

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF JESSAMINE-)	
SOUTH ELKHORN WATER DISTRICT AND ITS)	
INDIVIDUAL COMMISSIONERS, JAMES F. HALL,)	CASE NO.
JERRY HAWS, THOMAS BEAL, AND CLAY)	2022-00344
CORMAN, ALLEGED VIOLATION OF KRS)	
278.300)	

ORDER

On January 3, 2024, Jessamine-South Elkhorn Water District (Jessamine-South Elkhorn District) filed an application for a declaratory order pursuant to 807 KAR 5:001, Section 19, regarding the October 21, 2023 Order entered in this proceeding. The October 21, 2023 Order required that the named parties, within 12 months of entry of the Order, “attend 12 hours of PSC hosted water commissioner training”.¹ Jessamine-South Elkhorn District’s application for a declaratory order asked whether attendance at a Commission hosted water commissioner training for six hours after October 31, 2023, but prior to December 31, 2023, and for six hours after December 31, 2023, but before October 31, 2024, will comply the requirements of the October 21, 2023 Order, if the term “PSC hosted” trainings means “PSC conducted” trainings, and if those trainings will also comply with KRS 74.020(6) and allow the commissioners to receive the maximum annual salary of \$6,000, in the years 2023 and 2024.

¹ Order (Ky. PSC Oct. 21, 2023), ordering paragraphs 2, 3, 4.

LEGAL STANDARD

Pursuant to 807 KAR 5:001, Section 19, the Commission may, upon application by a person substantially affected, “issue a declaratory order . . . with respect to the meaning and scope of an order or administrative regulation of the commission or provision of KRS Chapter 278.”² An application for a declaratory order must:

- (a) Be in writing;
- (b) Contain a complete, accurate, and concise statement of the facts upon which the application is based;
- (c) Fully disclose the applicant’s interest;
- (d) Identify all statutes, administrative regulations, and orders to which the application relates; and
- (e) State the applicant’s proposed resolution or conclusion.³

Any factual allegation in an application for a declaratory order must be supported by an affidavit or verified.⁴ The Commission “may dispose of an application for a declaratory order solely on the basis of the written submissions filed”⁵ or may allow for other actions, including additional discovery, to ensure that the record is complete.

KRS 74.020 allows a commissioner to receive a maximum annual salary of \$6,000 so long as the commissioner completes an annual minimum of six instructional hours of water district management training approved by the Commission and requires that the salary be fixed by the county judges/executive and approved by the fiscal court.⁶

² 807 KAR 5:001, Section 19(1); see also Case No. 2020-00095, *Electronic Application of Kenergy Corp. for a Declaratory Order* (Ky. PSC Mar. 11, 2021), Order at 4-5 (noting that Commission may issue a declaratory order, in its discretion, with respect to the meaning and scope of an order, regulation, or statute if a request is made by a person substantially affected).

³ 807 KAR 5:001, Section 19(2).

⁴ 807 KAR 5:001, Section 19(6).

⁵ 807 KAR 5:001, Section 19(8); see also Case No. 2020-00095, *Electronic Application of Kenergy Corp. for a Declaratory Order* (Ky. PSC Mar. 11, 2021) Order at 4-5 (noting that that Commission has discretion in whether to address an application for a declaratory order).

⁶ KRS 74.020(6).

DISCUSSIONS AND FINDINGS

The Commission finds that the requirements to file an application for a declaratory order have been met and the motion should be granted.

The Commission finds that the term “PSC hosted” in the October 21, 2023 Order, means that which the Commission conducts and not training that the Commission has approved and conducted by a third-party. The Commission also finds that six hours of training between October 31, 2023, and December 31, 2023, and another six hours of training between January 1, 2024, and before October 31, 2024, will meet the number of training hours required in the October 31, 2023 Order.

The Commission further finds that six hours of training between October 31, 2023, and December 31, 2023, and another six hours of training between January 1, 2024, and before October 31, 2024, will also meet the requirement of six instructional hours as required by KRS 74.020(6) for years 2023 and 2024, so long as all other requirements of KRS 74.020(6) are also met.


IT IS THEREFORE ORDERED that:

1. Jessamine-South Elkhorn District’s application for a declaratory order is granted.
2. The term “PSC hosted” in the October 21, 2023 Order, means training that the Commission conducted.
3. Six hours of training between October 31, 2023, and December 31, 2023, and another six hours of training between January 1, 2024, and before October 31, 2024, will meet the number of training hours required in the October 31, 2023 Order.

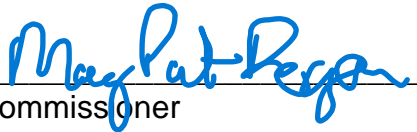
4. That six hours of training between October 31, 2023, and December 31, 2023, and another six hours of training between January 1, 2024, and before October 31, 2024, will also meet the requirement of six instructional hours as required by KRS 74.020(6) for years 2023 and 2024, so long as all other requirements of KRS 74.020(6) are also met.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
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