

# AUSLEY & McMULLEN

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ORIGINAL

November 19, 2002

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**VIA HAND DELIVERY**

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

Re: Docket No. 021061-TP

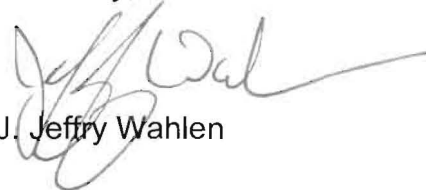
Dear Ms. Bayo:

Enclosed for filing in the above docket are the original and fifteen (15) copies of Smart City Telecom's Motion to Intervene.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,



J. Jeffrey Wahlen

Enclosures

cc: All Parties of Record

- AUS \_\_\_\_\_
- CAF \_\_\_\_\_
- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

Hong - original  
Done 11/22/02

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DOCUMENT NUMBER-DATE

12644 NOV 19 02

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: In Re Petition of CNM Network, Inc.  
for Declaratory Statement Regarding Florida  
Public Service Commission Jurisdiction

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DOCKET NO. 021061-TP  
FILED: 11/19/02

**MOTION TO INTERVENE**

Smart City Telecommunications LLC d/b/a Smart City Telecom (“Smart City” or the “Company”), pursuant to Rule 28-106.205, Florida Administrative Code, hereby requests leave to intervene in this proceeding, and as grounds therefor states:

1. Smart City is a telecommunications company lawfully doing business in the State of Florida and whose regulated operations are subject to the jurisdiction of this Commission pursuant to Chapter 364, Florida Statutes.

2. Smart City’s principal place of business in Florida is Lake Buena Vista, Florida. Pleadings, orders, notices and other papers filed or served in this matter should be served upon:

Lynn Hall  
Smart City Telecom  
Post Office Box 22555  
Lake Buena Vista, FL 32830-2555

J. Jeffrey Wahlen  
Ausley & McMullen  
P. O. Box 391  
Tallahassee, FL 32302

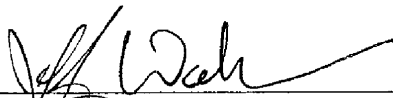
3. Smart City is a small local exchange company within the meaning of Section 364.052(21), Florida Statutes, and is a “rural telephone company” within the meaning of 47 U.S.C. §153(37).

4. Smart City is subject to interconnection with, may receive traffic from and is due compensation from carriers that may now or in the future use internet protocol (“IP”) for phone to phone calls. These carriers may use the type of calling arrangement described in paragraph 8 of CNM Network, Inc.’s (“CNM”) Petition for Declaratory Statement (“Petition”). Whether or not phone to phone IP and/or the calling arrangement described in the Petition is a “telecommunications

service” under Florida law and whether companies using that calling arrangement must be certificated as an ALEC or an IXC will affect Smart City’s substantial interests. Accordingly, Smart City should be allowed to intervene in this proceeding. See Chiles v. Department of State, 711 So. 2d 151, 155 (Fla. 1<sup>st</sup> DCA 1998) (any substantially affected party can intervene in a declaratory statement proceeding).

WHEREFORE, Smart City respectfully requests that the Commission grant the Company leave to intervene for all legal purposes in this docket

Respectfully submitted this 19<sup>th</sup> day of November, 2002.

  
\_\_\_\_\_  
J. JEFFREY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
850/425-5471

ATTORNEYS FOR SMART CITY TELECOM

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by e-mail transmission, U. S. Mail, or hand delivery (\*) this 19<sup>th</sup> day of November, 2002, to the following:

Samantha Cibula \*  
Florida Public Service Commission  
Division of Legal Services  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0870

BellSouth Telecommunications, Inc.  
c/o Nancy B. White and James Meza III  
150 South Monroe Street, Suite 400  
Tallahassee, FL 32301-1556

Floyd Self \*  
Messer, Caparello & Self, P.A.  
215 South Monroe Street, Suite 701  
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Live Oak, FL 21060

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Blooston, Merdkofsky, Dickens,  
Duffy & Prendergast  
2120 L Street NW, Suite 300  
Washington, D.C. 20037

Susan Masterton/Charles Rehwinkel  
Sprint-Florida, Inc.  
P. O. Box 2214  
MS: FLTLHO0107  
Tallahassee, FL 32316-2214

CNM Network, Inc.  
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Simi Valley, CA 93063

David B. Erwin  
127 Riversink Road  
Crawfordville, FL 32327

Coral Telephone, Inc.  
Angela Green  
2292 Wednesday Street, Suite 2  
Tallahassee, FL 32308-4334

ALLTEL Corporate Services, Inc.  
Steve Rowell/Bettye Willis  
One Allied Drive  
Little Road, AR 72203-2177

ITS Telecommunications Systems, Inc.  
P. O. Box 277  
Indiantown, FL 34956-0277

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TDS Telecom/Quincy Telephone  
107 Franklin Street  
Quincy, FL 32351

Attorney

