

**Matilda Sanders**

ORIGINAL

**From:** Cecilia Bradley [Cecilia\_Bradley@oag.state.fl.us]  
**Sent:** Friday, October 20, 2006 3:47 PM  
**To:** Filings@psc.state.fl.us  
**Cc:** MCLEAN.JACK@leg.state.fl.us; Charles Beck; miketwomey@talstar.com; Beth Salak; Charles Rehwinkel; David Christian; jwahlen@ausley.com; Jerry.Hendrix@BellSouth.com; Ken Hoffman; Michael Cooke; Nancy Sims; Patrick Wiggins  
**Subject:** Docket No. 060677-TL, Attorney General's Motion to Intervene  
**Attachments:** Lifeline itervene.pdf

Enclosed is the Attorney General's Motion to Intervene for filing in Docket No. 060677-TL. Thank you for consideration of this matter.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Petition to Implement Automatic  
Enrollment for Lifeline Telephone  
Service

Docket No. 060677-TL  
Filed: October 11, 2006

ATTORNEY GENERAL'S MOTION TO INTERVENE

CHARLES J. CRIST, JR., Attorney General, State of Florida, pursuant to Rule 25-22.039, Florida Administrative Code, petitions the Florida Public Service Commission to enter an order granting leave to the Attorney General to intervene in this Docket and states:

1. Article IV, Section 4 of the Florida Constitution provides that the Attorney General is the chief state legal officer. The courts have long recognized that the Attorney General, as chief state legal officer, is authorized to intervene in all actions affecting the citizens of Florida. *See State ex rel. Landis v. S. H. Kress & Co.*, 155 So. 823 (Fla. 1934) (Court upheld the power of the Attorney General to test by writ of quo warranto the right of a foreign corporation to operate in Florida); *State ex rel. Shevin v. Yarborough*, 257 So. 2d 891, 893 (Fla. 1972) ("Although the P.S.C. by virtue of Fla. Stat. § 366.01, F.S.A., exercises the police power of the State for the protection of the public welfare and by its statutorily authorized Rule 25-1.24, the Legal Department represents the general public interest in all rate cases, there is no statute which prohibits the Attorney General from representing the State of Florida as a consumer, and offering such evidence and argument as will benefit its citizens. Generally speaking, the Attorney General is Chief Counsel for the State which in final analysis is the people." ); *State ex rel. Shevin v. Kerwin*, 279 So. 2d 836, 838 (Fla. 1973) (where trial court finds statute unconstitutional, it is proper for Attorney General to appear on appeal to defend statute even though he was not a party to action before the trial court and the State of Florida, through the Attorney General, is proper

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party to any action in which the constitutionality of any general statute is raised).

2. In *Kress, supra*, the Court recognized the authority of the Attorney General to intervene and bring actions affecting the state and held:

The office of Attorney General has existed both in this country and in England for a great while. The office is vested by the common law with a great variety of duties in the administration of the government. It has been asserted that the duties of such an office are so numerous and varied that it has not been the policy of the Legislature of the States to specifically enumerate them; that a grant to the office of some powers by statute does not deprive the Attorney General of those belonging to the office under the common law. The Attorney General has the power and it is his duty among the many devolving upon him by the common law to prosecute all actions necessary for the protection and defense of the property and revenues of the State; to represent the state in all criminal cases before the appellate court; by proper proceedings to revoke and annul grants made by the State improperly or when forfeited by the grantee; by writ of quo warranto to determine the right of any one who claims or usurps any office, and to vacate the charter or annul the existence of a corporation for violations of its charter or for omitting to exercise its corporate powers; to enforce trusts and prevent public nuisances and abuse of trust powers. As the chief law officer of the State, it is his duty, in the absence of express legislative restrictions to the contrary, to exercise all such power and authority as public interests may require from time to time.

155 So. at 827.

3. This language recognizes the authority of the Attorney General to intervene in actions such as the instant one. Here, Public Counsel and AARP have requested the Commission to order the local exchange telecommunications companies in Florida to implement practices and procedures with the Department of Children and Families to automatically enroll eligible customers in the Lifeline telephone program.

4. One million households in Florida who are intended beneficiaries of the Lifeline program are failing to realize its benefits. Those benefits include not only connection to the

telecommunications network that represents the mainstream of our economic fabric, but also the availability of emergency access through E911 in low income households, which, in many cases, include older or elderly residents who may be the most likely to need to call for emergency services.

5. Floridians and the economy of the State of Florida are not receiving the financial benefits that are deserved. In 2003, Florida contributed \$44.7 million into the federal low income support mechanism which funds Lifeline, but only received \$15.5 million in payments, for a net deficit of \$29.2 million per year. From the standpoint of all universal service support payments and receipts, Florida is in worse shape than that. In 2004, Florida received \$137.370 million in support, but paid \$386.162 million in contributions, for a net deficit of \$248.791 million - almost a quarter of a billion dollars flowing from the state. Increasing participation in Lifeline will help to reduce that deficit and increase the benefit to eligible Floridaians.

6. The Office of the Public Counsel and AARP Florida state in their petition,

The Commission has broad authority to promote Lifeline participation, and the best way to do that is to require the local exchange telecommunications companies to adopt practices and procedures to implement automatic enrollment in conjunction with the Department of Children and Families. Section 364.10(3)(h), Florida Statutes, directs each state agency that provides benefits to persons eligible for Lifeline service to undertake the development of procedures to promote Lifeline participation, and to do so in cooperation with the Department of Children and Families, the Department of Education, the Commission, the Office of Public Counsel, and telecommunications companies providing Lifeline services. Section 364.01(4)(a), Florida Statutes, directs the Commission to protect the public health, safety, and welfare by ensuring that basic local telecommunications services are available to all consumers in the state at reasonable and affordable prices. Lifeline is an important part of providing telephone service to all consumers at reasonable and affordable prices. Although the Commission has no authority over the Department of Children and Families, the exercise of the Commission's authority over the local

exchange telecommunications companies, combined with the Legislature's directive to state agencies to develop procedures to promote Lifeline participation, should result in an effective program of automatic enrollment for those persons who participate in a qualifying program administered by the Department of Children and Families.

Wherefore, Charles J. Crist, Jr., Attorney General, supports the petition filed by the Citizens of the State of Florida and AARP Florida and requests that he be allowed to intervene and the Commission order the local exchange telecommunications companies in Florida to implement practices and procedures with the Department of Children and Families to automatically enroll eligible customers in the lifeline telephone program.

Respectfully submitted,

CHARLES J. CRIST, JR.  
ATTORNEY GENERAL

/s Jack Shreve  
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**DOCKET NO. 060677-TL**  
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing motion to intervene has been furnished by electronic delivery and U.S. Mail on this 20th day of October, 2006, to the following:

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