

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF POSSIBLE VACANCY ON ) CASE NO.  
THE BOARD OF COMMISSIONERS OF KNOTT ) 2019-00132  
COUNTY WATER AND SEWER DISTRICT )

ORDER

By order entered June 7, 2019, the Commission established this case to determine whether a vacancy exists on Knott County Water and Sewer District's (Knott District) Board of Commissioners (Board) as a result of the expiration of the term of Dale Hamilton (Hamilton) and, if so, to identify a qualified candidate to fill the vacancy. On June 25, 2019, Knott District responded to requests for information from the Commission with information and documents indicating that Hamilton was first appointed to the Board of the Knott District by the Knott County Fiscal Court on April 16, 2012, and that he was never reappointed. On August 15, 2019, the Knott County Fiscal Court responded to a request from the Commission that it provides the Knott County Fiscal Court Minutes showing when Hamilton was appointed to the Board by providing minutes for a meeting on April 16, 2012, indicating that he was first appointed on that date to serve a 2 year term. There is no evidence that Mr. Hamilton was ever reappointed by the Knott County Fiscal Court. Thus, the Commission finds that Hamilton's term on Knott District's Board expired on April 16, 2014.

Hamilton previously contended that he was automatically reappointed to the Board for a four-year term pursuant to KRS 65.008(2) in April 2014 and April 2018 due to the

Knott County Fiscal Court's failure to appoint a successor upon the expiration of his term.<sup>1</sup> However, as the Commission noted in its June 7, 2019 Order, KRS 65.008(2) would only apply if no other statute governed the fiscal court's failure to make an appointment.<sup>2</sup>

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, states in relevant part:

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.

Since Hamilton's term on the board expired more than 90 days ago, the Commission has the authority to fill the position. Accordingly, the Commission finds that further proceedings are necessary to determine who should be appointed to fill the position.

To ensure that a wide range of candidates are considered, the Commission will require Knott District to publish the notice of vacancy attached as an Appendix to this Order in a newspaper of general circulation in Knott County. The Commission will consider any applications submitted within 20 days after the publication of notice, and each such application should be made in writing and should include the applicant's name,

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<sup>1</sup> Case No. 2019-00132, *An Investigation of Possible Vacancy on the Board of Commissioners of Knott County Water and Sewer District*, April 17, 2019 Letter from Counsel for Knott District (filed April 22, 2019) (explaining Hamilton's contention that he was automatically reappointed for a 4 year term upon the expiration of each of his terms).

<sup>2</sup> Case No. 2019-00132, *An Investigation of Possible Vacancy on the Board of Commissioners of Knott County Water and Sewer District*, Order (Ky. PSC June 7, 2019); *see also* Case No. 2019-00132, *An Investigation of Possible Vacancy on the Board of Commissioners of Knott County Water and Sewer District*, Order (Ky. PSC Aug. 19, 2019) (indicating that Hamilton can continue to serve on the Board until a replacement is appointed).

address, telephone number, and qualifications. The Commission will also consider recommendations and letters from references submitted in writing and received within a reasonable time. Any applications or references letter letters should reference this case number to ensure they are placed in the proper file. After receiving the applications, the Commission will determine whether each candidate 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 Knott District's Board.

IT IS THEREFORE ORDERED that:

1. Within 20 days of the date of entry of this Order, Knott District shall publish, in a newspaper of general circulation in Knott County, the notice of the vacancy on Knott District's Board attached as an Appendix hereto.

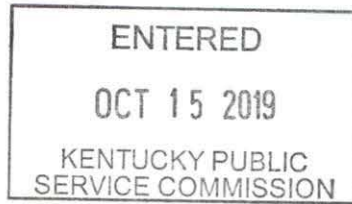
2. Within five days of the publication, Knott District shall supply proof of publication to the Commission.

3. Within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancies on Knott District's Board of Commissioners shall submit to the Commission, in writing, their name, address, telephone number, qualifications and should reference Case No. 2019-00132.

4. The term of the commissioner appointed shall be four years from the end of the term, which is now vacant pursuant to KRS 74.020.

5. The Executive Director shall serve a copy of this Order upon the Knott County Judge/Executive, the members of the Knott County Fiscal Court, the Knott District's Board, and Dale Hamilton.

By the Commission



ATTEST:

  
Executive Director

## APPENDIX

### AN APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2019-00132 DATED **OCT 15 2019**

Let it be known to the residents served by Knott County Water and Sewer District that there is a vacancy on the Knott County Water and Sewer District Board of Commissioners. The requirements to serve as a commissioner can be found at KRS 74.020. Any person interested in applying for the position shall submit notification, in writing, referencing Case No. 2019-00132 with contact information and any qualifications to the Public Service Commission located at 211 Sower Boulevard, Frankfort, Kentucky 40601, within 20 days of the date of this publication.

\*Knott County Water & Sewer District  
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Vicco, KY 41773

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