

0BEFORE 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 d/b/a Keys
Energy Services regarding extending
commercial electrical transmission lines to
each property owner of No Name Key, Florida.

DOCKET NO. 120054-EM
ORDER NO. PSC-12-0472-PCO-EM
ISSUED: September 11, 2012

ORDER GRANTING PETITION TO INTERVENE

Background

On March 5, 2012, Robert D. Reynolds and Julianne C. Reynolds, the owners of residential property on No Name Key, Florida, filed a complaint against the Utility Board of the City of Key West, Florida d.b.a. Keys Energy Services (Keys Energy) for failure to provide electric service to their residence as required by the terms of a Territorial Agreement, which the Commission approved in 1991. The complaint asserts that the Commission has exclusive jurisdiction to interpret the territorial agreement it approved and determine whether property owners on No Name Key are entitled to electric service from Keys Energy. The complaint asks 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 (County) cannot prevent provision of electric service to No Name Key by the application of its local comprehensive plan or other ordinances.

Petition to Intervene

On July 26, 2012, the No Name Key Property Owners Association (Association) filed a Petition to Intervene as a party in the complaint proceeding. The Association alleges that its substantial interests may be affected by the outcome of this case, because it has entered into a contract with Keys Energy to extend electrical facilities and provide electric service to its members who own property on No Name Key. The Association asserts that on behalf of its members it has agreed to pay Keys Energy \$648,752.55 to provide service, most of which has already been paid. The Association states that although Keys Energy has installed all the facilities, and they are ready to provide service, the County has prevented the provision of service. The Association alleges that the issue remaining before the Commission for adjudication in this complaint is whether the doctrine of preemption applies to preclude the County from denying electric service to its members by withholding building permits. No party has objected to the Association's intervention.

DOCUMENT NUMBER-DATE

06108 SEP 11 2012

FPSC-COMMISSION CLERK

Standard for Intervention

Pursuant to Rule 25-22.039, Florida Administrative Code (F.A.C.), persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who desire to become parties, may petition for leave to intervene. Petitions for leave to intervene must be filed at least five days before the evidentiary hearing, conform with Rule 28-106.201(2), F.A.C., and include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected by the proceeding. Intervenors take the case as they find it.

Analysis & Ruling

It appears that the Association is entitled to intervention, because the interests of its members in receiving electric service at their property, for which they have expended great financial resources, may be substantially affected by the Commission's decision on the remaining issues in this proceeding, which may determine whether or not members of the Association receive electric service from Keys Energy. Therefore, the Association's Petition to Intervene shall be granted.

Based on the foregoing, it is

ORDERED by Commissioner Eduardo E. Balbis, as Prehearing Officer, that the Petition to Intervene filed by The Association is hereby granted as set forth in the body of this Order. It is further

ORDERED that the Association takes the case as it finds it. It is further

ORDERED that all parties to this proceeding shall furnish copies of all testimony, exhibits, pleadings and other documents which may hereinafter be filed in this proceeding to:

Andrew M. Tobin, Esq.
Counsel for No Name Key Property Owners Association, Inc.
P.O. Box 620
Tavernier, Florida 33070
Telephone: (305) 852-3388
E-mail: tobinlaw@terranova.net

By ORDER of Commissioner Eduardo E. Balbis, as Prehearing Officer, this 11th day of September, 2012.



EDUARDO E. BALBIS
Commissioner and Prehearing Officer
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MCB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.