

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION INTO	)	
MILBURN WATER DISTRICT TO DETERMINE	)	
THE FEASIBILITY OF MERGER WITH A	)	CASE NO.
PROXIMATE UTILITY PURSUANT TO KRS 74.361	)	2021-00341
OR ABANDONMENT PURSUANT TO KRS	)	
278.020(6), KRS 278.021	)	

ORDER

The Commission, on its own motion and pursuant to KRS 74.361, established this proceeding in the Commission’s March 31, 2022 Order to conduct a formal investigation into Milburn Water District (Milburn District), and the feasibility of merger with a proximate utility, or in the alternative whether Milburn District has been effectively abandoned pursuant to KRS 278.020(6) and KRS 278.021. For the reasons discussed below, the Commission finds that Graves County Water District (Graves District) should be made a party to this proceeding.

LEGAL STANDARD

KRS 74.361 provides the Commission with statutory authority to initiate, carry out, and complete investigations necessary to determine whether merger of water districts is in the public interest. In KRS 74.361(1) sets forth the General Assembly’s legislative finding of fact the reducing the number of water districts will be in the public interest because water district mergers can eliminate wasteful duplication of resources and result in more businesslike management, greater economies, less cost, and a higher degree of service. KRS 74.361(2) provides that the Commission shall prepare a feasibility report

and study regarding the proposed merger. KRS 74.361(3) states that the Commission may proposed a merger by order and, upon issuance of an order, shall give actual notice to all water districts proposed to be merged. KRS 64.361(4) provides for a formal hearing with all water districts proposed to be merged afforded the right to appear, present evidence, examine exhibits and testimony, cross-examine witnesses, and file briefs.

### BACKGROUND

In Case No. 2019-00041, the Commission, among other things, ordered Milburn District to pursue merging with Graves District.<sup>1</sup> The Commission ordered Milburn District to respond to that ordering requirement, but Milburn District did not respond.<sup>2</sup>

The Commission initiated this proceeding, which incorporated the record of Case No. 2019-00041, in the interest of administrative efficiency. Neighboring water utility districts were served copies of the Order opening this proceeding, including the Graves County Judge/Executive, the Graves County Fiscal Court, the Graves County Attorney, and Graves District's board of commissioners, to notify them of this proceeding and provide an opportunity to intervene. To date, none of the entities invited to intervene have filed a request to intervene.

On May 25, 2022, Milburn District was asked to provide correspondence, if any, between Milburn District and Graves District between January 2022 and May 2022, including copies of e-mails, formal letters, and board minutes.<sup>3</sup> In its response dated June

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<sup>1</sup> Case No. 2019-00041, *Electronic Investigation into Excessive Water Loss by Kentucky's Jurisdictional Water Utilities* (Ky. PSC. Nov. 22, 2019), Appendix F.

<sup>2</sup> Case No. 2019-00041, July 30, 2021 Order.

<sup>3</sup> Commission Staff's Second Request for Information to Milburn Water District (Ky. PSC May 25, 2022), Item 4.

23, 2022, Milburn District provided a copy of a letter dated April 27, 2022 addressed to “Fancy Farm Water District, c/o Mayfield Water & Electric,”<sup>4</sup> (Fancy Farm District) that asked Graves District to take over the operations of Milburn District. The copy of the letter furnished contains a handwritten note at the bottom stating that the letter was also e-mailed to Graves District on April 27, 2022.

Based on the proximity of Graves District to Milburn District, and Graves District’s proven ability to provide reasonable and adequate water services to its existing customers, the Commission finds that Graves District should be a party to this investigation case in order to more thoroughly investigate the possibility of merging the two districts. The Commission requires studies, investigations, facts, historical data, and projections as may be required for the Commission to make an informed and proper decision regarding such a merger.<sup>5</sup> The Commission finds it is necessary to make Graves District a party to this matter in order for it to acquire all information needed for the Commission to make an informed decision as to whether Milburn District and Graves District should be merged or not, with the intent of restoring reasonable and reliable water service to Milburn District customers.

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<sup>4</sup> Fancy Farm Water District was merged with Graves District in Case No. 2007-00496, *Joint Application of Consumer Water District, Fancy Farm Water District, Hardeman Water District, and South Graves Water District for Approval of Merger and Formation of Graves County Water District* (Ky PSC May 21, 2008). Therefore, even though the name “Fancy Farm Water District” is apparently still used locally, it is in fact one of several different utilities that were merged into a single utility district named “Graves County Water District” (Graves District) in 2008. Hence, the Commission will only use the name “Graves District” to avoid any potential confusion.

<sup>5</sup> KRS 74.361(2).

Finally, the Commission directs Graves District to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>6</sup> regarding filings with the Commission.

IT IS THEREFORE ORDERED that:

1. Graves District is made a party to this proceeding.
2. A copy of this Order shall be served by U.S. Mail upon the Graves County Judge/Executive, the Graves County Fiscal Court, the Graves County Attorney, and Graves District's board of commissioners to notify them of this proceeding.
3. Graves District is entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
4. Graves District shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
5. Graves District shall, by counsel, enter an appearance in this proceeding within seven days of the date of service of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.
6. Graves District shall adhere to the procedural schedule set forth in the Commission's March 31, 2022 Order and as amended by subsequent Orders.
7. Pursuant to 807 KAR 5:011, Section 8(9), within seven days of service of this Order, Graves District shall file by electronic means a written statement that:

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<sup>6</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

8. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION

*Mark Bell*  
Chairman

\_\_\_\_\_  
Vice Chairman

*by KAC  
w/permission*

*Mary Ruth Regan*  
Commissioner

ENTERED  
AUG 30 2022 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

*Linda G. Bidwell*  
Executive Director

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