

**Eric Fryson**

**From:** Andrew Tobin [tobinlaw@terranova.net]  
**Sent:** Thursday, July 26, 2012 2:24 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** Eric Fryson  
**Subject:** RE: Docket 120054-EM  
**Attachments:** 2012-07-26 NNKPA Pet to Intervene.pdf

Thank you. Im glad there are humans still around.

Andy

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**From:** Filings@psc.state.fl.us [mailto:Filings@PSC.STATE.FL.US]  
**Sent:** Thursday, July 26, 2012 11:32 AM  
**To:** tobinlaw@terranova.net  
**Cc:** Eric Fryson  
**Subject:** FW: Docket 120054-EM

Mr. Tobin:

We received the e-filing cover page below, however there was no attachment included.

Please resubmit information, with attachment(s), to be considered file. Thank you for your assistance.

*Dorothy Menasco  
Florida Public Service Commission  
Office of Commission Clerk  
850-413-6770*

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**From:** Andrew Tobin [mailto:tobinlaw@terranova.net]  
**Sent:** Thursday, July 26, 2012 10:44 AM  
**To:** Filings@psc.state.fl.us  
**Subject:** Docket 120054-EM

*Parties  
updated  
7/26/12  
-AM*

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

7/26/2012

The following document is attached for filing in the following case/docket: In Re: Complaint of Robert D. Reynolds and Julianne C. Reynolds etc.

**"NO NAME KEY PROPERTY OWNERS ASSOCIATION INC.'S PETITION TO INTERVENE"**

**Total pages: 5**

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7/26/2012

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

**In re:**

DOCKET NO. 120054-EM

Complaint of Robert D. Reynolds and  
Julianne C. Reynolds against Utility  
Board of the City of Key West,  
Florida d/b/a Keys Energy Services  
regarding extending commercial  
electrical transmission lines to each  
property owner of No Name Key,  
Florida

**NO NAME KEY PROPERTY OWNERS ASSOCIATION'S  
PETITION TO INTERVENE**

No Name Key Property Owners Association, Inc. (the Association) pursuant to Chapters 120 and 366, Florida Statutes, and Rules 25-22.039, 28-106.201, and 28-106.205, Florida Administrative Code (FAC), hereby petitions the Florida Public Service Commission (the Commission) to intervene in the above-styled matter, and states as follows.

**INTRODUCTION**

On or about March 2012, the Association entered into a contract with the City of Key West, Florida d/b/a Keys Energy Services (Keys Energy) to extend electrical transmission lines and to provide electricity to members of the Association that own property on Name Key, Florida, including Robert and Julianne Reynolds who filed the initial complaint. The Association agreed to pay Keys Energy the sum of \$648,752.55, most of which has already been paid.

The Reynolds' complaint asked the Commission to order Keys Energy to provide electric service to the Reynolds, as well as other No Name Key property owners who

request it, and to determine that Monroe County (the County) cannot prevent the provision of electric service to No Name Key by the application of its local comprehensive plan or other ordinances.

On May 22, 2012, the Commission granted party status to Monroe County based on its allegation it would lose the ability to enforce its land development regulations if the Commission should grant relief to Reynolds.

As of July 24, 2012, Sixty two (62) poles have been installed, the transmission lines have been hung, and the lines have been “energized” and are “hot.” However, within the past two weeks the County has denied several building permit applications by members of the Association seeking to connect to the transmission lines. Therefore, the remaining issue for adjudication by the Commission is whether the doctrine of preemption applies to prevent the County from denying electrical services by withholding building permits.

Accordingly, the Association has a substantial interest in this matter and should be granted full party status to protect its interests. In further support of its Petition to Intervene, the Association states as follows.

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

No Name Key Property Owners Association, Inc.  
c/o Andrew M. Tobin, Esq.  
Florida Bar No. 184825  
Counsel for No Name Key Property Owners  
Association, Inc  
P.O. Box 620  
Tavernier, Florida  
(305) 852-3388  
[tobinlaw@terranova.net](mailto:tobinlaw@terranova.net)

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

Andrew M. Tobin, Esq.  
Counsel for No Name Key Property Owners Association,  
Inc  
P.O. Box 620  
Tavernier, Florida  
(305) 852-3388

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

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

**4. Statement of Affected Interests.** The members of the No Name Key Property Owner's Association, Inc., are directly affected by the Commission's decision as they paid for the installation of the transmission poles that was intended to provide electricity to their homes.

**5. Disputed Issues of Material Fact.** None at this time.

**6. Statement of Ultimate Issue.** The Association, by and through its undersigned attorney asserts that based on the law of the State of Florida, the following is the ultimate conclusion the Public Service Commission should reach in this docket:

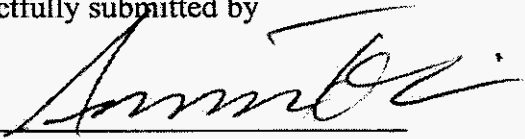
Because the Legislature has granted exclusive jurisdiction to the City of Key West, Florida d/b/a Keys Energy Services to determine whether to provide electricity to its customers and potential customers, including those property owners on No Name Key, who are members of the No Name Key Property Owners Association, Inc., Monroe County may not through its Comprehensive Plan or land development regulations frustrate the provision of electricity by denying building permits to homeowners who desire to connect to the electrical grid.

**7. Substantial Interests Affected.** Through this Petition to Intervene, the No Name Key Property Owners Association, Inc. seeks 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. 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. Because the Association, through its members paid for the installation of the power poles, and will be directly affected by the Commission's decision, the Association qualifies as a substantially affected person.

#### **CONCLUSION**

Based on the foregoing, No Name Key Property Owner's Association, Inc., prays for an order that allows it to intervene as a full party.

Respectfully submitted by



Andrew M. Tobin, Esq.  
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No Fax

### CERTIFICATE OF SERVICE

I CERTIFY THAT a true copy of the foregoing was furnished to the following persons by U.S. Mail on this 26<sup>th</sup> day of July 2012.

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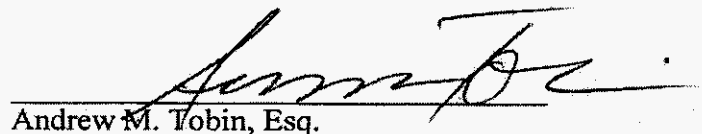
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