

ORIGINAL

Matilda Sanders

From: mfeil@mail.fdn.com
Sent: Friday, March 25, 2005 12:25 PM
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Subject: E-Filing for FPSC Docket No. 040156-TP
Attachments: Docket No 040156 FDN Petition to Intervene.doc

To: Division of the Commission Clerk and Administrative Services

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

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

(a) The person responsible for this filing is:

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(b) Docket No. and Title: 040156-TP, Petition for arbitration of amendment to interconnection agreements with certain competitive local exchange carriers and commercial mobile radio service providers in Florida by Verizon Florida Inc.

(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: 8 pages.

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

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DOCUMENT NUMBER-DATE

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for Arbitration of)
Amendment Interconnection Agree-)
ments with Certain Competitive)
Local Exchange Carriers and)
Commercial Mobile Radio Service)
Providers in Florida by Verizon)
Florida, Inc.)

Filed: March 25, 2005

Docket No.: 040156-TP

PETITION TO INTERVENE
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. 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
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mfeil@mail.fdn.com

3. FDN is a duly certified alternative local exchange telecommunications carrier (“ALEC”). 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 local exchange telecommunications service in the state of Florida.

4. FDN has an interconnection agreement with Verizon Florida, Inc. ("Verizon") on file with and approved by the Commission. In this proceeding, Verizon proposes that the Commission approve changes to Verizon's interconnection agreements with certain CLECs and CMRS providers in Florida to make those agreements consistent with recent FCC orders respecting UNE terms and conditions. Although Verizon included FDN as a party to Verizon's original pleading filed in this docket, Verizon excluded FDN and numerous other carriers (the "Excluded Carriers") as parties to Verizon's subsequent petition. Verizon excluded said carriers from its subsequent petition on the stated belief that the Excluded Carriers' interconnection agreements with Verizon permitted Verizon to implement certain changes in law without an amendment to the Excluded Carriers' interconnection agreements.

5. Sprint Communications Company, L.P. ("Sprint"), one of the Excluded Carriers, petitioned to intervene on September 29, 2004. Verizon initially opposed the intervention of Sprint but, by pleading filed October 28, 2004, Verizon withdrew its opposition, stating, (a) "By intervening in this arbitration, Sprint will be bound by its results," (b) "it is not necessary to interpret the Verizon/Sprint contract now," but if a dispute over the interpretation of the contract arises in the future, Verizon reserves its right to argue that Verizon could cease providing UNEs which are no longer subject to a federal unbundling obligation. Verizon Withdrawal at p. 1 – 2.

6. On February 25, several other Excluded Carriers¹ petitioned to intervene, arguing, among other things, that the decision in this docket “will inevitably affect the manner in which Verizon will implement the TRO and [TRRO] in its interconnection with CLECs that are not parties to this proceeding.” These carriers recognized that they could file separate actions against Verizon to resolve any UNE disputes with Verizon, but allowing the intervening carriers to participate, they argued, “will advance the interests of administrative economy, and will eliminate the need for the Commission to review numerous individual arbitration petitions as to similar interconnection agreement issues.” E.g. XO Petition to Intervene at p. 4. In its March 8, 2005, Response to these petitions to intervene, Verizon took issue with the petitioners’ rights to participate to an extent, but ultimately stated, “Verizon would not oppose intervention on the basis of administrative efficiency.”

7. FDN asserts the same basis for intervention as Sprint and the other Excluded Carriers which have sought to intervene. FDN does not believe it is necessary at this juncture for the Commission in this proceeding to interpret the existing FDN-Verizon interconnection agreement. FDN asserts, as Sprint and the other intervening Excluded Carriers have, that the Commission’s decisions on the issues in this case will inevitably effect how Verizon implements its UNE obligations as to all CLECs with whom Verizon has an interconnection agreement in Florida, FDN could ultimately file a separate petition to resolve UNE disputes with Verizon under the FDN-Verizon interconnection agreement, but administrative economy favors intervention at the present time.

¹ XO Florida, Inc., Allegiance Telecom of Florida, Inc., Covad Communications Company, IDT America Corporation, and KMC Telecom.

WHEREFORE, FDN requests that the Commission issue an order permitting FDN to intervene in this proceeding, affording FDN party status consistent its rules, and directing all parties to serve on FDN all filings hereafter made in this case.

Respectfully submitted this 25th of March, 2005

_____/s/_____
Matthew Feil
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished to the following by U.S. mail this 25th day of March, 2005.

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