

**IN THE TENNESSEE PUBLIC UTILITY COMMISSION
AT NASHVILLE TENNESSEE**

IN RE:)	
)	
COMPLAINT AND PETITION AGAINST)	
LMK COMMUNICATIONS, LLC FOR)	
ALLEGED VIOLATIONS OF THE)	DOCKET NO. 24- <u>00056</u>
STATUTES AND RULES REGULATING)	
SMALL AND MINORITY-OWNED)	
TELECOMMUNICATIONS BUSINESS)	
PARTICIPATION PLANS)	

COMPLAINT AND PETITION TO CONVENE A SHOW CAUSE PROCEEDING

Comes now the Tennessee Public Utility Commission (“TPUC” or “Commission”) Staff as a party (“Party Staff” or “Petitioner”) in accordance with Tenn. Code Ann. §§ 65-2-106 and 65-4-120 and requests that the Administrative Judge delegated authority by the Commission issue an Order requiring LMK Communications, LLC (“LMK” or “Company”) to appear before the Commission to show cause why the Commission should not impose civil penalties and sanctions against the Company for failing to submit the annual update to the small and minority-owned telecommunications business participation plan (“SMBP Plan”) as required by Tenn. Code Ann. § 65-5-112.

JURISDICTION

The Commission has a duty to ensure that “all laws of this state over which they have jurisdiction are enforced and obeyed, that violations thereof are promptly prosecuted, and all penalties due the state are collected.”¹ Further, the Commission is specifically authorized to issue an order requiring a respondent to appear and show cause why the Commission should not take

¹ Tenn. Code Ann. § 65-1-113 (2022).

action as may be indicated in the show cause order.² In addition, upon finding that a public utility has violated or failed to comply with regulatory requirements, the Commission is authorized to impose a civil penalty of up to “fifty dollars (\$50.00) for each day of any such violation or failure”³

RELEVANT FACTS

1. LMK is a limited liability company established in the state of North Carolina and duly authorized to conduct business in the state of Tennessee. The Company’s principal office and mailing address are located at 6205-B Peachtree Dunwoody Rd., Atlanta, GA 30328-4524.

2. LMK was issued a Certificate of Public Convenience and Necessity (“CCN”) to provide competing local telecommunications services throughout the state of Tennessee in Docket No. 09-00117.⁴

3. LMK was required to file an SMBP Plan with the Commission with its application for a CCN. In addition, LMK is required to update the SMBP Plan filed with the Commission annually, on or before April 30th.

4. LMK did not submit the annual update of its SMBP Plan for 2024, which was due April 30, 2024.

5. Commission Staff sent a reminder letter to LMK on April 1, 2024. In addition, Commission Staff sent a follow up email to the Company on May 21, 2024. Commission Staff attempted to contact a Company representative by telephone on May 24, 2024 and June 26, 2024, but said Company representative’s voice mailbox was full and not accepting new messages on

² Tenn. Code Ann. § 65-2-106 (2022).

³ Tenn. Code Ann. § 65-4-120 (2022).

⁴ *In re: Application of LMK Communications, Inc. for a CCN as a Facility Based and Resold Local Exchange Interexchange Services*, Docket No. 09-00117, *Initial Order Granting CCN* (December 2, 2009).

both dates. Finally, Commission Staff mailed a follow up letter and its Registered Agent requesting the Company file its annual SMBP Plan update on July 3, 2024.

6. As of the date of this filing, LMK has neither responded to the Commission Staff's contacts nor filed its 2024 SMBP Plan annual update.

7. It is noted that the Company submitted a letter in March 2020 indicating that LMK was not considered a small business and would therefore not continue to provide SMBP plans or updates.

ALLEGED VIOLATIONS OF STATE LAW

8. The facts alleged in paragraphs 1 through 7 constitute a violation of Tenn. Code Ann. § 65-5-112, which states, in relevant part:

Each telecommunications service provider shall file with the commission a small and minority-owned telecommunications business participation plan within sixty (60) days of June 6, 1995. Competing telecommunications service providers shall file such plan with the commission with their application for a certificate. Such plan shall contain such entity's plan for purchasing goods and services from small and minority telecommunications businesses and information on programs, if any, to provide technical assistance to such businesses. All providers shall update plans filed with the commission annually.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests the Commission open a docket to consider this *Complaint and Petition to Convene a Show Cause Proceeding* and issue an Order requiring LMK to appear before the Commission to show cause why it should not be found in violation of state

law the Commission should not impose civil penalties and sanctions to the maximum extent allowed by law.

Respectfully submitted,



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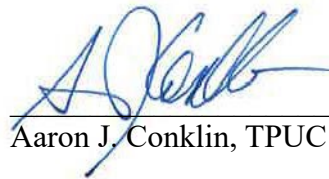
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was serve via U.S. Mail or electronic mail upon:

LMK Communications, LLC
6205-B Peachtree Dunwoody Rd.
Atlanta, GA 30328-4524

LMK Communications, LLC
c/o Corporation Service Company, Registered Agent
2908 Poston Ave.
Nashville, TN 37203

This the 27th day of August, 2024.



Aaron J. Conklin, TPUC Senior Counsel