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STATE OF FLORIDA

ORIGINAL

Commissioners:
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Public Service Commission

September 1, 1999

Division of Administrative Hearings
Ms. Ann Cole, Clerk
1230 Apalachee Parkway
Tallahassee, Florida 32399

RE: Case No. 99-3595 - Calvin "Bill" Wood, Petitioner, vs. GTE Florida, Inc., Respondent

Dear Ms. Cole:

Enclosed for filing are the original and one copy of the Florida Public Service Commission's Motion for Leave to Intervene in the above case. Please date stamp the additional copy and return in the enclosed postage paid envelope. Thank you.

Sincerely,

Donna M. Clemons
Staff Attorney

DMC/ac
Enclosures (2)

cc: Division of Records and Reporting
Division of Communications (Lewis)
Division of Consumer Affairs (Smith)

- AFA _____
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DOCUMENT NUMBER - DATE
10455 SEP-1 99
DIVISION OF RECORDS AND REPORTING

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CALVIN "BILL" WOOD)	DOAH Case No. 99-3595
Petitioner,)	990861-TL
vs.)	
)	
GTE FLORIDA, INC.,)	
Respondent.)	
_____)	

MOTION FOR LEAVE TO INTERVENE

The FLORIDA PUBLIC SERVICE COMMISSION (Commission), by and through its undersigned counsel, requests that the Administrative Law Judge grant leave to intervene in the above-styled cause for the reasons set forth below.

1. This case was initiated by the filing of a complaint with the Commission by Calvin "Bill" Wood against GTE Florida, Inc. (GTE). Mr. Wood complained of the quality of telephone service provided to his residence by GTE.

2. At the Florida Public Service Commission Agenda Conference held July 27, 1999, the commission voted to refer Mr. Wood's complaint to the Division of Administrative Hearings (DOAH) for a formal hearing. Section 120.569(2)(a), Florida Statutes, states that once a case is referred to DOAH the "referring agency shall take no further action with respect to the formal proceedings, except as a party litigant," as long as DOAH has jurisdiction over the formal proceeding.

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FPSC RECORDS/REPORTING

5. GTE offers "two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility," and is, therefore, a telecommunications company as defined in Section 364.02(12), Florida Statutes. Pursuant to Section 364.01(2), Florida Statutes, the Commission has exclusive jurisdiction "in all matters" set forth in Chapter 364 "in regulating telecommunications companies." Thus, the Commission has exclusive jurisdiction over the subject matter of this proceeding, and, therefore, has an interest in the proceeding.

6. The Commission is neither an adversary to, nor advocate for, either party. Pursuant to Chapter 364, Florida Statutes, one of the Commission's primary duties is to protect the public interest.

7. Pursuant to the Commission's Statement of Agency Organization & Operations (1999), subsection entitled "Parties," page 11:

The Commission staff may participate as a party in any proceeding. Their primary duty is to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration.

In cases assigned to the Division of Administrative Hearings, the Commission staff's role is to represent the public interest and be neither in favor nor against any particular party, unless the Commission is enforcing rules or statutes through a show cause or similar proceeding, or unless the Commission is a respondent at the Division of Administrative Hearings. Staff is not a party in interest and has no substantial interests that may be affected by the proceeding. Commission staff's role shall be to assist in developing evidence to ensure a complete record so that all relevant facts and issues are presented to the fact finder. Any position that staff has prior to the hearing is preliminary; final positions are based upon review of the complete record.

Commission staff may participate as a party in any proceeding involving the jurisdiction of the Public Service Commission. The Commission staff's primary role is to represent the public interest and be neither in favor or against either party. Staff's primary function in participating in proceedings before the Division of Administrative Hearings is to assist in developing evidence to ensure that all relevant factual, legal, and policy issues are presented to the fact-finder. Staff's final positions will be based upon review of the complete record.

8. The Commission has been granted intervention in similar cases that have been referred to DOAH. See, Blanca Rodriguez v. Florida Power & Light Company, Case No. 96-4935; Thomas L. Fuller v. Florida Power Corporation, Case No. 95-4253; Globe International Realty & Mortgage Corporation v. Florida Power & Light Company, Case No. 95-2514; Jory Bricker v. Florida Power Corporation, Case No. 93-5713; Janet Knauss v. Florida Power & Light Company, Case No. 91-4910; Larry Timm v. Florida Power & Light Company, Case No. 91-2755, Arturo Toboada v. Florida Power & Light Company, Case No. 91-0331.

9. Pursuant to Rule 28-106.204(3), Florida Administrative Code, the undersigned consulted with both parties to the litigation. On August 30, 1999, GTE stated that it had no objection to this motion. Also on August 30, 1999, Mr. Wood stated that he had no objection to this motion.

WHEREFORE, the Florida Public Service Commission respectfully requests that its Motion for Leave to Intervene be granted and the Commission be allowed to intervene in these proceedings while

reserving its statement of position pending the evidence developed at the hearing.

Respectfully submitted this 1st day of September, 1999.



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COPIES FURNISHED

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