

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION FOR DESIGNATION AS AN)	
ELIGIBLE TELECOMMUNICATIONS CARRIER)	CASE NO.
FOR THE PURPOSES OF RECEIVING)	2007-00029
FEDERAL UNIVERSAL SERVICE SUPPORT)	
PURSUANT TO SECTION 214(E)(2) OF THE)	
TELECOMMUNICATIONS ACT OF 1996)	

O R D E R

On January 18, 2007, Midwestern Telecommunications, Inc. ("MTI") filed an application requesting to be designated as an eligible telecommunications carrier under the provisions of 47 U.S.C. § 214. The application was filed by the Director of Operations for MTI.

Nowhere in the application is the Director of Operations identified as an attorney licensed to practice law in the Commonwealth of Kentucky. Kentucky law prohibits corporations from practicing law.¹ The practice of law is broadly defined in Kentucky Supreme Court Rule 3.020, which states:

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. . . .

Seeking designation as an eligible telecommunications carrier is a service involving the practice of law within the context of the rule.

¹ Kentucky State Bar Association v. First Federal Savings and Loan Assoc. of Covington, 342 S.W.2d 397 (Ky. 1961).

Additionally, in Administrative Case No. 249,² the Commission acknowledged Supreme Court Rule 3.030, which requires counsel who are not licensed to practice law in Kentucky to engage a member of the Kentucky Bar Association as co-counsel. Said co-counsel must appear with the non-licensed attorney in any proceeding before the Commission.

Accordingly, MTI must be represented before the Commission by counsel licensed to practice in Kentucky.

MTI has previously filed an application for designation as an eligible telecommunications carrier in Kentucky.³ That application was not signed by counsel licensed to practice in Kentucky. MTI was afforded an opportunity to submit its application by Kentucky counsel but failed to do so. The docket was dismissed without prejudice to its resubmittal when represented by Kentucky counsel.⁴

The Commission finds that MTI's second application should be dismissed without prejudice to MTI's resubmittal of the application by Kentucky counsel. Should MTI resubmit this application, it must do so through counsel licensed to practice in Kentucky. Also, should MTI resubmit this application, its resubmittal must include a description of the facilities which it obtains from BellSouth Telecommunications, Inc. This application,

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

³ Case No. 2006-00159, Petition by Midwestern Telecommunications, Inc. (MTI), for Designation as an Eligible Telecommunications Carrier in the State of Kentucky for the Purpose of Receiving Federal Universal Service Fund Support.

⁴ Id., Order dated June 27, 2006.

filed January 18, 2007, states at ¶ 5 that MTI offers all of the supported services enumerated under 47 U.S.C. § 254(c) by “using facilities obtained as UNEs from BellSouth.” BellSouth no longer provides an unbundled network element platform through interconnection agreements. Should MTI decide to resubmit this application, it must include an analysis of the Commission’s decisions in two recent cases, Case No. 2005-00474⁵ and Case No. 2006-00060⁶ and their effects on MTI’s application.

IT IS THEREFORE ORDERED that:

1. MTI’s petition for eligible telecommunications services is dismissed, without prejudice, for the applicant’s failure to obtain legal counsel licensed in the Commonwealth of Kentucky to represent it in this matter. MTI may resubmit the application, complying with the Commission’s requests herein.

2. This matter is removed from the Commission’s docket.

Done at Frankfort, Kentucky, this 19th day of February, 2007.

By the Commission

ATTEST:



Executive Director

⁵ Case No. 2005-00474, Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier (Order dated August 29, 2006).

⁶ Case No. 2006-00060, Petition of 1-800-Reconex, Inc., d/b/a U.S. Tel for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky (Order dated August 29, 2006).