

# TENNESSEE PUBLIC UTILITY COMMISSION



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

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.*