

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of the National School Lunch Program and an income-based criterion at or below 135% of the Federal Poverty Guidelines as eligibility criteria for the Lifeline and Link-Up programs.

DOCKET NO. 040604-TL

FILED: November 12, 2004

**AARP MOTION FOR RECONSIDERATION/RESCHEDULING/  
AND REMOVAL OF FUNDING MECHANISM ISSUE**

Pursuant to Rule 25-22.0376, Florida Administrative Code, the AARP, through its undersigned attorney, files its Motion for Reconsideration of Order Nos. PSC-04-1066-PCO-TL (Order Establishing Procedure) and PSC-04-1096-PCO-TL (Order Modifying Procedure) for the purpose of obtaining more time to file both direct and rebuttal testimony and to have the establishment of a state lifeline funding mechanism excluded as an issue for consideration in this docket. In support of its motion, AARP states as follows:

1. AARP on behalf of its approximately 2.6 million Florida members filed its Petition to Intervene in this docket on November 10, 2004. It is AARP's intention, sufficient time permitting, to retain an expert witness and file both direct and rebuttal testimony on the bulk of the issues identified for consideration.

2. As noted in the Order Establishing Procedure, the hearing in this docket, currently scheduled to start January 20, 2005, is the result of a number of telephone companies and the Office of Public Counsel challenging Proposed Agency Action Order No. PSC-04-0781-PAA-TL (the "PAA Order"), which, according to the Order Establishing Procedure, was issued for the purpose of:

adopting the National School Lunch program and an income-based eligibility criterion for consumers with incomes at or below 135%

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of the Federal Poverty Guidelines. Additionally, the Order allows Florida consumers, who qualify for Lifeline assistance, the option of electing a self-certification process. The Order requires ETCs to disclose to consumers both Lifeline certification processes available, along with the Lifeline credits available under each process. Additionally, ETCs are required, on an annual basis, to file reports identifying the number of applicants applying for Lifeline and Link-up, the number of applicants approved for Lifeline/Link-up, the method of certification the applicant used, and whether the approved applicant received \$8.25 or \$13.50 in assistance.

There was no mention in PAA Order of whether the Commission has statutory authority to establish a state lifeline funding mechanism or, if it does, whether such a mechanism should be established.

3. While the parties to this case submitted preliminary lists of issues and an issue identification meeting was held before staff on October 20, 2004, at which the state lifeline funding mechanism issue was discussed, AARP does not consider that there has been a formal opportunity to protest this issue as being inappropriate for inclusion in a hearing resulting from a PAA order that did not address a state lifeline fund mechanism. Since the issue has been identified for consideration at hearing in the Order Establishing Procedure, it appears that AARP must protest inclusion of this issue through a Motion for Reconsideration of the Order Establishing Procedure, although reconsideration and its standard of review are arguably inappropriate for addressing changes to this type of procedural decision.

4. Matters for consideration in the January 20, 2005 hearing should be strictly limited to whether the Commission's PAA Order was correct or not. Aside from the fact that a state lifeline funding mechanism was not mentioned in the PAA Order and, thus, should not be

considered in this docket, AARP believes that the funding mechanism should not be considered for the following additional reasons:

- A. AARP believes that the Commission does not have the statutory authority to establish a state lifeline funding mechanism that would alter the status quo funding sources, particularly so as to shift responsibility for any funding now borne by the telephone companies to their customers;
- B. Even if the Commission has the statutory authority to establish such a funding mechanism, it is inappropriate and unfair for it to be raised as a last minute and ancillary issue in the PAA Order to be addressed simultaneously by all parties in their testimony. Rather, AARP believes the appropriate procedure for the state lifeline funding mechanism issue, if it is to be addressed at all, is for the company, or companies, interested in establishing such a mechanism to file a separate petition seeking it. Such a petition would necessarily cite the statutory authority supporting the mechanism, include a rationale for its establishment, as well as describing the annual amounts the companies were seeking to avoid paying by transferring that revenue responsibility to their customers;
- C. In short, AARP believes the state lifeline fund mechanism is shorthand for a telephone rate or fee increase for all customers. The burden, responsibility and “credit” for seeking the imposition of yet another fee on telephone customers should rest with the telephone companies and not be shared with either this Commission or the customers through the inclusion of this last minute, “backdoor” issue in this docket.

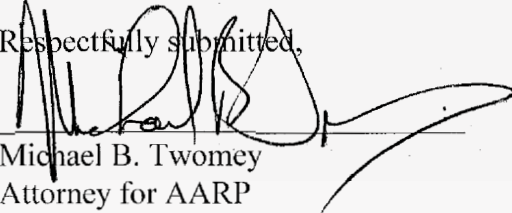
5. While it is true staff circulated proposed action dates for the conduct of this docket prior to November 1, 2004, the actual dates, to include the testimony filing dates, were not formalized until issuance of the Order Establishing Procedure on November 1, 2004. The controlling dates announced in the order included the filing of direct testimony and exhibits on November 17, 2004, just 16 days after the issuance of the Order Establishing Procedure and the filing of rebuttal testimony and exhibits one month later on December 17.

6. AARP will not have sufficient time to retain an expert witness and submit direct testimony by November 17, which date only allows 12 week days from the November 1, 2004 publication of the Order Establishing Procedure. Such a schedule is unduly short and restrictive as measured by Commission historic practices and seems unnecessary given that there are no apparent deadlines requiring such quick hearing and testimony deadlines.

7. In view of the lack of any compelling reason to rush either the hearing and especially the direct testimony deadline, AARP would request that the deadline for filing direct testimony be extended by at least three weeks until December 8, 2004 and that the time for filing rebuttal testimony be set at January 8, 2005. If the Commission still desires to hear the case on January 20-21, 2005, as now scheduled, it appears it could still do so even with the changes requested by AARP with the possible exception of changing the date for the Prehearing Conference.

WHEREFORE, AARP would respectfully request that the Florida Public Service Commission reconsider Order Nos. PSC-04-1066-PCO-TL and PSC-04-1096-PCO-TL by allowing additional time, as requested above, for the filing of both direct and rebuttal testimony and by excluding from consideration in this docket and hearing the issue of a state lifeline

funding mechanism.

Respectfully submitted,  
  
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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of this petition has been served by

U.S. Mail this 12th day of November, 2004 on the following:

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