

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF)	
NORTHERN KENTUCKY WATER DISTRICT)	
AND STOLL KEENON OGDEN PLLC FOR)	CASE NO. 2018-00091
ACCREDITATION AND APPROVAL OF A)	
PROPOSED WATER DISTRICT)	
MANAGEMENT TRAINING PROGRAM)	

NOTICE OF FILING

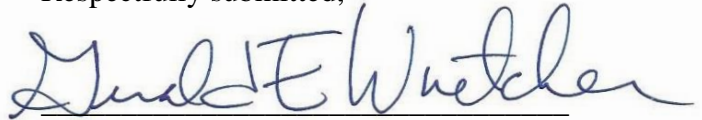
Northern Kentucky Water District and Stoll Keenon Ogden PLLC give notice of the filing of the following documents:

1. A sworn statement attesting that the proposed course of instruction entitled “Northern Kentucky Water Training 2018” was performed on March 26, 2018 (**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 list of materials included on a flash drive provided to each program attendee and a copy of all written materials given to program attendees not included in the Application (**Exhibit 4**);
5. Approval of the proposed program for continuing legal education accreditation by the Kentucky Bar Association (**Exhibit 5**);
6. Approval of the proposed program for accreditation by the Division of Compliance Assistance for Continuing Education for Drinking Water and Waste Water System Operators (**Exhibit 6**).

7. Notice of the submission and acceptance of an application for accreditation of the proposed program by the Department of Local Government for Elected County Officials Training Incentive Program (**Exhibit 7**). (The Department of Local Government has not reviewed the application and cannot state when its review will be performed.)

Dated: April 24, 2017

Respectfully submitted,

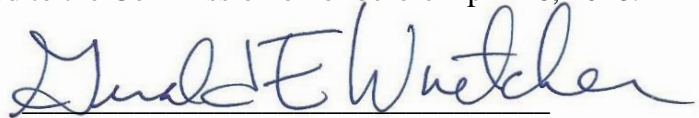


Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
gerald.wuetcher@skofirm.com
Telephone: (859) 231-3017
Fax: (859) 259-3517

Counsel for Applicants

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the Joint Applicants' April 24, 2018 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 24, 2018; 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 April 26, 2018.



Gerald E. Wuetcher

EXHIBIT 1

COMMONWEALTH OF KENTUCKY)
) SS
COUNTY OF FAYETTE)

AFFIDAVIT

Gerald Wuetcher, being duly sworn, states that:

- 1. He is special legal counsel for Northern Kentucky Water District and is an attorney with Stoll Keenon Ogden PLLC.
2. He served as the organizer and program coordinator of the water training program entitled "Northern Kentucky Water Training 2018."
3. The "Northern Kentucky Water Training 2018" was held on March 26, 2018 at the offices of Northern Kentucky Water District, 2835 Crescent Springs Road, Erlanger, Kentucky.
4. The presentations listed in the proposed program agenda submitted to the Kentucky Public Service Commission were conducted for the length of the time specified and by the listed presenters.

Gerald Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street
Suite 2100
Lexington, Kentucky 40507

Subscribed and sworn to before me by Gerald Wuetcher, on this April 24, 2018. My Commission expires: 1-19-19

Notary Public
No. 526001

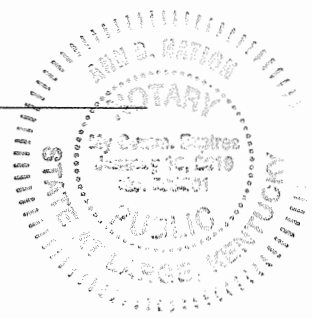


EXHIBIT 2

CHANGES TO PROPOSED AGENDA

The agenda found at Exhibit 1 of the Application failed to identify Gerald Wuetcher as the presenter for the presentation “Public Service Commission Treatment of Employee Compensation.” With the exception of the presentation “Eliminating Harassment in the Workplace,” all of the presenters made revisions to the presentations found at Exhibit 3 of the Application. A copy of each revised presentation is found at Exhibit 4 to this Notice.

EXHIBIT 3

**WATER DISTRICT COMMISSIONERS ATTENDING
NORTHERN KENTUCKY WATER TRAINING PROGRAM 2018**

LAST NAME	FIRST NAME	WATER DISTRICT	HRS
ADAMS	RICK	PENDLETON COUNTY WATER DISTRICT	6.0
BEALL	TOM	JESSAMINE-SOUTH ELKHORN WATER DISTRICT	6.0
BEST	TONY	NORTH MERCER WATER DISTRICT	6.0
BODEN	DAVID	PENDLETON COUNTY WATER DISTRICT	6.0
BURGESS	BOBBY	BULLOCK PEN WATER DISTRICT	6.0
CAIN	CHARLIE	BOONE COUNTY WATER DISTRICT	6.0
CORMAN	CLAY	JESSAMINE-SOUTH ELKHORN WATER DISTRICT	6.0
CUNNINGHAM	CLYDE	NORTHERN KENTUCKY WATER DISTRICT	6.0
DAUGHTERY	JAMES	BOONE COUNTY WATER DISTRICT	6.0
FAULKNER	L.R.	PENDLETON COUNTY WATER DISTRICT	6.0
FLAUGHER	BILL	EAST PENDLETON COUNTY WATER DISTRICT	6.0
GIORDANO	MIKE	BOONE COUNTY WATER DISTRICT	6.0
HAWS	JERRY	JESSAMINE-SOUTH ELKHORN WATER DISTRICT	6.0
KNOCK	RICHARD	BOONE COUNTY WATER DISTRICT	6.0
KOESTER	JOE	NORTHERN KENTUCKY WATER DISTRICT	6.0
MACKE	FRED	NORTHERN KENTUCKY WATER DISTRICT	6.0
MOORE	BRENT	PENDLETON COUNTY WATER DISTRICT	6.0
SATCHWELL	VICK	GALLATIN COUNTY WATER DISTRICT	6.0
SHEPERSON	GERALD	NORTH MERCER WATER DISTRICT	6.0
SHORT	ROY	NORTH MERCER WATER DISTRICT	6.0
SOMMERKAMP	PAT	NORTHERN KENTUCKY WATER DISTRICT	6.0
SPAULDING	DAVID	NORTHERN KENTUCKY WATER DISTRICT	6.0
STRANGE	JOE	PENDLETON COUNTY WATER DISTRICT	6.0
WAGNER	DOUG	NORTHERN KENTUCKY WATER DISTRICT	6.0
WALTON	ANDREAS	BULLOCK PEN WATER DISTRICT	6.0
WETHINGTON	WILLIAM	BULLOCK PEN WATER DISTRICT	6.0
WILLIAMS	RAYMOND	WEST SHELBY WATER DISTRICT	6.0

EXHIBIT 4

DIGITAL LIBRARY CONTENTS

Presentations – 26 March 2018

Agenda

Speaker Profiles

Recent Developments in Utility Regulation

Eliminating Harassment in the Workplace (PDF Format) (PowerPoint Format)

Public Service Commission Treatment of Employee Compensation (PDF Format)
(PowerPoint Format)

Extending Meter Service Life (PDF Format) (PowerPoint Format)

Keeping Lead Out of Kentucky's Drinking Water (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)

Drinking Water System Basics (PDF Format)

EEO No! A Discrimination Law Primer (PDF Format)

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

E-911 Funding Alternatives (PDF Format)

General Reference

American Water Works Association - Glossary of Terms

Compilation of Kentucky Public Utility Laws as of July [15, 2016](#)

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

IPU – Primer on Water Pricing

Kentucky Division of Water, Organization Chart (As of March 1, 2018)

Kentucky Division of Water, Phone Listing (As of March 1, 2018)

Kentucky Division of Water, Water Referral Directory (As of March 1, 2018)

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)

Public Service Commission, Procedures For Approval of Meter Testing Facilities, Basic Measurement Standards and Meter Testing (May 31, 2017)

Public Service Commission, Procedures For Approval of Meter Testing Facilities, Basic Measurement Standards and Meter Testing - Notice of Extension (December 27, 2017)

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)

City of Lancaster v. Garrard County, Kentucky, No. 2013-CA-000716-MR (Ky. Ct. App. Aug. 11, 2017)

Garrard County Water Association v. Garrard County, No. 2017-SC-000469 (Ky. Supreme Court filed Sept. 8, 2017) (Motion for Discretionary Review)

Greater Cincinnati/Northern Kentucky Apartment Association, Inc., 2014-SC-000383-TG (Ky. Oct. 29, 2015)

E-911 Funding Alternatives (Presentation to KACo County Officials Leadership Institute (Oct. 12, 2017)

Whitley County Fiscal Court Ordinance No. 2016-02 (Apr. 19, 2016)

Abandonment of Utility

Bullitt Utilities Inc., Case No. 2014-00255 (Ky. PSC Aug. 31, 2015)

Bullitt Utilities Inc., Case No. 2016-00401 (Ky. PSC Oct. 12, 2017)

Cedar Hills Sanitation Disposal Corporation, Inc., Case No. 2015-00100 (Ky. PSC Apr. 11, 2016)

Friendly Park Development, Inc., Case No. 2015-00101 (Ky. PSC Apr. 11, 2016)

PSC Staff Opinion 2015-011 (Aug. 21, 2015)

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)

Examination of Certain Financial Transactions, Policies, and Procedures of the Kentucky League of Cities, Inc. (Dec. 2009)

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

Boiled Water Advisories

Deviation From Requirements of Administrative Regulation 807 KAR 5:066, Section 3(4)(B) Regarding Notice To Commission, Case No. 2017-00355 (Ky. PSC Oct. 12, 2017)

Press Release, Kentucky Public Service Commission, *PSC Cuts Red Tape – Ends Redundant Reporting Requirement* (Oct. 12, 2017)

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)

PSC Staff Opinion 2017-002

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

Oakley v. Flor-Shin, Inc., 964 S.W.2d 438 (Ky.App. 1998)

Tilley v. Kalamazoo County Road Commission, 777 F.3d 303 (6th. Cir. 2015)

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)

EPA, Ensuring a Sustainable Future: An Energy Management Guidebook for Wastewater and Water Utilities (Jan. 2008)

Grant Van Hemert, P.E., "Reducing Energy Usage in Water and Wastewater Facilities", Water Online: The Magazine

John E. Regnier and Richard Winters, Small System Electric Power Use: Opportunities for Savings (May 8, 2008)

New York State Energy Research & Development Authority, Water & Wastewater Energy Management: Best Practices Handbook (Sept. 2010)

World Bank, A Primer on Energy Efficiency for Municipal Water and Wastewater Utilities (Feb. 2012)

Ethics for Utility Board Members

Andrea Shindlebower Main, "Decoding Your Local Code of Ethics," Kentucky City, Vol. 3, No. 4 (Dec. 2013)

Department of Local Government, Local Government Ethic Codes

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)

Filing Requirements Checklists

Application for Initial Approval of Water District Commissioner's Training Program
Application for Authority to Adjust Rates – Sewer Utility
Application for a Certificate of Public Convenience and Necessity (Sewer Facilities)
Application for a Certificate of Public Convenience and Necessity – General
Application for a Certificate of Public Convenience and Necessity (Federally Funded Projects)
Application for a Certificate of Public Convenience and Necessity (Initial Operations with Tariff)
Application for a Certificate of Public Convenience and Necessity (Initial Operations without Tariff)
Application for Authorization to Borrow Funds
Application for General Rate Adjustments (Fully Forecasted Test Period)
Application for General Rate Adjustments (Historical Test Period)
Application for Non-recurring Charges
Application for Purchased Water Adjustment (Privately Owned Utilities)
Application for Purchased Water Adjustment (Water Districts and Water Associations)
Application for Sewage Treatment Adjustment
Application to Transfer Control/Ownership of Facilities

Financial Management

RCAP, The Basics of Financial Management for Small-Community Utilities (2011)
RCAP, The Basics of Financial Management for Small-Community Utilities - Part 1 (Video)
RCAP, The Basics of Financial Management for Small-Community Utilities - Part 2 (Video)

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)
Kentucky-American Water Company, Case No. 2007-00450 (Ky. PSC Feb. 28, 2008)
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)
OAG Opinion 78-253

OAG Opinion 78-790
OAG Opinion 84-147
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)

Franchise Agreements-Water Purchase Agreements

Amicus Brief of KRWA, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed Aug. 11, 2017)
Appellant's Brief, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed July 21, 2017)
Declaration of Rights and Order Granting Plaintiff's Motion for Summary Judgement, *Ledbetter Water District v. Crittenden-Livingston Water District* (Livingston Cir. Ct. Jan. 25, 2017)
KRWA Motion for Leave to File An Amicus Brief, *Crittenden-Livingston Water District v. Ledbetter Water District*, No. 2017-CA-000578 (Ky. Ct. App. filed Aug. 11, 2017)

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 Marion County Water District*, Case No. 2016-00068 (Ky. PSC Nov. 10, 2016)
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)

Health Insurance and Other Employee Fringe Benefits

Bureau of Labor Statistics, Employee Benefits In The United States – March 2016 (July 22, 2016)

Bureau of Labor Statistics, Employee Benefits In The United States – March 2017 (July 21, 2016)

Bureau of Labor Statistics, Employer Costs for Employee Compensation – March 2017 (June 9, 2017)

Bureau of Labor Statistics, Employer Costs for Employee Compensation – December 2017 (Mar. 20, 2018)

Cumberland Valley Electric, Inc., Case No. 2016-00169 (Ky. PSC Feb. 6, 2017)

Estill County Water District No. 1, Case No. 2017-00176 (Aug. 9, 2017) (Staff Report)

Farmers Rural Electric Cooperative Corp., Case No. 2016-00365 (Ky. PSC May 12, 2017)

Kaiser Family Foundation and Health Research & Educational Trust, Employer Health Benefits – 2016 Annual Survey (2016)

Kentucky League of Cities, *Wage and Salary Survey of Kentucky Cities (2016)*

Kentucky Rural Water Association, *2017 KRWA Compensation and Benefit Survey Results*

Nebo Water District, Case No. 2016-00435 (Ky. PSC June 5, 2017)

Nolin Rural Electric Cooperative Corp., Case No. 2016-00367 (Ky. PSC June 21, 2017)

North Mercer Water District, Case No. 2016-00325 (May 19, 2017)

Robert J. Cicero, Comments at the Kentucky Chamber of Commerce Energy Conference (Jan. 18, 2018)

Willis North America, Inc., The Willis Benefits Benchmarking Survey – Survey Report 2015

House Bill 1

House Bill 1 (2013 General Session)

House Bill 192 (2014 General Session)

House Bill 348 (2015 Ky. General Session)

House Bill 348 – Senate Floor Amendment 2 (2015 Ky. General Session)

Emergency Administrative Regulation (With Regulatory Impact Analysis and Fiscal Note)

109 KAR 16:010

Department of Local Government, SPGEs Informational Portal

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)

Federal Trade Commission, 16 C.F.R. Part 681, Identity Theft Rules (Dec. 2012)

Federal Trade Commission, Fighting Identity Theft with the Red Flags Rule: A How-To Guide for Business (May 2013)

House Bill 5

House Bill 232

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

Landlord Liability for Tenant Bills

August Properties, LLC v. City of Burgin, No. 2015-CA-001570-DG (Ky. Ct of Appeals Oct. 27, 2017)

Cassidy v. City of Bowling Green, 368 S.W.2d 318 (Ky. 1963)

Hardin County Water District No. 1, Case No. 9383 (Ky. PSC Aug. 26, 1985)

Jessamine-South Elkhorn Water District, Case No. 2003-00168 (Ky. PSC Feb. 18, 2004)

OAG Opinion 73-520 (July 6, 1973)

Plunkett v. City of Muldraugh, 403 S.W.2d 252 (Ky. 1966)

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)
City of Lawrenceburg, Kentucky, Case No. 2006-00067 (Ky. PSC Nov. 21, 2006)
City of North Middletown, Kentucky, Case No. 2006-00072 (Ky. PSC Jan. 12, 2007)
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)

Pensions – State and Local

Letter from John Chilton, State Budget Director, to all CERS Employers, CERS Pension Plans (Sept. 7, 2017)

Privacy Protection

Destruction of Records Act (KRS 365.720 .730)
House Bill 5
House Bill 232
Department of Local Government, Protection of Personal Information: Security and Incident Investigation Procedures and Practices for Local Governmental Units (Fall 2014)

Public-Private Partnerships

Michael H. Novak, "Entering into a public-private partnership for operations and maintenance? Here are five pitfalls to avoid," *Rural Matters* No 3 (2013)

PSC Investigations

Corinth Water District, Case No. 2013-00187 (Ky. PSC May 21, 2013)

Corinth Water District, Case No. 2013-00187 (Ky. PSC Oct. 21, 2013)

Damon Talley, When Bad Things Happen: PSC Investigations (Oct. 27, 2015) (PDF Format) (PowerPoint Format)

Kentucky Public Service Commission, Guidance on Glass Lined Bolted Steel Water Standpipes (July 30, 2015)

Kentucky Public Service Commission, Guidance on Notification Procedures for Utility Related Incidents (Mar. 27, 2015)

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)

PSC Orders Discussed in Presentation

Aqua Corporation, Case No. 89-307 (Ky. PSC Dec. 7, 1989)

Beech Grove Water System, Case No. 2016-00255 (Ky. PSC Aug. 3, 2016)

Caldwell County Water District, Case No. 2016-00054 (Ky. PSC July 21, 2016)

Columbia Natural Gas of Kentucky, Case No. 2016-00181 (Ky. PSC Sept. 9, 2016)

Kenergy Corp., Case No. 2015-00312 (Ky. PSC Sept. 15, 2015)

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)

Wood Creek Water District, Case No. 2016-00338 (Ky. PSC Feb. 23, 2017)

PSC Regulatory Issues

Alternative Rate Filing Procedures: Rate Adjustments Made Easy (Power Point Presentation) (Sep. 2015)

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

Purchased Water Adjustment

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

Rate Application Forms

Alternative Rate Filing Application Forms

Records Retention

Kentucky Department of Libraries and Archives, Local Governments General Records Retention Schedule
Kentucky Department of Libraries and Archives, Managing Government Records
National Association of Regulatory Utility Commissioners (NARUC), Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities (1974)
NARUC, Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities (2007)

Reciprocal Preference Bidding Law

Finance and Administration Cabinet, Kentucky Preference Laws (Power Point Presentation)
Required Affidavit for Bidders, Offerors and Contractors Claiming Resident Bidder Status
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

Reduction of Lead in Drinking Water Act (S. 3784)
Environmental Protection Agency, EPA 815-S-13-001, Summary of the Reduction of Lead in Drinking Water Act and Frequently Asked Questions (Oct. 2013)

Regulated Substances for Accidental Release Prevention

List of Substances, 40 CFR 68.130

Salaries and Wages

Caldwell County Water District, Case No. 2016-00054 (Ky. PSC May 4, 2016) (Staff Report)

Caldwell County Water District, Case No. 2016-00054 (Ky. PSC July 21, 2016)

Kenergy Corp., Case No. 2015-00312 (Ky. PSC Sept. 15, 2016)

Kentucky League of Cities, *Wage and Salary Survey of Kentucky Cities (2016)*

Kentucky Rural Water Association, *2017 KRWA Compensation and Benefit Survey Results*

Water Service Corporation of Kentucky, Case No. 2013-00237 (Ky. PSC July 24, 2014)

Security

American Society of Civil Engineers, *Guidelines for Physical Security of Water Utilities (2006)*

Security Deposits

Kentucky Public Service Commission, *Frequently Asked Questions Regarding Interest on Customer Deposits*

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

Kentucky Public Service Commission, *2014 Guidance on Security Deposit Interest Rates*

Kentucky Public Service Commission, *2015 Guidance on Security Deposit Interest Rates*

Kentucky Public Service Commission, *2016 Guidance on Security Deposit Interest Rates*

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

Kentucky Public Service Commission, *2018 Guidance on Security Deposit Interest Rates*

KRS 278.460

PSC Staff Opinion 2013-001

Sovereign Immunity

Coppage Construction Company, Inc. v. Sanitation District No. 1 and DCI Properties-DKY, LLC, 459 S.W.3d 855 (Ky. 2015)

Sliding Sales Inc. v. Warren County Water District, 984 S.W.2d 490 (Ky.App. 1998)

South Woodford Water District v. Byrd, No. 2009-CA-000854-MR (Ky. Ct. of App. Sept. 23, 2011)

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

Estill County Water District No. 1, Case No. 2017-00176 (Ky. PSC Aug. 18, 2017)
Estill County Water District No. 1, Case No. 2017-00467 (Ky. PSC Feb. 20, 2018)
Estill County Water District No. 1, Case No. 2017-00467 (Ky. PSC Feb. 28, 2018)
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)

Review of Training Required and Authorized By KRS 74.020 For The Commissioners of Water Districts, Case No. 2018-00085 (Ky. PSC Mar. 15, 2018)

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)

Hardin County Water District No. 2, Case No. 2016-00432 (Ky. PSC Mar. 22, 2018)

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)


2018 NORTHERN KENTUCKY WATER TRAINING
 March 26, 2018

Northern Kentucky Water District
 STOLL · KEENON · OGDEN

2018 NORTHERN KENTUCKY WATER TRAINING

WELCOME

Ron Lovan, P.E., President & CEO
 Northern Kentucky Water District

 **March 26, 2018**

SPONSORED BY Northern Kentucky Water District STOLL · KEENON · OGDEN

2018 NORTHERN KENTUCKY WATER TRAINING

HOT LEGAL TOPICS

March 26, 2018

Damon R. Talley
 Stoll Keenon Ogden PLLC
 damon.talley@skofirm.com

SPONSORED BY Northern Kentucky Water District STOLL · KEENON · OGDEN

DISCUSSION TOPICS

1. Notice to PSC
2. Franchises & Contracts
3. Excessive Water Loss
4. Borrowing Money

Continued . . .



DISCUSSION TOPICS

5. Recent PSC Orders
6. 2018 General Assembly
7. Prevailing Wages





PSA for PSC



Reporting Requirements

- Must Notify PSC if . . .
 - Vacancy Exists
 - Appointment Made
- When? Within 30 Days

Vacancy

- Inform CJE 60 Days Before Term Ends (KRS 65.008)
- CJE / Fiscal Court – 90 Days
- Then, PSC Takes Over
 - CJE Loses Right To Appoint

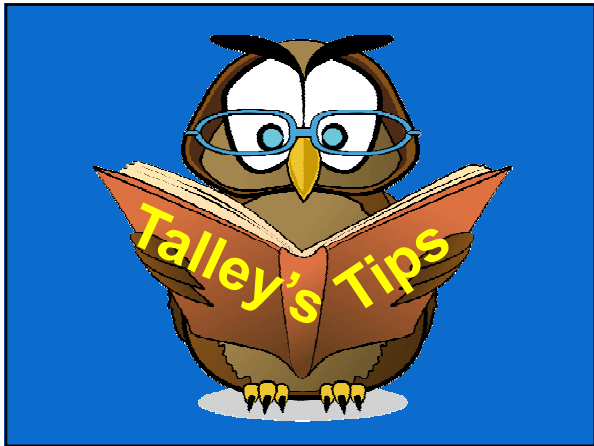


E-Mail Address Regs.

- All PSC Orders Served by E-mail
- Duty to Keep Correct E-mail Address on file with PSC
 - Default Regulatory E-mail Address
- Duty to List E-mail Address in Application & All Other Papers
 - Utility Official
 - Its Attorney


E-Mail Address

- Who is Covered?
 - Water Districts
 - Water Associations
 - Investor Owned Utilities
 - **Municipal Utilities**



Default Regulatory E-mail Address

- Send E-mail to PSC
 - psc.reports@ky.gov
- Send Letter to PSC
 - Gwen R. Pinson,
Executive Director



**Franchises
and
Contracts**



Franchise

- Definition
 - Private
 - Rights granted by company to individual or business to sell a product
 - Examples





Franchise

- Definition
 - Government
 - Privilege granted by government to utility to provide specific utility service
 - Permission to erect facilities over & under streets, alleys, & sidewalks
 - Fee: 3%
 - Examples





Livingston County Case
Ledbetter W.D.
vs.
Crittenden-Livingston WD
Circuit Court
Case No. 2015-CI-00079
Opinion Rendered: 1-25-17
Status: On Appeal

**Franchise Case - Holding
40-year
Water Supply Contract
Between 2 Water Districts
Invalid**

- Why? Contract = Franchise
- Over 20 Years
- Basis: Kentucky Constitution Section 164



Franchise Case
Crittenden - Livingston WD
vs.
Ledbetter WD
Court of Appeals
Case No. 2017-CA-000578
Briefs Filed: 7-31-17 & 9-21-17
Amicus Brief: 8-11-17
Status: Pending

Ky. Constitution Section 164
No county, city, town, taxing district or other municipality shall be authorized or permitted to grant any franchise or privilege, or make any contract in reference thereto, for a term exceeding **twenty years**. Before granting such franchise or privilege for a term of years, such municipality shall first, after due advertisement, receive bids therefor publicly, and award the same to the highest and best bidder; but it shall have the right to reject any or all bids.

Why?

- 340 Water Utilities
- 169 WTPs
- 50% Buy Water
- Need Water Supply Contract
- Long Term

...



How Long Is Long Term?

- Lender
 - RD: 40 years
 - KIA: 20 or 30 years
 - Bonds: Length of Bonds



Significance

- If Franchise . . . 20 Year Limit
 - Can't Borrow \$ from RD
 - Other Sources – Only if < 20 years
 - KIA
 - Bonds
 - KRWFC



Legal Analysis

- Does Water District Have Franchising Authority?
 - Constitution: **NO**
 - Judge: **YES**
 - Damon: **NO**



Circuit Judge's Rationale

- Sovereign Power → Franchise
- Water District is Sovereign Power
- Water District → Franchise
- Problem
 - Ignored Wording of Constitution



Legal Analysis

- Is Water Purchase Agreement a Franchise?
 - Constitution: Silent
 - Case Law: Silent
 - AG Opinion: Yes 1981
 - Judge: Yes
 - Damon: No



Circuit Judge's Rationale

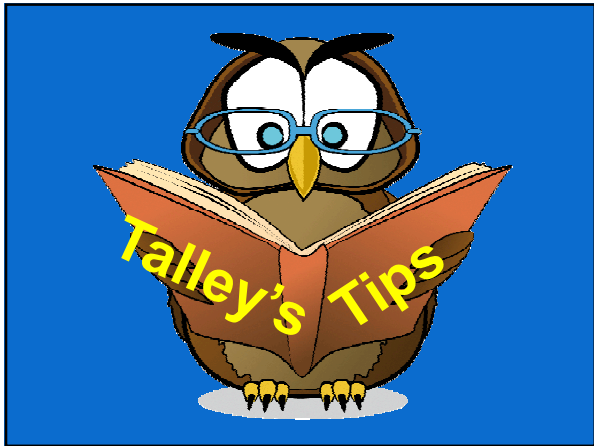
- "The court concludes that the Water Purchase Contract is in fact a franchise . . ."
- Conclusion
- No Explanation

KRWA's Role

- Filed Amicus Brief
 - "Friend" of Court
- Protect Validity of Contracts
- Protect Ability to Obtain \$


What's Next?

- All Briefs Filed
- Oral Arguments 4-24-18
- C/A Decision ? ? ?
- Ky. Supreme Court ? ? ?



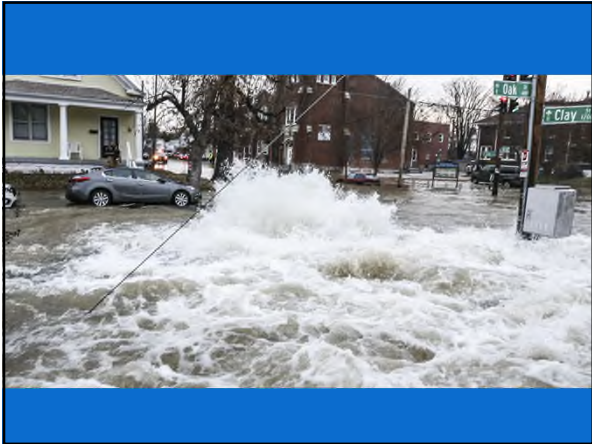
Your Role

- Ruling Is Limited to Livingston County . . . for Now
- Don't Change Behavior . . . for Now
- Stay Tuned
- Alert KRWA



**Excessive
Water
Loss**





Unaccounted-for Water Loss

- 807 KAR 5:066, Section 6(3)

“... 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 used by a utility in its own operations.”

Terms

- Unaccounted-for Water Loss
 - 15% Maximum
 - Allowance for Flushing, Etc.
- NRW – Non Revenue Water
 - No Allowance for Flushing
- Ray’s Ratio

Ray's Ratio

Water Produced & Purchased
Water Sold

$$\frac{1,436,000}{1,306,673} = 1.099$$

Ray's Ratio

- Ray's Ratio: 1.099
- For Every 1,000 Gallons Sold
- Produce or Purchase:
1,099 Gallons
- Extraordinary !!!

Water Loss Comparison

	Utility	Unaccounted For Water	NRW	Ray's Ratio
1	Oldham Co.	7.4 %	9.0 %	1.099
2	Low WL-1	9.5 %	12.2 %	1.139
3	Low WL-2	10.9 %	12.2 %	1.139
4	Low WL-3	12.4 %	13.0 %	1.149
5	Low WL-4	11.6 %	14.4 %	1.169

Water Loss Comparison				
	Utility	Unaccounted For Water	NRW	Ray's Ratio
6	Med. WL-1	14.4 %	15.7 %	1.187
7	Med. WL-2	14.4 %	16.7 %	1.200
8	Med. WL-3	9.9 %	18.9 %	1.233
9	Med. WL-4	13.0 %	19.4 %	1.241
10	My Utility	_____ %	_____ %	_____

Water Loss Comparison				
	Utility	Unaccounted For Water	NRW	Ray's Ratio
11	EWL - 1	14.4 %	28.3 %	1.395
12	EWL - 2	27.9 %	31.6 %	1.462
13	EWL - 3	21.5 %	32.2 %	1.476
14	EWL - 4	14.9 %	31.7 %	1.545
15	EWL - 5	37.1 %	51.4 %	2.058

PSC Case No. 2016 - 068
 Decided: 8-17-16
 Utility: Water District
 Type: ARF
 Issue: Excessive Line Loss

PSC Held:

- Water Loss 39%
 - 15% Maximum Allowed
 - Disallowed 24% Excess
- Disallowed \$135,000 Expenses Excess Water Loss (Cost to Purchase & Pump)



PSC Ordered:

“The Commission is concerned with **excessive water loss** and related costs and directs ____ District to **develop and formally adopt a written plan to reduce excessive water loss**. The plan should identify all sources of water loss and each corrective action ____ District will take to minimize water loss from each source.”



**Other
Recent
Water Loss
Cases**



PSC Case No. 2017-064

Decided: 3-09-2017

Utility: Water District

Type: CPCN Granted

Holding: Reprimand & Warning
Loss = 17%



PSC Ordered:

"Failure by _____ District to make **significant** progress towards **reducing** unaccounted-for water loss may cause the Commission to pursue **additional action** with the utility."



Actions by PSC

- Inspection Report
- ARF Case
- CPCN Case
- .023 Case
- PWA Case
- Financing Case
- Deviation Case
- Sewer CPCN Case



Actions by PSC

- Emphasis at Training
- Reduce Rates
- Reprimand & Warning
- PWA Cases
 - Dollars & Cents

Continued . . .



Actions by PSC

- Copy of Inspection Report
 - CJE & Fiscal Court
 - Utility Commissioners
 - Local Newspaper?
- PSC Website?



Borrowing



KRS 278.300(1)

No utility shall issue any securities or evidences of indebtedness . . . until it has been authorized to do so by order of the Commission.



Practical Effect

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)

- Exception:
 - 2 Years or Less
 - 2 Renewals
(3 X 2 = 6 Years)





Violation

Show Cause Case


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



Consequences

- Debt Service Expense Excluded From Rates
- Delay Implementation of New Rates
- Formal Hearing
- Must Hire Attorney (1 or 2)

Continued . . .



Consequences

- Must Advertise Hearing
 - Link to PSC Website
- Hearing Livestreamed
- Commissioners Resign
- Fine (Suspended?)
- Threaten Merger
- Go to Training



Who Is Affected?

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



Talley's Take Aways

- PSC Commissioners:**
- PSC is **Serious** About . . .
 - Excessive Water Loss
 - Borrowing Money
 - Enforcing Its Orders

- PSC Commissioners:**
- Take Their Jobs Seriously
 - Hands On
 - Love Hearings
 - Promote Transparency
 - Oversight Means Oversight



PSC Case No. 2016-432

Filed: 12-29-2016
Utility: Hardin Co. WD No. 2
Type: Deviation
Issue: 15 Year Meters
Sample Testing
Decided: 03-22-2018

PSC Case No. 2017-127

Filed: 3-10-2017
Utility: North Mercer WD
Type: Deviation
Issue: Office Open
4 Days a Week
Decided: 3-16-2018

PSC Case No. 2017-458

Filed: 12-22-2017
Utility: Southeast Daviess WD
Type: CPCN
Issue: Smart Meters
Decided: 02-27-2018



PSC Case No. 2017-459

Filed: 12-22-2017
Utility: West Daviess WD
Type: CPCN
Issue: Smart Meters
Decided: 02-27-2018



PSC Case No. 2017-246

Filed: 6-30-2017
Utility: McCreary Co. WD
Type: Deviation
Issue: Daily Inspection of
Grinder Pumps
Decided: 2-01-2018



PSC Case No. 2016-394

Filed: 11-18-2016
Utility: Ky. American
Type: Deviation
Issue: Annual Inspection of
Meters & Valves
Decided: 12-12-2017



PSC Case No. 2016-427

Filed: 12-08-2016
Utility: Northern KY WD
Type: Deviation
Issue: Annual Inspection of
Meters & Valves
Decided: 02-01-2018




**2018
General
Assembly**




Bills to Watch


- SB 117 – Ky. 811
- SB 151 – Wastewater
- HB 513 – Private WWTPs
 - Spin-off from HJR 56



Prevailing Wages



~~Prevailing Wages~~



Prevailing Wages

- ## Prevailing Wages
- State PW Repealed
 - HB 3
 - When? 1-9-2017
 - Federal PW
 - Davis - Bacon Act

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

Davis - Bacon Wages

- DB Triggered By:
 - Public Works Project
 - Public Authority and
 - **Funding Source**



Davis - Bacon Wages ?

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

Davis - Bacon Wages ?


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





Davis - Bacon Wages

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



QUESTIONS?

damon.talley@skofirm.com

270-358-3187


STOLL
KEENON
OGDEN





Public Service Commission
Treatment of Employee Compensation


Gerald Wuetcher
Stoll Keenon Ogden PLLC
gerald.wuetcher@skofirm.com
<https://twitter.com/gwuetcher>
859.231.3017



Order of Presentation

- ❖ Legal Standards
- ❖ Salaries/Wages
- ❖ Bonuses
- ❖ Commissioner Salaries/Fringe Benefits
- ❖ Health Insurance Coverage
- ❖ Other Insurance
- ❖ Pension/Retirement Benefits


Legal Standards



Presumption of Reasonableness

Management decisions are presumed to be reasonable.

- ✧ Presumption continues until shown:
 - Expenses are inefficient/improvident
 - Managerial discretion has been abused
 - Action is contrary to public interest
 - Expenses are in excess of just and reasonable charges




PSC Authority

Limited to Regulation of Rates & Service

- ✧ KRS 278.040 grants PSC the authority to regulate utility rates and service
- ✧ No authority to operate or manage the affairs of the utility
- ✧ PSC may disallow recovery of unlawful or unreasonable expense
- ✧ Disallowance of an expense does not prohibit a utility from incurring the expense, only from passing on to ratepayers through utility rates


Wages and Salaries



Annual Wage Increases


Potential Problem Areas

- ❖ Unusual or disparate increases in salaries
- ❖ Excessive/Unreasonable increases
- ❖ Unexplained increases




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."




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 focused not on reasonableness of the amount of increase but whether ***the total compensation was unreasonable***



Case No. 2016-00054

- ❖ Utility provided varying annual wage increases
- ❖ Range of increases: 3.0% to 4.5%
- ❖ No written explanation for variations
- ❖ No discussion in Board minutes
- ❖ GM provided explanation to PSC staff
- ❖ PSC staff recommends approval



Case No. 2016-00054

- ❖ PSC accepts recommendation but expresses concerns
- ❖ Notes *"the lack of information to evaluate salaries and wages paid to North Mercer's employees, especially given that no basis or justification has been provided for its annual wage and salary increases"*
- ❖ **Note:** PSC focus is on **ALL** increases



Case No. 2016-00054

The Commission has begun placing more emphasis on performance-based evaluations of salary and benefits provided by utility providers as they relate to **competitiveness in a broad marketplace**. Future rate applications . . . should include a performance-based validation method to justify raises.

Order of 5/29/2017 at 3-4



Case No. 2017-00070

- ❖ Utility reviewed wages 2X annually:
 - Cost-of-living
 - Performance Evaluation
- ❖ Utility did not use a defined price index to establish cost-of-living increase
- ❖ Utility did not provide written evaluations
- ❖ Utility awarded all employees performance increases of 2%




Case No. 2017-00070

PSC warns all water utilities:


In future rate cases, cost-of-living adjustments without a sound basis, such as a relevant inflation index or written performance-based metric, will be disallowed.

Order of 1/12/2018 at 16




Supporting Wage/Salary Increases

- ❖ Support for Wage/Salary Increases
 - Consumer Price Index
 - Bureau of Labor Statistics
 - Employee Performance Evals
- ❖ **Annual Increases In Excess of Cost of Living:**
 - Written Performance Evaluations
 - Other factors: Labor Market/Location
 - **Total Salary Comparison**




Supporting Wage/Salary Increases

- ❖ Document wage decisions
 - Board minutes should reflect Board's reasoning for increases
 - Specific, detailed reasons preferred over general
- ❖ Implement evaluation system to better support selective wage/salary increases
- ❖ **Avoid cross-the-board performance raises**




Supporting Wage/Salary Increase

- ❖ Adopt written policy re: wage increases & evaluations
- ❖ Follow the policy
- ❖ Ensure Board witness can articulate basis for decision
- ❖ If competition for local labor is a basis for a wage increase, provide supporting info re: local labor market




Review of Wages & Salaries:
Total Salary and Wage Levels

Are the utility's wages and salaries reasonable?



Case No. 2015-00312


- ❖ Electric utility sought rate increase
- ❖ Attorney General 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



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



Supporting Salary/Wage Levels

- ✦ Applications for Rate Adjustment should support any adjustment in test period expense **AND** total salary levels
- ✦ ARF Regulation/Application Form do not require such support – **PROVIDE ANYWAY**




Employee Compensation: Supporting Salary/Wage Levels

- ✦ Comparison with other utilities
 - KRWA Salary Survey
 - Kentucky League of Cities' Wage and Salary Survey
 - AWWA Wage/Salary Survey
 - Bureau of Labor Statistics
 - PSC Annual Reports




Employee Compensation: Supporting Salary/Wage Levels

- ✦ When using surveys, ensure appropriate category used
- ✦ PSC will closely examine/critique employees in excess of average
- ✦ Provide complete job descriptions
- ✦ Identify special employee skills & education
- ✦ Emphasize experience/longevity with utility




Recent PSC Cases

- ❖ **Case No. 2016-00325**
 - WD provided 1 wk's salary for all employees
 - Paid at discretion of Board
 - Disallowed
- ❖ **Case No. 2016-00435**
 - WD provided \$4,800 gift cards to employees
 - "Incentive Pay"
 - AG objected
 - Disallowed



Legal Concerns

- ❖ **Kentucky Constitution, § 3:**
no "grant[s] of exclusive, separate public emoluments or privileges shall be made to any man or set of men, *except in consideration of public services.*"
- ❖ **AG Opinion 62-1:**
The granting or award of bonus contravenes Constitution since it is using public funds for services not actually rendered



Suggested Approach


- ❖ Consider implementing Incentive Compensation Policy to overcome legal concerns
- ❖ Forego rate recovery of bonuses
- ❖ If seeking rate recovery, be prepared to explain why existing salary/wage system is inadequate

Commissioner Salaries/Benefits




Commissioners' Salaries

- ❖ KRS 74.020 establishes maximum annual salary at \$3,600
- ❖ Exception: \$6,000 maximum if 6 hours of Certified Water Management Training
- ❖ Fiscal Court sets the salary level
- ❖ Failure to attend Board meetings does not affect right to salary



Commissioners' Salaries


- ❖ Have Fiscal Court ordinances re: salary level available for inspection
- ❖ Retroactive approval of salary level permitted
- ❖ Have proof of training attendance if compensation > \$3,600 awarded
 - Water District
 - Individual Commissioner



Commissioners' Benefits


- ❖ Must be same as those provide to WD employees
- ❖ Free or reduced service
 - Requires PSC Approval
 - PSC Historically Denied
- ❖ Insurance benefits should not exceed those provided employees
- ❖ Future issue: Why are benefits other than salary needed?

Health Insurance



Health Insurance Summary

- ❖ PSC reviewing employers' contribution for health insurance cost
- ❖ If employer's contribution (%) exceeds BLS estimate of national average, PSC **denies recovery** for excess
- ❖ PSC **encouraging** utilities to establish a policy that requires employees to pay a portion of health & dental insurance




Factors Contributing to Employer Health Insurance Costs

- ✦ Deductible levels
- ✦ Co-pay amounts
- ✦ Benefit levels
- ✦ Geographic area
- ✦ Workforce demographics
- ✦ Local healthcare market
- ✦ Firm/Bargaining unit size
- ✦ **Employer contribution rate**


BLS: Estimate of National Average

Coverage	Average	Private Industry	State & Local Government
Family	68/32	67/33	71/29
Single	80/20	79/21	86/14




Kaiser Foundation Report 2016

- ✦ 12% of covered workers: employers paid full cost of single coverage
- ✦ 30% of covered workers in small firms (> 200 employees): employers pay full cost
- ✦ Covered workers pay 18% of premium (single coverage) (17% for small firms)
- ✦ Public firms: workers paid 8% of single coverage (small firms)




Case No. 2016-00169

- ✦ AG challenges utility's 100% payment of health, life & vision insurance premiums
- ✦ PSC finds that employer contributions should be "more in line with other businesses" to reduce expenses
- ✦ PSC: Majority of businesses do not pay 100% of employees' insurance costs
- ✦ Expenses should be based upon National Average




Case No. 2016-00169

- ✦ National Average based on BLS Study
- ✦ Limited to salaried employees
- ✦ Union employees exempted
- ✦ PSC **ORDERS** utility to limit to national average percentages its contributions to employee insurance




Case No. 2016-00365

- ✦ RECC paid for single coverage; employee paid \$149/month for other coverages
- ✦ PSC: RECC should limit its contribution to BLS national average employer rate
- ✦ PSC: Expects RECC to establish policy to limit contribution & require all employees to pay portion of premium
- ✦ Portion of health insurance cost disallowed




Case No. 2016-00325

- ❖ Water District paid 100% of insurance cost
- ❖ PSC Staff Report: Accepted w/o comment
- ❖ PSC: WD should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- ❖ Portion of health insurance cost disallowed
- ❖ WD given **no notice** of possible action




Case No. 2016-00435

- ❖ Water District paid 100% of insurance cost
- ❖ PSC Staff Rpt: Accepted w/o comment
- ❖ PSC: WD should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- ❖ Portion of health insurance cost disallowed
- ❖ WD given **no notice** of possible action




Case No. 2016-00367

- ❖ RECC paid 100% of insurance cost
- ❖ PSC: RECC should exercise financial prudence & reduce expense related to employee benefits **by establishing policy** that requires employees to pay a portion of premiums
- ❖ Portion of health insurance cost disallowed




Case No. 2016-00434

- ✦ RECC requires non-union employees to pay 8%, union employees to pay 10% of insurance cost
- ✦ PSC: RECC should increase efforts to rein in expenses *by establishing policy* that requires employees to pay *an increased percentage* of premium
- ✦ Portion of health insurance cost disallowed




Case No. 2017-00070

- ✦ WD paid 100% of insurance cost (single coverage)
- ✦ PSC Staff Report: Determination of reasonableness of cost should be based upon total compensation costs (wages + health insurance + pension); WD's overall cost lower than others and should be considered reasonable




Case No. 2017-00070

"The reasonableness of the cost of an employee compensation package . . . should be evaluated in its totality recognizing that the combination of the individual components included in an employee benefit package often vary widely from one business entity to another. One entity may provide higher wages with limits on other benefits when compared to another entity that offers lower wages while providing better insurance coverages or retirement benefits to remain competitive for employee services."



Case No. 2017-00070


“As a result, evaluating the level of one benefit of a compensation package in isolation, such as wages or health insurance, without giving consideration to the level of all other benefits included with the package is neither fair, just, nor reasonable.”



Case No. 2017-00070:

At Hearing


- ❖ WD offered evidence re: local job market competitors
- ❖ WD presented evidence cost of employee benefits vs. national cost of such benefits
- ❖ WD questioned use of BLS “private firm” percentage
- ❖ WD suggested use of private firm – utility rate



Case No. 2017-00070:


At Hearing

- ❖ WD argued for use of state/local government percentage
- ❖ WD argued PSC should apply same employee contribution rate that KY state government uses (11%)



Case No. 2017-00070:
PSC Response

- ✧ PSC “placing greater on evaluating employees’ total compensation packages”
- ✧ Ignore total compensation argument
- ✧ Applied private firm rate
- ✧ Did not explain why local/state government rate not applicable




Case No. 2017-00070:
PSC Response

- ✧ No rescission of PSC Staff findings re: total compensation
- ✧ No explanation why KY state government rate should not be applied




Health Insurance Costs Disallowed in 2017-18

- ✧ Last 13 WD rate cases:
 - Rule applied/costs disallowed – 9
 - PSC hearing on costs – 1 (disallowed)
 - Allowed – 1
 - No health insurance costs – 3




**PSC Orders:
Common Characteristics**

- ❖ No discussion of employer's health insurance plan specifics
- ❖ No comparison of employer's health costs with other utilities
- ❖ Ignores utility and PSC staff arguments and evidence
- ❖ No finding that employer's cost for health insurance is unreasonable




**PSC Orders:
Common Characteristics**

- ❖ No explanation for use of the private firm standard or why other standards are inappropriate




**Commissioner Cicero
PSC Policy on Health Insurance Benefits**

- ❖ Appearance 1/18/2018 before KY Chamber of Commerce Energy Conference
- ❖ All PSC Commissioners present
- ❖ VC Cicero stated PSC Policy
- ❖ Posted at <http://bit.ly/2sBUL1d>




Commissioner Cicero:
PSC Policy on Health Insurance Benefits

- ◆ “[F]or rates to be fair, just, and reasonable - both to the ratepayers and the utility - the utility’s employees should reasonably participate in the cost of their health and dental insurance premiums”
- ◆ “Absent any employee participation, PSC will apply 21% contribution for single & 32% for family”




Commissioner Cicero:
PSC Policy on Health Insurance Benefits

“From a personal perspective, I’m concerned that the utility industry in general, regardless of the entity’s financial viability, seems to have a philosophy that health, dental and many other benefit programs should be completely or majority funded by the company; that somehow all employees, regardless of their skill level or occupation, are so valuable as to be irreplaceable.”




Commissioner Cicero:
PSC Policy on Health Insurance Benefits

“Essentially, *utility employee benefits need to be market competitive* as measured against not only other utilities but other business sectors and public employees.”




Commissioner Cicero:
PSC Policy on Health Insurance Benefits

“The Commission has been questioned as to why it doesn’t utilize the statistical percentages for ‘service-providing industries – utility category’ instead of the ‘all workers’ category. The reason is obvious: *if all utilities offer the same program benefits the comparative percentages will be skewed for that category.*”




Commissioner Cicero:
PSC Policy on Health Insurance Benefits

“I will emphasize this point: if the employee percent cost participation is not exactly at the standard percentage levels, but the company does require employee cost participation *at a reasonable level*, the Commission will not adjust those costs. However, the further the actual percentage is below *the standard statistical average percent participation*, the greater the probability that the Commission could make an adjustment.”




Problems with PSC Approach

- ❖ Due Process Concerns
 - No notice to utilities
 - Utility has no opportunity to confront BLS “national average” statistics
 - Failure to address utility arguments
- ❖ KRS Chapter 13A: PSC adopts a rule without following proper procedure




Problems with PSC Approach

- ❖ PSC Assumption: utility industry and government payment of insurance costs is “skewed” – no supporting evidence
- ❖ Improper use of BLS statistics
 - No recognition of state/local gov’t data
 - Refusal to use “utilities information”
- ❖ No empirical or statistical evidence to support any finding that current compensation costs are unreasonable




Problems with PSC Approach

- ❖ PSC refuses to consider:
 - Insurance policies of utility
 - Local labor markets
 - Utilities’ efforts to contain/reduce health insurance costs
 - Reputable/recognized studies on issue




Responses to PSC Approach

- ❖ Use good procurement practices
 - Request bids/seek cost estimates from various suppliers annually
 - Document your costs/efforts to reduce costs
- ❖ Determine amount of likely disallowance prior to filing and whether it is cost-effective to protest
- ❖ If not cost-effective, still document the record




Responses to PSC Approach

- ❖ Compare **total compensation cost** vs. other regulated and municipal utilities
- ❖ Offer comparisons of benefits/costs by other regional/state utilities (use KRWA/KLC surveys)
- ❖ Provide evidence on local labor markets
- ❖ Emphasize unique aspects of your workforce




Responses to PSC Approach

- ❖ Consider differences between the quality of WD's insurance coverage & national average policy (e.g. deductibles, benefits)
- ❖ Propose use of BLS state/local government category or KY state contribution rate
- ❖ Argue for use of a different study for national average (e.g., Kaiser Family Foundation)



Responses to PSC Approach


- ❖ Consider challenging disallowance in response to PSC staff report (even if accepting PSC staff recommended rates)
- ❖ Conditional Waiver
- ❖ If Hearing – Challenge PSC staff's knowledge of utility's health insurance policy and understanding of utility industry's practices



PSC Authority to Mandate Employee Contribution


- ✦ Level of employer contribution is a matter of managerial discretion
- ✦ PSC jurisdiction limited to ratemaking & rate recovery of employer contributions
- ✦ PSC **CANNOT** restrict the amount an employer contributes to employee health insurance
- ✦ PSC **CANNOT** mandate that employees contribute to health insurance cost

Other Insurance



Dental Insurance


- ✦ PSC: national average employer contribution is 60%
- ✦ Based on Willis Benefits Benchmarking Survey (2015)
- ✦ Employer contribution is limited to 60% for ratemaking purposes



Life Insurance

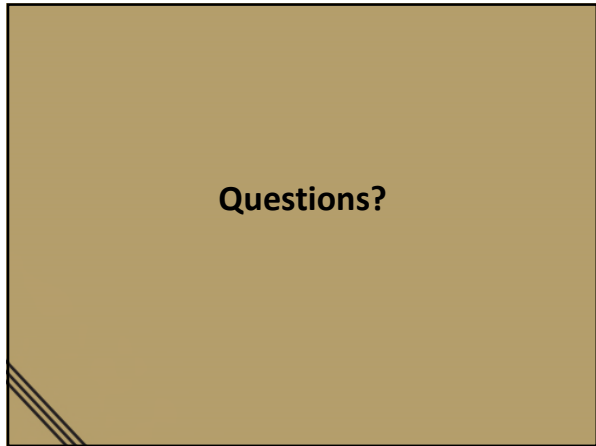
- ✦ IRS ceiling for employer-provided life insurance: \$50,000 (>\$50,000 FICA taxes incurred)
- ✦ If cost of employer-provided >\$50,000, must clearly demonstrate need for this additional compensation

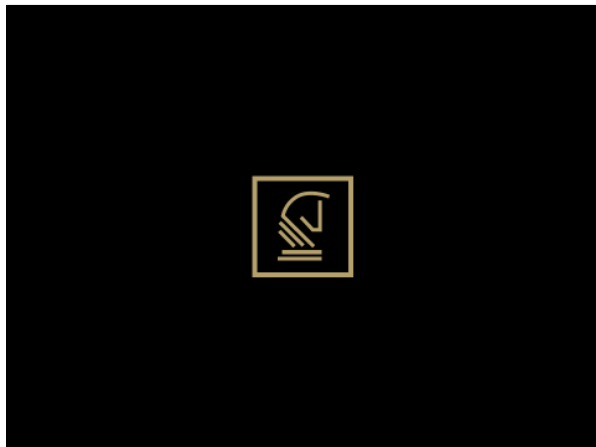
Pension & Retirement Benefits

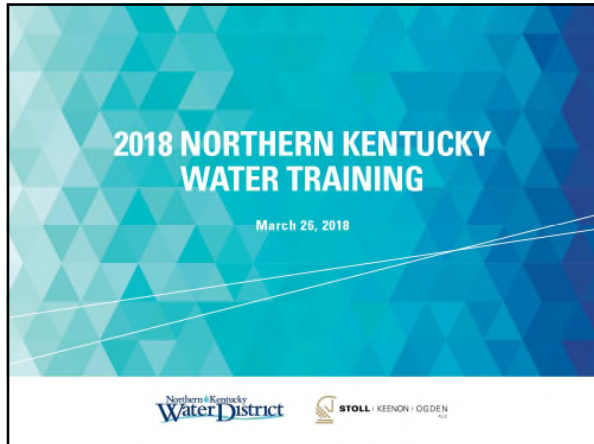


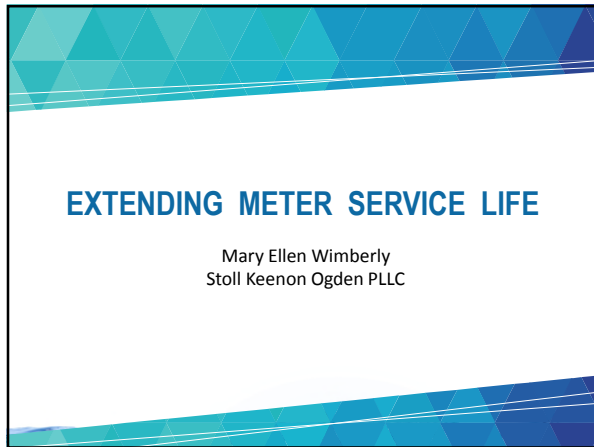
Pension/Retirement Benefits

- ✦ No disallowances for contributions to WD retirement plans
- ✦ Limits for utilities with more than 1 retirement plan for employees
- ✦ Rate recovery limited to employer contributions to one plan if employees eligible for 2 or more retirement plans












Meter Testing Requirements




Meter Testing Requirements

- KRS 278.210
 - Establishes statutory standard for meters
 - Meter may not be more than two percent to the disadvantage of the customer (2% **fast**)



Meter Testing Requirements

- KRS 278.210(4):
 - “If a utility demonstrates through sample testing that no statistically significant number of its meters over-register above the limits set out in subsection (3) of this section, the meter testing frequency shall be that **which is determined by the utility to be cost effective.**”



Meter Testing Requirements

- 807 KAR 5:066, Section 15
 - Requires meters be tested prior to initial placement into service
 - Provides accuracy limits for new, rebuilt, and repaired cold water meters
 - Prohibits any new, rebuilt, or repaired meter from being placed in service if it does not register within accuracy limits



Accuracy Limits: 5/8 x 3/4 Inch Displacement Meters

- Maximum Rate
 - Flow Rate: 15 gpm
 - Accuracy Limit: 98.5-101.5%
- Intermediate Rate
 - Flow Rate: 2 gpm
 - Accuracy Limit: 98.5-101.5%



Accuracy Limits: 5/8 x 3/4 Inch Displacement Meters

- Minimum Rate
 - Flow Rate: 1/4 gpm
 - Accuracy Limit:
 - 95-101% (New and Rebuilt)
 - 90% (Repaired)



Meter Testing Requirements

- 807 KAR 5:066, Section 16
 - “Each utility shall test periodically **all water meters** so that no meter will remain in service without test for a period longer than specified[.]”
 - 5/8 x 3/4 Inch: 10 years



Significant Savings Example

- Utility: 5,000 meters
- Meter cost: \$100
- Annual Savings:
 - 10 years: 500 meters replaced yearly
 - 15 years: 333 meters replaced yearly
 - 167 fewer meters purchased annually → \$16,700 annual savings



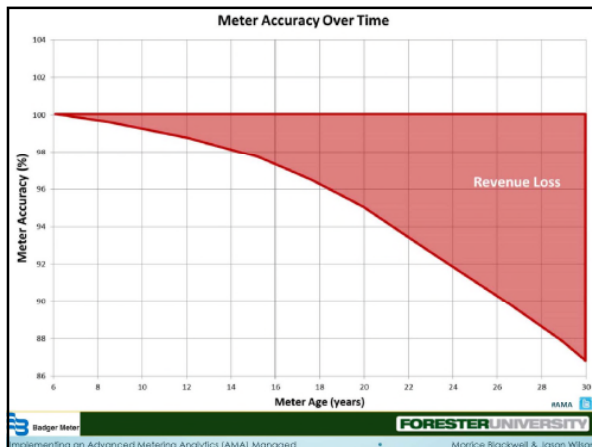
Significant Savings Example

- Utility: 5,000 meters
- Meter cost: \$100
- Avoided Capital Expenditures:
 - Utility avoids replacing 2,500 meters over next five years (500 meters per year)
 - One-time savings: \$250,000



Meter Accuracy

- ## Meter Accuracy
- Meter accuracy > 10 years
 - Most meters warranted for accuracy for **at least 15 years**
 - Example: Sensus warranty
 - Sensus SR11: 15 years
 - Sensus iPERL: 20 years



Meter Accuracy

- Declining meter accuracy = slow meters
- Without regulation, utilities would change meters when revenue loss from slow meters > cost to replace meters



Utilities Achieving Extended Service Life



Warren County Water Dist. v. PSC

- Case No. 2011-00220
 - Joint Applicants sought deviation from 10-year testing requirement based upon results of sample testing from Case No. 2003-00391
 - Testing Results:
 - Meters remained within standards for 15 years
 - Lost revenue from inaccurate meters did not exceed cost of testing until 21 years in service
 - PSC authorized deviation to permit meters in service for 15 years without testing



Warren County Water Dist. v. PSC

- Utility brings action for review → REVERSED
- Franklin Circuit Court found:
 - Significant that meters do not over register
 - Sampling plan was cost-effective → met KRS 278.210(4)



Case No. 2009-00253

- Kentucky-American sample tested group of meters
- Meters tested within standard after 15 years of service
- PSC extended time in service to 15 years for meters
- Estimated annual savings: \$90,000
- Estimated annual capital expenditure savings: \$545,000



Sample Testing



Sample Testing

- Sample = subset containing characteristics of a larger population
- Is sample testing the functional equivalent of testing every meter?
- Statutes and regulations acknowledge sample testing



Sample Testing

- KRS 278.210(4)
 - “If a utility demonstrates through **sample testing** that no statistically significant number of its meters over-register”
- 807 KAR 5:041, Section 16 (Electric)
- 807 KAR 5:022, Section 8(5)(c) (Gas)



Sample Testing

- ANSI/ASQ Z1.9-2003 (R2013), Sampling Procedures and Tables for Inspection by Variables for Percent Nonconforming [“ANSI Standard”]
 - Three Inputs
 - Acceptance Calculation



ANSI Standard

- Three Inputs

- 1. Acceptance Quality Limit ("AQL")

- Worst tolerable product average
 - Table A-1
 - PSC Cases
 - Use AQL of 2.0
 - Converts to 2.5

Table A-1
AQL Conversion Table

For specified AQL values falling within these ranges		Use this AQL value
-	to 0.109	0.10
0.110	to 0.164	0.15
0.165	to 0.279	0.25
0.280	to 0.439	0.40
0.440	to 0.669	0.65
0.700	to 1.09	1.0
1.10	to 1.64	1.5
1.65	to 2.79	2.5
2.80	to 4.39	4.0
4.40	to 6.99	6.5
7.00	to 10.9	10.0

ANSI Standard

- Three Inputs

- 2. Inspection Level

- Five different inspection levels
 - A7: "Unless otherwise specified, Inspection Level II shall be used."
 - PSC Cases
 - Inspection Level II

ANSI Standard

- Three Inputs

- 3. Lot Size

- Size of entire group
 - Example: Total number of meters of a certain age

ANSI Standard

- Variability Unknown – Standard Deviation
 - Double Specification Limit
- Sample Size Code Letter
 - Based upon inputs, Table A-2 provides Letter
 - 555 meters → Letter “J”

Table A-2
Sample Size Code Letters^a

Lot Size	Inspection Levels	
	Special S ₁ S ₂	General I II III
2 to 8	B	B B C
9 to 15	B	B B D
16 to 25	B	B C E
26 to 30	B	B C D F
31 to 40	B	B D E G
41 to 50	B	C E T H
51 to 100	B	C E G H I
101 to 150	B	C E G I J
151 to 200	D	F G T
201 to 300	C	E G H I
301 to 400	C	E G I J
401 to 500	C	E G I J
501 to 1,200	D	F G H I J
1,201 to 3,200	E	G H I J K L
3,201 to 10,000	F	H I J K L M
10,001 to 35,000	G	I J K L M N
35,001 to 150,000	H	J K L M N P
150,001 to 500,000	H	K L M N P
500,001 and over	H	K L N P P

ANSI Standard

- Sample Size
 - Table B-3
 - Sample Size Code Letter “J” = 35
 - Must randomly select sample!
 - PSC has approved selections by Excel, billing software, or other computerized process
- Acceptability Criterion
 - Table B-3
 - Sample Size Code Letter “J” and AQL of 2.5 = 5.58

Table B-3 Standard Deviation Method
Master Table for Normal and Tightened Inspection for Plans Based on Variability Unknown
(Double Specification Limit and Form 2—Single Specification Limit)

Sample Size Code Letter	Sample Size	Acceptance Quality Limits (normal inspection)										
		.10	.15	.25	.40	.65	1.00	1.50	2.50	4.00	6.50	10.00
B	3	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
C	4	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
D	5	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
E	7	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
F	10	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓	↓
G	15	0.100	0.151	0.250	0.375	0.575	0.870	1.330	2.000	3.000	4.500	6.700
H	20	0.125	0.186	0.297	0.450	0.675	1.000	1.500	2.250	3.375	5.000	7.250
I	25	0.150	0.219	0.345	0.510	0.750	1.125	1.688	2.513	3.638	5.250	7.500
J	35	0.175	0.252	0.390	0.563	0.825	1.238	1.838	2.700	3.938	5.625	7.875
K	50	0.200	0.285	0.435	0.630	0.915	1.375	2.000	2.938	4.188	5.938	8.188
L	75	0.225	0.328	0.495	0.705	1.013	1.500	2.188	3.188	4.500	6.375	8.750
M	100	0.250	0.363	0.540	0.765	1.100	1.625	2.375	3.438	4.875	6.875	9.375
N	150	0.275	0.405	0.593	0.840	1.200	1.750	2.563	3.750	5.188	7.188	9.875
P	200	0.300	0.440	0.640	0.915	1.313	1.938	2.813	4.063	5.625	7.813	10.625
		.10	.15	.25	.40	.65	1.00	1.50	2.50	4.00	6.50	10.00

Case No. 2016-00432: Maximum Flow Results

1. 99.5	13. 99.2	25. 99.6
2. 99.4	14. 99.6	26. 99.7
3. 99.2	15. 99.9	27. 101.0
4. 98.5	16. 99.6	28. 99.0
5. 99.3	17. 99.5	29. 99.6
6. 100.0	18. 99.4	30. 99.3
7. 99.5	19. 99.5	31. 98.5
8. 100.0	20. 99.2	32. 99.2
9. 100.2	21. 99.4	33. 98.5
10. 99.8	22. 99.6	34. 99.5
11. 100.3	23. 99.6	35. 99.3
12. 100.0	24. 99.5	


ANSI Standard Acceptance for Maximum Flow

1 Sample Size: n	35
2 Sum of Measurements	3482.9
3 Sum of Squared Measurements	346596.6
4 Correction Factor (CF)	346588.4
5 Corrected Sum of Squares (SS)	8.235429
6 Variance (V)	0.242218
7 Estimate of Lot Standard Deviation	0.492157
8 Sample Mean	99.51143
9 Upper Specification Limit	101.5
10 Lower Specification Limit	98.5
11 Quality Index: QU (Upper)	4.040523
12 Quality Index: QL (Lower)	2.055093
ANSI Standard Table B-5 used to derive values below	
13 Estimate of Lot Percent Nonconforming above Upper	0.000%
14 Estimate of Lot Percent Nonconforming below Lower	1.720%
15 Total Estimate Percent Nonconforming in Lot (P)	1.720%
16 Maximum Allowable Percent Nonconforming (M)	5.580%
17 Acceptability Criterion (to accept, P<M)	Accepted

Low Flow Calculation

- Utility proposed using the Single Specification Limit Variability Unknown-Standard Deviation Method
 - AQL: 10
 - Inspection Level I

Case No. 2016-00432




Case No. 2016-00432

- Request: Sample testing satisfies 807 KAR 5:066, Section 16(1)
 - “Each utility shall test periodically all water meters . . .”
 - Does sample testing satisfy this requirement?
- Alternatively: Deviation from regulation requirements



Case No. 2016-00432

- Request for deviation → GRANTED
 - Lots must be divided by installation year, manufacturer, and type of mechanism used to measure water usage
 - Only damaged meters can be removed
 - Low flow testing method approved
 - Commission found cost savings significant
 - Additional protections for customers are important




Proceed With Caution . . .

- Line loss must be low



Proceed With Caution . . .

- “Moreover, with respect to any utility that would seek to rely on this Order as the basis for a request for deviation allowing sample testing, the Commission observes that this Order should provide notice that **implementing such a plan prior to seeking Commission approval is a violation of 807 KAR 5:066, Section 16(1), and doing so may indicate a willful violation justifying the imposition of penalties.**”



Questions?

Mary Ellen Wimberly
maryellen.wimberly@skofirm.com
(859) 231-3047




Kentucky Lead Workgroup Findings, Best Practices and Recommendations



Water Law Seminar

Tom Gabbard, Greg Heitzman
Kentucky Lead Workgroup
March 26, 2018
Northern Kentucky

Flint Public Health Crisis



HOUSE PANEL CHAIR ASSAILS EPA MISSTEPS IN FLINT CRISIS

Lawmaker says agency ignored warnings about lead, didn't act on information

Flint Spigot
The spigot in Flint, Michigan, was found to be leaking lead. The water was found to be contaminated with lead, which is a public health concern. The water was found to be contaminated with lead, which is a public health concern. The water was found to be contaminated with lead, which is a public health concern.

Trouble Spreading

Which Cleveland suburbs have the most lead water pipes?

Pittsburgh water continues to exceed federal lead threshold


Ohio schools find hundreds of water fixtures with lead


Kentucky maintains safe lead levels in water

As Blue Lanes, Accredited Pipes



 **Kentucky Lead Workgroup**
Members


- Jennifer Burt, Kentucky Health Department
- Obe Cox, Carroll County Water District
- Tom Gabbard, Kentucky Division of Water
- Mike Gardner, Bowling Green Municipal Utilities
- Greg Heitzman, BlueWater Kentucky
- Ron Lovan, Northern Kentucky Water District
- Brad Montgomery, GRW Engineers
- Bill Robertson, Paducah Water
- Tom Rockaway, PhD, University of Louisville
- Justin Sensabaugh, Kentucky American Water Company
- Rengao Song, PhD, Louisville Water Company
- Brian Thomas, Marion Water Department



 **Kentucky Lead Workgroup**
Resources

- Peter Goodmann, KY Division of Water
- Claude Carothers, KY Division of Water
- Samantha Kaiser, KY Division of Water
- Susan Lancho, Kentucky American Water
- Gary Larimore, Kentucky Rural Water
- Kay Sanborn, KY-TN AWWA
- Kelley Dearing Smith, Louisville Water Company
- Victoria Wilhoite, KY Division of Compliance Assistance

 **Kentucky Lead Workgroup**

- First meeting held April 20, 2016
- Workgroup generally meets monthly on third Wednesday
- Meetings open to the public
- Sub-teams established in the following areas:
 - ✓ Public health
 - ✓ Lead regulations and compliance record with LCR
 - ✓ Treatment/Corrosion control
 - ✓ Distribution/Piping/Plumbing infrastructure
 - ✓ Training/Education
 - ✓ Financing/Funding lead replacement
 - ✓ Communications/Education

Kentucky Lead Workgroup

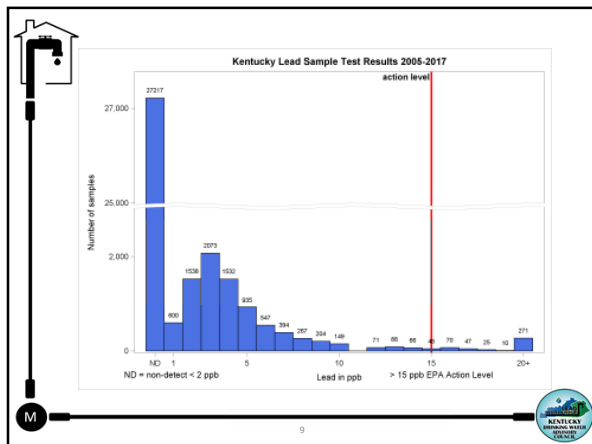
- Expect Final Report to be completed by Sumer, 2018
- Deliverables:
 - ✓ Recommendations
 - ✓ Power point presentations on each topic area
 - ✓ Workgroup, compiled by sub-team/topic area
- Workgroup report will provide the following:
 - ✓ Summary of Kentucky's compliance with EPA's Lead and Copper Rule
 - ✓ Best practices for treatment of lead in drinking water
 - ✓ Best practices for removal of lead pipes, fixtures, etc.
 - ✓ Preparation for future regulatory changes (lower action levels)
 - ✓ Best practices for sharing lead information and educating consumers
 - ✓ Financing practices to fund replacement programs
 - ✓ Recommendations to State Agencies, Utilities, and Industry Associations

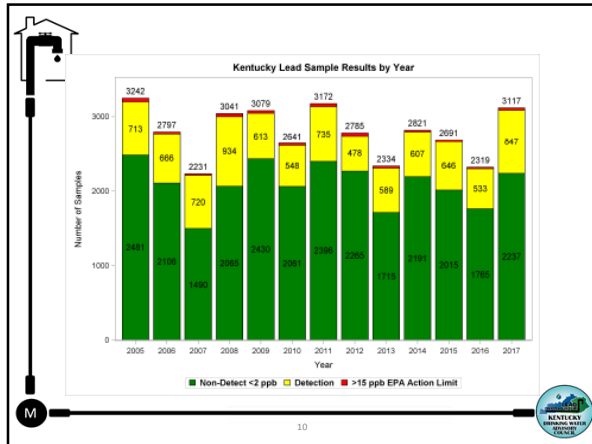
M

KY Lead Compliance Results

- 436 Public Water Supply Systems (PWS) in KY
- 390 PWS monitor for lead under the LCR
- # of samples based on population
- 36,270 Lead Compliance samples 2005-17
- 75% of samples had no detection (< 2 ppb)
- 98% of samples less than 15 ppb
- 3 systems (2%) exceeded 15 ppb
- 3 systems (<1%) required additional action
- Since 2012, all KY PWS comply with LCR


M





What Have We Learned?


US Lead Service Line Inventory



- AWWA/EPA estimates 6.1 million public Lead Service Lines (LSL) in U.S. (range of 5.5 to 7.1 million LSL)
- Includes full and partial LSL (public and private)
- Largest density is with systems serving 10,000 to 50,000 Population.
- Generally utilities transitioned from lead to copper between 1930 and 1960
- National cost estimate of \$18 to \$30 billion for 6.1 million LSL, assumes \$3,000 to \$5,000 per LSL replacement costs

What Have We Learned?

Kentucky Lead Service Line Inventory




- AWWA/EPA estimate 53,000 Public LSL in Kentucky (*we think overestimated*)
- Replacement Cost Range of \$1,500 to \$3,000 each
- Estimate of \$79.5 to \$159 million for public portion
- Estimate 13,000 Private LSL in Kentucky
- Replacement Cost Range of \$1,000 to \$2,000
- Estimate of \$19.5 to \$26 million for private portion
- Total Kentucky Estimate for removal of Public and Private LSL of \$92.5 to \$185 million (*based on AWWA/EPA estimated #s*)

How does Kentucky Compare?


- **United States Survey Data:**
 - US 2015 Population 320 million people
 - 293 million people served by Community Water Systems (92% served)
 - 97.7 million household connections (assumes 3 people per connection)
 - 6.1 million Lead Service Lines (AWWA Journal Article June 2016)
 - **Estimate 6.2% of US Houses have full or partial Lead Service Lines**
- **Kentucky Survey Data:**
 - Kentucky 2015 Population of 4.4 million
 - 4.2 million people served by Community Water System (95%+ served)
 - 1.4 million household connections (assumes 3 people per connection)
 - 53,000 Lead Service Lines (AWWA Journal Article June 2016)
 - **Estimate 3.8% of KY Houses have full or partial Lead Service Lines**

Kentucky Compares Favorably to National Average



Best Practices Emerging

- On-line lead service GIS database
- Free water sampling for lead
- Proactive lead replacement programs (public and private)
- Lead replacement subsidy or finance program for homeowner's portion of lead piping






Best Practices Emerging



- Optimized water treatment for corrosion
- Best practices for sampling and monitoring
- School partnerships for lead inventory, testing, flushing and plumbing fixture replacement (Indiana Finance Authority school program)








 **State Level Recommendations (10)**


1. Develop protocol, guidance and technical assistance for evaluation of treatment process changes using the US EPA's Optimal Corrosion Control Treatment (OCCT) report published March 2016. A Corrosion Control Plan (CCP) should be developed when:
 - a) a new water source is introduced (including interconnects with utilities);
 - b) the water source is changed;
 - c) the water treatment process is changed (including chemical additives);
 - d) lead compliance sampling results are near or exceed the EPA Action Level (currently 15 ppb);
 - e) an interim supply is needed (excludes emergency supply)A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.



 **State Level Recommendations (10)**


2. Establish protocol and reporting requirements for utilities to use for the collection and reporting of special lead samples and when customers request water sample testing for lead.
3. Update the estimated number of lead service lines (public and private) in Kentucky and the associated replacement costs.
4. Revise prioritization criteria for state-wide water projects to include lead service line replacement.
5. Develop funding sources that utilities can use to finance lead service line replacement (public and private) and lead abatement projects. Funding sources may include: KIA, Rural Development, SRF funding, and state/local appropriations.

 **State Level Recommendations (10)**



6. Develop a lead training curriculum in partnership with utilities, state and local health departments and water industry associations. The training should include corrosion control treatment methods, lead service line replacement and repair practices, flushing practices and customer communications.
7. Consider Kentucky state legislation for requiring blood lead level testing for all children at 12 and 24 months of age.
8. Update the Kentucky Division of Water's website to serve as a resource for information on lead in drinking water, best practices, health impacts and regulatory requirements.




State Level Recommendations (10)

- Promote the use of U.S. EPA's 3T (Training, Testing and Telling) program for reducing lead in drinking water in schools and child care centers. The program includes: Training of school officials on the potential of lead in drinking water; Testing of drinking water in schools to identify potential problems and corrective actions (as needed); and Telling staff, parents, students and the local community about the testing results, potential risks and remedial actions taken by the school.
- Monitor lead testing programs for schools and child care centers being used in other states and consider implementing in Kentucky following a review of benefits and costs.



22




Utility Recommendations (13)

- Conduct a Corrosion Control Evaluation (CCE) and develop a Corrosion Control Plan (CCP) for water treatment and distribution operations following the guidance provided in US EPA's Optimal Corrosion Control Treatment (OCCT) report published March 2016. A CCP should be developed when:
 - a new water source is introduced (including interconnects with utilities);
 - the water source is changed;
 - the water treatment process is changed (including chemical additives);
 - lead compliance sample results are near or exceed the EPA Action Level (currently 15 ppb);
 - an interim supply is needed (excludes emergency supply).

A CCP is a complex analysis. To assure optimal water treatment quality is achieved and regulatory compliance is maintained, the CCP should be conducted by a qualified water quality professional. As recommended by EPA, the CCP should be developed in coordination with the Kentucky Division of Water.






23




Utility Recommendations (13)



- Adopt the EPA recommended guidelines for lead compliance sampling.
- Prepare for a reduction in the EPA Lead Action Level from 15 parts per billion (ppb) to less than 10 ppb as part of a revised Lead and Copper Rule (LCR).
- Prepare for more frequent sampling cycles and more diverse sampling locations for LCR compliance.
- Adopt a policy or practice to remove public lead service lines when exposed during excavation. Communicate the discovery of any private lead service lines to the homeowner/occupant. The communication message should define the homeowner's responsibility for private plumbing, the benefits of flushing and the impacts of lead contained in plumbing fittings and fixtures.





24



 **Utility Recommendations (13)**


6. Proactively investigate the location of public lead service lines using various methods (historical records, maps, construction plans, field surveys, home age, etc.). The service line information (public portion) should be added to the water distribution inventory, maps and records (include material type, age, condition, and other attributes where available).
7. Provide customers access to an on-line database of utility-confirmed lead service line locations (public portion).
8. Adopt a long-term goal of replacing all lead service lines. The implementation practices and the time line associated with this goal will be based on local conditions and financial capability.



 **Utility Recommendations (13)**


9. Develop consumer education materials on lead in drinking water in collaboration with industry associations, regulators and public health officials. The education materials should: include the health risks associated with lead; include guidance on common methods to reduce lead exposure; and identify the homeowner responsibility for private service lines and plumbing fixtures. The information should be provided to consumers and stakeholders through Consumer Confidence Reports, websites, social media, door hangers and other available communication methods.
10. Train field personnel to identify, locate, repair, and/or replace lead service lines and lead-containing fittings.



 **Utility Recommendations (13)**

11. Monitor state and national best practices on managing lead in drinking water. Practical and feasible practices should be implemented where appropriate.
12. Review the ANSI/AWWA Standard C810-17 on Replacement and Flushing of Lead Service Lines (published November 1, 2017). The standard should be adopted where feasible and practical.
13. Develop a program to partner with the health department, public/private schools and childcare centers for testing, education and coordination of replacement of lead piping and plumbing fixtures within school and childcare facilities. The program should include a protocol for reporting results of lead testing to the utility, schools and child care centers, local health department and Kentucky Division of Water.


 

 **Industry Recommendations (4)**



1. Develop a utility training curriculum on lead in drinking water, including: lead treatment (corrosion control); water sampling protocol; system assessment for lead; lead inventory; lead service line repair; lead service line replacement (public and private); the potential source of lead from homeowner plumbing fixtures; and communication materials for consumers.
2. Identify key stakeholders and develop lead communication tools, including web site links and templates, for utilities to use in communicating with customers. Utilize existing resources from national and local partners. The materials should include information on the homeowner responsibility for private lead service lines and plumbing fixtures that may be sources of lead.


28

 **Industry Recommendations (4)**



3. Engage and educate key stakeholders on lead in drinking water. Key stakeholders include health departments, medical professionals, regulatory agencies, education officials, engineering professionals, building trades, homeowners and other organizations that are impacted by or establish policy or regulations regarding lead in drinking water.
4. Pursue financial assistance from local, state and federal agencies for public and private lead service line replacement, utilizing the State Revolving Loan Fund Program and other financial assistance programs for home lead abatement.


29

 **Research & Development Recommendations (5)**

1. Develop technology to identify buried lead service lines (non-destructive).
2. Advance utility best practices for full (public and private) and partial (public portion only) replacement of lead service lines.
3. Conduct research on the impact of lead in drinking water on human health. This work will assist in identifying an appropriate action level for lead in drinking water.


 


30



R & D Recommendations (5)


- Evaluate the cost effectiveness of point of use (POU) and point of entry (POE) treatment devices for lead removal as an alternative to treatment changes or lead service line replacement to achieve compliance with the Lead and Copper Rule lead action level (currently 15 ppb).
- Conduct research to determine the best sampling methods to obtain a representative sample of lead in drinking water for purposes of Lead and Copper Rule compliance monitoring.






Approval Process



- The Lead Workgroup met on February 21, 2018 and approved the final version on March 7, 2018 by email
- Recommendations were submitted to US EPA on March 8, 2018, as part of a Federal Consultation Process on the LCR (Peter Goodmann, KDOW)
- The Kentucky Drinking Water Advisory Council approved the recommendations on March 13, 2018.
- A Final Report will be completed in the summer of 2018.





Tom Gabbard
Greg C. Heitzman, PE
Kentucky Lead Workgroup

tom.gabbard@ky.gov
gheitzman@bluewaterky.com

Feel like you are drowning?

Regulation of
Water Utilities
in Kentucky

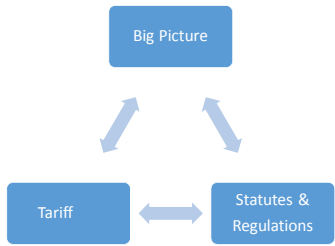
Water Service Regulation in Kentucky is
Divided

- 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

Kentucky Public Service Commission

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

Don't Drown Look Around



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.

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

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

Unaccounted-For Water Loss

- What is the definition of Unaccounted-for (UAF) Water loss?
 - › 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.

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?

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF SOUTHEAST)	
DAVIESS COUNTY WATER DISTRICT FOR)	
COMMISSION APPROVAL PURSUANT TO KRS 807,)	CASE NO.
KRS 5:001, AND KRS 278.020 FOR A CERTIFICATE)	2017-00458
OF PUBLIC CONVENIENCE AND NECESSITY TO)	
INSTALL AN ADVANCED METERING)	
INFRASTRUCTURE (AMI) SYSTEM)	

ORDER

On December 22, 2017, Southeast Daviess County Water District (“Southeast Daviess”) submitted an application for a Certificate of Public Convenience and Necessity (“CPCN”) to install an Advanced Metering Infrastructure (“AMI”) System. No person has sought intervention in this matter, and Southeast Daviess has not requested a hearing. The record for this case is complete, and the matter stands ready for decision.

Southeast Daviess, a water district organized under KRS Chapter 74, provides retail water service to approximately 7,246 customers in Daviess County, Kentucky.¹

Southeast Daviess’s application for a CPCN proposes to install a Sensus FlexNet Water AMI System.² The proposal includes the installation of approximately 7,300 radio-transmitting devices to connect existing water meters to an AMI system and associated appurtenances.³

¹ *Annual Report of Southeast Daviess County Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2016*, at 27.8.

² Application at paragraph 7.

³ *Id.*, Exhibit 3 at 1.

The total cost of the proposed project, including administrative, legal, engineering, construction, and contingencies, is approximately \$1,172,417.⁴ This project is to be financed by using a portion of Southeast Daviess's unrestricted cash reserves.⁵ The AMI system will be installed throughout Southeast Daviess's service territory in two sequential phases. Phase 1 involves the purchase of radio transmitting devices and the purchase and installation of two base station data collectors. Phase 2 of the proposed project consists of barcoding the radio transmitting devices and installation of these devices on existing water meters. Completion dates for Phase 1 and 2 are estimated to be August 30, 2018, and December 6, 2019, respectively. Southeast Daviess states that the proposed AMI project will achieve several operational efficiencies and personnel cost savings.

On January 24, 2018, an Informal Conference was held to clarify the projected operational efficiencies and personnel cost savings to be derived from the proposed AMI system. On February 2, 2018, Southeast Daviess filed a supplement to its application, documenting operational efficiencies, as well as specific personnel cost savings of approximately \$101,805.⁶

Having reviewed the record and being sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities.

⁴ *Id.* at paragraph 20.

⁵ *Id.*

⁶ Response to Informal Conference, filed February 2, 2018.

2. The proposed construction does not conflict with any existing certificates or service of any other utility operating in the area.

3. Public convenience and necessity require the proposed construction, which will allow Southeast Daviess to continue providing reliable and adequate water services to its customers.

4. Southeast Daviess should be authorized to utilize \$1,172,417 of its unrestricted cash reserves to fund the project.

IT IS THEREFORE ORDERED that:

1. Southeast Daviess is granted a CPCN for the proposed project as submitted.

2. Southeast Daviess is authorized to use funds from their unrestricted cash reserves in the amount of \$1,172,417.

3. These funds shall be used only for the purposes specified in Southeast Daviess's application.

4. Southeast Daviess shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

5. Southeast Daviess shall file with the Commission documentation of the total costs of this project, including the cost of construction and all other capitalized costs, (e.g. engineering, legal, administrative, etc.) within 60 days of the date that construction substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

6. Southeast Daviess shall file a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

7. Southeast Daviess shall notify the commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

8. Any documents filed in the future pursuant to ordering paragraphs 5, 6, and 7 shall reference this case number and shall be retained in the post case correspondence file.

9. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon Southeast Daviess's showing of good cause for such extension.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

By the Commission

ENTERED
FEB 27 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2017-00458

*Honorable Damon R Talley
Attorney at Law
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, KENTUCKY 42748

*Gerald E Wuetcher
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Mary Ellen Wimberly
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Southeast Daviess County Water District
3400 Bittel Road
Owensboro, KY 42301

*William G Higdon
Manager
Southeast Daviess County Water District
3400 Bittel Road
Owensboro, KY 42301

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF WEST DAVIESS)	
COUNTY WATER DISTRICT FOR COMMISSION)	
APPROVAL PURSUANT TO KRS 807, KRS 5:001,)	CASE NO.
AND KRS 278.020 FOR A CERTIFICATE OF PUBLIC)	2017-00459
CONVENIENCE AND NECESSITY TO INSTALL AN)	
ADVANCED METERING INFRASTRUCTURE (AMI))	

ORDER

On December 22, 2017, West Daviess County Water District (“West Daviess”) submitted an application for a Certificate of Public Convenience and Necessity (“CPCN”) to install an Advanced Metering Infrastructure (“AMI”) System. No person has sought intervention in this matter, and West Daviess has not requested a hearing. The record for this case is complete, and the matter stands ready for decision.

West Daviess, a water district organized under KRS Chapter 74, provides retail water service to approximately 5,092 customers in Daviess County, Kentucky.¹

West Daviess’s application for a CPCN proposes to install a Sensus FlexNet Water AMI System.² The proposal includes the installation of approximately 5,100 radio-transmitting devices to connect existing water meters to an AMI system and associated appurtenances.³

¹ *Annual Report of West Daviess County Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2016*, at 27.

² Application at paragraph 7.

³ *Id.*, Exhibit 3 at 1.

The total cost of the proposed project, including administrative, legal, engineering, construction, and contingencies, is approximately \$961,467.⁴ This project is to be financed by using a portion of West Daviess's unrestricted cash reserves.⁵ The AMI system will be installed throughout West Daviess's service territory in two sequential phases. Phase 1 involves the purchase of radio transmitting devices and the purchase and installation of four base station data collectors. Phase 2 of the proposed project consists of barcoding the radio transmitting devices and installation of these devices on existing water meters. Completion dates for Phase 1 and 2 are estimated to be August 30, 2018, and December 6, 2019, respectively. West Daviess states that the proposed AMI project will achieve several operational efficiencies and personnel cost savings.

On January 24, 2018, an Informal Conference was held to clarify the projected operational efficiencies and personnel cost savings to be derived from the proposed AMI system. On February 2, 2018, West Daviess filed a supplement to its application documenting operational efficiencies, as well as specific personnel cost savings of approximately \$83,295.⁶

Having reviewed the record and being sufficiently advised, the Commission finds that:

1. The proposed construction will not result in wasteful duplication of existing facilities.

⁴ *Id.* at paragraph 20.

⁵ *Id.*

⁶ Response to Informal Conference, filed February 2, 2018.

2. The proposed construction does not conflict with any existing certificates or service of any other utility operating in the area.

3. Public convenience and necessity require the proposed construction, which will allow West Daviess to continue providing reliable and adequate water services to its customers.

4. West Daviess should be authorized to utilize \$961,467 of its unrestricted cash reserves to fund the project.

IT IS THEREFORE ORDERED that:

1. West Daviess is granted a CPCN for the proposed project as submitted.

2. West Daviess is authorized to use the funds from their unrestricted cash reserves in the amount of \$961,467.

3. These funds shall be used only for the purposes specified in West Daviess's application.

4. West Daviess shall obtain approval from the Commission prior to performing any additional construction not expressly authorized by this Order.

5. West Daviess shall file with the Commission documentation of the total costs of this project, including the cost of construction and all other capitalized costs, (e.g. engineering, legal, administrative, etc.) within 60 days of the date that construction substantially completed. Construction costs shall be classified into appropriate plant accounts in accordance with the Uniform System of Accounts for water utilities prescribed by the Commission.

6. West Daviess shall file a copy of the "as-built" drawings and a certified statement that the construction has been satisfactorily completed in accordance with the contract plans and specifications within 60 days of the substantial completion of the construction certificated herein.

7. West Daviess shall notify the commission in writing one week prior to the actual start of construction and at the 50 percent completion point.

8. Any documents filed in the future pursuant to ordering paragraphs 5, 6, and 7 shall reference this case number and shall be retained in the post case correspondence file.

9. The Executive Director is delegated authority to grant reasonable extensions of time for filing any documents required by this Order upon West Daviess's showing of good cause for such extension.

Nothing contained herein shall be deemed a warranty of the Commonwealth of Kentucky, or any agency thereof, of the financing herein accepted.

By the Commission

ENTERED
FEB 27 2018
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2017-00459

*Honorable Damon R Talley
Attorney at Law
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, KENTUCKY 42748

*Gerald E Wuetcher
Attorney at Law
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*Mary Ellen Wimberly
STOLL KEENON OGDEN PLLC
300 West Vine Street
Suite 2100
Lexington, KENTUCKY 40507-1801

*West Daviess County Water District
3400 Bittel Road
Owensboro, KY 42301

*William G Higdon
Manager
West Daviess County Water District
3400 Bittel Road
Owensboro, KY 42301

Kentucky Public Service Commission Vice Chairman

Robert Cicero

Comments at the Kentucky Chamber of Commerce Energy

Conference

January 18, 2018

Fair, Just and Reasonable / Accountability

As everyone knows, the Kentucky Public Service Commission is statutorily charged with the responsibility of ensuring that utility rates under its jurisdiction are fair, just and reasonable - both for the consumer and the utilities. This Commission takes that responsibility very seriously and acts accordingly.

There have been several large rate cases filed over the past year or so in which PSC staff spent an extensive amount of time reviewing operating and maintenance costs to determine their reasonableness. These costs are thoroughly evaluated and justified based on their appropriateness and reasonability in order to determine fairness.

Although a great deal of time could be spent speaking about O&M costs in general, I will particularly focus on salary and benefits, since the Commission's attention to these costs seems to be causing some industry concern.

As Commissioners we realize that any perceived position change from prior Commissions' practices, especially regarding cost justification for rate base determination, could be unsettling. It has become apparent to us that there is not only concern, but a certain level of misunderstanding, as to how the Commission is evaluating salary and benefit programs. And a great deal of that misunderstanding is probably due to our negligence in providing guidance. I'll attempt to clarify the Commission's position and what standard is being applied in determining what is fair, just, and reasonable with regard to salary and benefits.

As used in this discussion, salary and benefits includes all compensation programs, both from the Kentucky-based operations and allocated overheads from parent companies. They include:

Salaries

Wages - both non-negotiated and negotiated

Incentive compensation

Healthcare insurance

Dental insurance

Vision insurance

Life insurance

Disability insurance – both long and short term

Retirement savings plans with company contributions

Pensions

Post-employment benefits

While this list may not be all-inclusive, the magnitude of its cost materiality cannot be diminished. For example, investor owned utilities' salary and benefit costs represent approximately 1 in every 7 O&M dollars spent, so it should come as no surprise that the Commission is examining them with the same fair, just, and reasonableness standard as any other cost.

I'll give a quick rundown of the Commission's policy by salary and benefit cost category.

1. Salary and non-negotiated wages – Salaries should always be market-competitive as supported by survey benchmarks that include both other utilities and general business. Local, state and national data are always useful and encouraged. Annual salary increases should be performance-based, documented and supported by policy.
2. Negotiated wages – This Commission has no interest in renegotiating or dictating the terms of any labor contract. However, contracts with annual wage increases that appear to be excessive will be questioned and the applicant will be required to provide support showing them to be reasonable.

3. Incentive compensation – This type of compensation will always be more heavily scrutinized for necessity and reasonableness and will need to have a logical basis supported by performance goals for determining distributions.

4. Healthcare and Dental Insurance – The Commission’s position is that for rates to be fair, just, and reasonable - both to the ratepayers and the utility - the utility’s employees should reasonably participate in the cost of their health and dental insurance premiums.

Essentially, utility employee benefits need to be market competitive as measured against not only other utilities but other business sectors and public employees. Keeping that goal in mind, the following data are pertinent.

According to a Fortune article published in March 2016, only 9% of all companies pay 100% of their employees’ healthcare costs, and that percentage continues to decline.

The Henry J. Kaiser Family Foundation 2015 Employer Health Benefits Survey states that “Employers generally require that workers make a contribution towards the cost of the premium. Covered workers contribute on average 18% of the premium for single coverage and 29% of the premium for family coverage, the same percentages as 2014 and statistically similar to those reported in 2010. Workers in small firms contribute a lower average percentage for single coverage compared to workers in large firms (15% vs. 19%), but they contribute a higher average percentage for family coverage (36% vs. 26%). Workers in firms with a higher percentage of lower-wage workers (at least 35% of workers earn \$23,000 a year or less) contribute higher percentages of the premium for family coverage (41% vs. 28%) than workers in firms with a smaller share of lower-wage workers.”

However, there are difficulties in trying to compare healthcare insurance plans company-to-company or even industry-to-industry, because of the differences in coverage levels, deductibles, co-pays and prescription reimbursements.

Keeping this in mind, the key word from the Commission’s perspective is reasonable. Absent any Company-required employee participation in the cost of their healthcare (the company pays 100% of the premium), the Commission has applied a consistent standard utilizing the Bureau of Labor report for all workers in private industry, which, on a statistically sound basis, shows average single and family healthcare coverage

employee cost participation of 21% and 32%, respectively, as a reduction to allowable recoverable costs.

The Commission has been questioned as to why it doesn't utilize the statistical percentages for "Service-providing industries – utility category" instead of the "all workers" category. The reason is obvious: if all utilities offer the same program benefits the comparative percentages will be skewed for that category.

The average dental premium employee cost participation is 60%, as reported by the 2015 Willis Benefits Benchmarking Survey for all employers, and the Commission has applied the same ratemaking philosophy to this category as healthcare.

I will emphasize this point - if the employee percent cost participation is not exactly at the standard percentage levels, but the company does require employee cost participation at a reasonable level, the Commission will not adjust those costs. However, the further the actual percentage is below the standard statistical average percent participation, the greater the probability that the Commission could make an adjustment.

5. Vision and Life Insurances – The Commission has not attached as much significance to these coverages as health and dental cost participation because they are normally not material to total costs and provide a benefit that the utilities can utilize to attract and retain employees. However, utilities need to be prudent in controlling all costs and, as evidenced in a recent rate case, even these types of costs can become excessive. We found that although the IRS ceiling for company paid non-taxable life insurance is \$50,000, the company was offering as much as five times that amount. That would be considered excessive.

6. Pensions – the Defined Dollar Benefit pension plan is the most generous and expensive of retirement plans, which probably accounts for the statistic reported by the advisory firm Willis Towers Watson which states that "between 1998 and 2015, the percentage of employers still offering a traditional defined benefit pension plan to newly hired employees fell from about 50 percent to 5 percent."

401k savings or similar plans are now the prevailing standard retirement plan, as they are much less costly and funding is predictable. The Commission's policy regarding pension plan costs is that they are necessary for the wellbeing of employees, and pension benefit costs have not been adjusted for any plans, regardless of type, except under the following condition:

If a utility with a Defined Dollar Benefit pension plan permits participants to continue to earn benefits through a grandfathered clause, rather than locking and freezing the plan, and simultaneously permits those employees to contribute to a 401k or similar plan in which the company then matches some or all of the employee's contribution, those are duplicative benefits and the Commission will adjust those costs out of the rate base. Many ratepayers have no pension plan at all, and permitting utility employees to participate in multiple pension plans simultaneously is not practicable and is certainly not fair, just or reasonable.

7. Post Retirement Employee Benefits – only 23% of all companies offer retiree health plans, down 66% from 1988, according to the Henry J. Kaiser Family Foundation 2015 Employer Health Benefits Survey. The Commission has thus far elected not to apply any statistical standard to adjust these benefits.

From a personal perspective, I'm concerned that the utility industry in general, regardless of the entity's financial viability, seems to have a philosophy that health, dental and many other benefit programs should be completely or majority funded by the company; that somehow all employees, regardless of their skill level or occupation, are so valuable as to be irreplaceable.

Utilities often support their position by providing the Commission with utility industry-only comparative data indicating that benefits levels being offered are the market standard, when in reality they are highly skewed industry data.

The Commission accepts the premise that the utility industry employs individuals in dangerous occupations. However, many industries are inherently dangerous from an operations standpoint. Salaries of employees in those industries, as well as salaries of all utility employees, should be market based.

We've heard that utility employees are irreplaceable and that without the benefit level being offered many employees would be lost to the competition. Yet in every case that the PSC has heard over the past year, employee turnover ratios have been low to non-existent. Employee turnover has not been an issue.

Would utility management be so inclined to pay what is in effect an employee stability insurance premium if the costs were to be borne not by the ratepayers, but instead were funded by the shareholders out of their profits?

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

ID: [REDACTED]

Re: CLE Activity Accreditation
Date: April 19, 2018

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: Stoll Keenon Ogden - Lexington

Activity: Northern Kentucky Water Training

Location: Erlanger KY

Date: 03/26/2018

Activity No. 186388 Sponsor No. 1858

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

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 11, 2018

Northern KY Water District
Attn: Gerald Wuetcher
300 W Vine St, Ste 2100
Lexington, Kentucky 40507

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 KY Water Training Program 2018	03/26/2018	WW - 5.0 Hours approved DW - 5.0 Hours approved	17883	One time Approval – Public Service Commission Treatment of Employee Compensation session not approved.

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

EXHIBIT 7

Wuetcher, Gerald

From: Sharp, Scott A (DLG) <Scott.Sharp@ky.gov>
Sent: Wednesday, April 18, 2018 11:39 AM
To: Wuetcher, Gerald
Subject: RE: Request for Training Approval

Mr. Wuetcher,

I have accepted a new position here at the Department for Local Government and no longer work with the training program. At the time I accepted this position the training request had not been reviewed. DLG is in the process of hiring someone to fill the training position but I do not have a timeline on when that will be completed.

Scott

From: Wuetcher, Gerald <Gerald.Wuetcher@skofirm.com>
Sent: Wednesday, April 18, 2018 11:24 AM
To: Sharp, Scott A (DLG) <Scott.Sharp@ky.gov>
Subject: FW: Request for Training Approval

Mr. Sharp:

I am following up on my initial message. Please advise whether the Department of Local Government has approved the Northern Kentucky Water Training Program 2018 for the County Elected Officials Program. If any additional information is required, please let me know.

Thank you for your attention to this request. It is greatly appreciated.

Sincerely,



Gerald E. Wuetcher
Counsel to the Firm
859-231-3017 Direct
859-550-3894 Mobile
300 W. Vine Street, Ste. 2100
Lexington, KY 40507-1801

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.

From: Wuetcher, Gerald
Sent: Sunday, March 18, 2018 9:56 PM
To: scott.sharp@ky.gov
Subject: Request for Training Approval

Mr. Sharp:

On March 26, 2018, Northern Kentucky Water District and Stoll Keenon Ogden PLLC will jointly sponsor a training program that addresses issues related to the operation of management of water districts. Attached is a request for approval of the program for the County Elected Officials Training Program. A paper copy will be mailed to the Department of Local Government this morning. Please contact me if there are any questions regarding this request. I respectfully request that you acknowledge receipt of this message.

Thank you for your consideration of this application.

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 | Indianapolis | 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.

Elected County Officials Training Incentive Program Training Approval Request Form
Page Two

Training Title: Northern Kentucky Water Training Program 2018 Provider: Northern Kentucky Water District/SKO PLLC

Has this training been specifically designed for Kentucky's elected county officials? Yes No

Describe the learning objectives and how the content pertains to improving job knowledge or skills.

Upon completion of course, elected officials will have increased knowledge of recently enacted legislation and recent Kentucky Court and Public Service Commission decisions that significantly affect the operation and management of water and wastewater utilities, including water districts. They will gain a greater appreciation of some of the common legal issues that water and wastewater utilities face and possible courses of action for addressing those issues. They will also have a greater understanding of the issues of harassment in the workplace.

List Trainers and their Titles/Qualifications (attach short Bio's if necessary):

See attached agenda and biographical materials.

Describe any training materials that will be provided to the trainees:

Each attendee will be provided a paper copy of each presenter's PowerPoint presentation and the speaker's notes. Each will also be provided a flash drive containing approximately 1,500 pages in electronic format of applicable laws, regulations, Kentucky court decisions, and Public Service Commission orders, as well as several reference publications.

Is this training a requirement for County Officials? (If Yes check applicable officials) Yes No

Fiscal Court County Clerk Sheriff Jailer All

List corresponding KRS, KAR or other requiring entity:

Attach detailed agenda to email prior to sending

Print Form

Submit by Email