

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

The Commission, on its own motion, in order to expediate the processing of this case, issues this Order to address several issues in this investigation.

COMMISSIONER VACANCIES

As part of this investigation, the Commission amended this case¹ to include whether or not a vacancy existed on the Rattlesnake Ridge Water District's (Rattlesnake Ridge District) Board of Commissioners and, if so, to identify a qualified candidate to fill the vacancy. On September 15, 2023, the Commission found that Mr. Mike Copley was last appointed to the Board for a term ending May 19, 2022, and, therefore, that a vacancy

¹ Order (Ky. PSC Nov. 7, 2022).

existed on the Board that need to be filled.² The Commission found that the vacancy had existed for more than 90 days, and that the Commission had authority to fill that position.³

In accordance with KRS 74.020, Rattlesnake Ridge District has commissioners representing two of the five counties⁴ the utility serves. In response to Commission Staff's Seventh Request for Information (Staff's Seventh Request), Rattlesnake Ridge District provided information related to the location of its utility infrastructure. As it relates to Lawrence County, Kentucky, Rattlesnake Ridge District has the following:

- Number of Customers - 412 out of 4248 or 10 percent.
- Number of pump stations -1 out of 9 or 11 percent.
- Number of storage tanks - 1 out of 13 or 8 percent.
- Miles of water main -Approximately 65 miles out of approximately 460 miles or 14 percent.⁵

It should be noted that Rattlesnake Ridge District serves 30 customers in Morgan County and four customers in Lewis County.⁶ Each of the three counties presumptively have a

² Order (Ky. PSC Sept. 15, 2023) at 5. The Commission understands that Mr. Copley continued acting in his capacity as water district commissioners despite not being reappointed. As the Commission has previously noted, a water district commissioner whose term expires does have the authority to continue to serve until a successor is appointed. See Case No. 2019-00132, *An Investigation of a Possible Vacancy on the Board of Commissioners of Knott County Water and Sewer District* (Ky. PSC June 7, 2019), Order.

³ Order (Ky. PSC Sept. 15, 2023) at 5.

⁴ The Rattlesnake Ridge District serves Morgan, Carter, Elliott, Lawrence and Lewis counties Kentucky.

⁵ Rattlesnake Ridge District's Response to Staff's Seventh Request (filed Oct. 18, 2023), Exhibit B.

⁶ Rattlesnake Ridge District's Response to Staff's Seventh Request, Exhibit B.

minor portion of the water infrastructure, and thus, the Commission notes that it appears the current Board of Commissioner complies with KRS 74.020(1).⁷

Mike Copley made written application to the Commission to be considered for the position pursuant to the September 15, 2023 Order. He was the only candidate from Elliott County. There were also two letters of support submitted in support of his selection.⁸

Having reviewed the applications and being otherwise sufficiently advised, the Commission, by this Order, appoints Mike Copley to fill the vacant seat. In making our selection, the Commission must consider the totality of the circumstances, including the education, business and management experience, and personal history of the proposed candidates, and the existing financial and operating condition of the water district.

Based upon our review of the evidence of record, and Mr. Copley's experience, we find that Mr. Copley is the best suited candidate and that there is no information to suggest that he is unqualified to serve in the designated positions. We further find that Mr. Copley resides in Rattlesnake Ridge District's territory, specifically Elliott County; is of legal age; possesses adequate education, business skills, and experience to perform the duties of water district commissioner; and does not have any legal disability that would disqualify him from serving in the position.⁹ Mr. Copley was originally appointed to the Board of Commissioners in 2020 and according to both letters of recommendation, has worked

⁷ As discussed in the Sept. 15, 2023 Order, the Rattlesnake Ridge District's Board of Commissioners has three seats represented by Carter County residents and two seats are represented by Elliott County residents.

⁸ Letter from Elliott County Judge Executive Myron Lewis (filed on Oct. 4, 2023) and Letter from Magistrate Christopher Dickerson (filed Sept. 28, 2023).

⁹ KRS 74.020.

diligently to improve the utility. Accordingly, the Commission finds that Mr. Copley should be appointed to fill the vacancy on Rattlesnake Ridge District's Board of Commissioners identified in the September 15, 2023 Order.

ALLEGED VIOLATION OF KRS 278.300

As part of this investigation, the Commission expanded the investigation to include an alleged violation of KRS 278.300.¹⁰ In its 2019 Annual Report, Rattlesnake Ridge District included a “Dodge Truck Loan” as part of its long-term debt.¹¹ The report was not accepted for publication by the Public Service Commission until August 31, 2020. The indebtedness allegedly occurred on December 1, 2019, and is to mature on December 1, 2024, a period of five years.¹²

In response to Commission Staff’s Third Request for Information (Staff’s Third Request), Rattlesnake Ridge District provided documentation detailing the loan for the Dodge truck. The loan, issued by The Commercial Bank of Grayson, was structured as a 48-month loan for payments purposes, but required a final balloon-payment at 24 months for the outstanding balance. The Promissory Note specifically states a loan issuance date of May 9, 2019, with a maturity date of May 9, 2021.¹³ Along with the signed Promissory Note, payment history was provided, demonstrating the loan was paid in full per the terms outlined in the agreement.¹⁴

¹⁰ Order (Ky. PSC Nov. 7, 2022).

¹¹ *Annual Report of Rattlesnake Ridge District to the Public Service Commission for the Year Ending December 31, 2019* (2019 Annual Report) at 40.

¹² 2019 Annual Report at 40.

¹³ Rattlesnake Ridge District’s Response to Staff’s Third Request (filed Jan. 5, 2023), Exhibit C.

¹⁴ Rattlesnake Ridge District’s Response to Staff’s Third Request, Exhibit C.

Based on the evidence submitted in the record, the Commission finds that there is not substantial evidence in the record to support a finding of a violation of KRS 278.300. Pursuant to KRS 278.300(8), notes issued by a utility, for a proper purpose and not in violation of law, that are payable at periods of two years or less, do not require prior approval of the Commission. The Commission cautions Rattlesnake Ridge District to be diligent in submitting appropriate and correct information in its Annual Report filings with the Commission. Rattlesnake Ridge District could have avoided this situation had it ensured the accuracy of its 2019 Annual Report.

IT IS THEREFORE ORDERED that:

1. Mike Copley is hereby appointed to fill the vacant seat identified in the September 15, 2023 Order.
2. The term that Mike Copley is being appointed to fill shall expire on November 15, 2027.
3. There is not substantial evidence to support a violation of KRS 278.300 by Rattlesnake Ridge District, its manager or its Board of Commissioners.
4. Nothing in this Order shall prohibit the Commission from issuing further Orders in this case.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
NOV 13 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Lewis County Fiscal Court
112 Second Street
Vanceburg, KENTUCKY 41179

*Craig Stanfield
Lewis County Judge Executive
112 Second Street, Room 201
Vanceburg, KENTUCKY 41179

*John Will Stacy
Morgan County Judge Executive
450 Prestonsburg Street
West Liberty, KENTUCKY 41472

Elliott County Local Government
PO Box 710
Sandy Hook, KENTUCKY 41171

*Hon. Derrick Willis
Attorney at Law
Willis Law Office
P.O. Box 1500
Grayson, KENTUCKY 41143

*Myles Holbrook
Morgan County Attorney
527 Main Street
West Liberty, KENTUCKY 41472

Carter County Fiscal Court
300 West Main Street
Grayson, KENTUCKY 41143

*Honorable Delores Woods Baker
Counsel
134 West Third Street
Maysville, KENTUCKY 41056

*Phillip Carter
Lawrence County Judge Executive
P.O. Box 566
122 Main Cross Street
Louisa, KENTUCKY 41230

*Johnie Lewis
Elliott County Attorney
113 Main St.
Sandy Hook, KENTUCKY 41171

*Myron Lewis
Elliott County Judge Executive
PO Box 710
Sandy Hook, KENTUCKY 41171

*Rattlesnake Ridge Water District
5302 S State Hwy 7
P. O. Box 475
Grayson, KY 41143-0475

*Brian Bayes
Carter County Attorney
300 West Main Street
Grayson, KENTUCKY 41143

*Lawrence County Fiscal Court
122 South Main Cross Street
Louisa, KENTUCKY 41230

*Rattlesnake Ridge Water District
Rattlesnake Ridge Water District
5302 S State Hwy 7
P. O. Box 475
Grayson, KY 41143-0475

*Ben Harrison
Lewis County Attorney
112 Second Street, Suite 207
Vanceburg, KENTUCKY 41179

*Johnny Osborne
County Attorney
122 N. Main Cross Street
Louisa, KENTUCKY 41230

*Mike Malone
Carter County Judge Executive
300 West Main Street
Grayson, KENTUCKY 41143

*Morgan County Office Building
450 Prestonsburg Street
West Liberty, KENTUCKY 41472