

**ORIGINAL**

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**Sent:** Thursday, October 20, 2005 1:37 PM  
**To:** Filings@psc.state.fl.us  
**Subject:** Petition for Leave to Intervene - MetroPCS  
**Attachments:** MetroPCS - Intervention.pdf

*050119-TP*  
*050125-TP*

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**ORIGINAL**

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re: Joint Petition of TDS Telecom d/b/a  
TDS Telecom/Quincy Telephone, ALLTEL  
Florida, Inc., Northeast Florida Telephone  
Company d/b/a NEFCOM, GTC, Inc. d/b/a  
GT Com, Smart City Telecommunications,  
LLC d/b/a Smart City Telecom, ITS Tele-  
communications Systems, Inc. and Frontier  
Communications of the South, LLC,  
("Joint Petitioner") objecting to and  
requesting suspension of Proposed Transit  
Traffic Service Tariff filed by BellSouth  
Telecommunications, Inc.**

**Docket No. 050119-TP**

**Petition and complaint for suspension and  
cancellation of Transit Traffic Service  
Tariff No. FL2004-284 filed by BellSouth  
Telecommunications, Inc., by AT&T  
Communications of the Southern States, LLC.**

**Docket No. 050125-TP**

**Filed: October 20, 2005**

**PETITION FOR LEAVE TO INTERVENE  
BY METROPCS CALIFORNIA/FLORIDA, INC.**

Pursuant to Chapter 120, Florida Statutes and rules 25-22.039 and 28-106205, Florida Administrative Code, MetroPCS California/Florida Inc. ("MetroPCS"), through its undersigned attorneys, files its Petition to Intervene. In support thereof, MetroPCS states as follows:

1. The affected agency is the Florida Public Service Commission, 2450 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

DOCUMENT NUMBER-DATE  
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2. The name and address of the Petitioner is as follows:

MetroPCS California/Florida, Inc.  
8144 Walnut Hill Lane, Suite 800,  
Dallas, Texas 75231.  
(214) 265-2550 (telephone)  
(972) 860-2682 (facsimile)

3. Copies of all pleadings, notices, and orders in these consolidated dockets should be provided to the following:

Charles V. Gerkin, Jr.  
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4. MetroPCS is a Delaware corporation having its principal place of business at 8144 Walnut Hill Lane, Suite 800, Dallas, Texas 75231. MetroPCS is licensed by the Federal Communications Commission to provide commercial mobile radio services in various parts of the State of Florida.

5. Statement of Affected Interests. In these consolidated dockets, the Commission will approve, modify or deny the Transit Traffic Service Tariff filed by BellSouth Telecommunications, Inc. The final agency action taken by the Commission will directly affect the substantial interests of MetroPCS, which has entered into an interconnection agreement with BellSouth addressing, inter alia, transit traffic. That interconnection agreement, however, has left in dispute the transit rate and its effective date. The Commission's final agency action in these consolidated dockets will

thus circumscribe, if not determine, the substantial economic and other interests of both BellSouth and MetroPCS. Thus, MetroPCS's interests are of the type that this proceeding is designed to protect. *See, Agrico Chemical Company v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981).

6. In addition, BellSouth and MetroPCS contemplated in their interconnection agreement that the Commission would determine the rate as between them in either these consolidated dockets or the proposed generic docket. Specifically, Section VII. C. of the agreement provides in part as follows:

If Non-Local Traffic originated by Carrier is delivered by BellSouth for termination to the network of a Third Party Carrier, then BellSouth will bill Carrier and Carrier shall pay the per minute transit charge as follows: (1) In Florida, on an interim basis, BellSouth shall bill Carrier and Carrier shall pay the transit charge set forth in BellSouth's General Subscriber Services Tariff, Section A16, subject to true-up back to the Effective Date of this Agreement, or such later date as ordered by the Florida Public Service Commission, in accordance with its order in Docket No. 050119-TP or such other docket that establishes the rate contemplated in Order No. PSC-05-0517-PAA-TP, dated May 11, 2005 . . . .

Thus final agency action in this proceeding will in fact determine MetroPCS's substantial interests.

7. Disputed Issues of Material Facts, Disputed Legal Issues The central disputed issue from MetroPCS's perspective is a mixed issue of fact, policy and law:

What is the appropriate rate for BellSouth to charge a carrier for transiting traffic from that carrier to third party carriers?

MetroPCS notes that the existing parties have already filed proposed issues, and MetroPCS is currently unaware of any disputed issue not raised. Nevertheless, MetroPCS anticipates that more specific disputed issues of material fact and issues of law will be identified as discovery and discussions evolve in these proceedings.

8. Statement of Ultimate Facts Alleged. The transit rate charged by BellSouth must be fair, just and reasonable and competitively neutral. Pending discovery and further proceedings, MetroPCS is unable to provide a more specific statement of the ultimate facts alleged.

WHEREFORE, MetroPCS requests the Commission to enter an order allowing it to intervene in this docket as a full party.

s/ Charles V. Gerkin, Jr.  
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CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing was furnished to the following this 20 day of October, 2005 via U.S. Mail or Electronic Mail:

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