

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF POSSIBLE)	
VACANCY ON THE BOARD OF)	
COMMISSIONERS OF CRITTENDEN-)	CASE NO.
LIVINGSTON COUNTY WATER DISTRICT DUE)	2022-00248
TO DENNIS FLEET'S ALLEGED VIOLATION OF)	
KRS 74.020(8)(B))	

ORDER

On August 23, 2022, the Commission opened this case to investigate whether a vacancy existed on Crittenden-Livingston Water District's (Crittenden-Livingston District) board of commissioners due to one Board member, Dennis Fleet, failing to attend the required 12-hour new commissioner training within 12 months of his appointment to the Crittenden-Livingston District's Board. This matter now stands submitted for a decision by the Commission.

LEGAL STANDARD

KRS 74.020(8)(b) states that, "[w]ithin twelve (12) months of initial appointment, each commissioner shall complete the program of instruction . . . any commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office."

KRS 74.020(9) allows the Public Service Commission to grant a reasonable extension of time, not to exceed six months for good cause shown.

KRS 74.020(4) states, "[v]acancies shall be filled by the same appointing authority which is empowered to make the original appointment . . . 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, the vacancy has not been filled by the appropriate count judge/executive with approval of the fiscal court.”

BACKGROUND

Crittenden-Livingston District submitted an email to PSCED@ky.gov on June 6, 2022, asking what to do about a board member who served 18 months on Crittenden-Livingston District’s Board but had not attended the required 12 hours of commissioner training. After Commission Staff requested additional information, on July 27, 2022, Crittenden-Livingston District sent a follow-up email stating that Mr. Fleet was appointed in January 2021, was signed up to attend training in December 2021, but failed to attend due to his work schedule and was unaware of the July 2022 training. Neither Crittenden-Livingston District nor Mr. Fleet requested an extension of time to complete the training in accordance with KRS 74.020(9).

On August 23, 2022, the Commission opened this investigation and ordered Crittenden-Livingston to file an answer within 45 days of the date of service of the Order.¹ An answer was never filed by Crittenden-Livingston District. On February 10, 2023, the Commission issued a re-notice, ordering Crittenden-Livingston District to file an answer within 15 days of the date of service of the Order.² On March 13, 2023, Crittenden-Livingston District filed a response to the February 10, 2023 Order. It stated that Mr. Fleet

¹ Order (Ky. PSC Aug. 23, 2022) at 4.

² Order (Ky. PSC Feb. 10, 2023) at 3.

completed 12 hours of new commissioner training on September 7 and 8, 2022, and that he continues to serve on the Crittenden-Livingston County Water District Board.³

DISCUSSION AND FINDINGS

KRS 74.020(8)(b) requires all new commissioners to complete new commissioner training within 12 months of appointment. Mr. Fleet was appointed in January 2021, he did not complete the new commissioner training required by KRS 74.020(8)(b) until September 2022, 21 months after his appointment. Mr. Fleet, nor Crittenden-Livingston District ever requested an extension for Mr. Fleet under KRS 74.020(9). Even if an extension had been requested, Mr. Fleet completed his training after the additional six months that would have been allowed. The statute makes no exceptions nor authorizes any official to excuse non-attendance or extend the time for attending training beyond that authorized in KRS 74.020(9). The Commission therefore finds that Mr. Fleet failed to complete the required training within the 12-month timeframe required by KRS 74.020(8)(b) and forfeited his office, therefore a vacancy exists.

The statute is silent as to when the vacancy would occur when a commissioner forfeits his or her office due to failure to meet the requirements of KRS 74.020(8)(B). However, in Case Number 2012-00449, the Commission determined that the vacancy began one year after the commissioner's initial appointment if the commissioner failed to obtain water district management training.⁴ Based on Commission precedent, the Commission finds that Mr. Fleet's vacancy began on January 1, 2022. Since more than

³ Crittenden-Livingston Response (filed Mar. 13, 2023).

⁴ Case No. 2012-00449, *Legal Qualifications of Rebeckah Johnston to Continue to Serve as a Member of the Board of Commissioners of Sandy Hook Water District* (Ky. PSC Oct. 11, 2012), final Order at 7.

90 days have passed, the Commission has the authority to fill that position under KRS 74.020(4).

IT IS THEREFORE ORDERED that:

1. Mr. Fleet forfeited his office as a member of Crittenden-Livingston's Board of Commissioners on January 1, 2022, and a vacancy exists.

2. A separate docket shall be established to determine a suitable person to fill the vacancy on Crittenden-Livingston District's Board of Commissioners that has existed since January 1, 2022.


3. This case is closed and removed from the Commission's docket.

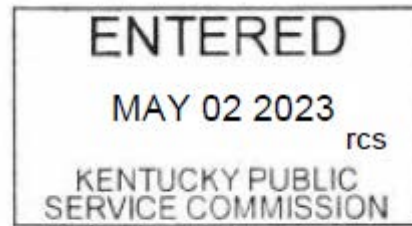
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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner



ATTEST:


Executive Director

*Crittenden-Livingston County Water District
620 East Main Street
P. O. Box 495
Salem, KY 42078

*Crittenden-Livingston County Water D
Crittenden-Livingston County Water District
620 East Main Street
P. O. Box 495
Salem, KY 42078