

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO THE)	
FINANCIAL AND OPERATING CAPACITY OF)	
RATTLESNAKE RIDGE WATER DISTRICT)	
INCLUDING RATTLESNAKE RIDGE WATER)	
DISTRICT AND ITS INDIVIDUAL)	CASE NO.
COMMISSIONERS, AND MANAGER DAVID)	2021-00340
GIFFORD FOR ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.300 AS WELL AS POSSIBLE)	
VACANCIES ON THE BOARD OF)	
COMMISSIONERS OF RATTLESNAKE RIDGE)	
WATER DISTRICT)	

ORDER

On November 7, 2022, the Commission expanded an investigation into the financial and operating capacity of Rattlesnake Ridge Water District (Rattlesnake Ridge District) to determine whether a vacancy exists on Rattlesnake Ridge District’s Board of Commissioners (Board). During the original investigation, Rattlesnake Ridge District filed its Annual Report for 2021 and listed within that report were Commissioners whose terms had expired.¹

On January 5, 2023, Rattlesnake Ridge District provided information in response to Commission Staff’s Third Request for Information (Staff’s Third Request) that the following individuals were members of the Board:

¹ *Annual Report of Rattlesnake Ridge Water District to the Public Service Commission (Annual Report of Rattlesnake Ridge District) for the Calendar Year Ended December 31, 2021* (published on the PSC website on Aug. 4, 2022) at 14.

<u>Name</u>	<u>Date of appointment</u>	<u>Date term began</u>	<u>Date term expires</u>
William (Bill) Gilbert	since 1984	03-01-2021	03-1-2025
Steve Ison	since 2013	7-20-2021	7-31-2025
Randy Steagall	since 3-1-2016	03-10-2000	3-10-2024
Mike Copley		05-01-2020	5-01-2024
Jason Carroll	8-12-2019	8-13-2019	8-13-2023 ²

However, only the fiscal court minutes for the appointments of Jason Carroll and Steve Ison were attached.³ On January 24, 2023, Rattlesnake Ridge District filed a supplemental response.⁴ No fiscal court minutes were located appointing William Gilbert and Randy Steagall to the Board.⁵ The minutes appointing Mike Copley were provided, initially reflecting that Mr. Copley had been appointed for a two-year term effective May 19, 2020. The Elliott County Judge-Executive provided an undated note on county letterhead and “corrected minutes” recognizing the appointment for a four-year term.⁶ No other signatures or votes were documented.

Water districts formed pursuant to KRS Chapter 74, like Rattlesnake Ridge District, “shall be administered by a board of commissioners which shall control and manage the affairs of the district.”⁷ The term of each water district commissioner shall be four years, “except as provided in this section.”⁸ Pursuant to KRS 74.020(1)(a), “[i]nitial

² Rattlesnake Ridge District’s Response to Staff’s Third Request (filed Jan. 5, 2023), Item 1.

³ Rattlesnake Ridge District’s Response to Staff’s Third Request, Item 2.

⁴ Rattlesnake Ridge District’s Supplemental Response to Staff’s Third Request (filed Jan. 24, 2023).

⁵ Rattlesnake Ridge District’s Supplemental Response to Staff’s Third Request, Item 1 and Item 2.

⁶ Rattlesnake Ridge District’s Supplemental Response to Staff’s Third Request, Item 2, at 11–14.

⁷ KRS 74.020.

⁸ KRS 74.020(1).

appointments shall be for terms of two (2), three (3), and four (4) years, as designated by the [appropriate fiscal] court.”⁹ Further, KRS 74.020(4) states that vacancies “resulting from cause other than expiration of the term [of the water commissioner] shall be filled for the unexpired term only.”¹⁰

Generally, the county judge/executive has authority to appoint the members of the board of commissioners of a water district subject to the approval of the fiscal court.¹¹ However, if the county judge executive with approval of the fiscal court fails to fill “a vacancy resulting from the expiration of a term or the death, resignation, or removal of the incumbent . . . within ninety (90) days following the vacancy,” then the vacancy “shall be filled by the Public Service Commission.”¹²

Here, Rattlesnake Ridge District’s 2021 Annual Report contained a list of commissioners without expiration dates, but when compared to the list provided in the 2020 Annual Report, the commissioners appeared to have terms that had expired.¹³ The 2020 Annual Report listed the following:

<u>Name</u>	<u>Terms begins</u>	<u>Term ends</u>
Chairman Gilbert Billy	2/1/2016	2/1/2021
Commissioner Jason Carrol	2/8/2020	2/8/2022
Treasurer Wells George	2/8/2015	2/8/2020
Commissioner Copley Mike	5/1/2015	5/1/2020
Secretary Steagall Randy	3/1/2015	3/1/2020
Commissioner Ison Steve	10/1/2016	10/1/2021

⁹ KRS 74.020(1)(a).

¹⁰ KRS 74.020(4).

¹¹ KRS 74.020(1).

¹² KRS 74.020(4).

¹³ 2020 Annual Report of Rattlesnake Ridge District (published on May 28, 2021), at 15.

The 2021 Annual Report contained the same names except for George Wells who appeared to have been replaced by Jason Carroll in 2020.

The Commission requested all the fiscal court records from both Elliott and Carter counties both from the district and from the county judge executives.¹⁴ The Commission reserves the right to further discuss the issues with the past appointments; however, the Commission believes that there are three vacancies on the Rattlesnake Ridge District. Jason Carroll¹⁵ and Steve Ison are duly appointed to the Board.¹⁶ The Commission will discuss the other seats individually.

William Gilbert was reappointed to the Rattlesnake Ridge District in 2008 by the Carter County Fiscal Court but there was no mention of a term.¹⁷ There are no records to substantiate any subsequent appointments. The statute prohibits terms in excess of four years. With respect to Mr. Gilbert's position, the Commission finds that a vacancy has existed for more than 90 days, and that the Commission has authority to fill that position.

Randy Steagall has served on the Board since 2016.¹⁸ However, no party was able to locate minutes reflecting the appointment of Mr. Steagall to Rattlesnake Ridge District by the Carter County Fiscal Court or Carter County Judge Executive. The statute

¹⁴ Rattlesnake Ridge District's Response to Staff's Third Request, Supplemental Response to Staff's Third Request, Response to Commission Staff's Fourth Request for Information (Staff's Fourth Request) (filed Feb. 14, 2023), and two letters sent to the respective counties (filed Mar. 16, 2023).

¹⁵ Jason Carroll's appointment has expired but the vacancy is within the 90 days the Carter County Fiscal Court and the Carter County Judge Executive has the statutory ability to fill the vacancy.

¹⁶ Rattlesnake Ridge District's Response to Staff' Third Request, Item 2, Exhibit B.

¹⁷ Rattlesnake Ridge District's Response to Staff's Fourth Request, Item 4, Exhibit E.

¹⁸ Rattlesnake Ridge District's Supplemental Response to Staff's Third Request, Item 1.

prohibits terms in excess of four years. With respect to Mr. Steagall's position, the Commission finds that a vacancy has existed for more than 90 days, and that the Commission has authority to fill that position.

Mike Copley has served on the Board since May 19, 2020.¹⁹ When Mr. Copley was appointed the minutes from Elliott County Fiscal Court reflected a two-year term.²⁰ However, a signed document by the Elliott County Judge Executive was provided by the district.²¹ It is not dated and accompanied "correct minutes" which do not reflect a new date but solely the change from a two-year term to a four-year term, to expire in May 2024.²² These minutes do not indicate any review or approval to the changes by anyone else on the Elliott County Fiscal Court. The original minutes were clear on a two-year term, including an expiration of term on May 19, 2022.²³ Based on the totality of the evidence, with respect to Mr. Copley's position, the Commission finds that a vacancy has existed for more than 90 days, and that the Commission has authority to fill that position.

To ensure that a wide range of candidates are considered, the Commission will require Rattlesnake Ridge District to publish the notice of vacancy attached as an Appendix to this Order in a newspaper of general circulation in both Elliott and Carter counties. The Commission will consider any applications submitted within 20 days after

¹⁹ Rattlesnake Ridge District's Supplemental Response to Staff's Third Request, Item 1.

²⁰ Rattlesnake Ridge District's Supplemental Request to Staff's Third Request, Item 1, Supplemental Exhibit B.

²¹ Rattlesnake Ridge District's Supplemental Request to Staff's Third Request, Item 1, Supplemental Exhibit B.

²² Rattlesnake Ridge District's Supplemental Request to Staff's Third Request, Item 1, Supplemental Exhibit B.

²³ Rattlesnake Ridge District's Supplemental Request to Staff's Third Request, Item 1, Supplemental Exhibit B.

the publication of notice, and each such application should be made in writing and should include the applicant's name, address, telephone number, and qualifications and shall reference this case number. The Commission will also consider recommendations and letters from references submitted in writing and received within a reasonable time, though such letters should reference this case number to ensure they are placed in the proper file. After receiving the applications, the Commission will determine whether each candidate meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates that meet these requirements, which is best suited to sit on Rattlesnake Ridge District's Board.

IT IS THEREFORE ORDERED that:

1. Within 20 days of the date of entry of this Order, Rattlesnake Ridge District shall publish, in a newspaper of general circulation in Elliott County and a newspaper of general circulation in Carter County, the notice of the vacancy on Rattlesnake Ridge's Board attached as Appendix hereto.

2. Within five days of the publication, Rattlesnake Ridge District shall supply proof of publication to the Commission.


3. Within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancies on Rattlesnake Ridge District's Board of Commissioners shall submit to the Commission, in writing, their name, address, telephone number, qualifications, and shall reference Case No. 2021-00340.

4. The term of the commissioner appointed shall be four years pursuant to KRS 74.020.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
SEP 15 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2021-00340 DATED SEP 15 2023

Let it be known to the residents served by Rattlesnake Ridge Water District that there are three vacancies on the Rattlesnake Ridge Water District Board of Commissioners. Two vacancies to be filled within the Carter County service area and one vacancy to be filled within the Elliott County service area. The requirements to serve as a commission can be found at KRS 74.020. Any person interested in applying for the position shall submit notification, in writing, referencing Case No. 2021-00340 with contact information and any qualifications to the Public Service Commission located at 211 Sower Boulevard, Frankfort, Kentucky 40601, within 20 days of the date of this publication.

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Lewis County Judge Executive
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