

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 18, 2010

IN RE:)	
)	
APPLICATION OF MOBILITIE, LLC FOR A CCN)	DOCKET NO.
TO PROVIDE COMPETING LOCAL)	09-00204
TELECOMMUNICATIONS SERVICES IN)	10-00191
TENNESSEE)	

ORDER GRANTING TELEPHONIC PARTICIPATION IN HEARING

This matter came before the Hearing Officer upon the *Motion of Mobilitie, LLC to Permit Gene Beall to Adopt the Sworn Pre-Filed Testimony of Yvonne Schroeder de Orr and to Appear Telephonically at Hearing* ("Motion for Telephonic Participation") filed on behalf of Mobilitie, LLC ("Mobilitie" or "Applicant") on November 17, 2010. In its *Motion for Telephonic Participation*, Applicant requests permission for Mr. Gene Beall to adopt the sworn pre-filed testimony of Yvonne Schroeder de Orr, attached to Mobilitie's *Application* at Exhibit N, and to appear telephonically during the Hearing scheduled on November 22, 2010 at 1:00 p.m. CST.

Under the Tennessee Administrative Procedures Act, decisions involving telephone participation in a hearing are within the hearing officer's discretion:

(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.¹

Applicant asserts that in good faith and for various reasons, including economic efficiency, it requests permission for its witness to appear and provide testimony by telephone. In

consideration of Mobilitie's requests and the proper exercise of statutory discretion, the Hearing Officer grants Applicant's *Motion for Telephonic Participation*, with the following conditions:

1. Applicant shall have its attorney appear personally at the Hearing to present the Applicant's telephonic witness, Mr. Gene Beall, and to facilitate questioning of such witness.

2. Applicant is required to and solely responsible for securing a properly licensed Notary Public in good standing in the State or jurisdiction from which the witness will be providing telephonic testimony. The Notary Public must be present in the same physical location and appear with the witness providing testimony by telephone.

3. The Notary Public retained by Applicant shall administer the Testimonial Oath to the witness during the Hearing. The Notary Public is required to remain in the presence of the witness at all times during the testimony and until such time as the witness is excused from examination by the Authority panel or Hearing Officer.

4. Following the Hearing, the Notary Public must prepare and sign an Affidavit, bearing the official seal of the signing Notary Public, affirming, (1) the proven identity of the telephonic witness, (2) that the Notary Public in-fact swore such person, and (3) that the testimony given by the sworn witness complied with the highest ethical and legal standards, as observed by the Notary Public. In addition, the Witness is required to sign a conforming Witness Certification. (As a courtesy, Exhibit A to this Order contains sample forms of the *Witness Certification and Notary Public Affidavit*.)

5. The original Witness Certification and Notary Public Affidavit must be post-marked within five (5) days of the Hearing and received by the Authority's Docket Manager via postage-paid U.S. Mail. In the event that the affirming documents are not received by the Authority as described above, the testimony of the witness may be struck from the record and

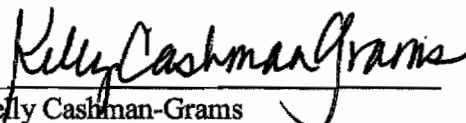
¹ Tenn. Code Ann § 4-5-312(c) (2004).

constitute sufficient cause for denial of the application.

IT IS THEREFORE ORDERED THAT:

1. Subject to the conditions set forth in this Order, Mr. Gene Beall, Senior Vice President, Strategy and Services, Mobilitie, LLC may adopt the pre-filed testimony of Yvonne Schroeder de Orr and appear telephonically during the Hearing noticed for November 22, 2010 at 1:00 p.m. CST.

2. To avoid disruption of other matters scheduled for the consideration of the Authority, persons authorized to participate by telephone shall call (615) 532-7746 at least ten minutes before the noticed start time of the Hearing.



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

WITNESS CERTIFICATION

Affiant, duly sworn according to law, states as follows:

I, _____, attest and certify that on the _____ day of _____, 20____, I gave sworn testimony by telephonic means at a Hearing held before the Tennessee Regulatory Authority. I have read the Affidavit of the Notary Public, Mr. /Mrs. _____, who administered the Testimonial Oath to me and witnessed my testimony, and I further acknowledge and affirm that the testimony I provided compiled with the highest ethical and legal standards.

FURTHER WITNESS SAITH NOT.

WITNESS my hand, at office, this _____ day of _____, 20____.

SIGNATURE OF WITNESS

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

NOTARY PUBLIC AFFIDAVIT

Affiant, duly sworn according to law, states as follows:

1. I, _____, am a Notary Public in good standing in the State of _____, County of _____. This Affidavit is made of my own personal knowledge.

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

3. To provide sworn testimony by telephone before the Tennessee Regulatory Authority, _____ ("Witness") appeared personally before me and provided _____ (type of identification), which I verified, on the ____ day of _____, 20__.

3. During the Hearing, I properly administered the testimonial oath and swearing of the Witness before he/she provided testimony via telephone before the Tennessee Regulatory Authority.

4. I remained in the presence of the Witness at all times during the testimony and until such Witness was excused from examination by the Authority panel or Hearing Officer.

5. The testimony 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

NOTARY PUBLIC (Printed)

My Commission Expires:

SAMPLE