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From: Cecilia Bradley [Cecilia.Bradley@myfloridalegal.com]
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Subject: Attorney General's Motion to Intervene- Docket No. 080317-EI
Attachments: intervene.pdf



intervene.pdf
(63 KB)

Attached is Attorney General Bill McCollum's Motion to Intervene, for filing in Docket No. 080317-EI. Thank you for consideration of tis matter.

(See attached file: intervene.pdf)

Cecilia Bradley
Senior Assistant Attorney General
General Civil/Tort Litigation
Office of the Attorney General
Tel.: (850) 414-3300
Fax: (850) 488-4872

*Done
10/15/08
R.V.N.*

E-mail:cecilia.bradley@myfloridalegal.com

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DOCUMENT NUMBER-DATE

09770 OCT 15 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Tampa Electric Company's
Petition for an Increase in Base
Rates and Miscellaneous Service
Charges

DOCKET NO. 080317-EI

FILED: October 14, 2008

BILL McCOLLUM, Attorney General, State of Florida, 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

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FPSC-COMMISSION CLERK

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. In this action, TECO has petitioned for an increase of \$228.2 million . Such an extreme increase in rates and charges at a time of severe economic hardship for many Florida citizens is of interest to the public and requires 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
Senior Assistant Attorney General
Florida Bar No. 0363790

Office of the Attorney General
The Capitol - PL01
Tallahassee, FL 32399-1050
(850) 414-3300
Fax: (850) 488-4872

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 14th day of October, 2008, to the following:

James Beasley/Lee Willis
Ausley & McMullen Law Firm
P.O. Box 391
Tallahassee, FL 32302

Vicki Kaufman/Jon Moyle
Florida Industrial Power Users Group
Anchors Law Firm
118 N. Gadsden Street
Tallahassee, FL 32301

Jean Hartman/Jennifer Brubaker
Keino Young/Martha Brown
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

R. Scheffel Wright
Young Law Firm
225 S. Adams Street, Ste. 200
Tallahassee, FL 32308

Tampa Electric Company
Regulatory Department
c/o Paula Brown
Administrator, Regulatory Affairs
P.O. Box 111
Tampa, FL 33602

JR Kelly
Public Counsel
Patricia A. Christensen
Associate Public Counsel

Office of the Public Counsel
c/o The Florida Legislature
111 West Madison St., Room 812
Tallahassee, FL 32399-1400

/s/ Cecilia Bradley
Cecilia Bradley
Senior Assistant Attorney General