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Subject: Re: Electronic Filing for DOCKET NO. 080121-WS- Attorney General's Motion to Intervene
Attachments: aqua 2 intervention.pdf



aqua 2
vention.pdf (29)

Attached is Attorney General McCollum's Motion to Intervene for filing in Docket No. 080121-WS. Thank you for your assistance.

(See attached file: aqua 2 intervention.pdf)

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*Dme 7/25/08
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FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 080121-WS

**APPLICATION FOR INCREASE
IN WATER AND WASTEWATER
RATES IN ALACHUA, BREVARD,
DESOTO, HIGHLANDS, LAKE, LEE,
MARION, ORANGE, PALM BEACH,
PASCO, POLK, PUTNAM, SEMINOLE,
SUMTER, VOLUSIA AND
WASHINGTON COUNTIES BY
AQUA UTILITIES FLORIDA, INC.**

FILED: July 25, 2008

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. 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 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. Testimony at several recent public hearings revealed that Aqua

requested a revenue increase of 92%, with specific rate increases varying system by system, Depending on the system, the rate increase could be as high as 355% for water and 320% for wastewater service with bills which would exceed \$1000 per month for some customers.

However, the testimony which was most concerning involved health issues. The health concerns ranged from a number of miscarriages to birth defects to several incidents of renal failure to thyroid problems to skin diseases to gastrointestinal ailments. Some of these medical conditions seemed to improve when the individuals quit drinking tap water and started using bottled water. Several parents testified that their children's pediatricians had warned them not to let their children drink or even bathe in the water. Many customers testified that they cannot afford to buy bottled water to use for drinking, cooking and bathing and that they live in fear that they are poisoning their families by letting them bathe in or drink the water. There also was testimony that these health concerns have been so severe for some families that they have abandoned their homes with little hope of ever selling them or being able to return. Numerous persons also testified about losing family pets which died of excessive liver toxins and cancer. The health of many animals improved, however, when the owner started giving them bottled water to drink. Several owners testified that their pets refused to drink the tap water and they would only let them drink bottled water. Other customers testified that their veterinarian had warned them not to give the tap water to their animals.

4. Such severe safety and excessive cost issues are of interest to the public and require intervention by the Attorney General.

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
CECILIA BRADLEY
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DOCKET NO. 080121-WS
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Attorney General Bill McCollum's Motion to Intervene has been furnished by electronic mail and U.S. Mail on this 25th day of July, 2008, to the following:

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/s/ Cecilia Bradley
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