

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|--------------------------------------|---|------------|
| ELECTRONIC APPLICATION OF WINDSTREAM |) | |
| KENTUCKY EAST, LLC AND WINDSTREAM |) | |
| KENTUCKY WEST, LLC FOR A DECLARATION |) | CASE NO. |
| OF COMPLIANCE WITH DIRECTORY |) | 2023-00203 |
| REQUIREMENTS APPLICABLE TO ELECTING |) | |
| TELEPHONE COMPANIES PURSUANT TO KRS |) | |
| 278.541 TO 278.544 |) | |

ORDER

On June 15, 2023, Sarah Barnett, on behalf of Windstream Kentucky East, LLC and Windstream Kentucky West, LLC (collectively, Windstream), tendered for filing an application for a declaratory order pursuant to 807 KAR 5:001, Section 19. On information and belief, Sarah Barnett is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without a license to practice in Kentucky, or if licensed in another state, without authorization under rules established by the Kentucky Supreme Court for pro hac vice admission,¹ which require, among other things, that the out of state attorney engage an attorney licensed in Kentucky as co-counsel.²

The practice of law is any 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.³

¹ See KRS 524.130.

² See Kentucky Supreme Court Rule 3.030(2).

³ Kentucky Supreme Court Rule 3.020.

It includes, as Kentucky's highest court held in *Kentucky State Bar Association v. Henry Vogt Machine Co.*,⁴ the representation of a business before a state administrative agency.

Based on the Kentucky Supreme Court Rules, the Commission held 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 as co-counsel.⁵

It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.

Commission regulations incorporate these sentiments. Commission regulation 807 KAR 5:001, Section 4(4), states in part: "A person shall not file a paper on behalf of another person, or otherwise represent another person, unless the person is an attorney licensed to practice law in Kentucky or an attorney who has complied with SCR 3.030(2)."

Based on the above, the Commission finds that Windstream's application fails to comply with Kentucky law and cannot be accepted for filing. We further find that Windstream should be granted ten days from the date of this Order to have an attorney licensed to practice law in Kentucky file a signed application in this case. Windstream's failure to have an attorney file a timely application in this case will result in dismissal without prejudice of Windstream's application.

IT IS THEREFORE ORDERED that:

1. The application filed by Windstream is rejected for filing.

⁴ *Kentucky State Bar Association v. Henry Vogt Machine Co.*, 416 S.W.2d 727 (Ky. 1967).


⁵ Administrative Case No. 249, *Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky* (Ky. PSC June 15, 1981) at 2.

2. Within ten days of the date of service of this Order, Windstream shall have an attorney licensed to practice law in Kentucky file a signed application. Failure to have an attorney file a signed application in this case will result in dismissal without prejudice of the application and its removal from the Commission's docket without further Order.

3. A copy of this Order shall be served on Windstream by U.S. certified mail, return receipt requested at 4001 Rodney Parham Road, Little Rock, AR 72212.

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PUBLIC SERVICE COMMISSION



Chairman



Vice Chairman



Commissioner

ENTERED
AUG 02 2023 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

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