

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPOINTMENT OF COMMISSIONER TO FILL)
AN UNEXPIRED TERM ON THE BOARD OF) CASE NO. 2013-00149
COMMISSIONERS OF SANDY HOOK WATER)
DISTRICT)

ORDER

On April 2, 2013, the Commission declared that a vacancy has existed on the Board of Commissioners of Sandy Hook Water District ("Sandy Hook District") since June 1, 2012.¹

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

As the vacancy on Sandy Hook District's Board of Commissioners has existed for more than 90 days, the Commission has the statutory duty and the exclusive authority to fill it. While a county judge/executive and a county fiscal court may reach agreement on 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

¹ Case No. 2012-00449, *Legal Qualifications of Rebekah Johnston to Continue to Serve as a Member of the Board of Commissioners of Sandy Hook Water District* (Ky. PSC Apr. 2, 2013).

candidate at that time has limited legal effect and constitutes only a recommendation to the Commission.²

Accordingly, the Commission finds that a proceeding should be initiated to determine who should be appointed to fill the vacancy for the unexpired term of Rebekah Johnston. To ensure a wide range of candidates are considered, the Commission will permit all interested persons the opportunity to nominate candidates for the position and then will determine whether each of these candidates 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 the Board of Commissioners. We will further direct that a copy of this Order be served upon the Elliott County Judge/Executive, Elliott County Fiscal Court, and Sandy Hook District's Board of Commissioners to notify them of this proceeding and to permit each to nominate candidates.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to fill the vacancy on Sandy Hook District's Board of Commissioners that was created by Rebekah Johnston's failure to comply with KRS 74.020(8).
2. Sandy Hook District is made a party to this proceeding.
3. Within 20 days of the date of this Order, any person who wishes to nominate a candidate to fill the vacancy shall submit to the Commission in writing that candidate's name, address, and telephone number.

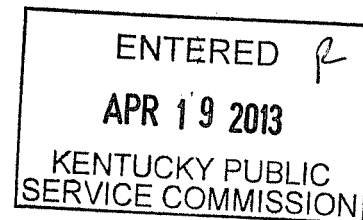
² See Case No. 2008-00395, *Request to Fill Existing Vacancies on the Board of Commissioners of Letcher County Water and Sewer District* (Ky. PSC Jan. 28, 2009).

4. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties.

5. Service of any document or pleading 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 Elliott County Judge/Executive, the members of Elliot County Fiscal Court, and the Elliott County Attorney, as well as Sandy Hook District.

By the Commission



ATTEST:



Executive Director

Case No. 2013-00149

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