

10/8/2007 4:38 PM

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Subject: Electronic Filing in Docket No. 070001-EI
Attachments: motion to intervene.doc



motion to
intervene.doc (53 K)

Attached is the Attorney General's Motion to Intervene for filing in Docket No. 070001-EI. Thank you.

(See attached file: motion to intervene.doc)

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DOCUMENT NUMBER-DATE
09219 OCT-88
FPSC-COMMISSION CLERK

THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Fuel and Purchased Power
Cost Recovery Clause with Generating
Performance Incentive Factor.

Docket No. 070001-EI
Filed: October 8, 2007

OFFICE OF THE ATTORNEY GENERAL'S MOTION TO INTERVENE

Bill McCollum, 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. Fla.Const. art. IV, s 4, F.S.A., 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 (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 (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 (Fla. 1973) (Where trial court finds statute to be unconstitutional, it is proper that the Attorney General 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 party to any action in which the constitutionality of any general statute is raised.)

DOCUMENT NUMBER-DATE

09219 OCT-85

COMMISSION CLERK

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 Legislatures 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 revenue 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 the 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.

Wherefore, Bill McCollum, Attorney General, requests that he be allowed to intervene in the instant action.

Respectfully submitted,

BILL McCOLLUM
ATTORNEY GENERAL

s/ Cecilia Bradley
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by e-mail and U.S. Mail this 8thth day of October 2007, to the following:

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