

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of Petition of CenturyLink and)
Dex Media, Inc. for a Waiver of or Exemption) Docket No. 16-UTDT-568-MIS
from the Commission's Directive Regarding)
Distribution of Telephone Directories)

MOTION TO DISMISS DEX MEDIA, INC. FROM PROCEEDING

The Staff of the Kansas Corporation Commission (Staff and Commission, respectively) hereby moves the Commission to dismiss Dex Media, Inc. (Dex Media) from the above captioned proceeding because Dex Media lacks standing to request relief from a directive to which it is not subject, and the Commission lacks personal and subject matter jurisdiction over Dex Media's request because Dex Media is not a public utility. Staff states the following in support of its motion:

1. On June 10, 2016, Dex Media and the United Telephone Company of Kansas d/b/a CenturyLink, United Telephone Company of Eastern Kansas d/b/a CenturyLink, United Telephone Company of Southcentral Kansas d/b/a CenturyLink, and Embarras Missouri, Inc. d/b/a CenturyLink (collectively "CenturyLink") filed a joint petition requesting a permanent waiver of, or exemption from, the requirements of the Commission's May 1, 1967 Directive concerning the Issuance of Telephone Directories ("the Directive").

2. The Directive, attached hereto as Attachment 1, states that "all telephone companies operating in the State of Kansas [shall] issue at least annually a dated telephone directory."

3. Dex Media states in the joint petition that it is the “official” publisher of directories for CenturyLink affiliates in Kansas pursuant to publishing contracts.¹

4. For the Commission to issue an enforceable order, it must act within its jurisdiction.² The Commission has jurisdiction to control the public utilities operating in the state.³ The Commission does not have jurisdiction over telephone directory publishers.

5. To request an agency action, an entity must have standing.⁴ Standing is a component of subject-matter jurisdiction, and subject-matter jurisdiction cannot be waived.⁵

6. The Commission does not have jurisdiction over Dex Media, because Dex Media is not a public utility. Furthermore, Dex Media does not have standing to request relief from the Directive, as it is not subject to the Directive.

WHEREFORE, for the reasons set forth above, Staff respectfully requests that the Commission dismiss Dex Media as a party to the proceeding.

Respectfully Submitted,



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¹See Petition for CenturyLink and Dex Media, Inc. for Waiver of or Exemption from the Commission’s May 1, 1967 Directive Regarding Issuance of Telephone Directories, p.2 (June 10, 2016) (Joint Petition).

²See K.S.A. 77-621(c)(2).

³See K.S.A. 66-104; K.S.A. 66-1,187.

⁴See Bd. of Cty. Commissioners of Sumner Cty. v. Bremby, 286 Kan. 745, 750 (2008) (stating: “[w]e have explained that if a person does not have standing to challenge an action or to request a particular type of relief, then “there is no justiciable case or controversy” and the suit must be dismissed.”).

⁵See Vorhees v. Baltazar, 283 Kan. 389, 397 (2007).

STATE CORPORATION COMMISSION
OF KANSAS

DIRECTIVE

May 1, 1967

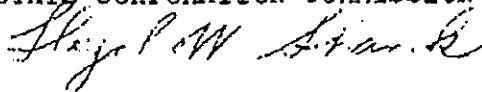
SUBJECT: Issuance of
Telephone Directories

TO ALL TELEPHONE COMPANIES:

Commission Conference was held on April 27, 1967 and it was determined that all telephone companies operating in the State of Kansas issue at least annually a dated telephone directory.

Yours very truly,

STATE CORPORATION COMMISSION

A handwritten signature in dark ink, appearing to read "Lloyd W. Shank", is written over the typed name.

Lloyd W. Shank
DIRECTOR AND ACTING CHIEF ENGINEER

STATE OF KANSAS)
) ss.
COUNTY OF SHAWNEE)

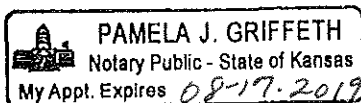
VERIFICATION

Michael Neeley, being duly sworn upon his oath deposes and states that he is Litigation Counsel for the State Corporation Commission of the State of Kansas, that he has read and is familiar with the foregoing *Motion to Dismiss Dex Media, Inc. from Proceeding* and that the statements contained therein are true and correct to the best of his knowledge, information and belief.



Michael Neeley # 25027
Kansas Corporation Commission of the
State of Kansas

Subscribed and sworn to before me this 22nd day of August, 2016.


Notary Public

My Appointment Expires: August 17, 2019

CERTIFICATE OF SERVICE

16-UTDT-568-MIS

I, the undersigned, certify that a true and correct copy of the above and foregoing Motion to Dismiss Dex Media, Inc. From Proceeding was served by electronic service on this 22nd day of August, 2016, to the following:

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/s/ Pamela Griffeth

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