

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION OF	)	
POSSIBLE VACANCIES ON THE BOARD OF	)	CASE NO.
COMMISSIONERS OF MARTIN COUNTY WATER	)	2019-00404
DISTRICT	)	

ORDER

On November 6, 2019, the Commission opened an investigation into possible vacancies on the Board of Commissioners (Board) of the Martin County Water District (Martin District). Having reviewed the record and being otherwise sufficiently advised, the Commission finds that one vacancy has existed on the Board for more than 90 days, since John Horn's resignation on December 5, 2018, and, therefore, the Commission must fill the position pursuant to KRS 74.020(4).<sup>1</sup> However, as indicated in the November 6, 2019 Order, there is still a question of when the term of the water commissioner appointed by the Commission should properly end.

Martin District was formed by a merger of two water districts approved by the Commission on August 22, 1996.<sup>2</sup> Pursuant to KRS 74.363, the boards of merged districts shall continue to serve for one year after the merger is approved by the Commission, and a new board for the resulting district shall thereafter be appointed by

---

<sup>1</sup> The Commission understands that the Martin County Judge/Executive and Fiscal Court are in the process of filing two positions on the Board following resignations recently submitted by Jarrod Crum and Ernest Hale. This Order does not affect those appointments.

<sup>2</sup> *Application of Martin County Water District 1 and Martin County Water District 2 for Approval of Merger*, Case No. 1996-00358, Order (Ky. PSC. Aug. 22, 2016).

the county judge/executive with the approval of the fiscal court. The initial terms of the new board members shall be staggered with approximately one-third being appointed for a term of two years, one-third for a term of three years, and the rest for a term of four years, and “[t]hereafter, all [board members] shall be appointed for a term of four (4) years.”<sup>3</sup> Thus, the initial board of Martin District should have been appointed in the last several months of 1997 to staggered initial terms ending in 1999, 1999, 2000, 2000, and 2001, such that the terms of current positions on the board should end at or about the end of 2019, 2019, 2020, 2020, and 2021.

In December 2017, upon the appointment of four water district commissioners due to resignations, the Martin County Judge/Executive and Fiscal Court attempted to reestablish the staggered terms for the board members by approving a proposal that John Hensley and Rex Endicott serve a one-year term, Jimmy Don Kerr and Jared Crum serve a two-year term, and John Horn serve a three-year term, all from December 7, 2017. While the Martin County Judge/Executive and Fiscal Court do not have the authority to establish terms for less than four years or fill a vacancy “resulting from cause other than expiration of the term” for anything other than the unexpired term,<sup>4</sup> the Commission interprets their action as an attempt to return the term lengths to the timetable established by KRS 74.323, except that they were off by approximately one year. Thus, accepting the December 7 date used by the Martin County Judge/Executive and Fiscal Court, the Commission finds that the position to which John Horn was appointed in December 2017, which has been vacant since his resignation, has a term ending December 7, 2021,

---

<sup>3</sup> KRS 74.020(3).

<sup>4</sup> See KRS 74.020(4); KRS 74.323(3).

whereas the terms of two of the other positions on the Board would end December 7, 2019, and the final two terms would end December 7, 2020.

IT IS THEREFORE ORDERED that:

1. The Commission shall issue further orders as necessary in this matter to make an appointment pursuant to KRS 74.020(4) to fill the vacant position on Martin District's Board previously occupied by John Horn.

2. The Executive Director shall serve a copy of this Order upon Martin District, Martin County Judge/Executive, the members of the Martin County Fiscal Court, and the members of Martin District's Board of Commissioners.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

By the Commission

ENTERED  
DEC 09 2019  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

\*Brian Cumbo  
Attorney at Law  
P.O. Box 1844  
Inez, KENTUCKY 41224

\*Martin County Water District  
387 East Main Street, Suite 140  
Inez, KY 41224

\*Martin County Water District  
Martin County Water District  
387 East Main Street, Suite 140  
Inez, KY 41224