

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF HOLLY CREEK)
PRODUCTION CORPORATION TO INCREASE) CASE NO.
ITS RATES AND CHARGES FOR PROVIDING) 2007-00007
FARM TAP SERVICE PURSUANT TO)
KRS 278.485)

ORDER

Holly Creek Production Corporation (“Holly Creek”) has filed a request with the Commission to increase its rates for farm tap service provided pursuant to KRS 278.485. Holly Creek, a Kentucky corporation, is a wholly owned subsidiary of Beh Brothers, Inc., an Iowa corporation. The application is signed by Carleton D. Beh, Jr. on behalf of Holly Creek. On information and belief, Mr. Beh is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice. SCR 2.100. The practice of law is:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.¹

It includes, as Kentucky’s highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.

¹ Kentucky Supreme Court Rule 3.020.

As to its own proceedings, this Commission has adopted a similar position and has required that those representing the interests of others before us be licensed attorneys. In a previous case, the Commission ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.²

Based on the above, the Commission finds that Holly Creek's application fails to comply with Kentucky law and should not be accepted for filing. The Commission further finds that Holly Creek shall be afforded the opportunity to file an application signed by an attorney licensed to practice law in Kentucky.

IT IS THEREFORE ORDERED that:

1. The application is rejected for filing.
2. Holly Creek shall be permitted to file an application submitted by an attorney licensed to practice in Kentucky within 10 days of the date of this Order.
3. At the end of the 10-day period, if Holly Creek has not filed a new application, this case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 9th day of January, 2007.

By the Commission

ATTEST:


Executive Director

² Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. P.S.C. June 15, 1981) at 2.