

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

February 21, 2013

IN RE:

PETITION OF MCGRAW COMMUNICATIONS, INC.)	DOCKET NO.
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND)	12-00134
NECESSITY TO PROVIDE COMPETING LOCAL)	
EXCHANGE AND INTEREXCHANGE)	
TELECOMMUNICATIONS SERVICES IN TENNESSEE)	

ORDER GRANTING TELEPHONIC PARTICIPATION IN HEARING

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 McGraw Communications, Inc. ("McGraw" or "Applicant") on February 21, 2013.¹ In its *Motion for Telephonic Participation*, McGraw requests permission for its company representatives and witness to participate telephonically in the Hearing on its *Petition*, scheduled for hearing before the Hearing Officer at 10:30 a.m. CST on February 26, 2013.

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.²

¹ On February 15, 2013, a similar, but not identical, *Motion to Appear and Participate Telephonically at Hearing* was filed by Mr. Lance J.M. Steinhart, attorney for McGraw Communications, Inc., who is not licensed to practice law in, and resides outside, Tennessee. As both the instant and the February 15th motions request the same relief, but the latter-filed motion more fully complies with the Authority's requirements for requesting telephonic participation and also complies with Tenn R. and Regs. 1220-1-2-.04(7) and Tenn. Sup. Ct. R. 19 concerning the appearance of local counsel in these proceedings, the former motion is considered duplicative and is disregarded by the Hearing Officer in this docket.

² Tenn. Code Ann § 4-5-312(c) (2011).

In support of its request for telephonic participation, McGraw asserts that personal attendance of its witness and company representatives, whom reside outside the state of Tennessee, would be burdensome. Further, Applicant states that it has engaged local counsel, H. LaDon Baltimore, to personally appear on its behalf during the hearing, and 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*, subject to the following conditions:

1. Applicant shall have its attorney (or local counsel) appear personally at the Hearing to present the Applicant's telephonic witness(es) and to facilitate the questioning of each witness. Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Authority to appear *pro hac vice*.³

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 the witness at all times during the testimony and until such time as the witness is excused from examination by the Hearing Officer.

4. After the Hearing, the Notary Public will prepare and sign an Affidavit, bearing

³ 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." See also, Tenn. Sup. Ct. R. 19 (eff. February 4, 2013).

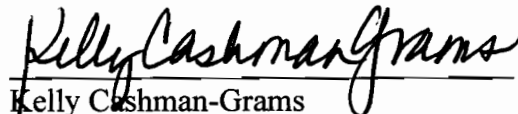
the official seal of the signing Notary Public, affirming, (1) the proven identity of the witness, (2) the fact that the Notary Public properly administered the testimonial oath to such person, and (3) that the testimony given by the sworn witness has complied with the highest ethical and legal standards, 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 Hearing Officer via postage-paid U.S. Mail. Should the required affirming documents are not received by the Hearing Officer as described above, the testimony of the witness may be struck from the record and constitute sufficient cause for denial of the application.

IT IS THEREFORE ORDERED THAT:

1. Subject to the conditions set forth in this Order, corporate representatives and witnesses of McGraw Communications, Inc. may appear and participate telephonically in the Hearing noticed for February 26, 2013 at 10:30 a.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 Hearing will begin promptly.


Kelly Cashman-Grams
Hearing Officer

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:

(Case Style)

)
)
)
)
)
)

Docket Number 000000

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.

FOR 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)

)
)
)
)
)
)
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 number 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

4. The 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. Should a proper Affidavit containing the affirmations noted above fail to be produced to the Hearing Officer as set forth herein, the testimony of the witness shall be struck from the record, which may constitute grounds sufficient for denial of the Petition.

McGraw Communications, Inc. has engaged the undersigned, H. LaDon Baltimore, a lawyer licensed to practice law in Tennessee, in good standing, admitted to practice before the Supreme Court of Tennessee and who resides in and maintains an office in Tennessee, to personally appear on their behalf.

WHEREFORE, McGraw Communications, Inc., based upon the foregoing, respectfully requests that the Commission grant its Motion to Appear and Participate Telephonically at Hearing as described herein.

This 21st day of February, 2013.

Respectfully submitted,



H. LaDon Baltimore (BPR#003836)
Farris Mathews Bobango, PLC
618 Church Street, Suite 300
Nashville, TN 37219
615-726-1200
dbaltimore@farrismathews.com

Lance J.M. Steinhart
Lance JM Steinhart, P.C.
1725 Windward Concourse, Suite 150
Alpharetta, Georgia 30005
Telephone: (770) 232-9200
Facsimile: (770) 232-9208
E-mail: lsteinhart@telecomcounsel.com
Attorneys for McGraw Communications, Inc.