

TENNESSEE PUBLIC UTILITY COMMISSION

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

September 23, 2024

Tyler Evans, VP Operations
Stratus Networks, Inc.
4700 N. Prospect Rd.
Peoria, IL 61625

Electronically Filed in TPUC Docket Room
on September 23, 2024 at 10:07 a.m.

VIA EMAIL to: tevans@stratusnet.com

Re: *Application of Stratus Networks, Inc. to Provide Competing Local
Telecommunication Services Within the State of Tennessee,*
TPUC Docket No. 24-00026

Dear Mr. Evans:

My name is Aaron Conklin and I am the Administrative Judge assigned by the Tennessee Public Utility Commission ("TPUC" or "Commission") to the above referenced matter. On or about June 27, 2024, Commission Staff sent a data request seeking information necessary to complete Stratus Networks' application for a Certificate of Public Convenience and Necessity ("CCN") to provide competing local telecommunications services. It appears that no response has been submitted nearly ninety (90) days subsequent to the request.

In addition, Tennessee law requires that corporate entities be represented by counsel in contested case matters. Since an application to provide competing local and/or interexchange telecommunications services seeks a CCN to provide these services, it is deemed a contested case according to statute. *See* Tenn. Code Ann. § 4-5-102. As a result, Stratus Networks 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. I have also attached a copy of a Notice published by the General Counsel for the Commission concerning contested case matters involving corporate entities.

It is imperative that Stratus Networks respond to the Commission data request and have local counsel enter an appearance on behalf of the Company in order for the case to proceed. Failure to respond accordingly within thirty (30) days of the date of this letter may result in a

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dismissal of the application and closure of the docket. 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,



Aaron J. Conklin
Administrative Judge

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

Cc: Michael P. Donahue via email to: mpd@commlawgroup.com

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August 28, 2023

NOTICE CONCERNING ATTORNEY REPRESENTATION IN CONTESTED CASE PROCEEDINGS BEFORE THE COMMISSION

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.¹

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.² The Tennessee Court of Appeals differentiates between “informal, information gathering proceeding[s]” wherein

¹ Tenn. Code Ann. § 4-5-102(3) (2023).

² 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.³

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.⁴ 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.⁵ 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:



Kelly Cashman Grams, General Counsel

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

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

⁵ *Id.*