

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY	)	
RURAL WATER ASSOCIATION FOR	)	CASE NO.
ACCREDITATION APPROVAL OF	)	2020-00212
COMMISSIONER TRAINING AND	)	
CONTINUING EDUCATION CREDIT	)	

ORDER

On July 1, 2020, Kentucky Rural Water Association; Stoll Keenon Ogden, PLLC; and Northern Kentucky Water District (Joint Applicants) requested approval and accreditation, pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070, for proposed water district management training, entitled *2020 Water District Commissioner Training Webinar*, to take place telephonically on August 27, 2020. Having carefully considered Joint Applicants' request, the Commission conditionally approves and accredits the program to satisfy up to six hours of annual training required by KRS 74.020(6) and (7) for water district commissioners. Joint Applicants did not request that the proposed training program be approved and accredited to satisfy any portion of the 12 hours of initial training for newly appointed commissioners required by KRS 74.020(8).

DESCRIPTION OF TRAINING PROGRAM

The Training Program will consist of six sessions that are each one hour in length.

Joint Applicants describe the sessions as follows:

1. Recent Developments in Utility Regulation (Part I) and (Part II): These presentations review recent developments in public utility law and regulation, including unaccounted for water loss, revisions to the Open Meetings Act, sovereign immunity, wholesale water purchase agreements, franchises, the

2019 and 2020 General Assembly, and recent court and Commission decisions.

2. Challenges Facing Water Districts: This presentation examines the major challenges currently confronting Kentucky's water system, including the financing and planning of major infrastructure replacement, compliance with revisions to federal and state safe drinking water laws, increased operating costs, and overcoming public reluctance to rate adjustments to finance improvements.
3. All You Ever Wanted to Know About Depreciation . . . and Then Some: This presentation discusses the importance of "fully funding depreciation" and the consequences of failing to fund depreciation.
4. Water Utility Tariffs—Practical Considerations: This presentation will discuss the statutory and regulatory framework for utility tariffs and will highlight various provisions that a water utility should have as part of its tariff to protect against financial and legal liability and to avoid common customer disputes.
5. Extending Meter Service Life: This presentation will discuss sample testing and the Commission's recent decisions regarding sample testing.

The presenters for the training sessions are attorneys with Stoll Keenon Ogden who regularly practice before the Commission and the current President of BlueWater Kentucky and the former Chief Engineer and President/CEO of Louisville Water Company, Greg Heitzman. Joint Applicants provided copies of the PowerPoint slides for each presentation, and attendees will be sent copies by electronic mail of the PowerPoint slides for each presentation when they register.

Because of the COVID-19 pandemic and the restrictions that have been placed on large gatherings, Joint Applicants proposed conducting the training using the Zoom videoconferencing platform. Joint Applicants reported that all the presentations will be live and that attendees will be able to view and hear each presentation and to question presenters using a computer or other electronic device. Kentucky Rural Water Association, which has a Zoom Pro license that permits it to host webinars with up to 500

attendees and has experience hosting webinars, will serve as the host of the webinar and will be responsible for the technical aspects of the videoconference.

To confirm and document the presence of a water district commissioner during the program, Joint Applicants reported that each attendee's presence will be recorded using the Zoom videoconferencing platform. Specifically, at the time of registration, each attendee will receive an electronic mail message containing a unique hyperlink that will allow the participant to connect to the program and the host to determine when they logged in. The Zoom videoconferencing platform will record each registrant's arrival and departure from the program and will produce a written report showing the times of arrival and departure, which Joint Applicants will retain and use for reporting purposes.

Further, Joint Applicants reported that, during each presentation, the presenter will periodically announce and display a code (a number sequence or word) that the attendee must enter into a menu box that will appear on his or her screen. If the attendee fails to enter the code within a short period, then it will be recorded by the program and the attendee will be deemed not present. Finally, Joint Applicants reported that all attendees seeking water management training credit will be required to submit an affidavit of attendance in the form attached to the application in this matter by mail or electronic mail, and Joint Applicants will only report hours that attendees attest they attended.

#### DISCUSSION

KRS Chapter 74 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 Chapter 74 must be administered by a board of

commissioners, which shall control and manage the affairs of the district.<sup>1</sup> 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 commissioner's initial appointment.<sup>2</sup> KRS 74.020 (6) and (7) encourage water district commissioners who are not serving in their first year to complete six instructional hours of "water district management training approved by the Public Service Commission" in each additional year by allowing the commissioners to receive a raise if they complete that training each year.

Joint Applicants state that they are seeking to have the Training Program approved to satisfy the six hours of annual training necessary for water 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 annual training described in KRS 74.020(6) and (7) if it determines that the programs are "high quality" and will "enhance a water district commissioner's understanding of his or her responsibilities and duties."<sup>3</sup> However, third parties applying for approval of a proposed water district commissioner training program must file their applications, including a detailed description of the program, a description of the qualifications of any presenters,

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<sup>1</sup> See KRS 74.020(1).

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

<sup>3</sup> 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").

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.<sup>4</sup>

Joint Applicants provided the information required by 807 KAR 5:070 and the Commission's Order in Case No. 2018-00085 in a timely manner. Based on that information, the Commission finds that the substance of Joint Applicants' Training Program is of a "high quality" and will enhance water district commissioners understanding of their responsibilities and duties.<sup>5</sup> Further, while the Commission believes that in-person training is more effective and that water commissioner training should normally be held in-person, the Commission finds that conducting water commissioner training via videoconference is necessary and acceptable at this time due to the ongoing COVID-19 emergency and associated restrictions on public gatherings but that sufficient mechanisms must be in place, as they are here, to allow commissioners to question and interact with presenters and to confirm commissioners' attendance. Thus, the Commission conditionally approves and accredits the Training Program for water district commissioners seeking to satisfy the training requirements set forth in KRS 74.020(6) and (7) for water district commissioners not serving in the first year following their appointment. However, but for the on-going emergency and associated restrictions on public gatherings, or some similar catastrophic event, the Commission would not approve the proposed training via videoconference.

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<sup>4</sup> Water Training Order at 4–5.

<sup>5</sup> 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").

IT IS THEREFORE ORDERED that:

1. Joint Applicants' Training Program scheduled to take place on August 27, 2020, is hereby conditionally approved and accredited for up to six hours of water district management training for water district commissioners seeking to satisfy the annual training requirements set forth in KRS 74.020(6) and (7).

2. 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 45 days after the scheduled training program, Joint Applicants shall file with the Commission:

a. A sworn statement attesting that the accredited instruction was performed;

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

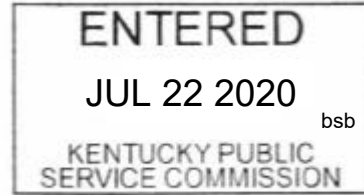
d. A copy of any written material given to water district commissioners attending the presentations if not previously provided.

5. Upon receipt of the materials identified in paragraph 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.

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By the Commission



ATTEST:

A handwritten signature in blue ink, consisting of stylized initials and a surname, positioned above a horizontal line.

Acting Executive Director



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