

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase)
in water rates for Seven Springs)
System in Pasco County by Aloha)
Utilities, Inc.)
_____)

DOCKET NO. 010503-WU
DATED: January 9, 2004

**PETITION OF CHARLES J. CRIST, JR.,
ATTORNEY GENERAL, STATE OF FLORIDA, TO INTERVENE**

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

1. The Attorney General, pursuant to Art. IV, Section 4, Fla. Const., is the chief legal officer of the State with his principal place of business and mailing address at:

Charles J. Crist, Jr.
Florida Bar No. 362190
Jack Shreve
Florida Bar No. 73622
Senior Special Counsel for Consumer Affairs
Office of the Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050
Tel: (850) 414-3300, Ext. 4681
Fax:(850) 410-2672

2. The Attorney General brings this Petition in his *parens patriae* capacity as guardian of the health, welfare, and safety of the citizens of the State of Florida.

3. The Attorney General has broad statutory authority to prosecute and appear in suits in which the State is a party or is otherwise interested. Section 16.01(4), (5), and (6), Florida

Statutes. One of the matters in which the State has an interest is upholding the intent and public purpose of legislative enactments.

4. Section 367.011(3), Florida Statutes, provides:

(3) The regulation of utilities is declared to be in the public interest, and this law is an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of this chapter shall be liberally construed for the accomplishment of this purpose.

At the January 20, 2004, Agenda Conference, the Public Service Commission is scheduled to hear arguments on the proper level of interim rate refunds in this docket. That issue is controlled by Section 367.082(4), Florida Statutes, which states:

(4) Any refund ordered by the commission shall be calculated to reduce the rate of return of the utility or regulated company during the pendency of the proceeding to the same level within the range of the newly authorized rate of return which is found fair and reasonable on a prospective basis, but the refund shall not be in excess of the amount of the revenues collected subject to refund and in accordance with paragraph (2)(b). In addition, the commission may require interest on the refund at a rate established by the commission.

The three alternative PSC Staff recommendations vary over a range of \$277,271 to be refunded to Aloha's customers. Thus, the interpretation and enforcement of the statutes rules and policies at issue in this proceeding clearly involve matters of public interest.

5. Both the degree of the injury and the nature of the injury are such that the Attorney General, as the guardian of the welfare of Florida's citizenry, has a substantial interest in the outcome of this proceeding. Unless the above-cited statutes are properly enforced, the Aloha customers will be harmed by suffering a loss of \$277,271, or more. That monetary injury is being addressed specifically in this docket.

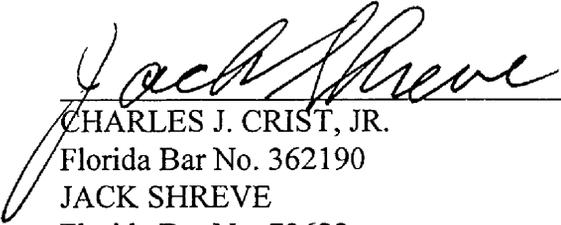
6. Where the public interest is involved, the Attorney General may not only initiate litigation, but also intervene in pending litigation. State ex rel. Shevin v. Yarbrough, 257 So.2d 891, 894 (Fla. 1972). The Attorney General is granted wide discretion in determining what particular matters involve the public interest. State ex rel. Shevin v. Exxon Corp., 526 F. 2d 266, 268-69 (5th Cir. 1976). Accordingly, his conclusion that a particular matter involves the public interest is presumed to be correct. Yarbrough, at 895.

7. The Attorney General has been granted intervention in other cases before the Florida Public Service Commission.

WHEREFORE, the Attorney General respectfully requests that the Commission enter an order allowing the Attorney General to intervene in this Docket.

DATED this ___ day of January, 2004.

Respectfully submitted,
CHARLES J. CRIST, JR.
ATTORNEY GENERAL



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CERTIFICATE OF SERVICE
DOCKET NO. 010503-WU

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition of Charles J. Crist, Jr., Attorney General, State of Florida, To Intervene has been furnished by hand-delivery(*) or U.S. Mail to the following parties on the 9th day of January, 2004:

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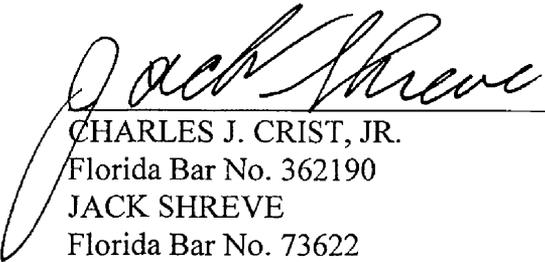
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