

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

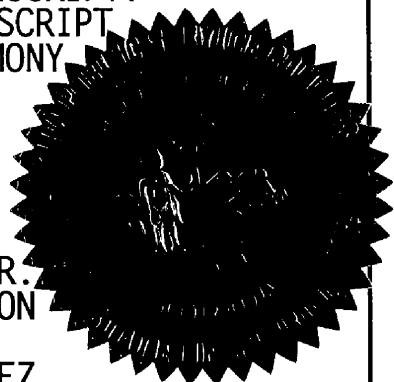
APPLICATION FOR ORIGINAL
CERTIFICATES TO OPERATE WATER
AND WASTEWATER UTILITY IN DUVAL
AND ST. JOHNS COUNTIES BY NOCATEE
UTILITY CORPORATION.

DOCKET NO. 990696-WS

APPLICATION FOR CERTIFICATES TO
OPERATE A WATER AND WASTEWATER
UTILITY IN DUVAL AND ST. JOHNS
COUNTIES BY INTERCOASTAL UTILITIES
INC.

DOCKET NO. 992040-WS

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PROCEEDINGS: SERVICE HEARING

BEFORE: CHAIRMAN E. LEON JACOBS, JR.
COMMISSIONER J. TERRY DEASON
COMMISSIONER LILA A. JABER
COMMISSIONER BRAULIO L. BAEZ
COMMISSIONER MICHAEL A. PALECKI

DATE: Monday, May 7, 2001

TIME: Commenced at 10:00 a.m. and 6:00 p.m.
Concluded at 7:15 p.m.

PLACE: Clarion Hotel Banquet Room
1300 Ponce De Leon Boulevard
St. Augustine, Florida

REPORTED BY: JANE FAUROT, RPR
FPSC Division of Records & Reporting
Chief, Bureau of Reporting

1 APPEARANCES:

2 RICHARD D. MELSON, Hopping Green Sams and
3 Smith, Post Office Box 6526, Tallahassee, Florida
4 32314, appearing on behalf of DDI and Nocatee
5 Utility Corporation.

6 JOHN WHARTON, and F. MARSHALL DETERDING,
7 Rose, Sundstrom and Bentley, L.L.P., 2548 Blairstone
8 Pines Drive, Tallahassee, Florida 32301, appearing
9 on behalf of Intercoastal Utilities, Inc.

10 KENNETH A. HOFFMAN and J. STEPHEN MENTON,
11 Rutledge, Ecenia, Underwood, Purnell & Hoffman, P.
12 O. Box 551, Tallahassee, Florida 32302-0551,
13 appearing on behalf of Jacksonville Electric
14 Authority.

15 MICHAEL J. KORN, Korn & Zehmer, P.A., 6620
16 Southpoint Drive, Suite 200, Jacksonville, Florida
17 32216, appearing on behalf of Sawgrass Association,
18 Inc.

19 SAMANTHA CIBULA and LORENA A. ESPINOZA,
20 FPSC Division of Legal Services, 2540 Shumard Oak
21 Boulevard, Tallahassee, Florida 32399-0850,
22 appearing on behalf of the Commission Staff.

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I N D E X

WITNESSES

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NAME:

PAGE NO.

ROGER P. O'REILLY

Direct Statement

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CERTIFICATE OF REPORTER

13

P R O C E E D I N G S

1
2 CHAIRMAN JACOBS: Good morning. We will call this
3 hearing to order. Counsel, read the notice.

4 MS. ESPINOZA: By notice issued April 23rd, 2001, this
5 time and place has been set for a formal hearing in the
6 following consolidated dockets: Docket Number 990696-WS,
7 application for original certificates to operate a water and
8 wastewater utility in Duval and St. Johns Counties by Nocatee
9 Utility Corporation; and Docket Number 992040-WS, application
10 for certificates to operate a water and wastewater utility in
11 Duval and St. Johns Counties by Intercoastal Utilities, Inc.
12 10:00 a.m. and 7:00 p.m. have been set aside for customer
13 testimony sessions.

14 CHAIRMAN JACOBS: Very well. We will take
15 appearances. We can begin with you, Mr. Wharton.

16 MR. WHARTON: John Wharton and Marty Deterding
17 representing Intercoastal Utilities.

18 MR. KORN: I am Michael Korn from Korn & Zehmer,
19 Jacksonville. We represent the Sawgrass Association.

20 MR. HOFFMAN: Kenneth Hoffman and J. Stephen Menton of
21 the firm of Rutledge, Ecenia, Purnell & Hoffman on behalf of the
22 JEA. I would also like to enter an appearance for Michael B.
23 Wedner, Assistant General Counsel with the City of
24 Jacksonville's Office of General Counsel, 117 West Duval Street,
25 Suite 480, Jacksonville, Florida 32202, also on behalf of JEA.

1 CHAIRMAN JACOBS: Could you give me the spelling for
2 Mr. Wedner's last name?

3 MR. HOFFMAN: W-E-D-N-E-R.

4 CHAIRMAN JACOBS: Thank you.

5 MR. MELSON: Richard Melson of the law firm Hopping,
6 Green, Sams & Smith on behalf of Nocatee Utility Corporation and
7 DDI, Inc.

8 MS. CIBULA: Samantha Cibula and Lorena Espinoza on
9 behalf of Commission staff.

10 CHAIRMAN JACOBS: Before we begin, I would like to
11 make a couple of notes. First, we have received a motion for
12 withdrawal from St. Johns County and we will acknowledge that
13 for the record at this time and then we will come back later to
14 figure out how that works into the overall proceedings of the
15 case.

16 As was noted in the reading of the notice, this time
17 has been designated as the time for customer hearing. Are there
18 any customers who are here to testify at this time? Let the
19 record reflect that none have come forward. In an abundance of
20 caution, and, first of all, because Public Counsel is not here
21 and second of all because of the weather, I would like to stand
22 in recess for approximately ten minutes or so just to make sure
23 no one is in transit and attempting to get here. And then at the
24 end of that time we will come back on and announce how we will
25 proceed from there. So for ten minutes we will stand in recess.

1 (Service hearing recessed until 6:00 p.m.)

2 * * * * *

3 (Service hearing commenced at 6:00 p.m.)

4 CHAIRMAN JACOBS: We will go back on the record. We
5 read the notice this morning for the customer hearing, is that
6 correct?

7 MS. CIBULA: Correct.

8 CHAIRMAN JACOBS: This is the continuation of the
9 customer hearing portion of the combined docket applications for
10 certificate to operate water and wastewater utilities by Nocatee
11 Utility Corporation and Intercoastal Utilities to serve the
12 development Nocatee bordering -- I should say traversing Duval
13 and St. Johns Counties.

14 The purpose of the hearing this evening is for the
15 Commission to hear customer input on these applications. We will
16 be considering the opposing applications in further proceedings
17 later on in Tallahassee. We will use the customer input that is
18 generated in addition to technical testimony that we have been
19 taking earlier in the day, and we will continue taking tomorrow.
20 And that will go into a formal proceeding that the Commission
21 will develop from which we will deliberate and make our decision.

22 As indicated in the handout that has been given, our
23 decision will be made at an agenda conference that is presently
24 scheduled for July 24th of this year. As of this time, we have
25 one customer who I show signed up to testify this evening. And

1 in an abundance of caution, we waited a few moments. We will go
2 ahead and take that customer's testimony and then see if there
3 are any other present at the conclusion of that testimony.

4 This is a part of a formal docket, so we will ask that
5 the customers who testify be sworn in. So all customers who are
6 here to testify, would you please stand and raise your right
7 hand.

8 (Witness sworn.)

9 CHAIRMAN JACOBS: You may approach. We call Mr. Roger
10 P. O'Reilly.

11 - - - - -

12 ROGER P. O'REILLY

13 was called as a witness on behalf of the Citizens of the State
14 of Florida and, having been duly sworn, testified as follows:

15 DIRECT STATEMENT

16 CHAIRMAN JACOBS: Would you please restate your name
17 and address for the record.

18 MR. O'REILLY: My name is Roger O'Reilly. I live in
19 Ponte Vedra, Florida, and currently I am a customer of
20 Intercoastal Utilities. And I have two concerns concerning the
21 proposed expansion of their facility so as to handle Nocatee.

22 The first concern is the impact that such an expansion
23 will have on the facilities that they currently have in place
24 serving Ponte Vedra. And, secondly, how the expansion will be
25 financed. My understanding currently is that Intercoastal,

1 unlike electric utilities with which I am pretty familiar, has
2 been given permission to take care of their expansion needs and
3 their needs to accommodate EPA regulations by charging their
4 current customers for that.

5 In my experience with electric utilities, the only way
6 they got money was to go out and borrow it and then if they did
7 have to meet EPA requirements, they got a municipal tax free loan
8 to provide for those kinds of facilities. So I am concerned
9 about the impact that this expansion will have on the current
10 customers as far as their costs are concerned.

11 CHAIRMAN JACOBS: Very well. Does that conclude your
12 statement, Mr. O'Reilly?

13 MR. O'REILLY: That concludes my statement.

14 CHAIRMAN JACOBS: Very well. Are there any questions,
15 counsel, staff, Commissioners?

16 Very well. Thank you very much for your statement,
17 Mr. O'Reilly. As I indicated, if you wish to continue to monitor
18 this case as it proceeds, there are various avenues for you to do
19 that. Most of those are explained in the blue handout that you
20 have. Thank you for coming this evening.

21 MR. O'REILLY: Does anyone answer questions here?

22 CHAIRMAN JACOBS: If you would like to pose a
23 question, we will take a stab at it.

24 MR. O'REILLY: Well, the question I pose is if they
25 expand into Nocatee, will that have an impact on the current

1 facilities they are using to serve Ponte Vedra? And the impact
2 that I was concerned was, of course, mostly in the area of odors
3 and their just general expansion of the plant in the area which
4 they currently occupy. And then secondly how they plan to
5 finance their expansion. If they plan to finance it by charging
6 current customers, obviously we would have a strong objection to
7 that.

8 CHAIRMAN JACOBS: I will offer that up to counsel for
9 Intercoastal.

10 MR. DETERDING: As far as the plan for service as
11 proposed by Intercoastal, there is no plan to utilize the
12 facilities in the existing service area to serve those customers
13 in the proposed area. So that sewage treatment plant and those
14 wells would not be utilized for that purpose. There is, I
15 believe, still some consideration of bringing treated effluent
16 across to the new area to utilize for reuse water, but that is
17 the only -- that is my understanding of the only cross between
18 the two. So we would not be utilizing -- would not propose to
19 utilize the current facilities for service to this new area.

20 As for the financing issue, all facilities would have
21 to be financed through debt. We don't have municipal bonds, nor
22 do we have access to municipal bonds, but we would seek either
23 debt or equity infusion of debt or equity, new debt, or infusion
24 of additional equity. The current proposal is to utilize
25 whatever this Commission really thinks we ought to, but generally

1 debt to finance those new facilities.

2 MR. O'REILLY: When you get started and you do
3 increase your debt, I presume you are allowed to charge interest
4 during construction for that, and I presume that is paid by your
5 current customers?

6 MR. DETERDING: Well, no, that is not correct.
7 Interest during construction is an item that is capitalized to
8 your total investment and then is considered in future rate
9 setting, but it is not something that you charge back to an
10 individual. In other words, once you start the construction and
11 start incurring interest, you don't start throwing that back to
12 your existing customers. You capitalize it and at some point in
13 time you request rates to recognize that.

14 What Intercoastal has proposed to do in this case is
15 to -- the last proposal that is in the record, or will be in the
16 record in this case is that the utility will keep their rates the
17 same and in about four or five years they should be able to
18 reduce them to all customers. And what they have proposed to do
19 is to go a step farther and, in fact, immediately reduce rates to
20 all customers about 5 percent.

21 MR. O'REILLY: So in effect you are saying that the
22 expansion into Nocatee will not have any impact on current
23 customers either from the influence of the expansion on the
24 current facilities or on the rates that the customers, current
25 customers are paying?

1 MR. DETERDING: Other than based upon our projections
2 and our proposal to immediately reduce rates about 5 percent and
3 to long-term reduce rates by a substantial amount more.

4 MR. O'REILLY: So this will not have an impact on
5 odors, either, emanating from the plant?

6 MR. DETERDING: This should have absolutely no impact
7 on that issue.

8 MR. O'REILLY: Thank you.

9 COMMISSIONER JABER: Mr. O'Reilly -- if I could just
10 clarify, Mr. Chairman, an issue. The person answering your
11 questions was the attorney for Intercoastal. I wanted to just
12 be clear on that. And there is an issue that is before us, it
13 is Issue 20, and hopefully staff will hand you a copy of the
14 prehearing order on your way out, that has us looking at the
15 public interest associated with granting what Intercoastal has
16 requested. And staff to the degree -- our staff to the degree
17 that there would be any impact on current customers, that would
18 be the place that they would discuss it and we would consider
19 it. If any. If there is any impact.

20 MR. O'REILLY: Thank you.

21 CHAIRMAN JACOBS: Thank you very much. Any other
22 questions? You are excused. Are there any customers whose have
23 arrived and who would like to speak before the Commission this
24 evening?

25 MR. KORN: Mr. Chairman, if I might. Mr. Flury, who

1 is, of course, the President of the Sawgrass Association, is
2 here and has been here throughout most of the day, and could
3 theoretically speak as a customer since he is, in fact, a
4 customer of Intercoastal Utilities. However, it would be my
5 suggestion so as not to unduly lengthen the proceedings this
6 evening, since Mr. Flury will be testifying in this docket, that
7 he will have an opportunity to address the Commission and be
8 cross-examined at that time so as to not unduly lengthen this
9 evening's proceedings.

10 CHAIRMAN JACOBS: Very well.

11 MR. KORN: And, of course, Mr. Flury speaks for the
12 1,500 approximate members of the association.

13 CHAIRMAN JACOBS: Very well. I think that process is
14 preferred.

15 MR. KORN: Thank you, Mr. Chairman.

16 CHAIRMAN JACOBS: And with that, show that the time is
17 approximately 7:15. There are no customers who have appeared or
18 who have come forward to testify. We will then adjourn the
19 customer hearing and we will reconvene the technical hearing at
20 9:00 A.M. on Tuesday morning in this place. Thank you very
21 much. We are adjourned for the evening.

22 (The service hearing concluded at 7:15 p.m.)

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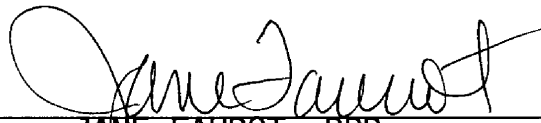
1 STATE OF FLORIDA)
2 : CERTIFICATE OF REPORTER
3 COUNTY OF LEON)

4
5 I, JANE FAUROT, RPR, Chief, FPSC Bureau of Reporting
6 FPSC Commission Reporter, do hereby certify that the foregoing
7 proceeding was heard at the time and place herein stated.

8 IT IS FURTHER CERTIFIED that I stenographically
9 reported the said proceedings; that the same has been
10 transcribed under my direct supervision; and that this
11 transcript constitutes a true transcription of my notes of
12 said proceedings.

13 I FURTHER CERTIFY that I am not a relative, employee,
14 attorney or counsel of any of the parties, nor am I a relative
15 or employee of any of the parties' attorney or counsel
16 connected with the action, nor am I financially interested in
17 the action.

18 DATED THIS 23rd day of May, 2001.

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25


JANE FAUROT, RPR
FPSC Division of Records & Reporting
Chief, Bureau of Reporting
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