

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION OF NORTHERN) | |
| KENTUCKY WATER DISTRICT FOR) | CASE NO. |
| APPROVAL OF COMMISSIONER TRAINING) | 2019-00081 |
| AND CONTINUING EDUCATION CREDIT) | |

ORDER

On March 11, 2019, Northern Kentucky Water District and Stoll Keenon Ogden, PLLC (collectively, Joint Applicants), filed an application for approval and accreditation of a training program they intend to offer on April 24, 2019, entitled “Northern Kentucky Water Training 2019” (hereinafter, the Training Program). Having carefully considered Joint Applicants’ request, the Commission approves the program to satisfy the six hours of training described by KRS 74.020(6) and (7). However, the Training Program is not approved to satisfy any of the 12 hours of initial training for water district commissioners required by KRS 74.020(8), approval for which the Joint Applicants did not request.

DESCRIPTION OF TRAINING PROGRAM

The Training Program will take place at the offices of the Northern Kentucky Water District on April 24, 2019. The training program will consist of the following training sessions:

1. Recent Developments in Utility Regulation: This session will review recent developments in public utility law and regulation, including unaccounted water loss, revisions to the Open Meetings Act, sovereign immunity, wholesale water purchase agreements, franchises, and laws enacted by the 2018 and 2019 General Assembly and their effect on water utility operations.

2. Hot Topics in Employment Law: 2019 Update: This session reviews general employment law principles and addresses recent developments in federal, state, and local employment laws. It will also discuss water district commissioners' role in providing a hostile free work environment.
3. PSC Consumer Services, One-on-One Discussion: This session is a question and answer session with Rosemary Tutt, Manager of the Public Service Commission's Consumer Services Branch.
4. Aging Infrastructure – Your Role in Solving This Problem: This session will discuss the need for water utilities to develop a comprehensive Asset Management Program in light of Kentucky's Aging Water Infrastructure and will discuss best practices for asset management, capital planning, managerial and technical challenges in the water industry, water loss, and water rates.
5. Regulatory Issues in the Construction and Financing of Water and Wastewater Facilities: This session reviews the requirements that water and wastewater utilities must meet when constructing new facilities and issuing the debt necessary to finance such construction.
6. So You Got Caught? Show Cause Enforcement Proceedings at the Public Service Commission: This session will discuss the procedures for Public Service Commission enforcement actions and strategies for responding to enforcement actions.
7. Legal Issues in the Operation & Management of Water Systems: This session is a panel discussion with a number of attorneys that represent utilities in matters related to the operation and management of water systems and is expected to address KRS Chapter 74, the Claims against Local Government Act, the bidding requirements provision of KRS Chapter 424, eminent domain, local model procurement law, and the whistleblowers act.

Each session will be one hour in length, and water district commissioners will be able to earn a total of six hours of training.

The presenters for the sessions included attorneys who regularly practice in areas related to the topics on which they are presenting, and Greg Heitzman, President of BlueWater Kentucky and the former CEO of both the Louisville Metropolitan Water District and the Louisville Water Company. Joint Applicants provided written materials related to

each presentation that they indicated would be distributed to water district commissioners who attend the presentations.

DISCUSSION

KRS 74.010 *et. seq.* authorizes the creation of water districts for the purpose of operating drinking water facilities and wastewater treatment and collection facilities. Water districts organized under KRS 74.010, *et. seq.* must be administered by a board of commissioners, which shall control and manage the affairs of the district.¹ KRS 74.020(8) requires each newly appointed water district commissioner to complete 12 instructional hours of training regarding the laws governing the management and operation of water districts, and other subjects as determined appropriate by the Commission within 12 months of the commissioners' initial appointment.² KRS 74.020(6) and (7) encourage water district commissioners to complete six instructional hours of "water district management training approved by the Public Service Commission" in each additional calendar year by allowing the commissioners to receive a raise if they complete that training each year.

Joint Applicants indicated that they are seeking to have the Training Program approved to satisfy the six hours of annual training necessary for water district commissioners to satisfy KRS 74.020(6) and (7) but are not seeking to have it approved to satisfy the initial training requirements of KRS 74.020(8). The Commission has discretion in approving "water district management training" offered by third parties to satisfy the six hours of subsequent training described in KRS 74.020(6) and (7) if it

¹ See KRS 74.020(1).

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

determines that the programs are “high quality” and will “enhance a water district commissioner's understanding of his or her responsibilities and duties.”³ However, third parties applying for approval of a proposed water district commissioner training program must file with their applications, including a detailed description of the program, a description of the qualifications of any presenters, and a copy of the written materials to be distributed at the program among other things, 30 days prior to the first date on which the program is to be offered.⁴

Here, KRWA properly filed its request for approval, and the Training Program covers topics that will be relevant and useful to water district commissioners. Moreover, the presenters appear to be qualified to discuss the topics proposed and based on a review of the materials provided, the Training Program appears to be well developed and of high quality. Thus, the Commission finds that the Joint Applicants' Training Program will provide water district commissioners relevant and useful knowledge that will enhance the quality, management, operation or maintenance of the water systems they operate.

IT IS THEREFORE ORDERED that:

1. The Joint Applicants' Training Program scheduled to take place on April 24, 2019, is hereby conditionally approved and accredited for up to six hours of annual water district management training for water district commissioners seeking to satisfy the training requirements set forth in KRS 74.020(6) and (7).

³ See KRS 74.020(7)(c) (stating that the Commission “shall encourage and promote the offering of high quality water district management training programs that enhance a water district commissioner's understanding of his or her responsibilities and duties”).

⁴ Water Training Order at 4–5.

2. The Joint Applicants' Training Program may not be used by water district commissioners seeking to satisfy any portion of the initial training requirement for water district commissioners required by KRS 74.020(8).

3. Joint Applicants shall retain a record of all water district commissioners attending the Training Program.

4. No later than 30 days after the scheduled training program, Joint Applicants shall file with the Commission:

a. A sworn statement attesting that the accredited instruction was performed, including a statement that the materials regarding each session were distributed as required by the Commission herein;

b. A description of any changes in the presenters or purposed curriculum that occurred after the application;

c. The name of each attending water district commissioner, his or her water district, and the number of hours that he or she attended; and

d. A copy of any written material given to water district commissioners attending the sessions that was not previously provided to the Commission.

5. Upon receipt of the materials identified in paragraph no. 4 and provided there are no material changes to the program, the Commission shall issue a final order approving and accrediting the Training Program.

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

By the Commission

ENTERED
MAR 27 2019
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2019-00081

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