional adjustment to Kenergy's proposed labor adjustment. In calculating its proposed adjustment, Kenergy included the salary of its former President and Chief Executive Officer ("CEO"), whose resignation was announced on May 1, 2015. The current CEO was hired post-test year in October 2015 at a salary \$34,997 less than what was reflected in the test year. Even though the new CEO joined Kenergy after the end of the test year, the Commission does not believe it is reasonable that the former CEO's salary should be the basis for any payroll adjustment. Therefore, the Commission will reduce Kenergy's labor adjustment by \$34,997 from \$142,231 to \$107,234.

Kenergy proposed an adjustment of \$177,340 to normalize labor overhead, of which \$62,624 was capitalized²⁷ and \$114,717 was an increase in expense.²⁸ Kenergy utilized the proposed normalized salaries and wages and appropriate tax rates and earnings limits in determining its payroll tax adjustment. Pension, disability, and workers' compensation adjustments were calculated using the proposed normalized salaries and wages and applicable contribution and coverage rates. Health, dental, and life-insurance adjustments were determined based on the number of covered employees and applicable premiums.

²⁷ The capitalized portion reflects actual capitalized costs, accounts receivable and non-operating accounts.

²⁸ Application, Exhibit 5A at 7.

The AG expressed an overall concern with Kenergy's rate-increase request, stating that Kenergy should have taken multiple steps to improve its financial condition.²⁹ Particularly with regard to Kenergy's labor and labor overhead adjustments, the AG is concerned with Kenergy's "continuous salary and wage increases, merit increases, step increases, multiple types of bonuses, and overly generous insurance and benefits packages to its employees," even though "the average residential Kenergy customer's electricity bill has risen by roughly 40% since 2011."³⁰ The AG recommended that the Commission adjust downward Kenergy's requested increase for labor and overhead costs.³¹

The Commission shares the AG's concern regarding Kenergy's compensation of employees and the benefits package available to Kenergy employees. However, there is no basis in the record of this case to justify a determination that Kenergy's wage increases and benefits package are not reasonable. Kenergy utilized the services of the NRECA to conduct a compensation study³² which recommended a 3.2 percent increase in the salary structure.³³ Kenergy provided a 2 percent increase.³⁴ In addition,

²⁹ Attorney General's Comments to Kenergy's Position Statement ("AG's Comments") at 1, filed May 27, 2016.

³⁰ *Id.*

³¹ The AG indicated in its comments that Kenergy has requested an increase of \$1,150,000 for labor and overhead. This amount represents increases experienced over a five-year period.

³² Kenergy's Response to the Attorney General's Initial Request for Information ("AG's Initial Request"), Item 9.

³³ Kenergy's Response to the Attorney General's Supplemental Request for Information, Item 5.b.ii.

³⁴ *Id.*

Kenergy stated it has increased the employee contribution for medical insurance from 6 percent to 10 percent, and that Kenergy's medical insurance premium has decreased 7.9 percent.³⁵ Recognizing growing concerns over compensation levels with increasing electric bills, the Commission believes that employee compensation and benefits need to be more sufficiently researched and studied. The Commission will begin placing more emphasis on evaluating salary and benefits as they relate to competitiveness in a broad marketplace. Future rate applications will be required to include a salary and benefits survey that is not limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies. The study must include local wage and benefit information for the geographic area where the utility operates and must include state data where available.

Pro Forma Adjustments Summary

The effect of the pro forma adjustments on Kenergy's net income is as follows:

	<u>Actual Test Period</u>	<u>Pro Forma Adjustments</u>	<u>Adjusted Test Period</u>
Operating Revenues	\$422,270,470	\$ 34,263,146	\$456,533,616
Operating Expenses	<u>415,670,761</u>	<u>35,107,529</u>	<u>450,778,290</u>
Net Operating Income	6,599,709	(844,383)	5,755,326
Interest on Long-Term Debt	4,707,929	437,763	5,145,692
Interest Expense-Other	42,920	5,656	48,576
Other Income and (Deductions) – Net	<u>2,179,800</u>	<u>49,595</u>	<u>2,229,395</u>
NET INCOME	<u>\$ 4,028,660</u>	<u>\$ (1,238,207)</u>	<u>\$ 2,790,453</u>

³⁵ Response to AG's Initial Request, Item 14.g.

1. The rates set forth in Appendix A are the fair, just, and reasonable rates for Kenergy to charge for service rendered on and after the date of this order.

2. The rate of return on net investment rate base and TIER granted herein will provide for Kenergy's financial obligations.

3. As provided previously in this Order, future Kenergy rate applications should include salary and benefits survey information for the geographic area in which Kenergy operates. In addition to the local geographic information, the data must also include available statewide statistics, not be limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies, and must be supported with source references.

IT IS THEREFORE ORDERED that:

1. The rates proposed by Kenergy would produce revenues in excess of the amount found reasonable herein and are hereby denied.

2. The rates set forth in the Appendix to this Order are approved for services rendered by Kenergy on and after the date of this Order.

3. Within 20 days of the date of this Order, Kenergy shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and reflecting their effective date and that they were authorized by this Order.

4. Within 90 days of the date of this Order, Kenergy shall file a report describing its current policies and practices for locating the owners of unclaimed capital credits; the steps Kenergy is taking to improve or revise those policies and practices; and its guidelines to credit unclaimed capital credits to Kenergy's income and

redistribute the funds to members after being unclaimed for the statutory period of five years, or explain why Kenergy should not comply with the provisions of KRS 272.291.

5. The revised depreciation rates as proposed in Kenergy's application are approved for use effective with the date of this Order.

6. Kenergy shall perform a depreciation study within five years from the date of this Order, or in connection with the filing of its next rate case, whichever is earlier.

7. Within 60 days from the date of this Order, Kenergy shall refund with interest all amounts collected for service rendered from May 20, 2016, through the date of this Order that are in excess of the rates set out in the Appendix to this Order. The amount refunded to each customer shall equal the amount paid by each customer during the refund period in excess of the rates approved herein.

8. Kenergy shall pay interest on the refunded amounts at the average of the Three-Month Commercial Paper Rate as reported in the Federal Reserve Bulletin and the Federal Reserve Statistical Release on the date of this Order. Refunds shall be based on each customer's usage while the proposed rates were in effect and shall be made as a one-time credit to the bills of current customers and by check to customers who have discontinued service since May 20, 2016.

9. Within 75 days of the date of this Order, Kenergy shall submit a written report to the Commission in which it describes its efforts to refund all monies collected in excess of the rates that are set forth in the Appendix to this Order.

10. All future Kenergy rate applications shall include salary and benefits survey information for the geographic area in which Kenergy operates. In addition to the local geographic information, the data shall also include available statewide

statistics; shall be supported with source references, and shall not be limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies.

11. Any documents filed pursuant to ordering paragraphs 4 and 9 shall reference this case number and shall be retained in Kenergy's general correspondence file.

By the Commission

ENTERED
SEP 15 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MERCER WATER DISTRICT)	
_____	)	CASE NO.
	)	2016-00310
ALLEGED FAILURE TO COMPLY)	
WITH COMMISSION ORDERS AND)	
807 KAR 5:001, SECTION 20(6))	

ORDER

On September 9, 2016, the Commission entered an Order that initiated this investigation into North Mercer Water District's ("North Mercer") failure to file an answer to the allegations set forth in the Complaint by Ronald D. McGinnis in Case No. 2016-00154,¹ and scheduled a hearing to show cause for this failure on October 13, 2016. North Mercer then filed a motion to schedule an Informal Conference ("IC"), among other requests, on September 22, 2016.

On September 28, 2016, an Order was entered by the Commission granting an IC and an IC was held between North Mercer and Commission Staff on September 29, 2016. At the IC, Commission Staff and North Mercer discussed North Mercer's failure to answer the Complaint in Case No. 2016-00154 and the possibility of a settlement offer from North Mercer to resolve this case. On October 10, 2016, North Mercer subsequently filed its Request for Acceptance of Admission of Failure to File an Answer as Required by Commission Order Dated June 10, 2016 ("Request") acknowledging

¹ Case No. 2016-00154, Ronald D. McGinnis vs. North Mercer Water District, (Ky. PSC Apr. 21, 2016).

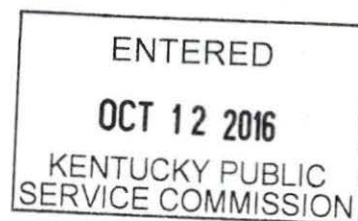
North Mercer's failure to answer or respond to the Complaint in Case No. 2016-00154, offering \$500.00 as penalty for its failure, and tendering a check in the amount of \$500.00.

Based on North Mercer's Request and being otherwise sufficiently advised, the Commission finds that North Mercer's offer and tender of \$500.00 in settlement of Case No. 2016-00310, for failure to answer or respond to the Complaint in Case No. 2016-00154, should be accepted in full settlement of this case. The Commission further finds good cause to cancel the hearing scheduled for October 13, 2016.

IT IS HEREBY ORDERED that:

1. North Mercer's offer and tender of \$500.00 for failure to file an answer in Case No. 2016-00154 is accepted in full settlement of Case No. 2016-00310.
2. The hearing scheduled for October 13, 2016, is cancelled.
3. This case is closed and removed from the Commission's docket.

By the Commission



ATTEST:


Executive Director

*North Mercer Water District
P. O. Box 79
Salvisa, KY 40372

*North Mercer Water District
North Mercer Water District
P. O. Box 79
Salvisa, KY 40372

*Mischell Lee
North Mercer Water District
P. O. Box 79
Salvisa, KY 40372

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF CUMBERLAND VALLEY)	
ELECTRIC, INC. FOR A GENERAL	)	CASE NO
ADJUSTMENT OF RATES	)	2016-00169

ORDER

On June 6, 2016, Cumberland Valley Electric, Inc., (“Cumberland Valley”) tendered for filing its application for a proposed \$1,975,812 increase in its electric base rates and a \$22,450 increase in nonrecurring charges. Cumberland Valley stated that the proposed increase was required in order to meet the terms of its mortgage agreement, maintain its financial stability, and cover increases in fixed and variable costs for power, materials, equipment, labor, and taxes. By letter dated June 10, 2016, the Commission notified Cumberland Valley that its application was rejected as deficient. On June 23, 2016, Cumberland Valley tendered an amended application, and the amended application was deemed filed as of that date. In the amended application, Cumberland Valley proposed that the new rates become effective on July 25, 2016. Finding that an investigation would be necessary to determine the reasonableness of Cumberland Valley’s proposed increase, the Commission suspended the rates for five months, up to and including December 24, 2016.

BACKGROUND

Cumberland Valley is a member-owned rural electric cooperative corporation, organized under KRS Chapter 279, and engaged in the distribution and sale of electric

energy to approximately 23,596 member-consumers in Bell, Clay, Harlan, Knox, Laurel, Leslie, Letcher, McCreary, Whitley counties, Kentucky.¹ Cumberland Valley has no electric generating facilities; it purchases its total power requirement from East Kentucky Power Cooperative, Inc. ("EKPC").²

The Commission granted a motion to intervene filed by the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"). A procedural schedule was issued which provided for discovery upon Cumberland Valley, intervenor testimony, discovery upon intervenors, and a public hearing. Cumberland Valley responded to four rounds of discovery from Commission Staff ("Staff"), two rounds of discovery from the AG, one round of post-hearing requests for information issued by Staff, and one round of post-hearing requests for information issued by the AG. No intervenor testimony was filed. A public hearing was conducted on November 30, 2016. Cumberland Valley submitted its responses to post-hearing information requests on December 16, 2016. The AG and Cumberland Valley filed respective notice that they would forego further briefing and submit the matter to the Commission for a decision based on the existing record, which includes, but is not limited to, written testimony, responses to requests for information, and hearing testimony.

TEST PERIOD

Cumberland Valley proposed, and the Commission accepted, a historical 12-month period ended November 30, 2015, as the test period for determining the

¹ Cumberland Valley 2015 Annual Report (filed Mar. 9, 2016), at 46 and 54.

² *Id.* at 41 and 44.

that Cumberland Valley should conduct a formal study of its expenses and, within six months of the date of this Order, file with the Commission a formal plan to reduce Cumberland Valley's expenses. The formal plan filed with the Commission should include a discussion of the advantages and disadvantages of a merger between Cumberland Valley and another electric utility, with the ultimate goal of achieving cost savings through economies of scale.

Cumberland Valley Personnel Policy Nepotism Exception

Cumberland Valley has a nepotism policy that prohibits it from employing persons who are related by blood or marriage, with a kinship closer than that of a second cousin, to a board member, manager, supervisor, or other employee of Cumberland Valley ("Nepotism Policy").⁶⁰ The Nepotism Policy includes a provision that exceptions to the policy "can be made by Board Resolution upon recommendation by the CEO" ("Nepotism Policy Exception").⁶¹ Cumberland Valley currently employs four persons who are related to the Cumberland Valley CEO, Ted Hampton: a board member, who is Mr. Hampton's brother and was a former employee of Cumberland Valley; a superintendent, who is Mr. Hampton's first cousin; an assistant superintendent, who is Mr. Hampton's nephew; and a bookkeeper, who is Mr. Hampton's sister-in-law.⁶² Aside from the board member who is Mr. Hampton's brother, there is a second board member who is related to a current Cumberland Valley

⁶⁰ Response to AG's First Request for Information ("AG's First Request") (filed Aug. 10, 2016), Item 31, Attachment "Policy Statement No. 42, Nepotism."

⁶¹ *Id.*

⁶² *Id.* at Item 32; H.V.T. at 1:17:55.

employee who is employed as a serviceman.⁶³ Additionally, there are 12 current employees who are related to other Cumberland Valley employees.⁶⁴

At the November 30, 2016 hearing, Mr. Hampton indicated he would discuss eliminating the Nepotism Policy Exception with the board.⁶⁵ The Commission finds that the Nepotism Policy Exception should be eliminated. The Nepotism Policy Exception is especially disconcerting given the number of employees who are related to the CEO or to a board member. As Cumberland Valley notes in its Nepotism Policy, it is bad business practice to employ relatives, especially relatives of management or board members, because there is a natural tendency to favor relatives. So long as the Nepotism Policy Exception is in effect, there will be an appearance of a conflict, especially when those who make compensation decisions are related to employees who are subject to and may benefit from such decisions. Current employees to whom the nepotism policy would otherwise apply should be grandfathered under the existing policy exception, and the revised nepotism policy should be applied on a prospective basis after the date of this order.

SUMMARY

The Commission, after consideration of the evidence of record and being otherwise sufficiently advised, finds that:

1. The rates proposed by Cumberland Valley would produce revenues in excess of the amount found reasonable herein and should be denied.

⁶³ Response to AG's First Request, Item 32.

⁶⁴ *Id.*

⁶⁵ H.V.T. at 1:20:52.

2. The rates set forth in the Appendix to this Order are the fair, just and reasonable rates for Cumberland Valley to charge for service rendered on and after the date of this order and should be approved.

3. The rate of return and TIER granted herein will provide for Cumberland Valley's financial obligations.

4. As provided previously in this order,

a. Future rate applications should include a formal study that provides local wage and benefit information for the geographic area where Cumberland Valley operates and must include state data where available.

b. Within 60 days of the date of this Order, Cumberland Valley should file a report setting forth the employer and employee contribution amounts and percentages Cumberland Valley will implement for health and dental insurance premiums offered to salaried employees, along with the date the revised contribution schedule will be implemented. Within 30 days of the date that the revised employer/employee health and dental insurance premium contribution schedule is implemented, Cumberland Valley should file evidence of its implementation.

c. Within six months of the date of this Order, Cumberland Valley should file a formal plan to reduce Cumberland Valley's expenses, which should include a discussion of the advantages and disadvantages of a merger between Cumberland Valley and another electric utility, with the ultimate goal of achieving cost savings through economies of scale.

d. Within 30 days of the date of this Order, Cumberland Valley should file evidence that it eliminated the Nepotism Policy Exception to its Nepotism Policy.

The revised nepotism policy should be applied on a prospective basis after the date of this order.

IT IS THEREFORE ORDERED that:

1. The rates proposed by Cumberland Valley would produce revenues in excess of the amount found reasonable herein and are hereby denied.

2. The rates set forth in the Appendix to this Order are approved for services rendered by Cumberland Valley on and after the date of this Order.

3. Within 20 days of the date of this Order, Cumberland Valley shall file with this Commission, using the Commission's electronic Tariff Filing System, new tariff sheets setting forth the rates and charges approved herein and reflecting their effective date and that they were authorized by this Order.

4. In future rate applications, Cumberland Valley shall perform a formal study that provides local wage and benefit information for the geographic area where Cumberland Valley operates, which shall include state data where available.

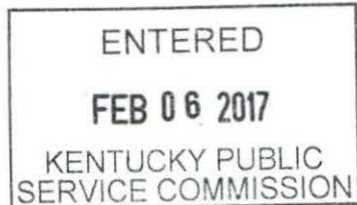
5. Cumberland Valley shall file a report, within 60 days of the date of this Order, setting forth the employer and employee contribution amounts and percentages Cumberland Valley will implement for health and dental insurance premiums offered to salaried employees, along with the date the revised contribution schedule will be implemented. Within 30 days of the date that the revised employer/employee health and dental insurance premium contribution schedule is implemented, Cumberland Valley shall file evidence of its implementation.

6. Cumberland Valley shall file a report within six months of the date of this Order setting forth Cumberland Valley's formal plan to reduce its expenses. The report

shall include a discussion of the advantages and disadvantages of a merger between Cumberland Valley and another electric utility, with the ultimate goal of identifying potential cost savings that might be attained through economies of scale.

7. Cumberland Valley shall file a report within 30 days of the date of this Order demonstrating that Cumberland Valley has eliminated the Nepotism Policy Exception to its Nepotism Policy. The revised nepotism policy shall be enforced on a prospective basis after the date of this Order.

By the Commission



ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WOOD CREEK WATER DISTRICT AND ITS)	
INDIVIDUAL COMMISSIONERS, GLENN	)	CASE NO.
WILLIAMS, EARL BAILEY, AND JIMMY KELLER	)	2016-00338
ALLEGED FAILURE TO COMPLY WITH KRS)	
278.300(1))	

ORDER

By Order dated October 11, 2016, the Commission initiated this proceeding to determine whether Wood Creek Water District (“Wood Creek”), Glenn Williams, Earl Bailey, and Jimmy Keller (collectively, “Named Commissioners”) should be subject to the penalties prescribed in KRS 278.990(1) and (10) due to their failure to obtain Commission approval to issue evidences of indebtedness, pursuant to KRS 278.300, in excess of the amount approved by the Commission in Case No. 2014-00440.¹

PROCEDURAL HISTORY

The violations cited in the Commission’s October 11, 2016 Order arise from Commission Staff’s (“Staff”) discovery, during a review of Wood Creek’s recent rate application in Case No. 2015-00428,² of Wood Creek’s excess borrowing following the Commission’s Order in Case No. 2014-00440.

¹ Case No. 2014-00440, *Application of Wood Creek Water District to Issue Securities in the Approximate Principal Amount of \$1,485,000 for the Purpose of Refunding Certain Outstanding Revenue Bonds of the District Pursuant to the Provisions of KRS 278.300 and 807 KAR 5:001.*

² Case No. 2015-00428, *Application of Wood Creek Water District for Rate Adjustment Pursuant to 807 KAR 5:076.*

By Order entered January 5, 2015, in Case No. 2014-00440, the Commission approved Wood Creek's request to borrow \$1,633,500 from Kentucky Rural Water Finance Corporation ("KRWFC") to refinance three outstanding bonds issued to the United States Department of Agriculture, Rural Development ("RD").³ Wood Creek subsequently tendered an application for rate adjustment pursuant to 807 KAR 5:076 on December 28, 2015.⁴ During the review conducted by Staff in this rate case filing, Staff became aware that Wood Creek had executed a bond with KRWFC for \$2,780,000, which was \$1,146,500 more than the refinancing amount authorized in Case No. 2014-00440. At no time prior to Staff's review did Wood Creek voluntarily advise the Commission that the final amount of refinancing was in excess of the amount approved by Order, nor did it request any amendment to the prior Order, or further approval for the final amount.

Subsequent to Staff's identification of this issue, Wood Creek⁵ and its counsel⁶ wrote to the Commission explaining that after filing the application in Case No. 2014-00440, Wood Creek was advised that additional savings would be realized by reamortizing certain other KRWFC bonds made earlier in the program. The decision to reamortize these other KRWFC bonds was made after the Commission entered the January 5, 2015 Order authorizing the RD bond refinancing of the three bonds identified in Case No. 2014-00440. As a result of rolling the reamortization of the earlier KRWFC

³ Case No. 2014-00440, *Wood Creek Water District* (Ky. PSC Jan. 5, 2015), final Order

⁴ Case No. 2015-00428, *Wood Creek Water District* (Ky. PSC Dec. 28, 2015).

⁵ Case No. 2014-00440, Letter from Wood Creek Water District to Jeff Derouen, Kentucky Public Service Commission, (filed Jan. 26, 2016).

⁶ *Id.*, Letter from Randall Jones, Rubin & Hayes, to Jeff Derouen, Kentucky Public Service Commission (filed Jan. 29, 2016).

bonds into the RD bond refinancing, Wood Creek borrowed a total of \$2,780,000 from KRWFC, an amount clearly in excess of the amount authorized by the Commission. Correspondence from Wood Creek acknowledges the excess borrowing, and states that the failure to request an amendment to the Commission's Order was an unintentional error.⁷ This matter was discussed in the Staff Report issued in Case No. 2015-00428,⁸ and the Order approving new rates for Wood Creek in that case noted that Wood Creek had issued indebtedness without prior approval, and that the Commission would initiate a new proceeding to more thoroughly investigate the issuance of excess indebtedness without prior Commission approval.⁹

On October 31, 2016, Wood Creek and the Named Commissioners filed a response to the Commission's October 11, 2016 show cause Order. An informal teleconference ("IC") was held at the Commission's offices on November 16, 2016, and Staff filed an IC memorandum on November 18, 2016. On November 30, 2016, Wood Creek and the Named Commissioners filed a Response to Staff's IC memo and a motion to hold the show cause hearing in abeyance. The Commission denied the motion for failure to establish good cause to hold the hearing in abeyance, and a formal hearing was conducted on December 13, 2016, at the Commission.

Post-hearing data requests were issued by Commission Staff on December 15, 2016, and Wood Creek and the Named Commissioners filed responses on January 3, 2017. On January 5, 2017, Wood Creek and the Named Commissioners filed a notice

⁷ *Id.*, Letter from Wood Creek Water District to Jeff Derouen, Kentucky Public Service Commission (filed Jan. 26, 2016).

⁸ Case No. 2015-00428, *Wood Creek Water District* (Ky. PSC Apr. 15, 2016).

⁹ *Id.* at 4.

that they did not wish to submit a brief in this matter. The Commission finds that the record is complete in this matter and it stands ready for a decision.

DISCUSSION

KRS 278.300 states, "No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission." There is a clear violation of this statute by Wood Creek for failure to obtain approval for the issuance of indebtedness in excess of the amount authorized by Order entered January 5, 2015, in Case No. 2014-00440.

Pursuant to KRS 74.020(1), the Named Commissioners are responsible for the control and management of the affairs of the district. KRS 278.990 (1) provides:

Any officer, agent, or employee of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or fails to obey any order of the commission from which all rights of appeal have been exhausted, or who procures, aids, or abets a violation by any utility, shall be subject to either a civil penalty to be assessed by the commission not to exceed two thousand five hundred dollars (\$2,500) for each offense or a criminal penalty of imprisonment for not more than six (6) months, or both. If any utility willfully violates any of the provisions of this chapter or any regulation promulgated pursuant to this chapter, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any order of the commission from which all rights of appeal have been exhausted, the utility shall be subject to a civil penalty to be assessed by the commission for each offense not less than twenty-five dollars (\$25) nor more than two thousand five hundred dollars (\$2,500). Each act, omission, or failure by an officer, agent, or other person acting for or employed by a utility and acting within the scope of his

employment shall be deemed to be the act, omission, or failure of the utility.

Throughout this proceeding, Wood Creek and the Named Commissioners have maintained an argument that they should not be subject to penalty pursuant to KRS 278.990, as they relied on advice of their bond counsel (“Bond Counsel”), and that any violation of Commission statute for failure to obtain approval for the issuance of indebtedness was an inadvertent mistake rather than a “willful” violation. In their Response to Order to Show Cause, Wood Creek and the Named Commissioners stated, “The Wood Creek Water District did not intentionally make this error by failing to file the Motion to Amend the 2015 Order,” that “there was no willful intent by these Commissioners to violate any Order of the Public Service Commission,” and this violation “was purely a mistake and oversight.”¹⁰ The argument was made by counsel in the instant proceeding for Wood Creek and the Named Commissioners at the IC on November 16, 2016, and in their response to the IC memo, that their actions were taken in reliance on the advice of Wood Creek’s Bond Counsel and that their failure to obtain further approval from the Commission for additional refinancing was an inadvertent mistake.¹¹ Bond Counsel was also present for the IC on November 16, 2016. At that time, Bond Counsel also stated that it was his belief that Wood Creek and the Named Commissioners had made an inadvertent mistake in failing to request further Commission approval for the underlying refinance.

¹⁰ Response to Order to Show Cause (filed Oct. 31, 2016).

¹¹ Response to Informal Conference Memo of November 16, 2016 (filed Nov. 30, 2016).

Bond Counsel later testified that he did owe a fiduciary duty to Wood Creek, including the duty to obtain all necessary approvals from the Commission and the responsibility to ensure the final amount of indebtedness approved by Wood Creek was in compliance with the Commission's Order.¹² Bond Counsel further testified that his firm drafted the Assistance Agreement that was ultimately filed with the Commission on March 30, 2015, in Case No. 2014-00440 ("Assistance Agreement") evidencing the final amount of indebtedness issued by Wood Creek. Bond Counsel admitted he was unaware of the final amount contained therein¹³ and that he failed to provide advice to Wood Creek regarding additional Commission approval that was necessary for the indebtedness issued by Wood Creek in excess of the amount authorized by the Commission in Case No. 2014-00440.¹⁴ At no time prior to the hearing did Bond Counsel acknowledge that Wood Creek and the Named Commissioners' "inadvertent mistake" was the result of his failure to advise Wood Creek that additional Commission authorization was necessary.

Testimony from all three Named Commissioners, as well as Bond Counsel, acknowledged that Wood Creek's Assistance Agreement contained indebtedness issued by Wood Creek in an amount in excess of that granted by the Commission's January 5, 2015 Order, and that the same was filed without seeking further Commission approval for the excess indebtedness.¹⁵

¹² December 13, 2016 Hearing at 9:39:07 through 9:40:00.

¹³ *Id.* at 9:59:25 through 9:59:50.

¹⁴ *Id.* at 10:07:38 through 10:07:56; 10:12:57 through 10:13:16; and 10:17:25 through 10:17:35.

¹⁵ *Id.* at 10:37:59 through 10:38:30; 10:52:43 through 10:53:10; 11:06:08 through 11:07:05; and 10:03:10 through 10:03:40 for witnesses Glenn Williams, Earl Bailey, Jimmy Keller, and W. Randall Jones, respectively.

Wood Creek and the Named Commissioners' responsive materials to Staff's Post-Hearing Data Requests include a copy of Wood Creek's minutes from its Board of Commissioners meeting on April 13, 2015, as well as the resolution that was approved on that date by the Named Commissioners. These documents show a clear agreement by Wood Creek and the Named Commissioners to enter into indebtedness in excess of the amount authorized by the Commission in its January 5, 2015 Order.¹⁶

Though Wood Creek and the Named Commissioners claim there was no "willful" violation of Commission statute, or intentional failure to obtain the Commission's approval for the amount of indebtedness in excess of that originally granted, a violation of the statute nonetheless occurred. While a willful violation has been defined as an act that is committed intentionally, not accidentally or involuntarily,¹⁷ it has also been stated that a willful violation does not necessarily and solely entail an intention to do wrong and inflict injury, but may include conduct which reflects an indifference to its natural consequences.¹⁸ For civil and administrative proceedings, a willful violation has been explained as one which is intentional, knowing, voluntary, deliberate or obstinate, although it may be neither malevolent nor with the purpose to violate the law.¹⁹ Here, the testimony of the Named Commissioners acknowledges that a violation did occur, as they voted to approve a resolution to enter into financing in excess of that granted by

¹⁶ Response to Commission Staff's Post-Hearing Request for Information to Wood Creek Water District (filed Jan. 3, 2016).

¹⁷ See Case No. 92-016, *M.A.V.I.S.S., Inc. and Mr. Darby Alleged Failure to Comply with Commission Regulations* (Ky. PSC July 1, 1992).

¹⁸ See Case No. 93-044, *Jackson Purchase Electric Cooperative Corporation, Inc. Alleged Failure to Comply with Commission Regulations* (Ky. PSC), citing *Huddleston v. Hughes*, 843 S.W.2d 901, 905 (Ky. App. 1992).

¹⁹ See Case No. 99-001 *Bluegrass Gas Sales, Inc., Alleged Violation of KRS 278.300* (Ky. PSC July 8, 1999) at 5, citing *Woods v. Corsey*, 200 P.2d 208 (Cal. App. 1948) (Emphasis added).

the Commission, and ultimately issued the excess indebtedness, as evidenced by the Assistance Agreement. Therefore, the Commission finds that Wood Creek and the Named Commissioners intentionally, knowingly, and voluntarily issued indebtedness in excess of the amount authorized by the Commission and that they are subject to penalties pursuant to KRS 278.990 for violation of KRS 278.300.

The Commission further finds no merit to the contention of Wood Creek and the Named Commissioners that their actions were not willful because they relied upon advice of counsel. As two of the Named Commissioners admitted during testimony at the formal hearing, no advice was sought, nor received, from Bond Counsel after the financial advisor had presented the Wood Creek Board with the final proposed amount of refinancing.²⁰ While good faith reliance on advice of counsel is a defense against the violation of certain statutes that provide such exceptions for reasonable cause, the Commission has found that no language is provided for in KRS 278.990 allowing for such an exception.²¹ The Commission does acknowledge, however, that Wood Creek and the Named Commissioners had a reasonable and good faith expectation that Bond Counsel would advise them if additional Commission approval was required for the underlying financing. The Commission further notes that Bond Counsel, by his own admission, should have known that the amount to be refinanced had been increased after approval of a lesser amount had been obtained from the Commission. Because Bond Counsel failed to remain aware of the additional debt to be refinanced, he did not advise Wood Creek that approval by the Commission for the excess amount would be

²⁰ December 13, 2016 Hearing at 10:35:00, 10:52:22.

²¹ See Case No. 99-001, *Bluegrass Gas Sales, Inc. Alleged Violation of KRS 278.300* (Ky. PSC July 8, 1999).

required. Wood Creek's rate payers should not be required to bear the legal and other expenses incurred as a result of this proceeding. Accordingly, this Commission would encourage Wood Creek and the Named Commissioners to look to their Bond Counsel for payment or reimbursement of any expenses incurred in relation to this proceeding.

IT IS THEREFORE ORDERED that:

1. Wood Creek is assessed a civil penalty of \$500 for its willful failure to comply with KRS 278.300. The \$500 penalty is suspended under the condition that no further violation of KRS 278.300 is committed by Wood Creek for a period of three years following the date of this Order. If no further violations of KRS 278.300 have occurred during the three years from the date of this Order, the suspended penalty of \$500 will be forgiven. If a violation of KRS 278.300 occurs during the three years from the date of this Order, the suspended penalty of \$500 shall be immediately due and payable.

2. Wood Creek Commissioner Glenn Williams is assessed a civil penalty of \$500 for his willful failure to comply with KRS 278.300. The \$500 penalty is suspended under the condition that no further violation of KRS 278.300 is committed by Glenn Williams for a period of three years following the date of this Order. If Glenn Williams commits no further violations of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 will be forgiven. If Glenn Williams commits a violation of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 shall be immediately due and payable.

3. Wood Creek Commissioner Earl Bailey is assessed a civil penalty of \$500 for his willful failure to comply with KRS 278.300. The \$500 penalty is suspended under the condition that no further violation of KRS 278.300 is committed by Earl Bailey for a

period of three years months following the date of this Order. If Earl Bailey commits no further violations of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 will be forgiven. If Earl Bailey commits a violation of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 shall be immediately due and payable.

4. Wood Creek Commissioner Jimmy Keller is assessed a civil penalty of \$500 for his willful failure to comply with KRS 278.300. The \$500 penalty is suspended under the condition that no further violation of KRS 278.300 is committed by Jimmy Keller for a period of three years following the date of this Order. If Jimmy Keller commits no further violations of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 will be forgiven. If Jimmy Keller commits a violation of KRS 278.300 during the three years from the date of this Order, the suspended penalty of \$500 shall be immediately due and payable.

5. If a Named Commissioner currently serving on Wood Creek's Board of Commissioners is unable to complete his current term, the conditions of this Order shall be abated at the time of his resignation, contingent on his not being reappointed within three years of the date of this Order.

6. This case is closed and removed from the Commission's docket without further Order of the Commission.

By the Commission

ENTERED
FEB 23 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Jimmy Keller
Commissioner
Wood Creek Water District
P. O. Box 726
London, KY 40743

Glenn Williams
Commissioner
Wood Creek Water District
P. O. Box 726
London, KY 40743

Earl Bailey
Commissioner
Wood Creek Water District
P. O. Box 726
London, KY 40743

*Wood Creek Water District
1670 Hal Rogers Parkway
P. O. Box 726
London, KY 40743

*Wood Creek Water District
Wood Creek Water District
1670 Hal Rogers Parkway
P. O. Box 726
London, KY 40743

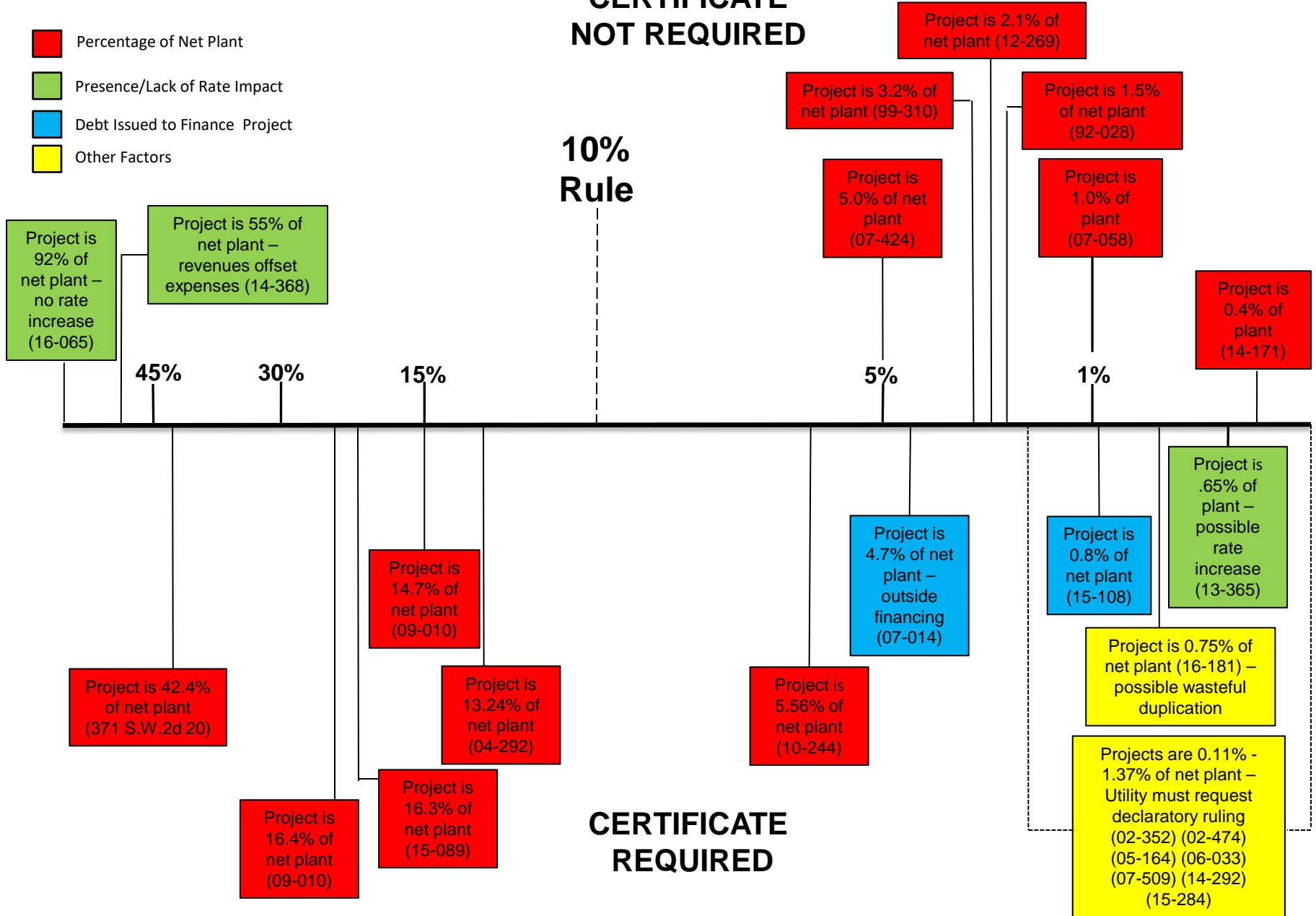
*Honorable Larry G Bryson
318 West Dixie Street
London, KENTUCKY 40741

CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY CONTINUUM

CERTIFICATE NOT REQUIRED

- Percentage of Net Plant
- Presence/Lack of Rate Impact
- Debt Issued to Finance Project
- Other Factors

10% Rule



CERTIFICATE REQUIRED

2017 NORTHERN KENTUCKY WATER TRAINING


RECENT DEVELOPMENTS IN UTILITY LAW

March 31, 2017

Damon Talley
Stoll Keenon Ogden PLLC
damon.talley@skofirm.com
Hodgenville, Kentucky
(270) 358-3187


Gerald Wuetcher
Stoll Keenon Ogden PLLC
gerald.wuetcher@skofirm.com
<https://twitter.com/gwuetcher>
(859) 231-3017

presented by 

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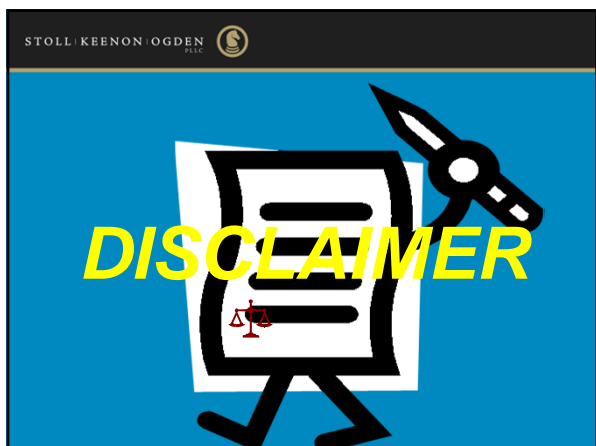
ORDER OF PRESENTATION

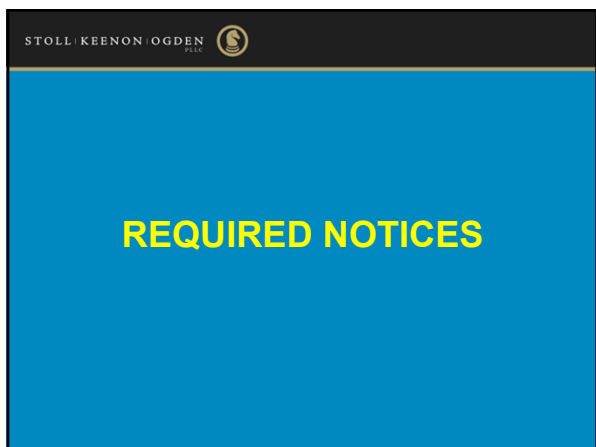
- Notice to PSC
- Ethics Issues
- RD Policy on Surplus Funds
- PSC Reorganization
- 2017 General Assembly Update
- PSC Ratemaking Trends

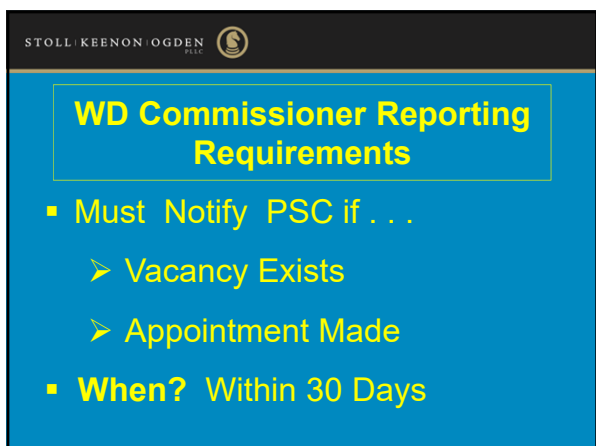
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ORDER OF PRESENTATION

- PSC Enforcement Actions & Water District Commissioners
- Certificates of Public Convenience & Necessity
- Cases to Watch
- 911 Funding Update
- Use of Attorneys in PSC Proceedings







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Board Vacancies


- WD must inform County Judge Executive 60 days prior to end of term (KRS 65.008)
- Only **90 days** for CJE to make appt & for Fiscal Court to approve appt
- If vacancy not filled within 90 days, PSC has **sole authority** to fill



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E-Mail Address Mandatory

- PSC Orders Now Served by **E-mail Only**
- 807 KAR 5:006, §3: Utility's E-mail Address must be filed with PSC & any changes reported within 10 days of change
- Default Regulatory E-mail Address
- E-mail Address Required on **all** Papers Submitted by Party (Utility Official or Attorney)

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Case of The Incorrect E-mail Address
PSC Case No. 2016 – 00310

Opened: 9 - 9 – 2016
Utility: Water District
Type of Proceeding: Show Cause
Issue: Failure to respond to electronically served complaint sent to WD's regulatory e-mail address (no longer current)
Settled: \$500 Fine (No Hearing)

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TALLEY'S TIPS

- PSC-regulated utilities should advise PSC of current e-mail address **annually**
 - By e-mail: psc.reports@ky.gov
 - By letter to Executive Director
- Use a separate & distinct address (not employee-based)
- Also applies to Municipal Utilities as PSC Orders re: municipal rate changes sent by e-mail

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ETHICS 101

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"If once you forfeit the confidence of your fellow-citizens, you can never regain their respect and esteem."

A. Lincoln

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Ethics Code

Other Topics

Conflict of Interest

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RD → **Auditor**

Conflict of Interest Policy

HB1 - SPGE ← **PSC**

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PSC Disclosure Form


- Related Party Transaction
- Utility and . . .
 - Employees
 - Board Members
 - Family Members

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STATEMENT OF DISCLOSURE OF RELATED PARTY TRANSACTIONS

I swear or affirm to the best of my knowledge and belief the information set forth below represents all present transactions and those transactions occurring within the past twenty-four (24) months between _____ ("Utility") and related parties that exceed \$25.00 in value. For the purpose of this statement, "related party transactions" include, all transactions and payments in excess of \$25.00, except regular salary, wages and benefits, made directly to or on behalf of: 1) the Utility's current or former employees; 2) current or former members of the Utility's board of commissioners or board of directors; 3) persons who have a 10 percent or greater ownership interest in the Utility; 4) family members* of any current Utility employee, director, commissioner or person with a 10 percent or greater ownership interest in the Utility or 5) a business enterprise in which any current or former Utility employee, director, commissioner or person with a 10 percent or greater ownership interest in the Utility or a family member of such person has an ownership interest.




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Rural Development Conflict of Interest Policy

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Who Is Covered?

- Water Associations
- Water Districts
- City Utilities
- All RD Borrowers


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11. Conflict of Interest Policy

Prior to obligation of funds, you will certify in writing that your organization has in place an up-to-date written policy on conflict of interest. The policy will include, at a minimum: (1) a requirement for those with a conflict/potential conflict to disclose the conflict/potential conflict, (2) a prohibition of interested members of the applicant's governing body from voting on any matter in which there is a conflict, and (3) a description of the specific process by which the governing body will manage identified or potential conflicts.


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You must also submit a disclosure of planned or potential transactions related to the use of Federal funds that may constitute or present the appearance of personal or organizational conflict of interest. Sample conflict of interest policies may be found at the National Council of Nonprofits website, <https://www.councilofnonprofits.org/tools-resources/conflict-of-interest>, or in Internal Revenue Service Form 1023, Appendix A, "Sample Conflict of Interest Policy," at <http://www.irs.gov/pub/irs-pdf/i1023.pdf>. Though these examples reference non-profit corporations, the requirement applies to all types of Agency borrowers.

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RD Conflict of Interest Policy

- Disclose Conflict
- Don't Vote if Conflict
 - Abstain
- Process for Managing Conflict

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Enforcement

- New RD Checklist
 - Certification
 - Not Yet – Working on It
- Letter of Conditions
 - Written Policy in Place




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Talley's Take Aways

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Sample Policy

- Non-Profit Website
- KRWA Developing Policy for:
 - Municipal Utilities
 - Water Districts
 - Water Associations

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Need for Policy

- County Code of Ethics Usually Not Broad Enough
- Water Association Must Adopt Its Own Policy
- City Utilities – Check With City Attorney

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Recommended Actions

- Obtain Your County's Ethics Code
- Provide A Copy To:
 - Board Members
 - Employees
 - Attorney
- Acknowledge Receipt

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RURAL DEVELOPMENT POLICY ON SURPLUS FUNDS



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Surplus Funds

- Old RD Policy
 - Flexible
 - Expand Project Scope
 - Buy Equipment, etc.
- Good Ole Days Are Over

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Surplus Funds

- New RD Policy
 - Cannot Expand Project Scope After Bid Opening
 - Surplus Funds Forfeited
 - 10% Contingency OK

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Talley's Tips

- PER Is Key
 - Broad Project Scope
 - Include Wish List
- Use Deductive Alternates
- Use Additive Alternates

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PSC PERSONNEL

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DEPARTURES

- Jim Gardner (Chair/Vice Chair)
- Roger Thomas (Commissioner)
- Aaron Greenwell (Deputy Executive Director)
- Ginny Smith (Director, Consumer Services Div.)
- Linda Faulkner (Director, Filings Division)
- Brent Kirtley (Manager, Tariffs Branch)
- Mark Rashe (Mgr, Engineering H₂O Branch)

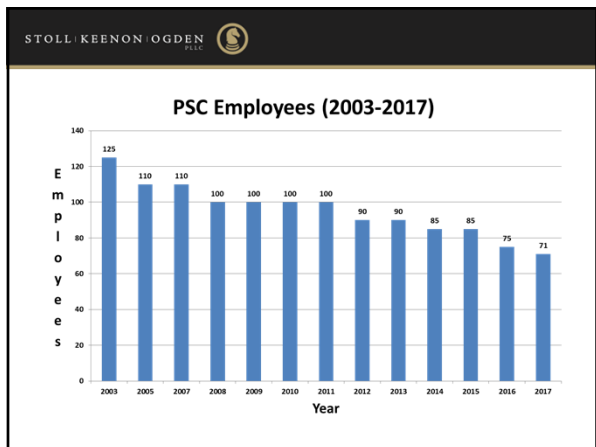
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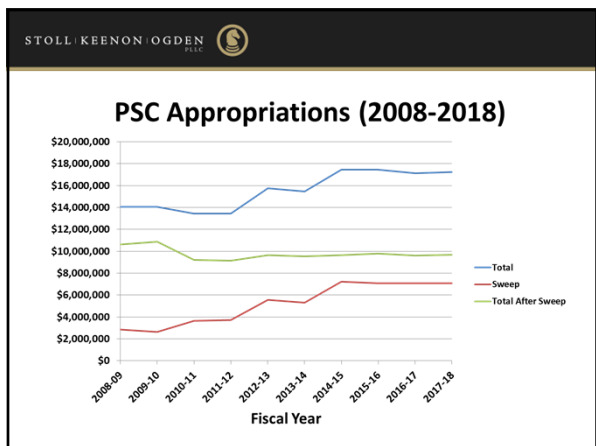
APPOINTMENTS

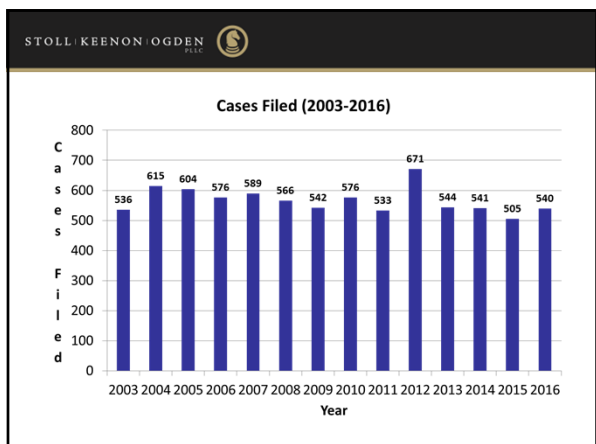
- Michael J. Schmitt - Chair (Term ends 6/30/2019)
- Robert J. Cicero – Vice Chair (Term ends 6/30/2020)
- Talina Mathews - Executive Director
- John S. Lyons – Director, Inspections Division
- Mary Beth Purvis – Manager, Water & Sewer Branch, Financial Analysis Division

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PSC FUNDING & ORGANIZATION







**PSC REORGANIZATION:
EXECUTIVE ORDER 2016-832 (11/18/2016)**


- Division of Engineering **ABOLISHED**
- Division of Consumer Services **ABOLISHED**
- Division of Filings **ABOLISHED**
- Division of Inspections **CREATED**
- Office of General Counsel **CREATED**
- Division of General Administration **CREATED**

**PSC REORGANIZATION:
EXECUTIVE ORDER 2016-832 (11/18/2016)**

- Tariff Branch **ABOLISHED** – functions move to Financial Analysis Division
- Annual Reports & Docket Branches **ABOLISHED** – functions moved to Division of General Administration
- Water & Sewer Rate Design Branch and Water Revenue Requirements Branch **MERGED**

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2017 KENTUCKY GENERAL ASSEMBLY REGULAR SESSION

STOLL KEENON OGDEN PLLC 

~~PREVAILING WAGES~~

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PREVAILING WAGES

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Prevailing Wages

- State Prevailing Wage Law Repealed
 - House Bill 3
 - **When?** January 9, 2017
- Federal Prevailing Wage Law Remains
 - Davis-Bacon Act

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Prior Law

- State PW Triggered By:
 - Public Works Project
 - Public Authority and
 - Over \$250,000
- Funding Source Immaterial

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Davis-Bacon Wage Triggers

- Public Works Project
- Public Authority
- **Funding Source**

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Davis-Bacon Wages ?


Funding Source	Yes	No
Reserve Funds		✓
RD		✓
KIA (Under Review)	✓	
CDBG	✓	
ARC	✓	
EDA	✓	

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Davis-Bacon Wages ?


Funding Source	Yes	No
Tax Exempt Bonds		✓
KRWFC		✓
KLC		✓
KACo		✓
Multiple Sources	?	?



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Davis-Bacon Wages: Multiple Funding Sources

- Does Any Funding Source Require DB Wages?
- **If yes . . . Then Entire Project Requires DB Wages**


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OTHER LEGISLATION

- **Senate Bill 183** – Approves PSC Reorganization
- **House Joint Res. 56** – Directs DOW to study WWTPs, develop measures to mitigate failure/abandonment WWTP, & propose legislation (other members: KIA, PSC, RCAP, KRWA, KLC, KACo, KMUA, AG)
- **House Bill 50** – Administrative Regulation Sunset


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PSC RATEMAKING TRENDS

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EMPLOYEE COMPENSATION

- Employee Compensation
 - Wages/Salaries
 - Health Insurance
 - Special Allowances
- Previously accepted with limited review
- PSC considered expenditures controlled by competitive forces
- Scope of Review: Is compensation excessive?

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EMPLOYEE COMPENSATION: CASE NO. 2015-00312


- Electric Utility Sought Rate Increase
- Attorney General (AG) raised concerns re: wage & salary increases/fringe benefits
- PSC:
 - Shares AG's concerns
 - No basis in record to justify determination that wages and benefits are not reasonable
 - Notes problems with studies re: wages

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EMPLOYEE COMPENSATION: CASE NO. 2015-00312


"[T]he Commission believes that employee compensation and benefits need to be more sufficiently researched and studied. The Commission will begin placing more emphasis on evaluating salary and benefits as they relate to competitiveness in a broad marketplace. Future rate applications will be required to include a salary and benefits survey that is not limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies. The study must include local wage and benefit information for the geographic area where the utility operates and must include state data where available."

Order of 9/15/2016 at 15

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**EMPLOYEE COMPENSATION:
CASE NO. 2016-00054**

- Water District Sought Rate Increase
- PSC Staff challenges annual increases for select employees who receive percentage increases greater than other employees
- PSC disallowed higher increases:
"The annual wage rate increase for all employees should be comparable **unless there is evidence demonstrating a reasonable basis for a different increase amount**, such as when an employee receives a promotion for accepting additional responsibilities."

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**EMPLOYEE COMPENSATION:
CASE NO. 2016-00054**

- AG challenged wage expense related to annual wage increase of 3% for all employees & health, life & vision insurance (at no cost)
- PSC rejected challenges and found wage increase & fringe benefit package reasonable
- PSC subsequently granted rehearing to consider AG's objections but eventually affirmed its decision

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**EMPLOYEE COMPENSATION:
SUPPORTING COMPENSATION PACKAGE**

- Closer review of Wage/Salary & Fringe Benefits packages
- Include support in Applications for Rate Adjustment
- Compare with other utilities and general community
 - KRWA Salary Survey
 - Kentucky League of Cities' Wage and Salary Survey
 - AWWA Wage/Salary Survey
 - Bureau of Labor Statistics
 - PSC Annual Reports

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**EMPLOYEE COMPENSATION:
SUPPORTING COMPENSATION PACKAGE**

- Support for Wage/Salary Increases
 - Consumer Price Index
 - Bureau of Labor Statistics
- Identify factors that affect compensation
 - Utility's Location
 - Local Labor Pool
- Annual Increases: Provide the basis for any percentage increases that are greater than most employees

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**EMPLOYEE COMPENSATION:
SUPPORTING COMPENSATION PACKAGE**

- Document Wage/Benefit Decisions
 - Bd Minutes should reflect Bd's reasoning for increases
 - Specific, detailed reasons preferred over general
- Fringe Benefits
 - Use State Government Fringe Benefits As Baseline
 - Explain the need for benefits packages that exceed the baseline
- Consider Implementing Evaluation System to provide better support for selective wage/salary increases

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**EMPLOYEE COMPENSATION:
BONUSES**

- PSC has historically disallowed bonuses
 - Salary adequate
 - Non-recurring
 - Discretionary
- Question of Lawfulness
 - KY Constitution Section 3
 - OAG 62-1
- Consider Implementing Incentive Compensation Policy to Overcome PSC Objections

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Commissioners' Salaries/Benefits

- Have Fiscal Court Ordinances re: salary level available for inspection
- Have proof of training attendance if compensation > \$3,600 awarded
- No free or reduced service
- Insurance benefits should not exceed those provided employees
- Why are benefits other than salary needed?

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NEPOTISM

- Greater PSC Interest in Utilities' Nepotism Policies
 - Standard Request in RECC rate cases
 - Statement of Related Transactions Required in Most H₂O Rate Cases
- Case No. 2016-00169:
 - PSC critical of RECC for hiring CEO's relatives
 - Ordered that RECC's exception to Nepotism Policy be eliminated

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PSC ON NEPOTISM

"[I]t is bad business practice to [employ] . . . relatives, especially relatives of management or board members, because there is a natural tendency to favor relatives."

Case No. 2016-00169, Order of 2/6/2017 at 25

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NEPOTISM

- Review County Ethics Ordinance Re: Nepotism
- Comply with Ordinance
- Consider Supplementing If Ordinance is Inadequate
- Board Members/Management Have Duty to Disclose
- Annual Review/Refresher
- Fully document/explain any exceptions in Board Minutes

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DEPRECIATION

“**[D]epreciation** is the loss, not restored by current maintenance, which is due to all the factors causing the ultimate retirement of the property. These factors embrace wear and tear, decay, inadequacy, and obsolescence. **Annual depreciation** is the loss which takes place in a year. In determining reasonable rates for supplying public service, it is proper to include . . . an allowance for consumption of capital . . .”

Lindheimer v. Illinois Bell Tele. Co., 292 U.S. 151, 167 (1934)

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DEPRECIATION

- Depreciation Permits Recovery of the Cost of A Capital Asset
- Annual Depreciation Expense = **(Asset Cost – Salvage Value) ÷ Useful Life** (years)
- Two Critical Components
 - Asset Cost
 - Useful Life

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USEFUL LIFE: EFFECT ON REVENUE REQUIREMENT

Assume: \$10 Million Water Mains

Useful Life (Years)	Annual Depreciation Expense
25	\$400,000
30	\$333,334
40	\$250,000
50	\$200,000
62.5	\$160,000
75	\$133,334

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EFFECT OF USEFUL LIFE ON REVENUE REQUIREMENT

- Increases/Decreases Revenue Requirement
- Erroneous Useful Life creates
 - Generational Inequities (Earlier Generation pays for Asset that a Later Generation Uses)
 - Inadequate Revenue for Infrastructure Replacement
 - "Money Left on Table" That Utility Never Recovers (PSC Staff)

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METHODS FOR DETERMINING ASSET'S USEFUL LIFE

- Engineering Estimate/Judgment
- Depreciation Study
- NARUC's *Depreciation Practices for Small Water Utilities*

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DEPRECIATION STUDIES: GENERALLY

- Involves an analysis of past performance and engineering estimates of future
- Requires detailed historical records (30 Years) re: plant additions and retirements
- Survivor Curves plotted
- Supplemented with information from management and operating personnel re: current plant operations & practices
- Interpretation

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PSC RE: USE OF DEPRECIATION STUDIES FOR SMALLER UTILITIES


Detailed property records specific to historic plant additions, plant retirements, and salvage practices are required to complete a depreciation study. Generally, "small" water utilities, such as Pendleton District, do not maintain property records with enough detail to properly complete a formal study. Furthermore, even if adequate records were maintained, "small" utilities do not have the financial resources to fund a formal study.


Case No. 2012-00412, PSC Staff Report at 9-10.

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Depreciation Practices For Small Utilities

- National Association of Regulatory Utility Commissioners (NARUC) Publication (Aug. 15, 1979)
- Intended to address the needs of regulatory commissions to establish realistic depreciation rates for small H₂O utilities
- Provided in table format a range of average service lives then in use by H₂O utilities throughout the US for H₂O facilities designed & installed & maintained in accordance with good H₂O works practice




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Depreciation Practices For Small Utilities

“The commission has previously used . . . [the NARUC] survey when establishing the appropriate depreciable lives for water utilities such as Rattlesnake Ridge when historic property records are not maintained in the manner necessary to perform a formal depreciation study or the utility does not have the financial resources to fund a formal study. Application of the NARUC Study is appropriate in this instance.”


Case No. 2013-00338, Order of 02/07/2014 at 4.

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Depreciation Practices For Small Utilities

“Since the depreciable lives in the NARUC Study are similar to those of an average utility, the NARUC Study may be used to evaluate the reasonableness of the depreciation practices of water districts and water associations without regard to the number of customers they serve or the amount of annual revenues and plant investment they report.”

Case No. 2016-00163, Order of 11/10/2016 at 17.

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Depreciation Practices For Small Utilities

“Although significant time has elapsed since its issuance, the NARUC Study presents a conservative estimate of the anticipated useful life of water mains that are constructed of either iron, PVC, galvanized steel, or concrete.”

Case No. 2016-00163, Order of 11/10/2016 at 17.

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PSC TREATMENT OF USEFUL LIVES

- Recent Focus on Useful Lives (Mains/Meters)
- PSC Staff Routinely Recommending Changes To Conform to NARUC Guide

Year	Total Cases	Revised Useful Lives
2012	8	5
2013	4	3
2014	6	5
2015	8	7
2016	9	9
2017	2	2

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PSC STAFF APPROACHES

- Utility's Useful lives are within NARUC Range – No Change (Engineer)
- Useful Lives Outside NARUC Range – Revise to Minimum Range (Engineer)
- Useful Lives Outside NARUC Range – Revise to Mid-Range (Engineer/Accountant)
- Useful Lives Outside NARUC Range – Revise to Max (Accountant)
- Useful Lives Within NARUC Range – Lives Revised to Longer/Maximum Period (Accountant)

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RESPONSE TO STAFF RECOMMENDATION

- Only 1 Utility has contested recommendation
- Why?
 - Contest would delay rate increase
 - Cost of contesting
 - Surprise
 - Limited time to respond/Lack of expertise
 - Limited benefit: Staff recommended rate increase near requested amount

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PSC DECISIONS RE: DEPRECIATION

- Utility bears Burden of Proof to Demonstrate Why Its Current Useful Life Is Appropriate
- In absence of evidence to the contrary, NARUC Guide will be used to establish useful lives
- PSC has not required PSC Staff proposals to be supported by engineering/technical evidence when maximum range recommended
- Staff Recommendations adopted in **ALL** Cases
- Adopted for Ratemaking & **Accounting** Purposes

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IMPACT OF DISALLOWANCE

Case No.	Disallowance	Requested Increase	Percentage
2016-00377	\$ 88,020	\$ 151,676	58.03%
2016-00265	\$ 31,175	\$ 161,422	19.31%
2016-00177	\$ 48,822	\$ 118,913	41.06%
2016-00163	\$ 66,141	\$ 324,726	20.37%
2016-00068	\$ 93,784	\$ 165,260	56.75%
2016-00054	\$ 167,568	\$ 374,168	44.78%
2015-00428	\$ 41,123	\$ 701,615	5.86%
2015-00341	\$ 88,792	\$ 486,222	18.26%
2015-00331	\$ 22,414	\$ 64,514	34.74%
2015-00308	\$ 3,350	\$ 255,707	1.31%

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STEPS TO AVOID OR REDUCE DISALLOWANCE IN RATE CASE: PRE-APPLICATION

- Review Useful Lives – Are they within NARUC range? (Emphasize Mains/Meters)
- Revise for Compliance with Lower Range (Unless basis for variance)
- Estimate effect of Revision on Revenue Requirement at Mid-Point & Higher Range
- If Effects of Mid-Point/Higher Range Revision Significant, Include **Supporting Evidence** for Useful Lives in Application

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TYPES OF SUPPORTING EVIDENCE

- Past PSC Treatment of Depreciation Expense
- Depreciation Study
 - Adequate Records?
 - Potential Cost
- Engineer Testimony
 - Sworn Affidavit
 - Greater Weight

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**ENGINEER AFFIDAVIT CONTENTS:
PART I**

- Education Background
- Professional Licenses/Memberships
- General Experience in Water Industry
- Description of Utility Facilities/Past History
- Experience with the Utility's Operations & Facilities
- Alternative to Experience with Utility
 - Review of Utility Records
 - Interviews of Prior Engineering Firms & Utility Personnel
 - Investigation of Construction Firms Performing Work

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**ENGINEER AFFIDAVIT CONTENTS:
PART II**

- Personal Experience with Contractors/Materials in work for other utilities
- Industry Experience with Materials/Facilities
- Opinion re: useful lives
- Reasoning for Opinion

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STEPS TO AVOID OR REDUCE DISALLOWANCE: AFTER THE STAFF REPORT

- Review Staff Report
 - Is Disallowance of Depreciation Expense Recommended?
 - Does recommended Revenue Requirement (RR) meet utility's needs?
 - What is the effect on RR if utility's proposed depreciation expense level accepted?
 - If acceptance of proposed depreciation expense level would generate higher RR than requested, can utility responsibly use the additional funds?

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STEPS TO AVOID OR REDUCE DISALLOWANCE: AFTER THE STAFF REPORT – RATES ACCEPTABLE

- Conditional Waiver/Acceptance
 - Waive all rights & Accept Recommended **RR** and **rates** on condition PSC addresses only those 2 issues
 - No PSC ruling on other Staff recommendations
 - Still Note Objections to Report/Contested Issues
- Alternative Request for Relief
 - Full Discovery including depositions
 - Hearing
 - Separation/Isolation of Assigned Staff

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STEPS TO AVOID OR REDUCE DISALLOWANCE: AFTER THE STAFF REPORT - RATES UNACCEPTABLE

- Note Objections/Contested Issues
- Contested Issues (Depreciation Only)
 - Prior PSC Position on Depreciation in Prior Cases
 - Legal Objections to Use of NARUC Guidelines
 - Policy/Fact Objections to Use or Application of NARUC Guidelines
 - Staff Qualifications to Render Opinion
 - Met Standard (Within Range And Produced Evidence)
- Procedural Requests (Same as Alternative Relief)

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DEPRECIATION: SUMMARY

- **Major Issue** in Water Utility Rate Cases
- Examine Useful Lives **NOW**/Determine if Valid
- **(BEFORE FILING APPLICATION)** Assess Effects on RR of Major Revisions in Useful Lives
- Address in Application for Rate Adjustment
- Start Maintaining Records to Perform Depreciation Study


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DEPRECIATION: SUMMARY

- Consider Conditional Waiver To Avoid Expensive and Unproductive Litigation
- Preparation Costs Can Be **Recovered As Rate Case Expenses**


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Show Cause Cases

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Show Cause Cases

- Historical Overview
- Range of Outcomes
- Who Is Affected?
- Method of Resolution
- Recent Cases

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Historical Overview

- Double Standard
 - Electric, Gas, Telephone IOUs
 - Water Dist. & Water Assoc.
 - TLC
 - PSC Staff Friendly
 - Slap On Wrist
- Good Ole Days Over

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Range of Outcomes


- No Show Cause Case Opened
- \$100 Fine (Suspended)
- Go to PSC Training
- \$250 Fine (Suspended)
- More Training (Manager Also)

...

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Range of Outcomes (CONTINUED)

- \$500 Fine (Sometimes Suspended)
- \$500 Fine & Much More Training
- No More Settlements
- \$250 Fine (Suspended)
- Public Hearing & Then Fined (Suspended)

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Who Is Affected?


- Utility
- Current Commissioners
- Former Commissioners
- Manager
- Attorney
- Lender???

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Prior Method of Resolution


- Acknowledge Mistake
- Settle Out of Court . . . Very Quietly
- Go to Training
- Pay Small Fine
- Stay Out of Trouble



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Current Method of Resolution

- Acknowledge Mistake
- Offer to Pay Fine
- Cannot Settle
- Public Hearing Required

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SHOW CAUSE CASE #1

Case No.: 2015-00353
Opened: 11/02/2015
Closed: 02/15/2016
Issue: Violated KRS 278.300
Settled: \$500 Fine

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SHOW CAUSE CASE #2

Case No.: 2016-00310
Opened: 09/09/2016
Closed: 10/12/2016
Issue: Ignored PSC Order
Settled: \$500 Fine

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SHOW CAUSE CASE #3

Case No.: 2016-00338
Opened: 10/11/2016
Closed: 02/23/2017
Issue: Violated KRS 278.300
Hearing: 12/13/2016

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SHOW CAUSE CASE #3
Timeline - Bond Refinancing

05-13-2013 Board Adopts Resolution to Borrow \$1,530,000
12-17-2014 PSC Application to Borrow \$1,485,000 Filed
01-05-2015 PSC Order Issued
02-05-2015 KRWFC Bond Sale
02-19-2015 Loan Closing – Borrow \$2,780,000

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**SHOW CAUSE CASE #3
Timeline**

03-31-2015 Bond Lawyer Files Docs
12-28-2015 ARF Application Filed
04-15-2016 Staff Report Issued
10-11-2016 Show Cause Order
11-16-2016 Conference with PSC Staff
12-13-2016 **Formal Hearing**

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**SHOW CAUSE CASE #3
FACTS**

Total Savings	\$478,376
NPV Savings	\$326,209
Amount Approved	\$1,485,000 + 10%
Amount Borrowed	\$2,780,000

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**SHOW CAUSE CASE #3
RULING**

- \$500 Fine (Suspended)
- Rejected Advice of Counsel Argument
- Lawyer on Hook

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SHOW CAUSE CASE #3

- Process Is Noteworthy:
 - Water District Offered to Settle
 - PSC Refused Settlement Offer
- Formal Hearing Held

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Talley's Take Aways

PSC COMMISSIONERS:

- Take Their Jobs Seriously
- Are Hands On
- Love Hearings
- Promote Transparency
- Believe Oversight Means Oversight

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CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

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KRS 278.020(1)

No person, partnership, public or private corporation, or combination thereof shall . . . **begin the construction of any plant, equipment, property, or facility** for furnishing to the public any of the services enumerated in KRS 278.010, except . . . **ordinary extensions of existing systems in the usual course of business**, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction.

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REQUIRES A CERTIFICATE

- Construction of Any Plant or Facility
- Installation of Equipment on Large Scale (e.g., metering equipment)
- Repurposing of An Existing Facility
- Pre-Construction Contracting
- Acquisition of Facility???

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DOES NOT REQUIRE A CERTIFICATE


- Purchase of Building or Land
- Maintenance/Replacement Projects
- Demolition/Destruction of Existing Facility
- Acquisition of Non-Jurisdictional Facilities
- Extensions In the Ordinary Course

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EXTENSIONS IN THE ORDINARY COURSE


"A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing financial condition of the utility involved, or will not result in increased charges to its customers."

807 KAR 5:001, §13(3)

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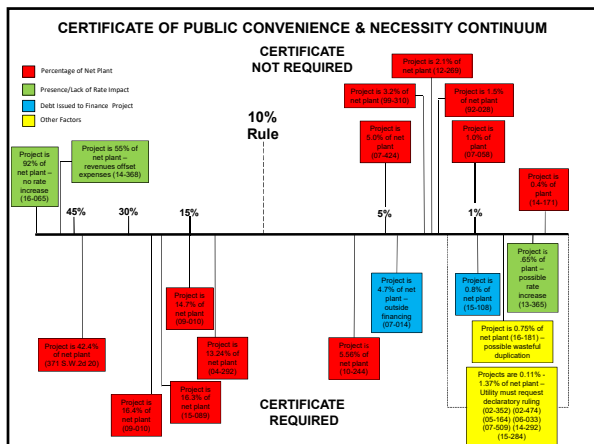
EXTENSIONS IN THE ORDINARY COURSE: THE FACTORS

- No **Wasteful** Duplication of Plant or Facilities
- No Conflict With Existing Certificates or Service of Other Utilities
- Capital Outlay Is Insufficient to Materially Affect Existing Financial Condition of Utility
- Will Not Result In "Immediate" Rate Increase

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EXTENSIONS IN THE ORDINARY COURSE: MATERIALLY AFFECT

- 10 Percent Rule – Ordinary unless exceeds 10% of Net Utility Plant (Abandoned 1980s)
- 2 Percent Rule (Staff Opinions)
- 1 Percent Rule – Case No. 2014-00171
- Revenue Neutral – Project generates sufficient revenues to meet expense, then Ordinary
- Material if Debt-financed



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BUDGET BILL EXCEPTION

- Bright-Line Test To Determine if Certificate required
- Applicable only to **Class A & B** Water Districts/Associations
- Found in the Biennial Budget since 2006
- Applies to **“water line extension or improvement project”**
- No Certificate of Public Convenience & Necessity if:
 - Total Cost < \$500,000 **OR**
 - No issuance of debt requiring PSC approval AND no rate increase

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BUDGET BILL EXCEPTION


- PSC has limited Applicability to water mains
- Case No. 2016-00255 – Installation of an automated meter system (08/03/2016)
- Held: “[T]he proposed installation of the new metering system is not a ‘waterline extension or improvement project,’ as it **does not extend or improve an existing waterline**”
- Adopts reasoning of PSC Staff Opinion No. 2012-024 (12/19/2012)

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BUDGET BILL EXCEPTION


Is a "water main improvement project" limited to construction of water mains only?

- PSC Staff Opinion No. 2017-002
- Water Ass'n proposes to construct water booster station, including 300 feet of 2" water line, & install pressure reducing valve
- PSC Staff: "[T]he project improves existing water lines and qualifies as a 'water line extension or improvement project.'"
- Project involving non-mains may qualify if beneficial effect on existing water mains

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METHOD OF ANALYSIS

- Bright Line Applicable?
 - Water Main Extension or Improvement?
 - \$500,000 or less?
 - No debt issued & no rate increase required?
- Construction of Facility OR Large Scale Installation of Equipment?
 - Purchase?
 - Replacement/Maintenance?
 - Directly Debt Financed?
 - Percentage of Net Utility Plant


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WHEN IN DOUBT

- CYA: Private Attorney Opinion Letter
 - Rigorous/Thorough Analysis Essential
- Avoid Requests for Staff Opinion
- DO NOT Request A Deviation - Not Permitted Under Statute
- Declaratory Order
- Application for a Certificate


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CASES TO WATCH


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CASES TO WATCH

- Case No. 2016-00432 – *Hardin County Water District No. 2* (Sample Testing to Satisfy Meter Testing Requirements)
- Case No. 2016-00394 – *Kentucky-American Water Co.* (Annual inspection of meters, meter settings & valves)
- Case No. 20016-00427 – *Northern Kentucky Water District* (Annual inspection of meters, meter settings & valves)
- Case No. 2017-00070 – *Monroe County Water District* (Evidence sufficient to support alternative useful lives)
- *Airview Utilities LLC v. Ky. Pub. Serv. Com'n*, No. 17-CI-00264 (Franklin Cir. Ct) (Abandonment of utility facilities)


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911 Funding Update

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911 FUNDING UPDATE

- General Assembly: **No** Action
- Courts: **No** Change
- Fiscal Courts: **Yes**

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Garrard County Case

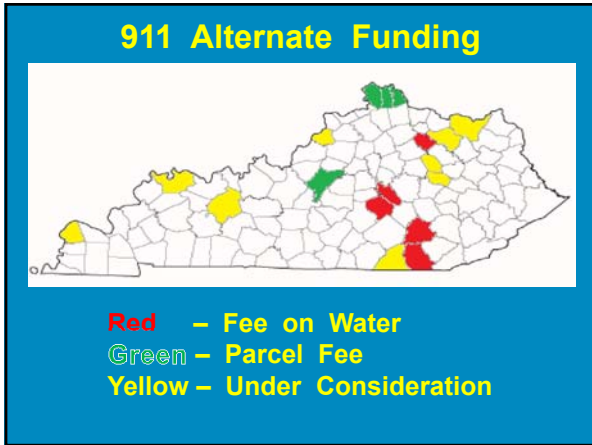
City of Lancaster v. Garrard County, Ky.
 Court: Court of Appeals
 Case No.: 2013-CA-000716-MR
 Opinion Rendered: 7-03-14
 Opinion Vacated: 2-18-16

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Campbell County Case

Greater Cincinnati/Northern Ky. Apt. Assoc., Inc., v. Campbell Co. Fiscal Court
 Court: Ky. Supreme Court
 Citation: 479 S.W.3d 603 (Ky. 2015)
 Opinion Rendered: 10-29-15
 Became Final: 02-18-16






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2016 Efforts

Water Service to Occupied Residential & Commercial Properties


- Lincoln County ✓
- Whitley County ✓
- Laurel County ✓
- McCreary County ✗

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Unresolved Legal Issues

Does A County Have Legal Authority to:


- Impose 911 Fee on Water Service?
- Compel City to Collect Fee?
- Compel WD to Collect Fee?

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Unresolved Legal Issues

Does A County Have Legal Authority to:

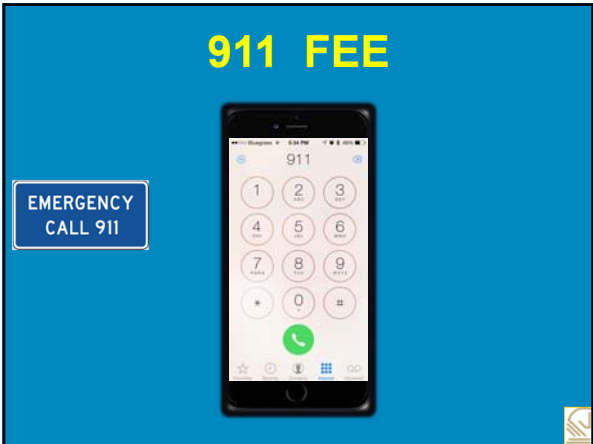
- Compel WA to Collect Fee?
- Compel IOU to Collect Fee?

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Unresolved Legal Issues

Does A County Have Legal Authority to Impose 911 Fee On :

- City Utility?
- Water District?
- Water Association?
- Investor Owned Utility?



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Current Status

- Campbell County – Parcel Fee OK
- Garrard Co. – Water Meter Fee Invalid
 - 2-18-16 SC Vacated & Remanded
 - Reconsider in Light of Campbell County SC Case

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Nature of Fee


- Fee on Customer or
- Fee on Utility
- Wording of Ordinance
- Role of Utility
 - Billing & Collection Agent
 - Tax Payer

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Potential Problems for Utility


- PR Nightmare
- Add 911 Fee as Separate Line Item?
- Absorb Cost Until Next Rate Case?

...

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Potential Problems for Utility

- Customers Don't Pay
- Termination of Water Service for Non-payment
- Possibility of Refund

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PSC's Perspective

- Wait & See Approach
- No Case Pending
- 4 Staff Opinions
 - 2016-014
 - 2016-015
 - 2016-016
 - 2016-017


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Your Role

- Prepare for PR Battle
- Stay Informed
- Educate Fiscal Court
- Be Vigilant
- Alert KRWA
- Don't Ignore the Problem

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**Talley's
Take
Aways**

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If Stuck With A Fee

- Collection Agreement with County
 - Tax Collector - Not Tax Payer
 - Hold Harmless Clause
 - Refunds
 - Legal Fees
- Show As Line Item on Bill (If PSC Permits)




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USE OF ATTORNEYS IN PSC PROCEEDINGS

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PSC REGULATIONS RE: ATTORNEYS

- 807 KAR 5:001, §4(3): "Papers" must be signed by party or **attorney**
- 807 KAR 5:001, §4(4): A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2)."
- Paper is any "document that [PSC Rules] or the Commission directs or permits a party to file in a case"
- Bottom Line: Unless pro se representation, all documents filed in any formal PSC proceeding must be filed by an Attorney

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NO ATTORNEY REQUIRED

- Tariff Filings
- Correspondence with PSC Executive Director or other officers (e.g., Response to PSC Staff Inquiry)
- Required Filings outside of Formal Proceedings
 - Annual Reports
 - Regulatory Reports (e.g., Meter Testing)
 - Audit Reports
 - Commissioner Vacancy/Appointments
 - Change/Confirmation of E-mail Address
- Non-recurring Charge Filings
- Request for Staff Opinions

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ATTORNEY REQUIRED

- Certificates of Public Convenience and Necessity
- Authorization to Issue Debt/Securities
- Applications for Declaratory Ruling
- PSC Formal Investigations
- Rate Proceedings
 - Suspended Tariff Revisions/Non-Recurring Charges
 - General Rate Adjustments

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ATTORNEY REQUIRED

- Request for Deviations

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ALTERNATIVE RATE FILINGS

- 807 KAR 5:076, §13
- No Attorney is required to:
 - File application
 - Respond to information requests
 - Appear at conferences
 - Submit Response to Staff Report
- Attorney Required Only for Hearings

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ASSESSING NEED FOR ATTORNEY

- How Familiar Is Utility With Process?
- Opposition/Intervenors Expected?
- Complicated Issues?
 - Depreciation
 - Debt Service
 - Rate Design
 - Unusual Expenses
- Likelihood of Hearing?
- Cost – How much can Utility afford?

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ASSESSING NEED FOR ATTORNEY


- Purposes for Retaining Lawyer:
 - Identify/Address Potential Ratemaking Problems
 - Avoid Procedural Delays (Delay = \$\$\$)
 - Counterweight to PSC Staff/AG/Other Intervenors
 - Prepare for Hearing
- How much lawyer is needed?
 - Standby/limited oversight
 - Full Participation
- How Familiar is Lawyer with the PSC Process?

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ASSESSING NEED FOR ATTORNEY

- Fees:
 - Fixed Fee for Expected Services
 - Fixed Fee/Retainer: Max Fee but Charge Per Hour until Max
 - Contingency: Hourly Rate if Hearing
 - County Attorney (No Fee)
 - Lower Rate/Lesser Involvement in Later Cases
- Fees Recoverable as Rate Case Expense
 - Expenses to Prepare/Review Application
 - Rate Request should include **Maximum Possible Fees**

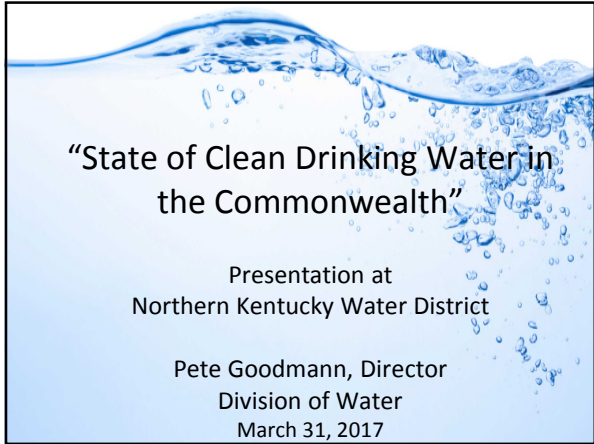
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QUESTIONS?

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“State of Clean Drinking Water in the Commonwealth”

Presentation at
Northern Kentucky Water District

Pete Goodman, Director
Division of Water
March 31, 2017

State of Drinking Water

- Kentucky public water systems serve most of the people in the state
- Kentucky public water systems have a remarkably good history of compliance
- There are challenges at existing systems and we need to prepare for future needs:
 - Sustainable and resilient drinking water systems are essential to economically viable communities





Safe Drinking Water Act

- Established to protect the quality of drinking water in the U.S.
- Authorizes EPA to establish minimum standards to protect tap water and requires all owners or operators of public water systems to comply with these primary (health-related) standards.
 - EPA works with states, localities, and water suppliers who carry out these standards.
 - The SDWA is broad and complex, requiring many actions to protect public health by regulating the nation’s drinking water supply, including its sources (rivers, reservoirs, groundwater)

Safe Drinking Water Act



- SDWA requires public water systems to comply with several rules
 - Each rule has its own requirements to address various contaminants via:
 - Treatment Techniques
 - Monitoring and Reporting
 - Public Notice

*Requirements are commonly tiered based on size and source



SDWA Drinking Water Rules

<ul style="list-style-type: none"> • Establish regulatory goals and standards that protect public health by requiring treatment of drinking water for various contaminants 	<ul style="list-style-type: none"> • Contaminant classes <ul style="list-style-type: none"> – Microbial Organisms – Organic Chemical Pollutants – Inorganic Pollutants, – Radionuclides – Aesthetic Concerns • Other issues <ul style="list-style-type: none"> – Lab Certification – Operator Certification
---	--

Kentucky Drinking Water program

- The cabinet has obtained the “primacy” authority to implement the rules promulgated under the SDWA for Drinking Water
- Cabinet’s commitment to EPA is to implement any new SDWA rule within 2 years of promulgation by EPA
- The Kentucky Drinking Water program is managed in the Division of Water

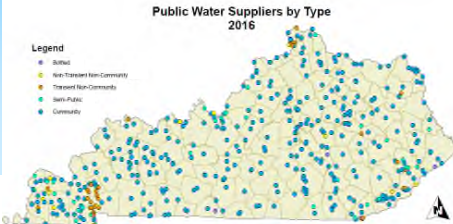
Successes

- Extensive Regionalization
- Very Good Compliance Rates
- Useful Technical Assistance program
- Effective Collaboration

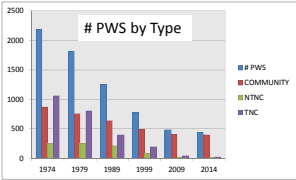


Public Water System Information

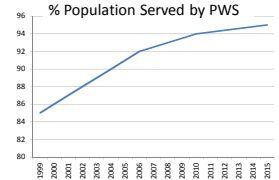
- 445 Public Water Systems
 - 401 Community Public Water Systems (PWS) serve >95% of the citizens of the Commonwealth
 - Regionalization has increased the % of the population served and reduced the # of drinking water systems




PWS and % Population Served



YEAR	# PWS	COMMUNITY	NTNC	TNC
1974	2178	868	252	1058
1979	1812	755	252	805
1989	1254	639	215	400
1999	781	497	85	199
2009	484	409	26	49
2014	444	401	16	27

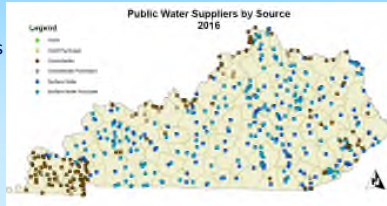




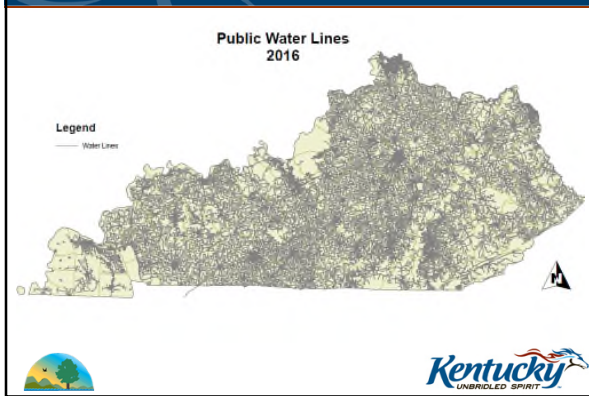
Drinking Water System Infrastructure

- 138* Surface Water Systems with 177 surface water intakes
- 113* Groundwater Systems via 16 mines/springs; 220 wells
- 194 (consecutive) PWS systems that do not produce water, but only purchase water from other PWSs
- 415 systems are interconnected (93%)
 - N.B. Many systems that produce water also purchase water from other systems.

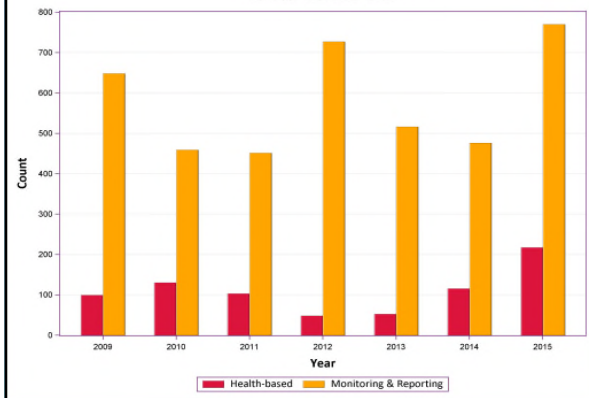
N.B. > half of Kentucky's PWSs each serve <3300 customers

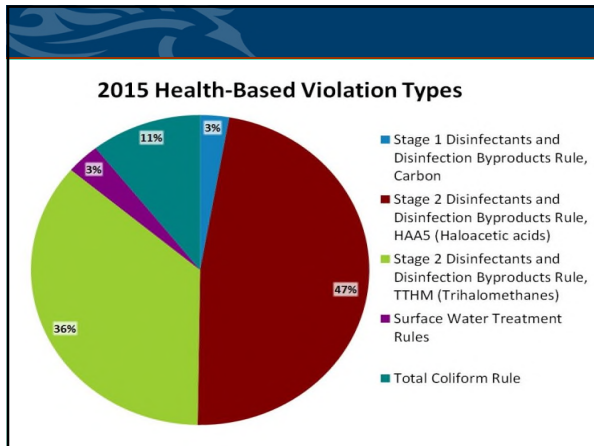


Public Drinking Water lines



Public Water System Violations Calendar Year 2009 - 2015





Technical Assistance

- **Capacity Development and Compliance Assistance**
 - Goal: Resilient & Sustainable PWSs
 - DOW and KRWA working with public water utilities to ensure that they have or are developing:
 - Financial Capacity
 - Managerial Capacity
 - Technical Capacity
 - to conduct proper Operations and Maintenance
 - Technical Assistance to optimize treatment, manage the distribution system, compliance reporting, public notice

Collaboration: Drinking Water Advisory Council

<ul style="list-style-type: none"> • Public Water Systems (small, medium, and large) • Kentucky Rural Water Association (KRWA) • Kentucky Municipal Utilities Association (KMUA) • Kentucky Rural Community Assistance Program (RCAP) • Kentucky League of Cities • Kentucky Association of Counties 	<ul style="list-style-type: none"> • Kentucky Department of Public Health • Kentucky Infrastructure Authority (KIA) • Public Service Commission • Area Development Districts • American Water Works Assoc. • American Council of Engineering Companies (ACEC)
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DWAC Committees

- Infrastructure, Finance and Sustainability Committee
- Compliance/Regulations Committee
- Lead in Drinking Water Workgroup
- Capacity Development Committee
- Distribution/Water Quality Management Workgroup
- Disinfection Byproducts Committee
- Source Water Protection Committee
- Emerging Issues Committee (e.g. HAB's, UCMR 3 & 4)



Challenges

- Kentucky has been very successful:
 - Providing potable and reliable water to almost everyone (>95%) in the state
 - Compliance rate with health-based standards is greater than 99.73%
- Challenges going forward
 - Continued Rule Compliance (e.g. DBPs, RTCR, LCR, emerging contaminants, new rules)
 - Operations/Mgmt and Finance (e.g. rates, debt service)
 - Asset Management, Financial Sustainability and Funding



Compliance Challenges

- Disinfection Byproducts
 - Currently effecting many Kentucky PWS
 - Treatment and distribution system management
 - 3-5 years this will be resolved
- Revised Total Coliform Rule Implementation
 - PWS working with new sampling plans and protocols
- Lead and Copper Rule Effects
 - Kentucky PWS have a very good compliance record
 - Post-Flint: EPA will make rule changes re: action levels, sampling, schools, public notice, etc.
 - Lead working group evaluating Kentucky program
- Emerging Contaminants and new Rules

Aging Drinking Water Infrastructure

- 213 drinking water treatment plants (average age is 36 years)
- 1842 storage tanks (average age is 26 years)
- 58,783 miles of water lines (average age is 38 years)
- 11,607 miles older than 50 years (16%)
- Estimated drinking water infrastructure improvement needs through 2025: **\$1.9 billion**
- Average monthly drinking water bill is:
 - Avg fee for 4,000 gallons (Non-Municipal) = \$32.24
 - Avg fee for 4,000 gallons (Municipal Inside) = \$26.70
 - Avg fee for 4,000 gallons (Municipal Outside) = \$33.41



Financial Sustainability of PWS

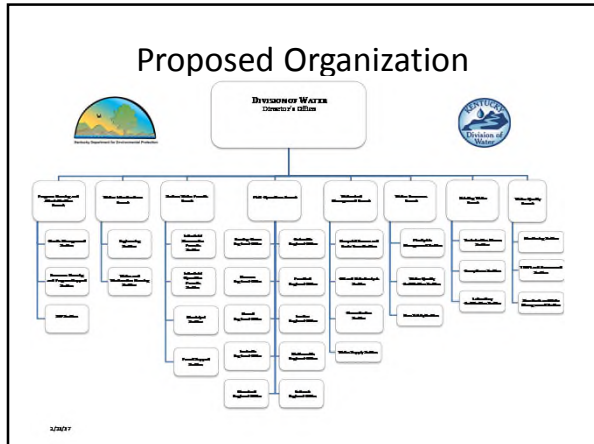
- Many PWS are experiencing little or no growth; numerous systems are experiencing declining growth.
- The costs for small systems to sustain infrastructure and operate in compliance with federal rules is in some cases an unsustainable economic burden.
- Medium and large systems are also challenged by low growth and the “conservation conundrum.”
- Many utilities historically assumed 20 years of linear growth in customer base to fund major infrastructure projects.
- Now: little/no growth in customer base and declining per capita consumption.



Financial Sustainability of PWS

- More infrastructure costs over fewer gallons of water sold. Therefore, many utilities are in a cash-flow bind, and thus are forced to borrow more and increase rates.
- Water is a high fixed-cost business, and public expectations as well as regulations require utilities to stay ahead of the capacity curve (generally 15-20% excess for growth, emergency and peak demand).
- As demands decline, many utilities have reserve capacities that exceed 25%, however the customer rate base must fund the operation and maintenance, capital, depreciation, and debt service of this overbuilt infrastructure.
- Some estimate 6-10% annual utility rate increases over the next decade until this phenomena corrects itself (~20 years?)
- Inflation could exasperate this situation.





Pete Goodmann, Director
 Division of Water
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 Frankfort, Kentucky

 502-782-6956
 Peter.Goodmann@ky.gov



Presentation Available for Download at:
<http://bit.ly/2ognCFc>

**An Update from the
Kentucky Public Service Commission**

Presentation to the
Northern Kentucky Water District

March 31, 2017

Vice Chairman Robert Cicero



TODAY'S TOPICS:

- **Background / Overview**
- PSC Reorganization
 - Summary of Changes
 - Impact on Water Utilities
 - Cooperation with other agencies
- PSC Oversight Focus
 - Improving the Inspection Process
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 - Reducing Unaccounted for Water Loss
 - Water Commissioners' Responsibilities
- Abandonment of Utilities
- Forward Perspective

Water service was the first utility...



How far have we come since the days of the Romans?



Philadelphia



New York



Louisville

Water By Numbers – The Big Picture

- Nearly 53,000 community water systems in USA
 - Serve 300 million people
 - Largest 8% (~4200) supply 80% / 240 million people
- Approximately 11% population served by investor owned providers – remainder are municipal or other governmental entities
- 12 states regulate (via state utility commissions) rates & service of municipal water companies

Water By Numbers – Kentucky

- 6 Investor owned companies
 - Size ranges from about 100 to 122,000 customers
- 117 Water districts
 - Size ranges from about 150 to 80,500 customers
- 22 Water associations
 - Size ranges from about 550 to 7,500 customers
- 255 Municipal water systems
 - From fewer than 200 to 246,000 customers
 - Serve majority of Kentucky population
- 65 Other systems

Standardization of Water Regs

- 1914 – U.S. Public Health Service establishes first national drinking water safety standards
- 1977 – Safe Drinking Water Act gives US Environmental Protection Agency jurisdiction over drinking water health and safety standards. Permits EPA to delegate enforcement to states with programs that meet EPA requirements

Regulation of Water Utilities in Kentucky

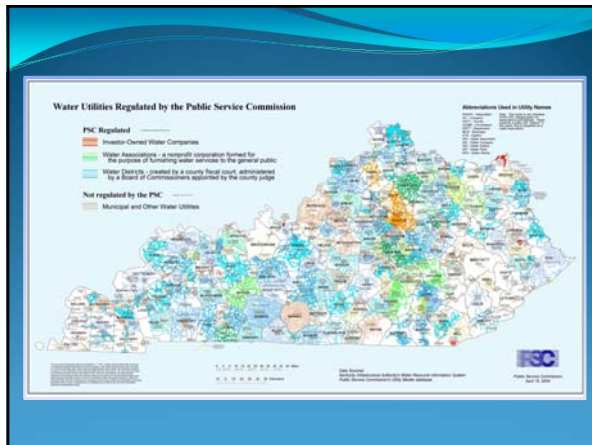
Water Service Regulation in Kentucky is Divided

- Federal water quality standards for all service providers are enforced by the Kentucky Division of Water – Compliance and Technical Assistance Branch
- Kentucky Public Service Commission regulates rates and service of only some water utilities

Water Utilities Under Kentucky PSC Jurisdiction:

- Investor-owned utilities
- Water districts
- Water associations
- Municipal utilities BUT only the wholesale rates for water sold to a utility under full PSC jurisdiction – 93 municipal utilities

KRS 278.200 (as interpreted by Kentucky Supreme Court in 1994 in Simpson County case)



Kentucky Public Service Commission

- Created by the General Assembly in 1934
- Independent regulatory agency
- Quasi-judicial function
- PSC does not set water or energy policy or broad utility regulatory policies
- Operates in accordance with statutes, regulations and judicial precedent
- Funded by assessment on regulated utilities

PSC Mission Statement

- To ensure that utility rates are fair, just, and reasonable for the services provided and that those services are adequate, efficient, and reasonable.

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PSC Reorganization - Summary

- Result of organizational needs assessment
- Consolidated 5 divisions into 4
 - › Filings, Consumer Svcs & Admin – now Gen Admin
- Realigned Executive Structure
 - › Eliminated 2 Deputy Exe Dir, 1 Div Dir, 1 Branch Mgr
- Div of Engineering now Div of Inspections
 - › Reassigned 6 PSC Engineers to Energy & Environment
 - › Available on an as-needed basis
 - › Focus now on Inspection activity – including water
- Reduced Consumer Services group from 5 to 4
 - › Logged inquires have declined 80% from 2010 peak

PSC Reorganization - Summary

- Engineering Div retitled Div of Inspections
 - › Emphasis on timely & efficient inspection activities
 - › Added 2 Inspector positions including new water inspector
- Increased focus on Financial & Legal resources
 - › Added 2 Financial Analysts & 3 Lawyers
- Pre-Reorg Staffing 81 – Post Reorg 77
 - › Elimination of 4 Managerial positions
 - › Includes transfer / elimination of 6 Engineering positions (PSC retains access to required Engineering resources)
 - › Overall Net gain – 7 staff positions

Reorg was NOT Budget mandated

PSC Reorganization – Impact on Water Utilities

- Creates New Division of Inspections
 - › Doubles water inspector positions to 2
- Emphasis on frequency of inspections
 - › Shorten standard inspection cycle – Currently 3 years
 - › Implement Water Utility Risk Assessment to determine frequency of inspection cycle - Risk factors include:
 - Compliance history – deficiencies / failure to correct
 - Unaccounted for water loss %
 - Construction activity
 - Date of last inspection
- Improves inspection process
 - › Timely reporting / more attention to deficiencies correction

PSC Reorganization – Cooperation with Other Agencies

- Energy & Environment Cabinet
 - › MOU with EEC to purchase engineering expertise
 - › Expands available engineering resources to specialized fields PSC previously did not have
- Kentucky Division of Water
 - › Negotiating MOU with DOW to develop joint effort in several areas including inspections of jurisdictional utilities

TODAY'S TOPICS:

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Improving the Inspection Process

- Division of Inspections created to make the inspection and investigation processes more efficient, timely and consistent
 - › Sole focus is inspections and investigations
 - › Inspection reports issued within a 30-day target
 - › Accident investigation reports provided to utility upon completion by PSC staff, not when PSC decides on the course of action

Inspections – Points of Emphasis

- Identify Deficiencies
- Corrective actions
- Prompt follow-up
- Risk assessment - New
- Unaccounted-for Non-revenue water

Risk Assessment

- Risk factor matrix
 - › Seven metrics
 - › Yields risk factor score
 - › Used to prioritize inspection frequency
- Seven metrics
 - › Number of Deficiencies last inspection – 1 pt each
 - › Unresolved deficiencies
 - None – 0 pts
 - Yes – 5 pts each
 - › Excessive Water loss %
 - 15-29% - 5 pts
 - 30-40% - 10 pts
 - 40%+ - 15 pts

Identifying at-risk Utilities

- Seven metrics – Continued
 - › Management / employee turnover
 - None – 0 pt
 - Minimal – 5 pts
 - Moderate – 10 pts
 - Major – 15 pts
 - › Inspector subjective knowledge – 0 to 15 pts
 - › Construction activity
 - None – 0 pts
 - Minimal – 2 pts
 - Maximum – 5 pts
 - › Time since last inspection
 - 1 year or less – 1 pt
 - 2-3 years – 5 pts
 - 3 years or more – 15 pts

Identifying at-risk Utilities

- Risk Scores – First pass
 - › Scores ranged from 1 to 47
 - 71 scored <=10
 - 46 scored <=20
 - 15 scored <=30
 - 1 scored <=40
 - 5 scored >41
 - Average score 12.1 / median score 10
 - › Of the 5 utilities that scored 40 pts or greater
 - All water districts
 - All were inspected 3 years ago or longer
 - 3 had unaccounted-for water loss rates over 40% & 2 over 30%
 - All of these utilities will receive greater PSC attention

Unaccounted-For Water Loss

- What is the definition of Unaccounted-for (UAF) Water loss exceeding?
 - › Water produced or purchased less:
 - › Water sold
 - › System uses – flushing / plant / etc
 - › Fire department
 - › Remaining balance is UAF water loss
 - › Leaks identified but not repaired is included as part of UAF water loss

Unaccounted-For Water Loss

- UAF Water loss exceeding 15% is nationally recognized as excessive
 - › No enforceable PSC standard for excessive water loss
 - › UAF water loss over 15% is non-recoverable in rates
 - › Many jurisdictional water utilities have water loss rates in excess of 15% - 6 over 40% and 11 between 30% & 40%

Unaccounted-For Water Loss

- Excessive water loss threatens utilities financial viability
 - › ALL water loss has an inherent cost
 - › Water utilities with UAF water losses above 15% are considered excessively inefficient and costly
 - › Utilities incur costs to produce or purchase water that is unavailable for sale because it never reaches the customer
 - › Financial losses limit a utility's ability to reinvest in new infrastructure and repairs
 - › Failing infrastructure worsens the water loss problem and creates a vicious cycle

Unaccounted-For Water Loss

- Excessive water loss will be a primary focus of PSC interactions with water utilities
 - › PSC's position is that excessive water loss poses a threat to the utility's financial and operational stability & viability
 - › **Point of emphasis at PSC training seminars**
 - › UAF water loss exceeding 15% will be cited as a deficiency by water system inspectors
 - › Rate cases, purchased water adjustments, CPCNs and water financing cases will all include language on UAF water losses in excess of 15%
 - › A utility's Inability or continued inaction to reduce UAF water losses will lead to greater PSC attention

Unaccounted-For Water Loss

- Excessive water loss focus of PSC interactions with water utilities
 - › Annual Reports are being reviewed to identify utilities with UAF water loss in excess of 25%
 - › Financial impacts calculated and offending utilities will:
 - Receive letter with \$ costs, copying water commissioners and where applicable, the County Judge Executive
 - Listed on PSC website with \$ impact
 - › PSC will consider utility requests for surcharges to assist in financing UAF water loss reduction efforts

Unaccounted-For Water Loss

- Purchase Water Adjustments when the utilities most recent annual report exceeds 15%
 - › "The Commission notes that in its 2015 Annual Report [utility] reported a water loss of XX.XXXX percent. [Utility's] application provides updated purchases and sales information for a more current period than the 2015 Annual Report. Commission regulation 807 KAR 5:066(6)(3) states that for rate making purposes a utility's unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water consumed by a utility in its own operations. Based upon the updated information in the application and the percentage of other water consumed by the utility in its 2015 Annual Report, [utility's] unaccounted-for water loss is determined to be XX.XX percent for the updated period.

Reduction of [utility's] unaccounted-for water loss to 15 percent would result in an approximate \$xxx,xxx.xx decrease to purchased water expense. Potentially, [utility] is paying \$x.xxx per 1,000 gallons sold, for expenses associated with unaccounted-for water loss in excess of the allowable 15 percent threshold.

Unaccounted-For Water Loss

- Purchase Water Adjustments – Continued when the utilities most recent annual report exceeds 15%

The Commission is placing greater emphasis on monitoring utilities that consistently exceed the fifteen (15) percent unaccounted-for water loss threshold and strongly encourages [utility] to pursue reasonable actions to reduce its unaccounted-for water loss. Failure by [utility] to make significant progress towards reducing unaccounted-for water may cause the Commission to pursue additional action with the utility."

Unaccounted-For Water Loss

- Water Financing or CPCN Order – example

- › "The Commission notes that in its 2016 Annual Report "Utility" reported a water loss of 18.5072 percent. Commission regulation 807 KAR 5:066(6)(3) states that for rate making purposes a utility's unaccounted-for water loss shall not exceed fifteen (15) percent of total water produced and purchased, excluding water consumed by a utility in its own operations.

The Commission is placing greater emphasis on monitoring utilities that consistently exceed the fifteen (15) percent unaccounted-for water loss threshold and strongly encourages "Utility" to pursue reasonable actions to reduce its unaccounted-for water loss. Failure by "Utility" to make significant process towards reducing unaccounted-for water loss may cause the Commission to pursue additional action with the utility."

Unaccounted-For Water Loss

- Inspection Language – example

Public Service Commission staff performed a periodic inspection of the [utility] Water District water system on February 15, 2017, reviewing utility operations and management practices pursuant to Commission regulations. The report of this inspection is enclosed with this letter.

Based on the inspector's observations, the following deficiencies were identified: [Utility] Water District is failing to operate its facilities so as to provide adequate and safe service to its customers as required by 807 KAR 5:066, Section 7, due to water loss exceeding 15 percent. According to [utility] Water District's annual report for 2015, unaccounted-for water loss equaled approximately 29.24 percent of the District's total water purchased. The District purchased \$xx,xxx of water that cannot be recovered for rate making purposes.

For the deficiencies listed above, an explanation of why these deficiencies occurred and how these deficiencies will be remedied and prevented in the future needs to be provided.

Water Commissioners

- Duties and powers of water district commissioners (KRS 74.070, 74.080)
 - › Authority over all district powers, business and actions
 - › Determine rates and regulations, subject to PSC approval
 - › Enter into contracts, take legal actions
 - › Hire manager
 - › Adopt bylaws

BOTTOM LINE: Water district board, as a group and individually, is ultimately responsible for every aspect of a district's operations.

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- **Abandonment of Utilities**
- Forward Perspective

Abandonment of Utilities

- Issue is with primarily small, privately owned wastewater utilities
 - › Abandonment petitions have increased as package treatment plants age beyond design lives
 - › Limited ability of privately owned utilities to raise capital for system reinvestment
 - › Lack of reinvestment creates infrastructure failures
- General Assembly amended statute in 2016 to expand PSC role in dealing with troubled utilities
 - › But PSC's jurisdictional control is limited to small (3.8%) percentage of the total – as of 2015 only 35 out of 917
 - › The balance falls under the DOW

Abandonment of Utilities

- Wastewater is particularly difficult
 - › Facilities, both treatment plants and collector systems, are often in poor condition
 - › Utilities are in bad financial health
 - › Few, if any, options available for other service
- Tackling wastewater abandonment
 - › PSC works with county officials to facilitate transition to local sanitation district operations when possible
 - › Coordination with Division of Water to prevent outstanding enforcement issues from becoming transition obstacle to new operator
 - › Identify funding agencies for potential sources of capital to resolve underlying financial problems

Abandonment of Utilities

- Eleven abandonments in past five years
 - › 1 water utility closed
 - › 2 sewer utilities transferred to county sanitation districts
 - › 3 sewer utilities in receivership of county sanitation districts
 - › 4 sewer utility abandonments pending
 - › 1 natural gas utility closed
- PSC goal in all abandonment cases
 - › Maintain utility service while transitioning plant and assets to a financially viable operator
 - › If that is not possible, PSC seeks to provide time for an orderly transition to other service provider
 - › Worst possible outcome is financially insolvent forced shutdown of operations

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Looking Ahead and Moving Forward

- Challenges for all utilities
 - › Aging infrastructure / Inadequate capital funding
 - › Competition for limited government loans & grants
 - › Cyber Security threat
- Challenges for (sm)all water utilities
(Per National Regulatory Research Institute 2013 Report)
 - › Reluctance to raise rates
 - › Financial instability
 - › Unfamiliar with regulatory processes
 - › Technologically challenged

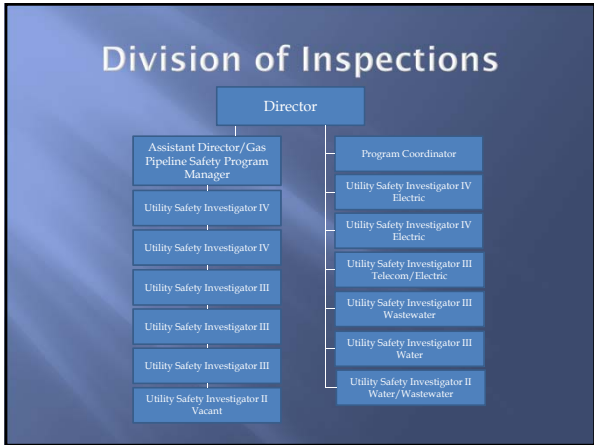
Looking Ahead and Moving Forward

- PSC has implemented many NRRI identified best practices for regulating small water utilities
 - › Offering electronic filing
 - › Simplified rate application process
 - › Availability of Staff assistance
- PSC has no interest in Bureaucratic interference
- PSC only interested in promoting financially stable & viable water utilities that are able to reinvest in their infrastructure and provide high quality, reliable, long term service

Questions?

KENTUCKY PUBLIC SERVICE COMMISSION
DIVISION OF INSPECTIONS
JOHN S. LYONS, DIRECTOR

Northern Kentucky Water Training Seminar
March 31, 2017



Regulated Water Utilities

- In 2015, the PSC received annual reports from 121 drinking water utilities throughout the state serving residential, commercial and industrial customers
 - 2 Investor-Owned - AMB \$55.73
 - 19 Water Associations - AMB \$37.76
 - 100 Water Districts - AMB \$40.41
- 673,704 customers
- 632,485,200,000 gallons sold

* Source - 2015 annual reports submitted to the Kentucky Public Service Commission

Inspection of Utilities

- One trained investigator for the water sector
- Inspection cycle
- As of January 2017, now schedule according to need
- Risk Ranking - "Not necessarily an indicator of performance deficiencies or concerns"
- Now collaborating with the Division of Water
 - Drinking Water Advisory Council
 - Data sharing

Inspection Process

- Contact utility to set inspection date(s)
- Utility is provided a document list and inspection checklist
- Internal records review
 - Case history
 - Annual Reports/Water Produced/Purchased/Loss
 - Previous Inspections
- Go through inspections checklist, reviewing utility documentation at office
 - Line break logs
 - Fire Dept. usage
 - Pressure charts
 - Facility self-inspections (tanks, meters, plant, etc.)

Inspection Process cont.

- Field Review
 - Plant
 - Tanks
 - Pump stations
 - Construction projects
 - Safety/Security
- Exit Interview
- Inspection provided to utility approximately 30 days later

Inspection Process cont.

- Full internal review of inspections by executive staff and the commissioners
- Frequent internal discussion on cited deficiencies
- Utility given 30 days to respond to deficiencies
- Failure to respond or to correct deficiencies will result in initiation of formal action

Areas of Concern

- Water loss*
 - Water Districts – 20% or 151 billion gallons
 - Water Associations – 15.3% or 17 billion gallons
 - Investor-Owned – 14.3% or 12.5 billion gallons
- Infrastructure
- Boil Water Notices
- Outage reporting under 807 KAR 5:006, Section 27
- Public notifications
- Deviation requests
- Written documentation of facility inspections
- Recommended comprehensive water storage tank inspections 3-5 years

*Source - 2015 annual report statistics compiled by the Kentucky Public Service Commission

QUESTIONS?

John S. Lyons
Director, Division of Inspections
john.lyons@ky.gov
502-782-2592

EXHIBIT 5

Kentucky Bar Association
Continuing Legal Education Commission
514 West Main Street
Frankfort, KY 40601-1812
Phone: 502-564-3795
Fax: 502-564-3225
<http://www.kybar.org>

Gerald Edward Wuetcher
110 Old Hickory Ln
Versailles KY 40383-1131



Re: CLE Activity Accreditation

Date: March 9, 2017

The application for CLE accreditation for the activity listed below has been approved by the KBA CLE Commission. Kentucky attorneys attending or participating in the activity who have NOT claimed CLE credit must file the appropriate reporting certificate as listed below.

Sponsor: Northern Kentucky Water District

Activity: Northern Kentucku Water Training

Location: Erlanger KY

Date: 03/31/2017

Activity No. 175043 Sponsor No. 8206

TOTAL CREDITS: 6.00 ETHICS CREDITS: 0.00

Ethics credits are INCLUDED in the TOTAL number of credits.

Please file a Form #3 for attendance at a live CLE program or completion of a technological program.

Should you require additional information, please contact Clifford Timberlake, Accreditation Coordinator at (502) 564-3795 ext. 228.

EXHIBIT 6

Wuetcher, Gerald

From: Sharp, Scott (DLG) <Scott.Sharp@ky.gov>
Sent: Tuesday, April 04, 2017 9:04 AM
To: Wuetcher, Gerald
Subject: RE: Training Approval Request

It was approved and entered into the system on 3/15/17 for 6.0 hours.

Scott

From: Wuetcher, Gerald [<mailto:Gerald.Wuetcher@skofirm.com>]
Sent: Monday, April 03, 2017 7:29 PM
To: Sharp, Scott (DLG) <Scott.Sharp@ky.gov>
Subject: Training Approval Request

Mr. Sharp:

On 3/14/2017 I submitted by e-mail on behalf of Northern Kentucky Water District a request for approval of its "Northern Kentucky Water Training 2017" as a qualified County Elected Officials Training Program. Please advise as to the status of Department of Local Government's review of this request.

Thank you for your assistance in this matter. If you have any questions regarding this message or the original request, please contact me.

Sincerely,

Gerald E. Wuetcher
Counsel to the Firm
Stoll Keenon Ogden PLLC
859-231-3000 (office)
859-231-3017 (direct)
859-550-3894 (cell)
300 West Vine St. Suite 2100
Lexington, KY 40507-1801
gerald.wuetcher@skofirm.com

Lexington | Louisville | Frankfort | Hodgenville | Evansville | Greater Pittsburgh | skofirm.com

The following message, and any documents or previous e-mails attached to it, may contain confidential information protected by the attorney-client privilege. If it was sent to you in error, do not read it. Please inform the sender that you received it and then delete it. Thank you.

EXHIBIT 7

MATTHEW G. BEVIN
GOVERNOR



CHARLES G. SNAVELY
SECRETARY

ENERGY AND ENVIRONMENT CABINET
DEPARTMENT FOR ENVIRONMENTAL PROTECTION

AARON B. KEATLEY
COMMISSIONER

300 SOWER BOULEVARD
FRANKFORT, KENTUCKY 40601

April 19, 2017

Northern KY Water District
Attn: Gerald Wuetcher
300 W Vine St. Ste 2100
Lexington, Kentucky 41075

Agency Interest Number: 2485

RE: Operator Certification Training Approval for Continuing Education Hours

To Whom It May Concern:

Your training request has been received by the Division of Compliance Assistance, Certification and Licensing Branch. Course approvals are reviewed and approved based on core content outlined by the cabinet and the Kentucky Board of Certification of Wastewater System Operators and the Kentucky Board of Certification of Drinking Water Treatment and Distribution System Operators. The core content lists can be located on our website, dca.ky.gov/certification.

Your request was reviewed by the Kentucky Board of Certification of Wastewater System Operators and/or the Kentucky Board of Certification of Water Treatment and Distribution System Operators at their most recent board business meeting. This letter serves as notification of the board and/or cabinet determination for continuing education credit.

Course Title	Date	Hours & Type Approved	DCA Event ID#	Comments
Northern Kentucky Water Training Program 2017	05/04/2017	DW - 6.0 Hours approved WW - 0 Hours approved	16635	One time Approval WW-not wastewater related.

Upon completion of the approved training, the provider shall submit to the cabinet a completed Continuing Education Activity Report form. This form can be located on the program's website at dca.ky.gov/certification. The program will no longer accept rosters that are not submitted on the cabinet's Continuing Education Activity Report form or electronically through the cabinet's website. If a continuing education activity report was attached to the training approval request, please be aware that the operators will only receive credit for the number of hours approved by the board(s).

If you have any questions or need additional information, please contact the Division of Compliance Assistance, Certification and Licensing Branch at (502) 564-0323.

Sincerely,

Veronica Roland
Certification and Licensing Branch