

STATE OF FLORIDA

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GENERAL COUNSEL
(850) 413-6199

Public Service Commission

February 5, 2004

Ronald A. Koenig
8006 Lago Vista Drive
Tampa, FL 33614

Re: Docket No. 020745-SU - Application for certificate to provide wastewater service in Charlotte County by Island Environmental Utility, Inc.

Dear Mr. Koenig:

At your request, enclosed is a copy of a sample Prehearing Statement. If you have any questions, please do not hesitate to contact me at (850) 413-6224.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanne Gervasi".

Rosanne Gervasi
Senior Attorney

RG/dm

Enclosure

cc: (with attachments)
All parties of record
Kevin Russell, Esquire
(without attachments)
Ms. Linda Bamfield

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FPSC-COMMISSION CLERK

Sample

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original)
certificates to operate water) Docket No. 990696-WS
and wastewater utility in Duval)
and St. Johns Counties by)
Nocatee Utility Corporation.)
_____)

In re: Application for certificates)
to operate a water and wastewater) Docket No. 992040-WS
utility in Duval and St. Johns)
Counties by Intercoastal Utilities,)
Inc.) Filed: June 30, 2000
_____)

PREHEARING STATEMENT OF JEA

Intervenor, JEA (formerly known as the Jacksonville Electric Authority), in compliance with the requirements of Order No. PSC-00-1036-PCO-WS issued on May 25, 2000 hereby submits its Pre-Hearing Statement for Docket Nos. 990696WS and 992040-WS.

A. APPEARANCES

Kenneth A. Hoffman
J. Stephen Menton
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Michael B. Wedner, Esq.
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117 West Duval Street
Jacksonville, Florida 32202

B. WITNESSES

JEA proposes to call the following witnesses to offer testimony on the issues in these dockets:

<u>Direct Witness</u>	<u>Issues</u>
Scott Kelly	1, 2, 3, 4, 7, 8, 9, 10, 12, 13 and 17.

Timothy Perkins	4, 8, 12, 13 and 17.
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<u>Rebuttal Witness</u>	<u>Issues</u>
Timothy Perkins	4, 8, 13 and 17.

JEA reserves the right to call additional witnesses, witnesses to respond to Commission inquiries not addressed in direct or rebuttal testimony, and witnesses to address issues not presently designated that may be designated by the Prehearing Officer at the Prehearing Conference to be held on July 12, 2000.

B. EXHIBITS

JEA intends to offer the following exhibits:

<u>Witness</u>	<u>Exhibits</u>	<u>Description</u>
Scott Kelly	SDK-1	Resume
	SDK-2	St. Johns County/JEA Agreement
	SDK-3	August 19, 1999 Letter from William G. Young, Utility Director for St. Johns County
Timothy Perkins	TEP-1	Resume

JEA reserves the right to use demonstrative exhibits and to introduce exhibits for cross-examination, impeachment, or any other purpose authorized by the applicable Florida Rules of Evidence and rules of this Commission.

C. STATEMENT OF BASIC POSITION

These consolidated dockets involve competing applications to provide service to territory in Duval and St. Johns Counties. JEA supports the application submitted by Nocatee Utility Corporation (“NUC”) and opposes the application submitted by Intercoastal Utilities, Inc. (“Intercoastal”). Granting the NUC application will enable the developer of the property in question

to meet its environmental goals and ensure that utility service is consistent with the long-term development plans for the property. Furthermore, the NUC application best accommodates the sensitive environmental needs of the area and will result in reliable, cost-effective service for the ultimate residents.

JEA has entered into a Letter of Intent with DDI, Inc., the developer of Nocatee and the parent company of NUC, pursuant to which JEA has agreed to provide bulk water, wastewater and reuse service to NUC in quantities and time frames which meet the needs of the development. Furthermore, JEA has entered into an agreement with St. Johns County pursuant to which JEA will provide bulk water and wastewater service to the County including certain portions of the territory requested by Intercoastal. Construction of the infrastructure necessary for JEA to meet its obligations to St. Johns County is well underway. The construction of these facilities is part of JEA's on-going development of integrated water, wastewater and reuse systems in northeast Florida. Approval of the NUC Application will enable that territory to be integrated into these regional systems. Approval of Intercoastal's application would result in unnecessary duplication of the facilities JEA has already and is continuing to construct. The public interest will be best served if NUC's Application is approved and Intercoastal's application is denied.

D. JEA'S POSITION ON THE ISSUES

Issue 1: Is there a need for service in the territory proposed by NUC's application, and if so, when will service be required.

JEA: Yes. JEA has been negotiating with the developer of the territory included in NUC's application to coordinate the timely delivery of service. JEA anticipates that it will be able to meet the expected service needs of NUC. (Kelly)

Issue 2: Does NUC have the financial ability to serve the requested territory?

JEA: Yes. From the information provided to JEA, it appears that NUC will have the financial ability to serve the requested territory. (Kelly)

Issue 3: Does NUC have the technical ability to serve the requested territory?

JEA: Yes. JEA has entered into a Letter of Intent to provide bulk water, wastewater and reuse services to NUC. JEA also stands ready to provide operations and maintenance services to NUC under a mutually acceptable contractual arrangement. (Kelly)

Issue 4: Does NUC have the plant capacity to serve the requested territory?

JEA: Yes. JEA has the capacity to serve the requested territory, including the capacity to provide sufficient reuse for the utilities' needs from the outset of the project. (Kelly, Perkins)

Issue 5: What are the appropriate rates and charges for NUC?

JEA: No position.

Issue 6: What are the appropriate reuse rates and charges for NUC?

JEA: No position.

Issue 7: What is the landowner's service preference and what weight should the Commission give to that preference?

JEA: With respect to the Nocatee development, the developer of the property has sought bulk service arrangements with JEA as the best and most efficient way to ensure that its environmental goals are met while providing service on a timely basis with the capacity required to meet the needs of the development. With respect to the additional territory in St. Johns County sought by Intercoastal, the landowners of much of that property have entered into agreements with St. Johns County which will be providing service under a bulk service arrangement with JEA. (Kelly).

Issue 8: Is it in the public interest for NUC to be granted a water certificate and wastewater certificate for the territory proposed in its application?

JEA: Yes. (Kelly, Perkins)

Issue 9: Is there a need for service in the territory proposed by Intercoastal's application, and if so, when will service be required?

JEA: There is no need for service from Intercoastal for the Walden Chase development in St. Johns County. Intercoastal has included this development in its application even though the Walden Chase developer has arranged to receive service from St. Johns County under a bulk service arrangement between the County and JEA. JEA has completed construction of the lines necessary to provide service to Walden Chase. Pursuant to the agreement between St. Johns County and JEA, JEA has been appointed the exclusive provider of wholesale water and wastewater services in the service area identified in the agreement which includes portions of the territory sought by Intercoastal in this consolidated docket. With respect to the Nocatee development which is also included in the territory requested by Intercoastal, there will be a need for service in accordance with the landowners' development plan. JEA has been working closely with the developer to meet that need for service. There are additional lands outside of Nocatee owned by the developer of that project which have been included in Intercoastal's application. To JEA's knowledge, there is no need for service in those areas. (Kelly)

Issue 10: Is the portion of Intercoastal's application seeking additional territory in St. Johns County barred by the doctrine of res judicata and/or collateral estoppel?

JEA: Yes. Intercoastal has previously sought approval from the St. Johns County Water and Sewer Authority to serve the same additional territory in St. Johns County requested by Intercoastal in this docket. After an extensive evidentiary hearing, the St. Johns County Water and

Sewer Authority (“Authority”) denied Intercoastal’s request and that decision was affirmed by the St. Johns County Board of County Commissioners (“Board”). Among other things, the Authority and the Board concluded that adequate arrangements had already been made for service to those portions of the requested territory in St. Johns County. Intercoastal has appealed the Board’s decision. The Commission should honor those determinations and apply the doctrines of res judicata and/or collateral estoppel to bar Intercoastal from re-litigating its second request to serve the additional territory in St. Johns County. (Kelly)

Issue 11: Does Intercoastal have the financial ability to serve the requested territory?

JEA: JEA’s adopts NUC’s position.

Issue 12: Does Intercoastal have the technical ability to serve the requested territory?

JEA: No. Only JEA can provide service to Nocatee in accordance with the conditions that are expected to be placed on the development through its DRI development order. (Kelly, Perkins)

Issue 13: Does Intercoastal have the plant capacity to serve the requested territory?

JEA: No. Intercoastal would have to construct new water, wastewater and reuse facilities on the west side of the Intercoastal Waterway in order to provide service to the requested territory. (Kelly, Perkins).

Issue 14: What are the appropriate rates and charges for Intercoastal?

JEA: No position.

Issue 15: What are the appropriate reuse rates and charges for Intercoastal?

JEA: No position.

Issue 16: Do Intercoastal’s existing customers support the proposed extension of its service territory and what weight should the Commission give to their preference?

JEA: It appears that Intercoastal's existing customers are concerned about continued adverse service implications if Intercoastal's application is approved. These concerns were voiced before the St. Johns County Water and Sewer Authority during the proceeding on Intercoastal's prior application to serve the additional territory in St. Johns County. The Commission should consider the concerns raised by the customers in reaching its decision in these consolidated dockets.

Issue 17: Is it in the public interest for Intercoastal to be granted a water certificate and a wastewater certificate for the territory proposed in its application?

JEA: No. (Kelly, Perkins)

E. STIPULATIONS

No issues have been stipulated to at this time.

F. PENDING MOTIONS

JEA will be submitting a Motion for Partial Summary Final Order that will seek to limit or preclude the re-litigation of issues that were previously decided by the St. Johns County Water and Sewer Authority. As noted in Issue 10, Intercoastal previously sought approval from the Authority to extend its existing service area to include the same additional territory in St. Johns County now requested by Intercoastal in its application to the Commission. After a six day evidentiary hearing, the Authority entered a Preliminary Order denying that request. The Preliminary Order of the Authority, which was later adopted by the St. Johns County Board of County Commissioners in a Final Order, includes detailed findings of fact and conclusions of law pertinent to this proceeding which should not be re-litigated or revisited by the Commission.

G. OTHER REQUIREMENTS

None at this time.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing was furnished by U.S. Mail to the following this 30th day of June, 2000:

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