

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 13A-1337T

IN THE MATTER OF THE APPLICATION OF SAGE TELECOM COMMUNICATIONS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER IN THE
STATE OF COLORADO FOR THE PURPOSE OF OFFERING WIRELESS LIFELINE
SERVICE.

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
REGARDING SAGE TELECOM'S REPRESENTATION**

Mailed Date: February 7, 2014

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On December 18, 2013, Sage Telecom Communications LLC (Applicant) filed an Application for Designation as an Eligible Telecommunications Carrier in the State of Colorado for the Limited Purpose of Offering Wireless Lifeline Service (Application). The Application was submitted by counsel for Applicant, Mr. Tony S. Lee with Fletcher, Heald & Hildreth, PLC, a law firm based out of Arlington, Virginia.

2. On December 31, 2013, Applicant amended its Application to exclude service for tribal areas pursuant to Federal Communications Commission Rule 47 *Code of Federal Regulations* § 54.403(a)(2). This filing was also submitted by counsel for Applicant, Mr. Tony S. Lee.

3. Based upon the Application and the amendment thereto, it appears that Mr. Tony Lee is an attorney practicing law in Virginia. Neither filing indicates that Mr. Lee is licensed to practice law in the State of Colorado. For example, neither filing includes counsel's

Colorado attorney registration number. *See* Rule 1201(c) of the Commission’s Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1.

4. Rule 1201(a) requires that Applicant be represented by “an attorney at law, currently in good standing before the Colorado Supreme Court or the highest tribunal of another state as authorized in [Colorado Rule of Civil Procedure] 221.1.” 4 CCR 723-1.

5. As relevant here, Colorado Rule of Civil Procedure (Colo.R.Civ.P.) 221.1 provides that a state agency, such as the Commission, may permit an out-of-state attorney to appear in a proceeding before it under the same filing requirements as set forth in Colo.R.Civ.P. 221, except that the requirements found in Colo.R.Civ.P. 221(a)(ii), (b)(vi), and (b)(viii) do not apply.

6. As pertinent here, Colo.R.Civ.P. 221 provides:

(a) In order to be permitted to appear as counsel in a [Commission proceeding], the attorney must first:

(i) File a verified motion requesting permission to appear with the [Commission];

(iii) File a copy of the verified motion with the Clerk of the Colorado Supreme Court at the Attorney Registration Office at the same time the verified motion is filed with the [Commission];

(iv) Pay a \$250 fee to the Clerk of the Colorado Supreme Court collected by the Attorney Registration Office; and

(v) Obtain permission from the [Commission] for such appearance.

(b) In the verified motion requesting permission to appear, the attorney must include:

(i) A statement identifying all jurisdictions in which the attorney has been licensed;

(ii) A statement identifying by date, case name, and case number all other matters in Colorado in which *pro hac vice* admission has been sought in the preceding five years, and whether such admission was granted or denied;

(iii) A statement identifying all jurisdictions in which the attorney has been publicly disciplined, or in which the attorney has any pending disciplinary proceeding, including the date of the disciplinary action, the nature of the violation, and the penalty imposed;

(iv) A statement identifying the party or parties represented, and that the attorney has notified the party or parties represented of the verified motion requesting permission to appear;

(v) A statement that the attorney acknowledges he or she is subject to all applicable provisions of the Colorado Rules of Professional Conduct and the Colorado Rules of Civil Procedure, and that such rules have been read and will be followed throughout the *pro hac vice* admission, and that the verified motion complies with those rules; [and]

(vii) A certificate indicating service of the verified motion upon all counsel of record and the attorney's client in the matter in which leave to appear *pro hac vice* is sought[.]

7. Counsel for Applicant, Mr. Lee, has not complied with Colo.R.Civ.P. 221.

8. The Administrative Law Judge will order that Applicant choose to do *one* of the following: (1) obtain counsel licensed to practice law in the State of Colorado and have counsel file an entry of appearance on its behalf with the Commission; *or* (2) have its out-of-state counsel file a verified motion for *pro hac vice* admission that complies with Colo.R.Civ.P. 221; *or*, (3) if its out-of-state counsel is licensed to practice law in the State of Colorado, counsel shall make a filing so stating, which shall include counsel's Colorado attorney registration number.

9. If Applicant's out-of-state counsel files a motion for *pro hac vice* admission, counsel must confer in good faith with all parties to this proceeding regarding their position on the motion. The motion must include a statement regarding conferral.

10. **Applicant is advised and on notice** that failure to comply with this Decision may result in the dismissal of its Application without prejudice. *See, e.g.*, Decision No. C05-1018, Proceeding No. 04A-524W issued August 30, 2005; No. C04-1119, Proceeding No. 04G-101CP issued September 28, 2004; and No. C04-0884, Proceeding No. 04G-101CP issued August 2, 2004.

II. **ORDER**

A. **It Is Ordered That:**

1. **On or by 5:00 p.m. MST on February 21, 2014**, Applicant Sage Telecom Communications LLC shall: (1) obtain counsel licensed to practice law in the State of Colorado and have counsel file an entry of appearance on its behalf with the Commission; *or* (2) have its out-of-state counsel file a verified motion for *pro hac vice* admission that complies with Colorado Rule of Civil Procedure (Colo.R.Civ.P.) 221; *or*, (3) if its out-of-state counsel is licensed to practice law in the State of Colorado, counsel shall make a filing so stating, which shall include counsel's Colorado attorney registration number.

2. If Applicant's out-of-state counsel files a verified motion for *pro hac vice* admission, counsel must confer in good faith with all parties to this proceeding regarding their position on the motion. The motion must include a statement regarding conferral.

3. Mr. Tony S. Lee may not represent Applicant in this proceeding until the Administrative Law Judge finds that counsel has complied with Colo.R.Civ.P. 221 and grants leave for said counsel to appear in this proceeding, or until Mr. Lee makes a filing indicating that he is licensed to practice law in the State of Colorado as set forth in Ordering Paragraph 1.

4. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Doug Dean".

Doug Dean,
Director