

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**ELECTRONIC APPLICATION OF)
HARDIN COUNTY WATER DISTRICT)
NO. 2 FOR ACCREDITATION AND) CASE NO. 2024-00260
APPROVAL OF COMMISSIONER)
TRAINING)**

APPLICATION

Hardin County Water District No. 2 (“Hardin District No. 2”) and Stoll Keenon Ogden PLLC (“Joint Applicants”) apply for an Order from the Public Service Commission (“Commission”) accrediting and approving a proposed water district commissioner training program pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070.

In support of its application, the Joint Applicants state:

1. The full name and post office address of Hardin District No. 2 is: Hardin County Water District No. 2, P.O. Box 970, 1951 West Park Road, Elizabethtown, Kentucky 42702-0970. Its electronic mail address is lsims@hcwd2.org.

2. Pursuant to 807 KAR 5:001, Section 4(8),¹ copies of all orders, pleadings, and other communications related to this proceeding should be directed to:

Damon R. Talley
Stoll Keenon Ogden PLLC
P.O. Box 150
Hodgenville, KY 42748-0150
(270) 358-3187
Fax: (270) 358-9560
damon.talley@skofirm.com

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

Lea Ona Sims
Hardin County Water District No. 2
P.O. Box 970
1951 West Park Road
Elizabethtown, KY 42702
(270) 737-1056
lsims@hcwd2.org

3. Hardin District No. 2 is not a corporation, limited liability company, or limited partnership. It has no articles of incorporation or partnership agreements.

¹ On August 6, 2024, the Joint Applicants gave notice pursuant to 807 KAR 5:001, Section 8, of their intent to file this application and of their use of electronic filing procedures.

4. Hardin District No. 2 is a water district organized pursuant to KRS Chapter 74.

5. Hardin District No. 2's territory includes all of Hardin County, Kentucky, except for the city of Radcliff and the northern portion of Hardin County, and portions of Larue and Hart Counties.

6. Stoll Keenon Ogden PLLC is a Kentucky Limited Liability Company that was organized under the laws of the Commonwealth of Kentucky on December 28, 2005 and is currently in good standing. It provides legal services to local, regional, national, and international clients.

7. Stoll Keenon Ogden PLLC's mailing address is: 300 West Vine Street, Suite 2100, Lexington, Kentucky 40507-1801. Its email address for purposes of this Application is: gerald.wuetcher@skofirm.com.

8. Joint Applicants propose to sponsor and conduct a water management training program on September 30, 2024, at Hardin District No. 2's office in Elizabethtown, Kentucky. The program is entitled "Hardin County Water Commissioner Training Seminar." A copy of the proposed agenda is attached to this Application as **Exhibit 1**.

9. As reflected in **Exhibit 1**, the proposed training program will consist of presentations that are designed to enhance the attendees' understanding of relevant legal, financial, and technical issues involved in the management, operation, and

maintenance of water systems and calculated to improve the quality of the management, operation and maintenance of the attendees' water systems. The proposed training program includes presentations on the following topics:

a. **Recent Developments in Utility Regulation.** This presentation reviews recent developments in public utility law and regulation. Topics include revisions to the Sales Tax laws concerning "Residential" exemptions, borrowing money, compliance with Commission Orders, keeping Minutes, and laws enacted by the 2024 General Assembly. The presenter also examines and discusses recent court and Public Service Commission decisions.

b. **Everything you wanted to know about Certificates of Public Convenience and Necessity and Debt Authorizations but were afraid to ask the Public Service Commission.** This presentation reviews the statutory law surrounding the construction of utility facilities and the issuance of debt. It will focus on what utility actions require a certificate of public convenience and necessity and the exceptions to the general requirement for a certificate of public convenience and necessity. It will also identify those debt issuances and contractual obligations that require prior Commission authorization and exceptions to the requirement for prior Commission authorization. The presentation will also provide practical suggestions on preparing applications for such relief to assist Commission review and minimize the time required to obtain Commission approval.

c. **Relations with the Public Service Commission: Best Practices for Maintaining Positive Interaction.** This presentation focuses on the practices that utilities can undertake to ensure good and effective relations with the Commission. The presentation will review the challenges that the Commission currently faces, common mistakes that utilities make when seeking relief from the Commission, the importance of carefully reviewing and complying with Commission orders, and the importance of compliance with regulatory filing deadlines. It will also discuss how the Commission reviews applications for relief and what filers should generally expect.

d. **Asset Management and Financing.** This presentation discusses the different facets of Asset Management, including taking inventory of a utility's assets, determining the condition, reliability, and critical nature of the assets, and building an Asset Management Plan. In addition, a long-term funding strategy will be discussed.

e. **Legal Issues in the Management and Operation of a Water District.** A panel discussion on frequently recurring legal issues faced by water districts, which is anticipated to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Eminent Domain, the Whistle Blowers Act, and general laws related to special districts.

10. The proposed training program consists of six hours of instruction and should be accredited and approved as water management training satisfying the requirements set forth in KRS 74.020(7) to establish a water district commissioner's eligibility for a maximum annual salary of \$6,000. **Joint Applicants are not requesting that the proposed training program be accredited as a program of instruction for newly appointed commissioners.**

11. A biographical statement containing the name and relevant qualifications and credentials for each presenter is attached at **Exhibit 2** of this application.

12. The written materials to be provided to each attendee are attached at **Exhibit 3**. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, Joint Applicants will include a copy of the revised presentation with its sworn statement and report regarding the instruction. Should any presenter revise or amend his or her presentation prior to the presentation or provide additional written materials to the attendees, a copy of the revised presentation will also be submitted.

13. In addition to Hardin District No. 2's management staff and commissioners, the management staff and members of the Boards of Commissioners of the following water districts have been invited to attend the proposed training:

Grayson County Water District; Hardin County Water District No. 1; Larue County Water District No. 1; and Meade County Water District.

14. The Joint Applicants will retain a record of all water district commissioners attending the proposed training program.

15. Within 30 days of the proposed training program's completion, the Joint Applicants will file with the Commission a sworn statement:

- a. Attesting that the accredited instruction was performed;
- b. Describing any changes in the presenters or the proposed program curriculum that occurred after certification; and
- c. Containing the name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended.

16. The Joint Applicants will include with the sworn statement documentary evidence of the program's certification by certifying authorities and a copy of any written material given to the attendees that has not been previously provided to the Commission.

17. The Joint Applicants will admit the Commission's representatives to the proposed training program at no charge to permit such representatives to assess the quality of the program's instruction, monitor the program's compliance with the

Commission directives, regulations, or other requirements, or perform any other supervisory functions that the Public Service Commission deems necessary.

WHEREFORE, the Joint Applicants request that the Public Service Commission approve and accredit the proposed training program entitled “Hardin County Water Commissioner Training Seminar” for **six hours** of water district management training.

Dated: August 28, 2024

Respectfully submitted,



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Counsel for Joint Applicants

CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on August 28, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



Damon R. Talley

EXHIBIT 1



Hardin County Water Commissioner Training Seminar

Presented by

Hardin County Water District No. 2 & Stoll Keenon Ogden PLLC
1951 West Park Road, Elizabethtown, Kentucky

September 30, 2024

Morning Agenda

8:00 - 8:25 **Registration and Refreshments**

8:25 - 8:30 **Program Overview and Welcome – Mike Bell**

8:30 - 9:30 **Recent Developments in Utility Regulation (Part I) – Damon Talley**

This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, borrowing money, compliance with PSC Orders, PSC Investigations, and maintaining minutes of Board proceedings. The presenter will also examine and discuss recent court and PSC decisions.

9:40 - 10:40 **Asset Management and Financing – Robert K. Miller**

This presentation discusses the different facets of Asset Management, including taking inventory of a utility's assets, determining the condition, reliability, and critical nature of the assets, and building an Asset Management Plan. In addition, a long-term funding strategy will be discussed.

10:50 - 11:50 **Relations with the Public Service Commission: Best Practices for Maintaining Positive Interaction – Tina Frederick**

This presentation focuses on the practices that utilities can undertake to ensure good and effective relations with the Commission. The presentation will review the challenges that the Commission currently faces, common mistakes that utilities make when seeking relief from the Commission, the importance of carefully reviewing and complying with Commission orders, and the importance of compliance with regulatory filing deadlines. It will also discuss how the Commission reviews applications for relief and what filers should generally expect.

11:50 - 12:30 **Lunch (provided on-site)**

Afternoon Agenda

- 12:30 - 1:30 **Everything you wanted to know about Certificates of Public Convenience and Necessity and Debt Authorizations but were afraid to ask the Public Service Commission – Gerald Wuetcher**
This presentation reviews the statutory law surrounding the construction of utility facilities and the issuance of debt. It will focus on what utility actions require a certificate of public convenience and necessity and the exceptions to the general requirement for a certificate of public convenience and necessity. It will also identify those debt issuances and contractual obligations that require prior Commission authorization and exceptions to the requirement for prior Commission authorization. The presentation will also provide practical suggestions on preparing applications for such relief to assist Commission review and minimize the time required to obtain Commission approval.
- 1:40 - 2:40 **Recent Developments in Utility Regulation – Part II
Damon Talley and Gerald Wuetcher**
Continuation of Earlier Presentation.
- 2:45 - 3:45 **Legal Issues in the Operation & Management of Water Systems
Panel Discussion – Tina Frederick, Damon Talley & Gerald Wuetcher**
A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water districts. Discussion is expected to address KRS Chapter 74 and its effects on the management and operation of water districts, as well as other highly relevant statutory provisions, such as the Claims against Local Government Act, Bidding Requirements provision of KRS Chapter 424, Eminent Domain, Local Model Procurement Law, Whistle Blowers Act, and general laws related to special districts. PSC regulatory requirements will also be discussed.
- 3:45 **Closing Remarks & Administrative Announcements**

EXHIBIT 2

Asset Management and Financing



Kentucky Rural Water Association
Robert K. Miller

1

The Fundamentals of Asset Management and Financing *using a Notepad, a Pencil, a Calculator, and Your Own Judgment*



2

Explaining Asset Management

Asset management is a process to make sure that:

- ✓ Planned maintenance can be conducted
- ✓ Assets can be repaired, rehabilitated, or replaced on time
- ✓ That there is enough money to pay for it.



Because assets installed while Adolph Rupp was coaching eventually need to be replaced.

3

Selling the Benefits of Asset Management

- Prolonging asset life
- Improving decisions about asset rehabilitation and replacement
- Setting rates based on sound operational and financial planning
- Meeting regulatory requirements
- Improving responses to emergencies
- Reducing overall costs for both operations and capital



4

Five Core Questions

1. What is the current state of my assets?
2. What is required level of service?
3. Which assets are critical?
4. When to repair or rehabilitate or replace?
5. What is long-term funding strategy?



5

1. What is the current state of my assets?

- a. What do I own?
- b. Where is it?
- c. What condition is it in?
- d. What is its remaining useful life?

6

1. What is the current state of my assets?


- Plan on multi-year effort to identify assets
- Use what you already have: maps, accounting records, and as-built drawings
- Focus on "what wakes you up at night"
- Identify what will need attention during the next five years

7

7

1. What is the current state of my assets?


- Source of Supply
- Treatment Plant
- Pumping Plant
- Chemical Feeds
- Transmission Pipes
- Storage Tanks
- Booster Stations



8

8

1. What is the current state of my assets?



- Distribution Pipes
- Valves
- Hydrants
- Meters
- Vehicles and Equipment

9

9

1. What is the current state of my assets?

Don't forget your back-office assets.



- Telemetry System
- Mapping System
- Accounting System
- Billing System
- Communications System

10

10

1. What is the current state of my assets?

Don't attempt it alone.

Get advice and assistance from retirees and field personnel.



11

11

1. What is the current state of my assets?



Gather identifying information:

- ✓ Make
- ✓ Model
- ✓ Serial Number
- ✓ Location
- ✓ Take photos.

12

12

1. What is the current state of my assets?




Develop your own evaluation scale:

- ✓ Routine maintenance needed.
- ✓ Rehabilitation needed.
- ✓ Replacement needed.

Condition Rating	Description of Condition
1	Very good condition - Only normal maintenance required
2	Minor defects only - Minor maintenance required (5%)
3	Maintenance to enable an asset to provide an acceptable level of service - Significant maintenance required (20% - 25%)
4	Requires renewal - Significant/renewal/upgrade required (20% - 40%)
5	Asset unserviceable - Over 50% of the asset requires replacement

13

2. What is required level of service?

-  What do my customers expect?
-  What do regulators require?
-  What is my actual performance?

14



2. What is required level of service?

Example: Water Main Break Frequency

- a. What do my customers expect?
- b. What do regulators require?
- c. What is my actual performance?

15


2. What is required level of service?

Example: Water Pressure

- a. What do my customers expect?
- b. What do regulators require?
- c. What is my actual performance?



16



2. What is required level of service?

Example: Fire Hydrants


- a. What do my customers expect?
- b. What do regulators require?
- c. What is my actual performance?

17

2. What is required level of service?



Example: Meter Accuracy

- a. What do my customers expect?
- b. What do regulators require?
- c. What is my actual performance?




18

3. Which assets are critical?

-  How does it fail?
-  What is the likelihood of failure?
-  How much advance notice is there of imminent failure?
-  What are the consequences of failure?

19

3. Which assets are critical?



How does it fail?


- ✓ It rusts.
- ✓ It just stops.
- ✓ Slowly at first, then rapidly.
- ✓ It bursts into flames.

20

3. Which assets are critical?

What is the likelihood of failure in next five years?

- ✓ Not Likely
- ✓ Possible
- ✓ Likely



21

3. Which assets are critical?



How much advance notice is there of imminent failure?

- ✓ Like a tornado, less than one hour
- ✓ Like a hurricane, three to five days
- ✓ Like climate change, several years

22

22

3. Which assets are critical?

What are the consequences of failure?

- ✓ Routine
- ✓ Emergency
- ✓ Extreme
- ✓ Catastrophic



23

23

4. When to repair, rehabilitate, or replace?



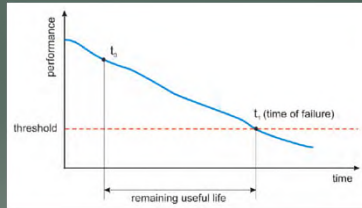
- How much time and money does repair take?
- How much time and money does rehabilitation take?
- How much time and money does replacement take?

24

24

4. When to repair, rehabilitate, or replace?

- a. How long does repair last?
- b. How long does rehabilitation last?
- c. How long does replacement last?



15

25

Building an Asset Management Plan

Considering:

- 1. Current state of assets
- 2. Level of service required
- 3. Which assets are critical
- 4. When to repair, rehabilitate, or replace

Build a Five-Year Plan:

- ✓ What new maintenance needs to be scheduled
- ✓ What assets need to be rehabilitated
- ✓ What assets need to be replaced

16

26



5. What is long-term funding strategy?


- a. Transaction Approach: Lump as much as possible into a "capital project" for grants and loans and accompanying rate increase.
- b. Asset Management Approach: Look at revenues and requirements over multiple years using mix of debt and rates.

17

27

KY PSC Approach to Ratemaking

- Utilities are being ordered to perform rate studies.
- Rate studies compute revenues required to recover operating expenses, debt service, and depreciation.
- Current rates typically recover operating expenses and debt service.
- New rates include depreciation.
- Depreciation funds can be used reactively or proactively.




18



28

How to Use Depreciation Funds

Concept of Depreciation and Depreciation Reserve Fund

The concept of depreciation refers to the gradual decrease in the value of the capital stock either through the physical tear and wear, obsolescence or changes in demand for services of the capital.



Depreciation =  =  Depreciation Value

19

29

Proactive vs Reactive Strategies

More Information Online: WWW.DIFFERENCEBETWEEN.COM

	Proactive Strategies	Reactive Strategies
DEFINITION	Proactive strategies are the strategies a company uses to anticipate possible challenges and threats.	Reactive strategies are the strategies a company uses to respond to some unanticipated event only after it occurs.
USE	Reacts to anticipated challenges.	Helps to deal with unexpected situations.
EFFORTS FOR CRISIS MANAGEMENT	Can reduce the effort a company makes for crisis management.	Will not take any effort until a crisis happens.
TIME PERIOD	Applicable for anticipated threats, challenges and future conditions.	Applicable to the current situation.

20

30

KY PSC Approach to Ratemaking

- New rates may also include a water loss reduction surcharge.
- Established during a rate case at request of utility.
- Cost of purchased water, power, and chemicals above 15% water loss excluded from rates.
- May be recovered via fixed amount per bill for 48 months.
- Use limited to certain projects.
- Expenditures subject to prior approval by KY PSC.



31

Recommended Approach

Build a five-year asset management financing plan using:

Sources and Uses of Funds	Maintenance Budget	Water Loss Surcharge *	Depreciation Funds	Loan Proceeds
Maintenance	✓	✓	✓	
Rehabilitation		✓	✓	✓
Replacement		✓		✓

* Subject to prior approval by KY PSC

32

32

5. What is long-term funding strategy?

- Start with the Income Statement from most recent PSC Annual Report.
- Make known and measurable adjustments to revenues and maintenance expenses.
- Project out for five years.

	2021 Actual	Known and Measurable Adjustments	2023 Proforma
Operating Revenues			
Total Metered Retail Sales	768,264	24,146	792,410
Other Water Revenues	32,475	-	32,475
Total Operating Revenues	800,739	24,146	824,885
Operating Expenses			
Total Operation and Mnt. Expenses	500,155	14,110	514,265
Current Depreciation Expense	224,465	(39,189)	185,276
New Depreciation	-	-	-
Taxes Other Than Income	16,979	3,570	20,549
Total Operating Expenses	741,599	(21,509)	720,090
Total Utility Operating Income	59,140	45,655	104,795
Non Operating Income	11,999	-	11,999
Current Interest Payments	(156,180)	-	(156,180)
Net Income	(85,041)	45,655	(18,661)

33

33

5. What is long-term funding strategy?

	2023	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma	Proforma
Net Income	(18,661)	25,176	88,982	48,616	12,015	(26,560)
Plus Current Depreciation	185,276	185,276	185,276	185,276	185,276	185,276
Plus New Depreciation	-	21,725	31,992	48,448	59,983	67,304
Less Current Bond Principal Payments	(106,245)	(135,453)	(110,981)	(131,346)	(113,722)	(127,027)
Less New Debt Service Payments	-	(127,226)	(127,226)	(211,080)	(211,080)	(211,080)
Cash Generated from Operations	60,370	(30,505)	68,043	(60,086)	(67,528)	(112,087)

Determine Cash Generated from Operations for next five years.



34

5. What is long-term funding strategy?

Identify and sequence planned capital improvements.



Walton Pike WM Replacement Replacement of approximately 3 miles of water main.	\$ 850,000
New Customer Radio Read Meters Installation of approximately 800 new customer meters.	\$ 325,000
Minerva BPS Installation of new above ground BPS.	\$ 350,000
Germantown Road WM Replacement Replacement of approximately 1 mile of water main.	\$ 850,000
Wellhead Protection Purchase of additional land to protect the well field.	\$ 260,000
Permanent Generator for WTP Installation of permanent generator at WTP.	\$ 100,000
Unplanned Capital Requirements	\$ 375,000
	\$ 3,110,000

35

35

5. What is long-term funding strategy?

Assign to targeted year and increase for inflation.



	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma
Walton Pike WM Replacement Replacement of approximately 3 miles of water main.	\$ 850,000	\$ -	\$ -	\$ -	\$ -
New Customer Radio Read Meters Installation of approximately 800 new customer meters.	\$ 325,000	\$ -	\$ -	\$ -	\$ -
Minerva BPS Installation of new above ground BPS.	\$ -	\$ 350,000	\$ -	\$ -	\$ -
Germantown Road WM Replacement Replacement of approximately 1 mile of water main.	\$ -	\$ -	\$ 850,000	\$ -	\$ -
Wellhead Protection Purchase of additional land to protect the well field.	\$ -	\$ -	\$ -	\$ 260,000	\$ -
Permanent Generator for WTP Installation of permanent generator at WTP.	\$ 50,000	\$ -	\$ 75,000	\$ -	\$ 100,000
Unplanned Capital Requirements	\$ 1,225,000	\$ 412,000	\$ 925,000	\$ 347,000	\$ 200,000

36

36

5. What is long-term funding strategy?

- Assign useful lives and compute new depreciation.
- Link to Income Statement.



	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma
Walton Pike WM Replacement Replacement of approximately 3 miles of water main.	13,600	13,600	13,600	13,600	13,600
New Customer Radio Road Meters Installation of approximately 800 new customer meters.	8,225	8,225	8,225	8,225	8,225
Minerva BPS Installation of new above ground BPS.	10,267	10,267	10,267	10,267	10,267
Germanstown Road WM Replacement Replacement of approximately 1 mile of water main.	-	-	16,456	16,456	16,456
Wellhead Protection Purchase of additional land to protect the well field.	-	-	-	13,535	11,535
Permanent Generator for WTP Installation of permanent generator at WTP.	-	-	-	-	7,321
Unplanned Capital Improvements	7,500	5,588	10,715	10,798	23,515
	21,725	31,992	48,448	58,983	67,904

37

5. What is long-term funding strategy?

Pull it all together into a financial plan.



	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma
Beginning Cash Balance	\$ 229,407	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809
Plus Cash Generated from Operations	\$ (30,505)	\$ 68,043	\$ (60,086)	\$ (67,528)	\$ (112,087)
Less Operating Reserve	\$ (90,014)	\$ (94,515)	\$ (99,241)	\$ (104,203)	\$ (109,413)
Cash Available for Capital Improvements	\$ 108,888	\$ 1,147,430	\$ 628,868	\$ 887,128	\$ 307,309
Less Indexed Capital Improvements	\$ (1,225,000)	\$ (453,750)	\$ (1,119,250)	\$ (462,523)	\$ (292,820)
Ending Funds Prior to Borrowing	\$ (1,116,112)	\$ 693,680	\$ (490,382)	\$ 424,606	\$ 14,489
Plus Borrowed Funds	\$ 2,200,000	\$ -	\$ 1,450,000	\$ -	\$ -
Ending Funds After Borrowing	\$ 1,083,888	\$ 693,680	\$ 959,618	\$ 424,606	\$ 14,489
Plus Operating Reserve	\$ 90,014	\$ 94,515	\$ 99,241	\$ 104,203	\$ 109,413
Ending Cash Balance	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809	\$ 123,902

38

5. What is long-term funding strategy?

Determine how much borrowing is necessary to ensure funding of operating reserve with positive ending cash balance.

	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma
Beginning Cash Balance	\$ 229,407	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809
Plus Cash Generated from Operations	\$ (30,505)	\$ 68,043	\$ (60,086)	\$ (67,528)	\$ (112,087)
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Plus Operating Reserve	\$ 90,014	\$ 94,515	\$ 99,241	\$ 104,203	\$ 109,413
Ending Cash Balance	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809	\$ 123,902

39

5. What is long-term funding strategy?

Reduce size of capital program if necessary.
Plan on preparing multiple iterations of financial plan.

	2024	2025	2026	2027	2028
	Proforma	Proforma	Proforma	Proforma	Proforma
Beginning Cash Balance	\$ 229,407	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809
Plus Cash Generated from Operations	\$ (30,505)	\$ 68,043	\$ (50,089)	\$ (67,528)	\$ (112,887)
Less Operating Reserve	\$ (90,014)	\$ (94,515)	\$ (99,241)	\$ (104,203)	\$ (109,413)
Cash Available for Capital Improvements	\$ 108,888	\$ 1,147,430	\$ 628,865	\$ 887,128	\$ 307,309
Less Indexed Capital Improvements	\$ (1,225,000)	\$ (453,750)	\$ (1,119,250)	\$ (462,523)	\$ (292,820)
Ending Funds Prior to Borrowing	\$ (1,116,112)	\$ 693,680	\$ (490,382)	\$ 424,606	\$ 14,489
Plus Borrowed Funds	\$ 2,200,000	\$ -	\$ 1,450,000	\$ -	\$ -
Ending Funds After Borrowing	\$ 1,083,888	\$ 693,680	\$ 959,618	\$ 424,606	\$ 14,489
Plus Operating Reserve	\$ 90,014	\$ 94,515	\$ 99,241	\$ 104,203	\$ 109,413
Ending Cash Balance	\$ 1,173,902	\$ 788,195	\$ 1,058,859	\$ 528,809	\$ 123,902

40

Is There a Spreadsheet Model Available?

Under Development by KRWA!

FINANCIAL PLAN INPUTS 2023-2028

County Water District

Model Inputs	2023	2024	2025	2026	2027	2028
Rate Increase		11.0%	11.0%		-	-
O&M Inflation Factor		5.0%	5.0%	5.0%	5.0%	5.0%
Capital Inflation Factor	0.0%	0.0%	10.0%	10.0%	10.0%	10.0%
Beginning Cash Balance	\$169,037					
Operating Reserve Requirement as Percent of O&M	16.7%	16.7%	16.7%	16.7%	16.7%	16.7%
Debt Service Years	30	30	30	30	30	30
Debt Service Rate	4%	4%	4%	4%	4%	4%
Borrowed Funds	-	\$ 2,200,000	-	1,450,000	-	-

Additional Borrowing Required	No	No	No	No	No	No
-------------------------------	----	----	----	----	----	----

41

What Does KY PSC think of this?

- ✓ Commission supports asset management approach.
- ✓ Commission has not yet considered a rate case for a rural water utility based on asset management approach.
- ✓ Discussions underway!



42

Questions?

43

Relations with the Public Service Commission

Best Practices for Maintaining Positive Interaction

September 2024

Tina Frederick
Stoll Keenon Ogden PLLC
tina.frederick@skofirm.com



1

Under Discussion

1. Challenges faced by Commission and Staff
2. The importance of reading, understanding, and following Commission Orders
3. Common Mistakes
4. When and how to request an expedited decision
5. What to expect once an application is filed
6. Compliance with regulatory filing deadlines



2

DISCLAIMER



3

Challenges Faced by PSC and Its Staff

1. The only licensed engineer at the PSC is the Executive Director.
2. Reduced Staff
 - 2003: 135 Employees
 - 2024: 94 Employees (Up from a low of 65 in 2018-2019)



4

Challenges Continued

3. Employee Turnover
 - Institutional Memory Lost/Less Continuity
 - Less Experienced Workforce
 - New Division Leaders 2023 - 2024
 - New General Counsel
 - New Director of Financial Analysis
 - New Director of Division of Inspections
4. Tighter Budgets- fewer training opportunities, BUT
 - Commission is addressing this
 - Utilizing less expensive on-line training
 - Bringing retired former staff back as consultants to facilitate training



5

Challenges Continued

5. Increase in Siting Board Cases
("Solar Farms" built by private industry not public utilities)
6. Subject matter becoming more complex
7. The number of cases at the Commission remains steady at greater than 400 cases filed every year.
8. Adoption of KRS 278.019 – Imposed an 8-month statutory deadline for cases that did not previously have such a deadline



6

Read, Understand, and Follow all Commission Orders

- Even routine (PWA) Orders may contain provisions they have not contained in the past
- Make sure Utility management reads EVERY Order and sends it to ALL Commissioners
 - Not just the Chairman
 - Keep regulatory email address up to date and check it regularly
 - Consider automatically forwarding email coming to the regulatory email address to all Commissioners



7

Commission Orders Continued

- Make sure to read all the way to the end.
 - Does the Order require the utility to do something?
 - When?
 - Do you understand what is being asked of your utility?
 - Seek your attorney's input sooner rather than later
 - Most filings at the Commission must be made by an attorney. There are exceptions.



8

Commission Orders Continued

- Do what the Order requires, when it is required.
- If there is truly some extenuating circumstance making compliance by the deadline impossible, inform the Commission sooner, rather than later.
 - Ask your attorney to file a Motion for an Extension of Time.



9

Common Mistakes

- Failure to Read Applicable Statutes and Regulations
- Failure To Review And Follow Filings Checklists
- Failure to Review Past PSC Decisions
- Failure To Provide PSC With Adequate Time For Review
- Assuming PSC Knows Past History/Relevant Facts



10

Common Mistakes Continued

- Assuming Documents From Another PSC Case, the PSC's Division of Inspections, Or Another Agency Are In The Record Or Are Available To PSC Legal Staff
- Assuming the PSC Staff Is Aware of The Relevant Issues (Local/National/Industry)
- Failure To Give Proper Notice
- No Signature
- No Attorney/Unprepared Attorney

11

Common Mistakes Tariff Filings

- No Signature On Tariff Sheets
- No Effective Date
- Failure to Use Correct Tariff Format
- Failure To Give Proper Notice
- Failure to Adequately Explain Reasons for Proposed Rule Or Rate **AND** to Document Those Reasons **GOAL: AVOID SUSPENSION**



12

To Avoid Tariff Filing Mistakes

- Download/Use PSC Forms
- Provide Signature/**Effective Date**
- Notice – Timing (Provide at least 30 days Notice)
- Cover Letter Should Provide Lengthy Explanation for Rate/Rule
- Provide Supporting Documents (What Would Staff Want/Need To Know?)



13

Common Mistakes

Certificates of Public Convenience and Necessity

- Unsigned, undated plans and specs
- Timing – “We need an Order By Next Week!”
- Failure to Explain the Need for the Construction
 - Even with something like replacing AC waterline, don't assume Staff will know why this is needed.
- Failure to Consider and Describe the Available Alternatives/Least Cost Alternative
- Failure to Explain Project's Financing
- Compliance with Bidding Statutes



14

Avoid CPCN Delays/Denials

- Make sure your attorney reads and understands the **Statutes**,
 - KRS 278.020
 - Governs CPCN applications
 - Do the exceptions in KRS 278.020(1)(a)(3) apply?
 - KRS 278.300
 - Governs financing applications
- And the **Regulations**
 - 807 KAR 5:001, Section 15 (CPCN Applications)
 - 807 KAR 5:001, Section 18 (Financing Applications)



15

Avoid CPCN Delays/Denials

- Make sure engineering plans, specs and drawings are stamped, signed, and dated.
- Thoroughly explain the need for the project
 - What is the problem
 - Provide documentation of the problem
 - Consider filing testimony of Manager/Chairman



16

Avoid CPCN Delays/Denials

- MUST discuss alternatives considered
 - Describe the alternative.
 - Explain why the alternative you are pursuing is the best alternative.
 - Explain how the project will be financed even if you are not also applying for financing approval.
 - State the effect on rates.



17

Getting an Expedited Order

- Have realistic expectations
 - Orders in 30 days or less are usually just not possible unless filing under KRS 278.023 (federally funded projects)
 - Clearly state the date by which you need the Order on the first page of the application. Put the date in **Bold**.
 - Explain why the Order is needed by that date
 - Bids expiring?
 - Another reason?



18

Expedited Orders

- Restate the request for an Order by a certain date in the prayer for relief. Put the request in **Bold**.
- Once the application is filed and you get the “no deficiency” letter, consider contacting the Executive Director or the General Counsel and letting them know the application was filed with a request for an expedited Order



19

Application Processing Expectations

- Deficiency/No Deficiency Letter
 - Cure any filing deficiency as soon as possible
 - If you do not understand the stated reason for the deficiency, contact the Executive Director/General Counsel
- Procedural Schedule
 - Used more than in the past
- Data Requests
 - **Expect to get them!**



20

Application Processing Expectations

- Data Requests
 - Respond completely and on time.
 - If there is good reason why a response by the due date is not possible, have your attorney **file** a motion explaining why and requesting additional time.
 - If you have some responses ready to file but need more time for the rest, state that in the motion and file what you have ready.

21

Filing of Annual Reports

- Commission has become very strict regarding the March 31 deadline
 - Speak with your auditor/accountant or person responsible for filing. Just because they have always filed in June and not had a problem, does not mean that will be acceptable now.
 - Do not file blank reports
 - Request extensions in writing, addressed to the Executive Director.

22

Annual Reports

- If you have been ordered to file a rate case using a particular year's annual report, or by a date by which the annual report for the most recent calendar year is due:
 - Make EVERY effort to file the annual report by the regulatory deadline of March 31st
 - Do not assume an extension will be granted for the annual report or the rate case.



23

General Recommendations

- Know your utility's history at the Commission
- Before filing an application, check the Commission's recent decisions in similar cases
 - Processing timeline?
 - Amount and type of data requests?
 - Any language in the final Order that would guide you?



24

General Recommendations

- Be candid with staff and the Commission.
- Use the Filings Checklists on the Commission's website.
- Remember, the Commission is a regulatory agency, not your enemy



25



Tina.frederick@skofirm.com



26

**HARDIN COUNTY
WATER COMMISSIONER
TRAINING SEMINAR**

September 30, 2024



1

WELCOME

Michael L. Bell, Chairman
Hardin County Water District No. 2



2

HOT LEGAL TOPICS

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

September 30, 2024



3

DISCUSSION TOPICS

1. PSC Filings
2. Comply with PSC Orders
3. Minutes
4. Notable PSC Cases



4

DISCUSSION TOPICS

5. Borrowing Money
6. 2024 General Assembly
7. Cases to Watch



5

DISCLAIMER



6

PSA for PSC



7

Reporting Requirements

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



8

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



9



10

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

11

E-Mail Address

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

12

Why Municipals?

- Contract Filing
- Tariff Change (Wholesale Rate)
- Protest Supplier's Rate Increase
- Acquiring Assets of Another Utility
- Avoid Delays



13



14

Default Regulatory E-mail Address

- Send E-mail to PSC
 - psc.reports@ky.gov
 - PSCED@ky.gov
- Send Letter to PSC
 - Linda C. Bridwell,
Executive Director



15

PSC Case No. 2016 - 00310

Opened: 9-09-2016
Utility: Unlucky WD
Type: Show Cause Case
Issue: Ignored PSC Order & Wrong Email Address
Settled: \$500 Fine



16

PSC Case No. 2023 - 00125

Opened: 6-07-2023
Utility: Uninformed WD
Type: Investigation Case
Issue: Board had no access to Email Account. Manager did not inform Board of Order.
Hearing: 1-18-24
Decided: 4-02-24



17

**Comply
With All
PSC
Orders**



18

“ . . . for allegedly failing to comply with the Commission’s March 10, 2020 Order in Case No. 2019-00458. The willful failure to comply presents prima facie evidence of incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office sufficient to make [the District’s] officers and manager subject to the penalties of KRS 278.990 or removal pursuant to KRS 74.025. The Commission finds that a public hearing should be held on the merits of the allegations set forth in this Order.”



19

PSC Case No. 2022 - 228

Date: 08-22-2022
Type: Failure to Comply with PSC Order
Issue: Did Not Timely File Rate Application
Decided: 12-08-2022



20

PSC Case No. 2022 - 228

(cont.)

Facts:

- PWA Case 2 Penny ↑
- Must File Rate Case by 04-15-2022 (6 Months)
- Nothing Filed by 08-22-2022
- PSC Opened Case



21

PSC Case No. 2022 - 228

(cont.)

Manager's Defense:

- Honesty
- I Never Read the Order
- I Never Told the Board
- Fell on His Sword †



22

PSC Case No. 2022 - 228

(cont.)

Board's Defense:

- Ignorance is Bliss
- Manager Never Told Us
- Manager's Job to Tell Us
- Acknowledged Ultimate Responsibility



23

PSC Case No. 2022 - 228

(cont.)

Affirmative Steps to Mitigate:

- Adopt New Procedure
 - All PSC Orders Forwarded to Board Members
- Engaged Services of RCAP to File Rate Case



24

PSC Case No. 2022 - 228

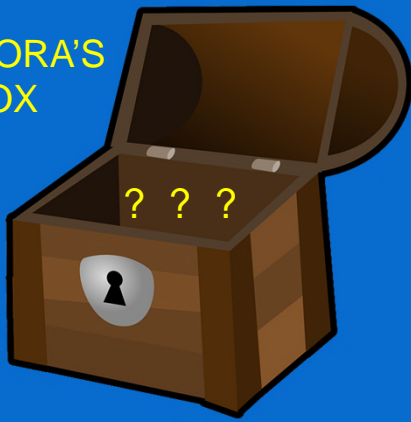
Outcome:

- No Hearing
- Commissioners & GM
 - Fined \$250
 - Waived
 - 12 Hours PSC Training
 - Good Behavior



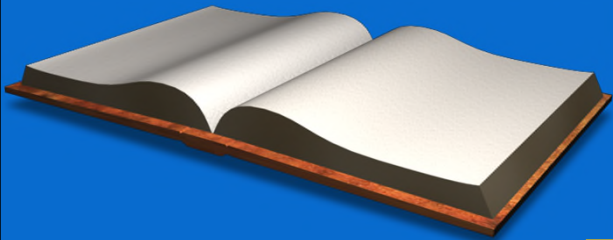
25

PANDORA'S BOX



26

MINUTES



27

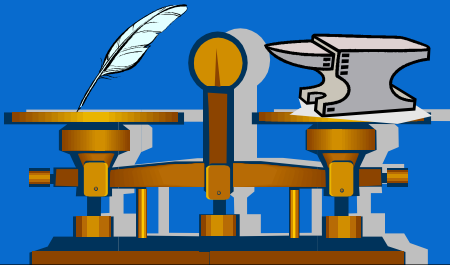
What Are MINUTES?

- Official Record
- Much, Much More . . .



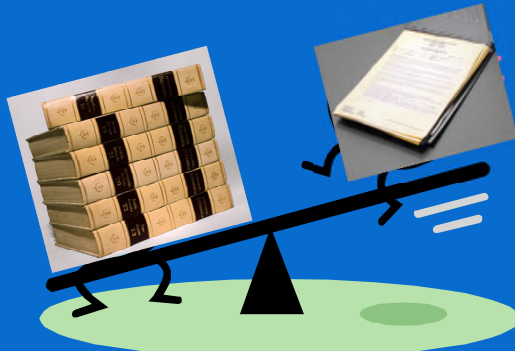
28

AN OUNCE
OF
PREVENTION = A POUND
OF CURE



29

How much information **SHOULD**
be included in the MINUTES?



30

Minutes

How MUCH is too MUCH?

- No definitive answer
- Art not a science

(cont . . .)



31

Minutes ...

How MUCH is too MUCH?

- Guidelines . . .
 - Minutes are **NOT** a transcript
 - Minutes are **NOT** the Congressional Record
 - Include rationale for action taken if it might avoid lawsuit



32

“Conversations are
NOT official actions of
the Board.”

Virginia W. Gregg
Former PSC Staff Attorney



33

WHY Include Summary of Conversations in Minutes?

- Document Board's Due Diligence (e.g. Water Loss)
- Document Board's Oversight Role (e.g. Compliance with PSC Orders)
- Avoid or Win Litigation



34

TALLEY'S TIPS



35

Talley's Tips

Prepare Minutes for a Reader ...

1. Who did not attend the meeting.
2. Who will not read the Minutes until at least one year later.
3. Who is employed by PSC.
4. Who will access Minutes via www.



36

Notable PSC Orders



37

PSC Case No. 2023-306

Filed: 09-15-2023
Utility: Bullock Pen WD
Type: Declaratory Order
Issue: Is CPCN Needed To Buy Land?
Decided: 10-06-2023
Answer: NO



38

Oldham County Water District

WHO? Oldham Co. W.D. (OCWD)
versus
PSC
WHERE? Franklin Circuit Court
Case No. 23-CI-00630
WHEN? 07-10-23
WHAT? Declaration of Rights



39

Oldham County Water District

WHY? OCWD Is Seeking a Court Ruling Whether It is Lawful or Unlawful to Pay Water District Commissioners Benefits (e.g. Health Insurance)



40

Oldham County Water District

Legal Issue:

- Whether “salary” limits of KRS 74.020 include the cost of “benefits” paid to water district commissioners
- Are Benefits Considered Salary?



41

Oldham County Water District

Not An Issue:

- Whether Cost of Commissioners’ Benefits Can Be Recovered Through Rates
- PSC Decides This



42

Oldham County Water District

Oral Arguments: 03-10-24

Decision: 04-15-24

Holding:

- (1) Benefits are Not "Salary"
- (2) OK to Pay Benefits to Water District Commissioners



43

Oldham County Water District

Not Decided: Can PSC Disallow Cost of Commissioners' Benefits in Rate Case?

Answer: Yes
(Read Page 8 of Order)



44



45

Caution !

1. Do Not Vote to Provide Benefits to Yourself !
 - KRS 74.020(3) Voting on Matter which Results in Direct Financial Benefits Is Grounds for Removal from Office
 - Delay Effective Date



46

Caution !

2. Commissioners' Benefits Should be same as Employees' Benefits
3. PSC May Disallow Recovery of Cost of Benefits in Rate Case
 - Is this Expenditure "Fair, Just, & Reasonable?"
 - PSC is Fact Finder



47

PSC Case No. 2023 - 252

Filed: 08-18-2023
Utility: Oldham Co. W.D.
Type: ARF Case
Issue: Full Recovery of Cost of Employee Benefits
Hearing: 04-19-24
Decided: 06-18-24



48

Oldham Co. W.D. (OCWD)

PSC Order (50 Pages):

- Applied BLS Reduction %
- Disallowed Recovery of \$125,000 in Health Insurance Costs (OCWD Pays 100%)

(continued . . .)



49

OCWD (continued)

PSC Order:

- OCWD Failed to Meet Its Burden of Proof
 - Proof Insufficient to Overcome PSC Precedents
 - 43 Cases Align with BLS National Average

(cont . . .)



50

OCWD (continued)

PSC Order:

- OCWD Has Appealed Decision
 - When? July 18, 2024
 - Where? Franklin Circuit Court
 - Case No: 24-CI-00725

(cont . . .)



51

PSC Case No. 2023 - 247

Filed: 09-29-2023
Utility: Hardin Co. W.D. No. 2
Type: General Rate Case
Issue: Full Recovery of Cost of
➤ Employee Benefits
➤ Commissioners' Benefits

(cont. . .)



52

PSC Case No. 2023 - 247

Hearing: 01-11-2024
Brief: 02-16-2024
Decided: 07-29-2024



53

Hardin Co. W.D. No.2

- Holdings:
 - Denied All Commissioners' Benefits
 - No Mention of Unlawfulness
 - Oldham Declaratory Order
 - Allowed Full Recovery of Cost of Employee Benefits



54

Hardin Co. W.D. No.2

- Rationale:
 - HCWD Pays 94%
 - Blue Oval SK Plant
 - Found HCWD2 Package Reasonable



55

PSC Case No. 2023 - 257

Filed: 09-23-2023
Utility: Harrison Co. W. A.
Type: (1) Financing Approval
(2) CPCN – Rehab of 3 Tanks
or
(2A) Declaratory Order
Decided: 11-28-23



56

PSC Case No. 2023 - 257

Facts: Water Tank Maintenance Contract

- 3 Contracts with Utility Service
- Rehab 3 Tanks
- Cost: \$524,335
- Initial Term: 5 Years
- Level Payments for First 5 Years
- Auto Annual Renewal Thereafter
- Much Lower Annual Fee



57

PSC Case No. 2023 - 257

Issues:

1. Is the Tank Maintenance Contract an Evidence of Indebtedness ?
Answer: Yes
2. Is CPCN Needed ?
Answer: No



58

Evidence of Indebtedness

- Significant Work in Year 1 & 3
- Level Payment each Year for 5 Years
- Work Now; Pay Later
- If Terminated, Still Must Pay for 5 Years



59

Change the Facts

- Initial Term Still 5 Years
- Pay as Work is Performed
- No Longer an Evidence of Indebtedness



60

Is a CPCN Needed ?

- NO
- Why? Ordinary Extension in the usual course of Business
 - Looked at Each Tank Separately
 - Not a Sufficient Capital Outlay



61

PSC Case No. 2023 - 417

Filed: 12-18-2023
Utility: Breathitt Co. W.D.
Type: CPCN or Declaratory Order
Holding: No CPCN Needed
Decided: 03-13-24



62

PSC Case No. 2023 - 417

Facts:

- Construct 11 Miles of Waterline
- Install Pump Station
- 27,000 Gallon Storage Tank
- Cost: \$3.5 Million
- Grant: \$3.6 Million
Cleaner Water Grant



63

PSC Case No. 2023 - 417

Holding: No CPCN Needed

Rationale:

- Exempt Under KRS 278.020(1)(a)(3)(b)
- No Borrowed Money
- No Rate Increase
- Cleaner Water Grants



64

PSC Case No. 2022 - 065

Filed: 3-29-2022
Utility: Southeastern Water Assoc.
Type: CPCN – New Office Bldg.
Issue: Reasonable Alternatives Considered
Decided: 8-30-22



65

PSC Case No. 2022-065

- CPCN: Standard of Review
 - Need
 - Absence of Wasteful Duplication



66

PSC Case No. 2022-065

- Proving Lack of Wasteful Duplication:
 - All Reasonable Alternatives Considered
 - Cost is Not Sole Criteria
 - Initial Cost
 - Annual Operating Cost



67

PSC Case No. 2023 - 192

Filed: 6-09-2023
Utility: Ohio Co. WD
Type: CPCN – Raw Water Intake Rehab
Issue: Reasonable Alternatives Considered
Decided: 7-31-23



68

PSC Case No. 2023-192

- Preliminary Engineering Report
 - Alternative 1: Cadillac
 - Alternative 2: Chevrolet
- Final Engineering Report
 - Only Discussed Alt. 2



69

PSC Case No. 2023-192

- Extensive Discovery Alt. 1
 - Initial Cost
 - Depreciation Expense
 - Annual Operating Cost
 - Rate Increase Needed
- Comparison of Both Alternatives



70

Borrowing



71

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.



72

Practical Effect

- Must Obtain PSC Approval Before Incurring Long-term Debt (Over 2 Years)
- Exception:
 - 2 Years or Less
 - Renewals
 - (3 X 2 = 6 Years)
 - (6 X 1 = 6 Years)



73



Violation

74

**Show
Cause
Cases**



75

Show Cause Cases Borrowing Money

First Case: 2022-197

Second Case: 2022-252

Third Case: 2023-344



76

Case # 1

Case No. 2022 - 197

Opened: 08-11-2022

Issues: Violated:
➤KRS 278.300
➤KRS 278.020

Hearing: 07-06-2023

Decided: 03-04-2024



77

Case # 1

Background Facts:

- 11-18-21: Purchased Office Bldg.
- 11-18-21: Financed Portion of Cost with a 7 year Loan
- 03-15-22: Applied for Retroactive Approval of Loan

(continued . . .)



78

Case # 1

Background Facts (continued):

- 05-13-22: PSC Issues DR
- 05-19-22: Bank Loan PIF
- 05-27-22: PSC Application
Withdrawn by Utility

(continued . . .)



79

Case # 1

Background Facts (continued):

- 06-20-22: PSC Dismisses Case &
States Intent to File
Show Cause Case
- 08-11-22: PSC Opens
Show Cause Case



80

Case # 1

Utility's Defenses:

- Loan Paid Off
- No CPCN Needed Since Building
was Purchased & Not Constructed
- Relied Upon Advice of Counsel
- Good, Honest & Decent People



81

Case # 1

Case Status:

- Multiple Rounds of DR
- Hearing: 07-06-2023
- Post Hearing Data Request
- Brief Filed: 09-08-2023
- Decided: 03-04-2024



82

Case # 1

Outcome:

- CPCN Needed to Buy & Remodel Office Building
- Cost \$206,000
(12% of Net Utility Plant)
- Headquarters Facilities Closely Scrutinized

(continued . . .)



83

Case # 1

Outcome:

- Board Members
 - Fined \$500 (Waived)
 - 12 Hours of Training
- GM Retired
 - No Fine



84

Case # 2

Case No. 2022 - 252
Opened: 02-16-2023
Issue: KRS 278.300
(4 Violations)
Hearing: 08-01-2023
Decided: 10-17-2023



85

Case # 2

Facts: Leased 4 Trucks
4 & 5 Year Terms
Issue: Is Long Term Lease
An evidence of
Indebtedness ?
Holding: Yes



86

Case # 2

Outcome:

- GM & Directors (Water Assoc.)
 - Fined \$250 (Waived)
 - 12 Hours of Training
 - 6 More Hours Annually
- Future Directors
 - 6 Hours Training Annually



87

Case # 3

Case No. 2022 - 344
Opened: 04-14-2023
Issue: KRS 278.300
(4 Violations)
Hearing: 07-06-2023
Decided: 10-31-2023



88

Case # 3

Defenses:

- Advice of Counsel
 - No Opinion Letter from Counsel
- No Answer Filed
- Lawyer Mea Culpa Letter



89

Case # 3

Case Status:

- 3 Rounds of DR
- Hearing: 07-06-2023
- Very Interesting Hearing
- Post Hearing DR
- No Brief Filed



90

Case # 3

Outcome:

- Board Members
 - Fined \$250
 - Not Waived
 - 12 Hours of PSC Conducted Training



91

2024 General Assembly



92

Notable Bills

- HB 1 Budget Bill
- HB 563 Funds for Capital and Non-Capital Expenses



93

HB 1 Budget Bill

Outcome:

- Water & Wastewater: \$ 340 Million
 - KIA: \$ 150 Million
 - Earmarks \$ 174 Million
 - DLG \$ 16 Million
- Total \$ 340 Million



94

HB 563

- Ky. Water & Wastewater Assistance for Troubled or Economically Restrained Systems
- Ky. WWATERS Program



95

Ky. WWATERS Program

- Purposes:
 - Provide Funds to Assist "Troubled" Systems
 - Emergency Funds
- Both Non-Capital & Capital Expenses



96

Ky. WWATERS Program

- Application Process
- KIA Board Evaluates & Scores Each Applicant
- General Assembly Makes Final Decision



97

Ky. WWATERS Program

- Eligibility Criteria:
 - MHI < Ky. MHI
 - User Rates > 1.0% of MHI
 - Missing Audits
 - Negative Income (2 of last 5 years)



98

Eligibility Criteria (continued)

- DSC Ratio < 1.1 (In 3 of Last 5 Years)
- High Accounts Receivable (Greater Than 45 Days)
- NOV or Agreed Order
- Water Loss > 30%



99

Eligibility Criteria (continued)

- Use Funds to Regionalize, Consolidate or Joint Management
- Funds Will Solve the Problem
- Other Criteria



100

Ky. WWATERS Program

- Not Necessary to Meet All Criteria
 - One Is Enough
 - More You Meet - Higher Your Score



101

Ky. WWATERS Program

- Funds:
 - Grants
 - Loan
 - No Interest Loans
 - Forgivable Loans



102

Cases To Watch



103

Oldham Co. W.D. VS Public Service Commission

What? Appeal
Where? Franklin Circuit Court
Case No: 24-CI-00725

(continued . . .)



104

Oldham Appeal (continued)

Filed: July 18, 2024
PSC
Answer: August 9, 2024
Briefing
Schedule: ???
Oral
Arguments: ???

(continued . . .)



105

Oldham (continued)

Issues on Appeal:

- PSC Acted Unlawfully
- BLS Reduction Not Supported by Substantial Evidence
- Denied Due Process
- PSC Violated KRS 13A.100



106




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107


STOLL KEENON OGDEN 

EVERYTHING YOU WANTED TO KNOW ABOUT CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND DEBT AUTHORIZATIONS*

***BUT WERE AFRAID TO ASK THE PSC**

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


1

STOLL KEENON OGDEN 

ORDER OF PRESENTATION

- Certificate Basics
- Applying for A Certificate
- Debt Authorizations: The Basics
- Applying for Authorization to Issue Debt

2

STOLL KEENON OGDEN 

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY: THE BASICS

3

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P.L.L.C.

KRS 278.020(1)

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

4

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PURPOSE OF STATUTE

- Counter Incentives in RoR Regulation That Encourage Inefficient Investment
- Avoid Wasteful Duplication
- Prevent Water District Mistakes
- Ensure Project's Technically Feasibility

5

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WHAT REQUIRES A CERTIFICATE?

- Construction of Any Plant, Facility, Equipment, or Property
- Commencing Service
- Purchase/Acquisition of Non-PSC regulated facilities

6

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WHAT IS CONSTRUCTION?

- Constructing Building/Structure
- Remodeling or Repurposing Existing Structure
- Construction of Equipment (e.g. Turbine)
- Purchase & Installation of Equipment

7

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DOES NOT REQUIRE A CERTIFICATE

- Purchase of Building or Land
- Maintenance Projects
- Demolition/Destruction of Existing Facility
- Preparation of Land for Construction
- **Purchase of Building + Remodeling**

8

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KRS 278.020(1): EXCEPTIONS

- Service Connections to Electric Consuming Facilities By Retail Electric Suppliers
- Water District/Association Exception
- Ordinary Extensions of Existing Systems in the usual course of Business

9

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“WATER DISTRICT EXCEPTION”

- KRS 278.020(1) amended in 2018
- Applies to **Class A & B** Water District & Assn
- Applies to **“water line extension or improvement project”**
- No Certificate required if:
 - Total Cost < \$500,000 **OR**
 - **NO** long-term debt **AND NO** rate increase
- Not applicable to Sewer Projects

10

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“WATER DISTRICT EXCEPTION”

- PSC Initially Limited Applicability To Construction of Water Mains
- Case No. 2016-00255: “[T]he proposed installation of the new metering system is not a ‘waterline extension or improvement project,’ as it **does not extend or improve an existing waterline”**
- Adopts PSC Staff Opinion No. 2012-024

11

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“WATER DISTRICT EXCEPTION”

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

12

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“WATER DISTRICT EXCEPTION”

- PSC Case No. 2018-00355
- WD to construct booster station, 31,300 LF of 6” and 8” water line, & 2 ground storage tanks
- Tanks’ cost (\$544,000) = 28% of total project cost
- Project totally financed through AML money
- PSC: Project is “waterline extension or improvement project”
- Exception applies; No certificate required

13

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EXTENSIONS IN THE ORDINARY COURSE

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

807 KAR 5:001, §16(3)

14

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**EXTENSIONS IN THE ORDINARY COURSE:
THE FACTORS**

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

15

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**EXTENSIONS IN THE ORDINARY COURSE:
WASTEFUL DUPLICATION**

- “Excess of Capacity Over Need”
- “Excessive Investment In Relation To Productivity” – Investment’s Cost-effectiveness
- Unnecessary Multiplicity of Physical Properties
- Premature Replacement
- Thorough Review of **ALL ALTERNATIVES**
- **Any Duplication Requires Formal Review**

16

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**EXTENSIONS IN THE ORDINARY COURSE:
“MATERIALLY AFFECT” - TESTS**

- Percentage of Existing Net Utility Plant
- Debt Issued to Finance Project
- Project Cost Borne By Utility

17

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**EXTENSIONS IN THE ORDINARY COURSE:
PERCENTAGE OF UTILITY PLANT TEST**

- Percentage = Total Project Cost ÷ Net Utility Plant (Total Plant – Depreciation)
- Trigger for Certificate
 - 10 Percent Rule (**Abandoned**)
 - 3 Percent Rule – Case No. 2019-00257
 - 1 Percent Rule – Case No. 2014-00171
- Funding Source Not Considered

18

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**EXTENSIONS IN THE ORDINARY COURSE:
DEBT FINANCED CONSTRUCTION**

- Case No. 98-079: Projects financed through Utility Debt have a Material Effect on Utility's Finances
- Case No. 2000-481: "The method used to finance the cost of proposed facilities does not determine whether those facilities require a Certificate of Public Convenience and Necessity"

19

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**EXTENSIONS IN THE ORDINARY COURSE:
DEBT FINANCED CONSTRUCTION**

- Case No. 2022-00284: Notes that how project is financed is a factor; absence of long-term debt suggests no material affect on finances
- **Bottom Line:** Use of debt financing will be factor in whether project has a material affect on utility's finances

20

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**EXTENSIONS IN THE ORDINARY COURSE:
PROJECT COSTS BORNE BY UTILITY**

- Projects Financed With Others' Funds
 - Case No. 2014-00368
 - Case No. 2018-00164
 - Case No. 2017-00195
 - Cases No. 2019-00067/No. 2020-00344
- **No Material Effect** if Customer financed
- **No Effect** on Utility's Financial Condition

21

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PROJECTS FINANCED WITH OTHERS' FUNDS: CASE NO. 2014-00368

- IOU to construct gas line to serve industrial customer
- Gas Line = 55% of Net Utility Plant
- Customer pays cost
- No increase to Utility Plant
- No Rate Increase
- **NO MATERIAL EFFECT – NO CPCN**

22

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PROJECTS FINANCED WITH OTHERS' FUNDS: CASE NO. 2017-00195

- IOU to relocate gas line running through landfill
- Landfill requests,pays most of relocate costs
- IOU's share of cost deemed too small to materially affect its financial condition
- No Rate Increase
- **NO MATERIAL EFFECT – NO CPCN**

23

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PROJECTS FINANCED WITH OTHERS' FUNDS: CASES NO. 2019-00067 & NO. 2020-00344

- \$16.5 Million Projects at Fort Knox
- Projects = 31.1% of Net Utility Plant
- US Govt funding entire project cost
- No increase to other customers' rates
- No affect on utility's financial condition
- **NO MATERIAL EFFECT – NO CPCN**

24

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**GOVERNMENT GRANTS AND
"MATERIAL EFFECT"**

- Case No. 2022-00284
- W&S District to construct sewer main to serve new industry; seeks Declaratory Order
- Cost: \$1,751,352 (14.5% of net utility plant)
- Funding Source: EDA, ARC Grants
- Holding: No debt incurred – No material effect on financial condition – No certificate required

25

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**EXTENSIONS IN THE ORDINARY COURSE:
MATERIALLY AFFECT**

- Implications for projects funded with American Recovery and Reinvestment Act/Bipartisan Infrastructure Law
- Totally Funded: **No Certificate Required**
- Partially Funded: Certificate **Possibly Not Required** – Grant funded portion not considered in percentage of utility plant test?

26

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**ALWAYS CONSIDERED
NOT IN THE ORDINARY COURSE**

- Construction of Office Building
- Purchase and Installation of Advance Metering Infrastructure (AMI)

27

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**EXTENSIONS IN THE ORDINARY COURSE:
REPAIRS OR REPLACEMENT**

- Emergency Amendment to 807 KAR 5:001, §15
- A certificate of public convenience and necessity shall not be required for any water district created pursuant to KRS Chapter 74, water association formed under KRS Chapter 273, or any other utility that provides the services described in KRS Chapter 278.010(3)(b) or KRS Chapter 278.010(3)(f) that intends to **replace in-kind, restore, repair or fix any facility** as a result of weather events occurring on or between July 26, 2022 and July 30, 2022. Any replacement, restoration, repair or fix shall be deemed **extensions in the ordinary course of business.**

28

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ANALYTICAL FRAMEWORK

- Is Construction or Installation of Equipment Involved?
- Does Action Fall Within An Exception?
 - Water District Exception?
 - Water Main Extension or Improvement?
 - Less than \$500,000?
 - No long-term debt or no rate increase?
 - Ordinary Extension In Usual Course?
 - Wasteful Duplication?
 - Interferes with Another Utility's Certificate?
 - Any Material Effect on Utility's Financial Condition?

29

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WHEN IN DOUBT

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

30

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ADVANTAGES/DISADVANTAGES OF NO CERTIFICATE

- Advantages:
 - No delay for PSC proceedings
 - No litigation expense
- Disadvantages:
 - No presumption of reasonableness
 - No benefit if Long-Term Debt Required
 - Subject to Future Review & Disallowance

31

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CONSTRUCTING WITHOUT CERTIFICATE: CONSEQUENCES

- Assessment of \$2,500 Penalty To:
 - Utility
 - Utility Management
 - Engineering Firm/Contractors
- Injunctive Relief
- Does Not Affect Rate Recovery

32

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PREPARING AN APPLICATION FOR CERTIFICATE

33

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CONTENTS OF APPLICATION

- Facts to Show Public Convenience & Necessity Require Project
- Franchises/Permits
- Full Description of Proposed Location/Route of Facilities
- Description of Manner of Construction
- Maps/Drawings/Specifications
- Method For Financing the Proposed Project

807 KAR 5:001, § 15

34

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DEMONSTRATING NECESSITY

- Condition of Existing Facilities
- Ability to Meet Existing Demand/Future Demand
 - Adequate Service: Sufficient Capacity to meet the maximum estimated requirements during the year
- Alternatives
- Technical Feasibility
- Economic Feasibility
 - Least Cost vs. Most Reasonable
 - Duplication of Facilities Not Necessarily Fatal

35

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DEMONSTRATING NECESSITY

- Full and Complete Narrative in Application
- Preliminary/Final Engineering Reports
- Written Testimony
 - Historical Background
 - Opportunity to Address Critical Issues
 - Explain Engineering Aspects of Application
 - Best Opportunity to Present Case for Certificate
- Other Studies (e.g. hydraulic studies)

36

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PERMITS

- List /Provide Evidence of Required Permits
 - Division of Water Approval of Plans & Specifications
 - Discharge Permits
 - Army Corp of Engineer Permits
 - Highway Encroachment Permits
 - Historical/Preservation Permits
- Note Status of Obtaining Easements
- PSC is **Last Stop**: Request Deviation from Filing Requirements if Any Permits Not Yet Obtained

37

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PROCEDURE

- Application
- Discovery
- Interested Parties May Intervene, But Generally No Intervenors
- Hearing on Application Seldom Held
- Final Order: 90 – 120 Days from filing of Application

38

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TIMING

- Obtain PSC Approval Prior to Executing Construction/Materials Contract
- File Application after selecting winning bid if possible
- Alert PSC to Timing Requirements for Final Decision (Remind Frequently)
- If Selecting Contract Prior to Final PSC Order, Make Contract Contingent on Grant of Certificate

39


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OBTAINING PSC APPROVAL

40

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EXPEDITING PSC REVIEW

- Pre-Filing Conference with PSC Staff
- Confer with AG re: Application
- Advise PSC of Critical Dates
- Advise PSC Staff of Willingness to Accept Informal Discovery Procedures
- Post-Filing Conference

41


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EXPEDITING PSC REVIEW


- Use Filing Checklists
- Include Written Testimony with Application
- Ensure Any Document Prepared By Professional Engineer Are Stamped/Signed
- Periodic Inquiries to PSC Staff/Executive Director

42

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RURAL DEVELOPMENT FINANCED CONSTRUCTION PROJECTS


43

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RURAL DEVELOPMENT FUNDING: LIMITED PSC REVIEW

- KRS 278.023 requires expedited review of RD-funded Projects
- Legislature Assumes RD has adequately reviewed project – Two reviews unnecessary
- Project must be part of Financing Agreement between RD or HUD and WD or WA
- Utility Files Limited Documentation


44

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RURAL DEVELOPMENT FUNDING: LIMITED PSC REVIEW

- Once Minimum Filing Requirements Met, PSC must take all actions necessary to implement RD Financing Agreement


45

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RURAL DEVELOPMENT FUNDING: PSC CRITICISMS


- Prevents PSC Review of Utility's financial condition and the technical aspects of project
- RD rates are generally inadequate, fail to allow for recovery of depreciation expense
- Water Utilities use RD-finance agreements to circumvent PSC Review

46

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DEBT AUTHORIZATION: THE BASICS


47

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KRS 278.300

“No utility shall issue any securities or evidences of indebtedness or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person **until it has been authorized so to do by order of the commission.**”


48

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WHAT IS AN EVIDENCE OF INDEBTEDNESS?

- Bonds
- Notes
- KIA Assistance Agreement
- Lease to Purchase Agreement
- Installment Contracts
- Letters of Credit


49

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EXCEPTIONS TO REQUIREMENT

- Notes that are not payable for periods of more than two years
- Limit: Note may not be renewed for an aggregate period to exceed six year


50

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GENERAL CONSIDERATIONS

- Amount of Loan Not Relevant
- Violation Occurs Upon Execution
- Violation No Affected by Satisfying Obligation within 2 Years of Creation
- High Priority In PSC Review

51

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CONSEQUENCE OF NON-COMPLIANCE

- Assessment of \$2,500 Penalty To:
 - Utility
 - Utility Management
 - Board Members
 - Legal Counsel
- Questions re: legality of debt

52

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PREPARING AN APPLICATION FOR DEBT AUTHORIZATION


53

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CONTENTS OF APPLICATION

- Financial Exhibit
- Description of Applicant's Property
- Description of Use of Proceeds
- Detailed description of property to be acquired or constructed or proposed improvement
- Copy of contracts re: acquisition/construction of property, proposed improvement
- Notice to State Local Debt Officer


54

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CONTENTS OF APPLICATION

- Maps/Plans of Property to be Acquired or Constructed
- Estimates of the Cost of Property/Improvements
- Application must be signed under oath by utility officer


55

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APPLICANT MUST SHOW

- Issuance is for lawful object/purpose
- Issuance is necessary & appropriate for performance of utility's service to public
- Issuance will not impair utility's ability to serve public
- Issuance is reasonably & appropriate to perform service to public
- **Utility can meet debt service requirements**

56

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PROCEDURE

- Application
- Discovery
- Generally No Intervenor
- Hearing on Application Seldom Held
- Matter to Go to Front of PSC Docket
- Final Order: 60 Days from filing of Application but application may be continued beyond 60 days

57

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QUESTIONS?



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58

EXHIBIT 3

TINA FREDERICK

TINA FREDERICK is Counsel to the Firm at Stoll Keenon Ogden PLLC and is a member of the firm's Utility and Energy Practice Group. She recently joined the firm after serving approximately five years with the Kentucky Public Service Commission ("Commission"), first as a Staff Attorney and then as an Assistant General Counsel. In those roles, she advised the Commission on various matters pending before the Commission involving the regulation of public utilities, including applications for rate adjustments, the construction of utility facilities, and the issuance of debt instruments. She represented Commission Staff in administrative hearings involving those issues as well those involving investigations of alleged violations of the Commonwealth's statutes and administrative regulations pertaining to utility service. Prior to her employment with the Commission, she maintained for five years a private practice that principally involved the representation of claimants asserting claims under the Social Security Act and Kentucky's Worker Compensation laws. Ms. Frederick is licensed to practice law in the Commonwealth of Kentucky. She holds a Juris Doctorate from Ohio Northern University College of Law, where she graduated *cum laude*, and a Bachelor of Science Degree in Family and Consumer Science from the University of Kentucky, where she graduated *summa cum laude*.

QUALIFICATIONS

EDUCATION

Bachelors–Management and Finance, University of Louisville, 1979
Masters-Business Administration and Finance, Indiana University 1982

YEARS OF EXPERIENCE: 38

SPECIALIZATION

Senior Executive in Drinking Water, Wastewater, and Stormwater Industry

PROFESSIONAL AFFILIATIONS

American Water Works Association QualServe Peer Reviewer

AWWA Business Practices Standards Committee Member Vice-Chair (past)

AWWA Utility Management Standards Committee Member (past)

AWWA Finance, Accounting, and Management Controls Committee Chair (past)

AWWA Management Controls Sub-Committee Chair (past)

AWWA Research Foundation Project Participating Utility Member (past)

National Association of Clean Water Agencies, Utility and Resource Management Committee (past)

Professional Profile

Senior utility executive with 38 years of experience in the drinking water, wastewater, and stormwater industry, including: executive management, strategic planning, policy development, customer service, information technology, and program management. Advocate for sustainability of water infrastructure and affordability for low-income customers. Education includes a Bachelors and Masters degrees in business management and finance.

Qualifications and Experience

**StraightLine Kentucky, Louisville, KY
2021 – Present Consultant**

Advisor to drinking water, wastewater, and stormwater utility managers, regulatory officials, elected officials, and service providers.

**City of Jackson, Mississippi
2017 – 2020 Director of Public Works**

Executive management of Drinking Water, Wastewater, Stormwater, Solid Waste, Streets, Facilities, Fleet, and Warehouse operations and maintenance.

**Sewerage and Water Board of New Orleans, Louisiana
2009 – 2017 Deputy Director / Interim Executive Director**

Administrative management of Strategic Planning, Accounting, Budgeting, Purchasing, Customer Service, Human Resources, Information Technology, Risk Management, Fleet Maintenance, Warehouse, Internal Audit, and other operations support services.

**Municipal and Financial Services Group, Maryland
2008 – 2009 Senior Manager**

Management consultant to water and wastewater utilities focusing on enterprise risk management, internal control, financial analysis, and rate studies.

**Louisville Water Company, Kentucky
1991 – 2008 Vice President**

Administrative management of Finance, Information Technology, Risk Management, Business Planning, Human Resources, and Board Relations



Damon R. Talley

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BAR & COURT ADMISSIONS

Kentucky

U.S. District Court, Eastern District Of Kentucky

U.S. District Court, Western District Of Kentucky

United States Supreme Court

EDUCATION

University of Kentucky College of Law
1975, J.D.

University of Kentucky College of Engineering
1972, B.S.M.E.

RECOGNITION

Best Lawyers®, Lawyer of the Year (Lexington),
Utilities Law, 2023

Best Lawyers®, Utilities Law, 2021-present

Sullivan Medallion, presented to Outstanding
Graduating Student, University of Kentucky

Moot Court Board, President, University of
Kentucky College of Law

Outstanding Student, University of Kentucky
College of Engineering

Omicron Delta Kappa, President, University of
Kentucky

Kentucky Association of Future Farmers of
America, President

Outstanding Citizen Award, LaRue County
Chamber of Commerce, 1990

Outstanding Citizen Award, Cave City Chamber of
Commerce, 1981

Outstanding Citizen Award, Horse Cave Chambers
of Commerce, 1979

Damon R. Talley

Damon joined Stoll Keenon Ogden's Utility & Energy practice as Of Counsel in 2015 and serves clients through the firm's Hodgenville, Lexington and Louisville offices.

Before his time at SKO, Damon worked for decades in private practice and has provided legal representation to public utilities throughout Kentucky. He has focused primarily on water utilities, and his deep expertise in drinking water has earned him a reputation statewide as a go-to legal resource in this area. Damon is general counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Given his substantial experience, Damon is frequently called upon to speak at training sessions sponsored by the Kentucky Rural Water Association, Division of Water, Utility Management Institute and other utility groups in the state.

Damon is highly active in the local community and serves as a board member of several nonprofit organizations. He is a past board member of the Kentucky Infrastructure Authority. He was a charter member, long-time board member and two-term board chairman of the Kentucky FFA Foundation.

Utility & Energy: Damon represents public utility clients before federal and state courts at the trial and appellate levels. He handles matters such as rate adjustments, transfers of control, financing and construction applications, and consumer complaint proceedings.

Work Highlights

Damon serves as General Counsel of the Kentucky Rural Water Association and has served in this capacity since 1979.

Damon serves as General Counsel of the Kentucky Rural Water Finance Corporation and has served in this capacity since 1995.



Gerald E. Wuetcher

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BAR & COURT ADMISSIONS

Kentucky

U.S. Court Of Appeals For The Armed Forces

U.S. District Court, Eastern District Of Kentucky

U.S. District Court, Western District Of Kentucky

EDUCATION

Emory University
1984, J.D.

Johns Hopkins University
1981, B.A.

RECOGNITION

Best Lawyers®, Utilities Law, 2021-present

Gerald E. Wuetcher

Jerry is Counsel to the Firm in Stoll Keenon Ogden's Lexington office and is part of the Utility & Energy practice. He joined the firm in 2014, after working for more than 26 years at the Kentucky Public Service Commission (PSC) as a staff attorney, deputy general counsel and executive advisor.

Over the course of his career, Jerry has frequently appeared before the PSC in administrative proceedings involving electric, natural gas, water and sewer utility issues and has represented the PSC in state and federal courts. He also served as the PSC's representative in several interagency groups addressing water and wastewater issues. He drafted amendments to various provisions of Kentucky's public utility statutes and revisions to the PSC's administrative regulations.

From 2009-2013, Jerry was PSC's representative on the board of the Kentucky Infrastructure Authority. He developed and implemented the PSC's training program for water utility officials and was an instructor for that program.

Jerry is a frequent speaker on utility and local government issues before such organizations as the Kentucky Rural Water Association, Kentucky League of Cities, Kentucky Association of Counties and Utility Management Institute.

Along with his significant experience in the realm of civilian law, Jerry served for 27 years in the U.S. Army as a judge advocate before retiring at the rank of colonel in 2011. He occupied numerous roles on active duty and in a reserve status.

Utility & Energy: Jerry concentrates on public utility law in Kentucky, but also participates in general and commercial litigation, transactions, employment concerns, securities issues and mergers and acquisitions involving gas, electric and water companies. He handles all facets of regulatory matters, including the negotiation of complex agreements and representation before state agencies and courts.

Work Highlights

Attorney, Kentucky Public Service Commission (1987-2014). Served as a staff attorney, deputy general counsel and executive advisor. Frequently appeared before the Commission in administrative proceedings involving electric, natural gas, water and sewer utility issues and represented the Commission in state and federal courts. Responsible for drafting and revising the Commission's regulations. Served as the Commission's representative in various interagency groups addressing water and wastewater issues. Served as the Commission's representative on the Kentucky Infrastructure Authority's Board of Directors (2009-2014). Developed the Public Service Commission's water training program for water utility officials.

Judge Advocate, U.S. Army (1984 – 2011). Served as a judge advocate in the U.S. Army on active and reserve status in numerous roles. Retired at the rank of Colonel.

Adjunct Professor of Law, University of Louisville (2011)