

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF A POSSIBLE VACANCY)	CASE NO.
ON THE BOARD OF COMMISSIONERS OF)	2015-00352
WESTERN PULASKI COUNTY WATER)	
DISTRICT)	

ORDER

By letter received on October 26, 2015, Don Calder, chairman of the Western Pulaski County Water District ("Western Pulaski District"), advised the Commission of a vacancy on the Board of Commissioners ("Board") of Western Pulaski District resulting from the expiration of a commissioner's term. According to the Mr. Calder, the term of Jimmy Dalton as a commissioner of Western Pulaski District ended on May 22, 2015. Mr. Calder also stated in his letter that he would like to nominate Mr. Dalton to serve as commissioner for the next term of four years.

On December 9, 2015, the Commission entered an Order initiating this proceeding to determine whether there is a vacancy on the Western Pulaski District Board and whether that vacancy has existed for more than 90 days.¹ Western Pulaski District was made a party to this proceeding and was also ordered to respond to a request for information contained in the Appendix to the Commission's December 9, 2015 Order.² Through a separate letter, the Executive Director of the Commission

¹ Order (Ky. PSC Dec. 9, 2015) at 2.

² *Id.* at 2 and 3.

requested that the Pulaski County Clerk file copies of the meeting minutes of the Pulaski County Fiscal Court appointing Mr. Dalton.³

On December 23, 2015, Western Pulaski District filed its response to the Commission's request for information. Per the response, Western Pulaski District has a five-member Board, and Mr. Dalton's term is stated to have expired on May 22, 2015.⁴ On January 19, 2016, the Commission received a letter from Linda Burnett, Pulaski County Clerk, in response to the Commission's letter request. Ms. Burnett stated that her review of the Pulaski County Fiscal Court records indicates that the last order of the Fiscal Court appointing Mr. Dalton to a four-year term was recorded on May 22, 2007.⁵ Per Ms. Burnett, the term for the order recorded on May 22, 2007, expired on May 22, 2011.⁶ Following the expiration of Mr. Dalton's term ending in 2011, the Pulaski County Judge/Executive did not act to fill the vacancy within 90 days.⁷ By a January 13, 2013 Order in Case No. 2012-00052, we appointed Mr. Dalton to fill a vacancy on the Western Pulaski District Board.⁸ Mr. Dalton's term resulting from our appointment expired on May 22, 2015.⁹

³ Letter from Jeff Derouen, Executive Director, Public Service Commission, to Linda Burnett, Pulaski County Clerk, dated Dec. 10, 2015 (filed Dec. 14, 2015).

⁴ Western Pulaski District's Response to Commission's December 9, 2015 Order ("Western Pulaski District's Response") (filed Dec. 23, 2015) at 2.

⁵ Letter from Linda Burnett, Pulaski County Clerk, to Jeff Derouen, Executive Director, Public Service Commission, dated Jan. 13, 2016 (filed Jan. 29, 2016).

⁶ *Id.*

⁷ Case No. 2012-00052, *Request to Fill Vacancies on Western Pulaski County Water District Board of Commissioners* (Ky. PSC Jan. 16, 2013) at 2.

⁸ *Id.* at 4.

⁹ *Id.*

We find that the Commission entered an Order on January 16, 2013, appointing Mr. Dalton to a term on the Western Pulaski District Board and that this term expired on May 22, 2015. We further find that his position has been vacant for more than 90 days. We conclude that KRS 74.020(4) requires the Commission to fill the vacancy on the Western Pulaski District Board resulting from the expiration of Mr. Dalton's term.

In our December 9, 2015 Order, we required that any nomination of a person to fill the vacancy on the Western Pulaski District Board be submitted in writing to the Commission within 20 days of the date of that Order. We find that the only nomination in the record in this proceeding is Mr. Calder's nomination of Mr. Dalton.¹⁰

Having received one nomination to fill the vacancy on the Western Pulaski District Board and finding that the Commission should obtain information regarding the qualifications of the candidate nominated, the Commission HEREBY ORDERS that:

1. Jimmy Dalton shall file with the Commission, no later than 14 days from the date of this Order, the original and two copies of the information listed in the Appendix to this Order, with a copy to Western Pulaski District. Mr. Dalton's failure to file the requested information in a timely manner shall be considered as notice that he does not wish to be considered for appointment to Western Pulaski District Board.

2. 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, with copies to all parties of record and two copies to the Commission.

¹⁰ Letter from Don Calder, Chairman, Western Pulaski District, to Public Service Commission, dated Oct. 20, 2015 (filed Jan. 29, 2016).

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 person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of the person's knowledge, information and belief formed after a reasonable inquiry.

c. Mr. Dalton shall make timely amendment to any prior response if he obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material aspect.

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

e. Careful attention should be given to copied material to ensure that it is legible.

3. The response to Appendix A, Item 20, shall be afforded confidential treatment.¹¹ The Executive Director shall ensure that this information is redacted from any response to this Order that is made available for public inspection. If the responses contain any other items of personal information, Mr. Dalton shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact that paper so that personal information cannot be read.


¹¹ See Ky. OAG 07-ORD-120 (May 31, 2007); Ky. OAG 04-ORD-010 (Jan. 14, 2004); and Ky. OAG 79-275 (Mar. 27, 1979).

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

By the Commission

ENTERED
FEB 12 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2015-00352

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2015-00352 DATED **FEB 12 2016**

1. Provide your resume or curriculum vitae.
2. State the year of your birth.
3. State your current street address and your current mailing address (if different from your street address.)
4. State whether you have been convicted of violating any law (other than minor traffic offenses). If yes, list the conviction, the court that adjudged the sentence, and date and place.
5. State whether you reside in Western Pulaski District's territory.
6. State whether you have fought a duel with deadly weapons or sent or accepted a challenge to fight a duel with deadly weapons, acted as a second in carrying a challenge, or aided or assisted any person doing so.
7. State whether you are a customer of Western Pulaski District.
8. Describe your educational background.
9. Describe your experience in operating or managing a water utility.
10. Describe your experience in managing or operating organizations similar to a water utility.
11. List all positions that you currently hold with any local, state, or federal governmental entity.
12. a. List all non-governmental organizations and non-profit corporations for which you serve as an officer.

b. For each organization and corporation listed, state whether the organization or corporation transacts business with Western Pulaski District.

13. List all contracts that you have entered into with Western Pulaski District to provide goods or services. Provide a copy of each contract.

14. List all business transactions that you have had with Western Pulaski District in a personal or non-official capacity.

15. List all family members that Western Pulaski District currently employs and the position that each family member holds. State the dates on which each family member began his or her employment with Western Pulaski District.

16. List all family members that Western Pulaski District has previously employed and the position that each family member held. State the dates on which each family member began and ended his or her employment with Western Pulaski District.

17. To the best of your knowledge, list all contracts that businesses owned by family members have entered into with Western Pulaski District to provide goods and services.

18. To the best of your knowledge, list all business transactions that businesses owned by family members have entered into with Western Pulaski District to provide goods and services.

19. List all courses of water district management training that you have attended since January 1, 2001.

20. State your Social Security number.

21. If you have previously served as a member of Western Pulaski District's Board of Commissioners, state:

- a. The period in which you served;
- b. The number of Western Pulaski District Board of Commissioner meetings during this period that you failed to attend.

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