

**BEFORE THE TENNESSEE PUBLIC UTILITY COMMISSION
NASHVILLE, TENNESSEE**

January 31, 2019

IN RE:

**IN THE MATTER OF THE APPLICATION OF
FIBERLIGHT, LLC FOR A CERTIFICATE TO PROVIDE
COMPETING LOCAL TELECOMMUNICATIONS
SERVICES**

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) **DOCKET NO.**
) **18-00130**
)

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 Fiberlight, LLC (“Fiberlight” or “Applicant”) on January 30, 2019. In its *Motion*, Fiberlight requests permission for its witness to participate by telephone in the hearing on its *Application of Fiberlight, LLC for a Certificate to Provide Competing Local Telecommunications Services* (“*Application*”), scheduled before the Hearing Officer at 2:00 p.m. CST on February 8, 2019.

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, Fiberlight asserts that personal attendance of its witness and company representatives, who reside and will be at work in Georgia on the date of the scheduled hearing, would be burdensome. Further, Applicant agrees to comply with the

conditions of telephone participation required by the Commission and states that there are no other parties to this proceeding. 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*.)

¹ Tenn. Code Ann § 4-5-312(c) (2015).

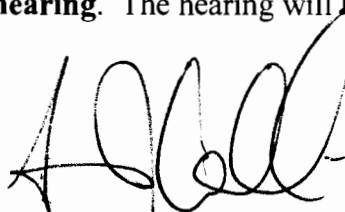
² Applicant's attorney must be licensed to practice law in Tennessee or have obtained permission from the Commission to appear *pro hac vice* See, Tenn R. and Regs. 1220-1-2-.04(7), which states, "Out of state counsel shall comply with T.C.A. [Tenn. Code Ann.] 23-3-103(a) and Tennessee Supreme Court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

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, the witness of Fiberlight, LLC may appear, participate and give testimony by telephone in the hearing noticed for February 8, 2019 at 2:00 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 (as amended and effective January 25, 2017).

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