

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 KNOTT COUNTY	)	2019-00132
WATER AND SEWER DISTRICT	)	

ORDER

By letter dated April 17, 2019, Calvin R. Tackett, counsel for the Knott County Water and Sewer District (Knott District), advised the Commission of a possible vacancy on the Board of Commissioners for the Knott County Water and Sewer District (Board).<sup>1</sup> In response to this letter, the Commission issued an Order dated June 6, 2019, which made a finding that a vacancy did exist. In response, Knott District filed a motion for clarification regarding the status of Commissioner Dale Hamilton, whose term has expired. The motion stated that Mr. Hamilton desires to remain a commissioner and wants to continue to fulfill the functions of a water district commissioner until the vacancy has been filled by the Commission. Knott District requested clarification as to Mr. Hamilton's current role and authority.

KRS 65.008(2) states that "appointed members of district governing bodies shall serve until their successors are appointed and qualified." Therefore, commissioners

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<sup>1</sup> A copy of the letter is attached.

continue to serve until their successors are appointed and qualified, and their official acts are valid until that time.<sup>2</sup>

Therefore, Mr. Hamilton is properly serving as a water district commissioner because no successor has been appointed. However, his term does not automatically extend. As the Commission explained in its order of June 7, 2019, KRS 65.008(2) makes it clear that automatic reappointment to a term of office only occurs automatically under the statute if no other statute addresses the vacancy.

Accordingly, the Commission finds that a vacancy does exist for the position of water district commissioner and that Mr. Hamilton is properly serving as a water district commissioner and may continue to serve until his successor is properly appointed.

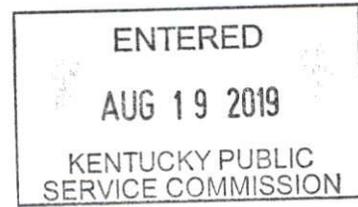
IT IS THEREFORE ORDERED that:

1. A vacancy does exist for the position of water district commissioner for Knott District.
2. Mr. Hamilton may continue to properly serve as a water district commissioner until such a time as his successor is appointed.

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<sup>2</sup> Case No. 2011-00008, Request to Fill Vacancy on the Allen County Water District Board of Commissioners, (Ky. PSC Apr. 15, 2011).

By the Commission



ATTEST:

  
Executive Director

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2019-00132 DATED **AUG 19 2019**

TWO PAGES TO FOLLOW

RECEIVED

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APR 22 2019

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April 17, 2019

To: Gwen R. Pinson  
Executive Director  
Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

**RE: Knott County Water & Sewer District**

Dear Executive Director:

As counsel for the Knott County Water & Sewer District, I write to you to notify the P.S.C. of a possible vacancy on the Board of Commissioners.

I stress possible because there is some doubt as to the vacancy existence.

By way of background, this possible vacancy concerns Commissioner Dale Hamilton.

Mr. Hamilton is/was the longest serving member of Board.

His last term set by Fiscal Court began on April 16, 2012 and was for a two-year term. It would have terminated on April 16, 2014.

There are no further appointments by the Fiscal Court for this Commissioner. However, under KRS 74.020, his next term would have automatically went to four years. Presumably, the prior County Judge was operating under KRS 65.008 and allowed Mr. Hamilton to hold over on each anniversary. Chronologically, the current term would have started April 16, 2018. Thus, Mr. Hamilton asserts that there is no vacancy because the former County Judge allowed his appointment to hold over under KRS 65.008. Therefore, his term doesn't expire until April 16, 2020.

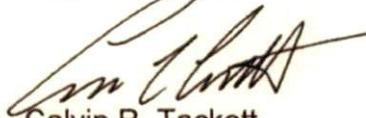
The current County Judge believes that there is a vacancy since end of last term, April 16, 2018, under KRS 74.020. The current County Judge acknowledges that Fiscal Court allowed the 90 days lapse and now recognizes that the P.S.C. has jurisdiction to declare and fill the vacancy.

The Knott County Water District Board feels that it is in the middle of these competing claims and desires only to have the correct statutory scheme applied.

Ms. Gwen R. Pinson  
April 17, 2019  
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Therefore, in order to reconcile the claims, the Board has chosen to bring this to the attention of the P.S.C. pursuant to KRS 74.020 so that inquiry and decision may be made.

Very truly yours,



Calvin R. Tackett

CRT/klk

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