

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPOINTMENT TO FILL VACANCY ON THE) CASE NO.
BOARD OF COMMISSIONERS OF JESSAMINE) 2015-00313
COUNTY WATER DISTRICT NO. 1)

ORDER

By a letter received on September 9, 2015, Carl Waits, chairman of the Board of Commissioners ("Board") of Jessamine County Water District No. 1 ("Jessamine District No. 1"), advised the Commission that the term of Claude Lawson as a commissioner of Jessamine District No. 1 is believed to have expired on March 30, 2015, and that the position remains vacant. On September 14, 2015, the Commission received a second letter from Mr. Waits which stated that Jessamine County Judge/Executive David K. West had been advised by Jessamine District No. 1 of the vacancy on its Board and that Jessamine District No. 1 recommended to Judge/Executive West that George Dean be appointed to fill the vacancy.¹ By a third letter received on September 23, 2015, Mr. Waits stated that Jessamine District No. 1 had received a resume for the vacant position, and Mr. Waits included the resume of James B. Williams with his letter.

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, states:

¹ The letter received by the Commission from Mr. Waits on September 14, 2015, included, as an enclosure, the August 26, 2015 letter to Jessamine County Judge/Executive David K. West from Mr. Waits in which Mr. Waits identified a vacancy on the board and recommended that George Dean be appointed as his replacement.

Vacancies shall be filled by the same appointing authority which is empowered to make the original appointment. Vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Notwithstanding KRS 67.710, a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent shall be filled by the Public Service Commission if, within ninety (90) days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

Jessamine District No. 1 has advised the Commission in writing of its belief that the term of one of its commissioners expired on March 30, 2015. Per the statements in the letter received from Jessamine District No. 1, the vacancy on its Board has been unfilled from more than 90 days following the expiration of the term. Assuming that the position is vacant and that the vacancy has been unfilled for more than 90 days, the Commission has the statutory duty and exclusive authority to fill it. While a county judge/executive and a county fiscal court may reach agreement on a candidate for the vacant position, they lack authority to fill the vacancy once it has remained unfilled for more than 90 days. Any action on their part to appoint and approve a candidate after that time constitutes only a recommendation to the Commission.²

Accordingly, the Commission finds that a proceeding should be initiated to determine whether a vacancy did exist for more than 90 days on the Jessamine District No. 1 Board. The Commission will make Jessamine District No. 1 a party to this case and request that it provide certain information which is set forth in a request attached hereto as an Appendix to this Order. The Commission will also request, by separate letter, that the Jessamine County Clerk file copies of the meeting minutes of the

² See Case No. 2008-00395, *Request to Fill Existing Vacancies on the Board of Commissioners of Letcher County Water and Sewer District* (Ky. PSC Jan. 28, 2009) at 4-5.

Jessamine County Fiscal Court appointing Claude Lawson, whose term is alleged to have expired on March 30, 2015.

If the Commission finds that a vacancy did exist for more than 90 days, we will proceed to identify qualified candidates for appointment to that position. To ensure that a wide range of candidates are considered, the Commission will permit all interested persons the opportunity to nominate candidates for the position and will then determine whether each candidate meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates who meet these requirements, which is best suited to sit on the Board. The Commission also will direct that a copy of this Order be served upon the Jessamine County Judge/Executive, the Jessamine County Fiscal Court, the Jessamine County Attorney, and Jessamine District No. 1's Board to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether there is a vacancy on the Jessamine District No. 1 Board that has existed for more than 90 days in 2015.
2. Jessamine District No. 1 is made a party to this proceeding.
3. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.
4. Jessamine District No. 1 shall file with the Commission within 14 days of the date of this Order the original and one copy of the information requested in the Appendix to this Order.

5. a. Responses to requests for information shall be appropriately bound, tabbed and indexed and shall include the name of the witness responsible for responding to the questions related to the information provided.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

e. A party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that personal information cannot be read.


6. Service of any document or pleading required by this Order shall be filed with the Commission and served upon all parties of record in accordance with 807 KAR 5:001, Section 4(8).

7. The Executive Director shall serve a copy of this Order upon the Jessamine County Judge/Executive, the members of the Jessamine County Fiscal Court, the Jessamine County Attorney, and the Jessamine District No. 1's Board.

By the Commission

ENTERED
OCT 05 2015
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2015-00313

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00313 DATED **OCT 05 2015**

COMMISSION STAFF'S REQUEST FOR INFORMATION TO
JESSAMINE COUNTY WATER DISTRICT NO. 1

1. List the name of each current Jessamine District No. 1 commissioner and the date on which his or her term expires.
2. Provide a map of Jessamine District No. 1's territory.
3. Provide the ordinances and resolutions of Jessamine County Fiscal Court that establish Jessamine District No. 1's territorial boundaries.
4. Provide all correspondence with the Jessamine County Judge/Executive regarding the expiration of the term of the individual whose term is alleged to have expired on March 30, 2015.

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