

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)	2024-00300
COMMISSIONER TRAINING AND CONTINUING)	
EDUCATION CREDIT)	

ORDER

On September 18, 2024, Kentucky Rural Water Association and Stoll Keenon Ogden PLLC (jointly, Joint Applicants) filed an application¹ for approval and accreditation, pursuant to KRS 74.020(6)-(7) and 807 KAR 5:070, for the proposed water district management training titled Ninth Annual Water Law Series (Training Program) scheduled to take place on October 24, 2024, at the Holiday Inn University Plaza/Sloan Convention Center in Bowling Green, Kentucky.

Having reviewed the Joint Applicants' request and being otherwise sufficiently advised, the Commission finds it should conditionally approve the Training Program to satisfy the six hours of training described by KRS 74.020(6)-(7), subject to the conditions discussed below. Joint Applicants 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 on October 24, 2024, at the Holiday Inn University Plaza/Sloan Convention Center in Bowling Green, Kentucky. The Training Program will consist of the following sessions:

1. Recent Developments in Utility Regulation. Damon Talley (1 hour)

This presentation reviews recent developments in public utility law and regulation. Topics include unaccounted water loss, borrowing money, compliance with PSC Orders, and PSC Investigations. The presenter will also examine and discuss recent court and PSC decisions.

2. Asset Management and Financing. Robert K. Miller (1 hour)

This presentation discusses the different facets of Asset Management, including taking inventory of a utility's assets, determining the condition, reliability, and critical nature of the assets, and building an Asset Management Plan. In addition, the presenter will discuss a long term funding strategy.

3. Hot Environmental Law Topics. Sara Jarboe and Joye Beth Spinks (1 hour)

This presentation focuses on bringing attendees up to date on environmental law issues that impact water and wastewater utilities. Topics that will be addressed include the evolving PFAS landscape, Waters of the U.S., and the scramble to revise the definition following the recent Sackett decision by the Supreme Court, and a new Supreme Court decision ending deference to federal agencies in interpreting statutes. The presenters will also provide status updates on EPA's Lead and Copper Rule, 401 water quality 4 certification, and the proposed rule to change aspects of the Risk Management Program.

4. Relations with the Public Service Commission: Best Practices for Maintaining Positive Interaction. Tina Frederick (1 hour)

This presentation focuses on the practices that utilities can undertake to ensure good and effective relations with the Commission and its Staff. The presentation will review the challenges that the Commission currently faces, common mistakes that utilities make when seeking relief from the Commission, the importance of carefully reviewing and complying with Commission orders, and the importance of compliance with regulatory filing deadlines. The presenter will also discuss how the Commission reviews

applications for relief for compliance with filing requirements and what filers should generally expect.

5. Everything you wanted to know about Certificates of Public Convenience and Necessity and Debt Authorizations but were afraid to ask the Public Service Commission. Gerald Wuetcher (1 hour)

This presentation reviews the statutory law surrounding the construction of utility facilities and the issuance of debt. It will focus on what utility actions require a certificate of public convenience and necessity and the exceptions to the general requirement for a certificate of public convenience and necessity. It will also identify those debt issuances and contractual obligations that require prior Commission authorization and exceptions to the requirement for prior 5 Commission authorization. The presenter will also provide practical suggestions on preparing applications for such relief to assist Commission review and minimize the time required to obtain Commission approval.

6. Legal Issues in the Operation & Management of Water Systems Panel Discussion. Panel will consist of Damon Talley, Gerald Wuetcher, and Tina Frederick (1 hour)

A panel of attorneys will entertain audience questions regarding frequently recurring legal issues faced by water utilities. 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.

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

² KRS 74.020(1).

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)-(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 certain commissioners to receive a raise if they complete the training each year.

Joint Applicants indicate that they are 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 KRS 74.020(7), but they 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)-(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, 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

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").

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.

Here, Joint Applicants provided the information required in a timely manner. That information indicated that 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.

The Commission finds that the Training Program, as presented, 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, the Training Program should be conditionally approved to satisfy the training requirements set forth in KRS 74.020(6)-(7) or a portion thereof.

IT IS THEREFORE ORDERED that:

1. Joint Applicants' Training Program scheduled to take place on October 24, 2024, 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. 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 each scheduled offering of the 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 proposed 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 ordering paragraph 3 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 representatives 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



Commissioner



Commissioner



ATTEST:



Executive Director

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