

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF POSSIBLE)	
VACANCY ON THE BOARD OF)	CASE NO.
COMMISSIONERS OF COLUMBIA/ADAIR)	2023-00019
UTILITIES DISTRICT)	

ORDER

The Commission, on its own motion, establishes this case to determine whether a vacancy exists on Columbia/Adair Utility District's (Columbia/Adair District) Board of Commissioners (Board) as a result of the expiration of the term of one or more of its commissioners,¹ and if so, to identify a qualified candidate to fill the vacancy or vacancies.

LEGAL STANDARD

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.

¹ *Annual Report of Columbia/Adair Utilities District to the Public Service Commission for the Year Ending December 31, 2021* (2021 Annual Report) at 15. The term of the Chairman ended August 13, 2022, and the term of the Secretary/Treasurer ended January 15, 2023.

DISCUSSION

The Commission has received notification that a vacancy may exist or a subsequent appointment on the Columbia/Adair District has not been made. If the vacancy has remained unfilled for more than 90 days, the Commission has exclusive authority to fill the position pursuant to KRS 74.020(4). Accordingly, the Commission finds that this proceeding should be initiated to confirm that a vacancy has existed for more than 90 days on the Columbia/Adair District's Board and, if so, to fill the position.

The Commission will make Columbia/Adair District a party to this case and request that it provide certain information, which is set forth in a data request attached hereto as an Appendix. If the Commission finds that a vacancy existed for more than 90 days, the Commission 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 that meet these requirements, which is best suited to sit on the Columbia/Adair District's Board of Commissioners. The Commission also will direct that a copy of this Order be served upon the County Judge/Executive of Adair County, the Adair County Fiscal Court, the Adair County Attorney, and Columbia/Adair District's Board of Commissioners to notify them of this proceeding.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to determine whether a vacancy or vacancies have existed on the Columbia/Adair District's Board of Commissioners for more than 90 days.

2. Columbia/Adair District is made a party to this proceeding.

3. Columbia/Adair District shall, by counsel, enter an appearance in this proceeding within seven days of the date of entry of this Order. The entry of appearance shall include the name, address, telephone number, fax number, and electronic mail address of counsel.

4. Pursuant to 807 KAR 5:001E, Section 8(9), within seven days of entry of this Order, Columbia/Adair District shall file by electronic means a written statement that it waives any right to service of Commission orders by United States mail and that it or its authorized agents possesses the facilities to receive electronic submissions.

5. Any party filing documents with the Commission shall serve a copy of those documents upon all other parties. Unless otherwise ordered by the Commission, the procedures set forth in 807 KAR 5:001E, Section 8, related to service and electronic filing of papers shall be followed in this proceeding.

6. Any interested party, may, by counsel, file a motion to intervene no later than February 17, 2023.

7. Unless a party granted leave to intervene states its objection to the use of electronic filing procedures in a motion for intervention, the party shall:

a. Be deemed to have consented to the use of electronic filing procedures and the service of all papers, including Orders of the Commission, by electronic means; and

b. Within seven days of service of an Order of the Commission, granting intervention, file with the Commission a written statement that: (1) It or its authorized agent possesses the facilities to receive electronic transmissions; and (2) Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

8. If a party objects to the use of electronic filing procedures and the Commission determines that good cause exists to excuse that party from the use of electronic filing procedures, service of documents on that party and by that party shall be made in accordance with 807 KAR 5:001E, Section 4(8).

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

10. Columbia/Adair District shall respond to additional requests for information propounded by Commission Staff by the date indicated on the request.

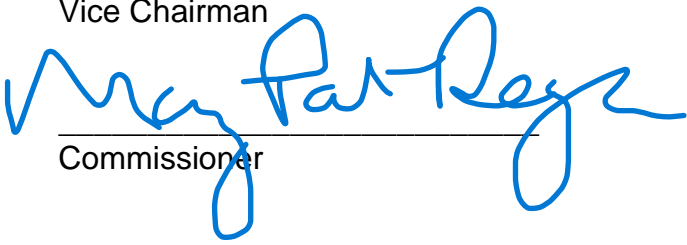
11. The Executive Director shall serve a copy of this Order upon the Adair County Judge/Executive, the Adair County Fiscal Court, the Adair County Attorney, and Columbia/Adair District's Board of Commissioners to notify them of this proceeding.

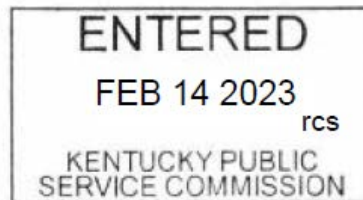
12. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

PUBLIC SERVICE COMMISSION


Chairman

Vice Chairman


Commissioner



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2023-00019 DATED FEB 14 2023

COMMISSION STAFF'S FIRST REQUEST FOR INFORMATION TO COLUMBIA/ADAIR UTILITIES DISTRICT

Columbia/Adair Utilities District (Columbia/Adair District), pursuant to 807 KAR 5:001E, is to file with the Commission an electronic version of the following information. The information requested is due 14 days from the date of service of this Order. The Commission directs Columbia/Adair District to the Commission's July 22, 2021 Order in Case No. 2020-00085¹ regarding filings with the Commission. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked.

Each response shall include the question to which the response is made and shall include the name of the witness responsible for responding to the questions related to the information provided. Each response shall be answered under oath or, for representatives of a public or private corporation or a partnership or association or a governmental agency, be accompanied by a signed certification of the preparer or the 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.

¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

Columbia/Adair District shall make timely amendment to any prior response if Columbia/Adair District obtains information that indicates the response was incorrect when made or, though correct when made, is now incorrect in any material respect. For any request to which Columbia/Adair District fails or refuses to furnish all or part of the requested information, Columbia/Adair District shall provide a written explanation of the specific grounds for its failure to completely and precisely respond.

Careful attention shall 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. When applicable, the requested information shall be separately provided for total company operations and jurisdictional operations. When filing a paper containing personal information, Columbia/Adair District shall, in accordance with 807 KAR 5:001E, Section 4(10), encrypt or redact the paper so that personal information cannot be read.

1. List the name of each current Columbia/Adair District Commissioner and the date on which their term expires.
2. Provide a map of Columbia/Adair District's territory.
3. Provide all orders of from the Adair County Judge/Executive that address the appointments to the Columbia/Adair District's current Board of Commissioners.
4. Provide all orders of the Adair County Judge/Executive that address appointments to Columbia/Adair District's Board of Commissioners to replace the commissioner or commissioners whose terms have allegedly expired and for which no appointment has been made.

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