

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPOINTMENT OF	)	
COMMISSIONER TO FILL AN UNEXPIRED TERM	)	CASE NO.
ON THE BOARD OF COMMISSIONERS OF	)	2023-00240
CRITTENDEN-LIVINGSTON COUNTY WATER	)	
DISTRICT	)	

ORDER

On May 2, 2023, the Commission declared that a vacancy existed on the Board of Commissioners of Crittenden-Livingston Water District (Crittenden-Livingston District) since January 1, 2022, and ordered a case be established to fill the vacancy.<sup>1</sup>

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.

As the vacancy on Crittenden-Livingston District’s Board of Commissioners had existed for more than 90 days, the Commission has the statutory duty and the exclusive

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<sup>1</sup> Case No. 2022-00248, *Electronic Investigation of Possible Vacancy on the Board of Commissioners of Crittenden-Livingston County Water District due to Dennis Fleet’s Alleged Violation of KRS 74.020(8)(B)* (Ky. PSC May 2, 2023).

authority to fill it. While a county judge/executive and a county fiscal court may reach agreement on 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 at that time has limited legal effect and constitutes only a recommendation to the Commission.<sup>2</sup>

Accordingly, the Commission finds that a proceeding should be initiated to determine who should be appointed to fill the vacancy for the unexpired term of Dennis Fleet. To ensure a wide range of candidates are considered, the Commission will permit all interested persons the opportunity to nominate candidates for the position and then will 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 Board of Commissioners. The Commission further directs that a copy of this Order be served upon the Crittenden-Livingston Board of Commissioners, Crittenden County Judge/Executive, Crittenden County Fiscal Court, Crittenden County Attorney, Livingston County Judge/Executive, Livingston County Fiscal Court, and Livingston County Attorney to notify them of this proceeding and to permit each to nominate candidates.

IT IS THEREFORE ORDERED that:

1. This proceeding is initiated to fill the vacancy on Crittenden-Livingston District's Board of Commissioners that was created by Dennis Fleet's failure to comply with KRS 74.020(8).

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

2. Crittenden-Livingston District is made a party to this proceeding and shall enter an appearance, by and through counsel, within 20 days of the date of this Order.

3. Crittenden-Livingston District shall publish, in the newspaper with the largest circulation in the counties, the notice of a vacancy on Crittenden-Livingston's Board of Commissioners attached as Appendix hereto and supply proof of publication to the Commission within five days of publication.

4. Within 20 days of the date of publication in the newspaper with the largest circulation in the counties, any person who wishes to nominate a candidate to fill the vacancy on the Crittenden-Livingston District Board of Commissioners shall submit to the Commission an electronic copy, with reference to the Case No. 2023-00240, of the proposed candidate's qualifications, the candidate's name, address, telephone number, and electronic mailing address.

5. Any party filing a paper with the Commission shall file an electronic copy in accordance with the electronic filing procedures set forth in 807 KAR 5:001, Section 8. Electronic documents shall be in portable document format (PDF), shall be searchable, and shall be appropriately bookmarked. The Commission directs the parties to the Commission's July 22, 2021 Order in Case No. 2020-00085<sup>3</sup> regarding filings with the Commission.

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<sup>3</sup> 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).

6. Crittenden-Livingston District shall be served by electronic mail at the electronic mail address for Crittenden-Livingston District on file with the Commission in accordance with 807 KAR 5:006, Section 3.

7. The Executive Director shall serve, by U.S. mail, a copy of this Order upon the Crittenden County Judge/Executive, the Crittenden County Fiscal Court, the Crittenden County Attorney, the Livingston County Judge/Executive, the Livingston County Fiscal Court, and the Livingston County Attorney.

8. Nothing contained in this Order shall prevent the Commission from entering further Orders in this matter.

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PUBLIC SERVICE COMMISSION

*Butt*  
Chairman

*Angie Hatcher*  
Vice Chairman

*not  
signed  
by  
commissioner*

*May Pat Regan*  
Commissioner

ENTERED  
AUG 08 2023 bsb  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

*Linda C. Bridwell*  
Executive Director

## APPENDIX

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2023-00240 DATED AUG 08 2023

#### Public Notice

Let it be known to the residents served by Crittenden-Livingston Water District that there is vacancy on the Crittenden-Livingston Water District board of Commissioners. The requirements to serve as a commissioner can be found at KRS 74.020. Any resident of the district served by Crittenden-Livingston Water District interested in applying for the position shall send notification referencing the Case No. 2023-00240 with contact information and any qualifications to the Public Service Commission located at 211 Sower Boulevard, Frankfort, Kentucky 40601, within 20 days of the date of this publication.

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