

**Matilda Sanders**

**From:** Glenda Chapman [gchapman@mail.fdn.com]  
**Sent:** Wednesday, November 29, 2006 2:42 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** E-filing for FPSC Docket 060644-TL  
**Attachments:** Embarq Surcharge FDN Petition to Intervene.doc

**ORIGINAL**

To: Division of the Commission Clerk and Administrative Services

Please find attached for filing in the captioned docket FDN Communication's Petition to Intervene and Notice of Appearance.

In accordance with the Commission's e-filing procedures, the following information is provided:

(a) The person responsible for this filing is:

Name: Matthew J. Feil, General Counsel  
Address: FDN Communications  
2301 Lucien Way, Ste. 200  
Maitland, FL 32751  
Phone No: 407-835-0460  
Email: mfeil@mail.fdn.com

(b) Docket No. and Title: 060644-TL Petition of Embarq Florida, Inc. to Recover 2005 Tropical Storm Related Costs and Expenses.

(c) The party on whose behalf the document is filed: Florida Digital Network, Inc. d/b/a FDN Communications

(d) Number of pages of the document: 4 pages.

(e) Description of each document attached: Petition to Intervene and Notice of Appearance by Florida Digital Network, Inc. d/b/a FDN Communications.

*Thank You!*

*Glenda Chapman*

*Executive Administrative Assistant*

*407-835-0389 (phone)*

*407-447-3913 (e-fax)*

*Life is like a coin, ~~you~~ can spend it any way you wish, but you can only spend it once....*

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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Embarq Florida, Inc.	)	
To Recover 2005 Tropical Storm	)	Filed: November 29, 2006
Related Costs and Expenses	)	
<hr/>		Docket No. 060644-TL

**PETITION TO INTERVENE AND NOTICE OF APPEARANCE OF FLORIDA DIGITAL NETWORK, INC., d/b/a FDN COMMUNICATIONS**

Pursuant to Rules 25-22.039 and 28-106.201(2), Florida Administration Code, Florida Digital Network, Inc., d/b/a FDN Communications ("FDN") files this Petition to Intervene with the Florida Public Service Commission ("Commission") in the above-referenced docket. FDN requests that its petition be granted, that it be designated as a party of record, and that FDN be afforded all applicable rights as a party under Florida law and under the rules and regulations of the Florida Public Service Commission. FDN also requests that its undersigned counsel be recognized as co-counsel for CompSouth in this matter. In support hereof, FDN states as follows:

- 1. Petitioner's full name and principal place of business are:

Florida Digital Network, Inc., d/b/a FDN Communications.  
2301 Lucien Way, Suite 200  
Maitland, FL 32751

- 2. All pleadings, orders, notices and other correspondence with respect to this docket should be addressed to:

Matthew Feil  
General Counsel  
Allison Hicks  
Assistant General Counsel  
FDN Communications  
2301 Lucien Way, Suite 200  
Maitland, FL 32751

(407) 835-0460  
[mfeil@mail.fdn.com](mailto:mfeil@mail.fdn.com)  
[ahicks@mail.fdn.com](mailto:ahicks@mail.fdn.com)

3. FDN is a duly certified alternative local exchange telecommunications carrier (“ALEC”) and intrastate inter-exchange carrier (“IXC”). As such, FDN is generally subject to the rules, regulations and orders of the Commission, and such rules, regulations and orders directly impact FDN’s ability to provide communications services in the State of Florida.

4. FDN has an interconnection agreement with Embarq Florida, Inc. (“Embarq”) on file with and approved by the Commission. In this proceeding, Embarq proposes that the Commission approve a request for Embarq’s to recover \$.50 per month surcharge assessed on basic and non-basic local exchange service lines and on all unbundled wholesale loop network element (UNE) customers. FDN provides service to UNE customers of Embarq and therefore, the results of this proceeding will affect FDN’s substantial interests and FDN has standing to intervene.

5. Disputed issues of fact include, but are not limited to, whether it is appropriate to apply the requested surcharge to UNE customers.

6. Ultimate facts alleged include, but are not limited to the fact that it is neither appropriate nor legal, pursuant to federal law, to apply Embarq’s proposed surcharge to UNE customers.

7. Any determinations and actions in this docket regarding Embarq’s surcharge will affect the substantial interests of FDN.

8. FDN is a member of CompSouth, along with other companies whose customers include UNE customers of Embarq and whose interests will be substantially

affected by this Commission's action on Embarq's request. CompSouth has agreed that its interests and those of FDN are aligned in this proceeding, and that FDN's General Counsel and Assistant General Counsel, Matthew Feil, Esq. and Allison Hicks, Esq. respectively, may act as co-counsel for CompSouth along with Vicki Gordon Kaufman, Esq.

**WHEREFORE**, FDN requests that the Commission issue an order permitting FDN to intervene in this proceeding and affording FDN party status consistent with its rules, and directing all parties to serve on FDN all filings hereafter made in this case. The undersigned should also be recognized as co-counsel for CompSouth.

Respectfully submitted this 29th day of November, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
Matthew Feil, Esq.  
General Counsel  
FDN Communications  
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\_\_\_\_\_/s/\_\_\_\_\_  
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Attorneys for FDN and co-counsel for CompSouth

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following by U.S. mail this 29th day of November, 2006.

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This 29th day of November, 2006.

\_\_\_\_\_/s/\_\_\_\_\_  
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