

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REQUEST FOR ASSISTANCE IN APPOINTMENT	)	
OF BREATHITT COUNTY WATER DISTRICT	)	CASE NO. 2007-00493
COMMISSIONERS	)	

O R D E R

Tim Spencer, Arch Johnson, and Jeff Noble, each a commissioner of the Breathitt County Fiscal Court ("Fiscal Court"), have applied to the Commission for assistance in appointments to fill 5 vacancies on the Board of Commissioners of Breathitt County Water District ("Breathitt District").<sup>1</sup> Harvey J. Richardson, Judge/Executive of Breathitt County ("Judge Richardson") has recommended 5 different candidates to the Fiscal Court, but they have not been approved.<sup>2</sup> Both the Fiscal Court and Judge Richardson agree that the terms of the commissioners should be staggered.

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 the provisions of KRS 67.710, a vacancy

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<sup>1</sup> On November 28, 2007, Tim Spencer, Arch Johnson, and Jeff Noble, Fiscal Court commissioners, wrote the Commission to advise of the vacancies and to request Commission assistance in filling them. The Commission shall consider this letter as an application to make appointments to fill the vacancies.

<sup>2</sup> On December 3, 2007, Judge Richardson filed a response to the Fiscal Court's application.

resulting from the expiration of a term shall be filled by the Public Service Commission if, within ninety (90) days following the expiration of the term, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.

Based upon the above, the Commission finds that a proceeding should be initiated to consider the Fiscal Court's application and Judge Richardson's response and to select the appropriate persons to fill the 5 vacancies on Breathitt District's Board.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to fill the 5 vacancies on Breathitt District's Board of Commissioners.
2. Members of the Fiscal Court, Judge Richardson, and the commissioners of Breathitt District are made parties to this proceeding.
3. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.
4. Service of any document or pleading shall be made in accordance with Administrative Regulation 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.
5. The members of the Fiscal Court shall file with the Commission the original and 6 copies of the information listed in Appendix A.
6. Judge Richardson shall file with the Commission the original and 6 copies of the information listed in Appendix B.
7. a. The information requested herein is due on or before January 11, 2008. 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 6 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 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. Any party shall make timely amendment to any prior responses 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 requests to which a party fails or 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.

Done at Frankfort, Kentucky, this 19th day of December, 2007.

By the Commission

ATTEST



Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2007-00493 DATED December 19, 2007

Members of the Fiscal Court, pursuant to 807 KAR 5:001, are to file with the Commission the original and 6 copies of the following information, with a copy to all parties of record. The information requested herein is due on or before January 11, 2008. Responses to requests for information shall be appropriately bound, tabbed and indexed. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

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 that person's knowledge, information, and belief formed after a reasonable inquiry.

Members of the Fiscal Court shall make timely amendment to any prior responses if they obtain information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any requests to which the members of the Fiscal Court fail or refuse to furnish all or part of the requested information, they shall provide a written explanation of the specific grounds for their failure to completely and precisely respond.

Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the

requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

1. Provide the following for John L. Smith, Jay Watts, Vurl Fugate, Homer Johnson, and Alma Noble:

- a. Curriculum vitae.
- b. Date of birth.
- c. Current address.
- d. Whether he or she has ever been convicted of violating any law (other than minor traffic offenses). If yes, list the conviction, date and place.
- e. Whether he or she resides in Breathitt County Water District's territory.
- f. Educational background.
- g. Experience in operating or managing a water utility.
- h. Experience in managing or operating organizations similar to a water utility.

2. Provide a map of Breathitt County Water District's territory, the ordinances of Breathitt County Fiscal Court, and the orders of the Breathitt County Judge/Executive that established these territorial boundaries.

3. List all positions that each individual above currently holds with any local, state, or federal governmental entity.

4. List all contracts that each individual above has ever entered into with Breathitt County Water District to provide goods or services. Provide a copy of each contract.

5. List all business transactions that each individual above has had with Breathitt County Water District in a personal or non-official capacity.

6. For each individual above, state his or her name and the date on which his or her term expired.

7. Provide the minutes of the Breathitt County Fiscal Court meeting in which any appointment to Breathitt County Water District was considered to fill the current vacancies.

8. Provide all written, audio, or video transcripts of the Breathitt County Fiscal Court meeting at which any appointment was considered and not approved.

9. List all courses of water district management training that any individual above has attended since January 1, 2002.

10. Provide all final documents of the Breathitt County Fiscal Court that show the appointments of each Breathitt County Water District commissioner appointed since the Breathitt County Water District was created.

11. Provide the minutes of the Breathitt County Fiscal Court meeting in which any appointment to Breathitt County Water District was considered since the Breathitt County Water District was created.

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2007-00493 DATED December 19, 2007

Judge Richardson, pursuant to 807 KAR 5:001, is to file with the Commission the original and 6 copies of the following information, with a copy to all parties of record. The information requested herein is due on or before January 11, 2008. Responses to requests for information shall be appropriately bound, tabbed and indexed. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

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 that person's knowledge, information, and belief formed after a reasonable inquiry.

Judge Richardson shall make timely amendment to any prior responses if he obtains information which indicates that the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any requests to which Judge Richardson fails or refuses to furnish all or part of the requested information, he shall provide a written explanation of the specific grounds for his failure to completely and precisely respond.

Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the

requested format, reference may be made to the specific location of that information in responding to this request. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations.

1. Provide the following for Leland Noble, Bobby Gross, Bobby Thorpe, Jr., Reeve Hudson, Jr., and Larry Hensley:

- a. Curriculum vitae.
- b. Date of birth.
- c. Current address.
- d. Whether he or she has ever been convicted of violating any law (other than minor traffic offenses). If yes, list the conviction, date and place.
- e. Whether he or she resides in Breathitt County Water District's territory.
- f. Educational background.
- g. Experience in operating or managing a water utility.
- h. Experience in managing or operating organizations similar to a water utility.

2. Provide a map of Breathitt County Water District's territory, the ordinances of Breathitt County Fiscal Court, and the orders of the Breathitt County Judge/Executive that established these territorial boundaries.

3. List all positions that each individual above currently holds with any local, state, or federal governmental entity.



4. List all contracts that each individual above has ever entered into with Breathitt County Water District to provide goods or services. Provide a copy of each contract.

5. List all business transactions that each individual above has had with Breathitt County Water District in a personal or non-official capacity.

6. Provide the minutes of the Breathitt County Fiscal Court meeting in which any appointment to Breathitt County Water District was considered to fill the current vacancies.

7. Provide all written, audio, or video transcripts of the Breathitt County Fiscal Court meeting at which any appointment was considered and not approved.

8. List all courses of water district management training that any individual above has attended since January 1, 2002.

9. Provide all final documents of the Breathitt County Fiscal Court that show the appointments of each Breathitt County Water District commissioner appointed since the Breathitt County Water District was created.

10. Provide the minutes of the Breathitt County Fiscal Court meeting in which any appointment to Breathitt County Water District was considered since the Breathitt County Water District was created.

Vurl Fugate  
Commissioner  
Breathitt County Water District  
1137 Main Street  
Suite 305  
Jackson, KY 41339

Arch Johnson  
Breathitt County Fiscal Court  
Breathitt County Courthouse  
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Homer Johnson  
Commissioner  
Breathitt County Water District  
1137 Main Street  
Suite 305  
Jackson, KY 41339

Alma Noble  
Commissioner  
Breathitt County Water District  
1137 Main Street  
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Jeff Noble  
Breathitt County Fiscal Court  
Breathitt County Courthouse  
1137 Main Street  
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Harvey J. Richardson  
County Judge Executive  
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John L. Smith  
Chairman  
Breathitt County Water District  
1137 Main Street  
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Tim Spencer  
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