

Eric Fryson

From: Rhonda Dulgar [rhonda@gbwlegal.com]
Sent: Monday, April 23, 2012 1:56 PM
To: Filings@psc.state.fl.us; Larry Harris; mcbrown@psc.state.fl.us; Bart@bartonsmithpl.com; kelly.jr@leg.state.fl.us; dale.finigan@keyenergy.com; dedenkwf@bellsouth.net; Schef Wright
Subject: Electronic Filing - Docket 120054-EM

Attachments: 120054.MonroeCo.PetitionToIntervene.4-23-12.pdf

a. Person responsible for this electronic filing:

Robert Scheffel Wright
 Gardner, Bist, Wiener, Wadsworth, Bowden,
 Bush, Dee, LaVia & Wright, P.A.
 1300 Thomaswood Drive
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b. 120054-EM

In Re: Complaint of Robert D. Reynolds and Julianne C. Reynolds Against Utility Board of the City of Key West, Florida Regarding Extending Commercial Electrical Transmission Lines to No Name Key, Florida.

c. Document being filed on behalf of Monroe County, Florida.

d. There are a total of 8 pages.

e. The document attached for electronic filing is the Petition to Intervene of Monroe County, Florida.

(see attached file: 120054.MonroeCo.PetitionToIntervene.4-23-12.pdf)

Thank you for your attention and assistance in this matter.

Rhonda Dulgar

Secretary to Jay LaVia & Schef Wright

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Parties updated 4/23/12

GBW Gardner, Bist, Wiener, Wadsworth, Bowden
 Bush, Dee, LaVia & Wright, P.A. ATTORNEYS AT LAW

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DOCUMENT NUMBER-DATE

02521 APR 23 2012

FPSC-COMMISSION CLERK

4/23/2012

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Complaint of Robert D. Reynolds)
And Julianne C. Reynolds Against Utility)
Board of the City of Key West, Florida) DOCKET NO. 120054-EM
Regarding Extending Commercial)
Electrical Transmission Lines to No) FILED: APRIL 23, 2012
Name Key, Florida)
_____)

PETITION TO INTERVENE OF MONROE COUNTY, FLORIDA

Monroe County, Florida, a political subdivision of the State of Florida, pursuant to Chapters 120 and 366, Florida Statutes,¹ and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code ("F.A.C."), hereby petitions to intervene in the above-styled docket.

In summary, Monroe County ("County") is a political subdivision of the State of Florida that encompasses the Florida Keys and a substantial part of the southwestern Florida mainland. The Complaint filed by Robert and Julianne Reynolds (collectively "Reynolds") herein names Monroe County as a party against whom relief is sought in the form of requested Florida Public Service Commission ("Commission") orders that would determine the County's substantial interests by determining the County's ability to enforce its ordinances. Accordingly, the County has the right to participate as a full party in this proceeding to protect its substantial interests, and the Commission should

¹ All references herein to the Florida Statutes are to the 2011 edition thereof.

grant the County's Petition to Intervene. In further support of its Petition to Intervene, Monroe County states as follows.

1. The name, address, and telephone number of the Petitioner are as follows:

Monroe County, Florida
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, Florida 33040
Telephone (305) 292-3470
Telecopier (305) 292-3516.

2. All pleadings, orders and correspondence should be directed to Petitioner's representatives as follows:

Robert Scheffel Wright
John T. LaVia, III
Gardner, Bist, Wiener, Wadsworth, Bowden, Bush,
Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, Florida 32308
Telephone (850) 385-0070
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with a courtesy copy to:

Robert B. Shillinger
Chief Assistant County Attorney
Monroe County Attorney's Office
1111 12th Street, Suite 408
Key West, Florida 33040
Telephone (305) 292-3470
Telecopier (305) 292-3516.

3. The agency affected by this Petition to Intervene is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850.

4. Monroe County is a political subdivision of the State of Florida that encompasses the Florida Keys and a substantial

part of the southwestern Florida mainland. Monroe County is responsible for enforcing its lawful ordinances, including its ordinances that relate to building permits and preservation of environmentally sensitive systems. The Monroe County Code prohibits the extension of public utilities, including electric lines, in the Coastal Barrier Resources System Overlay District, in which No Name Key is located. See Monroe County Code § 130-122.

5. Statement of Affected Interests. In their Complaint that initiated this docket, Reynolds specifically named Monroe County as an adverse party in two of its "counts." See Complaint at 12, "KES is Required to Complete the Extension of Commercial Electricity Transmission Lines to All Homeowners on No Name Key, Florida (**Against** KES and **Monroe County**," and Complaint at 14, "Monroe County Cannot Prohibit Connection to KES should KES Extend Electric Service to No Name Key (**Against Monroe County**)." Emphasis supplied. Reynolds' Complaint has further asked the Commission to issue an order "finding that Monroe County cannot unreasonably withhold building permits from KES' customers based solely on their property location being on the island of No Name Key." Complaint at 15. Accordingly, the Complaint expressly seeks the Commission's determination of Monroe County's substantial interests, and the County is entitled to intervene in this proceeding to protect its interests. Moreover, in this

docket, Monroe County is a "party" as defined in Section 120.52(12)(a), Florida Statutes.¹

6. Disputed Issues of Material Fact. Monroe County believes that the disputed issues of material fact in this proceeding will include, but will likely not be limited to, the issues listed below.

Issue: Does the Commission have the power to order the City of Key West (d/b/a Keys Energy Services or "KES") to provide electric service to potential customers who reside on No Name Key?

Issue: Should the Commission order KES to provide electric service to potential customers who reside on No Name Key?

Issue: Should the Commission impose any fine or other penalty on KES?

Issue: Should the Commission grant KES's motion to dismiss Reynolds' Complaint?

Issue: Should the Commission issue a finding or order regarding Monroe County's issuance of building permits associated with electric line extensions?

Monroe County reserves all rights to raise additional issues in accordance with the Commission's rules and the anticipated Order

¹ Section 120.52(12)(a), Florida Statutes, defines "party" as "Specifically named persons whose substantial interests are being determined in the proceeding."

Establishing Procedure in this case.

7. Statement of Ultimate Facts Alleged. Monroe County asserts the following as the ultimate facts and conclusions that the Commission should reach in this docket.

- a. The Commission should not order KES to provide electric service to the residents of No Name Key.
- b. The Commission should not impose any fine or penalty on KES.
- c. The Commission should not issue an order or finding that would attempt to prohibit Monroe County from enforcing its lawful ordinances, including Monroe County Code § 130-122.

8. Statutes and Rules That Entitle Monroe County to Relief. The applicable statutes and rules that entitle the County to relief include, but are not limited to, Sections 120.52(12)(a) and 366.04(2), Florida Statutes, and Rule 25-22.039 and Chapter 28-106, Florida Administrative Code.

9. Statement Explaining How the Facts Alleged By Monroe County Entitle the County to the Relief Requested. Through this Petition to Intervene, Monroe County is seeking intervention to participate as a full party in this docket. Section 120.52(12)(a), Florida Statutes, provides that a person whose substantial interests are being determined in a proceeding is a party to the proceeding. Since Monroe County has been named by

Reynolds as a party against whom Reynolds is seeking affirmative relief, the County is entitled to intervene as a party. Rules 25-22.039 and 28-106.205, F.A.C., similarly provide that persons whose substantial interests are subject to determination in agency proceeding are entitled to intervene in such proceeding.

CONCLUSION

As explained in the foregoing, Monroe County has been named as a party against whom affirmative relief is sought by the complainants in this proceeding, and accordingly, the County is entitled to intervene as a full party.

RELIEF REQUESTED

WHEREFORE, Monroe County respectfully requests the Florida Public Service Commission to enter its order GRANTING this Petition to Intervene and requiring that all parties to this proceeding serve copies of all pleadings, notices, and other documents on the County's representatives indicated in paragraph 2 above.

Respectfully submitted this 23rd day of April 2012.



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Attorneys for Monroe County, Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the following, by electronic mail and U.S. Mail, on this 23rd day of April 2012.

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