

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST TO FILL AN EXISTING VACANCY ON)	
THE BOARD OF COMMISSIONERS OF)	CASE NO. 2005-00384
LEDBETTER WATER DISTRICT)	
)	

ORDER

Chris Lasher, County Judge/Executive of Livingston County, Kentucky, has applied for rehearing of the Commission's Order of March 30, 2006 in which this Commission reappointed Arnie Puckett to a vacancy on Ledbetter Water District's Board of Commissioners.¹ Judge Lasher alleges procedural and substantive errors. Finding no basis for the alleged errors, we deny the application.

A five-member Board of Commissioners governs Ledbetter Water District. Each member of the board receives an annual salary of \$600. According to Judge Lasher and Ledbetter Water District, the term of Arnie Puckett expired on September 14, 2005. Mr. Puckett had served on Ledbetter Water District's Board of Commissioners since 1993. Citing Mr. Puckett's alleged poor attendance at the meetings of the water district's Board of Commissioners, Judge Lasher chose not to reappoint Mr. Puckett but to appoint Jim Schade. Livingston Fiscal Court refused to approve this appointment.

¹ On April 6, 2006, Judge Lasher submitted to the Commission a letter in which he stated his wish to "appeal the decision rendered by the Public Service Commission (PSC) on March 30, 2006 concerning the appointment of Mr. Jim Schade." While not styled as an application for rehearing, we shall consider Judge Lasher's letter as such an application.

On September 22, 2005, Judge Lasher applied to the Commission to appoint Mr. Schade to fill the vacant position.

On March 30, 2006, we denied Judge Lasher's application and reappointed Mr. Puckett. In taking this action, we stated:

Having reviewed the evidence of record, we find that Mr. Puckett, by virtue of his professional background, community involvement, residence within Ledbetter Water District's territory, and his extensive service as a water district commissioner is qualified to serve as a commissioner. There is no allegation of which this Commission is aware that Mr. Puckett is less than competent to fulfill his role as commissioner. To the contrary, the record demonstrates that he has the full confidence of his colleagues on the Commission. In addition, he is familiar with the complex issues currently facing Ledbetter Water District.

We imply no dissatisfaction with Mr. Schade. We simply conclude that, under the circumstances present here, reappointment of an experienced, proven commissioner constitutes the most reasonable and expeditious resolution to the current impasse.

Requesting reconsideration of that Order, Judge Lasher alleges two errors. First, he asserts that the Commission failed to advise him of the need to obtain letters of support for Mr. Schade and that the lack of such letters was a determining factor in the Commission's decision. Second, he asserts that the Commission's decision was contrary to the evidence of record which "clearly demonstrated . . . [Mr. Puckett] was not familiar with the . . . [water district's] financial situation."

We find no basis to support the first allegation of error. As an applicant before the Commission, Judge Lasher bears the burden of proof. See Energy Regulatory Commission v. Kentucky Power Co., 605 S.W.2d 46, 50 (Ky. App. 1981) ("Applicants

before an administrative agency have the burden of proof.”) This duty is well known. The Commission had no obligation to advise the applicant how to prosecute his case.

The Commission, through the Commission Staff, moreover, solicited information that supported Judge Lasher’s candidate. It requested information on Mr. Schade’s qualifications to serve as a member of Ledbetter Water District’s Board of Commissioners. It requested his *curriculum vitae* and information on his educational background, work history, and his experience working for or managing governmental organizations and organizations similar to a water utility.

Finally, the absence of letters of support for Mr. Schade was not a factor in the Commission’s decision. In our Order, we expressed “no dissatisfaction with Mr. Schade,” but noted that “an experienced, proven commissioner” was the “most reasonable and expeditious resolution to the current impasse.”

Judge Lasher’s also claims that Mr. Puckett is not familiar with Ledbetter Water District’s financial condition. We are unable to discern how his references to the minutes of the September 15, 2005 meeting of Livingston County Fiscal Court support his contention. Absent further information that Judge Lasher has not provided, the Commission is unable to reach the same conclusions about Mr. Puckett’s alleged lack of familiarity with the water district’s finances.

Accordingly, the Commission HEREBY ORDERS that Judge Lasher’s application for rehearing is denied.

Done at Frankfort, Kentucky, this 26th day of April, 2006.

By the Commission

ATTEST:


Executive Director

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