

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 A PROPOSED)	2023-00023
WATER DISTRICT MANAGEMENT TRAINING)	
PROGRAM)	

ORDER

On January 19, 2023, Kentucky Rural Water Association (KRWA) filed an application¹ for approval and accreditation of a training program scheduled to take place on February 22, 2023. The program is entitled Water Commissioner Training (Training Program). The Training Program is intended to be in-person at the Sloan Convention Center in Bowling Green, Kentucky. Having reviewed KRWA's request and being otherwise sufficiently advised, the Commission denies the approval of one hour of training and approves the program to satisfy up to a maximum five hours of training described by KRS 74.020(6) and KRS 74.020(7), subject to the conditions discussed below. KRWA did not request 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).

¹ All applications should be filed in an optimized pdf format (searchable or OCR) and include bookmarks to distinguish sections. Any future applications from Joint Applicants not meeting this requirement will be rejected as deficient.

DESCRIPTION OF THE TRAINING PROGRAM

The Training Program will be conducted in person at Sloan Convention Center in Bowling Green, Kentucky on February 22, 2023. The proposed Training Program consists of the following sessions:

Wednesday, February 22, 2023

1. Stress in the Workplace (1 hour): This presentation addresses the impact of workforce stress when fulfilling the daily demands of operating a system. It will discuss causes of anxiety, how reactions to circumstances can affect the outcome, and tools that management can implement to deal with demands placed on employees and improve overall performance.

2. Overview of PFAS Impacts and Removal Technology Solutions (1 hour): This presentation gives an overview of the sampling of public water systems for contaminants listed on the fifth Unregulated Containment Monitoring Rule (UMR 5). It addresses what the chemicals are, how individuals are exposed, health effects, the financial and regulatory responsibility for utilities, the EPA's plan for regulating the PFAS chemicals over the next 3 years, and treatment solutions for the removal of PFAS.

3. Recent Developments in Utility Regulation (1 hour): This presentation reviews recent developments in utility regulatory law. Topics include recent Kentucky court opinions, PSC decisions, the revisions to the sales tax laws concerning HB 8 and residential exemptions, and the rules and regulations concerning borrowing money.

4. In the Dock: Show Cause Proceedings Before the Public Service Commission (1 hour): This presentation addresses the process and procedures that should be followed when a PSC-regulated utility is the subject of an investigation and

show cause or complaint proceeding. It will discuss available defenses, sanctions that may be imposed, who the sanctions can be imposed on, and measures to undertake to prevent being the subject of an investigation.

5. Insurance 101 (1 hour): This presentation will report on the aftermath of tornadoes and flooding in Kentucky as it relates to insurance. It will address the problem of many utilities being underinsured, why decision-makers should have a better understanding of “insurance language” so they can be better informed when making decisions on coverage.

6. Crisis Communications for Public Officials (1 hour): This presentation addresses decision-makers responsibilities when facing crisis from a natural disaster or operational challenge. It discusses taking the lead in the emergency, controlling the flow of events, and communicating effectively with the general public.

The presenters at the Training Program will be Gerald E. Wuetcher and Damon R. Talley of Stoll Keenon Ogden; Robert K. (Bob) Cashion, Nationally Certified Water Technologist of S4 Water Sales & Service, LLC; Geoffrey Pellechia, Senior Business Development Manager for Emerging Contaminants of Evoqua Water Technologies; Jeremy D. Baird, Director of Agency Operations of Kentucky League of Cities Insurance Agency; and Robert K. Miller, consultant with StraightLine Kentucky.

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.² 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.³ 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 calendar year by allowing the commissioners to receive a raise if they complete the training each year.

KRWA 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 it 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 programs are "high quality" and "will enhance a water district commissioner's understanding of his or her responsibilities and duties."⁴ 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,

² See KRS 74.020(1).

³ KRS 74.020(8)(b) (discussing the training requirements for new water district commissioners).

⁴ 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.⁵

KRWA provided the information required by 807 KAR 5:070 and the Commission's Order in Case No. 2018-00085 in a timely manner. Having carefully considered the application and materials, the Commission denies KRWA's request for approval and accreditation of the session entitled "Stress in the Workplace" as it does not meet the statutory requirement of enhancing a water district commissioner's understanding of his or her responsibilities and duties.

As described, the session is intended to explore the impact of workforce stress. Water district commissioners have the statutory responsibility under KRS 74.020(1) to manage and control the affairs of the district. Water district commissioners may be removed from office for, among other things, incompetency, neglect of duty, gross immorality, or nonfeasance, misfeasance, or malfeasance in office, including failure to comply with rules, regulations, and orders issued by the Commission.⁶ Pursuant to KRS 75.020(6), the six instructional hours that a water district commissioner must complete during an educational year in order to receive an annual salary above \$3,600 are to be hours devoted to "water district management training." The Commission finds that a session in workplace stress is not training that will aid a water district commissioner to understand his or her responsibilities in managing the affairs of the district. A session in workplace stress will not assist water commissioners in understanding the statutes, Commission regulations, and Commission Orders with which water district

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

⁶ KRS 278.025(1).

commissioners must comply. Such a session will not strengthen water district commissioners' competency in management of the district, and therefore the request for approval and accreditation of this session should be denied.

The Commission finds that the remaining five hours of 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 for up to a maximum of five hours to satisfy the training requirements set forth in KRS 74.020(6) and (7) or a portion thereof. The Training Program 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.

IT IS THEREFORE ORDERED that:

1. KRWA's Training Program scheduled to take place on February 22, 2023, is hereby conditionally approved and accredited for up to five 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. KRWA's request for approval and accreditation of the session entitled "Stress in the Workplace" is denied.

2. KRWA'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. KRWA 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, KRWA 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

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 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. KRWA 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 for any other purpose deemed necessary by the Commission.

PUBLIC SERVICE COMMISSION

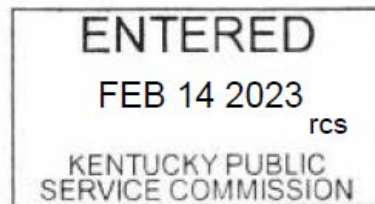


Chairman

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ATTEST:



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