

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST TO FILL VACANCIES ON)
WESTERN PULASKI COUNTY WATER) CASE NO. 2012-00052
DISTRICT BOARD OF COMMISSIONERS)

ORDER

Western Pulaski County Water District (“Western Pulaski District”) has advised the Commission in writing of the existence of two vacancies on Western Pulaski District’s Board of Commissioners due to the expiration of the terms of two incumbents and has requested that the Commission appoint the incumbents to fill these vacancies. By this Order, we grant the request.

Western Pulaski District, a water district organized in 1963 pursuant to KRS Chapter 74, owns and operates facilities that distribute water for compensation to approximately 8,046 customers in Pulaski, Russell, and Wayne counties, Kentucky.¹ As of December 31, 2011, Western Pulaski District had total assets of \$13,353,881.² For the calendar year ending December 31, 2011, it had total operating revenues of \$2,344,308.³

A five-member board of commissioners administers Western Pulaski District and has the statutory responsibility to “control and manage” the water district’s affairs.⁴ The

¹ *Annual Report of Western Pulaski County Water District to the Public Service Commission of Kentucky for the Year Ended December 31, 2011* (“Annual Report”) at 4, 5, and 27.

² *Id.* at 12.

³ *Id.* at 9.

⁴ KRS 74.020(1).

County Judge/Executive of Pulaski County appoints the water district commissioners with the approval of the Pulaski County Fiscal Court.⁵ Pursuant to KRS 74.020(1), the terms of the members of a water district's board of commissioners are staggered.⁶

Western Pulaski District reports that the terms of Western Pulaski District Commissioners Teddy Rodgers and Jimmy Dalton expired on October 4, 2010 and on May 22, 2011, respectively.⁷ Since the expiration of their terms, the Pulaski County Judge/Executive has not acted to appoint a successor. On February 13, 2012, Don Calder, Western Pulaski District's chairman, requested that the Commission fill the vacant terms.⁸ He recommended that Mr. Rodgers and Mr. Dalton be reappointed to fill the vacant positions.

On February 27, 2012, we initiated this proceeding to fill the existing vacancies. To ensure notice to all persons with a significant interest in this matter, the Commission ordered that Western Pulaski District, Pulaski County Judge/Executive Barty Bullock, Pulaski County Fiscal Court, Mr. Rodgers, and Mr. Dalton be made parties to this proceeding. We further directed Western Pulaski District, Mr. Rodgers, and Mr. Dalton to provide information regarding their personal background and afforded all parties the

⁵ KRS 74.020(1)(b). Although Western Pulaski District is located in three counties, approximately 94 percent of Western Pulaski District's assets are located in Pulaski County, Kentucky. Western Pulaski District's Response to the Commission's Order of February 27, 2012, Item 10 (filed Mar. 16, 2012). Neither the County Judge/Executive of Russell or Wayne Counties is entitled to appoint a member of the Board of Commissioners until 25 percent of the total assets of the Western Pulaski District's distribution system are located in his county. See KRS 74.020(1)(c).

⁶ See KRS 74.020(1)(a) ("Initial appointments shall be for terms of two (2), three (3), and four (4) years, as designated by the Court.")

⁷ Letter from Don Calder, Chairman, Western Pulaski County Water District, to Jeff Derouen, Executive Director, Public Service Commission (Feb. 13, 2012); Western Pulaski District's Response to the Commission's Order of February 27, 2012, Item 1 (filed Mar. 16, 2012).

⁸ Mr. Calder wrote the Commission to request Commission assistance in the reappointment of Commissioners. The Commission considers this letter as an application to make appointments to fill the vacancies.

opportunity to nominate additional persons to fill the existing vacancies. Western Pulaski District, Mr. Rodgers, and Mr. Dalton have responded to the Commission's directives to provide information. Additionally, Charles Mitchell Robertson requested that he be considered for one of the vacancies.

Pursuant to KRS 74.020(1)(a), a county judge/executive appoints water district commissioners with the approval of the county's fiscal court. KRS 74.020(4), however, provides that the Commission shall fill a vacancy on the board of commissioners "if, within ninety (90) days following the expiration of the term, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court."

The Commission finds that two vacancies currently exist on Western Pulaski District's Board of Commissioners. We also find that the vacancies have existed for longer than 90 days. Accordingly, the Commission has the statutory responsibility to fill those vacancies.

In making our selection, the Commission must consider the totality of the circumstances, including the education, business and management experience, and personal history of the proposed candidates, and the existing financial and operating condition of the water district. Based upon our review of the evidence of record, we find no information to suggest that any of the candidates are unqualified to serve in the designated position. We further find that each of the candidates resides within Western Pulaski District's territory and possesses adequate education, business skills, and experience to perform the duties of water district commissioner.

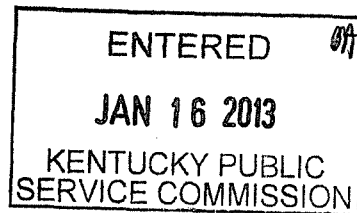
Having reviewed the evidence of record, we find that Mr. Rodgers and Mr. Dalton by virtue of their backgrounds and their extensive service as water district commissioners are best qualified to serve as commissioners. There is no allegation of

which this Commission is aware that they are less than competent to fulfill the role of commissioner. To the contrary, the record demonstrates that they are familiar with the complex issues currently facing Western Pulaski District. We express no dissatisfaction with Mr. Robertson. We simply conclude that, under the circumstances present here, reappointment of experienced, proven commissioners constitutes the most reasonable and expeditious resolution to the current impasse.

IT IS THEREFORE ORDERED that:

1. Teddy Rodgers is appointed to fill the existing vacancy on Western Pulaski District's Board of Commissioners. His term shall expire October 4, 2014.
2. Jimmy Dalton is appointed to fill the existing vacancy on Western Pulaski District's Board of Commissioners. His term shall expire May 22, 2015.

By the Commission



ATTEST:


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