

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 18, 2013

IN RE:

PETITION OF TIME WARNER CABLE BUSINESS, LLC  
D/B/A TIME WARNER CABLE FOR A CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY TO  
PROVIDE COMPETITIVE INTEREXCHANGE  
SERVICES IN TENNESSEE

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DOCKET NO.  
13-00087

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ORDER GRANTING MOTION TO ALLOW WITNESS TO  
PARTICIPATE BY TELEPHONE

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This matter is before the Hearing Officer upon a *Motion to Allow Witness to Participate by Telephone* ("Motion") filed on behalf of Time Warner Cable Business, LLC d/b/a Time Warner Cable ("TWC" or "Applicant") on October 9, 2013. In its *Motion*, TWC requests permission for its witness to participate by telephone in the hearing on its *Application for Certificate of Public Convenience and Necessity*, scheduled before the Hearing Officer at 1:00 p.m. CST on November 4, 2013.

Under the Tennessee Uniform 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, TWC asserts that personal attendance of its witness, who resides outside the state of Tennessee, would be burdensome. Further, Applicant

agrees to comply with the conditions of telephone participation required by the Authority. Therefore, in accord with the above-referenced statute and considering the request timely made, the Hearing Officer grants Applicant's *Motion*, subject to compliance with the following conditions:

1. Applicant's attorney (or local counsel) shall appear personally at the hearing to present and facilitate questioning of the Applicant's witness(es).<sup>2</sup>

2. Applicant is required and solely responsible for securing a properly licensed Notary Public, in good standing, in the State or jurisdiction where the witness is giving telephonic testimony. During the hearing, the Notary Public shall be in the same physical location and appear with the testifying witness.

3. The Notary Public secured by the Applicant shall be duly authorized to administer the testimonial oath, and shall do so during the hearing. The Notary Public is required to remain in the presence of the witness at all times during the witness' testimony until such time as the witness is excused from examination by the Hearing Officer.

4. After the hearing, the Notary Public shall prepare and sign an affidavit, which bears the official seal of the 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 was in accordance with the highest ethical and

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

<sup>2</sup> Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Authority to appear *pro hac vice*. 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).

legal standards, as observed by the Notary Public. In addition, the testifying witness shall 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's Docket Manager via postage-paid U.S. Mail. Should the required affirming documents not be received by the Docket Manager as required 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, Time Warner Cable Business, LLC d/b/a Time Warner Cable's witness may appear and participate by telephone in the hearing noticed for November 4, 2013 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 **five (5) minutes before the start time set for the hearing**. The hearing will begin promptly.

  
Kelly Cashman-Grams, Hearing Officer

**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, 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 in the above-styled docket before the Tennessee Regulatory Authority. I have read the Affidavit of the Notary Public, executed by Mr. /Mrs. \_\_\_\_\_, who administered the testimonial oath to me and witnessed my testimony, and I further acknowledge and affirm that the testimony I provided during the hearing complied with the highest ethical and legal standards.

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

1. I, \_\_\_\_\_ am a duly licensed 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 to the Witness before he/she testified by telephone before the Tennessee Regulatory Authority.

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

5. To the extent observable, 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