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October 30, 1997

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket Nos. 970644-TP & 970744-TP

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket are the original and 15 copies of the Petition for Section 120.57(2) Hearing and Protest of Proposed Agency Action.

Please indicate the time and date of receipt on the enclosed duplicate of this letter and return it to our office.

ACK ✓
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Sincerely,

Charles J. Beck
Deputy Public Counsel

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Establishment of eligible telecommunications carriers pursuant to Section 214(e) of the Telecommunications Act of 1996.	Docket No. 970644-TP
In re: Implementation of changes in the Federal Lifeline Assistance Plan currently provided by telecommunications carriers of last resort.	Docket No. 970744-TP Date Filed: October 30, 1997

PETITION FOR SECTION 120.57(2) HEARING
AND PROTEST OF PROPOSED AGENCY ACTION

The Citizens of Florida ("Citizens"), by and through Jack Shreve, Public Counsel, file this protest of proposed agency action and petition for a hearing to be held pursuant to section 120.57(2), Florida Statutes (1996 Supp.).

1. Section 350.0611, Florida Statues (1995) authorizes the Public Counsel to appear, in the name of the state or its citizens, in any proceeding or action before the Commission and to urge therein any position which he deems to be in the public interest.

2. Florida Public Service Commission order No. PSC-97-1262-FOF-TP issued October 14, 1997, adversely affects the substantial interests of the Citizens by failing to pursue an available $1.75 in federal matching funding for Lifeline subscribers.

3. The report and order of the Federal Communications Commission in CC Docket No. 96-45 released May 8, 1997 ("Report and Order") expanded and increased the amount of federal lifeline support available to the states. Paragraph 353 of the Report and Order states that

> "We conclude that our approach accomplishes the Joint Board's goal of increasing subscribership and maximizing matching incentives. We conclude that providing Lifeline support in all states, irrespective of state participation, will help increase subscribership in those states that presently do not participate in the Lifeline program. At the same time, we conclude that our additional support offers states an incentive to generate intrastate support to receive the additional $1.75 (over $5.25) in federal support and thus will increase support in many states. We have no reason to conclude that states will not participate in the modified Lifeline program." (underlining added).

Footnote 891 to this section states

> "Under our new plan, low-income consumers will receive the full $10.50 in support if their state provides $3.50 in intrastate support, as now occurs in 44 jurisdictions."

5. The Federal Communications Commission made it abundantly clear that it was *not* prescribing any particular method of generating the intrastate support for Lifeline, even though the states must meet the requirements of section 254(e) in providing equitable and non-discriminatory support for state universal service support mechanisms. Specifically, paragraph 361 of the Report and Order states

> "The Joint Board observed that many states currently generate their matching funds through the state rate-regulation process. These states allow incumbent LECs to recover the revenue the carriers lose from charging Lifeline

customers less by charging other subscribers more. Florida PSC points out that this method of generating Lifeline support from the intrastate jurisdiction could result in some carriers (i.e., ILECs) bearing an unreasonable share of the program's costs. We see no reason at this time to intrude in the first instance on states' decisions about how to generate intrastate support for Lifeline. We do not currently prescribe the methods states must use to generate intrastate Lifeline support, nor does this Order contain any such prescriptions." (Underlining added).

6. Despite this clear indication by the Federal Communications Commission that existing state programs would continue to be eligible to receive federal matching money and that it was not prescribing any particular method of state funding, Florida Public Service Commission Order No. PSC-97-1262-FOF-TP declined to seek federal matching money, to the determent of Florida's Lifeline customers. The Commission found that "due to the uncertainty regarding whether Florida's Lifeline Assistance Plan will meet federal requirements for state matching, Florida should not pursue the additional $1.75 in federal funding at this time." Order No. PSC-97-1262-FOF-TP at page 10. Rather than aggressively seeking the federal matching money to benefit Lifeline customers in Florida, the Commission cited uncertainty as a reason not to seek available federal funding that would reduce the price paid by Florida Lifeline customers.

8. The Citizens submit the following issues of law and policy for resolution by the Commission in a hearing held pursuant to Section 120.57(2), Florida Statutes:

a. Does Florida's Lifeline Assistance Plan meet federal requirements for matching funds?

b. Should the Florida Public Service Commission affirmatively seek, an additional $1.75 per Lifeline customer in federal funding?

9. This protest of the Commission' s proposed agency action is limited solely to the issue of whether Florida should seek the federal matching money for Lifeline customers from the Federal Communications Commission and whether Florida Lifeline's program meets such requirements. This protest is not intended to affect any other portion of Order No. PSC-97-1262-FOF-TP.

WHEREFORE, the Citizens file this protest of the proposed agency action contained in Order No. PSC-97-1262-FOF-TP and request a hearing held pursuant to Section 120.57(2), Florida Statutes (1996 Supp.).

Respectfully submitted,

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CERTIFICATE OF SERVICE
Docket Nos. 970644-TL & 970744-TP

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail or hand-delivery to tne following parties on this 30st day of October, 1997.

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