

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MCCREARY COUNTY WATER)
DISTRICT FOR A CERTIFICATE OF PUBLIC) CASE NO. 2010-00427
CONVENIENCE AND NECESSITY TO)
CONSTRUCT PURSUANT TO KRS 278.023)

ORDER

McCreary County Water District ("McCreary District") has applied pursuant to KRS 278.023 for a Certificate of Public Convenience and Necessity to construct certain sewage collection facilities. Finding that the application may not be filed pursuant to KRS 278.023 and that a non-attorney has submitted the application, we reject the application.

McCreary District, a water district organized pursuant to KRS Chapter 74, owns and operates facilities that distribute water for compensation to approximately 6,197 customers in McCreary County, Kentucky.¹ It also owns facilities that collect and treat sewage for approximately 973 customers in McCreary County.² It is a utility subject to Commission jurisdiction.³ As a water district, McCreary District is a public corporation.⁴

¹ *Report of McCreary County Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2009 (Water Division)* at 5 and 21.

² *Report of McCreary County Water District to the Kentucky Public Service Commission for the Year Ended December 31, 2009 (S Division)* at 1 and 12.

³ KRS 278.010(3)(d) and (f); KRS 278.015.

⁴ See *City of Cold Spring v. Campbell County Water District*, 334 S.W.2d 269, 273 (Ky. 1960).

On November 3, 2010, Seth W. Winslow, a professional engineer with Strand Associates, Inc. tendered a request to the Commission on McCreary District's behalf in which he requested a Certificate of Public Convenience and Necessity to construct approximately 23,795 linear feet of various sized sewer forced main, approximately 57 grinder stations, and one pumping station. Mr. Winslow filed the application pursuant to KRS 278.023. Mr. Winslow is not an attorney licensed to practice in Kentucky.⁵

The application does not fall within the parameters of KRS 278.023, which requires limited Commission review of the financing of certain construction projects that are financed in whole or in part under the terms of an agreement between a water district and agencies of the United States Department of Rural Development and Department of Agriculture. The facilities in question are financed through an agreement with the Department of the Army. As it is not subject to the provisions of KRS 278.023 and 807 KAR 5:069, the application must meet the requirements of 807 KAR 5:001, Section 9. It does not and must be rejected.

The Commission must also reject the application because it was not filed by an attorney. No person may engage in the practice of law in Kentucky without first obtaining a license to practice. The practice of law is:

⁵ The directory of the Kentucky Bar Association does not list any licensed attorney with the name of "Seth Winslow." See <http://www.kybar.org/26> (last visited Nov. 29, 2010).

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.⁶

It includes the representation of a corporation before a state administrative agency.⁷

As to its own proceedings, this Commission has adopted a similar position and has required that those representing the interests of others before us be licensed attorneys. In a previous case, the Commission ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission must engage a member of the Kentucky Bar Association.⁸

It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.

IT IS THEREFORE ORDERED that:

1. McCreary District's application for a Certificate of Public Convenience and Necessity is rejected.


2. McCreary District shall have 30 days from the date of this Order to file its application in accordance with 807 KAR 5:001 and the Rules of the Kentucky Supreme Court. If it fails to file an application within that time, this case shall be closed and removed from the Commission's docket.

⁶ Kentucky Supreme Court Rule 3.020.

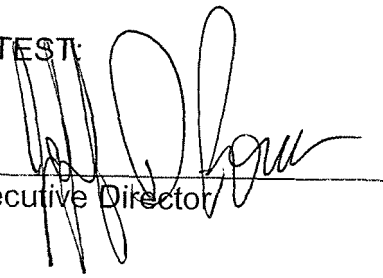
⁷ *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).

⁸ Administrative Case No. 249, *Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2. See also Case No. 2004-00348, *Howard Keen v. Carroll County Water District # 1* (Ky. PSC Oct. 15, 2004).

By the Commission

ENTERED 
DEC 13 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2010-00427

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