

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

July 8, 2009

IN RE:

APPLICATION OF DUKENET COMMUNICATIONS LLC FOR A  
CERTIFICATE TO PROVIDE LOCAL EXCHANGE AND  
INTEREXCHANGE TELECOMMUNICATIONS SERVICES AS A  
COMPETITIVE LOCAL EXCHANGE CARRIER

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DOCKET NO.  
09-00051

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ORDER GRANTING TELEPHONIC PARTICIPATION IN HEARING

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This matter came before the Hearing Officer upon a *Motion to Appear and Participate Telephonically at Hearing* ("Motion for Telephonic Participation") filed on behalf of DukeNet Communications, LLC ("DukeNet" or "Applicant") on July 7, 2009, requesting permission for Tony Cockerham, Vice President of Sales and Operations for DukeNet, to appear and participate telephonically in the Hearing on its *Application of DukeNet Communications, LLC for a Certificate to Provide Local Exchange and Interexchange Telecommunications Services as a Competitive Local Exchange Carrier* scheduled to be held during the Tennessee Regulatory Authority's ("TRA" or "Authority") Conference on Monday, July 13, 2009 beginning at 1:00 p.m. CST.

Tenn. Code Ann § 4-5-312 (c) (2004) addresses electronic participation at a hearing as follows:

(c) In the discretion of the administrative judge or hearing officer and agency members and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

In its *Motion for Telephonic Participation*, DukeNet asserts that Mr. Cockerham resides outside of the State of Tennessee and his personal appearance would be burdensome. Further,

Applicant acknowledges and agrees to comply with the conditions for telephonic participation, which are noted below. In accordance with the above-referenced statute, and considering that DukeNet has made its request in a timely manner, the Hearing Officer hereby grants the request for telephonic appearance and participation in the Hearing, as noted above, conditioned upon the following:

1. DukeNet shall have its attorney, whom is either licensed to practice law in Tennessee or has been granted permission to appear *pro hac vice* before the Tennessee Regulatory Authority prior to the subject hearing, appear personally at the scheduled time and place of the Hearing to present the Applicant's telephonic witnesses and to facilitate the questioning of each such witness.

2. DukeNet is solely responsible for, and shall be required to, secure a properly licensed Notary Public in good standing in the State or jurisdiction where the witness is physically located at the time he/she provides telephonic testimony, and who will appear with any company representative or witness who at the Hearing is called to give telephonic testimony or to telephonically ratify pre-filed testimony.

3. The Notary Public secured by the DukeNet, as noted above, shall be qualified and duly authorized to administer the Testimonial Oath to the witness providing testimony by telephone, and shall do so during the Hearing and remain in the physical presence of and observe the witness at all times during his/her testimony until such witness is excused from examination by the Authority panel or Hearing Officer.

4. Following the conclusion of the Hearing, the Notary Public shall execute an Affidavit affirming the proven identity of the telephonic witness sworn by the Notary Public and that the telephonic testimony provided by the telephonic witness was in accordance with the highest ethical and legal standards, as observed by the Notary Public. The Affidavit shall bear the official seal of the signing Notary Public, and the testifying witness shall additionally be required to sign a conforming Witness Certification. (As a courtesy, sample forms of the *Witness Certification* and *Notary Public Affidavit* are attached hereto as Exhibit A.)

5. Original copies of both the Witness Certification and Notary Public Affidavit described above must be post-marked within five (5) days of the Hearing and received by the Hearing Officer via postage-paid U.S. Mail. In the event that properly executed original Witness Certification and Notary Public Affidavits containing the affirmations noted above fails to be produced to the Hearing Officer as set forth herein, the testimony of the witness may be struck from the record, and may constitute grounds sufficient for denial or subsequent revocation of the application.

**IT IS THEREFORE ORDERED THAT:**

1. Mr. Tony Cockerham, Vice President of Sales and Operations for DukeNet, whom resides outside of the State of Tennessee, is permitted, subject to the conditions set forth in this Order, to appear and participate telephonically in the Hearing scheduled to be held during the Authority Conference on **July 13, 2009 beginning at 1:00 p.m. CST.**

2. For the convenience of all parties and to avoid disruption of the proceedings, all authorized persons participating by telephone shall call (615) 532-7746 approximately ten (10) minutes in advance of the commencement time set for the Hearing. The Authority Conference is expected to begin promptly at the aforementioned time.

  
Kelly Cashman-Grams, Hearing Officer

cc: Interested Parties;  
Original in Docket File

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**IN RE:**

**(Case Style)**

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**Docket No. 00-00000**

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**WITNESS CERTIFICATION**

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Affiant, after first being duly sworn according to law, deposes and states as follows:

I, \_\_\_\_\_, attest and certify that I provided testimony via telephone before the Tennessee Regulatory Authority at the Hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. I have read the Affidavit of the Notary Public, Mr./Mrs. \_\_\_\_\_, who administered the Testimonial Oath to me and thereafter witnessed my testimony, and I further acknowledge and affirm that the testimony I provided proceeded as stated therein.

**FURTHER WITNESS SAITH NOT.**

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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**SIGNATURE OF WITNESS**

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**NAME OF WITNESS (Printed)**

**EXHIBIT A**

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**IN RE:**

**(Case Style)**

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**Docket No. 00-00000**

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**NOTARY PUBLIC AFFIDAVIT**

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Affiant, after first being duly sworn according to law, deposes and states as follows:

1. I am \_\_\_\_\_, a Notary Public in good standing in the State of \_\_\_\_\_, County of \_\_\_\_\_. All statements set out in this Affidavit are made of my own personal knowledge.

2. My business address and telephone phone where I may be contacted is:

\_\_\_\_\_

3. Mr./Ms. \_\_\_\_\_ (Witness") personally appeared before me and provided \_\_\_\_\_ (type of identification) which I verified, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ for the purpose of providing sworn testimony via telephone at a Hearing before the Tennessee Regulatory Authority.

3. During the Hearing, on the record, I administered the testimonial oath to Witness prior to the Witness providing testimony via telephone before the Tennessee Regulatory Authority.

4. I remained physically present with the Witness at all times during the Witness' testimony until such Witness was excused from examination by the Hearing Officer.

5. The testimony I observed being given by the Witness was in accordance with the highest ethical and legal standards.

**FURTHER AFFIANT SAITH NOT.**

WITNESS my hand, at office, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**(OFFICIAL SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC**

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**NOTARY PUBLIC (Printed)**

My Commission Expires:

SAMPLE