

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	)	2020-00398
WATER DISTRICT	)	

ORDER

By letter dated December 2, 2020, Bobby Thorpe, chairman for the Breathitt County Water District (Breathitt District) advised the Commission of a vacancy on the board of commissioners for the Breathitt County Water District (Board).<sup>1</sup> According to Mr. Thorpe, his term as a board member expired on August 28, 2020.

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, 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.

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

In the event of a vacancy in excess of 90 days, the Commission has the statutory duty and exclusive authority to fill the position. While a county judge/executive and a county fiscal court may reach agreement on a candidate for the vacant position, they lack authority to fill the vacancy once it has remained unfilled for more than 90 days. Any action on their part to appoint and approve a candidate after that time constitutes only a recommendation to the Commission.<sup>2</sup>

Accordingly, the Commission finds that this proceeding should be initiated to determine whether such vacancy did exist for more than 90 days. The Commission will make Breathitt District a party to this case and requests that it provides certain information, which is set forth in a request for information attached hereto as an Appendix.

If the Commission finds that a vacancy or vacancies did exist 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 also will direct that a copy of this Order be served upon the Breathitt County Judge/Executive, the Breathitt County Fiscal Court, the Breathitt County Attorney, and the Board to notify them of this proceeding.

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<sup>2</sup> See Case No. 2008-00395, *Request to Fill Existing Vacancies on the Board of Commissioners of Letcher County Water and Sewer District* (Ky. PSC Jan. 28, 2009) at 4–5.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy existed on the Breathitt District's Board for more than 90 days.

2. Breathitt District is made a party to this proceeding.

3. The information requested in the Appendix to this Order is due within 14 days of the entry of this Order.

a. Responses to requests for information shall be appropriately bound, tabbed and indexed, with the original and an electronic version to the Commission. The Commission expects the original documents to be filed with the Commission within 30 days of the lifting of the current state of emergency. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. Each response shall include the name of the witness responsible for responding to the questions related to the information provided.

b. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or an association or a governmental agency, be accompanied by a signed certification of the preparer or person supervising the preparation of the response on behalf of the entity that the response is true and accurate to the best of that person's knowledge, information, and belief formed after a reasonable inquiry.

c. A party shall make timely amendment to any prior response if it obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect.

d. For any request to which a party fails or refuses to furnish all or part of the requested information, that party shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

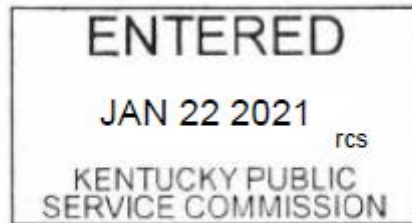
e. Careful attention should be given to copied material to ensure that it is legible. When the requested information has been previously provided in this proceeding in the requested format, reference may be made to the specific location of that information in responding to this request.

f. Any party filing a paper containing personal information shall, in accordance with 807 KAR 5:001, Section 4(10), encrypt or redact the paper so that the personal information cannot be read.

4. Service of all documents shall be made in accordance with 807 KAR 5:001, Section 4(8).

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

By the Commission



ATTEST:

  
Executive Director

ATTACHMENT

ATTACHMENT TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2020-00398 DATED JAN 22 2021

[ONE PAGE TO FOLLOW]

RECEIVED

OCT 19 2018

PUBLIC SERVICE  
COMMISSION

Western Pulaski County Water District  
2128 W. Hwy 80  
Somerset, KY 42503  
606-679-1569  
Fax 606-677-9449

"This institution as an equal opportunity provider and employer."

October 17, 2018

Public Service Commission  
P.O. Box 615  
Frankfort, KY 40602

To Whom It May Concern:

It is my responsibility as the Office Manager for the Western Pulaski County Water District to report any and all board members terms for election. Mr. Don Calder, Chairman, term ended July 11, 2018.

Mr. Joel Wilson, Secretary, term ended October 4, 2018.

On February 14, 2018 I sent a letter to the PSC reporting that Mr. Randall Wilson, Treasurer, term was up October 4, 2017.

I have not received any confirmation from Pulaski County Fiscal Court re-appointing these board members.

Any questions, please contact me at the office.

Thank You,  
Tammy Vaught, Office Manager

Tamora.vaught@gmail.com

## APPENDIX

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00398 DATED JAN 22 2021

1. List the name of each current Breathitt District Commissioner and the date on which their term expires.
2. Provide a map of Breathitt District's territory.
3. Provide the ordinances and resolutions of Breathitt County Fiscal Court that establish Breathitt District's territorial boundaries.
4. Provide all orders of the Breathitt County Judge/Executive or the Breathitt County Fiscal Court and all minutes for meetings of the Breathitt County Fiscal Court that address the appointment of Breathitt District's current Board or the appointment or reappointment of Bobby Thorpe.
5. Provide all minutes from the Breathitt County Fiscal Court that address the appointment of any member to Breathitt District's Board in since January 1, 2010.
6. Provide all correspondence with the Breathitt County Judge/Executive regarding the expiration of the prior term of Mr. Bobby Thorpe as board member.



\*Breathitt County Water District  
1137 Main Street, Suite 305  
Jackson, KY 41339

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