

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF A POSSIBLE)	
VACANCY ON THE BOARD OF)	CASE NO.
COMMISSIONERS OF SOUTH 641 WATER)	2017-00426
DISTRICT)	

ORDER

By letter dated September 28, 2017, Amy Fadden, South 641 Water District (“South 641”) administrator, advised the Commission that there were vacancies on the Board of Commissioners of South 641 resulting from the expiration of two commissioners’ terms, and the vacancies were not filled within 90 days.¹ According to the administrator, the terms of the Commissioners ended as follows:

John Paschall (expiration of term: May 17, 2017)

Nancy Mieure (expiration of term: June 15, 2016).

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.

¹ A copy of the letter is attached as Appendix A.

The letter of September 28, 2017, advised the Commission in writing that there were vacancies pursuant to KRS 74.020(9(a)). The September 28, 2017 letter also stated that the minutes of the Calloway County Fiscal Court meeting on September 19, 2017, indicated that no appointment was made; thus there was a vacancy or vacancies that has remained unfilled for more than 90 days. The Commission has the statutory duty and exclusive authority to fill the vacant water commissioner positions. While a judge/executive and a county fiscal court may reach agreement on a candidate for 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 candidate after that time constitutes only a recommendation to the Commission.²

Accordingly, the Commission finds that this proceeding should be initiated to determine whether a vacancy or vacancies did exist for more than 90 days on the South 641 Water District's Board of Commissioners. The Commission will make the South 641 a party to this case and request that it provide certain information which is set forth in an information request attached hereto as Appendix B. The Commission will also request, by separate letter, that the Calloway County Clerk file copies of the meeting minutes of the Calloway County Fiscal Court appointing commissioners on October 16, 2017, and appointing the prior commissioners whose terms allegedly expired on June 15, 2016, and May 17, 2017.

If the Commission finds that a vacancy or vacancies did exist for more than 90 days, we will then proceed to identify qualified candidates for appointment to those

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) at 4–5.

vacancies. To ensure that a wide range of candidates are considered, the Commission will permit all interested persons the opportunity to nominate candidates for the position and will then 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. The Commission also will direct that a copy of this Order be served upon the Calloway County Judge/Executive, the Calloway County Fiscal Court, the Calloway County Attorney, and South 641's Board of Commissioners to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy or vacancies existed on the South 641 Water District's Board of Commissioners for more than 90 days in 2016 and 2017.

2. South 641 Water District is made a party to this proceeding.

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

4. a. The information requested in Appendix B to this Order is due within 14 days of the date of this Order. 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 the original and six 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 the 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. A party shall make timely amendment to any prior response 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 request to which a party refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific ground for its failure to completely and precisely respond.

e. A party filing a document containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the document so that personal information cannot be read.

f. Service of all documents shall be made in accordance with 807 KAR 5:001, Section 4(8).

g. The Executive Director shall serve a copy of this Order upon the Calloway County Judge/Executive, the members of the Calloway County Fiscal Court, the Calloway County Attorney, and the South 641 Water District's Board of Commissioners.

By the Commission

ENTERED
NOV 21 2017
KENTUCKY PUBLIC
SERVICE COMMISSION

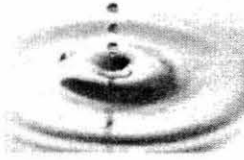
ATTEST:


Executive Director

Case No. 2017-00426

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2017-00426 DATED **NOV 21 2017**



South 641 Water District

PO Box 126, Hazel, KY 42049

(270)492-8857

September 28, 2017

John Lyons
Deputy Executive Director
Public Service Commission
P.O. Box 615
Frankfort, KY 40602

Re: Expiration of Term of Commissioner past ninety (90) days

Dear Deputy Director Lyons:

In accordance with KRS 74.020 this letter is to officially notify the Kentucky Public Service Commission that ninety (90) days have passed since the Expirations of Term of two (2) of our Board of Commissioners at the South 641 Water District in Hazel, KY. According to the Minutes of the most recent meeting of the Calloway County Fiscal on Tuesday, September 19, 2017, it states "There were no Board Appointments at this meeting."

The commissioners and expiration dates are as follows:

John Paschall (expiration of term: 05/17/2017)
Nancy Mieure (expiration of term: 06/15/2016)

Please contact me at 270-293-2388 with any questions regarding this matter.

Yours truly,

Amy Fadden, Administrator
South 641 Water District

cc: Larry Elkins, Calloway County Judge Executive
101 South 5th Street, Murray, KY 42071

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2017-00426 DATED **NOV 21 2017**

1. List the name of each current South 641 commissioner and the date on which his or her term expires.
2. Provide a map of South 641's territory.
3. Provide the ordinances and resolutions of Calloway County Fiscal Court that establish South 641's territorial boundaries.
4. Provide all orders of the Calloway County Judge/Executive that address the appointments to the South 641 Board of Commissioners on October 17, 2017.
5. Provide the name of the commissioners who preceded the October 17, 2017 appointments, as well as the date upon which those individuals' terms on the Board of Commissioners expired.
6. Provide all correspondence with the Calloway County Judge/Executive regarding the expiration of the term of the individuals preceding whose terms allegedly expired on June 15, 2016, and May 17, 2017.

*South 641 Water District
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P. O. Box 126
Hazel, KY 42047

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