

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KNOTT)	
COUNTY WATER & SEWER DISTRICT;)	
PHILLIP DION SLONE; DON GIBSON;)	
FREDDIE WILLIAMS; RICKY McDANIEL;)	
AND JEREMY GOODSON, BEING ALL OF)	CASE NO.
THE BOARD OF COMMISSIONERS OF)	2022-00029
THE KNOTT COUNTY WATER DISTRICT)	
FOR AN EXTENSION OF TIME TO)	
COMPLETE REQUIRED WATER DISTRICT)	
MANAGEMENT TRAINING FOR THE 2021)	
CALENDAR YEAR)	

APPLICATION

Come now Don Gibson, Freddie Williams, Ricky McDaniel, Jeremy Goodson, and Phillip Dion Slone, being every member of the Board of Commissioners of the Knott County Water & Sewer District (the "Applicants/Board Commissioners"), and Knott County Water & Sewer District (the "District"), pursuant to KRS 74.020(6) and (9), hereby move for an Order authorizing a six month extension of time until June 30, 2022, for the Commissioners to complete the required water district management training.

INTRODUCTION.

1. The Board Commissioners' names and contact information are as follows:

Don Gibson
E-mail: dgibson@blackhawkmining.com
Phone: 606-793-0352

Freddie Williams
E-mail: f.williams@gtel.com
Phone: 606-438-9512

Ricky Mc Daniel
E-mail: rmcdaniel@knottky.com
Phone: 606-497-7666

Jeremy Goodson
E-mail: amynoble29@yahoo.com
Phone: 606-634-9676

Phillip Dion Slone
E-mail: dionslone@yahoo.com
Phone: 606-634-3466

2. The District was formed by resolution of the Knott Fiscal Court on February 10, 1999, Fiscal Court Minutes, Book 14, Page 457 of the Knott County Clerk's Office. The District has taken on a corporate form to operate. The District is identified as Knott County Water and Sewer, Inc., acting under assumed name Knott County Water & Sewer District, whose address is 7777 Big Branch Road, Vicco, Kentucky, 41773.

3. Copies of all orders, pleadings or other communications related to this proceeding should be directed to:

Don Gibson
Chairman
c/o Knott County Water & Sewer District
7777 Big Branch Road
Vicco, KY 41773

Jared Salmon
General Manager
c/o Knott County Water & Sewer District
7777 Big Branch Road
Vicco, KY 41773

4. This is a relatively new Board of Commissioners:

Don Gibson appointed May, 2020.
Freddie Williams appointed May, 2020.
Ricky McDaniels appointed April, 2019.

Jeremy Goodson appointed February, 2020.
Phillip Dion Slone appointed February, 2020.

5. The Knott Fiscal Court decided to follow KRS 74.020(6) and set each Board Commissioner's salary at a base annual rate of \$3,600.00 per year, but also authorized a salary enhancement of \$2,400.00 for any Board Commissioner who completed training during the educational year.

Specifically, each Board Commissioner must complete "...a minimum of six (6) instructional hours of water district management training approved by the Public Service Commission"...to qualify for the enhanced pay. KRS 74.020(6).

6. Each Applicant completed the instructional hours for the year 2020 and received the enhanced pay.

7. However, none of the Applicants completed the required instructional hours for the year 2021; hence, the necessity for this motion.

8. These Applicants seek permission to attend the required instructional hours within the six month extension provided by KRS 74.020(9).

9. The Applicants fully understand and agree that should the extension be granted, then they would intend on doubling their educational obligations by picking up six hours before June 30, 2022, for year 2021, and another six hours thereafter to qualify for year 2022.

THE LAW.

10. KRS 74.020(9) requires a showing of good cause before the extension can be granted.

FACTS.

11. Here it develops that the Applicants had routinely relied upon the District staff, particularly Kyle Smith, the Chief Financial Officer, to make the necessary arrangement to attend the educational sessions. See Affidavit, Don Gibson, attached as **Exhibit A**.

Mr. Smith testifies by Affidavit attached hereto as **Exhibit B** that it had been his duty to coordinate the Commissioners' educational training for the last seven years. Moreover, it was his job to notify each Commissioner of the time and place to attend. That the Board Commissioners usually attend a December session. Mr. Smith goes on to say that for 2021, he simply overlooked the December, 2021 session due to the press of other duties. He simply did not realize that the last educational opportunity was scheduled December 8-9, 2021. As a result, he did not inform Board Commissioners of their obligation nor schedule their attendance. His omission resulted in all Commissioners missing the educational opportunity for year 2021. (See attached **Exhibit B**).

ARGUMENT.

12. The Applicants have established that they and each of them have shown good cause to justify the grant of the six month extension by reasonably relying on staff.

13. The Public Service Commission does not send out individual notices to Board Commissioners about upcoming educational sessions. The Applicants/Board Commissioners were reasonable in relying on staff to coordinate and secure their participation in educational opportunities. This was the custom adopted by the Board, and it had worked flawlessly till now.

14. The Board Commissioners are not full-time employees. They do not maintain offices at the District Office. They meet once a month. Each has a full time job outside of their Commissioner duties.

15. Reliance on third parties has been accepted by the Public Service Commission in other applications as grounds for good cause:

16. In 2021-00185, Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of its Rates and a Certificate of Public Convenience and Necessity, November 15, 2021, the Applicant established good cause shown when it was allowed to deviate from publishing schedule when it was discovered one newspaper had published late.

17. The conduct of the Applicant's staff can be considered in creating good cause.

A) In 2020-00062, Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity to Construct a 138 KV Transmission Line and Associated Facilities in Pike and Floyd Counties, Kentucky, March 29, 2021, the Applicant was granted a good cause extension because it showed its staff was dealing with a prior deadline set by the Public Service Commission on another matter and could not undertake both that task and the current task at the same time.

B) In 98-630, Hima-Sibert Water District's Application to Establish Certain Nonrecurring Charges, November 9, 1999, the Applicant failed to provide advance public notice due to "inadvertently neglect" of its staff. But upon discovery, moved quickly to rectify. The Commissioner allowed the late filing notice after finding this constituted good cause shown.

18. The Commission is continuously faced with request for relief based upon good cause shown in a number of different applications. From a review of prior orders, certain factors come into play that can establish good cause shown. Since KRS 74.020(9) does not define “good cause shown”, the Public Service Commission has established certain factors in its analysis for such a finding.

A) All such requests for a relaxation of the rules is dealt with on a case by case basis. 2021-00427, Electronic Application of Wood Creek Water District for a Rate Adjustment Pursuant to 807 KAR 5:076, December 20, 2021. The statute is not designed as a “gotcha” rule. It is not a statute of limitations, but has the salutary goal of encouraging Commissioners of Water Boards to be well informed about their duties and obligations.

The legislature felt this goal so important it even provided for a six month extension as specifically provided for in KRS 74.020(9).

B) There is a difference in showing good cause for a request to forego a rule requirement as opposed to a request to extend compliance with rule requirement.

C) A good cause request must be unpinned by fact showing good faith and lack of harm.

D) Good cause cannot be used to diminish or destroy the purpose of the rule sought to be extended or relieved from.

Against this backdrop,

19. Here, the Commissioners seek to acquire their educational training by doubling up in the upcoming year.

20. They do not seek to be relived of the obligation or ask for the educational mandates to be extinguished for them. They do not ask for special treatment, but for what the statute allows.

21. There is no harm to the public in having the Board Commissioner double up their knowledge in the coming year. Just the opposite is true as the beneficial nature of the statute is met, i.e., having a well-educated Board Commission knowledgeable about the most current management techniques serves the public's interest.

22. This Public Service Commission routinely grants extensions to Applicants to comply with time deadlines, such as:

In rate adjustment actions, 2021-00407, [Electronic Application of South Kentucky Rural Electric Cooperative Corporation for a General Adjustment of Rates, Approval of Depreciation Study, and Other General Relief](#), January 10, 2022;

Or to inform the public, 2021-0346, [Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity to Construct a 138 KV Transmission Line and Associated Facilities in Breathitt, Floyd and Knott Counties, Kentucky \(Garrett Area Improvements 138 KV Transmission Project\)](#), November 17, 2021;

Or to fix a customer complaint, 2021-00363, [Joyce Yvonne Epperson, Complainant, v. West Laurel Water Association, Inc., Defendant](#), November 3, 2021.

23. The Commission has likewise liberally granted extensions to its own staff when deadlines could not be met as required by the Rules, 2021-00374, [Electronic Joint Application of Paducah Water Works and West McCracken County Water District for Approval of Transfer of McCracken County Water District](#), December 6, 2021, and 2020-00062, [Electronic Application of Kentucky Power Company for a Certificate of Public Convenience and Necessity to Construct a 138 KV Transmission Line and Associated Facilities in Pike and Floyd Counties, Kentucky](#), March 29, 2021.

24. Here, the District acted with alacrity to fix the issue as soon as discovered.

Mr. Smith belatedly realized his error after the last December training session had expired. After informing the Chairman, he was directed to immediately try to ameliorate the harm.

A) Mr. Smith began discussion with PSC staff, including Travis Leach, Assistant General Counsel Brittany H. Koenig, Esquire, and finally Executive Director Bridwell, about alternative methods to secure the educational requirement; A) such as including virtual attendance of past continuing education sessions. A suggestion that could not be undertaken because apparently prior sessions could not be retrieved.

B) Mr. Smith then found out that Rural Water, a recognized authority in the field, had continuing education hour classes set for February 16, 2022. **See Exhibit C.** A request was made to Director Bridwell for the Board to take the February training and have it relate back to 2021.

Executive Director Bridwell could not make the accommodation either; thus, the necessity of filing this motion.

25. Covid restrictions have put a damper on staff to Board interactions. In 2021, most meetings were conducted by Zoom. This, coupled with the sparsity of training opportunities, increased the likelihood of simply all involved failing to appreciate the lost opportunities to attend educational choices.

26. The noble goal of having a better trained Board Commissioners should outweigh any concerns of a lax “good cause” barrier to procrastinators.

WHEREFORE, the Applicants, being the full Board of the Knott County Water & Sewer District, move that the Public Service Commission for:

- 1) Place the Application at the head of Commission docket due to the imminent training schedule;
- 2) Recognize the February 16, 2022 Rural Water training session as compliant with KRS 674.020(6) and (9).
- 3) Issue an Order allowing each Commissioner, Don Gibson, Freddie Williams, Ricky McDaniel, Jeremy Goodson, and Phillip Dion Slone, time to complete six instructional hours by June 30, 2022, by attending Rural Water Seminar or other session approved by PSC to qualify for the maximum annual salary of \$6,000 for the year 2021.
- 4) Enter said Order granting the requested relief without holding an evidentiary hearing;
- 5) Grant all such other relief to which Applicants may be entitled.

Respectfully submitted,



Calvin R. Tackett
40 Main Street
Whitesburg, KY 41858
Phone: 606-633-0126
Fax: 606-633-0972
E-mail: tackettlaw@att.net

ATTORNEY FOR APPLICANTS

Certificate of Service

In accordance with 807 KAR 5:001, Section 8, I certify that Applicants' electronic filing of this Application is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on January 26, 2022; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that within 30 days following the termination of the state of emergency declared in Executive Order 2020-215, this Application in paper medium will be delivered to the Public Service Commission.



Calvin R. Tackett

COMMONWEALTH OF KENTUCKY

COUNTY OF KNOTT

The undersigned, Don Gibson, being duly sworn, deposes and states that he is the Chairman of Knott County Water & Sewer District; that he has read this Application and has noted its contents; that the same is true of his own knowledge, except as to matters which are therein stated on information or belief, and as to those matters, he believes same to be true.

Particularly, that he and the rest of the Board Commissioners routinely relied upon the staff to make the arrangements to attend educational sessions.

That he did, upon being informed of the missed educational seminars, direct Kyle Smith to immediately try to cover the obligation with the P.S.C. before December 31st, 2021.

26th IN TESTIMONY WHEREOF, witness the signature of the undersigned on this day of January, 2022.



DON GIBSON

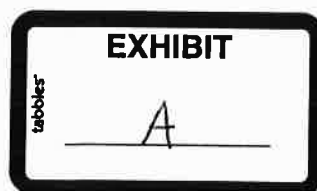
Subscribed and sworn before me by **DON GIBSON**, on this 26th day of January, 2022.



Notary Public

Notary I.D. KYNP27924

My commission expires: 5/3/2025



AFFIDAVIT

Comes now the affiant, after being duly sworn, and hereby states as follows:

- 1) I am over 18 years of age and make this Affidavit based upon personal knowledge.
- 2) From January, 2015 thru December 31st, 2021, I served as Chief Financial Officer for Knott County Water & Sewer District.
- 3) As one of my duties during those years, I was charged with responsibility to track the educational sessions offered by P.S.C. or others such as Rural Water so that the District's Commissioners could attend and qualify for the enhanced pay allowed by KRS 14.020(B).
- 4) In 2020 I performed these duties for this new Board so that the entire District received the extra training. Usually the District Commissioners prefer a December session.
- 5) For the calendar year 2021, I simply overlooked the December P.S.C. training session due to the press of my other duties. Shortly after the session had occurred, I realized my error and informed the General Manager and the Board Chairman.
- 6) I was directed by our Chairman to immediately try to rectify the situation before December 31st deadline.
- 7) I promptly contacted Travis Leach, Assistant General Counsel, Brittany H. Koenig, Esquire, and finally Executive Director Linda Bridwell, P.E. and suggested various scenarios which would allow the Board Commissioners to be trained before December 31st expiration date.



8) We discussed remote attendance of prior P.S.C. sessions, or upcoming Rural Water Seminary on February 16, 2022.

9) Although sympathetic, none proved feasible to the P.S.C. staff, and the December 31st date came and went without any training for year 2021.

Further, affiant sayeth naught.

Dated this 25 day of January, 2022.


KYLE SMITH

COMMONWEALTH OF KENTUCKY

COUNTY OF KNOTT

Subscribed and sworn before me by **KYLE SMITH**, this 25 day of January, 2022.

My commission expires: 5/08/2024


NOTARY PUBLIC

Commission No. 6233

Management Conference

Kentucky Rural Water Association

MANAGEMENT CONFERENCE

February 16 - 17, 2022

Holiday Inn University Plaza | Sloan Convention Center | Bowling Green, KY

Water and wastewater professionals from across Kentucky will be gathering Wednesday and Thursday, February 16-17, 2022 at the Sloan Convention Center in Bowling Green, Kentucky, for Kentucky Rural Water Association's 2022 Management Conference.

[Attendee Registration](#)

[Exhibitor Registration](#)

Highlights include:

Twelve hours of continuing education credit will be offered again this year. Both Wednesday and Thursday will offer 6 hours of training. Details of the sessions will be included on the tentative agenda. All hours are pending approval from the Division of Compliance Assistance, Operator Certification Section and the Public Service Commission..

Our new schedule will allow attendees more time to interact with our Associate Members who will be on hand to exhibit the most current industry trends and specialty products. These

EXHIBIT

C

Industry professionals will showcase the most up-to-date offerings in supplies, materials and services at the popular table top displays.

After the exhibit hall opens on Wednesday, lunch will be served to **ALL** in the exhibit hall. This will allow attendees additional time to take advantage of visiting with the tabletop

exhibitors. Once classes are over for the day, the Member Appreciation Reception will offer time to fellowship as we gather in the exhibit area, Ballrooms A – C, and partake of a tasteful array of hors d'oeuvres. If these appetizers only whet your appetite, there's still time for dinner out on the town.

A continental breakfast will be available in the exhibit area on Thursday morning before classes resume at 8:00 a.m. in Ballroom D. Thursday's lunch break will be "on your own" with training continuing after the break.

We hope you will join us February 16-17 for our 2022 Management Conference!

[Attendee Registration](#)

[Exhibitor Registration](#)