

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF HARDIN	)	
COUNTY WATER DISTRICT NO. 2 FOR	)	CASE NO.
ACCREDITATION APPROVAL OF	)	2021-00331
COMMISSIONER TRAINING AND CONTINUING	)	
EDUCATION CREDIT	)	

ORDER

On August 27, 2021, Hardin County Water District No. 2 (Hardin District No. 2) filed an application for approval and accreditation of a training program scheduled to take place on September 27, 2021. The program is entitled Hardin County Water Commissioner Training Seminar (Training Program). The training is intended to be in-person at the Hardin District No. 2's office in Elizabethtown, Kentucky, pursuant to KRS 74.020(6) and (7) and 807 KAR 5:070, with the possibility of virtual participation. Having reviewed Hardin District No. 2's request and being otherwise sufficiently advised, the Commission approves the program to satisfy the six hours of training described by KRS 74.020(6) and (7), subject to the conditions discussed herein. Hardin District No. 2 did not request that the 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 be conducted in-person, with a virtual option, at the Hardin District No. 2's office on September 27, 2021. The Training Program will consist of the following sessions:

1. Recent Developments in Utility Regulation (1 hour): This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, revisions to the Open Meetings Act and Open Records Act, borrowing money, keeping Minutes, wholesale water purchase agreements, and laws enacted by the 2021 General Assembly. The presenter will also examine and discuss recent court and Public Service Commission (PSC) decisions.

2. Challenges Facing Water Districts (1 hour): This presentation examines the major challenges currently confronting Kentucky's water systems, including financing and planning major infrastructure replacement, compliance with announced and anticipated revisions of federal and state safe drinking water laws, increased operating costs, and public reluctance to rate adjustments to finance improvements. The presenter will offer 12 recommendations for meeting these challenges.

3. All You Ever Wanted To Know About Depreciation (1 hour): This presentation discusses the importance of "fully funded depreciation" and examines how many municipal and PSC-regulated water systems are employing this key business practice. The presenter will also address the consequences of failing to fund depreciation and detail how water utilities can increase their depreciation funding.

4. PSC Consumer Services (1 hour): This presentation will focus on the regulatory aspects of customer relations. Topics include the Customer Bill of Rights,

customer billing disputes, installation and termination of utility service, and the PSC's informal and formal complaint processes. The presenter will also address landlord-tenant utility service issues, imputation of utility bills to family members, and the importance of tariffs and water user agreements.

5. Rate Adjustments Made Easy (1 hour): This presentation is an overview of the Public Service Commission's ratemaking process for water districts. Topics include cost-based rates, revenue requirement calculation, cost-of-service study, alternative rate filing procedures, and customer notice requirements. The speaker will also offer practical suggestions for streamlining the rate making process.

6. Legal Issues in the Operation & Management of Water Systems Panel Discussion (1 hour): This session is a panel discussion of utility attorneys that will entertain audience questions regarding frequently recurring legal issues faced by water utilities. The 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.

The presenters at the program will be attorneys from Stoll Keenan Ogden, Greg Heitzman, the former CEO of Louisville Water and MSD, and the Commission's Consumer Service Branch Manager, Rosemary Tutt. Hardin District No. 2 provided detailed PowerPoint slides for each session, except the panel discussion, that relate to

the stated topics, and indicated that copies of the slides would be provided to participants of the training.

### 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 that 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 commissioners' 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 calendar year by allowing the commissioners to receive a raise if they complete that training each year.

Hardin District No. 2 indicates that it is seeking to have the Training Program approved to satisfy six hours of annual training necessary for water district commissioners to satisfy KRS 74.020(6) and (7), but is 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 determines that the

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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).

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, 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>

Hardin District No. 2 provided the information required by 807 KAR 5:070 and the Commission’s Order in Case No. 2018-00085 in a timely manner. The Training Program also covers topics that will be relevant and useful to water district commissioners. Moreover, the presenters appear to have knowledge of the topics they intend to discuss, and based on a review of the materials provided, the Training Program appears to be well developed and of a high quality. While the Commission believes in-person training is more effective and that water commissioner training should be held in-person, the Commission finds that conducting water commissioner training virtually when necessary is acceptable at this time due to the ongoing COVID-19 emergency. However, sufficient mechanisms must be in place to allow commissioners to question and interact with presenters and to confirm commissioners’ attendance. Hardin District No. 2 shall also request that water district commissioners who attend remotely complete an affidavit affirming their attendance within 45 days of completion of the training. Commissioners

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<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”).

<sup>4</sup> Case No. 2018-00085, *Review of Training Required and Authorized by KRS 74.020 for the Commissioners of Water Districts* (Ky. PSC Mar. 15, 2018), Order at 4–5.

who attend remotely will only receive credit for hours of the Training Program that they attest to have participated in.

The Commission finds that the 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 and, therefore, will conditionally approve the Training Program to satisfy the training requirements set forth in KRS 74.020(6) and (7), or a portion thereof.

IT IS THEREFORE ORDERED that:

1. Hardin District No. 2's Training Program scheduled to take place on September 27, 2021, is hereby conditionally approved and accredited for up to six hours of annual water district management training for water district commissioners seeking to satisfy training requirements set forth in KRS 74.020(6) and (7).

2. Hardin District No. 2's 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. Hardin District No. 2 shall retain a record of all water district commissioners attending the Training Program.

4. No later than 45 days after each scheduled offering of the Training Program, Hardin District No. 2 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 proposed curriculum that occurred after the application;

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

d. Copies of any affidavits received from water district commissioners' attending the presentation remotely attesting to their attendance; and

e. 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 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. Hardin District No. 2 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  
SEP 24 2021 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2021-00331



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