

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

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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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VOLUME 3  
PAGES 389 THROUGH 584

PROCEEDINGS: HEARING

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

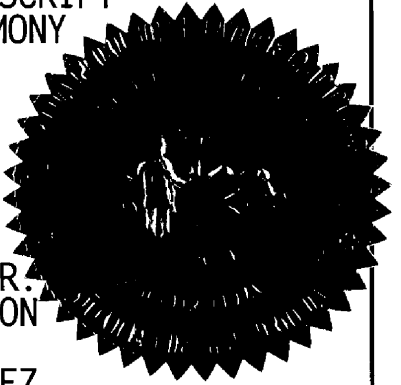
DATE: Tuesday, May 8, 2001

TIME: Commenced at 9:00 a.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

APPEARANCES: (As heretofore noted.)



06491  
May 23, 01

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## EXHIBITS

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## P R O C E E D I N G S

1  
2 (Transcript continues in sequence from  
3 Volume 2.)

4 CHAIRMAN JACOBS: Good morning. We will go back on  
5 the record in this hearing. Before we get started, I think  
6 there is one announcement.

7 COMMISSIONER JABER: Thank you, Mr. Chairman. I just  
8 wanted to tell you that I thought that some people never aged,  
9 but apparently there is someone in the room that is aging as we  
10 speak. And it appears that today is Rick Redemann's birthday,  
11 and I could really embarrass him by telling people that he is  
12 turning 40, but I'm not going to do that. But I think we should  
13 probably wish him a happy birthday.

14 CHAIRMAN JACOBS: Well, happy birthday.

15 MR. REDEMANN: Thank you.

16 COMMISSIONER JABER: And Bill Lowe told me to do it,  
17 just in case.

18 CHAIRMAN JACOBS: I believe that, Nocatee, you have  
19 ended your primary case and we are now with Intercoastal.

20 MR. WHARTON: Intercoastal would call Mr. Jim Miller.  
21 Thereupon,

22 JAMES H. MILLER

23 was called as a witness on behalf of Intercoastal Utilities,  
24 Inc., and, having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. WHARTON:

2 Q Mr. Miller, would you please state your name and  
3 employment address for the record?

4 A I'm James H. Miller. My address is 7785 Bay Meadows  
5 Way, Suite 202, Jacksonville, 32256.

6 Q Sir, have you been retained by Intercoastal to provide  
7 testimony and expert opinions in this proceeding?

8 A Yes, I have.

9 Q And did you cause to be prepared testimony labeled as  
10 direct testimony consisting of six pages and intervenor direct  
11 testimony consisting of eight pages?

12 A Yes, I did.

13 MR. WHARTON: Should I be putting in the intervenor  
14 direct right now?

15 CHAIRMAN JACOBS: No, I believe that was --

16 MR. WHARTON: Okay.

17 BY MR. WHARTON:

18 Q Strike that, then. You have caused to be prepared  
19 direct testimony consisting of six pages?

20 A Yes, I have.

21 Q Okay. And if I asked you the same questions here  
22 today, would your answers be the same?

23 A Yes, they would.

24 Q Do you have any corrections to make to that testimony  
25 at this time?

1 A No.

2 Q Did you also prepare in conjunction with the  
3 preparation of your testimony in this case two exhibits, one JM-1  
4 and one JM-2?

5 A That is correct.

6 MR. WHARTON: At this time, Mr. Chairman, I'm going to  
7 use a similar procedure that we did with Ms. Swain. We are  
8 going to ask that JM-1 be marked, but JM-2 is a later exhibit  
9 that actually JM-1 is subsumed within and is superseded, and  
10 JM-2 is the one that will go into the record. JM-2 is the one  
11 possibly that will be crossed right now.

12 BY MR. WHARTON:

13 Q Do you have any corrections or changes to those  
14 exhibits?

15 CHAIRMAN JACOBS: Before you go, JM-1 will be 16.

16 MR. WHARTON: Okay. JM-1, 16.

17 CHAIRMAN JACOBS: And JM-2 would be 17.

18 (Exhibits 16 and 17 marked for identification.)

19 BY MR. WHARTON:

20 Q Sir, do you have any corrections or changes to Exhibit  
21 JM-2?

22 A No, I do not.

23 MR. WHARTON: I would request that Mr. Miller's  
24 prefiled direct testimony be inserted into the record as though  
25 read. And that -- well, that is what I would request.

1                   CHAIRMAN JACOBS: Very well. Without objection, show  
2 Mr. Miller's prefiled direct testimony is entered into the  
3 record as though read.

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**PREFILED DIRECT TESTIMONY OF JIM MILLER**

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Q. Mr. Miller, please state your full name and employment address.

A. My name is James H. Miller, Jr. and I am employed by PBS&J at 7785 Baymeadows Way, Suite 202, Jacksonville, Florida 32256.

Q. By whom are you employed and in what capacity?

A. I am employed by PBS&J. I am a vice president and senior program manager for the Jacksonville water and wastewater program.

A. Please list your professional and educational experience post-high school.

Q. I am a registered professional engineer in Florida since 1979 (#24398), North Carolina since 1985 (#12802), and Alabama since 1985 (#15020). I hold and active Florida Engineering Society Certificate of Continuing Professional Development and am current with my required continuing education for both North Carolina and Alabama. I attended Georgia Institute of Technology, Atlanta, Ga., majoring in Civil engineering (1963-1967). I am an active member of the Florida Engineering Society, National Society of Professional Engineers, American Water Works Association, Water Environment Federation, Society of American Military Engineers, and Florida Water Resources Association. I have worked continuously in Jacksonville, Florida area since 1968. I was employed at RS&H as a project engineer/computer modeler from 1968-1972. In that capacity, I served as a project engineer for the 1968 City of Jacksonville Water Study, and various other water system studies for the City of Tallahassee, U.S. Navy, and City of North Miami Beach. I participated on the design team for the City of Jacksonville Water Improvement Program in 1969-1972, which included design of numerous water transmission main extensions and water treatment plants. From 1972-1979, I served as the water and wastewater project manager for Fred Wilson & Associates. My primary



1 clients included the Town of Orange Park, University of Florida, and U.S. Navy. During  
2 my tenure at Fred Wilson and Associates, I was project engineer/manager for both  
3 water and wastewater studies, plant expansions, and transmission, distribution, and  
4 collection mains. In 1979 I joined PBS&J as a project manager in their Jacksonville  
5 office and was responsible for several water and wastewater projects for the City of  
6 Panama City Beach, completion of the Cedar Hills Pumping Station for the City of  
7 Jacksonville, 201 Facilities Plan for the City of Panama City Beach, and water and sewer  
8 systems for Honeymoon Island State Park.

9 I was employed by Flood Engineers, as an associate vice president and project manager  
10 from 1981 to 1983 and continued to serve a project manager for the City of Panama City  
11 Beach, as well as clients such as the City of St. Augustine and U.S. Navy. Projects  
12 included water and wastewater studies, treatment system design, and  
13 transmission/distribution system design. In 1983, I joined the firm of Connelly &  
14 Wicker, Inc. as one of the three principals and executive vice president in charge of  
15 company wide production. During my tenure at Connelly & Wicker, I served as project  
16 manager for all General Development Utility projects including plant design, low  
17 pressure sewer system design and rehabilitation, studies, and transmission/distribution  
18 systems. In 1990, I sold out my interest in Connelly & Wicker and rejoined PBS&J as  
19 a vice president and senior program manager to reopen the Jacksonville office. During  
20 my tenure at PBS&J, I have managed water and wastewater projects for the City of  
21 Jacksonville and later JEA, City of Jacksonville Beach, City of Neptune Beach, City of  
22 Jasper, as well as numerous other private clients.

23 Q. Are you familiar with Intercoastal's application in this matter?

24 A. Yes, I have reviewed the application and other related documents.

25 Q. Do you believe those applications are reasonable, true and correct with regard to their

1 engineering representations?

2 A. Yes, the data contained in the applications appear to be consistent with the engineering  
3 data contained in the Conceptual Master Plan and other data provided to PBS&J by  
4 Intercoastal Utilities.

5 Q. Please identify the document which has been marked as JM-1.

6 A. Document JM-1 is the "Intercoastal Utilities, Inc. Conceptual Master Plan", prepared by  
7 PBS&J, dated December 1999.

8 Q. Are the representations in that document reasonable, true and correct to your  
9 knowledge?

10 A. Yes, I believe that all representations in the document are true, correct, and based on  
11 sound engineering standards. Assumptions related to flow/usage were based on actual  
12 Intercoastal records and/or accepted engineering values, where applicable. The  
13 opinions of estimated cost were based on values obtained from PBS&J cost information  
14 files, data obtained from suppliers or contractors, and other information available to  
15 PBS&J. All representations are based on "conceptual" planning of the service area.

16 Q. Please explain to the Commission what Intercoastal proposes by its application.

17 A. Intercoastal Utilities, Inc. proposes to amend its certificate to provide water, wastewater,  
18 and reclaimed water service to the "Westerly Certificate Area", identified in Figure 3-1  
19 of the Conceptual Master Plan. Potable water, wastewater, and reclaimed water  
20 systems will generally follow the capacities and phasing outlined in the Conceptual  
21 Master Plan, subject to projected growth rates. Phase 1 of each of these systems is  
22 described graphically on Figures Nos. 3-2 through 3-4.

23 Q. Please identify the maps which Intercoastal has included within its application, and  
24 which are set forth within Exhibit JM-1 and identify each.

25 A. Eight (8) maps developed by PBS&J have been included in the application:

1 Figure 2-1 – Intercoastal Utilities Easterly Certificate Area

2 Figure 2-2 – Intercoastal Utilities Existing Water System

3 Figure 2-3 – Intercoastal Utilities Existing Sewer System

4 Figure 3-1 – Intercoastal Utilities Westerly Certificate Area (both application and  
5 Conceptual Master Plan)

6 Figure 3-1 – Intercoastal Utilities Easterly and Westerly Certificate Area (not included in  
7 Conceptual Master Plan)

8 Figure 3-2 – Intercoastal Utilities West Phase 1 Water System

9 Figure 3-3 – Intercoastal Utilities West Phase 1 Sewer System

10 Figure 3-4 – Intercoastal Utilities West Phase 1 Reclaimed Water System

11 These maps are based on data provided to PBS&J by Intercoastal Utilities, data obtained  
12 from St. Johns County, and planning data prepared by PBS&J.

13 Q. Have certain assumptions in Exhibit JM-1 been based on documents obtained from  
14 Nocatee Utility Corporation?

15 A. Yes, growth projections and phasing data obtained from Nocatee Utility Corporation  
16 were used for flow projections. PBS&J also concurs with and utilized ERC unit flow  
17 assumptions from the Nocatee Utility documents. The flow assumptions in the Nocatee  
18 Utility documents are reasonable and with the accepted range of sound engineering  
19 standards. PBS&J accepted the growth projections provided by Nocatee Utility  
20 Corporation, their engineers and planners.

21 Q. Are all of the estimates, costs, and projections reflected in JM-1 reasonable and accurate  
22 based upon your independent judgement and verification?

23 A. Projections reflected in the Conceptual Master Plan closely follow the projections by the  
24 Nocatee Utility Corporation. While growth projections are dependent on many factors,  
25 including the financial climate, PBS&J accepts the data provided by Nocatee Utility

1 Corporation, their engineers, and planners. However, as with most new developments,  
2 planning is a continual process through "build-out". The phasing proposed by  
3 Intercoastal Utilities is very adaptable to modifications and changes in growth patterns  
4 throughout the life of the project. The opinions of estimated cost presented by PBS&J  
5 in the Conceptual Master Plan are reasonable and accurate based on the current  
6 construction market within the area.

7 Q. Please summarize your conclusions and analyses as reflected in Exhibit JM-1 for the  
8 Commission.

9 A. Based on our analyses and conclusions, Intercoastal Utilities cannot cost-effectively  
10 provide service via an extension of its existing system east of the Intracoastal Waterway.  
11 However, a "stand-alone" system, with the potential for interconnection to the existing  
12 system can easily be provided in the westerly service area. These facilities can be phased  
13 and constructed to meet system growth and provide "state of the art" design features  
14 to enhance operational effectiveness. They will provide a level of service that meets or  
15 exceeds that of other area public or private utilities. Materials of construction and  
16 selection of process and equipment will be consistent with the features of other area  
17 "regional" facilities. This proposed expansion of the Intercoastal Utilities system will not  
18 only provide that level of service envisioned for this development west of the  
19 Intracoastal Waterway (ICWW), but will also enhance the level of service for ICU's  
20 customers, east of the ICWW by providing for a much larger customer base and  
21 ultimately lowering operation and maintenance costs within the systems.

22 Q. Do you believe Intercoastal will be able to carry out the activities and the project  
23 proposed by its application for the costs reflected in Exhibit JM-1.

24 A. I believe the costs presented in the Conceptual Master Plan are reasonable based on  
25 current area construction costs. The proposed system planning is flexible enough to

1 adapt to changes in growth patterns, which will likely occur during the build-out of this  
2 project, without significant unit cost changes.

3 Q. In your opinion, and in your knowledge of Intercoastal and the utility facilities existing  
4 and proposed in these areas, do you believe Intercoastal can build and operate the  
5 utility services to serve these territories as reliable, as cost-efficiently, and as cost-  
6 effectively as any other alternative provider?

7 A. Yes, the reliability of system will certainly meet or exceed the level of service of any  
8 alternative provider. Operation should be, at worst, equal to or better than an  
9 alternative provider, due to the existing customer base. I also stated in Exhibit JM-1,  
10 that Intercoastal has the flexibility, to explore and implement other alternatives including  
11 the use of a bulk or wholesale provider. With the Intercoastal customer base, they can  
12 certainly provide a cost-effective alternative under this scenario if the opportunity avails  
13 itself.

14 Q. Does this conclude your prefiled direct testimony?

15 A. Yes

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1 BY MR. WHARTON:

2 Q Mr. Miller, please provide a brief summary of your  
3 testimony and Exhibit JM-2.

4 A PBS&J was retained by Intercoastal Utilities on July of  
5 '99 to develop a conceptual master plan and with the plan  
6 objectives being the development of a conceptual plan to serve  
7 the proposed franchise area west of the Intracoastal Waterway and  
8 continue to provide service to the current area east of the  
9 Intracoastal. We were given data that was from Intercoastal  
10 Utilities, as well as obtaining data from the county, and data  
11 that was provided by England, Thims and Miller and Nocatee. And  
12 additionally, the water resource study which was a part of that  
13 data.

14 Our objectives were primarily to concentrate on a  
15 backbone treatment and transmission system for the new franchise  
16 area and develop phasing strategy. Early on in the development  
17 of this plan we agreed to use the projections, both flow and  
18 phasing population projections provided by Nocatee rather than  
19 try to develop our own. We felt that a lot of work had been put  
20 into this by Mr. Doug Miller and his firm, and we weren't in a  
21 position to argue on flows he was using for the development. So  
22 we used all of his data as far as phasing and flows in developing  
23 our data.

24 Our initial look was to look and see if we could serve  
25 the parcels from the existing system, and the initial look proved

1 to be a futile effort. It was not cost-effective to serve from  
2 the existing plants or to expand those plants east of the  
3 Intracoastal Waterway. So we went ahead and developed our own  
4 plan to serve the facility, realizing that since the filing of  
5 the ADA, the NEWRAP conditions had been put in as part of that  
6 development, and which prohibited the plants on-site. However,  
7 we felt that limit was put in there to limit the server to  
8 Nocatee Utility with JEA, and that Intercoastal could not meet  
9 that condition without or with a plant off-site. They had to use  
10 on-site facilities.

11           So using the latest phasing and flow information, we  
12 came up with a scheme whereby we provided on-site water with a  
13 water plant utilizing the water supply that was indicated in the  
14 water resources plan, which was a very well prepared plan, and I  
15 assume a very costly plan that indicated there was a good supply,  
16 amount of water below the Nocatee parcel. We used that and used  
17 their recommendations in sizing our wells.

18           As far as wastewater, we indicated a wastewater plant  
19 to be located on-site. Our location was on the north central  
20 part of the property with an interconnection to our outfall  
21 coming from the east, from the easterly plant. The  
22 interconnection would serve two purposes. One would be as a wet  
23 weather discharge if all the reclaimed water couldn't be used.  
24 But normally it would serve as a transmission line to take the  
25 excess 1.2 million gallons that is currently being discharged

1 into the Intracoastal Waterway from the easterly service area and  
2 send it to Nocatee to supplement the reuse system.

3           Basically, with that in place we could eliminate the  
4 discharge to the Intracoastal Waterway if the projections fell  
5 through. This would be -- the only time that discharge would be  
6 used is if there was a wet weather condition and utilizing a  
7 water balance based on the flows, the annual average of 1.2  
8 million gallons that is permitted to go to the Intracoastal  
9 Waterway would be substantially reduced and on paper it would  
10 disappear.

11           The only supplemental water that we would need for  
12 reuse would be in the first three years, and that would range  
13 from 135,000 gallons per day in the initial year of the  
14 development, and drop to 10,000 gallons a day in the third year,  
15 and by the fourth year the supplemental reuse would disappear.  
16 So if all the projections for reuse, including the demand of  
17 650,000 gallons a day for the golf courses, which I think has  
18 already been admitted to be somewhat high on an annual average,  
19 we would still only require less than 100 gallons a minute of  
20 water on the first year and drop down to about ten gallons a  
21 minute or less the third year, and then it would disappear  
22 utilizing our reuse supply from the easterly area.

23           With that, we provided on-site storage and reuse  
24 pumping adjacent to the wastewater treatment plant as part of our  
25 plan of service. We developed capital costs for that plan and



1 those capital costs were used in Mr. Burton's financial  
2 projections. That concludes my summary.

3 MR. WHARTON: All right. We would tender the witness  
4 for cross.

5 CHAIRMAN JACOBS: Who is first up? Mr. Melson, you  
6 may proceed.

7 CROSS EXAMINATION

8 BY MR. MELSON:

9 Q Mr. Miller, I am going to have quite a few questions  
10 about your book, so if you have got it handy. The first ones  
11 won't be about the book, but then we will get to it very shortly.  
12 I believe you stated in your summary you were retained in July of  
13 1999 to prepare this conceptual master plan, is that correct?

14 A That is correct.

15 Q Now, the first version of that plan included Nocatee,  
16 Walden Chase, and Marsh Harbor, is that correct?

17 A That is correct.

18 Q Which, if any, of those have been excluded in the  
19 second plan that has been identified as Exhibit 17?

20 A I believe both of those have been excluded in the  
21 second plan.

22 Q All right. Did the conceptual master plan include any  
23 of the cross-hatched area that has been applied for by  
24 Intercoastal that lies outside of the Nocatee development?

25 A No. We only serve the Nocatee development in this

1 conceptual plan.

2 Q Why did you not do a conceptual plan for that green  
3 cross-hatched area, which is the Estuary property that is  
4 included in your certificate application?

5 A We didn't have any planning data furnished to us for  
6 that area.

7 Q As we sit here today, are you aware of any need for  
8 service in that portion of the extension area?

9 A I'm sorry, would you repeat the question.

10 Q Yes. Are you aware of any need for service in that  
11 portion of your requested extension territory?

12 A I have not been told of any plans for service in that  
13 territory.

14 Q And your plan went out how many years?

15 A The plan went out to -- through the development of  
16 Nocatee, which would have been through 2026 using the Nocatee  
17 projections.

18 Q Now, are you familiar with the water and wastewater  
19 related conditions in the development orders for Nocatee?

20 A I have reviewed those, yes.

21 Q All right. If I understand correctly, Intercoastal  
22 proposes to put both water and wastewater plants in the Nocatee  
23 development, is that correct?

24 A That is correct.

25 Q And would you agree with me that that violates the

1 development order conditions?

2 A That violates the development order as it stands, yes.

3 Q And you propose on-site potable water wells, correct?

4 A Yes, I do.

5 Q And that violates the development order as it stands,  
6 correct?

7 A That is correct.

8 Q And it proposes the use of groundwater, I believe, you  
9 testified potentially during the first three years of the  
10 development to supplement reuse, is that correct?

11 A Yes, a very minimal supply of groundwater.

12 Q But that also violates the development order, is that  
13 correct?

14 A That is correct, also.

15 Q And you indicated that under certain circumstances  
16 there could be wet weather discharges from the Nocatee wastewater  
17 treatment plant, is that correct?

18 A Yes.

19 Q And that also violates the current development order  
20 conditions, is that correct?

21 A Yes, it does.

22 Q If you would turn to Page 3-9 of Exhibit 17, your  
23 Exhibit JM-2. And that is actually a map that says proposed  
24 water system?

25 A Correct.

1 Q How did you determine the location of the proposed  
2 water treatment plant?

3 A The plant was located basically on a -- where I felt  
4 like a good central location for the plant should be, since no  
5 property has been designated.

6 Q And if we looked at the proposed sewer system on  
7 Page -- I guess it would be 3-13, again, another foldout map, how  
8 was that wastewater treatment plant site identified?

9 A Again, it was a site picked that we felt would have the  
10 least impact on Nocatee. It was located on the periphery of the  
11 property.

12 Q Does Intercoastal have a contract to -- well, does  
13 Intercoastal own either of those sites?

14 A Not that I am aware of.

15 Q Do they have a contract to purchase either of those  
16 sites?

17 A Not that I am aware of.

18 Q You included estimated costs for those sites in your  
19 cost estimate, is that correct?

20 A That is correct.

21 Q And how did you determine what those sites would cost?

22 A That information was furnished to me by Intercoastal  
23 Utilities.

24 Q And do you know on a per acre basis what cost you  
25 assumed for those sites?

1 A It looks like we used \$10,000 an acre.

2 Q You made no independent investigation of whether  
3 \$10,000 an acre was a reasonable expected cost for those sites?

4 A No, I didn't. I was provided this information by  
5 Intercoastal Utilities.

6 Q Now, your plan involves the extension of a reclaimed  
7 water main from Intercoastal's existing Sawgrass plant on the  
8 east side of the Intracoastal Waterway across the waterway and  
9 connecting to your proposed new -- well, across the Intracoastal.  
10 Where does it terminate on the west side of the Intracoastal  
11 Waterway?

12 A The reclaimed water main terminates at the plant site  
13 of the wastewater and reclaimed water plant.

14 Q Would you agree with me that Intercoastal would be  
15 required to obtain easements to extend that reuse line across the  
16 Intracoastal Waterway?

17 A Yes, they would be required to get easements from the  
18 state.

19 Q Have you included any -- well, would there also be  
20 easements required across either the DDI property or the Estuary  
21 property between the Intracoastal Waterway and the plant site?

22 A Yes, I would expect easements would be required.

23 Q Have you included any cost for easements in your cost  
24 estimate?

25 A No, I haven't.

1 Q Is it possible that in permitting that reuse line that  
2 some wetlands mitigation will be required because of the fact  
3 that it crosses an area where there may be significant wetlands?

4 A There could be.

5 Q Have you included -- have you done any analysis of what  
6 potential wetlands mitigation issues there might be?

7 A That was beyond the scope of this conceptual master  
8 plan.

9 Q All right. So to the extent there was any costs for  
10 wetlands mitigation, that would not be included in your cost  
11 estimate?

12 A No, it wouldn't.

13 Q Now, you have either heard Mr. Forrester during his  
14 deposition -- you have read the transcript of Mr. Forrester's  
15 deposition that has been marked as a late-filed exhibit for this  
16 proceeding, is that correct?

17 A Yes, I have.

18 Q And did you understand him to indicate during the  
19 deposition that the Sawgrass wastewater treatment plant might be  
20 phased out at some point in the future?

21 A I understand Mr. Forrester made that statement and read  
22 it in the deposition.

23 Q There is nothing in your conceptual master plan that  
24 addresses either the cost or timing of any such potential phase  
25 out, is that correct?

1 A Again, that was outside the scope of our work.

2 Q And if that wastewater treatment plant were to be  
3 phased out, it would require the construction of at least one  
4 more line across the Intracoastal Waterway to get reclaimed water  
5 back to the golf courses on the east side, is that correct?

6 A That is correct.

7 Q I believe you indicated during your summary that early  
8 on in your engagement you investigated the possibility of serving  
9 the west -- the expansion territory from the existing plants on  
10 the east and determined that was not cost-effective, is that  
11 right?

12 A That is correct.

13 Q Are you aware that that is a different conclusion than  
14 Intercoastal's prior engineer reached and testified to before the  
15 St. Johns County Water and Sewer Authority?

16 MR. WHARTON: I would object, Mr. Chairman. That is  
17 certainly outside the scope of the six pages of prefiled  
18 testimony. There is nothing in here about the prior case. That  
19 was a very different case.

20 MR. MELSON: Let me lay a foundation.

21 CHAIRMAN JACOBS: I will allow that.

22 BY MR. MELSON:

23 Q Mr. Miller, in preparing your conceptual master plan,  
24 were you provided with information from the engineering firm of  
25 Waits and Moyle (phonetic)?

1           A     I was provided that information after the original  
2 conceptual master plan was submitted.

3           Q     Did you review that information?

4           A     I reviewed it briefly. I didn't spend a lot of time in  
5 it.

6           Q     Basically, what was the purpose of your review of that?

7           A     Basically, just to look and see what was -- what had  
8 transpired prior to being retained by Intercoastal.

9           Q     Do you recall whether that plan had called for serving  
10 the west, the expansion territory from the existing plants on the  
11 east?

12          A     I don't recall any details of that plan. It has been  
13 such a long time since I have reviewed it.

14          Q     Fair enough.

15                MR. MELSON: That's all I've got. Thank you, Mr.  
16 Miller.

17                CHAIRMAN JACOBS: Mr. Menton.

18                MR. MENTON: Thank you, Mr. Chairman.

19                                CROSS EXAMINATION

20 BY MR. MENTON:

21          Q     Good morning, Mr. Miller.

22          A     Good morning.

23          Q     I will try not to duplicate the questions Mr. Melson  
24 just asked you, but I do have a few.

25                Mr. Miller, isn't it true that you have never actually



1 worked with the developer in connection with obtaining DRI  
2 approval for a project?

3 A I'm sorry, would you repeat that.

4 Q Isn't it true that you have never actually worked with  
5 the developer in connection with -- you have never been the  
6 engineer of record in connection with obtaining DRI approval for  
7 any project?

8 A That is not completely true. I have been.

9 Q Okay. You were the engineer of record for a project?

10 A Not me personally. I was with a firm who was engineer  
11 of record.

12 Q But you personally have never been the engineer of  
13 record for a DRI project?

14 A No, I haven't. No.

15 Q And isn't it true, Mr. Miller, that you have not had  
16 any discussions with any of the permitting agencies as to why the  
17 development orders preclude on-site water and wastewater plants  
18 for the Nocatee development?

19 A No, I haven't.

20 Q And you have not done any investigation as to the  
21 source of those permit conditions, have you?

22 A I'm sorry, repeat.

23 Q As to how those permit conditions in the development  
24 orders came about?

25 A Yes. Those conditions came in primarily through the

1 NEWRAP that was placed in by the developer.

2 Q Okay. But you have no personal knowledge as to how  
3 those provisions in the development orders came about, do you?

4 A No, I don't. No.

5 Q You would agree that the requirements of development  
6 orders are binding on the developer unless they are successfully  
7 appealed or repealed?

8 A Yes, that is my understanding.

9 Q Mr. Miller, isn't it correct that you don't know what  
10 Intercoastal's legal commitment or obligation is to Sawgrass with  
11 respect to current reuse water from its existing plant?

12 A It is my understanding through conversations with Mr.  
13 Forrester they are obligated to provide up to 300,000 gallons a  
14 day for reuse for the Sawgrass golf course.

15 Q But you don't know what the actual legal obligation is  
16 to Sawgrass, do you?

17 A I haven't read any legal documents.

18 MR. MENTON: Excuse me, Mr. Chairman. I am  
19 eliminating questions, so I am actually speeding up the process  
20 here.

21 CHAIRMAN JACOBS: Outstanding.

22 BY MR. MENTON:

23 Q If Intercoastal builds a new wastewater plant on the  
24 Nocatee site, did I understand your testimony to be that it will  
25 discharge the effluent to the Intracoastal Waterway?

1           A     The effluent will be used as the reclaimed water for  
2 the Nocatee development except during wet weather conditions.

3           Q     So the wet weather discharge for the effluent would be  
4 to the Intracoastal Waterway?

5           A     Yes, it would.

6           MR. MENTON: I have no further questions at this time.  
7 Thank you.

8           CHAIRMAN JACOBS: Very well.

9           MR. WHARTON: Mr. Korn asked that I request the  
10 briefest of breaks, that he had a few questions after --

11          CHAIRMAN JACOBS: He doesn't have questions?

12          MR. WHARTON: No, he does have a few and he asked me  
13 if it came his turn if I would ask for a break unless he asked,  
14 so I'm asking.

15          CHAIRMAN JACOBS: Well, I think -- staff, are you  
16 prepared? I appreciate your diligence in that.

17          MS. ESPINOZA: Staff has no questions.

18          CHAIRMAN JACOBS: I guess we have got a break, then.

19          MR. WHARTON: Thank you for granting that request.

20          COMMISSIONER DEASON: I have a few questions, so maybe  
21 we can use the time a little bit.

22          CHAIRMAN JACOBS: That's good.

23          COMMISSIONER DEASON: Mr. Miller, you reviewed the  
24 water resource plan, is that correct?

25          THE WITNESS: Yes, I did.

1 COMMISSIONER DEASON: And who did that plan?

2 THE WITNESS: I believe that plan was done in  
3 conjunction with England, Thims & Miller through a subcontract  
4 with C.H. Penhill (phonetic) and some other parties involved in  
5 this, too, I believe.

6 COMMISSIONER DEASON: And you agree that that is a  
7 good plan?

8 THE WITNESS: It is a very good document. It is a  
9 well prepared document and offers a lot of valuable information  
10 regarding the water resources in the area.

11 COMMISSIONER DEASON: Now, based upon your review of  
12 that plan, do you believe that there are adequate water  
13 resources under the Nocatee development to serve that entire  
14 development from within those resources?

15 THE WITNESS: Certainly.

16 COMMISSIONER DEASON: Why then is it a requirement of  
17 the development order that the water for this development come  
18 off-site?

19 THE WITNESS: This was proposed by the developer and  
20 not by any regulatory agencies as far as I know.

21 COMMISSIONER DEASON: So it wasn't a requirement of  
22 the water management district that you are aware of?

23 THE WITNESS: No, it's not.

24 COMMISSIONER DEASON: I guess I'm at a little bit of a  
25 loss. If we are in a -- water is a resource which we certainly

1 need to conserve, but if water is going to be utilized it's  
2 going to come from somewhere. Is there another source that is  
3 more environmentally correct or puts less pressure on the  
4 aquifer coming off-site as opposed to on-site?

5 THE WITNESS: I don't believe so. I think the report  
6 speaks for itself. I think, again, this was a decision made by  
7 the developer.

8 COMMISSIONER DEASON: Okay.

9 CHAIRMAN JACOBS: If you would walk me through the  
10 sort of design of the reuse. As I understand it there will be  
11 some portion of reuse that will come, that -- well, I guess the  
12 recommendation is that it could come from stormwater, but  
13 ultimately I guess it won't come from stormwater. Is that your  
14 understanding?

15 THE WITNESS: The reuse as proposed by Nocatee  
16 Utility, we are following their plan to use a portion of their  
17 stormwater, I think up to 20 percent as Mr. Doug Miller  
18 explained in his testimony. But what we are doing, we have 1.2  
19 million gallons a day of permitted discharge to the Intracoastal  
20 Waterway.

21 CHAIRMAN JACOBS: That is coming from JEA.

22 THE WITNESS: From the easterly service area. We are  
23 trying to that line and bringing all of that 1.2 million gallons  
24 a day to Nocatee to supplement what is coming from our proposed  
25 Nocatee plant to meet their reuse demand. What this effectively

1 does is reduce or completely eliminate the current discharge to  
2 the Intracoastal Waterway.

3 Intercoastal Utilities is permitted for up to 1.2  
4 million gallons a day. Even with, you know, the combined wet  
5 weather discharge they will be less than that if you use the  
6 numbers presented by Nocatee as their flow numbers. So we are  
7 basically eliminating a discharge to the Intracoastal Waterway  
8 that currently exists. You will still have a wet weather  
9 discharge like you would always have, but for the annual  
10 average we have eliminated a discharge or substantially reduced  
11 it.

12 CHAIRMAN JACOBS: The reuse lines into Nocatee to be  
13 developed in your plan, will developers put those in?

14 THE WITNESS: Well, we follow the same plan of service  
15 as far as developer lines within the communities of Nocatee. We  
16 would put the backbone lines in including the dual line. It  
17 would actually be a single line that serves a dual purpose  
18 across the Intracoastal Waterway which connects to the end of  
19 our outfall that is currently at the Intracoastal Waterway.  
20 That line would bring reuse from the east side to the west, and  
21 under wet weather conditions it would discharge both from the  
22 east and the west into the Intracoastal Waterway.

23 CHAIRMAN JACOBS: And the requirement that the  
24 developers put in those lines, that is the development order?

25 THE WITNESS: The no discharge into the Intracoastal

1 Waterway is part of the development order.

2 CHAIRMAN JACOBS: No, no, I'm sorry. The requirement  
3 for developers to install the actual distribution lines, is that  
4 a part of it or is that a part of the agreement?

5 THE WITNESS: I'm really not sure, but it was my  
6 understanding that was the whole concept of the Nocatee  
7 development, that the developers would put in the distribution  
8 lines.

9 CHAIRMAN JACOBS: Right. I understand that that is  
10 required. Maybe someone else can -- we can get back to that on  
11 intervenor, because I had meant to ask that earlier.

12 MR. MELSON: Commissioner Jacobs, I think that is  
13 simply the policy that is reflected in the service availability  
14 tariff which you all ultimately approve. So whatever policy you  
15 approve as to contributions is one the utility would follow.

16 CHAIRMAN JACOBS: Very well. Thank you very much. Why  
17 don't we take -- I'm sorry.

18 COMMISSIONER PALECKI: Is there a greater likelihood  
19 of maintaining portions of the Nocatee development as wetlands  
20 if water, potable water is not taken from wells off the Nocatee  
21 site?

22 THE WITNESS: I don't believe so, because we are  
23 speaking of taking water from the Floridan aquifer rather than a  
24 shallow wells system that directly influences the wetlands  
25 on-site. And it doesn't prohibit the developer or Nocatee

1 Utilities from putting wells in the future on the periphery of  
2 the site, which is still drawing from the same bucket of water.

3 COMMISSIONER PALECKI: From the same aquifer?

4 THE WITNESS: Right.

5 COMMISSIONER PALECKI: So that would not effect the  
6 wetlands that are portions of the --

7 THE WITNESS: I don't see any detrimental effect on  
8 the wetlands, no.

9 COMMISSIONER PALECKI: Thank you.

10 MR. MELSON: Mr. Chairman, could I ask one question as  
11 a follow-up to Commissioner Palecki's question?

12 MR. WHARTON: Chairman Jacobs, I think you were very  
13 circumspect about allowing that yesterday. I mean, after the  
14 Commissioners asked Mr. Miller a lot of questions, some of which  
15 I felt like he gave answers that were different than he had  
16 given in his deposition, I basically backed off because earlier  
17 in the day you were very, very narrow, and I think you allowed  
18 me to ask one question in terms of rerecross or recross. So I  
19 just --

20 MR. MELSON: I will withdraw the request.

21 CHAIRMAN JACOBS: Very cordially. No word from Mr.  
22 Korn yet? Then we will stand in brief recess for ten minutes.

23 (Recess.)

24 CHAIRMAN JACOBS: Mr. Korn, I want you to know that  
25 you had a very forceful advocate on your behalf here.



1           MR. KORN: Thank you, Mr. Chairman. I appreciate Mr.  
2 Wharton's courtesy as well the Chair and the Commission's  
3 courtesy.

4           CHAIRMAN JACOBS: No problem.

5                           CROSS EXAMINATION

6 BY MR. KORN:

7           Q     And, Mr. Miller, good morning. I'm Michael Korn. We  
8 have not met before, but I represent the Sawgrass Association. I  
9 have a couple of questions about your testimony. I hope that I  
10 will not be covering ground that may have been covered on some  
11 other cross, but if I do please bear with me.

12                   In preparation for your testimony today or in your work  
13 in preparation of the master plan that you did for Intercoastal,  
14 were you made aware of a certain utility service agreement that  
15 exists between Intercoastal Utilities and now the Sawgrass  
16 Association?

17           A     The only agreement I was made aware of is the agreement  
18 to provide 300,000 gallons a day of reuse for the golf course.

19           Q     And I recall your mentioning that during your  
20 testimony, the figure of 300,000 gallons a day. Do you know the  
21 derivation of that figure?

22           A     I don't know how it was arrived at. I do know that  
23 that seems to be an average for northeast Florida for golf  
24 courses.

25           Q     So you are not aware of any specific contractual terms

1 which would have governed the actual amount of reclaimed water or  
2 reuse that the Sawgrass Country Club would be entitled to draw  
3 upon from Intercoastal?

4 A No, I'm not.

5 Q So, in fact, that figure could exceed 300,000 gallons  
6 in any particular day, would it not?

7 A Yes, it would be an annual average of 300,000 the way I  
8 interpreted it.

9 Q And an average, of course, presupposes that at some  
10 points it would be higher and lower, correct?

11 A That is correct.

12 Q And it also probably would go without saying that at  
13 certain times, for example, when the climate is drier that there  
14 might be greater needs for irrigation for customers like golf  
15 courses, correct?

16 A That is correct.

17 Q But it is your testimony that in your view any  
18 additional reuse generated by Intercoastal's existing wastewater  
19 plant could be piped to Nocatee in order to augment the reuse  
20 needs in that development?

21 A That is correct.

22 Q And that is, again, on the assumption that the Sawgrass  
23 Country Club only needed on average 300,000 gallons per day,  
24 correct?

25 A Yes.

1 Q So if, in fact, the Sawgrass needs were greater than  
2 300,000, that would have a direct impact on the amount of  
3 potential reuse available to Nocatee?

4 A If there is some legal agreement that allows more than  
5 that for an annual average, it would have an impact, yes.

6 Q And that would have an impact whether it was Nocatee or  
7 any other potential reuse customer, correct?

8 A Correct.

9 Q You mentioned also that you thought that the estimate  
10 of 650,000 gallons per day for golf course needs at Nocatee  
11 seemed to be somewhat high. On what do you base that opinion?

12 A I base it on my personal experience plus the experience  
13 of our firm statewide and nationwide with golf courses. We work  
14 extensively with reuse. We have had people who have worked with  
15 Doctor York (phonetic) formatting most of the reuse regulations,  
16 and have quite a bit of experience in reuse, and we don't find  
17 the 650 to be an average golf course demand, and certainly not  
18 one in northeast Florida.

19 Q And I understood from both your testimony and I think  
20 some of your responses to cross examination that you were unaware  
21 of any of the particulars involving the prior plan of service  
22 that had been formulated before your retention by Intercoastal?

23 A I haven't gone into any great detail of that plan that  
24 was prepared by Waits and Moyle.

25 Q Your description of the proposed reuse line that would

1 be constructed between the existing wastewater treatment facility  
2 on the east side of the Intracoastal Waterway and the proposed  
3 facility at Nocatee would only at this point be going one way and  
4 only be carrying reuse?

5 A First of all, the line would not be constructed from  
6 Sawgrass. It would be constructed from the terminus of the  
7 outfall of the Intracoastal Waterway over to Nocatee and would  
8 provide opportunity to wet weather discharge in the Intracoastal  
9 Waterway or to transfer reuse water to Nocatee.

10 Q But the pipe would ultimately connect the two  
11 facilities, would it not, according to your planning if that were  
12 to ever come to fruition?

13 A Connect to which facility?

14 Q The existing Sawgrass wastewater treatment facility  
15 located right next to Sawgrass.

16 A It connects there now, the line exists.

17 Q Agreed. And that line would ultimately connect to the  
18 western plant, or the plant that you described would be sited  
19 somewhere in the north central portion of Nocatee?

20 A Correct.

21 Q Okay. And as I understand it you have not been asked  
22 to perform any services with respect to any design or estimate of  
23 a phaseout of the Sawgrass wastewater treatment facility, and  
24 when I say phaseout, I mean for purposes of processing raw  
25 sewage?

1 A No, I haven't.

2 MR. KORN: Thank you, Mr. Chairman. I don't have  
3 anything further.

4 CHAIRMAN JACOBS: Very well. Any other questions,  
5 Commissioners?

6 Redirect.

7 MR. WHARTON: That's me.

8 CHAIRMAN JACOBS: I'm sorry, I got confused there.

9 REDIRECT EXAMINATION

10 BY MR. WHARTON:

11 Q Mr. Miller, did you cause Exhibit 17, which was  
12 originally marked Exhibit JM-2, to be created in March of 2000?

13 A Yes, I did.

14 Q And that's what it says right on the front of it,  
15 right?

16 A Right.

17 Q Okay. In point of fact, do you know whether or not the  
18 development orders in this case came into existence in the year  
19 2001?

20 A I believe that is when they came into existence, yes.

21 Q So is it fair to say then that when you created Exhibit  
22 17, it did not violate or was not contrary to the development  
23 orders because they weren't issued yet?

24 A That is correct.

25 Q Okay. You were asked quite a few questions about the

1 conditions on these development orders. Development orders can  
2 be modified, can't they?

3 A That is my understanding, yes.

4 Q And -- well, I will skip that. You were asked some  
5 questions about wet weather discharges into the Intracoastal, and  
6 also questions about what Intercoastal would have to do in terms  
7 of extending the line at its existing facilities that you talked  
8 about. Just to make sure the record is clear, Intercoastal has  
9 an outfall now that they are permitted to discharge into the  
10 Intracoastal, correct?

11 A That is correct.

12 Q And what you have proposed would be an extension of  
13 that line across the Intracoastal such that the reuse that is now  
14 going into the Intracoastal could be utilized as reuse in the  
15 planned service area?

16 A Yes.

17 Q Is the Intracoastal sometimes referred to or parts of  
18 it as the Tolomato River?

19 A I believe so, yes.

20 Q So those are the same water bodies at least in some  
21 places?

22 A Right.

23 Q All right. And Intercoastal has a permit to discharge  
24 into that water body right now?

25 A Yes.

1 Q And, in fact, the reuse that is not being used per the  
2 Sawgrass agreement is being discharged into the Intracoastal  
3 currently?

4 A That is correct, yes.

5 Q Sir, you were asked quite a few questions about the  
6 location of plants and easements. Based on your experience and  
7 the experience of your firm, has it been your experience that  
8 developers who desire to develop their land do work with  
9 utilities in terms of easements and sites on which to situate  
10 plants?

11 A That had been my experience in the past.

12 Q Based on your actual knowledge of the Nocatee  
13 development, is there any reason that you know of as we sit here  
14 today why suitable plant sites could not be located thereon?

15 A I'm not aware of any reason we couldn't come up with  
16 suitable plant sites at Nocatee.

17 Q Okay. And the easements that Mr. Melson asked you  
18 about that would be required, those would be across properties  
19 owned by related parties to the Nocatee developer, correct?

20 A That is correct.

21 MR. WHARTON: That's all we have.

22 CHAIRMAN JACOBS: Exhibits.

23 MR. WHARTON: We would like to move Exhibit 17.

24 CHAIRMAN JACOBS: Without objection, show Exhibit 17  
25 is admitted into the record. Thank you. You are excused, Mr.

1 Miller. And I believe we are now back --

2 (Exhibit 17 admitted into the record.)

3 MR. WHARTON: We would like to call Mr. H.R. James.

4 CHAIRMAN JACOBS: Very well. You are going to call  
5 Mr. Burton last?

6 MR. WHARTON: Mr. Burton is not going to be here until  
7 this afternoon.

8 CHAIRMAN JACOBS: That's right.

9 MR. WHARTON: That is something that we discussed.

10 CHAIRMAN JACOBS: So the agreement is that you are  
11 going to take both his direct and intervenor testimony at the  
12 same time or we are going to revert back to his direct?

13 MR. MELSON: Mr. James, I believe, had just one piece  
14 of testimony.

15 CHAIRMAN JACOBS: I show Mr. Burton --

16 MR. MELSON: Oh, I'm sorry.

17 CHAIRMAN JACOBS: It's agreeable with me if that is  
18 fine with you.

19 MR. WHARTON: I guess all I would ask, Mr. Chairman,  
20 is that we be given a chance to discuss that right after --

21 CHAIRMAN JACOBS: Okay.

22 MR. WHARTON: -- because Mr. Burton won't be here  
23 until after lunch. But we will certainly explore that  
24 possibility.

25 Thereupon,



1 H.R. JAMES

2 was called as a witness on behalf of Intercoastal Utilities,  
3 Inc., and, having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. WHARTON:

6 Q Sir, will you state your name and professional address  
7 for the record?

8 A My name is H.R. James, 6215 Wilson Boulevard,  
9 Jacksonville, Florida.

10 Q What is your position with Intercoastal?

11 A I am the President of Intercoastal Utilities.

12 Q Did you prepare prefiled direct testimony in this case  
13 consisting of three pages?

14 A Yes, I did.

15 Q If I asked you those same questions here today, would  
16 your answers be the same?

17 A Yes, they will.

18 Q Do you have any corrections to make to that testimony  
19 at this time?

20 A No, sir.

21 MR. WHARTON: I would request that Mr. James' prefiled  
22 direct testimony be inserted into the record as though read.

23 CHAIRMAN JACOBS: Without objection, show Mr. James'  
24 prefiled direct testimony is entered into the record as though  
25 read.

## PREFILED DIRECT TESTIMONY OF H.R. JAMES

1  
2  
3 Q. Please state your name and professional address for the record.

4 A. My name is H.R. James and my address is Intercoastal Utilities, Inc., 6215 Wilson  
5 Blvd., Jacksonville, FL 32210. I am a certified registered general contractor, a  
6 certified Florida state building contractor, I am the President of Jax Utilities  
7 Management, and I am also the President of Intercoastal Utilities.

8 Q. Please outline your experience and expertise in the water and wastewater industry.

9 A. I have been in the water and wastewater industry for 45 years. I have constructed  
10 or caused to be constructed at least 24 utilities from the ground up, and have been  
11 involved with over 50 different utilities during my professional career.

12 Q. Have you ever been accepted as an expert witness in an administrative proceeding?

13 A. I have been accepted as an expert in utility operations, construction and  
14 management.

15 Q. In your opinion, does Intercoastal have the operational, managerial, technical, and  
16 financial ability to extend its service area as it has proposed to do?

17 A. Yes, as Mr. Forrester detailed in his testimony, Intercoastal clearly has the  
18 operational, managerial, technical and financial ability to extend its services and to  
19 carry out its application. With regard to the financial ability of Intercoastal, in my  
20 opinion the financial strength of Intercoastal is in its stockholders. The stockholders  
21 are committed to Intercoastal and its continued success and those stockholders have  
22 the financial ability to support Intercoastal's activities including what it proposes to  
23 do in this application. Additionally, Intercoastal has lending relationships with most  
24 of the principal banks in the City of Jacksonville which Intercoastal and its Board of  
25 Directors have the ability to borrow money from their line of credit that exceeds \$50

1 million.

2 Q. Will Intercoastal be able to attract the capital necessary to effectuate its application?

3 A. Yes, the shareholders of Intercoastal and the Board of Directors would step up to the  
4 bar if they needed to with their own funds in order to carry out this application.  
5 Additionally, in my experience and based upon all of the utilities I have been involved  
6 with, I have never known an utility which was granted a service area by a regulator  
7 which could not come up with the capital or did not have the ability to attract the  
8 capital needed to expand its facilities.

9 Q. Please discuss the track record of yourself and some of the shareholders of  
10 Intercoastal.

11 A. Many of the individuals who are the stockholders and on the Board of Directors who  
12 stand behind Intercoastal have been doing business together in the city of  
13 Jacksonville since 1955. We have never been turned down by a lending institution,  
14 and we have developed projects like the Plantation at Ponte Vedra (a \$28 million  
15 project in the first phase), the Woods in Jacksonville (a \$7.5 million project in the  
16 first phase), and Pace Island in Orange Park, Florida (a \$10 million project in the first  
17 phase). I could go on and on about the developments we have been involved in  
18 together, but we have probably done \$100+ projects in Florida. Our track record in  
19 terms of obtaining capital, repaying money borrowed in a timely fashion, making  
20 payrolls, sustaining businesses over the long haul and making the right decisions is  
21 unquestionable.

22 Our parent company, Florida Title Group, Inc., was started in 1926 in Jacksonville,  
23 Florida by Mr. C.D. Towers. Mr. Towers started the law firm of Rogers, Towers,  
24 Bailey, Jones & Gay and presently has 55+ attorneys on staff. We have built 12  
25 shopping centers, 24 water and wastewater facilities and 8 major developments.

1 These include the Plantation at Ponte Vedra (800 acres), The Woods (600 acres),  
2 San Jose (400 acres), Arlington (1200 acres), Pace Island (1000 acres), Cedar Hills  
3 (1000 acres), Sherwood Forest (1000 acres), Glenlea Park (800 acres), 7 apartment  
4 complexes (3 in Jacksonville and 4 in Tampa, Florida), and 2 condominiums (1 in  
5 Crescent Beach, Florida and 1 in Fernandina Beach, Florida). We have also built over  
6 10,000 residential homes. We presently have 37 projects under construction in  
7 Duval, Clay and St. Johns Counties where we are clearing land, installing water and  
8 wastewater lines, storm drains, streets, curbs and gutters, and digging numerous  
9 lakes in these developments. Last year, we completed over \$14,000,000 of project  
10 work for 26 different developers including ourselves. We presently have contracts  
11 that we are actively working on totaling \$6.4 million through January 31, 2000.

12 Q. Mr. James, with regard to the numerous utilities that you have been involved in, were  
13 you ever unable to either come up with the capital or to attract the capital needed to  
14 do any project connected with any of those utilities?

15 A. Not one time.

16 Q. Will Intercoastal be able to fulfill the obligations which it has proposed to assume by  
17 its applications to the Commission?

18 A. Yes, in my opinion, it will.

19 Q. Does this conclude your prefiled testimony?

20 A. Yes, it does.

21

22

23

24 intercoa\psc\james.tes

25

1 BY MR. WHARTON:

2 Q Mr. James, will you provide a brief summary of your  
3 direct testimony?

4 A I think summarizing my testimony was that Intercoastal  
5 Utilities is seeking from the Florida Public Service Commission  
6 the right to serve the certificated area that includes Nocatee  
7 and some lands that is outside of Nocatee along State Road 210  
8 all the way to U.S. 1. We are somewhat locked as we are right  
9 now. We are directly east of the Intracoastal Waterways. There  
10 is no place to go. The ocean is on one side, everything is  
11 developed to the north. The Guana Park owned by the federal  
12 government and the State of Florida is back to our south and we  
13 are bordered by the Intracoastal Waterway.

14 So the utility is locked down without some place to  
15 grow, and the place that we had planned on going from day one was  
16 across the Intracoastal and to the west. So our goal is to see  
17 if we can gain that certificate and provide service to that  
18 particular area.

19 MR. WHARTON: We would tender the witness for cross.

20 CHAIRMAN JACOBS: Mr. Melson.

21 CROSS EXAMINATION

22 BY MR. MELSON:

23 Q Mr. James, I believe you said in your summary that you  
24 are the President of Intercoastal, is that correct?

25 A That is correct.

1 Q You are also a stockholder of Intercoastal, is that  
2 right?

3 A That's correct.

4 Q And is it true that Intercoastal has no employees?

5 A That is correct.

6 Q And management services are provided for Intercoastal  
7 under a contract with Jax Utility Management, is that correct?

8 A That is correct.

9 Q And so when a customer calls Intercoastal about a  
10 billing complaint, the telephone is answered by a Jax Utility  
11 Management employee?

12 A It's a Jax Utility Management employee, but we have  
13 designated three employees that basically our phones are set up  
14 with Intercoastal numbers and Jax Utility numbers. If an  
15 Intercoastal phone rings, just three different ladies would  
16 answer that phone.

17 Q All right. Construction of treatment plants for  
18 Intercoastal is also performed by Jax Utility Management, is that  
19 correct?

20 A That is correct.

21 Q And you, I believe, are a 50 percent stockholder of Jax  
22 Utility Management?

23 A That is correct.

24 Q And your son Mike is also a stockholder of JUM, is that  
25 right?

1 A That is correct.

2 Q I understand that Intercoastal intends to serve the  
3 area west of the Intracoastal by the construction of a new water  
4 plant, a new wastewater treatment plant, and a reuse line that  
5 comes across the Intracoastal Waterway, is that right?

6 A That is correct.

7 Q And those projects, according to Mr. Jim Miller's  
8 estimates, total about \$14 million for the initial phase of  
9 service, is that correct?

10 A That is correct.

11 Q Would you expect that Jax Utility Management would get  
12 the contracts to build those plants?

13 A I think we would put them out for a bid and if Jax  
14 Utility Management was the lowest bidder -- we bid every day  
15 against about 18 different other companies in this town, so on a  
16 big job like that we would bid it out and if we were the low  
17 bidders then we would do the job.

18 Q Has there ever been a time when a major construction  
19 job like that for Intercoastal has been done by anybody other  
20 than JUM?

21 A Yes, sir.

22 Q And what was that?

23 A We did a water treatment plant in Ponte Vedra that was  
24 did by the Crom Corporation (phonetic), and we also did -- in  
25 Deerwood we did water treatment plants that were done by the Crom

1 Corporation, and we have had other jobs that has been did by  
2 other contractors.

3 Q But those were not for Intercoastal, is that right?

4 A They were not for Intercoastal.

5 Q Okay. As a stockholder of Jax Utility Management, you  
6 would have an interest in any profit that was earned on  
7 construction contracts, is that right?

8 A That is correct.

9 Q Intercoastal has a negative net worth today, is that  
10 right?

11 A That is correct.

12 Q And you have had a negative net worth since your group  
13 of stockholders acquired the utility in the early 1980s, is that  
14 right?

15 A That is correct.

16 Q And in terms of constructing the new utility plants,  
17 you are looking at a proposal to finance those with 100 percent  
18 debt, is that correct?

19 A That is not correct.

20 Q Okay. What is correct?

21 A Well, we don't really know what we are going to do yet.  
22 I think when you deposed me you asked me that same question and I  
23 told you we might do 70/30, we may do 60/40.

24 Q Or you may do 100 percent?

25 A Or we may do 100 percent.



1 Q Do you expect that whatever debt is required for the  
2 new plants will require stockholder guarantees?

3 A Absolutely. I have not built a private utility in  
4 Jacksonville in 45 years where it did not require whoever the  
5 stockholders were to personally guarantee those loans.

6 Q And the stockholders of Intercoastal have not submitted  
7 their financial statements in this proceeding, is that correct?

8 A They have submitted them to Jim Bowens as of about I  
9 would say a week ago.

10 Q So they have been reviewed by one of your witnesses,  
11 but they have not been provided to the Commission?

12 A No, I don't think so.

13 Q Over the years, has Intercoastal had discussions with a  
14 number of parties about the potential sale of its system?

15 A I think from probably the day that we bought the  
16 utility, which was 16 years ago, we have been talking with  
17 people.

18 MR. MELSON: All right. Commissioners, I handed out  
19 four documents during the break. And, Mr. James, they are  
20 sitting up here on the corner of the table.

21 BY MR. MELSON:

22 Q The first one I would like you to pick up probably  
23 isn't the one on top, of course. It's a letter dated -- from  
24 Rose, Sundstrom and Bentley dated July 13, 1998. Do you --

25 A Yes, sir, I've got it.

1 Q Have you seen that letter before?

2 A Yes, sir, I have.

3 Q And is this essentially an offer in July of 1998 by  
4 Intercoastal to sell the utility to St. Johns County?

5 A Yes, sir. But what started this is one of the County  
6 Commissioners took me up to Ben Adams' office, and Ben Adams  
7 asked for this.

8 Q All right. So it was a solicited --

9 A Yes, it was.

10 Q But you were -- at that time you set out a price in  
11 this letter at which you were willing to sell Intercoastal?

12 A Probably so, yes, sir.

13 MR. MELSON: Mr. Chairman, I would like to have this  
14 letter marked as Exhibit 18.

15 CHAIRMAN JACOBS: Show it marked as Exhibit 18.

16 (Exhibit 18 marked for identification.)

17 BY MR. MELSON:

18 Q Now, sometime in late '99, Intercoastal entered into  
19 negotiations with JEA for a potential sale of the utility to JEA,  
20 is that correct?

21 A We have been talking about it for two or three years,  
22 so I would say yes.

23 Q Okay. And in the spring of 2000, the negotiations with  
24 JEA were put on hold at the request of St. Johns County, is that  
25 right?

1 A That is correct.

2 Q And the reason St. Johns County made that request was  
3 St. Johns County wanted to negotiate to purchase Intercoastal, is  
4 that right?

5 A That is correct.

6 Q And those negotiations with St. Johns County lead by  
7 August of 2000 to a draft contract for the county to purchase, is  
8 that correct?

9 A That is correct.

10 Q And let me ask you to pick up the document that says  
11 agreement for purchase of sale of water and wastewater assets by  
12 and between Intercoastal Utilities, Inc. and St. Johns County,  
13 Florida. Is that the draft contract?

14 A Yes, it is.

15 MR. MELSON: Mr. Chairman, I would ask that that  
16 document be marked as Exhibit 19.

17 CHAIRMAN JACOBS: Show that marked as Exhibit 19.

18 (Exhibit 19 marked for identification.)

19 BY MR. MELSON:

20 Q And ultimately after a public -- and let me ask, that  
21 agreement called for a total purchase price of approximately \$38  
22 million, is that right?

23 A That is correct.

24 Q And that was broken down between an upfront cash  
25 payment and payment for what is called futures, is that correct?

1 A That's correct.

2 Q What was the upfront cash payment, do you recall?

3 A I think it was \$19 million.

4 Q And what was the total value of the futures?

5 A The difference between the first number you quoted and  
6 the 19 million.

7 Q Okay. And those futures were to be paid out of  
8 connection fees received by St. Johns County during the 12-1/2  
9 years after they purchased Intercoastal, is that right?

10 A Well, you know, there was a lot of conversations. We  
11 probably had about eight meetings. We had one meeting down in  
12 Orlando, and it's according to which meeting you are referring  
13 to. We started off at 12-1/2 years, but we ended up at seven  
14 years.

15 Q Well, I believe in August of 2000, when you had the  
16 draft agreement at that point it was 12-1/2 years, is that right?

17 A That's correct. That was our wish list.

18 Q Well, that was the draft contract that you had agreed  
19 to with the staff of the county, is that correct?

20 A Pieces and parts of it was, yes.

21 Q Well, the document we are looking at as Exhibit 19 is  
22 the contract that you had agreed to with the staff of the county,  
23 is that right?

24 A We haven't agreed. We got through with a meeting in  
25 Orlando and they had asked us, being we had drafted so many

1 contracts, would we please send them a contract to get something  
2 started. So this contract had pieces and parts of that  
3 agreement, but it hadn't been totally worked out. It wasn't cut  
4 and dried at that point. For instance, the years, we had been  
5 talking 12-1/2 years and ended up settling at seven years.

6 Q Put it this way, this is the agreement that was  
7 presented to the St. Johns County Board of County Commissioners  
8 that they took to a public hearing in August of 2000, is that  
9 correct?

10 A I don't know that, but it could be.

11 Q And regardless of the length of time, and I guess the  
12 draft will speak for itself, the futures were to be paid out of  
13 connection fees that St. Johns County would collect after it  
14 acquired Intercoastal, is that right?

15 A That is correct.

16 Q And that included -- and there was a cap on the number  
17 of ERCs for which those futures would be paid, is that right?

18 A That is correct.

19 Q And those futures would be paid both for new  
20 connections in Intercoastal's existing service territory and any  
21 new connections to a county system from within Nocatee until you  
22 reached the cap, is that correct?

23 A That is correct.

24 Q And, in fact, the only way to obtain the maximum  
25 payment of futures would be to have some connections paid for

1 within the boundaries of Nocatee, is that right?

2 A That is correct.

3 Q And that is because there were more ERCs for which you  
4 could get paid than there were potential connections remaining in  
5 your existing service territory?

6 A Let's say that it was a mechanism to get us paid. It  
7 was a plan to get us paid.

8 Q Now, would you turn to Page 38 of Exhibit 19.

9 A Okay.

10 Q And would you read to yourself Paragraph I at the  
11 bottom of the page.

12 A (Witness complies.)

13 Q Do you know whether that language was included in the  
14 agreement at the request of Intercoastal or at the request of St.  
15 Johns County?

16 A I think it was agreed between both parties.

17 Q But you don't know whose idea it was to put it in the  
18 draft?

19 A I think it was the idea of both of us.

20 Q Okay. Now, if I understand correctly, the St. Johns  
21 County Commission after considering a proposed purchase of  
22 Intercoastal in August of 2000, voted 5/0 not to proceed with the  
23 purchase on those terms, is that right?

24 A That is correct.

25 Q At that point did you resume negotiations with JEA for

1 the sale of the utility to JEA?

2 A Sometime later. We couldn't get a release. St. Johns  
3 County had put Scott Kelly on a proceed/not proceed program and  
4 he had to get permission back from the county to proceed back  
5 with negotiations. And St. Johns County wasn't willing to turn  
6 us loose. So we made -- I think Scott Kelly made a couple of  
7 telephone calls, we made a couple of telephone calls, and nobody  
8 would turn us loose. But finally Scott Kelly got the release.

9 Q Okay. So finally at some point after August you did  
10 resume negotiations with JEA?

11 A That is correct.

12 Q And in those negotiations with JEA, did you come to  
13 agreement on a purchase price?

14 A No, we didn't.

15 Q Did you get pretty close?

16 A Well, we got a lot closer before we started dealing  
17 with St. Johns. After we didn't get very close.

18 Q How close did you think you were with JEA before the  
19 discussions with St. Johns County?

20 A Well, I had a number in mind, they had a number in  
21 mind. I don't know what their number was.

22 Q What was your number?

23 A Somewhere between 21 and 25.

24 Q And in the negotiations with JEA after August of 2000,  
25 JEA ultimately proposed a purchase price of \$18 million, is that

1 correct?

2 A Well, that is not all correct. That was 18 million  
3 cash. The water treatment plant, we had gotten approval from  
4 them to proceed in building a water treatment plant and it was  
5 going to be an additional amount of money. Whatever the cost of  
6 the water treatment plant would be, they would pick up that cost  
7 plus there was also futures in consideration. So 18 million  
8 wasn't the ultimate bottom line.

9 Q And we are talking now about late 2000, early 2001?

10 A Probably so.

11 Q Okay. And ultimately you walked away from those  
12 negotiations with JEA, is that right?

13 A I walked out, that is correct.

14 Q And after those negotiations terminated with JEA, at  
15 some point you resumed negotiations with St. Johns County, is  
16 that right?

17 A St. Johns County called me again and asked me would I  
18 talk again. I had been talking with them for eight years, so I  
19 said why not talk again.

20 Q All right. And as we sit here today, St. Johns County  
21 is planning to go to a public hearing the first week in June to  
22 consider making an offer to Intercoastal for purchase of  
23 Intercoastal, is that correct?

24 A That's what we hear.

25 Q Let me ask you to take a look at the third document,



1 which is labeled agenda item, and it has got a number 8 on it?

2 A Right.

3 Q Do you recognize that document?

4 A Never seen it in my life.

5 Q Does it appear to be the agenda item for the April 24th  
6 meeting of the St. Johns County Board of County Commissioners at  
7 which the authorization to proceed to a public hearing was  
8 obtained?

9 A That's what it says, yes, sir.

10 Q And if you turn to the second page of that document,  
11 purchase price, does that outline what you understand to be the  
12 proposal that will be going to public hearing in June?

13 A That's what I read in the paper.

14 Q You haven't talked with St. Johns County about it?

15 A Not in probably a month and a half or two months.

16 MR. MELSON: Mr. Chairman, I would ask that this  
17 document be identified as Exhibit 20.

18 CHAIRMAN JACOBS: Very well. Show it marked as  
19 Exhibit 20.

20 (Exhibit 20 marked for identification.)

21 BY MR. MELSON:

22 Q Let me ask you to pick up the final document. It is a  
23 memorandum dated January 4, 2001, to Bill Young from H.R. James.  
24 Is that a document you authored?

25 A That is correct.

1 Q And it is titled possible sale of Intercoastal  
2 Utilities, Inc. to St. Johns Utilities, correct?

3 A That is correct.

4 Q And by St. Johns Utilities that means St. Johns County?

5 A That is correct.

6 MR. MELSON: Mr. Chairman, I would ask that this  
7 document be identified as Exhibit 21.

8 CHAIRMAN JACOBS: Show it marked as Exhibit 21.

9 (Exhibit 21 marked for identification.)

10 BY MR. MELSON:

11 Q Mr. James, I would like to direct your attention to  
12 Page 3 of this document, Paragraph 1A?

13 A Okay.

14 Q Would you read that to us?

15 A St. Johns County must decide if it is going to purchase  
16 Intercoastal Utilities. This must be done in January 2001 and be  
17 approved in January by the St. Johns County Commission.

18 Q Turn, if you would, to -- well, turn to Paragraph 3,  
19 and read me, if you would, the first sentence of that paragraph?

20 A St. Johns County must be persuaded to support  
21 Intercoastal, it would have a substantial effect on the mind set  
22 of the Florida Public Service Commission if the county would  
23 indicate a preference for the certification of Intercoastal, if  
24 the alternative is NUC.

25 Q Turn, if you would, to Paragraph 5 on Page 4 of the

1 letter. Read that for me, if you would?

2 A If Intercoastal Utility is certificated in northern St.  
3 Johns County, St. Johns County preserves its options to provide  
4 county-wide utility service on an integrated or coordinated  
5 basis.

6 Q What does that mean?

7 A It means that they have got some options.

8 Q Option to deal with you to purchase your utility?

9 A Possibly.

10 Q What else did you have in mind?

11 A I don't really know when I wrote the letter.

12 Q So you don't recall really what you meant by that  
13 paragraph?

14 A No, sir. I write letters every day.

15 Q Basically, you were indicating a willingness to work  
16 with the county potentially in a variety of ways, whatever might  
17 be mutually beneficial to you and the county?

18 A That is correct.

19 Q Would you turn to Paragraph 8 of the memorandum, and  
20 sort of read the first three lines of that, if you would?

21 A A possible purchase of St. Johns Service Co. from Bill  
22 Whitmire merged with Intercoastal Utilities would double the  
23 present size of St. Johns County Utilities -- reduce the cost of  
24 operation, double the revenue, include the Nocatee development  
25 20,000 ERCs on 15,000 acres, the future development on 10,000

1 acres (15,000), plus World Golf Village, Marshal Creek and other  
2 major development projects on the board.

3 Q That's fine. What do you mean by a possible purchase  
4 of St. Johns County Service Company merged with Intercoastal  
5 Utilities?

6 A St. Johns County or St. Johns Service, now?

7 Q I'm sorry?

8 A St. Johns Service or St. Johns County?

9 Q St. Johns Service Company, who are they?

10 A Bill Whitmire. I just told you.

11 Q Okay. Well, I don't know who Bill Whitmire is, I'm  
12 sorry.

13 A Okay. He owns St. Johns Service Company.

14 Q And where are they located, where do they serve?

15 A They are located adjacent to us.

16 Q Okay. So this holds out the possibility that  
17 Intercoastal and St. Johns County Service Company might merge and  
18 then the county might buy both of you?

19 A I don't think that is a secret. The City of  
20 Jacksonville and our three groups, there are three private  
21 utilities left of the beach. One is Ponte Vedra, the other is  
22 Bill Whitmire's system, and the other is Intercoastal. And the  
23 City of Jacksonville approximately four years ago, it was in  
24 every paper in the United States that we were trying to merge  
25 those three utilities together and make them one utility.

1 Q Would you agree with me that if the Public Service  
2 Commission grants a certificate to Intercoastal Utilities in this  
3 case that the certificate would add substantial value to your  
4 utility?

5 A Absolutely.

6 Q Have you estimated the value that PSC certification  
7 would add to you?

8 A I have rounded off some numbers.

9 Q Give me your rounded off number, then?

10 A Well, let me just tell you what it cost to produce an  
11 ERC. This is what I do every day, and today to produce one ERC  
12 costs about \$4,300 on the bottom and 4,700 on the top. So  
13 multiply that times whatever the ERCs are and to me that is what  
14 the value of those ERCs are worth.

15 Q Let me talk just for a minute, I want to leave the  
16 purchase and sale issues. What reuse commitments are there today  
17 from your Sawgrass wastewater treatment plant?

18 A Well, you have got to kind of divide that. Sawgrass is  
19 kind of split. There is two divisions down there and you have  
20 got to figure out who is fighting whom in Sawgrass. We got one  
21 letter from one group that says they represent 1,500 customers,  
22 we got a letter from the other that says we represent 1,200, so  
23 we don't know who represents whom. But one company is saying  
24 give us all the effluent you have got and the other one says  
25 please don't give us as much as you are giving us. So I don't

1 know whose on first and whose on second dealing with Sawgrass.

2           At the present time Sawgrass is getting 100 percent of  
3 the effluent that is coming out of Intercoastal Utility Company,  
4 and we have a line -- we have a line laid, which I think Jim  
5 Miller had just testified to, that has been laid from the  
6 Intercoastal Utilities to the Intracoastal Waterways. And while  
7 I was laying that line there was another entity involved, there  
8 is the Plantation at Ponte Vedra, which is probably the most  
9 prestigious neighborhood down in the Ponte Vedra area, and we  
10 built that particular subdivision. And there is 1,600 acres in  
11 there, and for years the DEP and the St. Johns Water Management  
12 District wanted effluent also to be provided in there.

13           So while we was laying the line, I dropped a valve in,  
14 wrote a letter to DEP and say now I'm no longer the tail on the  
15 dog. You are the dog, you tell them what you want to do. I put  
16 a valve in there, so there is a valve sitting there in case there  
17 is extra effluent, it can go to the Plantation at Ponte Vedra.

18           Q     Do you have an agreement as we sit here today to  
19 provide effluent to Plantations?

20           A     I do.

21           Q     And what volume of reuse does that agreement call for?

22           A     It says any excess that is in that line not being used  
23 by the Sawgrass 18-hole and 9-hole golf course they have a right  
24 to use it before it goes in the Intracoastal Waterways. I felt  
25 like it would be better to be used than to be dumped into the

1 Intracoastal.

2 Q And if the Commission were to approve your certificate  
3 and you were to extend your outfall line across the Intracoastal  
4 Waterway to provide reuse to Nocatee, Sawgrass would have first  
5 claim on the water, Plantation would have second, and Nocatee  
6 would be in third, is that right?

7 A Well, there is a cap. We have no written agreement of  
8 any amount to the Plantation of Ponte Vedra. If it is in the  
9 line you can use it with no gallon provided. In the contract  
10 that we presently have with Sawgrass, I think it calls for us to  
11 give them whatever -- I think we have a maximum at one time  
12 750,000 gallons per day, and I think we wrote a letter to one  
13 party in the association and said, look, whatever we have got, if  
14 you can use it, you are welcome to it. And at the present time  
15 that flow is approximately I would say 550 on the low side and  
16 750 on the high side gallons per day.

17 Q So out of a 1.5 million wastewater treatment plant  
18 between 550 and 750,000 is going to Sawgrass?

19 A According to what day it is and is it raining and what  
20 the golf director decides he wants to put on that golf course.

21 Q So to the extent that Mr. Jim Miller has assumed that  
22 only 300,000 is going to that golf course and the rest is going  
23 to be available for Nocatee, he may have overestimated how much  
24 you all have got to send to Nocatee, is that right?

25 A Nobody knows what these golf -- golf course

1 superintendents are a strange bunch of animals, and you never  
2 know what they are going to do, so I can't tell you. One of them  
3 says we only use 150 a day, one says we use a million a day, and  
4 we have another one that says we use 300 a day. So no one knows  
5 what they are using per day.

6 Q Well, you know what Sawgrass is using today, and I  
7 believe you just told me it was 550 to 750?

8 A No, I did not say that.

9 Q Okay.

10 A I said that is how much we are producing. What we do  
11 is dump the effluent into a lake system that is owned by the  
12 Sawgrass Community. And we have a special valve in there and  
13 once that lake becomes full automatically that valve  
14 electronically turns on and then discharges any effluent that  
15 goes into that lake directly to the Intracoastal Waterway.

16 Q Do you know how much --

17 A We do not know how much they are using.

18 Q Do you know how much you are discharging?

19 A I know every day how much I am discharging. I just  
20 told you some days it's as low as 550. A lot of those folks that  
21 live in Sawgrass, about 1/5th or 1/6th of those people in the  
22 summer time are not living in the houses. There are letters in  
23 Europe and Texas, and what have you.

24 We hand-deliver mail in the Plantation. We do not --  
25 the postal service does not deliver mail. We hand-deliver it



1 ourselves. I am one of the developers that developed that  
2 project, and we send as much mail overseas as we do to the folks  
3 there in the Plantation in that area.

4 Q Let me make sure I understand. Whatever you produce in  
5 your wastewater treatment plant goes into a pond in Sawgrass?

6 A It goes into a lake, not a pond.

7 Q Goes into a lake. Sawgrass can draw as much out of  
8 that lake as they need for golf course irrigation?

9 A That is correct, and we don't know what that amount is.

10 Q And whatever isn't used by them, when that lake gets  
11 too full goes into the pipe that runs to the Intracoastal?

12 A That is correct.

13 Q At that point Plantation can pull out of that pipe  
14 whatever they need?

15 A That is correct.

16 Q And it is only the net net that is left after all of  
17 that that would be available to go across the Intracoastal  
18 Waterway and provide reuse to Nocatee?

19 A That is correct.

20 Q All right. There are some references in Intercoastal's  
21 application in this case to the potentiality of some sort of  
22 wholesale or bulk arrangement with JEA as sort of a backup plan  
23 of service by Intercoastal to Nocatee. Are you familiar with  
24 that?

25 A I know that M.L. Forrester had talked to someone at the

1 City of Jacksonville, I don't know exactly who.

2 Q Under what circumstances would Intercoastal try to use  
3 JEA as a wholesale provider if you were granted the certificate  
4 you have asked for?

5 A Well, JEA has got some problems. One of the problems  
6 is what to do with their effluent. And they have got effluent  
7 coming out the -- I would say probably 135 million gallons per  
8 day being dumped in the St. Johns River alone.

9 Q Mr. Forrester, I guess I'm not asking you about JEA's  
10 effluent problems, I'm asking about --

11 A I'm not Mr. Forrester.

12 Q I'm sorry. Mr. James, I apologize.

13 A I'm trying to get --

14 MR. WHARTON: Mr. Chairman, I don't think Mr. Melson  
15 ought to be interrupting the witness. I mean, I hope the  
16 latitude on this three pages of prefiled testimony is being  
17 recognized, because I think you all want to know. I think you  
18 all want to know the answer to some of these questions. But,  
19 let's let the witness go ahead and answer and not say, well,  
20 that's not what I wanted to hear.

21 MR. MELSON: Well, let's let him answer the question  
22 and then explain, which I think is the ground rules that you all  
23 --

24 THE WITNESS: I can't get to A without going -- I  
25 can't get to B without going through A. I can't answer the

1 question unless you let me answer it the way I want to answer  
2 it.

3 CHAIRMAN JACOBS: We have been getting along so well,  
4 so I'm sure we can proceed. I think it's best to let the  
5 witness answer, though, fully.

6 THE WITNESS: Would you repeat the question.

7 MR. MELSON: Yes, if I can.

8 BY MR. MELSON:

9 Q Under what -- if Intercoastal were granted the  
10 expansion that you have requested, under what circumstances would  
11 you consider entering into an agreement with JEA rather than  
12 buildings plants yourself?

13 A I would have no problem at all entering into a contract  
14 with JEA. The people at JEA are good friends of mine. We're not  
15 enemies. If I seen them with a flat tire tonight, I would stop  
16 and fix it, and I think they would do the same for me. So I have  
17 no problems if the JEA -- if I was granted this certificate, and  
18 JEA said we would like for you to use the water, we would like  
19 for you to use the sewer, and we would like for you to use the  
20 effluent, I'm sure we could reach an agreement to do that.

21 Q Now, during your deposition didn't you tell me that you  
22 would only do an agreement with JEA if either this Commission or  
23 some other agency told you that that is what they wanted you to  
24 do?

25 A I don't think that is exactly the way you asked me the

1 question. I answered the question, I will do whatever the  
2 Florida Public Service Commission wants me to do, and if they  
3 tell me to use the water from the City of Jacksonville, use the  
4 effluent from the City of Jacksonville, I will do whatever they  
5 tell me to do. I have been under them before on numerous  
6 occasions, I have always did what the Florida Public Service  
7 Commission told me to do, blank period, that was it.

8 Q Do you have a copy of your deposition in front of you?

9 A Yes, sir.

10 Q Could you turn to Page 42, please. And I'm going to  
11 read a question and answer at Line 13 through 18 and ask if that  
12 would still be your testimony today.

13 A Page what?

14 Q I'm sorry, 42.

15 A I know a Page 42, but these are broke in Page 162,  
16 163 --

17 Q I'm sorry, it's Page 12 down at the bottom, Page 42 up  
18 in the upper left-hand corner.

19 "Question: So unless you were told by an agency that  
20 you had to do wholesale with JEA, you would serve Nocatee by  
21 putting the plants there yourself?

22 "Answer: I'm just the president and I'm one of the  
23 directors. That would be my direction."

24 A That is correct. I still haven't changed what I said.  
25 If the Florida Public Service Commission tells me that they want

1 me to buy wholesale water and sewer from JEA, I will still do it.

2 MR. MELSON: That's all I've got. Thank you.

3 CHAIRMAN JACOBS: Very well. Mr. Hoffman.

4 MR. HOFFMAN: Thank you, Mr. Chairman.

5 CROSS EXAMINATION

6 BY MR. HOFFMAN:

7 Q Good morning, Mr. James.

8 A Good morning.

9 Q I'm Ken Hoffman, I represent the JEA. I just want to  
10 follow up on some of the things that Mr. Melson asked you about.

11 A Sure.

12 Q Let me begin by handing you a copy of a three-page  
13 exhibit.

14 A Sure.

15 Q Have you had a chance to review that exhibit, Mr.  
16 James?

17 A Yes, I have.

18 Q Do you recognize the first two pages to be a letter  
19 from you?

20 A Yes, sir.

21 Q To Ben Adams, the county administrator?

22 A Yes, sir.

23 Q And that was a letter that basically advised Mr. Adams  
24 that Intercoastal viewed itself to be released from any  
25 obligations to negotiate only with the county and felt itself

1 free to negotiate with anyone else, including JEA, on the sale of  
2 Intercoastal?

3 A That is correct.

4 Q And the last page of this exhibit is a letter dated  
5 August 30, 2000, from Ben Adams to you responding to your earlier  
6 letter, correct?

7 A Well, let me just say one thing. The August 30, 2000  
8 letter, I don't ever remember seeing a copy of it, okay?

9 Q Okay. Is this the first time that you have seen this  
10 letter?

11 A This is the first I have seen a copy of a letter from  
12 Ben Adams. No one would even talk to me from St. Johns County.

13 MR. HOFFMAN: Mr. Chairman, if I could I would like to  
14 have this exhibit marked as Composite Exhibit 22.

15 CHAIRMAN JACOBS: Show it marked as Exhibit 22.

16 (Composite Exhibit 22 marked for identification.)

17 BY MR. HOFFMAN:

18 Q Mr. James, looking at the letter from Mr. Adams to you  
19 dated August 30, 2000 --

20 A Yes, sir.

21 Q -- do you have any reason to disbelieve that this  
22 letter was, in fact, sent by Mr. Adams to you?

23 A All I can tell you is I never received it, and I have  
24 never had any problem in 45 years getting my mail.

25 Q Okay. Do you see anything in this letter that is news

1 to you or a surprise to you?

2 A No, I don't see nothing wrong with the letter. I just  
3 never received it.

4 Q Okay. Now, looking at the letter dated August 24, 2000  
5 from you to Mr. Adams, this as I understand it was the letter  
6 that you sent to him that was part of the process at that time in  
7 the summer of 2000 where Intercoastal sort of reinstated  
8 negotiations with JEA for the purchase of Intercoastal, correct?

9 A That is correct. Scott and I were both trying to get  
10 release of -- I told Scott to do what he would, and I told him I  
11 would write a letter, so this is my letter to try to get a  
12 release from St. Johns County so I can go back and start talking  
13 with the City of Jacksonville.

14 Q Okay. Mr. James, if you would, look at the county  
15 agenda item dated April 24, 2001, that was marked as Exhibit 20?

16 A Okay.

17 Q And turn to the second page of that document.

18 A Okay.

19 Q It appears from that document that the county has  
20 approved a purchase price for the purchase of Intercoastal's  
21 existing territory, including its customers and facilities, of a  
22 little under 23 million. Would you agree with that?

23 A That is the number they are talking about. I don't  
24 agree or disagree with it.

25 Q Okay. That appears to be the number that is reflected

1 on the second page of this exhibit, correct?

2 A That is correct.

3 Q Okay. And I think that your testimony in response to  
4 some questions from Mr. Melson that was -- that had to do with  
5 the proposed agreement back in August of 2000, Intercoastal had  
6 pegged a value for the Intercoastal utility, and I would define  
7 Intercoastal being as its existing territory and the requested  
8 territory, as a little under 37 million. Is that an accurate  
9 statement?

10 A That's true.

11 Q Okay. So would you agree with me, then, that if  
12 Intercoastal's application were granted in this case, that at  
13 minimum the value of Intercoastal's territory, so to speak,  
14 including its existing customers and potential customers, would  
15 be the 23 million that the county has offered, which I assume you  
16 would take no less, and the 37 million that you have put to be a  
17 value for the Intercoastal territory, including the new territory  
18 in August of 2000?

19 A Do that one more time for me.

20 Q What I'm trying to get, Mr. James, is to see if you  
21 would agree that if Intercoastal's application is granted for the  
22 new territory in this case --

23 A Let me make it real simple for you. If the Florida  
24 Public Service Commission in their wisdom grants us the Nocatee  
25 area, Intercoastal is not for sale at any price.



1 Q Okay. If Intercoastal were for sale --

2 A It's not for sale, I just said that.

3 Q I understand. And I understand what you're saying,  
4 Mr. James. I'm asking you hypothetically --

5 A Okay.

6 Q -- if Intercoastal were for sale, as I understand the  
7 numbers that have previously been discussed in the record, if you  
8 take the county's proposal of 23 million, okay, and you compare  
9 that to the 37 million that Intercoastal offered in August of  
10 2000 for the --

11 A Wait.

12 Q Let me finish. -- for the existing territory and the  
13 new territory that is requested in this application, you have a  
14 difference of about 14 million for the new territory. Would you  
15 agree with that?

16 A Well, I didn't equate it like that. And let me go back  
17 and change one little thing you said. The offer, we went to  
18 Orlando and the offer was made by St. Johns County, the 37  
19 million. That wasn't our number, that was their number.

20 Q So you are saying that the agreement that Mr. Sundstrom  
21 sent to the county reflected the county's number?

22 A You've got it.

23 Q Okay. So let's modify my last question to say that  
24 that was the county's number?

25 A Okay.

1 Q The numbers are still the same. At minimum there would  
2 be an increase in value of 14 million if Intercoastal is granted  
3 the certificate for the new territory?

4 A I don't do the arithmetic like you do, and I will say  
5 for the second time for the record, if Intercoastal Utilities by  
6 the wisdom of this body grants us Nocatee, Intercoastal Utilities  
7 is not for sale at 23, 37, or 52, or whatever number you can  
8 imagine. It's not for sale, period.

9 Q That may be, Mr. James, but you would agree that the  
10 value of Intercoastal would be substantially increased if the  
11 Commission grants Intercoastal's application?

12 A Absolutely.

13 Q Okay. Mr. James, as I understand your testimony from  
14 the 1999 case before the St. Johns County Water and Sewer  
15 Authority, you and your partners over the years have owned  
16 approximately 25 utilities and have sold 23 of those utilities,  
17 leaving you with two utilities, Intercoastal and True Cove Oaks  
18 (phonetic), is that correct?

19 A That's correct. Most of them were sold to the City of  
20 Jacksonville.

21 Q I'm sorry, I didn't hear that.

22 A Most of them were sold to the City of Jacksonville.

23 Q Would you agree, Mr. James, that it is common for water  
24 and wastewater utilities to outsource operations and maintenance  
25 through a contract party operator?

1 A We have found it to be very successful.

2 Q Is it a common practice in the water and wastewater  
3 industry?

4 A I don't know. We have been doing it for 22 years and  
5 we haven't had any problem, anybody complain. As a matter of  
6 fact, the last rate case we had in front of the Florida Public  
7 Service Commission, Jax Utility Management was managing that  
8 utility and they didn't have any problem with it.

9 Q So it is a common practice in the industry?

10 A It is a common practice to me.

11 Q Well, you have been in the industry 45 years. It's a  
12 simple question, Mr. James. Do you know if outsourcing  
13 operations and maintenance is a common practice in the industry?

14 A I think it's according to who owns the utility company.

15 Q Okay. But it certainly has been a common practice for  
16 you?

17 A Yes, sir.

18 Q And of the 25 utilities that you have had an ownership  
19 interest in, have contract operations for operations and  
20 maintenance been a standard practice?

21 A In some cases.

22 Q Of the 25 utilities, how many of them had contract  
23 operations from JUM?

24 A Less than six.

25 Q I believe that your testimony in response to a question

1 from Mr. Melson was that essentially every major construction  
2 project for Intercoastal has been performed by JUM, is that an  
3 accurate statement?

4 A That is correct. And let me add why. Because no one  
5 can seem to compete with us. We go out for bids, but if somebody  
6 says we want \$5 million to build it and we know it can be built  
7 for 3, why would we give a contract for 5? Does that make any  
8 sense?

9 Q Sure, sure. And this is probably a rhetorical  
10 question, but I'm sure you believe Intercoastal is a well-run  
11 utility, a well-operated utility, don't you?

12 A I think so. I didn't see any customers here for  
13 yesterday's meeting.

14 Q And who does the O&M for Intercoastal?

15 A We do, Jax Utility Management.

16 Q Who does the meter reading for Intercoastal?

17 A Jax Utility Management.

18 Q Who does the billing and collection?

19 A We do everything lock, stock, and barrel from top to  
20 bottom.

21 Q Who makes the necessary repairs, goes out to --

22 A We do, because we are the best repair company in this  
23 town.

24 MR. HOFFMAN: Mr. Chairman, could I be allowed to  
25 finish my question?

1 CHAIRMAN JACOBS: I think it would be wise for the  
2 witness to allow him to complete his question.

3 BY MR. HOFFMAN:

4 Q Mr. James, who makes the necessary repairs, goes out to  
5 customer homes and deals with customer complaints for  
6 Intercoastal?

7 A Do you want me to answer that?

8 Q Yes.

9 A The same company. Let me explain how its operated,  
10 okay. We have key people in Intercoastal. They don't come to  
11 work at Jax Utility Management and then waste an hour. They go  
12 directly to that plant every morning. They know who their  
13 bossman is. They know what their job is. So by 7:00 o'clock we  
14 are working and at 4:30 we are still working. We get ten hours  
15 out of the ten-hour day.

16 Q I'm sorry, were you finished, Mr. James?

17 A Yes, sir.

18 Q Intercoastal has no employees, correct?

19 A Intercoastal has employees that are basically  
20 categorized Intercoastal. Although we carry them in the payroll,  
21 under payroll taxes because we employ approximately 100 people.  
22 We can buy insurance cheaper, we can buy everything cheaper, and  
23 that's why we do it that way. We volume buy equipment like  
24 trucks, and pumps, and what have you, and supplies.

25 Q In your last answer when you were using the word we,

1 the we is JUM?

2 A We is Jax Utility Management.

3 COMMISSIONER JABER: Mr. Hoffman, may I interrupt here  
4 before you leave this point?

5 MR. HOFFMAN: Yes, ma'am.

6 COMMISSIONER JABER: Mr. James, if the Commission were  
7 to approve Intercoastal's application, do you understand that  
8 you would come under the jurisdiction of the Public Service  
9 Commission?

10 THE WITNESS: Yes, ma'am. I have been under your  
11 jurisdiction several years.

12 COMMISSIONER JABER: Who should the Public Service  
13 Commission consider the utility to be, the Jacksonville Utility  
14 Management(sic)?

15 THE WITNESS: Yes, ma'am. Well, let me just say one  
16 thing. The last case, we ran the Ponte Vedra Utility and we ran  
17 the Deerwood. The Deerwood Utility, which was partly owned by  
18 us and partly owned by Jake Petroleum Company (phonetic), was  
19 managed by Jax Utility Management, and that was the last rate  
20 case that we had before the Florida Public Service Commission.  
21 You did not have a problem with it at that time.

22 COMMISSIONER JABER: So Jax Utility Management would  
23 be the utility. Is that who your customers call when they have  
24 service quality complaints?

25 THE WITNESS: No, ma'am. They would call Intercoastal

1 Utilities. We have numbers listed, we have five numbers coming  
2 into Intercoastal.

3 COMMISSIONER JABER: When the phone rings at  
4 Intercoastal Utilities --

5 THE WITNESS: That person on the other end will say  
6 Intercoastal Utilities, how may I help you, and tell you who  
7 they are.

8 COMMISSIONER JABER: If you anticipate every question  
9 you might answer the wrong way.

10 THE WITNESS: I'm sorry.

11 COMMISSIONER JABER: The employees, the paycheck they  
12 receive, it is from Jacksonville Utilities Management?

13 THE WITNESS: Yes, ma'am.

14 COMMISSIONER JABER: All right. So what is the real  
15 function of Intercoastal? I need to understand the obligations  
16 and duties that Intercoastal has.

17 THE WITNESS: Intercoastal Utilities is the utility  
18 company itself, and we have so many employees, we have 13  
19 employees that doesn't do anything except Intercoastal. They  
20 don't do anything for Jax Utility Management. They are totally  
21 100 percent allocated to that particular item.

22 COMMISSIONER JABER: I thought we established several  
23 times that Intercoastal had no employees.

24 THE WITNESS: They do not as far as a paycheck is  
25 concerned. That paycheck comes from Jax Utility Management.

1 Their time is on an Intercoastal piece of paper.

2 COMMISSIONER JABER: All right. But the employees  
3 are, in fact, not employees of Intercoastal, they are employees  
4 of Jacksonville Utilities Management?

5 THE WITNESS: Yes, ma'am.

6 COMMISSIONER JABER: All right.

7 BY MR. HOFFMAN:

8 Q Mr. James, who does the meter reading for Intercoastal  
9 Utilities?

10 A Intercoastal people, but Jax Utility Management.

11 Q Employees of Jax Utility Management, correct?

12 A That is correct.

13 MR. HOFFMAN: No further questions. Thank you,  
14 Mr. James.

15 CHAIRMAN JACOBS: Mr. Korn.

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

17 CROSS EXAMINATION

18 BY MR. KORN:

19 Q Good morning, Mr. James.

20 A Good morning, sir.

21 Q In response to Mr. Melson's question, you said that you  
22 had not had any discussions with a St. Johns County person  
23 regarding the potential acquisition of Intercoastal Utilities for  
24 I wrote down a month and a half or two months, correct?

25 A That is correct.



1 Q Has anyone on behalf of Intercoastal Utilities had any  
2 communications with St. Johns County in that same period of time?

3 A Maybe my attorney has talked to their attorney, I don't  
4 know. They usually discuss -- in Tallahassee, both of the  
5 attorneys are from Tallahassee, so they may have talked to one  
6 another, but I haven't talked with anyone.

7 Q Directing your attention specifically to the last two  
8 weeks, you are aware, are you not, that on April 24th, two weeks  
9 ago, the St. Johns County Commission voted to authorize the  
10 setting of a Section 125 hearing to inquire about the possibility  
11 of acquiring Intercoastal, correct?

12 A Yes, sir.

13 Q And you are not aware of any discussions that have  
14 occurred since those last two weeks?

15 A I bought the tapes of that meeting, so I know exactly  
16 what was said.

17 Q Yes, sir, I understand. I'm not talking about what was  
18 said at the meeting. I'm saying since that meeting there have  
19 been no further discussions that you are aware of with the  
20 county?

21 A I'm the only negotiator. No one has negotiated  
22 anything for me.

23 Q All right, sir. Fair enough. Now, you mentioned that  
24 if the Public Service Commission should grant Intercoastal's  
25 request for a certificate for the proposed territory, that

1 Intercoastal Utilities would not be for sale to anyone for any  
2 price, correct?

3 A That is correct.

4 Q Has that position been communicated to St. Johns County  
5 at any time before your testimony today?

6 A Nobody has asked me.

7 Q You were asked some questions about the use of treated  
8 effluent for the Sawgrass golf courses, correct?

9 A Yes, sir.

10 Q And you are aware pursuant to the utility service  
11 agreement that Intercoastal is required to provide that treated  
12 effluent until approximately September of 2013, correct?

13 A I think that's what I said.

14 Q Yes, sir. Now, have there been any agreements with the  
15 Sawgrass Country Club as opposed to the Sawgrass Association,  
16 which would in any way extend or modify the terms of providing  
17 reuse or treated effluent to that golf course?

18 A Like I say, we don't know whose on first and whose on  
19 second there. We are trying to determine that. But we only have  
20 one agreement.

21 Q When you say you only have one agreement, you are  
22 referring to the underlying 1983 utility service agreement, sir?

23 A That's correct.

24 Q Okay. So there would be no other written agreements  
25 between Intercoastal and the country club, per se?

1 A A lot of requests, but no contracts.

2 Q Have there been any verbal agreements that have not  
3 been reduced to writing?

4 A No, sir.

5 Q I don't want to belabor the point, but I want to bring  
6 you back to the issue of the amount of gallonage that might be  
7 necessary in order to adequately irrigate golf course properties.  
8 And specifically if you have your deposition in front of you,  
9 Mr. James, I would like for you to please turn to Page 152. And  
10 if you will tell me when you are there, I will proceed.

11 A All right. Okay.

12 Q All right. And specifically -- I don't need you to  
13 read it out loud, just read to yourself the response that you  
14 have there from say, Lines 1 through 7, and tell me when you are  
15 ready, please, sir.

16 A Okay.

17 Q And during your response to the questions asked at  
18 deposition you indicated that, I'm quoting now, "A real true life  
19 is about 790 to a million gallons per day on an 18-hole golf  
20 course," correct?

21 A That would be my estimate.

22 Q And there is nothing that has occurred since your  
23 deposition that would change that opinion, correct, sir?

24 A No, sir.

25 Q The provision of reuse to the Plantation at Ponte

1 Vedra, that is backup source only, is that correct?

2 A That's correct.

3 Q What is the Plantation currently using for its  
4 irrigation needs?

5 A We have 345 acres that we have dug in lakes. We dug  
6 125 acres of lakes up front, and we have a 22-foot deep lake at  
7 the pumping facility, so we irrigate our golf course, all of the  
8 landscaping, all of A1A that belongs to the State of Florida, we  
9 also irrigate it. And it is irrigated strictly -- that water in  
10 the Plantation is 100 percent recyclable, including the water  
11 that falls on the street.

12 Q Just so that the record is clear, you used the term  
13 "we" a moment ago, and I just wanted to understand when you --

14 A I am one of the developers of the Plantation at Ponte  
15 Vedra. We have owned that property for 32 years.

16 CHAIRMAN JACOBS: I don't think he had completed his  
17 question. Do you want to complete your question, Mr. Korn?

18 MR. KORN: All right, sir. I think Mr. James did  
19 answer it.

20 CHAIRMAN JACOBS: He answered correctly?

21 MR. KORN: Yes, sir. I think he answered adequately.

22 BY MR. KORN:

23 Q So the record is clear, when you referenced we are  
24 doing certain things in your answer a moment ago, you were  
25 referring to yourself as the developer of the Plantation of Ponte

1 Vedra, correct, sir?

2 A That's correct.

3 Q And so as such you would have had the ability to make  
4 the decision whether to accept reuse generated from the Sawgrass  
5 plant at any time while you were serving in that position as  
6 developer, right?

7 A Correct.

8 Q When did the Plantation first decide to accept reuse as  
9 a backup source from the existing Intercoastal facility?

10 A Probably about two years ago when they had a serious  
11 drought and the water table in those lakes dropped about four  
12 feet, and the golf professional decided he had to get water from  
13 either God or somewhere, and so he just came around and decided  
14 maybe effluent was the answer.

15 Q The Lord wasn't forthcoming at that point?

16 A That is correct.

17 Q Now, prior to that time that you identify, had there  
18 been any discussions with the Plantation about their acceptance  
19 of reuse?

20 A I think originally when I built that project and laid  
21 the 16-inch line primary for the reason to use 100 percent  
22 whatever you couldn't use over in Sawgrass, and I took the money  
23 and built a 16-inch line strictly for effluent and had it  
24 targeted for the regional lake that we pump out of. So in my  
25 original development of that project, I was the project manager

1 and I decided it needed to be 100 percent recyclable, and that's  
2 the way we built it.

3 Q So if I understand your response correctly, you had  
4 provided facilities that would be suitable for the Plantation to  
5 accept reuse --

6 A We built --

7 Q If I might, sir. But that the actual agreement with  
8 the Plantation was not reached until approximately two years ago,  
9 is that correct?

10 A That's correct.

11 Q And just for the record, when were those lines put in  
12 that you just were describing?

13 A We put those lines in at the same time that we started  
14 building Plantation, about 15 years ago.

15 Q Now, you mentioned that presently the current flow of  
16 effluent is that it goes into what you call the lake that is  
17 adjacent to the Sawgrass wastewater treatment facility, correct?

18 A Yes, sir.

19 Q And just so it is clear, that is referred to sometimes  
20 in this case as the green lake?

21 A Yes, sir.

22 Q Is there a reason why in your observation it's called  
23 the green lake?

24 A Yes, sir. The people that work for you all that cut  
25 your grass, they also fertilize, so they back up all their little

1 wagons and they take the water and they wash the fertilizer into  
2 the lake, and you all are trying to figure out why it's turning  
3 green. I know one day you all will figure it out.

4 Q And it's your belief that that is the reason why the  
5 lake is, in fact, green?

6 A Not only my belief, you hired an environmental expert,  
7 Wade Robinson (phonetic), and that is his conclusion, also.

8 Q When was Mr. Robinson retained?

9 A Approximately two years ago.

10 Q Did he generate a written report?

11 A Yes, he did. And the President of Sawgrass got it and  
12 when he got it he fired him.

13 MR. KORN: If you will give me a moment, Mr. Chairman,  
14 I think I'm about done. About 30 seconds.

15 BY MR. KORN:

16 Q And, Mr. James, when your deposition was taken you  
17 indicated that regardless of the existence of the underlying  
18 utility service agreement, which you discussed earlier, that it  
19 was your intent to continue to provide the reuse to the Sawgrass  
20 golf course, correct, sir?

21 A That is correct.

22 Q And nothing since your deposition has changed along  
23 those lines?

24 A No, sir.

25 Q It would be fair to say that Intercoastal has been

1 involved in rather protracted proceedings over the past couple of  
2 years regarding this Nocatee certificated area, would that be a  
3 fair statement?

4 A Long before Nocatee.

5 Q But at least starting say in 1999, Intercoastal has  
6 been involved in proceedings in front of the St. Johns County  
7 Water and Sewer Authority as well as this body?

8 A We have been there three years. It's kind of like a  
9 nightmare.

10 Q And you have had to incur expert fees as far as your  
11 engineers who have prepared the master plans, such as Mr. Miller  
12 and before him Mr. Waits, correct?

13 A Not only did we have to pay our fees, we also had to  
14 pay the county's fees for their attorneys and CPAs.

15 Q And if you can tell me where do those costs show up on  
16 Intercoastal's financial records, that is how are they allocated  
17 or --

18 A We have Mr. Bowens, I think, that is going to testify  
19 this morning and he can tell you that. I'm not an accountant.

20 Q All right. I will ask him that, then, sir. One last  
21 question. You are aware, are you not, that the St. Johns County  
22 Commission had authorized an audit of Intercoastal's rate base,  
23 correct?

24 A Well, they offered -- they agreed to do this  
25 approximately a year ago, and they got an audit and the audit



1 said there was nothing wrong, so they asked for a reaudit of the  
2 audit, yes.

3 Q Has the audit been returned at this present time?

4 A No. The first audit that came had a \$379,000 error in  
5 it that he acknowledged on the first night he sent it over, and  
6 the second time was more ridiculous than the first time. And  
7 this auditor -- we have got all the auditors in the world in  
8 Florida and we have got an auditor from Michigan auditing St.  
9 Johns County. That doesn't make sense, but that's what we got.

10 Q My question, though, is as we sit here now you are  
11 unaware of the current status of the audit results?

12 A Oh, yes, I'm well aware of the audit results. They're  
13 wrong, but I'm aware of them.

14 MR. KORN: I don't have anything further.

15 CHAIRMAN JACOBS: Staff.

16 MS. ESPINOZA: Staff has no questions.

17 COMMISSIONER JABER: I've got a couple.

18 CHAIRMAN JACOBS: Go ahead.

19 COMMISSIONER JABER: Go ahead.

20 COMMISSIONER DEASON: Mr. James, I have a question. I  
21 have tried to take a note or two, and I believe in response to a  
22 question from Mr. Melson you quoted a range of \$4,300 to \$4,700.  
23 Can you tell me what that number represents?

24 THE WITNESS: Yes, sir. Commissioner Deason, one of  
25 the things that -- we live in Jacksonville and have for years, I

1 tell everybody we backed into the water and sewer business, we  
2 didn't get into it. We were one of the largest home builders in  
3 this town and today we are one of the largest developers. We  
4 take raw dirt and provide it ready to build a house.

5           So we lay as many water lines and sewer lines as  
6 anybody in the City of Jacksonville. Force mains, streets,  
7 roads, curbs, everything it takes to produce a project. And  
8 our cost today, our raw cost if you take a water line, sewer  
9 line, force mains, water plant, sewer treatment plant, and put  
10 them all in one box, you will come to a number that is right in  
11 that range that I gave you.

12           COMMISSIONER DEASON: Okay. And that is the whole  
13 package?

14           THE WITNESS: That is the whole ball of wax.

15           COMMISSIONER DEASON: And that is what it would cost  
16 you in terms of your planning, your engineering, your actual  
17 construction, procurement of all you needed, materials and  
18 installation of all of that, correct?

19           THE WITNESS: Commissioner, if you and I walked into a  
20 2,000-acre raw piece of dirt today and we were going in the  
21 utility business, we had to build water plant, sewer plant,  
22 recycle 100 percent, build the latest technology of sequencing  
23 batch reactor plant that would do a 99 percent removal, that  
24 would be the state of the art. We recycle the water 100  
25 percent, we put water meters in, and we did everything that

1 needs to be done in the business, that would be the number that  
2 it would cost you and I to produce that one ERC.

3 COMMISSIONER DEASON: And that would include reuse,  
4 too?

5 THE WITNESS: That would include reuse, too, sir.

6 COMMISSIONER DEASON: Thank you.

7 COMMISSIONER JABER: Mr. James, I have just a couple  
8 of questions. Last night we did have one customer come and  
9 testify with respect to Intercoastal.

10 THE WITNESS: Yes, ma'am.

11 COMMISSIONER JABER: And he expressed a couple of  
12 concerns that I would like to ask you, and maybe we can get your  
13 responses on the record so that if the customer asks us again we  
14 will have the responses on the record.

15 He had a concern with respect to our approval of  
16 Intercoastal's application and what effect that would have on  
17 current customers. So could you answer the question about what  
18 effect your application, if approved --

19 THE WITNESS: Yes, ma'am, I would be happy to. One of  
20 the things in the utility business, the utility business is the  
21 only business in the world, and I have been it in all of my  
22 life, that more is better. The more customers you have, the  
23 better off you are. We will go back some years, and I'm not  
24 using -- I'm just using this example to get to my point. But  
25 years ago there used to be tags around Jacksonville that said

1 City of Jacksonville, owned and operated by JEA.

2 Now, that was kind of nasty, but the facts were they  
3 didn't have a lot of customers, so they bought a lot of private  
4 utilities. I would say 3/4ths of the customers they have today  
5 were purchased private utility customers. And today they enjoy  
6 one of the best rates in the world.

7 United Water, I think, is another good illustration  
8 of bigger is better. And what would happen to the customers,  
9 there is going to be something good is going to happen. We  
10 would be willing to make a commitment to this Commission  
11 tomorrow that we would start reducing rates. If we were  
12 fortunate enough to get this certificate, we would reduce the  
13 rates starting in the year 2002. We would go up front, in  
14 front of this thing starting in 2002 and to 2009 we would  
15 reduce rates where our rates would be as low as anybody in this  
16 town, including JEA. Because there is all kinds of economies  
17 of scale by being bigger.

18 And what would happen to this gentleman, he would  
19 get a -- he would get a less water bill and a less sewer bill  
20 than he is getting right now. That is the one good thing that  
21 would happen to him.

22 COMMISSIONER JABER: You said 2002 and then you said  
23 2009 --

24 THE WITNESS: I said we would start in 2002 and go to  
25 2009.

1           COMMISSIONER JABER: All right.

2           THE WITNESS: We would continue to reduce those rates  
3 starting in the first year at least 5 percent and reduce rates.

4           COMMISSIONER JABER: All right. And the second  
5 concern he had was with respect to quality of service, and being  
6 the bigger utility, if the application got approved he was  
7 concerned that the quality of service to existing customers  
8 would be strained. How would you respond to that?

9           THE WITNESS: Commissioner, I'm glad you asked me that  
10 question. I think we are the only utility in the world that you  
11 can call on Sunday afternoon at 9:00 o'clock, whether it be  
12 Christmas day or New Year's, and tell us that you don't have any  
13 water at your house and we will restore it within an hour. If  
14 you have a broke water line or a sewer line that we have in  
15 front of your house, or someone has run over a fire hydrant, or  
16 what have you, we will repair it in three hours. We have as  
17 good a record as anyone in this town on repair and customer  
18 response.

19           COMMISSIONER JABER: The JUM employees work 24 hours,  
20 7 days a week?

21           THE WITNESS: Yes, ma'am. We have a group of people  
22 on the weekend that we designate. We even designate one  
23 supervisor. And I'm glad you asked that question. Only one of  
24 those five supervisors are paid. We absorb the other four in  
25 Jax Utility Management at no cost to Intercoastal Utility. We

1 always have a supervisor that can answer a question. You are  
2 not talking to the janitor when you call us, we have got  
3 somebody that has got at least 20 years experience. Most of the  
4 guys working for me have 26 years average experience.

5 But you will be talking to a supervisor. That  
6 supervisor will contact the guy in the field, and we have seven  
7 people that live in the Ponte Vedra area that works there in  
8 the Ponte Vedra area, and is basically Intercoastal Utility  
9 employees although they receive a Jax Utility Management check.

10 COMMISSIONER JABER: Why have you set up your  
11 structure that way? Why have you contracted with an entity that  
12 is --

13 THE WITNESS: I will be happy to answer that question.  
14 Jax Utility Management, Incorporated got started because of the  
15 City of Jacksonville. The City of Jacksonville acquired  
16 approximately seven utility companies from us at one time, and  
17 they couldn't operate them. So we -- they wanted us to manage  
18 those customers, so we managed for the City of Jacksonville  
19 33,000 accounts, both water and sewer customers. Including  
20 billing, meter reading, we even deposit the money in the bank.

21 They retained us on a year-to-year contract and we  
22 did that for ten continuous years. And that is the reason we  
23 formed that company was to provide that service for the JEA.  
24 They continued to buy private utilities and we continued to  
25 manage every private utility that they purchased that wasn't

1 close or adjacent to their system, we managed for them. At one  
2 time we managed 1/3rd of the total accounts that the City of  
3 Jacksonville had in the water and sewer division for them under  
4 Jax Utility Management.

5 COMMISSIONER JABER: How is Jax Utility Management  
6 compensated?

7 THE WITNESS: We were compensated so much per ERC.  
8 Our total contract, I don't mind telling you being it's a past  
9 thing, but we handled 33,000 accounts and they paid us \$270,000  
10 net-net-net. They had the right to audit us every year, which  
11 they did. They had a gentleman and they still do by the name of  
12 Bob Johnson, which is a city auditor, and he would appoint  
13 someone or do it himself. And we only had three working days at  
14 the end of each month to tell them what we did with the money,  
15 how we did it, and where we did it. And they had the right to  
16 audit at any time during that.

17 In that ten-year period we never had one letter from  
18 the City of Jacksonville or one audit that didn't turn out  
19 right, or any -- as a matter of fact, the reason why we no  
20 longer operate the City of Jacksonville is because the city,  
21 the city council president and the city councilmen thought that  
22 our company needed to be running the City of Jacksonville and  
23 we run head-on with the unions.

24 COMMISSIONER JABER: Mr. James, I don't want the  
25 record to be confused. You have said we and you have us, and

1 you are talking about --

2 THE WITNESS: Jax Utility Management, Incorporated.

3 COMMISSIONER JABER: All right. So if I understand  
4 your answer correctly, Jax Utility Management is compensated by  
5 the utilities it would manage?

6 THE WITNESS: That is correct.

7 COMMISSIONER JABER: Is that correct?

8 THE WITNESS: That is correct.

9 COMMISSIONER JABER: So Intercoastal compensates you,  
10 Intercoastal compensates Jax Utility Management per ERC?

11 THE WITNESS: No, ma'am.

12 COMMISSIONER JABER: Then how does Intercoastal --

13 THE WITNESS: On repair work, we charge cost plus 15  
14 percent.

15 COMMISSIONER JABER: All right. And you also said you  
16 started out with that sort arrangement with Jacksonville Utility  
17 Management because the City of Jacksonville wanted Jacksonville  
18 Utility Management to manage some of the plants it had. And if  
19 I understand your response, you said that arrangement no longer  
20 exists. You are not doing anything with the City of  
21 Jacksonville?

22 THE WITNESS: No, ma'am.

23 COMMISSIONER JABER: Why have you maintained JUM,  
24 then?

25 THE WITNESS: It just happened to be a -- it just



1 happened to be a company and we took that company and turned it  
2 into a construction company.

3 COMMISSIONER JABER: All right. How long is the  
4 contractual obligation between Intercoastal and JUM?

5 THE WITNESS: It can be terminated this afternoon.

6 COMMISSIONER JABER: So it's a terminate at will with  
7 the right being held by Intercoastal?

8 THE WITNESS: Absolutely.

9 COMMISSIONER JABER: So with respect to Issue 15,  
10 where I'm supposed to be considering Intercoastal's technical  
11 ability, and Intercoastal's response is, yes, they have the  
12 technical ability, and Intercoastal's experience clearly  
13 demonstrates it has the technical ability to effectuate the  
14 proposals in its application, the real answer to that question  
15 is Intercoastal through the contractual obligation that can be  
16 terminated at any time has the technical ability?

17 THE WITNESS: Commissioner, I said earlier that we  
18 have 13 or 14 employees that strictly work for Intercoastal,  
19 they don't do anything for Jax Utility Management.

20 COMMISSIONER JABER: Right. And if and when you  
21 terminate the contract you have with JUM, those employees are  
22 not at your disposal anymore, right?

23 THE WITNESS: What do you mean when I terminate?

24 COMMISSIONER JABER: You just told me that  
25 Intercoastal can terminate?

1 THE WITNESS: Sure they can.

2 COMMISSIONER JABER: All right. So those employees go  
3 with JUM, correct?

4 THE WITNESS: Well, we have always thought that those  
5 employees went with the -- let me go back to a discussion that I  
6 had with the City of Jacksonville when we were actively  
7 negotiating with the City of Jacksonville. The employees that  
8 were in the field, JEA was going to keep those employees just  
9 like they were, the only difference were they were going to work  
10 for the City of Jacksonville.

11 COMMISSIONER JABER: This is a little bit outside of  
12 your scope, Mr. Chairman, just one final question. Do you get a  
13 paycheck from Intercoastal and a paycheck from JUM?

14 THE WITNESS: I get one from neither one.

15 COMMISSIONER JABER: What is it, the parent company  
16 that compensates you?

17 THE WITNESS: Well, I'm a partner in 28 different  
18 areas, so I don't get a paycheck from either company.

19 COMMISSIONER JABER: Thank you.

20 THE WITNESS: You're welcome.

21 CHAIRMAN JACOBS: Mr. James, I believe you are aware  
22 that the proposal of Intercoastal, the revised proposal  
23 anticipates rates that arguably are not fully compensatory, do  
24 you understand?

25 THE WITNESS: I'm fully aware of it.

1           CHAIRMAN JACOBS: And it would be your understanding  
2 that that would not effect any of the service of customers of  
3 Intercoastal?

4           THE WITNESS: No, sir, it would not effect the  
5 service.

6           CHAIRMAN JACOBS: And as to existing Intercoastal  
7 customers, they would not incur any obligation to compensate for  
8 that?

9           THE WITNESS: No, sir.

10          CHAIRMAN JACOBS: It's my understanding, however, that  
11 it would be taken care of by the investors in Intercoastal, not  
12 in any other way?

13          THE WITNESS: I have took and got affidavits from all  
14 the shareholders saying that they understand exactly what it  
15 would cost them. If I could have the privilege, Mr. Chairman,  
16 let me say one thing. When we -- I have never started a utility  
17 company in this town, and I have started a lot of them from  
18 scratch from customer one, that didn't lose money.

19                 For instance, Intercoastal from 1985 to 1990 lost  
20 \$574,000. And I know from being under the Florida Public  
21 Service Commission we can't go back and recover that money.  
22 Once it's gone, it's gone forever.

23                 So we are used to starting utility companies and  
24 losing money up front. That doesn't scare us a bit. I don't  
25 know of anybody that can go in the utility business and put out

1 \$14 million, which I have heard here today, and 16 million, and  
2 have one customer and make money. I can't do it, and I don't  
3 know how they can do it. But it usually takes -- I think the  
4 break-even point, if you are looking for a break-even point,  
5 and I have built about 25, maybe 30 of these things, I have  
6 built a lot for other people, including people like General  
7 Development Corporation, which at one time was a biggy in this  
8 industry.

9           But I found out one thing, you are not going to make  
10 money until you at least have 1,000 customers. At 1,000  
11 customers you will start seeing a little gleam of light at  
12 1,000 customers. But until you reach 1,000, you are losing  
13 money. I don't care what you do, you need at least that just  
14 to get to the inching toward breaking even.

15           And let me just say this. Intercoastal in the last  
16 15 years, I keep all the reports, and I did a report back from  
17 the time I started Intercoastal to the present day. And using  
18 the formula that I learned from you at the Florida Public  
19 Service Commission, our rate of return -- I had five years of  
20 loss. In that period of time I have earned less than 5.7  
21 percent both in water and sewer. Under 6 percent in a 15-year  
22 period.

23           So everybody worries about gouging the consumer, I  
24 can tell you for a fact the rate of return is extremely low.  
25 It's not in the 9s, 10s, and 12s that everybody thinks. Once

1 you figure your loss in there, you are down under -- I'm down  
2 below 7 in Intercoastal as of last year.

3 CHAIRMAN JACOBS: Thank you. Redirect.

4 MR. WHARTON: Yes.

5 REDIRECT EXAMINATION

6 BY MR. WHARTON:

7 Q Mr. James, the shareholders for Intercoastal are not  
8 the exact same shareholders as they are for JUM, are they?

9 A No, sir.

10 Q And do the Intercoastal shareholders make the decisions  
11 for Intercoastal?

12 A They certainly do.

13 Q And do the Intercoastal officers make the decisions for  
14 Intercoastal?

15 A Yes, sir.

16 Q And that would -- the JUM officers don't make the  
17 decisions for Intercoastal?

18 A Intercoastal makes its own decisions.

19 Q And the JUM shareholders don't make the decisions for  
20 Intercoastal?

21 A No, sir.

22 Q And this application has been filed by Intercoastal,  
23 correct?

24 A That is correct.

25 Q And Intercoastal is the utility that is currently

1 certificated by St. Johns County?

2 A That is correct.

3 Q And Jax Utility Management is not a utility, is it?

4 A No, it isn't.

5 Q Is the relationship between JUM and Intercoastal as it  
6 is because of the close relationship between JUM's principals and  
7 Intercoastal's principals?

8 A Only two of the people in Jax Utility Management have  
9 anything to do with Intercoastal Utilities.

10 Q But one of those people is you?

11 A Yes, representing less -- only 10, let's see, 12  
12 percent, and I might be off a half a point, but 12 percent, the  
13 people in JUM, the two of us own 12 percent of Intercoastal, so  
14 we are the tail on the dog. 88 percent is owned by other people  
15 that is not in Jax Utility Management.

16 Q In fact, is the work that JUM does for Intercoastal  
17 only a small percentage of the total work that JUM does?

18 A Less than 10 percent.

19 Q Commissioner Deason asked you about some figures, some  
20 ERC figures, and you were talking about what it would cost to  
21 construct an ERC. Isn't it true that some of that would be  
22 contributed?

23 A That is true.

24 Q When you said that the shareholders had made a  
25 commitment to reduce rates through the year 2009, do you recall

1 that testimony?

2 A Yes, sir.

3 Q Is that because that is only as far out as Intercoastal  
4 has projected?

5 A That is all we have projected is year 2009. We feel  
6 like anything over 10 years in the utility business, not knowing  
7 exactly what DEP and St. Johns Water Management District and  
8 other entities, governmental bodies, we don't know what they are  
9 doing, so we try to do at least a 10-year projection.

10 Q And so it could be that the rates would keep falling  
11 after that time?

12 A It could be.

13 Q Just to make sure that your response to Commissioner  
14 Jaber is clear, does JUM charge Intercoastal a management fee for  
15 lack of a better phrase?

16 A Yes. Jax Utility Management charges Intercoastal per  
17 year \$100,000.

18 Q And you don't get a salary for being President of  
19 Intercoastal?

20 A No, I do not.

21 Q And you don't get a salary for President of Jax Utility  
22 Management?

23 A No, I don't. I don't even get gas money to come down  
24 here, nor sandwich money, or anything else. I take no money out  
25 of that company.

1 Q Have your Tallahassee lawyers advised you in the past  
2 that maybe you ought to pay yourself a salary as an employee of  
3 that company?

4 A They sure did, and the principals of Intercoastal have  
5 told me that.

6 Q But you have refused to do that?

7 A I do.

8 Q All right. There were some questions about the  
9 possible termination of the agreement between Intercoastal and  
10 JUM. Intercoastal and JUM are related to some extent through  
11 common ownership?

12 A Very little.

13 Q Do you believe they have common goals, though?

14 A Absolutely.

15 Q Do you think that it is likely that Intercoastal would  
16 tell JUM that it wanted to terminate that contract?

17 A I don't believe so. They've got a sweetheart deal.

18 Q If that happened, Mr. James, do you think it's likely  
19 that those employees you have described at JUM who mostly do  
20 Intercoastal work, would then become employees of Intercoastal  
21 Utilities?

22 A Absolutely.

23 Q And it would be the same people who are doing the work  
24 now?

25 A Absolutely.



1 Q Because that staff is in place?

2 A Yes, sir.

3 Q You were asked some questions, again, about the pledge  
4 Intercoastal has indicated that it would make with regard to  
5 noncompensatory rates. That is something that you have discussed  
6 with the shareholders just recently?

7 MR. MELSON: Commissioners, I am going to object at  
8 this point. We are now getting into the testimony about a  
9 commitment that you all ruled yesterday that was in his  
10 additional rebuttal testimony that was not allowed. I know  
11 Commissioner Jaber asked some questions and got some answers,  
12 but now the redirect is going beyond and it looks like he is  
13 going to try to get in what the Commission has previously told  
14 him was beyond the scope of this proceeding.

15 MR. WHARTON: You know, I just sat here like a lot  
16 nicer guy than I really am through about two hours of testimony  
17 on three pages of prefiled testimony. Commissioner Jaber got  
18 into this, let's make sure the record is clear.

19 CHAIRMAN JACOBS: Could you give me your question  
20 again.

21 MR. WHARTON: Yes. I want to ask him about to the  
22 extent to which the shareholders are willing to step up to the  
23 bar to back up the testimony he has given about that we would  
24 reduce rates.

25 MR. MELSON: And, Mr. Chairman, if you take a look at

1 the additional rebuttal testimony of H.R. James that was not  
2 allowed yesterday, that is exactly what that testimony covers.  
3 I believe your ruling was that they filed in this proceeding for  
4 grandfather rates, that their newly discovered desire to reduce  
5 rates simply to stay below Nocatee was not a proper subject for  
6 this proceeding.

7 MR. WHARTON: And I make no pretense otherwise.

8 CHAIRMAN JACOBS: Was this testimony a part of the  
9 testimony that we -- I thought it was Bowen and --

10 MS. CIBULA: Yes, that was testimony that was not  
11 allowed.

12 CHAIRMAN JACOBS: It was. Consistent with the ruling  
13 yesterday, we did exclude that testimony, and I would suggest  
14 that we should stay consistent with that. There was a question  
15 raised by Commissioner Jaber, I think probably you are going to  
16 have to go with that record, Mr. Wharton.

17 MR. WHARTON: Okay.

18 BY MR. WHARTON:

19 Q Is it fair to say, Mr. James, that the shareholders of  
20 Intercoastal recently passed a resolution in which they made the  
21 commitment that they appreciated, understood, and stood behind  
22 all the representations Intercoastal had made in this case?

23 MR. MELSON: The same objection.

24 MR. WHARTON: I think we have had a lot of testimony  
25 here about Intercoastal's commitment, a lot of cross-examination

1 questions.

2 MR. MELSON: And he is now asking not only about  
3 commitments they made in the direct testimony, but commitments  
4 they attempted to make in their additional testimony that was  
5 not allowed. Again, Commissioner, I think it is subject to the  
6 same ruling.

7 CHAIRMAN JACOBS: I think that question probably is --  
8 I will let you rephrase that if you can find a better way to ask  
9 it, but the way you asked I think it is probably subject to the  
10 same ruling.

11 BY MR. WHARTON:

12 Q Are the shareholders -- do the shareholders appreciate  
13 the requirements that could be made on the company by and through  
14 Intercoastal's application and its testimony and exhibits, and  
15 have they indicated by resolution that they are willing to accept  
16 those requirements?

17 CHAIRMAN JACOBS: It passed the test.

18 A Yes, they are well-informed.

19 Q Okay. To the extent rates are reduced by  
20 Intercoastal's application and by economies of scale as we have  
21 discussed, would you agree that those rate reductions would apply  
22 to both present and new customers?

23 MR. MELSON: Objection, again. The application does  
24 not call for a rate reduction, the application calls for  
25 extension of existing grandfathered rates.

1           MR. WHARTON: That is completely wrong, completely  
2 wrong. Our application, and I'm sure we are going to get into  
3 it with Mr. Burton ad nauseum, says that after the first three  
4 years rates will begin to fall. Not because of the testimony  
5 that was disallowed, because of economies of scale.

6           CHAIRMAN JACOBS: Why don't we defer that to Mr.  
7 Burton, then.

8           MR. WHARTON: Okay.

9 BY MR. WHARTON:

10          Q     Mr. James, we talked quite a bit about the golf course  
11 and effluent that is being supplied to the golf course. Just to  
12 make sure your testimony is clear, you testified that you don't  
13 know how much is really going on the golf course for reuse?

14          A     I don't think anybody in America knows.

15          Q     Okay. All you know is what is totally being discharged  
16 to the system and then some goes on the golf course and the rest  
17 goes in the Intracoastal?

18          A     That's it.

19          Q     And do you understand that Intercoastal and Sawgrass  
20 have been in a lawsuit for a couple of years on this matter?

21          A     Yes, I have.

22          Q     Has anything really happened in that lawsuit?

23          A     No, sir.

24          Q     Okay. And is it Intercoastal's position in that  
25 lawsuit that that agreement only requires 300,000 gallons per day

1 be given to Sawgrass?

2 MR. KORN: Excuse me, Mr. Chairman. I believe this  
3 goes well beyond not only his initial prefiled testimony, but  
4 there were no questions discussed at all about any litigation  
5 during any of the cross examination.

6 MR. WHARTON: I think I am limited to the scope of  
7 cross, not the scope of the prefiled.

8 MR. KORN: And, as I said, I don't think there was  
9 anything discussed about this during cross.

10 MR. WHARTON: Okay. Then I move to strike all the  
11 testimony on this subject that was elicited by cross examination  
12 and then I will accept that. And we talked about it a lot on  
13 cross.

14 MR. KORN: That is improper, because the Commission  
15 does not have before it the litigation. There is no predicate  
16 for that.

17 CHAIRMAN JACOBS: Okay. Excuse me. Questions did  
18 arise, I believe, and I remember --

19 MR. WHARTON: I am attempting to elicit testimony as  
20 to how much reuse is available from the existing plant, and that  
21 was certainly something that was --

22 MR. KORN: And that I have no objection --

23 CHAIRMAN JACOBS: Excuse me, excuse me. Let Mr.  
24 Wharton finish.

25 MR. WHARTON: And that is something that was discussed

1 at length in cross examination. And part of that is how much we  
2 understand that we are contractually obligated to provide. The  
3 balance is obviously available.

4 MR. KORN: Mr. Chairman, I don't have any objection to  
5 any of those questions. What Mr. Wharton appeared to be going  
6 into were other issues that were not raised at all during cross.  
7 If his question is limited strictly to the amount of supply of  
8 reuse that was available for golf course irrigation, I do not  
9 object to that question.

10 MR. WHARTON: Let me rephrase the question.

11 CHAIRMAN JACOBS: Very well.

12 BY MR. WHARTON:

13 Q Mr. James, do you understand that Intercoastal has a  
14 legal obligation that requires it to supply up to 300,000 gallons  
15 per day for application to the golf course at Sawgrass?

16 A Yes, I do.

17 Q Has Intercoastal alternately been told that when they  
18 are talking to the golf course, that the golf course wants less  
19 and when they are talking to the homeowners association that they  
20 want more?

21 A Yes. There is some confusion of who wants what.

22 Q Okay. Well, is it the opposite of what I just said?  
23 Is it that the golf course wants less -- which is it? Is it that  
24 the golf course wants more and the homeowners association wants  
25 less?

1           A     The homeowners association wants more, okay. And then  
2 there is another entity there that wants less. So we are  
3 confused as who is in charge. It's kind of like is the  
4 lieutenant or the corporal in charge, we are trying to find out.

5           Q     Well, I am certainly confused, we have established  
6 that. Now, the Plantation has a reuse system whereby they reuse  
7 100 percent of the stormwater in there, right, that was your  
8 testimony?

9           A     That is correct.

10          Q     Sir, you were asked about value as it relates to this  
11 certificate. Would you agree that any utility that received a  
12 certificate to expand its territory into a planned development  
13 would increase its value?

14          A     Absolutely.

15          Q     Do you think NUC's value will go up if its application  
16 is granted?

17          A     Yes, absolutely.

18          Q     Mr. James, did Intercoastal receive a significant rate  
19 increase a couple of years ago in St. Johns County?

20          A     Yes, we did.

21          Q     And would you expect that to begin to have a positive  
22 effect on Intercoastal's balance sheets, for lack of a better  
23 phrase?

24          A     Yes, sir.

25          Q     Sir, at one point you indicated that the financial

1 statements for the shareholders, for some of the shareholders had  
2 been submitted to Mr. Bowen more than a week ago. Let me see if  
3 I can refresh your recollection about that. Was that the second  
4 time those financial statements had been submitted to Mr. Bowen?

5 A That is correct.

6 Q Did he also review those financial statements to your  
7 knowledge before he filed the first time?

8 A I know he reviewed them the first time, and normally  
9 this time of year right after we file taxes we usually redo,  
10 because most of the banks once a year want you to update their  
11 records, so we normally do it usually in the month of May or  
12 June. And I don't know if Mr. Bowen has even gotten those. I  
13 know I signed some last week, so I presume they are heading to  
14 Mr. Bowens.

15 Q Okay. Sir, is Exhibit 19 the draft contract that you  
16 looked at that I believe was produced around August, that was a  
17 draft, correct?

18 A That is correct.

19 Q And is Bill Sundstrom, one of my partners, representing  
20 Intercoastal on that endeavor?

21 A He keeps saying he is.

22 Q Is it fair to say that Bill Sundstrom is a person who  
23 produces a lot of drafts?

24 A He produces more paper than anybody I know.

25 Q And that he is a prolific letter writer?



1           A     If you say anything to him, he writes you three  
2 letters.

3           Q     All right. And there was also some discussion that  
4 that contract contemplated, or that draft contract contemplated  
5 that futures would be paid to Intercoastal from county service to  
6 the Nocatee development. Do you recall that?

7           A     That is correct.

8           Q     Now, was that because at that time the county believed  
9 it was they who would be serving Nocatee?

10          A     They thought they had every right to Nocatee.

11          Q     And so, therefore, that was really just a payment  
12 scheme, that as the county made connections up in Nocatee they  
13 would be giving some of that money to Intercoastal if the deal  
14 came to fruition?

15          A     It was a payment scheme and it was no more than that.  
16 We didn't -- no one knew exactly about the Florida Public Service  
17 Commission, but in the county's mind they felt like with their  
18 ordinance they owned Nocatee, and I think they still feel that  
19 way.

20          Q     Either Mr. Melson or Mr. Hoffman had you read some  
21 language out of that draft contract about cooperation between  
22 Intercoastal and the county if it was executed, do you recall  
23 that?

24          A     Yes, sir.

25          Q     In fact, don't you think if that was executed it would

1 become public knowledge?

2 A I would say so.

3 Q Don't you think it would be in all the newspapers down  
4 here?

5 A I would think so.

6 Q Did you attend the County Commission meeting a couple  
7 of weeks ago when they passed -- when they looked at this agenda  
8 item that has been labeled as Exhibit 20?

9 A No, I did not.

10 Q Did anyone from Intercoastal attend?

11 A They had orders not to.

12 Q That was really just the county doing its own thing,  
13 correct?

14 A That is correct.

15 Q And is that still your feeling about it as we sit here  
16 today?

17 A Yes, sir.

18 Q What you have told the county is if you really have an  
19 offer, come talk to me and we will talk about it?

20 A That was the last meeting we had.

21 Q And at that point to this point they have never made  
22 such an offer?

23 A That is correct.

24 Q You are not currently in negotiations with them?

25 A No.

1 Q Do you still believe that St. Johns County would be  
2 better off if they were supporting Intercoastal's application in  
3 this case?

4 A That is my feelings, yes.

5 Q And that St. Johns County will be worse off if JEA  
6 takes over the northern part of the county?

7 A I don't know exactly what St. Johns County wants to do,  
8 but I think if they want to build utilities in the county then  
9 they either have got to step up to bat here or not step up to bat  
10 at all.

11 Q You were asked several questions about a memorandum you  
12 wrote to Bill Young, which was marked as Exhibit 21. Is it fair  
13 to say, Mr. James, that what you were doing by that memo was just  
14 kind of discussing the big picture with Mr. Young?

15 A That's correct.

16 Q Now, who is Mr. Young?

17 A Mr. Young is the St. Johns County utilities director.

18 Q And would it be a fair paraphrase of one of the points  
19 of this memorandum that you were advising the county that you  
20 thought they might be asleep at the wheel with regard to this  
21 case and JEA's proposals?

22 A He had asked me to put in writing what I thought and  
23 that's why I wrote the letter.

24 Q Is it true that only in the last two or three weeks the  
25 county did file a bunch of prefilled testimony in this case where

1 they made clear they were opposed to the JEA/NUC alliance?

2 A That's what I hear.

3 Q Sir, there was quite a few questions about \$37 million  
4 for the utility and \$23 million for the utility and the  
5 difference between those two things. In your opinion, were those  
6 just prices that were being kicked around?

7 A That was just numbers that we had all talked about. We  
8 have talked about anything from 11 million and I think the  
9 highest we have gotten is 37.

10 Q Mr. Hoffman asked you about utilities you had run in  
11 the past which had been sold, and you said most of them were sold  
12 to the City of Jacksonville, correct?

13 A That is correct.

14 Q Is it true that the City of Jacksonville went on a very  
15 comprehensive plan to acquire pretty much as many of the private  
16 utilities in Duval County as it could?

17 A Yes, sir.

18 Q And is it true that what happened in each of those  
19 cases is that they offered you a price that you were willing to  
20 accept and you did not refuse to sell?

21 A That is true.

22 Q Now, let me make sure, JUM is operating Intercoastal,  
23 is that right?

24 A I'll go through it one more time. We have 13 or 14  
25 employees that are basically Intercoastal employees. They don't

1 do any work for Jax Utility Management and never have and they  
2 never will. They go to that place and they live there, sleep  
3 there, and leave there in the afternoons. And on occasion if  
4 there is a broke water line, or a broke sewer line, or something  
5 wrong with the line, then a Jax Utility Management crew comes in  
6 at that particular time to repair the line. But the people that  
7 are Intercoastal employees receive a Jax Utility Management  
8 check.

9 Q Just to make sure we have one thing very clear for the  
10 record, because I think this is the very first question that  
11 Commissioner Jaber asked you. If Intercoastal's application is  
12 granted, should the Commission consider Intercoastal the utility  
13 or should the Commission consider JUM the utility?

14 A JUM is not a utility. We are a development company and  
15 a repair company. We do construction work, basically, and repair  
16 work for other utility companies. Intercoastal is a utility  
17 company.

18 MR. WHARTON: That's all we have.

19 CHAIRMAN JACOBS: Very well. Exhibits.

20 MR. HOFFMAN: Mr. Chairman, before we move exhibits,  
21 may I follow-up with one or two clarification questions? Mr.  
22 Wharton asked some questions and I think there was some levity  
23 going back and forth regarding Mr. Sundstrom and that draft  
24 agreement, I just want to make sure the record is clear on that  
25 issue.

1 MR. WHARTON: I object.

2 CHAIRMAN JACOBS: I think that probably -- I didn't  
3 hear anything that really was all that out of the ordinary in  
4 terms of the scope of that redirect. Help me understand.

5 MR. HOFFMAN: I think that one of Mr. James' answers  
6 about Mr. Sundstrom is that Mr. Sundstrom thinks he represents  
7 Intercoastal. To me that put the record a little bit unclear as  
8 to whether or not Mr. Sundstrom actually was representing  
9 Intercoastal at the time he sent the draft agreement.

10 MR. WHARTON: We will stipulate that Mr. Sundstrom has  
11 represented Intercoastal at least over the last year in terms of  
12 the types of contacts we have been talking about with JEA or St.  
13 Johns County.

14 CHAIRMAN JACOBS: I took that to be pretty much a  
15 facetious response.

16 MR. HOFFMAN: I did, too. I just wanted to make sure  
17 that the record was clear in terms of what is on paper.

18 CHAIRMAN JACOBS: I agree.

19 MR. WHARTON: It should be.

20 CHAIRMAN JACOBS: Although I was highly impressed at  
21 the unique opportunity for counsel to be impeached at the  
22 benefit of a client. That was really unique.

23 MR. WHARTON: Especially since he is one of the senior  
24 partners.

25 CHAIRMAN JACOBS: I think that works. Very well.

1 Exhibits.

2 MR. MELSON: I move Exhibits 18, 19, 20, and 21.

3 CHAIRMAN JACOBS: Without objection, show --

4 MR. WHARTON: Mr. Chairman, you know, it's all kind of  
5 extraneous to my mind, but I don't think that the attachment to  
6 Composite 22 that he said he had never seen before should come  
7 in.

8 MR. MELSON: I only moved through 21.

9 MR. WHARTON: Okay, I'm sorry. I don't have a  
10 problem.

11 CHAIRMAN JACOBS: So you moved Exhibits 18, 19, 20,  
12 and 21. Without objection, show those are admitted into the  
13 record.

14 (Exhibits 18, 19, 20, and 21 admitted into the  
15 record.)

16 MR. HOFFMAN: We will move Composite Exhibit 22.

17 MR. WHARTON: And I will withdraw the objection. I  
18 don't think that letter in and of itself is --

19 CHAIRMAN JACOBS: Very well. Show Exhibit 22 is  
20 admitted into the record.

21 (Composite Exhibit 22 admitted into the record.)

22 CHAIRMAN JACOBS: Thank you. You are excused,  
23 Mr. James. We are going to go ahead and put Mr. -- I assume Mr.  
24 Kelly is up next since -- won't be here until after 2:00. And I  
25 assume he will take some time for cross?

1 MR. WHARTON: Really not that lengthy. Less than half  
2 an hour, I would think.

3 CHAIRMAN JACOBS: Okay. Let's go ahead and do him,  
4 then. But for purposes of the court reporter, let's take about  
5 a 10 minute break.

6 (Brief recess.)

7 CHAIRMAN JACOBS: We will go back on the record. And  
8 I think the next witness is JEA. You may proceed, Mr. Menton.

9 MR. MENTON: Thank you, Mr. Chairman.

10 Mr. Chairman, I don't believe Mr. Kelly was here the  
11 other day when you swore our witnesses, so I think he needs to  
12 be sworn.

13 CHAIRMAN JACOBS: Very well.

14 (Witness sworn.)

15 Thereupon,

16 SCOTT KELLY

17 was called as a witness on behalf of Jacksonville Electric  
18 Authority, and, having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MENTON:

21 Q Please state your name.

22 A Scott Kelly.

23 Q And, Mr. Kelly, by whom are you employed?

24 A JEA.

25 Q And what is your position with JEA?



1 A I'm Vice-president of Construction and Maintenance.

2 Q And, Mr. Kelly, did you cause to be prepared in this  
3 docket prefiled testimony dated March 17, 2000, consisting of 30  
4 pages?

5 A Yes.

6 Q And was your testimony true and correct at the time  
7 that it was prepared?

8 A Yes.

9 Q Have there been any changes to your prefiled testimony  
10 since the time it was submitted?

11 A Yes.

12 Q Could you please explain what those are?

13 A Yes. On Page 1, Line 20, our revenues for water and  
14 wastewater are over \$132 million per year now. On Line 23, Page  
15 1, we now have over 200,000 water customers. And on Line 23, we  
16 also have 147,000 sewer customers.

17 On Pages 6 and 7, the letter of intent that was  
18 referenced on those pages has lead to a wholesale agreement that  
19 was executed in July of 2000. On Page 16 and on Page 20 --  
20 actually on Page 16 beginning on Line 5, and on Page 20 beginning  
21 on Line 10, the status of the construction -- in reference to the  
22 status of construction, the construction is now complete that was  
23 referenced in those lines with the exception of one small  
24 component part which is anticipated soon. However, the lines  
25 that are -- have been extended to the points of connection

1 referenced in the agreements. That's it.

2 Q Mr. Kelly, with those corrections, if I asked you the  
3 same questions today as were asked in your prefiled testimony,  
4 would your answers be the same?

5 A Yes.

6 Q And your prefiled testimony included two exhibits?

7 A Yes.

8 Q Do you recall that? Have there been any changes to  
9 those exhibits?

10 A No.

11 MR. MENTON: Mr. Chairman, at this time I would ask  
12 that the prefiled testimony of Mr. Kelly be entered into the  
13 record as though read.

14 CHAIRMAN JACOBS: Without objection, show the prefiled  
15 testimony, direct testimony of Mr. Kelly is entered into the  
16 record as though read.

17 MR. MENTON: And I would ask that the exhibits be  
18 marked for identification.

19 CHAIRMAN JACOBS: We will mark as Composite Exhibit 23  
20 the Exhibits SDK-1, 2, and 3. I'm sorry, just two.

21 MR. MENTON: Thank you, Mr. Chairman.

22 (Composite Exhibit 23 marked for identification.)  
23  
24  
25

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Scott Kelly. My business address is 21  
3 West Church Street, Jacksonville, Florida 32202-  
4 3139.

5 Q. BY WHOM ARE YOU EMPLOYED?

6 A. I am employed by JEA.

7 Q. WHAT IS JEA?

8 A. JEA is a water, wastewater and electric utility  
9 serving a four county area in Northeast Florida.  
10 JEA currently provides service to the majority of  
11 Duval County and portions of St. Johns County,  
12 Nassau County and Clay County.

13 Q. COULD YOU PROVIDE THE COMMISSION WITH SOME  
14 BACKGROUND INFORMATION REGARDING THE SIZE OF JEA'S  
15 OPERATIONS?

16 A. Yes. JEA is a large utility, one of the largest in  
17 Florida. As a combined electric, water and sewer  
18 utility, JEA's annual operating revenues are in  
19 excess of \$910 million. Water and sewer operating  
20 revenues in Fiscal Year 1999 were \$127,830,000.  
21 The water and sewer system has an historical annual  
22 customer growth of more than 3.5%. We serve over  
23 183,000 residential water accounts and over 137,000  
24 sewer accounts. JEA has over 2,000 miles of sewer  
25 lines and more than 2,500 miles of water lines.

1 Q. WHAT IS YOUR POSITION WITH JEA?

2 A. My current position is that of Construction and  
3 Maintenance Vice President.

4 Q. WHAT IS THE NATURE OF YOUR WORK FOR JEA?

5 A. My primary responsibilities involve oversight of  
6 the operations and maintenance of electric and  
7 water distribution and sewer collection services in  
8 JEA's four county service area.

9 Q. FOR THE PURPOSE OF HAVING YOU QUALIFIED AS AN  
10 EXPERT IN THE FIELD OF WATER AND WASTEWATER  
11 ENGINEERING, CONSTRUCTION AND OPERATIONS, PLEASE  
12 SET FORTH YOUR EDUCATION AND PROFESSIONAL  
13 EXPERIENCE.

14 A. I received a degree in civil engineering from the  
15 Georgia Institute of Technology in 1974. Prior to  
16 assuming the position of Construction and  
17 Maintenance Vice President for the JEA in 1997, I  
18 was employed by the City of Jacksonville, Florida  
19 from 1983 - 1997. During that time, I served as  
20 the Collection and Distribution Division Chief from  
21 1996 - 1997. In that capacity, I was responsible  
22 for the operation and maintenance of more than  
23 2,350 miles of water distribution pipes and  
24 approximately 2,000 miles of gravity and pressure  
25 sewer collection pipes. The Division had a staff

1 of over 250 personnel with a budget of  
2 approximately \$21,000,000 and provided service to a  
3 population exceeding 500,000 through 171,000  
4 metered service connections. From 1995 - 1996, I  
5 was a Managing Engineer responsible for  
6 infrastructure planning and capital expansion for  
7 the water and sewer utilities. During that time I  
8 implemented capital outlay programs totaling over  
9 \$50,000,000. From 1990 - 1995, I was the Solid  
10 Waste Division Chief responsible for administration  
11 of all solid waste functions. From 1983 - 1990, I  
12 was a Managing Engineer and Planning and  
13 Engineering Division Chief. In that role, I  
14 oversaw plan review, master planning, design and  
15 construction management of the sewer and water  
16 utilities. Prior to my work with the City of  
17 Jacksonville, I was an Environmental Engineer with  
18 Flood Engineers, Architects, Planners, Inc. from  
19 1979 - 1983. From 1976 - 1979, I worked as an  
20 engineer for the City of Tampa, Florida and was  
21 responsible for process operations at six  
22 wastewater treatment facilities.

23 **Q. AND YOU ARE A LICENSED PROFESSIONAL ENGINEER IN THE**  
24 **STATE OF FLORIDA?**

25 **A.** Yes. My certification number is 0031125.

1 Q. WHAT ARE YOUR PROFESSIONAL AFFILIATIONS?

2 A. I am a member of the American Public Works  
3 Association, the Water Environment Federation, the  
4 American Water Works Association and the Florida  
5 Water Environment Association, Utility Council  
6 Board of Directors.

7 Q. CAN YOU PLEASE IDENTIFY THE DOCUMENT LABELED  
8 EXHIBIT \_\_\_\_ (SDK-1)?

9 A. Yes. It is my resume.

10 Q. HAVE YOU EVER BEEN PREVIOUSLY QUALIFIED TO TESTIFY  
11 AS AN EXPERT IN ENGINEERING IN ANY TRIAL OR  
12 ADMINISTRATIVE PROCEEDING?

13 A. Yes. I have been qualified as an expert in  
14 engineering and have testified as an expert in a  
15 territorial dispute involving the JEA's predecessor  
16 and Ortega Utility Company. I have also testified  
17 as an expert in the field of water and wastewater  
18 engineering and the construction and operations of  
19 water and wastewater facilities in a proceeding  
20 conducted by the St. Johns County Water and Sewer  
21 Authority with respect to a territory expansion  
22 application filed by Intercoastal Utilities, Inc.  
23 ("Intercoastal").

24 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS  
25 DOCKET?

1 A. The purpose of my testimony is to confirm from a  
2 technical, operational and financial standpoint  
3 JEA's ability to provide wholesale water and  
4 wastewater services to the disputed territory,  
5 including the Nocatee development.

6 **Q. ARE YOU FAMILIAR WITH JEA'S EXISTING WATER AND**  
7 **WASTEWATER TREATMENT PLANTS?**

8 A. Yes. In my position as Construction and  
9 Maintenance Vice President, I am involved in the  
10 operations of JEA's plants and facilities.

11 **Q. ARE JEA'S EXISTING WATER AND WASTEWATER TREATMENT**  
12 **PLANTS OPERATING AT FULL CAPACITY?**

13 A. No. The capacity of JEA's existing water and  
14 wastewater treatment plants exceeds current usage.  
15 Tim Perkins, JEA's Vice President for Environmental  
16 issues, will be testifying in these dockets with  
17 more detail on the permitted capacity and current  
18 usage of JEA'S water and wastewater treatment  
19 facilities.

20 **Q. ARE YOU FAMILIAR WITH A COMPANY BY THE NAME OF**  
21 **D.D.I., INC. ("DDI")?**

22 A. Yes. DDI and its affiliates and subsidiaries own  
23 significant acreage in Duval and St. Johns  
24 Counties. A portion of the property owned by DDI  
25 has been slated for development as a multi-use

1 project known as "Nocatee." DDI has established a  
2 utility company, Nocatee Utility Corporation ("NUC")  
3 which has submitted one of the applications pending  
4 before the Florida Public Service Commission in  
5 these consolidated dockets. NUC has applied for  
6 certification as a water and wastewater utility to  
7 serve Nocatee. The area designated for the Nocatee  
8 development has also been included in the territory  
9 requested by Intercoastal in its application which  
10 is also pending in these dockets.

11 **Q. ARE YOU FAMILIAR WITH THE LETTER OF INTENT**  
12 **AGREEMENT BETWEEN JEA AND DDI WHICH WAS ATTACHED AS**  
13 **EXHIBIT \_\_ (DCM-4) TO THE PREFILED DIRECT TESTIMONY**  
14 **OF DOUGLAS C. MILLER SUBMITTED ON BEHALF OF NUC IN**  
15 **THIS DOCKET?**

16 A. Yes. The April 14, 1999 DDI/JEA Letter of Intent  
17 was executed by DDI and JEA (the "Letter of Intent  
18 Agreement"). This Letter of Intent Agreement sets  
19 forth, among other things, the general parameters  
20 for Nocatee to procure wholesale water and  
21 wastewater utility services, including reuse water,  
22 from JEA.

23 **Q. WHAT HAS BEEN YOUR INVOLVEMENT WITH THE DDI/JEA**  
24 **LETTER OF INTENT AGREEMENT?**



1       A.    I was involved on behalf of JEA in the negotiations  
2            of the terms and conditions of this Agreement.  I  
3            will also be involved in the negotiations of the  
4            Wholesale Service Agreement contemplated by the  
5            Letter of Intent as discussed below.  Preliminary  
6            negotiations on the Wholesale Service Agreement  
7            have begun and are anticipated to be completed  
8            within the next few months.  After an agreement is  
9            reached, I will be responsible for making sure that  
10           the facilities are constructed properly.  I will  
11           also oversee JEA's involvement in operating the  
12           facilities.

13       **Q.    WHAT IS YOUR UNDERSTANDING OF THE PURPOSE OF THE**  
14            **DDI/JEA LETTER OF INTENT AGREEMENT?**

15       A.    JEA entered into this Agreement with DDI in order  
16            to establish the framework and general parameters  
17            for a long term arrangement to provide efficient,  
18            environmentally sound, regional water and  
19            wastewater service including reuse water to  
20            Nocatee.

21                    The Letter of Intent Agreement anticipates  
22            that DDI and JEA will finalize the details of a  
23            long-term agreement for service to Nocatee.  That  
24            long-term service arrangement will be tailored to  
25            the plan of development established by the

1 developers of Nocatee. The Letter of Intent  
2 Agreement provides that the wholesale service  
3 agreement will continue through the estimated  
4 completion date of the development of Nocatee  
5 (approximately 25 years) with the potential for  
6 additional terms of renewal. The Letter of Intent  
7 Agreement also designates JEA as the exclusive  
8 wholesale provider of water and wastewater utility  
9 services to the Nocatee development.

10 **Q. WILL IMPLEMENTATION OF THE DDI/JEA LETTER OF INTENT**  
11 **AGREEMENT ALLOW JEA TO IMPROVE THE EFFICIENCY OF**  
12 **ITS WATER AND WASTEWATER UTILITY SYSTEMS?**

13 A. Yes. This Agreement will allow JEA to better  
14 utilize some of its existing water and wastewater  
15 treatment plant capacity. It will also be part of  
16 the backbone being established by JEA for  
17 regionalized water and wastewater service in this  
18 area. The water capacity will be provided from  
19 JEA's interconnected grid of large water plants  
20 located on the south side of Duval County (the  
21 "South Grid".) As discussed below, JEA is in the  
22 process of interconnecting its South Grid with its  
23 "North Grid" which consists of several  
24 interconnected water plants north of the St. Johns  
25 River. An interconnected water plant configuration

1 is the most efficient way of providing additional  
2 capacity to serve future needs in the northern St.  
3 Johns County and southern Duval County area. Much  
4 of this area has been designated a priority water  
5 use caution area. The interconnected grid provides  
6 a very high level of reliability and allows JEA to  
7 balance withdrawals from the Floridan Aquifer in  
8 order to minimize drawdown and other adverse  
9 impacts to the aquifer. The interconnected grid  
10 also provides backup reliability in case of an  
11 outage in the system. As discussed in more detail  
12 in the prefiled direct testimony of Timothy  
13 Perkins, JEA's Vice-President for Environmental  
14 Matters, JEA currently has 60 million gallons per  
15 day excess capacity in its South Grid and has  
16 several water plant expansion projects under  
17 construction which will add 7 million gallons per  
18 day of additional capacity to the South Grid. In  
19 addition, JEA is in the process of interconnecting  
20 its South Grid with its North Grid. The plants  
21 north of the St. Johns River that are part of the  
22 North Grid are currently outside the water use  
23 caution area established by the St. Johns River  
24 Water Management District. Interconnection will  
25 increase the flexibility and options available for

1 supplying water to southeast Duval County and  
2 ultimately St. Johns County. Thus, interconnection  
3 of JEA's North and South Grids will enable water to  
4 be supplied to the regionalized network while  
5 minimizing the need for additional wells in the  
6 water use caution area. In addition, expansion of  
7 service from the grids will result in economies of  
8 scale for JEA which will reduce unit cost of  
9 operation.

10 **Q. YOU INDICATED EARLIER THAT YOU ARE FAMILIAR WITH**  
11 **THE TERRITORY REQUESTED BY INTERCOASTAL IN ITS**  
12 **APPLICATION FILED IN THIS DOCKET?**

13 A. Yes. As part of the negotiations with DDI and St.  
14 Johns County, I became familiar with proposed  
15 alternatives for service throughout the disputed  
16 territory, including possible service from  
17 Intercoastal. In this regard, I have reviewed the  
18 application submitted by Intercoastal in these  
19 dockets and the prefiled direct testimony of Jim  
20 Miller, Michael Burton, M.L. Forrester and H.R.  
21 James submitted in support of Intercoastal's  
22 application.

23 **Q. DOES JEA HAVE EXISTING CONTRACTUAL ARRANGEMENTS TO**  
24 **PROVIDE SERVICE TO ANY OF THE AREAS REQUESTED BY**  
25 **INTERCOASTAL IN ITS APPLICATION?**

1       A.     Yes.     In addition to the agreement with DDI  
2             discussed above, JEA has contracted with St. Johns  
3             County to provide bulk water and wastewater service  
4             to certain portions of the territory requested by  
5             Intercoastal in St. Johns County.        JEA's  
6             contractual obligation to provide service to these  
7             areas is evidenced by an agreement with St. Johns  
8             County which was approved by JEA on April 20, 1999  
9             ("the St. Johns County/JEA Agreement").

10       **Q.     CAN YOU IDENTIFY EXHIBIT \_\_ (SDK2)?**

11       A.     Yes.     It is a copy of the St. Johns County/JEA  
12             Agreement.

13       **Q.     WHAT ARE THE GEOGRAPHIC AREAS ANTICIPATED BY THE**  
14             **PARTIES TO BE SERVED UNDER THE ST. JOHNS/JEA**  
15             **AGREEMENT?**

16       A.     The geographic areas anticipated by the parties to  
17             be served under the St. Johns/JEA Agreement are  
18             delineated as the "Service Area" shown on Exhibit A  
19             to the Agreement.    The Service Area consists of two  
20             separately identified areas depicted on Exhibit A.  
21             The "Phase I Area" includes Allen D. Nease High  
22             School and the Walden Chase Subdivision (also known  
23             as the CR210 PUD).    The "Phase II Area" shown on  
24             Exhibit A includes a development known as Marshall  
25             Creek which lies approximately 4.5 miles further

1 south on U.S. 1 from the anticipated location of  
2 the reservoir at the southern point of the Phase I  
3 Area. The territory requested in Intercoastal's  
4 application includes Walden Chase and Nease High  
5 School.

6 **Q. WILL JEA BE PROVIDING SERVICE TO BOTH PHASE I AND**  
7 **PHASE II UNDER THE ST. JOHNS/JEA AGREEMENT?**

8 A. Yes. The Agreement initially provided three  
9 service options to St. Johns County. As reflected  
10 by Ex. \_\_ (SDK-3), the County has chosen Option 3,  
11 pursuant to which JEA will provide wholesale  
12 service in St. Johns County through facilities  
13 which would begin in Duval County, extend past the  
14 Phase I Area and terminate at the Phase II Area.

15 **Q. WHAT IS THE INTENT OF THE PARTIES TO THE ST.**  
16 **JOHNS/JEA AGREEMENT REGARDING THE PROVISION OF**  
17 **WATER AND WASTEWATER SERVICES WITHIN THE SERVICE**  
18 **AREA?**

19 A. Pursuant to Section 4.1 of the Agreement, St. Johns  
20 County has appointed JEA the exclusive provider of  
21 wholesale water and wholesale wastewater services  
22 in the Service Area.

23 **Q. DO JEA'S EXISTING WATER AND WASTEWATER TREATMENT**  
24 **PLANTS HAVE SUFFICIENT CAPACITY TO PROVIDE WATER**

1           **AND WASTEWATER SERVICES TO ST. JOHNS COUNTY UNDER**  
2           **THE ST. JOHNS COUNTY/JEA AGREEMENT AND TO NOCATEE?**  
3           A.    Yes.    JEA has adequate capacity planned to serve  
4           the Phase I and Phase II Areas designated in the  
5           St. Johns/JEA Agreement as well as additional needs  
6           in the area including Nocatee. As discussed above,  
7           water capacity to this area will be provided from  
8           JEA's South Grid. That Grid has a water capacity  
9           of 104.4 million gallons per day with a commitment  
10          to existing and future customers of 43.32 million  
11          gallons per day. JEA also has several water plant  
12          expansions under construction which will add 7 MGD  
13          of additional capacity to the South Grid. The  
14          water plants most likely to be affected by services  
15          to St. Johns County are discussed in detail in the  
16          prefiled direct testimony of Timothy Perkins, JEA's  
17          Vice-President for Environmental Matters. The sum  
18          of the permitted capacity for the water plants most  
19          likely to be affected is in excess of 40 million  
20          gallons per day and the February 2000 flows for  
21          these plants was 22 million gallons per day. As  
22          noted above, JEA is also in the process of  
23          interconnecting its South Grid with JEA's other,  
24          larger interconnected grid of water plants located  
25          north of the St. Johns River. This interconnection

1 will be accomplished by installing a large diameter  
2 pipeline under the river and will provide access to  
3 additional permitted capacity to the South Grid.

4 On the wastewater side, JEA's Mandarin  
5 Wastewater Treatment Plant has capacity available  
6 to serve this area. The Mandarin Plant currently  
7 has a capacity of 7.5 million gallons per day with  
8 approximately 6 million gallons committed to  
9 existing and future customers. Thus, there is more  
10 than enough excess capacity available at Mandarin  
11 to serve the immediately foreseeable needs of the  
12 areas described in the St. Johns/JEA Agreement and  
13 Nocatee. In addition, flows could be diverted at a  
14 minimal cost to JEA's Arlington East Wastewater  
15 Treatment Plant. The capacity at Arlington East  
16 has recently been expanded from 15 million to 20  
17 million gallons per day.

18 **Q. DO THE PERMITS FOR JEA'S EXISTING PLANTS ALLOW FOR**  
19 **THE ANTICIPATED ADDITIONAL DEMAND ARISING FROM**  
20 **NOCATEE AND THE ST. JOHNS/JEA AGREEMENT?**

21 A. Yes. Tim Perkins, JEA's vice president for  
22 environmental issues, will address this issue in  
23 more detail.



- 1 Q. ARE THERE ANY ANTICIPATED ENVIRONMENTAL PERMITTING  
2 OBSTACLES TO THE DELIVERY OF SERVICES TO NOCATEE OR  
3 ST. JOHNS?
- 4 A. No.
- 5 Q. ARE YOU FAMILIAR WITH THE WATER/WASTEWATER SERVICES  
6 CURRENTLY BEING PROVIDED AT ALLEN D. NEASE HIGH  
7 SCHOOL?
- 8 A. Yes.
- 9 Q. CAN YOU DESCRIBE HOW THOSE SERVICES ARE CURRENTLY  
10 BEING DELIVERED?
- 11 A. Currently, the high school is served by wastewater  
12 treatment package plants with discharge to  
13 percolation ponds. Water service is currently  
14 provided by a package water treatment plant with an  
15 associated well-field. These package plants will  
16 be replaced upon implementation of the St.  
17 Johns/JEA Agreement.
- 18 Q. YOU MENTIONED A PORTION OF THE PHASE I AREA IN THE  
19 ST. JOHNS/JEA AGREEMENT REFERRED TO AS THE CR210  
20 PUD OR WALDEN CHASE SUBDIVISION?
- 21 A. Yes.
- 22 Q. ARE THERE WATER AND SEWER SERVICES CURRENTLY  
23 AVAILABLE TO THE WALDEN CHASE SUBDIVISION?
- 24 A. No. The developer of this subdivision has entered  
25 into an agreement with St. Johns County pursuant to

1           which the County will provide retail water and  
2           sewer services to the development. The County is  
3           relying on the St. Johns/JEA Agreement to meet its  
4           obligations to Walden Chase.

5           **Q. IS JEA IN THE PROCESS OF CONSTRUCTING THE**  
6           **FACILITIES NECESSARY TO PROVIDE SERVICE PURSUANT TO**  
7           **THE ST. JOHNS/JEA AGREEMENT?**

8           A. Yes. JEA is well underway in the construction of  
9           the water and wastewater facilities necessary to  
10          operate the systems and deliver the services to St.  
11          Johns County. JEA is extending its existing water  
12          and sewer lines to reach the Walden Chase property  
13          near the intersection of US-1 and County Road 210.  
14          JEA is extending its existing water main from its  
15          previous terminus in Duval County across the Duval  
16          County line to serve Walden Chase and potentially  
17          other areas in southern Duval and northern St.  
18          Johns Counties. More specifically, JEA is  
19          constructing a 20 inch diameter water line from the  
20          County line south to Ray Road. Concurrently, JEA's  
21          existing sewer lines are also being extended across  
22          the county line. A 16 inch diameter sewer force  
23          main is being installed along the same route. In  
24          addition to this construction in St. Johns County,  
25          JEA is up-sizing its water and sewer lines in Duval

1 County. The Duval County lines are being increased  
2 in size in order for JEA to be able to serve all of  
3 the immediately foreseeable needs in St. Johns  
4 County. The on-going construction will provide JEA  
5 with the backbone to provide regionalized water and  
6 wastewater service through out much of northern St.  
7 Johns County and southern Duval County. When  
8 completed, this construction will enable JEA to  
9 integrate Nocatee and other developments in the  
10 area into JEA's regionalized system.

11 **Q. WHAT OTHER FACILITIES AND LINES IS JEA CURRENTLY IN**  
12 **THE PROCESS OF CONSTRUCTING TO THE TERRITORY**  
13 **REQUESTED BY INTERCOASTAL OR THE SURROUNDING AREAS?**

14 A. Basically, JEA is trying to put in place the  
15 infrastructure necessary to provide regional  
16 service and allow for possible interconnections  
17 throughout this region in the future. As part of  
18 the St. Johns/JEA plan to establish a  
19 comprehensive, economically sized system, JEA is  
20 extending lines east on Ray Road to serve Nease  
21 High School and JEA will bring its facilities to  
22 the middle of the Walden Chase development for  
23 interconnection with distribution and collection  
24 lines provided by the developer.

- 1       **Q.    CAN YOU DESCRIBE IN DETAIL THE FACILITIES JEA IS**  
2       **CONSTRUCTING TO PROVIDE SERVICE TO NEASE HIGH**  
3       **SCHOOL AND THE WALDEN CHASE SUBDIVISION?**
- 4       A.   As I mentioned earlier, the facilities that are  
5       being constructed and utilized by JEA to provide  
6       wholesale water and wastewater services to the area  
7       include the extension of the water and wastewater  
8       mains from the Duval County/St. Johns County line  
9       in a southerly direction along the Route U.S. 1  
10      right-of-way, to a point south of the intersection  
11      of U.S. 1 and County Road 210, then northerly along  
12      Ray Road and through an easement to the Phase I  
13      Area designated in the Agreement. The improvements  
14      include approximately 3.5 miles of 16 inch diameter  
15      PVC force main and 20 inch diameter PVC water main  
16      on the U.S. 1 right-of-way and approximately 1/3  
17      mile of 12-inch diameter PVC force main and 16-inch  
18      diameter PVC water main along Ray Road serving the  
19      Nease High School portion of the Phase I Area.  
20      Additional extensions of approximately 2/3 of a  
21      mile with a 12-inch diameter PVC force main and a  
22      16-inch PVC water main in the easement serving the  
23      Walden Chase portion of Phase I are also included.  
24      A 1,000,000 gallon water reservoir with high-  
25      service pumps, a standby generator, and a

1           rechlorination facility and a master wastewater  
2           pump facility adequate to handle sewage from the  
3           Phase I Area is included.

4       **Q.   HOW WERE THE ROUTES FOR THE FACILITIES SELECTED?**

5       A.   The routes chosen were intentionally selected in  
6           order to accommodate St. Johns County's needs for  
7           Nease High School, the Walden Chase Subdivision and  
8           Marshall Creek.  These routes and facilities are  
9           the most efficient manner of meeting those demands.  
10          The line sizes and locations were chosen to provide  
11          adequate capacity to meet possible future needs in  
12          the area, including potentially the southern  
13          portions of Nocatee.

14      **Q.   WHY IS JEA INSTALLING OVERSIZED LINES?**

15      A.   The installation of oversized lines allows us to  
16          take advantage of the benefits of economies of  
17          scale.  In areas where growth is reasonably  
18          expected to take place, JEA typically installs  
19          lines that are larger than current needs in order  
20          to avoid the prospect of having to replace the  
21          smaller lines in the future.  Ultimately, this  
22          results in cost savings.  JEA has learned through  
23          difficult first hand experience in its acquisition  
24          of other utilities that it is not economical to  
25          install smaller sized lines in growth areas.

1           Retrofitting the lines is disruptive to customers,  
2           disruptive to traffic flow and ends up being much  
3           more expensive in the long term.

4           **Q.    WILL JEA PROVIDE WATER STORAGE AND REPUMPING**  
5           **FACILITIES AND A WASTEWATER MASTER PUMP STATION IN**  
6           **ST. JOHNS COUNTY?**

7           A.    Yes.  These facilities were requested by St. Johns  
8           County.  The facilities will provide reliability  
9           and redundancy for comprehensive, expanded service.

10          **Q.    HAS JEA COMPLETED THE DESIGN OF ALL THE FACILITIES**  
11          **NECESSARY TO PROVIDE SERVICE UNDER THE ST.**  
12          **JOHNS/JEA AGREEMENT?**

13          A.    Yes.  JEA contracted with the engineering firm of  
14          Dames and Moore to do the design.  The design of  
15          the entire system is complete.  Construction is  
16          underway.  The facilities necessary for service to  
17          the first phase of Walden Chase is expected to be  
18          finished by May, 2000.  The remainder of the  
19          project is expected to be finished by the fall of  
20          2000 in order to meet the needs of Marshall Creek  
21          and the later phases of Walden Chase.

22          **Q.    BASED ON YOUR EXPERIENCE, IS INTERCOASTAL IN A**  
23          **POSITION TO PROVIDE SERVICE TO NOCATEE, WALDEN**  
24          **CHASE OR NEASE HIGH SCHOOL?**

1 A. No. Intercoastal cannot even begin to construct  
2 facilities unless they prevail in these dockets.  
3 Even then, it would take several months to  
4 construct the facilities and they would duplicate  
5 much of the work already done by JEA.

6 **Q. HOW ARE JEA'S RATES ESTABLISHED?**

7 A. JEA's Board of Directors oversees ratemaking in  
8 accordance with its charter. JEA's ratemaking  
9 staff analyzes cost of service. JEA enjoys stable  
10 rates and expects to hold its water and sewer rates  
11 at their current low levels at least another three  
12 years. JEA's rates have only increased slightly  
13 over 1% per year since 1981.

14 **Q. DOES JEA CHARGE UNIFORM RATES BOTH INSIDE AND**  
15 **OUTSIDE OF DUVAL COUNTY?**

16 A. Yes - - and that is true for both JEA's retail and  
17 wholesale rates.

18 **Q. IS JEA SEEKING TO PROVIDE SERVICE OVER THE**  
19 **OBJECTION OF ANY DEVELOPER?**

20 A. No. JEA is involved in North St. Johns County in  
21 response to the County's desire for a regionalized  
22 approach to address water and wastewater service,  
23 and water supply. Unlike Intercoastal, JEA is not  
24 seeking to serve where it is not wanted. JEA only  
25 intends to provide service where it has been asked

1 to provide service pursuant to JEA's agreements  
2 with St. Johns County and the developers of  
3 Nocatee.

4 **Q. ARE THERE ENVIRONMENTAL BENEFITS TO HAVING JEA**  
5 **PROVIDE SERVICE TO THE DISPUTED TERRITORY AS**  
6 **OPPOSED TO OBTAINING SERVICE FROM OTHER UTILITIES?**

7 A. Yes. JEA offers several environmental benefits as  
8 the provider of services. For instance, JEA is  
9 developing an extensive reuse system to facilitate  
10 the reuse of wastewater in the areas it serves.  
11 JEA anticipates that wastewater services in the  
12 disputed territory will be tied into JEA's regional  
13 reuse system. JEA has commenced construction on  
14 portions of a major reuse system for the Mandarin  
15 Wastewater Treatment Plant, including 25 miles of  
16 reuse transmission mains to serve six golf courses.  
17 Ultraviolet high level disinfectant is also being  
18 added at the plant to insure enhanced disinfection.  
19 The cost estimate for the facilities is more than  
20 \$11,000,000. A \$5,000,000 grant will be provided  
21 by the State of Florida through a grant  
22 administered by the Department of Environmental  
23 Protection. This reuse system will allow JEA to  
24 reuse over 50% of the flow generated by the  
25 Mandarin Wastewater Treatment Plant. From a water



1 supply standpoint, as mentioned above, JEA  
2 currently has the capacity under its water supply  
3 permits to provide water service to this area  
4 without the need for additional wells or without  
5 the need for locating new wells in a water use  
6 caution area. Another benefit to receiving service  
7 from JEA is the JEA commitment to enhancing the  
8 environment through phase-out of small ineffectual  
9 package wastewater plants. JEA has phased out  
10 several hundred small package plants in Duval  
11 County in the last 15 years. JEA's Agreement with  
12 St. Johns County will enable St. Johns County to  
13 phase-out the existing package plant at Nease High  
14 School and provide service to the surrounding area  
15 in an efficient and effective manner.

16 **Q. ARE THERE OTHER BENEFITS TO CUSTOMERS TO HAVING**  
17 **SERVICE PROVIDED BY JEA?**

18 A. Yes. JEA offers several other benefits as the  
19 provider of service. For instance, JEA is  
20 constructing a water storage reservoir with high  
21 service booster pumps that will provide a high  
22 level of service to the customers in north St.  
23 Johns County. This storage and re-pumping facility  
24 will provide a more constant water pressure for the  
25 customers who receive service from JEA. A higher

1 level of reliability will result for at least a  
2 portion of the disputed territory since there will  
3 be large volumes of water stored near some of the  
4 project sites. Water will be available in case of  
5 equipment failure and outage at the water plant or  
6 if the water main providing service to the  
7 surrounding areas is rendered unusable. The  
8 storage and water system will be backed up with  
9 standby power generators to ensure the highest  
10 level of reliability. The water storage reservoir  
11 will provide a higher level of public safety for  
12 customers by providing water storage to the  
13 surrounding areas in case of fire. JEA is also  
14 constructing a master sewage pumping station that  
15 will re-pump the sewage generated from Nease High  
16 School and the Walden Chase project.

17 **Q. DOES JEA HAVE THE FINANCIAL ABILITY AND RESOURCES**  
18 **TO PROVIDE SERVICE IN ACCORDANCE WITH THE DDI/JEA**  
19 **LETTER OF INTENT AGREEMENT AND THE ST. JOHNS/JEA**  
20 **AGREEMENT?**

21 **A.** Yes. JEA has a five year, \$600,000,000 capital  
22 expansion and replacement program underway. JEA  
23 has existing bond funds sufficient to finance the  
24 facilities necessary to provide service under both  
25 of the agreements.

- 1       **Q.    WOULD YOU BRIEFLY DESCRIBE FOR THE COMMISSION THE**  
2       **FINANCIAL CONDITION OF JEA?**
- 3       A.    JEA's bond ratings are among the best in the nation  
4       for utilities.    This allows JEA to finance its  
5       capital needs at very low interest rates.    This  
6       benefit is passed on to our customers in the form  
7       of low water and sewer rates.    JEA's debt service  
8       coverage for water and sewer related debt for  
9       Fiscal Year 1999 was a very high 3.44x.    JEA's  
10      water and sewer debt ratio for Fiscal Year 1999 was  
11      a very low 31%.    Both of these indicators, as well  
12      as the strong water and sewer bond ratings awarded  
13      to JEA by Standard & Poor's Ratings Group (AA-),  
14      Fitch IBCA, (AA-) and Moody's Investors Service  
15      (Aa3), demonstrate that JEA's financial condition  
16      is excellent.
- 17      **Q.    WHAT WOULD BE THE EFFECT ON JEA'S RATES AND CHARGES**  
18      **IF IT PROVIDES SERVICE TO THE DISPUTED TERRITORY?**
- 19      A.    None.    In fact, JEA enjoys stable rates and expects  
20      to hold its water and sewer rates at their current  
21      low levels at least another two to three years.
- 22      **Q.    DOES JEA HAVE A CAPITAL EXPANSION AND**  
23      **REHABILITATION PROGRAM IN PLACE?**
- 24      A.    Yes.    JEA's "GroundWorks Program" was developed to  
25      design and construct projects necessary to expand

1 and improve JEA's water and sewer infrastructure.  
2 These projects will reduce operations and  
3 maintenance costs and expand and improve service to  
4 our customers. Projects are identified by system  
5 expansion needs and operations and maintenance  
6 concerns. Currently, GroundWorks is a 5 year, \$600  
7 million program. To implement this program, the  
8 in-house JEA engineering staff works in conjunction  
9 with its Engineering Alliance Partner, Black &  
10 Veatch, to design many projects. JEA has also  
11 solicited water and sewer design consultants and  
12 contracted with 32 firms on a long term basis.  
13 Almost all these firms are currently performing  
14 design work. In order to build the number of  
15 projects anticipated in the GroundWorks program,  
16 JEA entered into long term Master Contract  
17 agreements with qualified contractors. There are  
18 currently 53 Master Contractors, with at least 20  
19 currently performing work on over 40 GroundWorks  
20 projects.

21 **Q. CAN YOU DESCRIBE SOME OF THE UNIQUE FEATURES OF**  
22 **JEA'S UTILITY OPERATIONS?**

23 A. JEA is in the process of implementing a multi-  
24 million dollar computer assisted dispatch system  
25 which will integrate water, sewer and electric

1 customer service requests. Water and sewer calls  
2 are tracked and dispatched to vehicles using  
3 cellular technology and on-board laptop computers.  
4 The underlying database will provide JEA valuable  
5 data regarding system needs, including pipe  
6 replacement and customer service response  
7 statistics. The database will link to JEA's Work  
8 Management System currently used for electric  
9 construction and maintenance projects. JEA has  
10 recently modified its fleet on the water  
11 maintenance front to reduce travel time and  
12 increase coverage. JEA has in place a leak  
13 detection contract. JEA's contractor investigated  
14 numerous miles of mains 6 inches and larger and  
15 found no significant leaks. JEA is using its  
16 database of maintenance work to identify smaller  
17 mains in need of replacement as part of the  
18 GroundWorks project. To reduce the number and  
19 severity of Sanitary Sewer Overflows ("SSO") and  
20 reduce customer service requests, JEA instituted a  
21 sewer inspection program. Crews blanket portions  
22 of the service area in search of cave-ins and open  
23 each manhole, inspecting for surcharged lines,  
24 manholes in which dirt and debris have accumulated  
25 and manholes in need of rehabilitation. These

1 inspections are performed routinely. Following an  
2 SSO event, the sewer line is cleaned and televised  
3 in search of the cause of the overflow. This  
4 information is used to define replacement projects  
5 and the site is placed on a routine inspection  
6 list. Inspections progress from weekly to  
7 quarterly. If at in any point in the inspection  
8 schedule the site degrades, it returns to a weekly  
9 inspection and the process is repeated. JEA plots  
10 its maintenance and customer response data to  
11 determine where its closed circuit television and  
12 sewer cleaning resources should be expended. JEA  
13 performs smoke testing of its sewer system to  
14 search for sources of infiltration and inflow. A  
15 contract is being developed for these services as a  
16 supplement. JEA is doubling the number of small  
17 valve operation trucks. These new and the existing  
18 trucks will be equipped with computerized data  
19 loggers. Data will be recorded and integrated with  
20 JEA's Geographic Information System which provides  
21 computerized mapping of JEA's water and wastewater  
22 facilities.

23 **Q. DOES JEA HAVE A MONITORING SYSTEM ON ITS LINES?**

24 **A.** Yes. JEA has a radio monitoring "SCADA" system at  
25 each of its 28 regional water treatment plants.

1 This sophisticated system improves reliability and  
2 reduces the risk of service interruptions to its  
3 customers. In addition, JEA is currently  
4 installing the same SCADA system on all of its  
5 wastewater pumping stations.

6 **Q. IS THE PUBLIC INTEREST SERVED BY GRANTING**  
7 **INTERCOASTAL'S APPLICATION FOR THE SERVICE AREA**  
8 **SOUGHT IN THIS DOCKET?**

9 A. No. Granting Intercoastal's application for the  
10 Requested Area would be an unnecessary duplication  
11 of the services to be provided by JEA under its  
12 agreements with DDI and St. Johns County. There is  
13 no need for service in the territory expansion area  
14 requested by Intercoastal. JEA and St. Johns  
15 County have entered into a cooperative arrangement  
16 that will provide service to a portion of the  
17 requested area as part of a long term strategy for  
18 meeting the water and sewer needs in St. Johns  
19 County. This arrangement, together with the  
20 DDI/JEA Letter of Intent Agreement, will result in  
21 the establishment of an efficient, environmentally  
22 sound regional water and wastewater system. It  
23 will meet the immediate needs in the area in the  
24 most cost efficient manner and will provide a

1 framework for providing cost efficient service to  
2 future development.

3 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

4 **A. Yes, it does.**

5

6

7 F:\USERS\ROXANNE\JEA\kelly0696tes



1 BY MR. MENTON:

2 Q Mr. Kelly, could you summarize for the Commission your  
3 testimony?

4 A Yes. Good morning, Commissioners. My name is Scott  
5 Kelly, I am Vice-president for Construction and Maintenance for  
6 JEA. The purpose of my testimony is to provide some background  
7 information with respect to JEA. To confirm that JEA has the  
8 capability to provide the service called for in its wholesale  
9 agreement with Nocatee Utility Company, and to explain the many  
10 benefits that will result from the plan of service proposed by  
11 Nocatee Utility Corporation which incorporates wholesale service  
12 from JEA.

13 JEA is one of the largest utilities in Florida. JEA  
14 serves over 200,000 residential water accounts and over 147,000  
15 sewer accounts. JEA's bond ratings are among the best in the  
16 nation for utilities. This allows JEA to finance its capital  
17 needs at very low interest rates.

18 I have been the principal negotiator on behalf of JEA  
19 with Nocatee Utility Corporation and its parent corporation, DDI,  
20 Incorporated. At the time of my prefiled testimony, JEA and DDI  
21 had executed a letter of intent agreement which set forth the  
22 general parameters for wholesale water and wastewater services.  
23 Subsequent to the filing of my prefiled testimony, this wholesale  
24 agreement has been finalized. That wholesale agreement obligates  
25 JEA to provide bulk water, wastewater, and reuse to Nocatee

1 Utility Corporation for at least 25 years in sufficient  
2 quantities to meet the needs of the Nocatee development. That  
3 agreement also obligates JEA to provide operations, management,  
4 and maintenance services to Nocatee Utility Corporation for a  
5 minimum of ten years with an automatic renewal for three  
6 additional five-year periods.

7           The arrangement is specifically tailored to meet the  
8 plan of development established by the developers of Nocatee. I  
9 will be the individual at JEA primarily responsible for making  
10 sure that the facilities necessary to meet the obligations of  
11 this agreement are constructed, and I will oversee JEA's  
12 operation of those facilities.

13           From JEA's standpoint, the agreement with Nocatee  
14 Utility Corporation allows JEA to better utilize some of its  
15 existing water and wastewater treatment plant capacity. It fits  
16 in easily with the regionalized water and wastewater systems  
17 established by JEA in this area.

18           In my prefiled testimony I noted that construction of  
19 the water and wastewater facilities necessary to provide  
20 wholesale service to St. Johns County were already underway.  
21 Since the filing of that testimony, those water and wastewater  
22 lines have been completed and JEA is ready to provide bulk water  
23 and wastewater services to St. Johns County.

24           Service to the Nocatee development will be accessed  
25 from JEA's existing transmission lines at a point near the Duval

1 County/St. Johns County boundary at a point in Duval County.  
2 Bulk water will be provided to Nocatee Utility Corporation from  
3 JEA's interconnected grid of large water plants located on the  
4 south side of Duval County. This south grid provides a very high  
5 level of reliability and will enable JEA to balance withdrawals  
6 from the Floridan aquifer in order to minimize drawdown and other  
7 adverse impacts to the water resources.

8           Tim Perkins, JEA's Vice-president of System Planning,  
9 will be testifying later regarding the capacities available  
10 within JEA's system to meet the needs of Nocatee. I would point  
11 out that in the near future JEA's south grid will be  
12 interconnected with JEA's north grid to provide additional  
13 capacity, flexibility, and environmental protection. This  
14 interconnection will further enhance the regionalization of  
15 service in northeast Florida while providing water to the Nocatee  
16 development without the need for new wells in the development,  
17 which is located in an area designated as a priority water use  
18 caution area.

19           JEA will serve as the contract operator and bulk  
20 provider for Nocatee Utility Corporation for this project.  
21 Nocatee Utility Corporation will own all the on-site water  
22 distribution and wastewater collection lines throughout the  
23 development. Nocatee Utility Corporation will have control over  
24 the development of the utility services through the completion of  
25 the project expected in the next 25 years.

1           Nocatee Utility Corporation will respond to customer  
2 complaints through JEA's contract operations by use of a separate  
3 call-in number to JEA for Nocatee Utility Corporation. JEA will  
4 respond to complaints in a manner similar to the way in which JEA  
5 assists other utilities in responding to customer complaints  
6 where JEA is already the contract operator.

7           In my opinion, allowing Intercoastal Utilities to  
8 proceed with the construction of brand new facilities in the  
9 Nocatee development would duplicate much of the work that has  
10 already been done by JEA. JEA's agreement with Nocatee Utility  
11 Corporation is based upon payment of a percentage of JEA's retail  
12 rates.

13           JEA's rates have been extremely stable and have  
14 increased only slightly over one percent per year since 1981.  
15 JEA does not anticipate any rate increases from its current low  
16 levels for at least another three years. JEA's obligations to  
17 the Nocatee Utility Corporation should have no impact upon JEA's  
18 current rates and charges.

19           In conclusion, I would simply like to emphasize that  
20 implementation of the agreement between JEA and Nocatee Utility  
21 Corporation will result in the establishment of an efficient  
22 environmentally sound regional water and wastewater system that  
23 will meet the immediate needs in the area in the most cost  
24 efficient manner. And that concludes my testimony.

25           MR. MENTON: I tender Mr. Kelly for cross.

1 CHAIRMAN JACOBS: Very well. Mr. Melson.

2 MR. MELSON: I've got just a very few questions.

3 CROSS EXAMINATION

4 BY MR. MELSON:

5 Q Mr. Kelly, I believe you said during your summary that  
6 lines are in place today to the point of connection. Is the  
7 point of connection shown on the large scale map as the red  
8 triangle at the corner of the Nocatee development?

9 A Yes.

10 Q Does JEA require any modification or expansion of its  
11 existing consumptive use permit in order to provide water to  
12 phase one of the Nocatee development?

13 A No, it doesn't.

14 Q When the original negotiations took place between DDI  
15 and JEA regarding a letter of intent to serve the property, did  
16 JEA come to DDI and Nocatee or did DDI and Nocatee come to JEA?

17 A DDI and Nocatee approached JEA.

18 Q Has JEA ever discussed the purchase of Nocatee Utility  
19 Corporation other than in the context of negotiating the right of  
20 first refusal that is contained in the agreement finally reached  
21 between the parties?

22 A No, we haven't.

23 Q And, finally, why would JEA agree to this type of  
24 arrangement with NUC rather than attempting to serve the Nocatee  
25 development on a retail basis itself?

1           A     There are two reasons why JEA has agreed rather than  
2 provide the retail service.  When Nocatee/DDI first approached  
3 us, we took a look at it and examined the fact that this utility  
4 would span two counties.  In order to bifurcate the service, we  
5 felt that would not be an efficient way to operate a utility, so  
6 that was the first reason.

7                     The second reason was that we were excited about the  
8 environmental proposals that Nocatee/DDI had made in developing  
9 their development.  We wanted to be a part of that.  We felt that  
10 that was something that we could work with them on that.  So  
11 those were the two reasons that we agreed not to provide service  
12 on a retail basis, but agreed on a wholesale type basis.

13                   MR. MELSON:  That concludes my questions, Mr.  
14 Chairman.

15                   CHAIRMAN JACOBS:  Very well.  Mr. Korn.

16                   MR. KORN:  I don't have any questions, Mr. Kelly.

17                   CHAIRMAN JACOBS:  Mr. Wharton.

18   CROSS EXAMINATION

19 BY MR. WHARTON:

20           Q     Good afternoon, Mr. Kelly.  You were just talking about  
21 bifurcated service.  Don't you agree that the contract that JEA  
22 has entered into with NUC contemplates a potentiality where JEA  
23 would operate the water and wastewater and reuse service in that  
24 portion of the development that lies within Duval County and  
25 possibly another entity would provide those services in St. Johns

1 County?

2 A Yes. But let me explain. We insisted on that  
3 provision in the contract with DDI and Nocatee. In the case that  
4 Nocatee would perhaps sell to a third party, if that happened we  
5 wanted to protect those particular ratepayers in Duval County.  
6 We felt like a third party may not be able to provide the level  
7 of service that Nocatee could provide with JEA being the  
8 underlying provider. We were concerned about what rates that  
9 utility may charge and whether they could provide the level of  
10 service that we felt that those ratepayers in Duval County  
11 deserve.

12 Q So, in other words, you had a particular concern for  
13 the ratepayers in Duval County and made sure they were taken care  
14 of in that regard?

15 A Yes.

16 Q Okay. But still, the potential result of that kind of  
17 a scenario could be that JEA would provide the services in Duval  
18 and another entity in St. Johns, correct?

19 A Yes, but we don't anticipate that would occur.

20 Q Okay. But that is within the realm of possibility?

21 A Yes.

22 Q And in that case do you think JEA would do a good job  
23 providing that service?

24 A Yes.

25 Q In fact, the electric service to the development is

1 going to be bifurcated as the service territories exist now,  
2 right, JEA will serve part of it and someone else another part?

3 A Yes.

4 Q Have you read the development orders in this case to  
5 the extent of what is required of you as the potential bulk  
6 supplier?

7 A I have not personally read it.

8 Q Do you know whether or not those development orders  
9 require that the treated effluent that comes back to the  
10 developments will be treated to public access standards?

11 A That would be under the testimony of Tim Perkins, who  
12 will follow me.

13 Q So I should ask Mr. Perkins about that?

14 A Yes.

15 Q Would you agree that JEA certainly has available reuse  
16 that it would like to -- or JEA has available effluent that it  
17 would like to apply in the form of reuse as opposed to putting it  
18 in the St. Johns River?

19 A We have made a commitment to produce reclaimed water,  
20 and we want to be able to distribute that in the most effective  
21 and efficient manner.

22 Q And if your arrangement with NUC does not come to  
23 fruition, you would still look for another source to which you  
24 could deliver that reclaimed water for application on the land,  
25 correct?



1 A Not necessarily.

2 Q You might just keep dumping it in the St. Johns River  
3 in that case?

4 A Well, first off, we don't dump. I mean, we have a  
5 discharge permit and we discharge to the St. Johns River.

6 Q Okay. Well, you might just keep discharging it to the  
7 St. Johns River in that case?

8 A It depends on the situation. I can't speculate on what  
9 would happen.

10 Q Okay. But it wouldn't be your goal to find customers  
11 to replace the customer that you had anticipated NUC was going to  
12 be?

13 A Yes. We are anticipating -- we are actively looking  
14 for customers, however, it depends on the particular situation  
15 whether we would elect to provide service to any particular  
16 customer.

17 Q So there might be some customers that you would  
18 determine that it would be better to continue discharging into  
19 the St. Johns River than to sell them the reuse?

20 A We anticipate over the next 15 to 20 years that we will  
21 have adequate customers to be able to discharge our reclaimed  
22 water to, so we don't anticipate that will be a problem.

23 Q Do you know whether public access reuse is the type of  
24 reuse that must be supplied if the reuse is to be applied  
25 residentially?

1 A Again, that will be testimony by Tim Perkins.

2 Q But just do you know? If you don't know, that's fine.

3 A No, I'm not.

4 Q You don't know. JEA has no plans to provide reuse  
5 residentially in Duval County right now other than that portion  
6 of Nocatee which lies within Duval County, correct?

7 A That is correct.

8 Q And so let me go back to my former line of questioning.  
9 In the short-term, if your deal with NUC doesn't come to  
10 fruition, aren't you going to go looking for somewhere else to  
11 get rid of that amount of your reuse?

12 A We are actively -- as I stated before, we are actively  
13 looking for customers, however, it depends on the particular  
14 customer and what the economics of it are. One thing that Tim  
15 Perkins will testify to is that we recover our cost of service  
16 for reclaimed water in our water and wastewater rates. So,  
17 therefore, it depends on the economics of the situation and where  
18 those customers exist and what the particulars are of that  
19 situation.

20 Q Okay. Will JEA's Mandarin plant provide the initial  
21 service to the development?

22 A Yes.

23 Q For wastewater?

24 A For the wastewater, yes.

25 Q Do you agree JEA has experienced odor problems at its

1 Mandarin plant?

2 A In the past, yes.

3 Q And do you think it is a pretty routine occurrence for  
4 residents to complain about odor from time to time around a  
5 wastewater plant that is located in a residential development?

6 A Yes.

7 Q Isn't it true that JEA has only recently made a  
8 decision not to enter into bulk service agreements with other  
9 utilities, correct?

10 A Over the last year.

11 Q Okay. And the deal you struck with NUC was prior to  
12 that recent policy whereby you decided not to provide anymore  
13 bulk service?

14 A That is correct.

15 Q But just to make sure the record is clear, the  
16 facilities by which bulk water, wastewater, and reuse will be  
17 provided to Nocatee are already there, correct?

18 A That is correct.

19 Q So they are going to be located in that same place  
20 whether NUC is certificated or not, true?

21 A That is correct.

22 Q Does JEA have the authority to impose a surcharge for  
23 water and wastewater that it provides outside the municipal  
24 limits of the City of Jacksonville?

25 A We have the authority, but have chosen through our

1 uniform rates that we have published that we have elected not to  
2 do that, and that is by board action. That is by our authority  
3 board action that we will not charge a surcharge for out of  
4 county customers.

5 Q And the JEA board is a board whose membership can  
6 change from time to time?

7 A Yes.

8 Q And you do agree you have that authority?

9 A We have that authority, yes.

10 Q I'm going to hand you, Mr. Kelly, a copy of the JEA  
11 proposal that we have talked about in discovery. Okay. Sir, I  
12 would like you to identify this document for the record?

13 A This is a copy of the proposal of JEA to provide  
14 additional water, wastewater, and reclaimed water utility  
15 services in St. Johns County dated February 20th, 2001.

16 MR. WHARTON: Mr. Chairman, I would like to get this  
17 marked for identification.

18 MR. MENTON: Mr. Chairman, first of all, I think there  
19 is one problem. At least one page there at the beginning is not  
20 part of the original proposal, I think. I don't have it in  
21 front of me, I just looked at Mr. Kelly's copy. But the first  
22 page on his copy is not part of the proposal that was actually  
23 presented.

24 CHAIRMAN JACOBS: Why don't we do this --

25 MR. WHARTON: I assume if I can't authenticate that it

1 won't be able to come into evidence.

2 CHAIRMAN JACOBS: Right. Why don't we do this, we  
3 will go ahead and mark your copy and then, Mr. Menton, at the  
4 time he offers it you can object and we will deal with it at  
5 that time.

6 MR. MENTON: Okay. And that takes care of the  
7 technical objection. I do have a substantive objection as well  
8 at this point.

9 CHAIRMAN JACOBS: Okay.

10 MR. MENTON: I don't believe that Mr. Kelly's prefiled  
11 testimony discussed this proposal in any way, and I don't  
12 believe that it its relevant to the applications that are before  
13 the Commission today.

14 MR. WHARTON: What Mr. Kelly's prefiled testimony  
15 talks about at length, I believe it's in excess of 25 pages, is  
16 the arrangement with NUC and JEA's ability to meet that, JEA's  
17 philosophy about bulk service, its rates, et cetera. This is an  
18 alternative to that arrangement that JEA was discussing with the  
19 county very recently.

20 MR. MENTON: First of all, just to correct Mr.  
21 Wharton, the proposal that was presented was presented at the  
22 request of the County Commission.

23 MR. WHARTON: Now we are testifying.

24 CHAIRMAN JACOBS: Excuse me, excuse me. As I  
25 understand your line of questioning regarding this has to do

1 with his knowledge of these negotiations?

2 MR. WHARTON: Correct.

3 CHAIRMAN JACOBS: How do these negotiations tie to  
4 JEA's ability to serve Nocatee.

5 MR. WHARTON: And JEA's intentions on a going-forward  
6 basis as opposed to what he has said in his prefiled testimony.

7 CHAIRMAN JACOBS: Well, the objection is that this is  
8 not relevant to JEA's ability to serve Nocatee.

9 MR. WHARTON: Well, and this does involve Nocatee.  
10 Understand that, Mr. Chairman. I think if a witness says in his  
11 prefiled testimony he intends to do A, and I show that two  
12 months ago that he put in a document in the public records of  
13 St. Johns County that said maybe we intend to do B, that is  
14 certainly relevant, and it is certainly within the scope of the  
15 direct.

16 CHAIRMAN JACOBS: Here is what we will do, we will  
17 allow you to begin your line of questioning and subject to  
18 further objections as it becomes more clear.

19 MR. WHARTON: Okay.

20 MR. MENTON: Thank you, Mr. Chairman.

21 MR. WHARTON: And what is the number of this exhibit,  
22 Mr. Chairman?

23 CHAIRMAN JACOBS: This will be Exhibit 24.

24 (Exhibit 24 marked for identification.)

25 BY MR. WHARTON:

1 Q Mr. Kelly, did you help prepare that document that has  
2 now been labeled Exhibit 24?

3 A Yes.

4 Q And is it fair to say that what this document embodies  
5 is a proposal from JEA to St. Johns County whereby JEA  
6 represented that it would compensate St. Johns County in some  
7 form or fashion in return for the county's acquiesce to JEA  
8 providing retail service to part of northern St. Johns County?

9 A Yes. We agreed to compensate St. Johns County for the  
10 ability to be able to serve certain areas with their concurrence,  
11 and that included the areas along US-1 that were provided for in  
12 a prior agreement where we were providing bulk service.

13 Q Did it also include the provision of retail service to  
14 Nocatee?

15 A It contemplated retail service that St. Johns County  
16 would concur with retail service throughout northern St. Johns  
17 County by JEA.

18 Q Including Nocatee?

19 A Yes.

20 Q In fact, on Page 3 there is a section in this document  
21 called financial and environmental considerations, correct?

22 A Yes.

23 Q And the second line in that paragraph indicates that  
24 the amount which JEA proposed to pay was based upon gross  
25 revenues from the retail sale of water and wastewater to several

1 areas, and Nocatee is listed among those, correct?

2 A Yes.

3 Q Okay. Now, am I correct that when you presented this  
4 proposal, and you are the person who presented this proposal to  
5 St. Johns County, right?

6 A That is correct.

7 Q To the Board of County Commissioners?

8 A Yes.

9 Q Okay. One of the things that they maybe asked you to  
10 do was will you go and talk to the Nocatee people about this, is  
11 that correct?

12 A Yes.

13 Q And you then had a meeting with Doug Miller and some  
14 other people affiliated with the development, correct?

15 A Yes.

16 Q Okay. Did you even broach the subject in any way,  
17 shape, or form of JEA providing retail service to Nocatee at that  
18 meeting?

19 A Yes, that was the purpose of the meeting. Upon  
20 direction of one or more of the Commissioners, we approached  
21 Nocatee to see if they would be interested in it. They responded  
22 that there was really no official proposal on the table and that  
23 they wouldn't consider it, and really that was the end of the  
24 discussion.

25 Q I am trying to reconcile that with your answer to Mr.



1 Melson's cross examination question that there had been no  
2 discussion with JEA of purchase of NUC since you did the original  
3 deal with them, which was, you will agree, was long before this  
4 proposal, correct?

5 A Well, this was not purchasing Nocatee, this was serving  
6 Nocatee.

7 Q Okay. So purchasing was the key phrase. You didn't  
8 offer to pay anything, you just wanted to talk to them about the  
9 provision of retail service?

10 A That is correct. We were approached by the Commission  
11 Chairperson, Mary Conkie (phonetic), as well as the County  
12 Administrative, Ben Adams, about making a proposal to serve all  
13 of these areas.

14 Q And that resulted in this?

15 A That is correct.

16 Q Okay. Let me ask you about the first page of what has  
17 been marked as Exhibit 24. Do you recognize that document?

18 A Excuse me, could you repeat that?

19 Q The very first page after the cover page, is that a  
20 document you recognize?

21 A No, because it's really not clearly identified. There  
22 is no title or whatever on it, so it's not part of this proposal.

23 Q I'm sorry. You don't know if JEA produced that?

24 A I don't know. There is no identification on it other  
25 than the fact -- the fax indication is from Nabors, Giblin, and

1 from St. Johns County Utilities, so I don't know where it came  
2 from to be honest with you.

3 Q You haven't seen it before?

4 A I don't recollect seeing it.

5 Q Does it appear to be a calculation of the net present  
6 value of the offer that JEA was making to the county?

7 MR. MENTON: Mr. Chairman, I would object. He has  
8 already testified he doesn't know what that document is.

9 MR. WHARTON: Well, I'm asking now not for evidence  
10 from this document. I am asking for evidence from his mouth,  
11 and I think that is a big difference. Does it appear to be that  
12 calculation.

13 CHAIRMAN JACOBS: He said he didn't recognize it.

14 MR. WHARTON: Okay.

15 BY MR. WHARTON:

16 Q Mr. Kelly, does JEA normally require developers to  
17 construct and contribute lines within subdivisions?

18 A Yes.

19 Q And within a platted subdivision, typically the  
20 developer pays for the lines and dedicates them to JEA at no  
21 cost?

22 A Yes.

23 Q Let me ask you some questions about your contract with  
24 NUC. You believe it would be better if JEA were the retail  
25 provider to Nocatee as opposed to the wholesale provider, don't

1 you?

2 A Well, JEA would like to be retail providers where we  
3 are invited to serve. We are the retail provider in Duval  
4 County. We are outside any certificated areas that are  
5 certificated by the Public Service Commission, that is, and we  
6 also provide retail service in other counties, such as Clay  
7 County and St. Johns County. And that is our preference to be a  
8 retail provider, but only where we are invited.

9 That is our policy, let me just state that. We feel  
10 like we have the right to serve other places, but our policy has  
11 been to only go where we are invited, or where we have a prior  
12 contractual commitment, or relationship, or where we have  
13 acquired territory through acquisition of a certificated -- PSC  
14 certificated area, or a county franchised area where we have  
15 acquired those rights, then we will exert our service.

16 Q Well, let me ask you about that answer. Isn't JEA  
17 currently involved in a circuit court lawsuit against or with  
18 Clay County in which JEA is saying that it has the right to serve  
19 the Villages of Argyle (phonetic) in Clay County and Clay County  
20 is taking the position that Clay County should provide that  
21 service?

22 MR. MENTON: Mr. Chairman, I would interpose an  
23 objection at this point. I think, again, we are going into  
24 areas that are not part of his prefilled testimony. We could get  
25 into a long argument about the merits of a pending lawsuit,

1 which I don't think it's fair to ask this witness to do in the  
2 middle of these proceedings. And I don't think it is relevant  
3 to the issues before the Commission today.

4 MR. WHARTON: I'm not transferred in the merits of the  
5 lawsuit, but he just said we only go where we are invited.

6 MR. MENTON: And we can get into a long discussion  
7 about the history of JEA's purchase of a private PSC regulated  
8 utility in 1986 in Clay County, which is the basis for a pending  
9 lawsuit right now, but I just don't think it is going to take us  
10 anywhere but down a rabbit trail.

11 MR. WHARTON: You know, this is obstructionist, Mr.  
12 Chairman. I mean, does JEA have something to hide about whether  
13 or not that lawsuit is a fact? We certainly let, you know, the  
14 testimony of Mr. James come on into the record.

15 CHAIRMAN JACOBS: With regard to this proceeding, I  
16 think that is a bit far afield. Sustain the objection.

17 MR. WHARTON: Okay.

18 BY MR. WHARTON:

19 Q Let's go back to the question that I asked you that you  
20 talked about that lead to the other question. Let me go back to  
21 the original question. Isn't it true that it is the position of  
22 JEA that it would be better if JEA would be the retail provider  
23 in Nocatee as opposed to the wholesale provider?

24 A Yes. But I will repeat, it is conditioned on the fact  
25 that -- where we have a prior right, a prior commitment, or where

1 we are invited in.

2 Q But you do agree that you think it would be better for  
3 JEA to provide retail service in Nocatee than wholesale with the  
4 qualification you have made?

5 A Yes. But we have, again, the qualification plus the  
6 qualification that we already have an existing contract with  
7 Nocatee Utility Corporation to provide wholesale service.

8 Q In fact, doesn't that contract require you to support  
9 Nocatee in this litigation?

10 A Yes.

11 Q Okay. Sir, you don't consider NUC's customers to be  
12 customers of JEA, do you?

13 A No.

14 Q JEA will just have one customer under your arrangement  
15 with NUC, and that will be NUC?

16 A That is correct.

17 Q Now, if a customer wants to make a complaint, he will  
18 call NUC, but it will actually be JEA answering the phones and  
19 standing in the shoes of NUC, right?

20 A As I stated earlier, we will end up having a line that  
21 will end up being answered by JEA personnel, but it will be a  
22 special phone line for NUC customers.

23 Q Okay. But you will be standing in the shoes of NUC in  
24 that circumstance?

25 A That is correct.

1 Q And you agree that the capacity fees that JEA has, NUC  
2 would pass through to its customers?

3 A Yes.

4 Q And you agree that the meter fees that JEA has would be  
5 passed on to the customer by NUC, also?

6 A If NUC chooses for us, JEA, to set the meters, then,  
7 yes, there would be a charge associated with it. And these are  
8 uniform rates and charges that we charge all of our customers.  
9 In the case of the capacity fees, these are, again, uniform  
10 rates, these are rates that go to pay for the water and  
11 wastewater treatment plant capacity, and also reuse capacity.

12 Q Let's make no mistake about this on the record, JEA is  
13 a governmental entity, correct?

14 A Yes. We are owned by a governmental entity.

15 Q Do you agree that you did not finalize your contract  
16 with NUC until July of 2000?

17 A Yes, in July of 2000.

18 Q And this litigation had been going on for a little  
19 while when that finalization occurred, correct?

20 A I don't know if you would characterize it as  
21 litigation. The application had been filed by NUC.

22 Q And this proceeding had been going on for awhile when  
23 that happened?

24 A Yes.

25 Q Now, you would agree that -- what are the joint

1 projects, let me ask you that first?

2 A The joint projects that have been identified today are  
3 the phase one water and sewer extensions from the point of  
4 connection through the Nocatee properties for water, wastewater,  
5 and reclaimed water service.

6 Q And there might be other joint projects?

7 A There could be in the future. There is a possibility.  
8 We don't know at this point.

9 Q Your contract for NUC allows for that kind of future  
10 discussion?

11 A Yes.

12 Q And the reason that the joint projects were envisioned  
13 by JEA is for the potentiality of providing service through those  
14 lines, correct?

15 A Yes.

16 Q Well, what is it that JEA believed -- these joint  
17 projects run from -- from the lack of a better phrase, the  
18 connection is west and then the joint projects run east, correct?

19 A Yes.

20 Q And they exit out the eastern side of the Nocatee  
21 development?

22 A Yes.

23 Q What does JEA have in mind for what those joint  
24 projects may be used for in the future?

25 A JEA has been approached on multiple occasions by

1 Intercoastal Utilities about a possible acquisition by JEA. It  
2 has been approached by other utilities in the area that are  
3 located east of the Nocatee development. JEA's policy through  
4 long years of experience is to make sure that any lines that go  
5 in are sized adequately to be able to take care of future  
6 demands. Therefore, we have elected to go over and -- to go  
7 ahead and oversize and participate in those lines in anticipation  
8 that some day there is the possibility that JEA may acquire.  
9 This is -- past history has lead us to this, as I mentioned.

10 We have acquired private utilities systems that did not  
11 adequately size the lines, and we have had to go back and  
12 parallel those lines and it has been extremely disruptive as far  
13 as the transportation corridors and to the ratepayers and the  
14 citizens in those areas. So it has been our policy and it has  
15 consistently been our policy throughout our utility system to do  
16 this.

17 Q Am I correct that all four of the systems you just  
18 mentioned are in St. Johns County?

19 A Yes.

20 Q And another reason that you requested that particular  
21 joint project is that you believe there may be a need for service  
22 also on the western side of the Intracoastal Waterway at Marsh  
23 Harbor, correct?

24 A That is correct.

25 Q Do you have any other areas in mind that may need



1 service other than what you have mentioned?

2 A No.

3 Q And you would agree that in the Nocatee project the  
4 main reuse line, the main water line, and the main sewer line  
5 have been classified as joint projects?

6 A Yes.

7 Q And JEA has not yet made the decision how much  
8 additional capacity you want those lines to hold, isn't that  
9 true?

10 A Yes, we have not made that decision.

11 Q Okay. But those joint projects will be dedicated to  
12 JEA at the completion of the lines, correct?

13 A That's correct.

14 Q Now, you would agree, wouldn't you, that if JEA is  
15 providing retail service to Nocatee, JEA as an entity is going to  
16 make 20 percent more in revenue than they do under the agreement  
17 with NUC?

18 A Could you repeat that?

19 Q Yes. You would agree that if JEA is providing retail  
20 service to Nocatee, then JEA as an entity would receive 20  
21 percent more revenue than they will under the agreement with NUC?

22 A That is gross revenue, not net.

23 Q Okay. 20 percent more gross revenue. Sir, it's not  
24 the purpose of your testimony to indicate that Intercoastal  
25 doesn't have the operational, managerial, or technical expertise

1 to effectuate its application, is it?

2 A I have not studied the system long enough to render an  
3 opinion.

4 MR. WHARTON: That's all we have.

5 CHAIRMAN JACOBS: Very well. Staff.

6 MS. ESPINOZA: Staff has a few questions.

7 CROSS EXAMINATION

8 BY MS. ESPINOZA:

9 Q Hi, Mr. Kelly. My name is Lorena Espinoza.

10 Mr. Kelly, can you please identify this document?

11 A Yes. This document is the JEA water and sewer rate  
12 document.

13 Q Okay. And you can confirm that this document reflects  
14 the current rates and charges of JEA?

15 A Yes.

16 CHAIRMAN JACOBS: Counsel, do you want to mark that  
17 real quickly?

18 MS. ESPINOZA: Yes, please, Mr. Chairman. Staff would  
19 like to mark this exhibit as --

20 CHAIRMAN JACOBS: Exhibit 25.

21 (Exhibit 25 marked for identification.)

22 BY MS. ESPINOZA:

23 Q Mr. Kelly, in your summary you stated that under the  
24 proposal between JEA and Nocatee Utility, JEA would operate and  
25 function as the contract operator for Nocatee, is that correct?

1 A That is correct.

2 Q And you also stated that this arrangement is similar to  
3 other arrangements that JEA has with other utilities?

4 A Yes.

5 Q Can you identify any of those other utilities for us?

6 A Yes. We are a subcontractor and we provide contract  
7 services through that subcontract for water and wastewater  
8 services for all the Navy military bases in northeast Florida.  
9 And we are -- there is a private contractor who won the contract  
10 to do base operating services for the Navy for all the bases, and  
11 we are an actual subcontractor that operates the water and sewer  
12 to that contractor, so we provide these services.

13 Q Okay. And under the agreement between JEA and Nocatee  
14 Utility, can you describe some of the operations and maintenance  
15 that JEA would be performing for Nocatee Utility?

16 A Yes. We would provide the actual operation and  
17 maintenance of the facilities that would provide the service. We  
18 would provide the bulk service and then from there we would  
19 actually operate Nocatee's water and wastewater facilities that  
20 they would own on-site. And that would include maintenance  
21 repairs up to \$4,000 per occurrence, anything over 4,000 then  
22 Nocatee would be responsible for. We would also do the billing,  
23 and customer service, and collections, and that sort of thing.

24 Q You mentioned that JEA would provide service as to the  
25 customers with problems with billing, correct? And can you

1 describe the relationship that the customers would have with  
2 Nocatee Utility through JEA with respect to reporting problems  
3 that they might have?

4 A Well, they would call -- we will have a number  
5 established where they could call that number. It would be  
6 answered by JEA personnel under the name of Nocatee Utility  
7 Corporation, and we would address their problems that way. We  
8 have a 24 hour -- we have personnel on duty 24 hours per day to  
9 respond to customer complaints and problems.

10 MS. ESPINOZA: We have no further questions.

11 CHAIRMAN JACOBS: Commissioners.

12 COMMISSIONER JABER: I have just a couple. Mr. Kelly,  
13 in your testimony you discussed the desire to have a  
14 regionalized water and wastewater service in Duval County, and  
15 I'm trying to understand better if that is a desire that JEA  
16 has, or one that is St. Johns. I guess actually the  
17 regionalized water system would be for both Duval and St. Johns  
18 Counties?

19 THE WITNESS: Yes. We are the regional utility. We  
20 are owned by the City of Jacksonville and we are the utility for  
21 Duval County. However, we do provide services outside Duval  
22 County at the request of the various parties. Whether we enter  
23 an agreement with a developer or whether it be in the case of  
24 Clay County we were invited by Clay County to serve in Clay  
25 County.

1           COMMISSIONER JABER: All right. I'm looking at your  
2 testimony on Page 8, for example. Do you have your direct  
3 testimony?

4           THE WITNESS: Direct testimony.

5           COMMISSIONER JABER: And specifically you are  
6 discussing how the letter of intent and subsequently the  
7 agreement you have with DDI and Nocatee will allow JEA to better  
8 utilize some of the existing treatment plant capacity, and you  
9 talk about how that will become the backbone for a regionalized  
10 water and wastewater service area. And my question is is that  
11 JEA's desire or is that something you have agreed to do for St.  
12 Johns County?

13          THE WITNESS: That is JEA's desire.

14          COMMISSIONER JABER: All right. Does JEA have to file  
15 a comprehensive plan with the Department of Community Affairs?

16          THE WITNESS: Yes.

17          COMMISSIONER JABER: Is that a five-year comprehensive  
18 plan?

19          THE WITNESS: It's under the -- I have not really been  
20 involved with that recently. Really Tim Perkins, who comes  
21 after me, would be able to go into details. I was involved many  
22 years ago with that.

23          COMMISSIONER JABER: Thank you. I will ask Mr.  
24 Perkins. But do you know if the comprehensive plan contains a  
25 discussion about the regionalized water and sewer?

1 THE WITNESS: I don't know personally.

2 COMMISSIONER JABER: Let me skip a whole series of  
3 questions and ask you directly does this application result in  
4 JEA competing with St. Johns County for a regionalized water and  
5 sewer system?

6 THE WITNESS: No.

7 COMMISSIONER JABER: All right. If JEA was able to  
8 provide retail service directly, or if you desired to provide  
9 retail service directly, would you have to go before the St.  
10 Johns County board for any reason?

11 THE WITNESS: Well, it is our position that we do not  
12 have to, that we can serve in St. Johns County without the  
13 County Commission's approval. However, we have entered a  
14 interlocal agreement that stated that if we wanted to serve  
15 retail other than in two areas that we would seek their  
16 permission to do so. Those two areas are Julington Creek  
17 Plantation, where we acquired a utility system and we do serve  
18 retail, we own that system, and the Nocatee development.

19 Now, I'm not an attorney, so I cannot tell you  
20 whether legally we could do that. But it is our contention at  
21 this point that we could provide retail. However, we have  
22 chosen not to do that.

23 COMMISSIONER DEASON: Commissioner, can I follow up on  
24 that for just a second?

25 COMMISSIONER JABER: Please do.

1           COMMISSIONER DEASON: You provide retail to Julington  
2 Park?

3           THE WITNESS: Julington Creek Plantation. It is a  
4 subdivision, it is a very large subdivision in the western part  
5 of St. Johns County.

6           COMMISSIONER DEASON: It is entirely within St. Johns  
7 County?

8           THE WITNESS: Yes.

9           COMMISSIONER DEASON: Are you in any way subject to  
10 the jurisdiction of St. Johns County?

11          THE WITNESS: Only through the interlocal agreement  
12 that we voluntarily entered into in response to us serving that.  
13 We agreed to enter an interlocal agreement and we are subject to  
14 the terms and conditions of that interlocal agreement with St.  
15 Johns County.

16          COMMISSIONER DEASON: So that agreement spells out --  
17 are there regulatory requirements within that agreement? Do you  
18 have to like, for example, file reports with St. Johns County,  
19 do you have to get approval for your rates and charges from St.  
20 Johns County?

21          THE WITNESS: No. What we agreed to is we agreed to  
22 charge a uniform rate. As I stated earlier, we charge a uniform  
23 rate regardless of where we serve, whether its in Duval County,  
24 or St. Johns County, or any other county. So, therefore, we  
25 don't -- they have no control over our rates or what we can

1 charge. It is strictly got to do with where we serve and the  
2 manner we serve, that we have agreed to serve uniformly  
3 throughout the area. In other words, we wouldn't have -- we  
4 would serve St. Johns County areas the same way we serve Duval  
5 County areas.

6 COMMISSIONER DEASON: And is that the essence of the  
7 agreement that you have with St. Johns County?

8 THE WITNESS: That's correct.

9 COMMISSIONER DEASON: Basically, you would not be  
10 discriminating?

11 THE WITNESS: We would not discriminate in service,  
12 rates, whatever.

13 COMMISSIONER JABER: And the last question I had is  
14 with respect to the regionalized water and wastewater service  
15 throughout the counties, do you eventually need to acquire  
16 Nocatee to fully implement a regional water and wastewater  
17 system?

18 THE WITNESS: No.

19 COMMISSIONER PALECKI: You stated earlier that as a  
20 governmental agency you needed to acquire approval from the  
21 Jacksonville County Commission, is that correct?

22 THE WITNESS: No. We are regulated by -- both in our  
23 rates and service, we are regulated by a board of directors of  
24 the JEA. It's an independent authority, an independent board of  
25 directors.



1           COMMISSIONER PALECKI: Completely independent from the  
2 City of Jacksonville?

3           THE WITNESS: That is correct.

4           COMMISSIONER PALECKI: And have you received approval  
5 from the board of directors for this proposal to St. Johns  
6 County?

7           THE WITNESS: We have discussed it with the board and  
8 made them aware of it and they have shown their support for  
9 that.

10          COMMISSIONER PALECKI: So for a contract you would  
11 need actual formal approval. For something like this, a  
12 proposal, it still has not been formally approved by the  
13 commission?

14          THE WITNESS: Yes, by our board of directors. It has  
15 not been approved.

16          COMMISSIONER PALECKI: Now, with regard to the Nocatee  
17 contract, that has received formal approval, has it not?

18          THE WITNESS: That is correct.

19          COMMISSIONER PALECKI: Thank you.

20          CHAIRMAN JACOBS: Mr. Kelly, throughout your testimony  
21 you refer to a letter of intent that was executed with DDI. And  
22 then in your revision you indicated that that had been -- that  
23 had been consummated in a formal agreement. And that agreement  
24 is that which is attached to Mr. Miller's testimony and is  
25 actually between Nocatee and JEA, is that correct?

1 THE WITNESS: Yes. It is between Nocatee and its  
2 parent corporation, Sonoc (phonetic), and JEA.

3 CHAIRMAN JACOBS: Okay. I just wanted to be sure. I  
4 want to ask you about briefly development of reuse. As I  
5 understand your testimony, you are now developing your first  
6 entry into a reuse system, is that correct?

7 THE WITNESS: No. We already provide reclaimed water  
8 service to Julington Creek Plantation on a retail level.

9 CHAIRMAN JACOBS: Okay. So this is your development  
10 of a regional kind of a reuse system, then?

11 THE WITNESS: Yes. We are developing extensive  
12 reclaimed water system fed out of multiple plants than will be  
13 interconnected and serve golf courses and industries throughout  
14 Jacksonville. And we anticipate to be one of the -- we will be  
15 one of the largest reclaimed water providers in Florida in the  
16 very near future.

17 CHAIRMAN JACOBS: In your agreement with Nocatee for  
18 reuse you are simply providing bulk service, is that correct?

19 THE WITNESS: On Nocatee we will provide bulk service,  
20 however, we will also provide the operation and maintenance  
21 services in addition to the bulk service.

22 CHAIRMAN JACOBS: Okay. Earlier, and I can't  
23 remember, I think it was -- I can't remember who it was now, but  
24 we talked about how the actual tie-ins to developments would  
25 occur for reuse. And I was concerned, and my real concern is

1 this: What criteria and obligations will be in place to ensure  
2 that the developers actually comply with the reuse intention?  
3 Because it is my understanding that the developers are going to  
4 actually put in the reuse lines into the development, into the  
5 actual residential?

6 THE WITNESS: I have been assured that it is in the  
7 development order, it is also anticipated in our contract with  
8 Nocatee that there will be residential reclaimed water service.  
9 We will -- as part of the joint project agreement, we will  
10 actually own the lines up to the point of connection to where  
11 that service will be -- well, let me step back. We will own the  
12 lines where we will provide bulk service to a point of  
13 connection with Nocatee where that reclaimed water will be  
14 stored and then pressurized to the proper pressure so that it  
15 can be distributed on a retail level through Nocatee.

16 CHAIRMAN JACOBS: Okay. I did not get the  
17 understanding it was in the development order, but maybe we can  
18 make sure we get that clear. Very well.

19 Any other questions, Commissioners?

20 Redirect.

21 MR. MENTON: Thank you, Mr. Chairman. Just a couple.

22 REDIRECT EXAMINATION

23 BY MR. MENTON:

24 Q Mr. Kelly, Mr. Wharton asked you a few questions  
25 regarding the prospect of a bifurcated system in the event that

1 Nocatee Utility Corporation sold at some point in the future. Do  
2 you have the agreement in front of you, the wholesale agreement  
3 in front of you?

4 A Yes.

5 Q And I would refer you to the right of first refusal,  
6 which is Paragraph Number 2. I believe it is on Page 4 or 5. I  
7 didn't see the page number. The possibility of a bifurcated  
8 system would only come into play if JEA did not exercise its  
9 right of first refusal, isn't that correct?

10 A That is correct. It would be our intention to purchase  
11 the whole system if it was put up for sale.

12 Q Okay. And were you responsible for negotiating the  
13 language in this provision?

14 A Yes.

15 Q And I believe you just touched on it a second ago, what  
16 was your intent with respect to this language, were you seeking  
17 to make it easier for you to negotiate a purchase in the future?

18 A It was to protect ourselves. And as I stated earlier,  
19 if the system -- if Nocatee chose not to sell the system to JEA,  
20 under our right of first refusal, it was to protect the customers  
21 within Duval County from what could potentially be substandard  
22 service or high rates. And we felt obligated to protect those  
23 customers.

24 Q Would you agree that the likelihood of a bifurcated  
25 system is remote in the future?

1 A Yes. I would anticipate it would be very remote.

2 Q Mr. Wharton asked you a few questions with respect to  
3 the proposal that you have presented to the St. Johns County  
4 Commission. Did you make -- regarding retail service, did you  
5 make the Commission aware that it was your intent to stand behind  
6 the contract that you had with Nocatee Utility Corporation?

7 A Yes. I made them aware that we had a contract with  
8 Nocatee, and that the decision would have to be theirs, Nocatee's  
9 decision whether they wanted to have JEA provide retail service  
10 in response to the Commissioner's inquiry.

11 Q In response to a question that Mr. Wharton asked you  
12 about whether or not Nocatee Utility Corporation would pass along  
13 the capacity charges to the customers of Nocatee Utility  
14 Corporation, would you agree that it is the PSC that would  
15 ultimately determine whether those charges could be passed along?

16 A Yes.

17 Q There has been some discussion with respect to the  
18 joint projects, and the determination of the hydraulic share  
19 attributable to the Nocatee development. Is that an approach  
20 that JEA has used in the past?

21 A Yes. That is very common for us to cross participate,  
22 to oversize facilities with developers. There is an advantage to  
23 both the developer and the utility, JEA, in the fact that it is a  
24 reduced cost to both parties. So they share in the cost and it  
25 results to the benefit of both parties to do that.

1 Q Okay. So you have had experience with making those  
2 type of determinations in the past?

3 A Yes.

4 Q Mr. Wharton asked you a question about whether or not  
5 JEA would realize more net revenue in the event that it provided  
6 retail as opposed to wholesale service to Nocatee. Do you recall  
7 that?

8 A I believe he asked if we would get more revenue. He  
9 didn't refer to net revenue.

10 Q If you actually provided retail service to Nocatee  
11 directly, you would agree that JEA would have more expense, as  
12 well, isn't that correct?

13 A That is correct. And if I could explain that, we are  
14 not providing for any capital replacement or extensions, any new  
15 capital dollars involved in the Nocatee development. So if we  
16 were the retail provider, we would have the expense of having to  
17 fund and finance that capital expansion and replacement cost.

18 MR. MENTON: No further questions, Mr. Chairman.  
19 Thank you.

20 CHAIRMAN JACOBS: Exhibits. Move Exhibit 23?

21 MR. MENTON: Mr. Chairman, we would move Exhibit 23.  
22 Was it 22 and 23 that --

23 CHAIRMAN JACOBS: I believe 22 was moved for Mr.  
24 James. 23 is for Mr. Kelly.

25 MR. MENTON: Okay.

1           CHAIRMAN JACOBS: Without objection, show Exhibit 23  
2 is admitted.

3           (Exhibit 23 admitted into the record.)

4           MR. WHARTON: Mr. Chairman, I could either remove the  
5 one page from 24 and mark it as 25, or I would move 24 with that  
6 one page taken out.

7           MR. MENTON: We would object to 24 with the page in  
8 there. I believe Mr. Kelly indicated that that was not part of  
9 the proposal that he prepared.

10          MR. WHARTON: Can I just pull it out?

11          CHAIRMAN JACOBS: I think we can agree we can just  
12 pull that page from Exhibit 24. Absent the first --

13          MR. WHARTON: The second page of the exhibit.

14          MR. MENTON: And we would state a relevancy objection  
15 as we discussed earlier on that particular exhibit, which  
16 relates to the proposal presented to the county commission.

17          CHAIRMAN JACOBS: Even absent that?

18          MR. MENTON: Even absent that. I mean, I think the  
19 one page should be deleted if it comes in. But we would state  
20 for the record an objection on relevancy grounds.

21          CHAIRMAN JACOBS: Okay. We will admit it absent the  
22 one page as Exhibit 24.

23          (Exhibit 24 admitted into the record.)

24          MS. CIBULA: Staff requests that Exhibit 25 be moved.

25          CHAIRMAN JACOBS: Without objection, show Exhibit 25

1 is admitted.

2 (Exhibit 25 admitted into the record.)

3 CHAIRMAN JACOBS: Thank you. You are excused, Mr.  
4 Kelly.

5 MR. WHARTON: Mr. Chairman, staff had asked me to  
6 communicate to you that we would like to file a late-filed  
7 exhibit, which I guess would be 26, which would be the legal  
8 description of Intercoastal's present certificated territory,  
9 and we will get that --

10 CHAIRMAN JACOBS: And this is from -- any witness in  
11 particular that is going to proffer this, or is this --

12 MR. WHARTON: It certainly could be under Mr.  
13 Forrester or Mr. James. No is the answer. I mean, the staff  
14 just asked for it and we said we would give it to them.

15 CHAIRMAN JACOBS: We will mark it as Exhibit 26, and  
16 it is a late-filed. I'm sorry, give me that description again.

17 MR. WHARTON: It is a legal description of  
18 Intercoastal's present certificated territory, existing service  
19 area.

20 CHAIRMAN JACOBS: Okay. Very well.

21 (Late-filed Exhibit 26 marked for identification.)

22 MR. MELSON: Chairman Jacobs, while we're sort of  
23 getting the record right, staff asked Mr. Miller yesterday as to  
24 whether there was a draft warranty deed to the plant sites. I  
25 don't believe that purchase and sale agreement or draft warranty



1 deed is in the record, and I would ask that we mark that as an  
2 exhibit. I've got copies of that that I can distribute.

3 CHAIRMAN JACOBS: Alrighty. And that would be the  
4 warranty deed for --

5 MR. MELSON: It is actually -- let me read you the  
6 title.

7 MS. CIBULA: Staff doesn't need the draft warranty  
8 deed. Staff wanted an executed copy of the warranty deed. We  
9 would be willing to accept that if the --

10 CHAIRMAN JACOBS: That would be a late-filed, then.

11 MS. CIBULA: Not as a late-filed, but we would just  
12 like to have it. If NUC is granted the territory that they  
13 would agree that they would give us an executed copy of the  
14 warranty deed within 30 days of any order that was issued in the  
15 matter.

16 MR. MELSON: Commissioner Jacobs, let me tell you why  
17 I would like to offer -- there is a real estate purchase  
18 agreement. Your rule requires that we include as part of the  
19 record either an executed warranty deed or a purchase agreement,  
20 and then if granted the certificate we are required by your rule  
21 to file the executed deed within 30 days. Just so the record  
22 complies with the rules, I would like to mark this as an  
23 exhibit.

24 CHAIRMAN JACOBS: This is the purchase agreement,  
25 then?

1 MR. MELSON: Real estate purchase agreement.

2 CHAIRMAN JACOBS: Okay.

3 MR. MELSON: And I will hand that out now. I believe  
4 that would be 27?

5 CHAIRMAN JACOBS: Correct.

6 (Exhibit 27 marked for identification.)

7 MR. MELSON: And this was previously provided to staff  
8 and parties in response to a document production request.

9 CHAIRMAN JACOBS: And this is between the --

10 MR. MELSON: The Sonoc Company, which is the  
11 subsidiary of DDI that owns the land, and Nocatee Utility  
12 Corporation.

13 CHAIRMAN JACOBS: Okay. That is marked as Exhibit 27.

14 MR. MELSON: And I would move its admission.

15 THE COURT: Without objection, show Exhibit 27 is  
16 admitted.

17 (Exhibit 27 admitted into the record.)

18 CHAIRMAN JACOBS: We will break for lunch now. We  
19 will return at 2:15. I would like to request the parties, given  
20 that we haven't heard from Mr. Burton, and we will hear from him  
21 this afternoon, it appears that we are moving a bit slow, and  
22 this probably means we will be working late unless I get an  
23 indication or we progress quickly this afternoon. So we will  
24 kind of assess that in mid-afternoon and see where we are in  
25 terms of how late, but I would imagine we will work late this

1 evening.

2 MR. MELSON: Mr. Chairman, just so you know, I have  
3 got more cross examination for Mr. Burton than any other  
4 witness. I suspect that after Mr. Burton everything may move  
5 much more quickly.

6 CHAIRMAN JACOBS: Great.

7 MR. WHARTON: I think that's true.

8 CHAIRMAN JACOBS: Very well. We will return at 2:15.

9 (Lunch recess.)

10 (Transcript continues in sequence with Volume 4.)

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STATE OF FLORIDA     )  
                              :  
                              :     CERTIFICATE OF REPORTER  
COUNTY OF LEON     )

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

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

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

DATED THIS 23RD DAY OF MAY, 2001.

  
\_\_\_\_\_  
JANE FAUROT, RPR  
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Chief, Bureau of Reporting  
(850) 413-6732