

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF SOUTH WOODFORD)	
COUNTY WATER DISTRICT AND EDWIN)	
ROBERT LIPPERT II, A MEMBER OF THE)	
BOARD OF COMMISSIONERS OF SOUTH)	
WOODFORD COUNTY WATER DISTRICT,)	CASE NO. 2022-00444
FOR AN EXTENSION OF TIME TO)	
COMPLETE REQUIRED TRAINING FOR)	
NEWLY APPOINTED WATER DISTRICT)	
COMMISSIONERS)	

VERIFIED APPLICATION

Pursuant to KRS 74.020(8) and (9), South Woodford County Water District (“South Woodford District”) and Edwin Robert Lippert II (collectively “the Applicants”) apply to the Public Service Commission (“Commission”) for an Order authorizing a six-month extension of time for Commissioner Lippert to complete the training required for newly appointed water district commissioners.

In support of their Verified Application, the Applicants state:

1. The full name and post office address of South Woodford District is: South Woodford County Water District, 117 Crossfield Drive, Versailles, KY 40383. Its e-mail address is: office@southwoodfordwater.com.
2. Commissioner Lippert’s full name and post office address is: Edwin Robert Lippert II, 1850 Delaney Ferry Road, Versailles, KY 40383. His e-mail address is: commissioners@southwoodfordwater.com.

3. Copies of all orders, pleadings and other communications related to this proceeding should be directed to¹:

Edwin Robert Lippert II
1850 Delaney Ferry Road
Versailles, Kentucky 40383
(859) 873-1308
commissioners@southwoodfordwater.com

Matthew Coyle, General Manager
South Woodford County Water District
117 Crossfield Drive
Versailles, Kentucky 40383
(859) 873-1308
matthew@southwoodfordwater.com

Gerald E. Wuetcher
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507
gerald.wuetcher@skofirm.com
(859) 231-3017

4. South Woodford District not a corporation, limited liability company or limited partnership. It has no articles of incorporation or partnership agreements.

5. South Woodford District is a water district created under the provisions of KRS Chapter 74.

6. KRS 365.015 does not require South Woodford District to file a certificate of assumed name.

7. Commissioner Lippert is a member of South Woodford District's Board of Commissioners. Woodford County Judge James Kay appointed Commissioner Lippert as a commissioner on February 8, 2022 to complete his predecessor's unexpired term. A copy of Commissioner Lippert's appointment is attached to this Application as **Exhibit 1**. The minutes of

¹ On December 29, 2022, Section 8, the Applicants notified the Commission of their election of the use of electronic filing procedures for this proceeding.

the Woodford County Fiscal Court meeting in which his appointment was announced and approved is attached to this Application as **Exhibit 2**.

8. KRS 74.020(8)(a) requires the Public Service Commission to at least once annually, “provide or cause to be conducted a program of instruction, consisting of at least twelve (12) hours of instruction, that is intended to train newly appointed commissioners in the laws governing the management and operation of water districts and other subjects that the Public Service Commission deems appropriate.”

9. KRS 74.020(b) requires a water district commissioner to complete such a program of instruction within twelve (12) months of his initial appointment. A commissioner that fails to complete that program within 12 months of his initial appointment forfeits his office and all right to discharge the duties of water district commissioner.

10. The Commission did not announce its schedule for water district commissioner training programs for calendar year 2022 until on or about July 1, 2022.

11. Following the Commission’s announcement of its schedule for water district commissioner training programs for calendar year 2022, South Woodford District’s staff completed a registration form for Commissioner Lippert for the virtual training session scheduled for December 7-8, 2022 and mailed the completed form and a check for the registration fee to the address on the registration form. (Commission Lippert selected the December 7-8, 2022 session because it best fit his schedule.) South Woodford District personnel assumed that confirmation of the registration and instructions for accessing the virtual program of instruction would be forthcoming by electronic mail as the Commission had done for previous virtual programs of instruction.

12. Neither South Woodford District Staff nor Commission Lippert received any electronic notice confirming Commission Lippert's registration. Relying upon the expected confirmation from the Commission to remind them of the program, the District's Staff failed to make further inquiry to the Commission regarding the training program until after December 8, 2022 – after the program had been conducted.

13. In response to inquiries made after December 8, 2022, Commission Staff has advised South Woodford District that the Public Service Commission has no record of receiving Commissioner Lippert's registration form.

14. The Commission has not scheduled any additional water district commissioner training programs prior to February 7, 2023. Historically, the Commission does not commence its water district commissioner training programs until mid-spring. Therefore, Commissioner Lippert will not be able to complete the required training within 12 months of his initial appointment and will be required to forfeit his office.

15. KRS 74.020(9) provides that “the Public Service Commission may grant a reasonable extension of time, not to exceed six (6) months, for completing the training requirements” of KRS 74.020(8).

16. The Applicants request that the Commission grant Commissioner Lippert an extension of time until August 7, 2023 to complete the training required for newly appointed water district commissioners.

17. Commissioner Lippert's failure to attend the December 7-8, 2022 training was due to excusable neglect. Black's Law Dictionary defines “excusable neglect” as

A failure — which the law will excuse — to take some proper step at the proper time (esp. in neglecting to answer a lawsuit) not because of the party's own carelessness, inattention, or willful disregard of the court's process, but because of some unexpected or

unavoidable hindrance or accident or because of reliance on the care and vigilance of the party's counsel or on a promise made by the adverse party.²

Commissioner Lippert's failure to attend the required training program in calendar year 2022 was not willful. He selected the training program that best accommodated his schedule. Relying upon South Woodford District's Staff assurances, he had a good faith belief that he was registered for a program and would be reminded of the program through email notification from the Commission. Moreover, South Woodford District's Staff had a reasonable belief that Commissioner Lippert had been registered. It had completed the registration form and had mailed it to the Commission. It had reasonably assumed that some notice would be provided prior to the program date.

18. Notwithstanding the existence of excusable neglect, Commissioner Lippert acknowledges that he was ultimately responsible for undertaking the required training in a timely manner and for confirming that he was properly registered for the December 7-8, 2022 training program.

19. In light of the circumstances that led to Commissioner Lippert's failure to attend the required training in calendar year 2022, good cause exists to grant him an extension of time to August 7, 2023 to complete the required training.

WHEREFORE, the Applicants request that the Public Service Commission

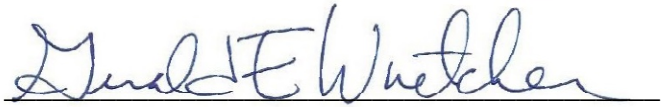
1. Place this Application at the head of the Commission's docket;
2. Issue an Order extending the time in which Commissioner Lippert may complete the training required for newly appointed water district commissioners to August 7, 2023;
3. Enter an Order granting the requested relief without holding an evidentiary hearing in this matter and no later **than February 7, 2023**; and,

² *Excusable Neglect*, Black's Law Dictionary (11th ed. 2019).

4. Grant all such other relief to which Applicants may be entitled.

Dated: December 29, 2022

Respectfully submitted,

A handwritten signature in blue ink, reading "Gerald E. Wuetcher", written over a horizontal line.

Gerald E. Wuetcher
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300 West Vine St. Suite 2100
Lexington, Kentucky 40507-1801
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*Counsel for South Woodford County Water District
and Edwin Robert Lippert II*

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that this document was submitted electronically to the Public Service Commission on December 29, 2022, and that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding.

A handwritten signature in blue ink, appearing to read "Gerald E. Wuetcher", written over a horizontal line.

Gerald E. Wuetcher

EXHIBIT 1

WOODFORD COUNTY FISCAL COURT ORDER

APPOINTMENT OF BOBBY LIPPERT

TO THE

THE SOUTH WOODFORD WATER DISTRICT

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, James Kay, Judge/Executive of the Woodford County Fiscal Court, pursuant to the authority vested in him by the Kentucky Revised Statutes has recommended that **BOBBY LIPPERT, 1850 Delaney Ferry Road, Versailles, KY 40383**, be hereby appointed to serve the remainder of a four-year term to expire March 31, 2025.

GIVEN UNDER MY HAND this the 8th day of February, 2022.


JAMES KAY
JUDGE/EXECUTIVE

The aforesaid appointment having been approved by the Woodford Fiscal Court at their regularly scheduled meeting on February 8, 2022.

 : ATTEST
Clerk, Woodford Co. Fiscal Court

EXHIBIT 2

FISCAL COURT SPECIAL REGULAR MEETING: Conducted via ZOOM app and livestreamed on Facebook
Tuesday, February 8, 2022, at 5:30 p.m.

PRESIDING: James Kay, Woodford County Judge/Executive

PRESENT: Magistrates Liles Taylor, C.L. Watts, Matt Merrill, Kelly Carl, William Downey,
Larry Blackford, Mary Ann Gill, and Jackie Brown

APPROVAL OF MINUTES

1. A motion was made by Jackie Brown and seconded by Liles Taylor to approve the minutes of April 28, 2020, as amended, so as to include ratification of the motion to have a 2nd reading of Ordinance 2020-06. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Judge/Executive Kay called for any additions, corrections, or amendments to the minutes of the Special Regular Meeting of January 25, 2021. Hearing none, these minutes stood approved as presented.

COMMITTEE REPORTS

The court met in a Committee of the Whole prior to the Special Regular meeting to discuss proposals regarding spending of ARPA funds.

REPORTS

Treasurer's Report (Becky Wilson) – Acting Treasurer Wilson reported the financial status through today with the total cash amount of \$17,955,332.10, less claims of \$221,030.61 and \$10,007.35, less a certificate of deposit of \$408,091.60, less ARPA restricted funds of \$2,219,351.47, leaving an adjusted money market checking account balance of \$15,083,458.91.

GENERAL ORDERS AND UNFINISHED BUSINESS

Claims

With no objection from the court, the claims due will be paid.

2. A motion was made by Jackie Brown and seconded by Liles Taylor to approve the claim from Specific Waste Industries, LLC in the amount of \$159.00 using asset forfeiture funds. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Transfers

3. A motion was made by Kelly Carl and seconded by Mary Ann Gill to approve the list of transfers as presented to the court. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Personnel Order

4. A motion was made by Kelly Carl and seconded by Jackie Brown to approve the personnel order as presented to the court. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Board Appointments

5. A motion was made by Jackie Brown and seconded by William Downey to approve the appointment of Bobby Lippert to the South Woodford Water District Board to fill the unexpired term of Matthew Coyle through March 31, 2025. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

NEW BUSINESS

Electrical Inspector Agreement

6. A motion was made by C.L. Watts and seconded by Jackie Brown to approve the agreement between the Woodford County Fiscal Court and James McClain, Electrical Inspections and Consultant Services, Inc. for Woodford County and to authorize the Judge/Executive to sign any and all documents related thereto. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Training Incentive Payments

7. A motion was made by Liles Taylor and seconded by Matt Merrill to approve the training hours incentive payments for Larry Blackford, Jackie Brown, Kelly Carl, and Mary Ann Gill for calendar year 2022 pursuant to KRS 64.5275(6).

VOTING AYE: All Present

MOTION CARRIED

Dump Truck Purchase Agreement

8. A motion was made by Larry Blackford and seconded by Jackie Brown to approve the purchase agreement and supporting documentation from Bluegrass International or the purchase of a dump truck for the Woodford County Road Department under state price contract (KY DOT Master Agreement #605000000448) for an estimated build date of 2023 and to authorize the Judge/Executive to sign any and all documents related thereto. (Attachment)

VOTING AYE: All Present

MOTION CARRIED

Adjournment

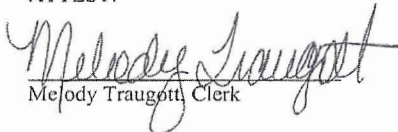
9. A motion was made by Jackie Brown and seconded by Judge Kay to adjourn the meeting.

VOTING AYE: All Present

MOTION CARRIED


JAMES KAY
JUDGE/EXECUTIVE

ATTEST:


Melody Traugott, Clerk