

TENNESSEE PUBLIC UTILITY COMMISSION

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(615) 770-6896



Andrew Jackson State Office Bldg,  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243-0001

December 8, 2023

Leon Nowalsky, Esq.  
Nowalsky & Gothard  
1420 Veterans Memorial Blvd.  
Metairie, LA 70005

Electronically Filed in TPUC Docket Room  
on December 8, 2023 at 3:34 p.m.

VIA EMAIL to: lnowalsky@ngblaw.com

Re: *Consolidated Telecom, Inc. Application for Authority to Provide Operator Services and/or Resell Telecommunications Services in Tennessee*, TPUC Docket No. 23-00048

Dear Mr. Nowalsky:

On or about August 30, 2023, I sent a letter concerning the need for local counsel to enter an appearance in this docket. This letter is being filed in the docket to give formal notice of the local representation requirement. Failure to respond within thirty (30) days of the date of this letter may result in a dismissal of the application and closure of the docket.

Please find attached a copy of a Notice that was recently distributed by the General Counsel for the Tennessee Public Utility Commission concerning contested case matters involving corporate entities. Since an application to provide competing local and/or interexchange telecommunications services seeks a certificate of public convenience and necessity to provide these services, it is deemed a contested case according to statute. *See* Tenn. Code Ann. § 4-5-102. As a result, Consolidated Telecom, Inc. is required to be represented by an attorney licensed to practice in the State of Tennessee or otherwise admitted pro hac vice. Please have local counsel submit an entry of appearance in this matter or appropriate motion for admission pro hac vice in accordance with Tenn. S.Ct. R. 19.

Thank you in advance for your attention to this matter. Please do not hesitate to contact me with any questions or concerns regarding this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "A. Conklin", is written over a printed name and title.

Aaron J. Conklin  
Senior Counsel

Enclosure: Notice Concerning Attorney Representation in Contested Case Proceedings Before the Commission

Telephone (615) 741-2904, Toll-Free 1-800-342-8359, Facsimile (615) 741-5015  
[www.tn.gov/tpuc](http://www.tn.gov/tpuc)  
[www.facebook.com/tennesseepuc](https://www.facebook.com/tennesseepuc)

# TENNESSEE PUBLIC UTILITY COMMISSION



Andrew Jackson State Office Bldg.  
502 Deaderick Street, 4<sup>th</sup> Floor  
Nashville, TN 37243-0001

Electronically Filed in TPUC Docket  
Room on August 28, 2023 at 4:55 p.m.

August 28, 2023

## **NOTICE CONCERNING ATTORNEY REPRESENTATION IN CONTESTED CASE PROCEEDINGS BEFORE THE COMMISSION**

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Notice is hereby given that, in accordance with Tennessee law, representation by a Tennessee licensed attorney is required for any corporation or limited liability company appearing as a party in any contested case proceeding before the Commission. The Tennessee Uniform Procedures Act, Tenn. Code Ann. § 4-5-101 *et seq.* defines a contested case as:

. . . a proceeding, including a declaratory proceeding, in which the legal rights, duties or privileges of a party are required by any statute or constitutional provision to be determined by an agency after an opportunity for a hearing. Such proceeding may include rate making; price fixing; granting of certificates of convenience and necessity; the making, review or equalization of tax assessments; the granting or denial of licenses, permits or franchises where the licensing board is not required to grant the licenses, permits or franchises upon the payment of a fee or the finding of certain clearly defined criteria; and suspensions of, revocations of, and refusals to renew licenses. An agency may commence a contested case at any time with respect to a matter within the agency's jurisdiction.<sup>1</sup>

Contested cases before the Commission include, but are not limited to, rate cases, petitions for a certificate of public convenience and necessity ("CCN"), petitions to amend a CCN, petitions to provide competing local telecommunications services, applications for certificate to provide operations services and/or resell telecommunication services, and show cause proceedings.

In administrative law matters under the Uniform Administrative Procedures Act, a corporate party may participate in a hearing by a duly authorized representative.<sup>2</sup> The Tennessee Court of Appeals differentiates between "informal, information gathering proceeding[s]" wherein

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<sup>1</sup> Tenn. Code Ann. § 4-5-102(3) (2023).

<sup>2</sup> Tenn. Code Ann. § 4-5-305(a).

a non-attorney may be a corporate party participant pursuant to Tenn. Code Ann. § 4-5-305(a), and “formal adversarial proceedings as in a contested case proceeding” in which a non-attorney may not represent a corporate party.<sup>3</sup>

It is well settled Tennessee law that a corporation may not act *pro se* in contested legal matters, nor may it be represented by an officer or other non-lawyer agent. Tennessee courts have held that allowing a corporation, or an officer on behalf of a corporation, to sign pleadings would result in the unauthorized practice of law.<sup>4</sup> Preparation and filing of documents that initiate contested case proceedings require the professional judgment of an attorney and as such, is the practice of law.<sup>5</sup> As such, all contested case proceedings before the Commission in which a business entity is participating as a party must be represented by legal counsel, as discussed in this notice.

**FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:**

  
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Kelly Cashman Grams, General Counsel

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<sup>3</sup> *Tenn. Envtl. Council v. Water Quality Control Bd.*, 254 S.W.3d 396, 407 (Tenn. Ct. App. 2007).

<sup>4</sup> *Old Hickory Eng'g & Mach. Co., Inc. v. Henry*, 937 S.W.2d 782, 785-786 (Tenn. 1996).

<sup>5</sup> *Id.*