

July 25, 2018

APPLICATION OF MAGNA5, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE COMPETING LOCAL EXCHANGE AND INTEREXCHANGE TELECOMMUNICATIONS SERVICES

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DOCKET NO.
18-00068

This matter is before the Hearing Officer upon a *Motion to Appear and Participate Telephonically at Hearing* (“*Motion*”) filed on behalf of Magna 5, LLC (“Magna5” or “Applicant”) on July 20, 2018. In its *Motion*, Magna 5 requests permission for its witness to participate by telephone in the hearing on its *Application for a Certificate of Convenience and Necessity to Provide Competing Local Exchange and Interexchange Telecommunications Services*, scheduled before the Hearing Officer at 10:00 a.m. CDT on August 1, 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, Magna5 asserts that personal attendance of

¹ Tenn. Code Ann § 4-5-312(c) (2011).

its company representative and witness, who resides in Texas, 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

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

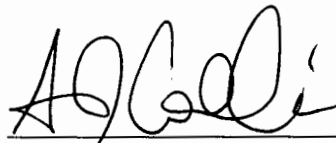
Witness Certification and Notary Public Affidavit.)

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 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, Magna5, LLC's witness may appear and participate by telephone in the hearing noticed for August 1, 2018 at 10:00 a.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.

A handwritten signature in black ink, appearing to read 'A. Conklin', is written over a horizontal line.

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).

EXHIBIT A

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE

IN RE:

(Case Style)

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Docket No. 00-00000

WITNESS CERTIFICATION

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 Public Utility Commission. 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____.

SIGNATURE OF WITNESS

NAME OF WITNESS (Printed)

EXHIBIT A

BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION

NASHVILLE, TENNESSEE

IN RE:

(Case Style)

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Docket No. 00-00000

NOTARY PUBLIC AFFIDAVIT

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 Public Utility Commission, _____ ("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 Public Utility Commission.

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 Commission 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