

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 21, 2014

IN RE:

**PETITION OF OLD HICKORY WATER, LLC TO
POST ALTERNATIVE FINANCIAL SECURITY**

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**DOCKET NO.
14-00091**

**ORDER GRANTING MOTION TO ALLOW WITNESS TO
APPEAR AND PARTICIPATE TELEPHONICALLY DURING HEARING**

This matter is before the Hearing Officer upon a *Motion to Appear and Participate Telephonically at Hearing* (“*Motion*”) filed on behalf of Old Hickory Water, LLC (“Old Hickory” or “Applicant”) on November 19, 2014. In its *Motion*, Old Hickory requests permission for its witness to participate by telephone in the hearing on its *Petition for Approval to Post Alternative Financial Security*, scheduled before the Authority panel during its Conference beginning at 1:00 p.m. CST on December 1, 2014.

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.¹

In support of its request for telephonic participation, Old Hickory asserts that personal attendance of its company representative and witness, who resides outside the state of Tennessee, would be burdensome. Further, Applicant agrees to comply with the conditions of telephone participation

¹ Tenn. Code Ann § 4-5-312(c) (2011).

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 Old Hickory's 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).²

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.

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 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-

² 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

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, which may constitute grounds sufficient for denial of the Petition.

IT IS THEREFORE ORDERED THAT:

1. Subject to the conditions set forth in this Order, Old Hickory Water, LLC's witness, Mr. John Parton, may appear and participate by telephone in the hearing noticed for December 1, 2014 at 1:00 p.m. CST.

2. To avoid disruption of other matters scheduled for the consideration of the Authority, the witness authorized to participate by telephone shall call (800) 689-9374 and enter code 233602 at least **five (5) minutes before the start time noticed for hearing.**



Kelly Cashman-Grams, Hearing Officer

in the latter rule shall be filed with the Chair of the Authority.” *See also*, Tenn. Sup. Ct. R. 19 (eff. February 4, 2013).