

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF BARKLEY LAKE	)	
WATER DISTRICT FOR AN EXTENSION OF TIME	)	CASE NO.
TO COMPLETE REQUIRED WATER DISTRICT	)	2022-00213
MANAGEMENT TRAINING	)	

ORDER

On July 8, 2022, Barkley Lake Regional Water District (Barkley District) submitted a letter, signed by the district’s general manager, requesting approval to deviate from the requirement that a water district commissioner receive training within 12-months of the commissioner’s initial appointment. Barkley District requested that the training timeframe be extended by one month for one of its commissioners due to financial and logistical reasons. The Commission will treat the letter as a motion. Barkley District requested a decision by July 18.

LEGAL STANDARD

The statutory standard for water district commissioner training established in KRS 74.020(8)(b) requires a water district commissioner to complete water training provided by the Commission within 12 months of the commissioner’s initial appointment. KRS 74.020(8)(b) provides that, if the water district commissioner fails to complete the training within 12 months of her or his initial appointment, then that person “shall forfeit her or her office and all right” to carry out the duties of a water district commissioner.

KRS 74.020(9) states that the Commission may grant a reasonable extension of time, not to exceed six months to complete the training requirement in KRS 74.020(8)(b) for good cause shown.

The regulatory standard for filings contained in Commission regulation 807 KAR 5:001, Section 4(4) provides that “[a] person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky” or admitted *pro hac vice* to practice with an attorney licensed to practice in Kentucky.

#### MOTION TO DEVIATE

Barkley District requested a one-month extension of the 12-month period to obtain required water training for an unnamed commissioner whose appointment date was in August 2021. As a basis for its request, Barkley District states that attending the next training, which occurs in Eastern Kentucky July 20-21, 2022, would result in financial and logistical harm to the utility. Barkley District requested the one-month extension so that the commissioner could attend the next training in Western Kentucky in September 2022, which is 13 months after commissioner’s appointment.

#### DISCUSSION AND FINDINGS

As an initial matter, the request to deviate was filed by John-Michael Herring, Barkley District’s general manager. On information and belief, Mr. Herring is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice.

The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel

or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.<sup>1</sup>

It includes, as Kentucky's highest court held in *Kentucky State Bar Association v. Henry Vogt Machine Co.*<sup>2</sup> the representation of a business before a state administrative agency.

Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.<sup>3</sup>

Commission regulations incorporate these sentiments. Commission regulation 807 KAR 5:001, Section 4(4), states in part: "A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2)."

Based on the above, the Commission finds that Barkley District's motion fails to comply with Kentucky law and cannot be accepted for filing. We further find that Barkley District shall be granted ten days from the date of this Order to have an attorney licensed to practice law in Kentucky file a signed motion in this case. Barkley District's failure to have an attorney file a timely motion in this case will result in dismissal without prejudice of this proceeding.

The Commission notes that, given the time and monetary cost to travel to Pineville, Kentucky, from the Lake Barkley region, and given the minimal extension sought, the

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<sup>1</sup> Kentucky Supreme Court Rule 3.020.

<sup>2</sup> *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).

<sup>3</sup> Administrative Case No. 249, *Practice before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2.

Commission will look favorably upon the request once it is filed by an attorney in accordance with 807 KAR 5:001, Section 4(4).

IT IS THEREFORE ORDERED that:

1. The motion filed by Barkley District is rejected for filing.
2. Within ten days of the date of entry of this Order, Barkley District shall have an attorney licensed to practice law in Kentucky file a signed motion. Failure to have an attorney file a signed motion in this case will result in dismissal without prejudice of the request and its removal from the Commission's docket without further Order.

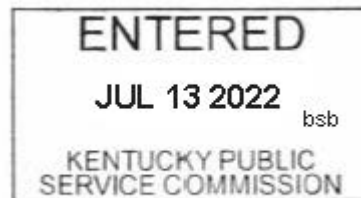
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PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Chairman

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Vice Chairman

  
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Commissioner



ATTEST:

  
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