

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 10, 2004

AARP PETITION TO INTERVENE

Pursuant to Sections 120.569 and 120.57(1), Florida Statutes and Rules 25-22.039, and 28-106.205, Florida Administrative Code, the AARP, through its undersigned attorney, files its Petition to Intervene, and in support thereof, states as follows:

1. The name and address of the affected agency is:

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

2. The name and address of the petitioner is:

AARP
200 West College Street
Tallahassee, Florida 32301

3. All pleadings, motions, orders and other documents directed to the petitioner

should be served on:

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and

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Coralette Hannon, Esquire
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AARP Department of State Affairs
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4. BellSouth Telecommunications, Inc. (“BellSouth”), Verizon Florida, Inc. (“Verizon”), and Sprint-Florida, Incorporated (“Sprint”) are incumbent local telecommunications exchange companies (“ILECs”) regulated by the Florida Public Service Commission (“Commission”) for certain purposes. Collectively, these three ILECs are reported to serve approximately 98 percent of all residential telephone customers in the State of Florida. TDS Telecom, GTC, Inc., ALLTEL Florida, Inc., and Northeast Florida Telephone Company (“Northeast Florida”) are small incumbent local exchange companies.

5. AARP (formerly known as the American Association of Retired Persons) is a nonprofit membership organization dedicated to addressing the needs and interests of persons 50 and older. AARP has staffed offices in all 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. AARP represents more than 35 million members in total, approximately 2.6 million of whom reside in the State of Florida. AARP’s Florida members reside throughout the state and substantial numbers of them are retail residential customers of each of the participating ILECs.

AARP Florida Members’ Substantial Interests Affected

6. By its Order No. PSC-04-0781-PAA-TL, *Notice of Proposed Agency Action Order Expanding Lifeline Eligibility*, issued August 10, 2004 (“PAA Order”), this Commission

proposed to: (1) adopt the National School Lunch free program for purposes of determining eligibility in the Lifeline and Link-Up programs in Florida; (2) adopt an income-based eligibility criterion for consumers with incomes at or below 135 percent of the Federal Poverty Guidelines for purposes of determining eligibility in the Lifeline and Link-Up programs in Florida; (3) allow Florida consumers that qualify for Lifeline assistance the option of electing a self-certification process by which the amount of Lifeline assistance provided would be based on the type of certification chosen by the consumer; and (4) require the Eligible Telecommunications Carriers to file a number of reports related to the number of Lifeline/Link-Up applicants, the number of applications approved and method of certification, among others.

7. The PAA Order never became final, however, because BellSouth, Verizon, Sprint-Florida and all the small incumbent local exchange companies, except Northeast Florida Telephone Company, as well as the Office of Public Counsel, protested the order and requested an evidentiary hearing. The telephone companies objected to the PAA order on the grounds, among others, that the Commission has no statutory authority to mandate additions to eligibility tests for Lifeline/Link-Up, that it was not granted such authority by the Federal Communications Commission in its April 2, 2004 order, that the Commission is unreasonably discriminating in the amount of benefits available based on the certification process, that the telephone companies have not been afforded an opportunity to discuss and provide cost and implementation information, that the reporting procedures are too burdensome and that rulemaking should precede the issuance of such an order. The Office of Public Counsel objected to the PAA Order on the basis that it unreasonably limited customers to only \$8.25 per month if they self-certified, while those using other certification processes receive \$13.50 per month.

8. When discussing issues to be considered in any future hearing, one or more of the telephone companies raised the question “is there a need for a state Universal Service Fund (USF)?” Subsequently, at an October 20, 2004 issue identification meeting the funding issue was expanded substantially beyond anything proposed in the PAA Order to state:

Is the Commission authorized under state or federal law to establish a state lifeline funding mechanism? If so:

- a. Should a state lifeline funding mechanism be established?
- b. What is the appropriate state lifeline funding mechanism and how should it be implemented and administered?

9. Northeast Florida has petitioned to intervene, stating, among other things, that it concurs in the other companies’ request that the Commission “take action in this docket to establish a state universal service funding mechanism to support Lifeline and to determine how contributions to the fund should be collected, who should administer the fund, and how the monies in the fund should be distributed.” Northeast Florida specifically concurred that “a state universal service funding mechanism for Lifeline be considered and established in this docket.”

10. AARP submits that its approximately 2.6 million Florida members will be clearly and substantially affected by any action the Commission takes in this docket in at least two identifiable ways. First, there are a substantial number of AARP Florida members that would benefit by the PAA Order’s proposals providing for expanded self-certification and the adoption of the 135 percent of the Federal Poverty Guidelines criterion, as well as potentially the adoption of the National School Lunch free program for purposes of Lifeline/Link-Up eligibility. Furthermore, it appears all AARP members would benefit by the enhanced annual reporting requirements. Additionally, with the attempted industry expansion of the issues to include the

desirability of a “state lifeline funding mechanism” and necessarily whether customers should pay for all or a portion of its costs, all AARP Florida members with telephone service will potentially be subject to paying those additional fees or costs if such a fund is approved by this Commission.

11. Accordingly, AARP’s Florida members, and AARP as their associational representative, meet the two-prong test of Agrico Chemical Company v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981) for proving substantial interests.

Disputed Issues of Fact and Law

12. The following issues have been preliminarily identified by AARP as disputed issues of material fact, policy or law for resolution in any hearing held in this docket:

- a. What is the basis for providing consumers using the self-certification process only \$8.25 per month in assistance:
- b. Should consumers using the self-certification process for Lifeline and Link-Up eligibility qualify for \$13.50 monthly assistance? and
- c. Does the Commission have statutory authority to establish a “state lifeline funding mechanism?” If so, is consideration of this issue appropriate in a hearing held on the protest of a proposed agency action order that did not address a state lifeline funding mechanism? Even if statutorily authorized and appropriate for consideration in this docket, should a “state lifeline funding mechanism” be established and should customers directly pay for all or any portion of its costs?

WHEREFORE, AARP requests that this Commission grant it intervenor status in this docket as a full party on behalf of its approximately 2.6 million Florida members, the vast majority of whom take residential basic local telephone service from BellSouth, Sprint or Verizon, or the other participating smaller local incumbent exchange companies.

Respectfully submitted,

/s/ Michael B. Twomey
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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 10th day of November, 2004 on the following:

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