

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 11, 2012

IN RE:

APPLICATION OF COMMON POINT LLC FOR  
A CCN TO PROVIDE COMPETING LOCAL  
TELECOMMUNICATIONS SERVICES

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DOCKET NO.  
12-00113

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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 Common Point, LLC (“Applicant”) on October 11, 2012. In its *Motion for Telephonic Participation*, Applicant requests permission to participate telephonically in the Hearing on its *Application for Certificate to Provide Competing Local Telecommunication Services* (“*Application*”), scheduled for hearing before the TRA panel during the regularly scheduled Authority Conference on October 15, 2012, beginning 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.<sup>1</sup>

In support of its request for telephonic participation, Applicant asserts that personal attendance of Applicant’s witness, who resides outside the State of Tennessee, would be burdensome.

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<sup>1</sup> Tenn. Code Ann § 4-5-312(c) (2011).

Further, Applicant acknowledges and agrees to comply with the conditions of telephonic participation required by the Authority in previous dockets. Therefore, in accord with the above-referenced statute and considering the request timely made, 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 and to facilitate the questioning of such witness. Prior to the hearing, Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Authority to appear *pro hac vice*.<sup>2</sup>

2. Applicant is solely responsible for and required to secure a properly licensed Notary Public in good standing in the State or jurisdiction where the witness is giving telephonic testimony. The Notary Public will be in the same physical location and appear with any company representative or witness providing testimony at the Hearing by telephone.

3. It is necessary that the Notary Public retained by Applicant be authorized and shall administer the Testimonial Oath during the Hearing. The Notary Public is further required to remain in the presence of and with the witness during his/her testimony and until such time as the witness is excused from examination by the Authority panel or Hearing Officer.

4. Upon conclusion of the Hearing, the Notary Public will prepare and sign an Affidavit, bearing the official seal of the signing Notary Public, affirming, (1) the proven identity of the witness, (2) the fact that the Notary Public swore such person, and (3) that the testimony given by the sworn witness has 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 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 via postage-paid U.S. Mail. Should the Certification and Affidavit not be received by the Authority, as required above, the testimony of the witness may be struck from the record and constitutes sufficient cause for subsequent denial of the application.

**IT IS THEREFORE ORDERED THAT:**

1. Subject to the conditions set forth in this Order, Common Point's witness may appear and participate telephonically in the Hearing noticed for October 15, 2012, 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 start time of the Hearing**. The proceedings will begin promptly.

  
Kelly Cashman-Grams  
Hearing Officer

cc: Interested Parties  
Original in Docket File

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<sup>2</sup> See, Tenn R. and Regs. 1220-1-2-.04(7), which states, "Out of state counsel shall comply with T.C.A. [Tenn. Code Ann.] 23-3-103(a) and Tennessee Supreme Court Rule 19, except the affidavit referred to in the latter rule shall be filed with the Chair of the Authority."

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**IN RE:**

**(Case Style)**

**Docket No. 03-00000**

**WITNESS CERTIFICATION**

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

I, \_\_\_\_\_, attest and certify that on \_\_\_\_\_ 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 complied with the highest ethical and legal standards.

**FURTHER WITNESS WITH 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