

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|-------------------------|---|---------------------|
| WISPNET, LLC |) | |
| |) | |
| COMPLAINANT |) | |
| |) | |
| V. |) | CASE NO. 2006-00413 |
| |) | |
| XSPEDIUS COMMUNICATIONS |) | |
| |) | |
| DEFENDANT |) | |

O R D E R

Wisnet, LLC (“Wisnet”) has filed a formal complaint with the Commission against Xspedius Communications (“Xsepdius”). The complaint is signed by Mark Hayes, President of CLEC Services for Wisnet. Below Mr. Hayes’s signature he lists “Ms. Miller, Esq.” of Greenebaum, Doll and McDonald as the attorney. Ms. Miller’s signature does not appear on the complaint. On information and belief, Mr. Hayes 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.¹ 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.²

¹ Kentucky Supreme Court Rule 2.100.

² Kentucky Supreme Court Rule 3.020.

The practice of law 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.

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.³

The Commission therefore finds that Wispnet's complaint fails to comply with Kentucky law and should not be accepted for filing. The Commission further finds that Wispnet should be afforded the opportunity to file a complaint signed by an attorney licensed to practice law in Kentucky.

IT IS THEREFORE ORDERED that:

1. The complaint is rejected for filing.
2. Within 10 days of the date of this Order, an attorney licensed to practice in Kentucky shall be permitted to file a complaint on behalf of Wispnet.

³ 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.

Done at Frankfort, Kentucky, this 27th day of September, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

Executive Director