

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE
April 16, 2018

IN RE:)	
)	
APPLICATION OF VERO FIBER)	
NETWORKS, LLC TO PROVIDE)	DOCKET NO.
COMPETING LOCAL TELECOMMUNICATIONS)	18-00008
SERVICES IN TENNESSEE)	
)	

ORDER GRANTING MOTION TO ALLOW WITNESS TO TESTIFY BY TELEPHONE

This matter is before the Hearing Officer upon a *Motion to Allow Witness to Testify by Telephone* (“*Motion*”) filed on behalf of Vero Fiber Networks, LLC (“Vero” or “Applicant”) on April 13, 2018. In its *Motion*, Vero requests permission for its witness to participate by telephone in the hearing on its *Application to Provide Competing Local Telecommunications Services in Tennessee*, scheduled before the Hearing Officer at 1:00 p.m. CDT on April 19, 2018.

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, Vero asserts that personal attendance of its company representative and witness, who will be working in Colorado on the date and time of the scheduled hearing, would be burdensome. Further, Applicant agrees to comply with the conditions of telephone participation required by the Commission. 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).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 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 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 Commission's Docket Manager

¹ Tenn. Code Ann § 4-5-312(c) (2011).

² Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Commission 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

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, Vero Fiber Network, LLC's witness may appear and participate by telephone in the hearing noticed for April 19, 2018 at 1:00 p.m. CDT.

2. To avoid disruption of other matters scheduled for the consideration of the Commission, persons authorized to participate by telephone shall call (615) 770-6899 at least **five (5) minutes before the start time set for the hearing.** The hearing will begin promptly.



Aaron J. Conklin, Hearing Officer

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).