

ORIGINAL

Timolyn Henry

From: Ann Bassett [abassett@lawfla.com]
Sent: Tuesday, May 02, 2006 4:59 PM
To: Filings@psc.state.fl.us
Subject: Docket 060355-EI
Attachments: 060355 petition to intervene.pdf

The person responsible for this electronic filing is:

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The Docket No. is 060355-EI Florida Power and Light Petition for emergency rule or, alternatively for declaratory statement prohibiting wireless attachments in electric supply space

This is being filed on behalf of T-Mobile South LLC

Total Number of Pages is 5

T-Mobile South LLC's Petition to Interven and Notice of Opposition

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DOCUMENT NUMBER-CAT
03885 MAY-3 2006
FPSC-COMMISSION CLERK

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May 2, 2006

BY ELECTRONIC FILING

Ms. Blanca Bayó, Director
Commission Clerk and Administrative Services
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Docket 060355-EI

Dear Ms. Bayó:

Enclosed for filing on behalf of T-Mobile South, LLC is an electronic version of T-Mobile South LLC's Petition to Intervene and Notice of Opposition in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,


Floyd R. Self

FRS/amb
Enclosures
cc: Parties of Record

DOCUMENT NUMBER-DATE

DOWNTOWN OFFICE, 215 South Monroe Street, Suite 701 • Tallahassee, FL 32301 • Phone (850) 222-0720 • Fax (850) 224-4369
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43885 MAY-3 06
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for emergency rule or, alternatively,)
For declaratory statement prohibiting wireless) Docket No. 060355-EI
attachments in electric supply space by Florida) Dated: May 2, 2006
Power & Light Company)
_____)

PETITION TO INTERVENE AND NOTICE OF OPPOSITION

T-MOBILE SOUTH LLC ("T-Mobile"), pursuant to Section 120.52(12), Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, hereby requests leave to intervene in this proceeding, and as grounds therefore states:

1. T-Mobile is a Commercial Mobile Radio Service ("CMRS") as defined at 47 U.S.C. § 332(d)(1). T-Mobile provides wireless voice and data services throughout the state of Florida pursuant to licenses issued by the Federal Communications Commission ("FCC"). Pursuant to Section 364.02(14)(c), Florida Statutes, T-Mobile is not a telecommunications company subject to the jurisdiction of this Commission.

2. T-Mobile's principal place of business is 12920 SE 38th Street, Bellevue, WA 98006.

Pleadings, orders, notices and other papers filed or served in this matter should be served upon:

Michele K. Thomas, Esq.
Michele.Thomas@T-Mobile.com
Sr. Corporate Counsel
T-Mobile
4 Sylvan Way
Parsippany, NJ 07054
Phone: 973-981-1862
Fax: 973-397-4800

Floyd Self, Esq.
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3. This docket was initiated by Florida Power and Light Company (“FPL”) by its petition for emergency rulemaking or, alternatively, a declaratory statement. By its petition, FPL is seeking the adoption of an emergency rule that would immediately prohibit the attachment of wireless carrier communications equipment to the electric supply and the top of electric distribution poles by CMRS providers, including expressly T-Mobile. If the Commission determines that such an emergency rule is not proper, then FPL seeks a declaration “that prohibits T-Mobile from attaching its wireless telecommunications devices at the top of FPL’s electric distribution poles” until Docket No. 060173-EU is concluded. FPL Petition, at page 2.

4. FPL makes very clear that through this petition it is attempting to impact T-Mobile’s wireless communications business within the FPL service territory. FPL recounts some of the history of the negotiations between FPL and T-Mobile for a pole attachment agreement, and FPL is quite explicit in stating that its purpose in pursuing this petition is to prevent T-Mobile from continuing to negotiate or otherwise have available to itself the opportunity made available to it by the pole attachment provisions of federal law, 47 U.S.C. Section 224, and the rules, orders, and regulations of the FCC implementing the pole attachment statute. On the basis of these numerous allegations and other statements regarding T-Mobile within the petition, FPL certainly has demonstrated that the substantial interests of T-Mobile may be affected by any action in this docket.

5. T-Mobile objects to both the promulgation of the requested emergency rule and the alternative request for the issuance of a declaratory statement, and T-Mobile shall, on or before May 15, 2006, provide its substantive and legal response to FPL. However, it is clear from the four corners of the petition that the scope of this docket and the ultimate resolution of the emergency rule and the declaratory statement requested by FPL will have a direct and immediate impact on the ability of T-

Mobile to provide wireless voice and data services in Florida. As such, T-Mobile is a specifically named person entitled to be a party to this proceeding. In addition, the substantial interests of T-Mobile will be affected by the granting of any of the relief requested by FPL in this docket. Pursuant to Section 120.52(12) T-Mobile meets the definition of a "party" and is therefore entitled to intervention in this docket.

WHEREFORE, T-Mobile respectfully requests that the Commission grant T-Mobile leave to intervene for all purposes in this docket.

Respectfully submitted this 2nd day of May, 2006.



Floyd Self, Esq.
Messer, Caparello & Self
215 S. Monroe Street, Suite 701
Tallahassee, FL 32302
(850) 222-0720

and

Michele K. Thomas, Esq.
Sr. Corporate Counsel
T-Mobile
4 Sylvan Way
Parsippany, NJ 07054

Attorneys for T-Mobile South, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by electronic mail this 2nd day of May, 2006.

Florida Power & Light Company
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