

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	)	2019-00250
WESTERN PULASKI COUNTY WATER DISTRICT	)	

ORDER

By letter dated October 17, 2018, Tammy Vaught, office manager for the Western Pulaski County Water District (Western Pulaski District) advised the Commission of two possible vacancies on the Board of Commissioners for the Western Pulaski County Water District (Board).<sup>1</sup> According to Ms. Vaught, Mr. Don Calder's term expired on July 11, 2018, and Mr. Randal Wilson's term expired on October 4, 2017. The letter also stated Mr. Joel Wilson's term expired on October 4, 2018; however, the Commission has been provided with evidence that Mr. Joel Wilson was reappointed to a four-year term on November 29, 2018.<sup>2</sup>

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

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,

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<sup>1</sup> A copy of the letter is attached as Attachment 1.

<sup>2</sup> A copy of the Executive order reappointing Mr. Joel Wilson is attached as Attachment 2.

the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

In the event of a vacancy in excess of 90 days, the Commission has the statutory duty and exclusive authority to fill the position. 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.<sup>3</sup>

Accordingly, the Commission finds that this proceeding should be initiated to determine whether such vacancy did exist for more than 90 days. The Commission will make Western Pulaski District a party to this case and requests that it provides certain information, which is set forth in a request for information attached hereto as Appendix A. The Commission also will request, by separate letter, that the Pulaski County Clerk file copies of the meeting minutes of the Pulaski County Fiscal Court appointing Mr. Calder and Mr. Randal Wilson.

If the Commission finds that a vacancy or vacancies did exist for more than 90 days, we will then proceed to identify qualified candidates for appointment to those positions. 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(s) and will then determine whether each of these candidates meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates who meet these requirements, who is best suited to sit on the Board. The

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<sup>3</sup> 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.

Commission also will direct that a copy of this Order be served upon the Pulaski County Judge/Executive, the Pulaski County Fiscal Court, the Pulaski County Attorney, and the Board to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy existed on the Pulaski District's Board for more than 90 days.

2. Pulaski District 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. a. The information requested in Appendix A to this Order is due within 14 days of entry of this Order. 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 the original and five copies to the Commission.

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

5. Service of all documents shall be made in accordance with 807 KAR 5:001, Section 4(8).

6. The Executive Director shall serve a copy of this Order upon the Pulaski County Judge/Executive, the members of the Pulaski County Fiscal Court, the Pulaski County Attorney, and the Pulaski District's Board.

By the Commission



ATTEST:

  
Executive Director

ATTACHMENT 1

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00250 DATED **OCT 01 2019**

ONE PAGE TO FOLLOW

RECEIVED

OCT 19 2018

PUBLIC SERVICE  
COMMISSION

Western Pulaski County Water District  
2128 W. Hwy 80  
Somerset, KY 42503  
606-679-1569  
Fax 606-677-9449

"This institution as an equal opportunity provider and employer."

October 17, 2018

Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

To Whom It May Concern:

It is my responsibility as the Office Manager for the Western Pulaski County Water District to report any and all board members terms for election. Mr. Don Calder, Chairman, term ended July 11, 2018.

Mr. Joel Wilson, Secretary, term ended October 4, 2018.

On February 14, 2018 I sent a letter to the PSC reporting that Mr. Randall Wilson, Treasurer, term was up October 4, 2017.

I have not received any confirmation from Pulaski County Fiscal Court re-appointing these board members.

Any questions, please contact me at the office.

Thank You,  
Tammy Vaught, Office Manager

Tamora.vaught@gmail.com

ATTACHMENT 2

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00250 DATED

ONE PAGE TO FOLLOW





*EXECUTIVE ORDER*

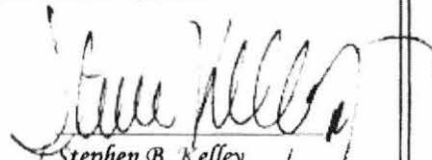
*Stephen B. Kelley  
Pulaski County Judge Executive*

*November 29, 2018*

*RE: Western Water Board Members*

*It appearing to the Pulaski County Fiscal Court that a vacancy exists on the Western Pulaski County Water Districts Board and it further appearing to the court that this vacancy needs to be filled.*

*IT IS THEREFORE ORDERED by the Pulaski County Fiscal Court that Joel Wilson be appointed to a four year term to expire October 4, 2022.*

  
*Stephen B. Kelley  
Pulaski County Judge Executive*

Filed: 11/29/2018 01:32:27 PM  
Linda Burnett, County Clerk  
Pulaski County, KY

Received By: ALEISHA ROBERTS

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00250 DATED **OCT 01 2019**

1. List the name of each current Pulaski District Commissioner and the date on which their term expires.
2. Provide a map of Pulaski District's territory.
3. Provide the ordinances and resolutions of Pulaski County Fiscal Court that establish Western Pulaski District's territorial boundaries.
4. Provide all orders of the Pulaski County Judge/Executive that address the appointments to Pulaski District's current Board.
5. Provide all correspondence with the Pulaski County Judge/Executive regarding the expiration of the terms of Mr. Calder and Mr. Randal Wilson.

\*Western Pulaski County Water District  
2128 West Highway 80  
Somerset, KY 42503

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Somerset, KY 42503