

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 order entered January 22, 2021, the Commission established this case to determine whether a vacancy exists on Breathitt County Water District's (Breathitt District) board of commissioners (Board) as a result of the expiration of the term of Bobby Thorpe (Thorpe) and, if so, to identify a qualified candidate to fill the vacancy. On May 4, 2021, Breathitt District responded to requests for information from the Commission with information and documents indicating that Thorpe was first appointed to Breathitt District's Board by the Breathitt County Fiscal Court in 2008. Breathitt County Fiscal Court Minutes from July 24, 2012 indicate Thorpe was first appointed to serve a 4-year term in 2008 and was reappointed for a second 4-year term at that time. Mr. Thorpe was then reappointed by the Breathitt County Fiscal Court for a third 4-year term as evidenced by Breathitt County Fiscal Court Minutes from June 28, 2016. Correspondence from Breathitt District indicates that the terms for its board members begin and end on August 28 for the respective years of service. Thus, the Commission finds that Thorpe's term on Breathitt District's Board expired on August 28, 2020.

KRS 74.020(4), which addresses the appointment of members to the boards of commissioners of water districts, states in relevant part:

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.

Since Thorpe's term on the Board expired more than 90 days ago, the Commission has the authority to fill the position. Accordingly, the Commission finds that further proceedings are necessary to determine who should be appointed to fill the position.

To ensure that a wide range of candidates are considered, the Commission will require Breathitt District to publish the notice of vacancy attached as an Appendix to this Order in a newspaper of general circulation in Breathitt County. The Commission will consider any applications submitted within 20 days after the publication of notice, and each such application should be made in writing and sent via electronic mail to PSCED@ky.gov. Any application should include the applicant's name, address, telephone number, and qualifications. The Commission will also consider recommendations and letters from references submitted in writing via electronic mail and received within a reasonable time. Any applications or references letter letters should reference this case number to ensure they are placed in the proper file. After receiving the applications, the Commission will determine whether each candidate meets the constitutional and statutory requirements for the office of water district commissioner and, of those candidates that meet these requirements, which is best suited to sit on Breathitt District's Board.

IT IS THEREFORE ORDERED that:

1. Within 20 days of the date of entry of this Order, Breathitt District shall publish, in a newspaper of general circulation in Breathitt County, the notice of the vacancy on Breathitt District's Board attached as an Appendix hereto.

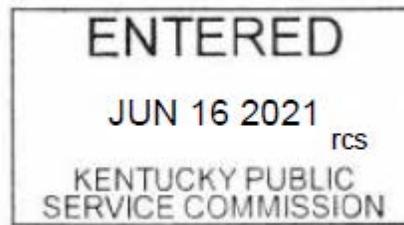
2. Within five days of the publication, Breathitt District shall supply proof of publication to the Commission.

3. Within 20 days of the date of publication, any person who wishes to apply as a candidate to fill the vacancy on Breathitt District's Board shall submit to the Commission, in writing, via electronic mail, their name, address, telephone number, qualifications and should reference Case No. 2020-00398.

4. The term of the commissioner appointed shall be four years from the end of the term, which is now vacant pursuant to KRS 74.020.

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, and Breathitt District's Board.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00398 DATED JUN 16 2021

Let it be known to the residents served by Breathitt County Water District that there is a vacancy on the Breathitt County Water District Board of Commissioners. The requirements to serve as a commissioner can be found at KRS 74.020. Any person interested in applying for the position shall submit notification, in writing, via electronic mail, referencing Case No. 2020-00398, with contact information and any qualifications to the Public Service Commission at PSCED@ky.gov within 20 days of the date of this publication.

*Breathitt County Water District
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