

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 12, 2016

IN RE:

PETITION OF TENNESSEE WASTEWATER  
SYSTEMS, INC., FOR APPROVAL OF CAPITAL  
IMPROVEMENT ASSESSMENT FOR STARR CREST  
RESORTS

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DOCKET NO.  
16-00007

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ORDER GRANTING MOTION TO ALLOW WITNESS TO  
APPEAR & PARTICIPATE BY TELEPHONE

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This matter is before the Hearing Officer upon a *Motion to Appear and Participate Telephonically at Hearing* (“*Motion*”) filed by Tennessee Wastewater Systems, Inc. (“TWSI” or “Applicant”) on April 11, 2016. In its *Motion*, TWSI requests permission for its witness, Ms. Deborah Mason, to appear and participate by telephone in the hearing on its *Petition of Tennessee Wastewater Systems, Inc., for Approval of Capital Improvement Assessment for Starr Crest Resorts*, scheduled before the panel during the Authority Conference at 1:00 p.m. CDT on April 15, 2016.

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, TWSI asserts that the personal attendance of

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<sup>1</sup> Tenn. Code Ann § 4-5-312(c) (2015).

Ms. Mason, who resides in the state of Ohio, 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.<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 testimony is to be given, and who will physically appear with Ms. Mason when called during the hearing to give live testimony or ratify pre-filed testimony.

3. The Notary Public obtained by the Applicant shall be duly authorized to administer the testimonial oath, and shall do so during the hearing and 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 Authority.

4. Following the conclusion of 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*.)

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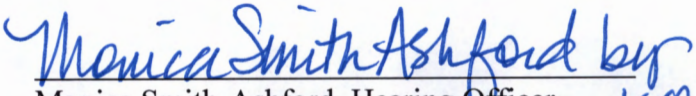
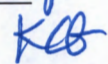
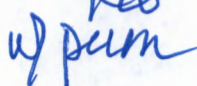
<sup>2</sup> Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Authority to appear *pro hac vice* See, Tenn R. and Regs. 1220-1-2-.04(7), which states, "Out of state counsel shall comply with T.C.A. [Tenn. Code Ann.] 23-3-103(a) and Tennessee Supreme Court Rule 19, except the affidavit referred to

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 documents fail to not be received by the Docket Manager as required above, the testimony of the witness shall be struck from the record, which may constitute sufficient grounds for denial of the petition.

**IT IS THEREFORE ORDERED THAT:**

1. Subject to the conditions set forth in this Order, Ms. Deborah Mason, witness for Tennessee Wastewater Systems, Inc., may appear and participate by telephone in the hearing noticed for April 15, 2016 at 1:00 p.m. CDT.

2. To avoid disruption of other matters scheduled for the consideration of the Authority, all persons authorized to participate by telephone shall call (800) 689-9372 code 233602 at least **five (5) minutes before the start time set for the hearing**. The Authority Conference will begin promptly.

  
Monica Smith-Ashford, Hearing Officer   


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

**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 compiled 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