

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ELECTRONIC INVESTIGATION OF A)	
POSSIBLE VACANCY ON THE BOARD OF)	CASE NO.
COMMISSIONERS OF BREATHITT COUNTY)	2020-000398
WATER DISTRICT)	

ORDER

This proceeding was initiated to determine whether a vacancy exists on the Board of Commissioners of Breathitt County Water District (Breathitt District). On June 16, 2021, the Commission issued an Order finding that a vacancy did exist following the end of Bobby Thorpe Jr.'s term on August 28, 2020, that the vacancy had not been filled, and that the Commission is authorized to fill the vacancy for the remainder of the four-year term pursuant to KRS 74.020(4).

LEGAL STANDARD

In accordance with KRS 74.020(1), a water district shall be administered by a board of commissioners which shall control and manage the affairs of the district and the term of each water district's board of commissioner is four years. If a district lies wholly within a single county, or operates as a single-county district, the board of commissioners shall be composed of either three or five members as the county judge/executive shall determine. Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was

originally established, who shall be appointed by the county judge/executive with the approval of the fiscal court.¹

KRS 74.020(4) further provides that vacancies shall be filled by the same appointing authority which is empowered to make the original appointment and vacancies resulting from cause other than expiration of the term shall be filled for the unexpired term only. Pursuant to this statute, 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 90 days following the vacancy, the vacancy has not been filled by the appropriate county judge/executive with approval of the fiscal court.²

DISCUSSION AND FINDINGS

On June 23, 2021, Breathitt District, pursuant to a Commission Order, published notice of the vacancy in the *Times-Voice* directing those interested in the position to apply with the Commission within 20 days. The Commission received three applications within 20 days of that publication for the position, one of which was withdrawn, and conducted interviews regarding the position. However, based on information and belief, one or more of the prior applicants were no longer interested or available to fill the position, so on August 30, 2022, the Commission, by Order, directed Breathitt District to publish a second notice of the vacancy to ensure that a wide range of candidates are considered. The Commission has since received four applications, however, three of those have been withdrawn. The single remaining candidate for the position is Bobby Thorpe Jr.

¹ KRS 74.020(1)(a).

² KRS 74.020(4).

Mr. Thorpe currently resides in Jackson, Kentucky and is a long time resident of Breathitt County. Mr. Thorpe has served as the Editor and News Director of the *Jackson Times* and currently as owner of *The Breathitt Advocate*. Among other things, he has served as a board member of the Breathitt County Chamber of Commerce, Chairman of the Breathitt Heritage Fair, Breathitt County Honey Festival, and President of the Jackson Lyons Club. Mr. Thorpe has previously served as a member of the Breathitt District for 14 years, serving under and being reappointed by three administrations. During his time as a member of Breathitt District, Mr. Thorpe served as Chairman for ten years.

In making the selection, the Commission must consider the totality of the circumstances, including the education, business and management experience, and personal history of the proposed candidate, and the existing financial and operating condition of the water district.³

Based upon the review of Mr. Thorpe's education and experience, the Commission finds that Mr. Thorpe is well suited for the position. The Commission further finds that Mr. Thorpe resides in the district, is of legal age, possesses adequate education, business skills, and experience to perform the duties of water district commissioner and does not have any legal disability that would disqualify him from serving in the position.⁴ Accordingly, the Commission finds that Mr. Thorpe should be appointed to fill the vacancy on Breathitt District's Board of Commissioners created by the end of the prior term of Mr. Thorpe on August 28, 2020, and identified in the June 16, 2021 Order.

³ See, e.g., Case No. 2012-00052, *Request to Fill Vacancies on Western Pulaski County Water District Board of Commissioners* (Ky. PSC Jan. 16, 2013).


⁴ See, e.g., KRS 74.020(1)(a) ("Members of the board shall be residents of the district, or of any incorporated or unincorporated area served by the district in the county in which the district was originally established.").

IT IS THEREFORE ORDERED that:


1. Bobby Thorpe Jr. is hereby appointed to fill the vacant seat on Breathitt District's Board of Commissioners identified in the June 16, 2021 Order.
2. The term to which Bobby Thorpe Jr. is being appointed shall expire on August 28, 2024.
3. This case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

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