



NOTICE REQUIRING ENTRY OF ATTORNEY APPEARANCE

DOCKET: 24-00042

IN RE: *Application of Fiber Connect d/b/a Fiber Connect Tennessee, LLC for a Certificate to Provide Access Telecommunications Services Throughout the State of Tennessee*

DATE: July 15, 2024

Notice is hereby given that the Application in this docket was filed without attorney representation as required by Tennessee law. Therefore, Fiber Connect d/b/a Fiber Connect Tennessee, LLC ("Fiber Connect" or "Company") is hereby notified that failure to have a Tennessee licensed attorney enter an appearance on behalf of the Company within thirty (30) days of the date of this Notice may result in a dismissal of the application and closure of the docket.

The Commission published a Notice Concerning Attorney Representation in Contested Case Proceedings Before the Commission ("Notice on Representation") on August 28, 2023. A copy of the Notice on Representation is attached hereto as Exhibit 1 and incorporated as if written verbatim herein. An application for a certificate of public convenience and necessity, whether providing telecommunications services or other services, is deemed a contested case by statute. *See* Tenn. Code Ann. § 4-5-102. As a result, Fiber Connect is required to be represented by an attorney licensed to practice in the State of Tennessee or otherwise admitted to practice *pro hac vice* in accordance with Tenn. S. Ct. R. 19.

FOR THE TENNESSEE PUBLIC UTILITY COMMISSION:

Aaron J. Conklin
Administrative Judge

Original in Docket File 24-00042
cc: Interested Parties of Record

EXHIBIT 1

TENNESSEE PUBLIC UTILITY COMMISSION



Andrew Jackson State Office Bldg.
502 Deaderick Street, 4th 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

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.*