

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF POSSIBLE)	
VACANCY ON THE BOARD OF)	
COMMISSIONERS OF CRITTENDEN-)	CASE NO.
LIVINGSTON COUNTY WATER DISTRICT DUE)	2022-00248
TO DENNIS FLEET'S ALLEGED VIOLATION OF)	
KRS 74.020(8)(B))	

ORDER

The Commission, on its own motion, establishes this case to investigate whether a vacancy exists on Crittenden-Livingston Water District's (Crittenden-Livingston District) board of commissioners (Board) due to one Board member, Dennis Fleet, allegedly failing to attend the required 12-hour new commissioner training within 12 months of his appointment to the Crittenden-Livingston District's Board.

LEGAL STANDARD

KRS 74.020(8)(b) states:

Within twelve (12) months of initial appointment, each commissioner shall complete the program of instruction described in paragraph (a) of this subsection. Except as provided in subsection (9) of this section, any commissioner who fails to complete the program within twelve (12) months of his or her initial appointment shall forfeit his or her office and all right to act in discharge of the duties of the office. A commissioner required to attend a program under this subsection shall be reimbursed for the cost of instruction by his or her water district.

KRS 74.020(9) states, “The Public Service Commission may grant a reasonable extension of time, not to exceed six (6) months, for completing the training requirements of subsections (6), (7), and (8) of this section for good cause shown.”

KRS 74.020(4) 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.

DISCUSSION

Crittenden-Livingston District submitted an email to PSCED@ky.gov on June 6, 2022, asking what to do about a board member who served 18 months on Crittenden-Livingston District’s Board but had not attended the required 12 hours of commissioner training. After Commission Staff requested additional information, on July 27, 2022, Crittenden-Livingston District sent a follow-up email stating that Mr. Fleet was appointed in January 2021, was signed up to attend training in December 2021, but failed to attend due to his work schedule and was unaware of the July 2022 training. A copy of the July 6, 2022 and July 27, 2022 email chain is attached as an Appendix to this Order.

Neither Crittenden-Livingston District nor Mr. Fleet requested an extension of time to complete the training in accordance with KRS 74.020(9).

Accordingly, the Commission finds this proceeding should be initiated to determine whether a vacancy exists on the Crittenden-Livingston District’s Board due to Mr. Fleet

allegedly failing to attend the required 12-hour new commissioner training in violation of KRS 74.020(8)(b).

If the Commission finds that a vacancy exists and that it existed for more than 90 days, we will then proceed to identify qualified candidates for appointment to those positions. 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(s) 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 who meet these requirements, who is best suited to sit on the Board.

The Commission directs Crittenden-Livingston District to provide an answer within 45 days of the date of service of this Order, explaining whether Mr. Fleet is still serving as a commissioner and whether he has satisfied the requirements of KRS 74.020(8)(b).

The Commission directs that a copy of this Order shall be served upon the Crittenden County Judge/Executive, Livingston County Judge/Executive, the Crittenden County Fiscal Court, the Livingston County Fiscal Court, the Crittenden County Attorney, the Livingston County Attorney, and Crittenden-Livingston District's Board to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy exists on the Crittenden-Livingston District's Board.
2. Crittenden-Livingston District shall be served by electronic mail at the electronic mail address for Crittenden-Livingston District on file with the Commission in accordance with 807 KAR 5:006, Section 3.

3. Crittenden-Livingston District shall, by counsel, file an answer within 45 days of the date of service of this Order.

4. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

5. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

6. The Executive Director shall serve, by U.S. mail, a copy of this Order upon the Crittenden County Judge/Executive, Livingston County Judge/Executive, the Crittenden County Fiscal Court, the Livingston County Fiscal Court, the Crittenden County Attorney, the Livingston County Attorney, and Crittenden-Livingston District's Board.

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

¹ 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.

PUBLIC SERVICE COMMISSION



Chairman

Vice Chairman



Commissioner



ATTEST:



Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2022-00248 DATED AUG 23 2022

TWO PAGES TO FOLLOW

RECEIVED

JUL 27 2022

PUBLIC SERVICE
COMMISSION

From: [Tyler Pierson](#)
To: [PSC Executive Director](#)
Subject: Re: Attn. Linda Bridwell
Date: Wednesday, July 27, 2022 3:23:14 PM

Dennis Fleet was appointed for Livingston County on January of 2021. He was unable to attend the training in December of 2021 that he was signed up for because of his work schedule. We were unaware there was a training in July of 2022, so he did not attend that course either. Thank you.

On Mon, Jul 25, 2022 at 12:54 PM PSC Executive Director <PSCED@ky.gov> wrote:

Please see attached letter requesting additional information.

From: Tyler Pierson <piersonclw@gmail.com>
Sent: Thursday, July 21, 2022 11:50 AM
To: PSC Executive Director <PSCED@ky.gov>
Subject: Re: Attn. Linda Bridwell

Just wanted to check in to see if there were any updates on our board member training issue. Thank you.

On Tue, Jun 7, 2022 at 6:58 AM PSC Executive Director <PSCED@ky.gov> wrote:

We have received your email communication below. If you have any further questions, please don't hesitate to contact us.

From: Tyler Pierson <piersonclw@gmail.com>
Sent: Monday, June 6, 2022 1:37 PM
To: PSC Executive Director <PSCED@ky.gov>
Subject: Attn. Linda Bridwell

Good afternoon, this is Tyler Pierson with the Crittenden Livingston Water District. We have a board member who is currently on his 18th month and has not yet received his 12 hours of commissioner training. He was signed up for an online training course last year, but failed to attend because of his conflicting work schedule. I was uncertain what we needed to do from here. If you could let us know what our next steps are.

Thank you,

Tyler Pierson, Superintendent

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