

**ORIGINAL**  
**RUTLEDGE, ECENIA, PURNELL & HOFFMAN**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA  
RICHARD M. ELLIS  
KENNETH A. HOFFMAN  
LORENA A. HOLLEY  
MICHAEL G. MAIDA  
MARTIN P. McDONNELL  
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551  
215 SOUTH MONROE STREET, SUITE 420  
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788  
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT  
HAROLD F. X. PURNELL  
MARSHA E. RULE  
GARY R. RUTLEDGE  
MAGGIE M. SCHULTZ  
GOVERNMENTAL CONSULTANTS  
PARSONS B. HEATH  
MARGARET A. MENDUNI

December 13, 2006

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**

RECEIVED-FPSC  
06 DEC 13 PM 3:29  
COMMISSION  
CLERK


Re: Docket No. 060741-WS

Dear Ms. Bayo:

Enclosed for filing in the above-referenced docket on behalf of the JEA are the original and fifteen copies of the JEA's Petition for Leave to Intervene, Objection to Application for Original Water and Wastewater Certificates, and Objection to Motion for Temporary Rule Waiver.

Please acknowledge receipt of these documents by stamping the extra copy of this letter filed and returning the copy to me. Thank you for your assistance with this filing.

Sincerely,



Kenneth A. Hoffman

- CMP \_\_\_\_\_
- COM \_\_\_\_\_
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL KAH/rl
- OPC Enclosures  
jea/bayo.dec1306ltr
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SGA \_\_\_\_\_
- SEC 1
- OTH Kim P.

**RECEIVED & FILED**  
FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE  
**11405 DEC 13 06**  
FPSC-COMMISSION CLERK

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of TIMUCUAN )  
UTILITIES, LLC for original water )  
and wastewater Certificates in )  
Duval County, Florida )  
\_\_\_\_\_ )

Docket No. 060741-WS

Filed: December 13, 2006

**JEA'S PETITION FOR LEAVE TO INTERVENE,  
OBJECTION TO APPLICATION FOR ORIGINAL  
WATER AND WASTEWATER CERTIFICATES,  
AND OBJECTION TO MOTION FOR  
TEMPORARY RULE WAIVER**

JEA, by and through its undersigned counsel, and pursuant to Sections 120.569, 120.57 and 367.045(4), Florida Statutes, and Rules 25-22.039 and 28-106.201(2), Florida Administrative Code, hereby petitions for Leave to Intervene with full party rights in this proceeding. JEA is a municipal water and wastewater utility with the prior statutory right and capability to provide water, reclaimed water and wastewater services to the territory that is the subject of the Application for Original Water and Wastewater Certificates in Duval County, Florida, filed by Timucuan Utilities, LLC ("Timucuan Utilities"). JEA objects to the Application for Original Water and Wastewater Certificates filed by Timucuan Utilities as well as Timucuan Utilities' Motion for Temporary Rule Waiver. In support of this Petition and Objection, JEA states as follows:

**A. Preliminary Information**

1. The name and address of the affected agency is the Florida Public Service Commission. The docket number is Docket Number 060741-WS.

DOCUMENT NUMBER-DATE

11405 DEC 13 06

FPSC-COMMISSION CLERK

2. The Petitioner's name and address are:

JEA  
c/o Vickie Cavey  
Director, Strategic Partnerships & Acquisitions  
21 West Church Street  
Tower 12  
Jacksonville, FL 32202-3139  
(904) 665-6838 (Telephone)  
(904) 665-5813 (Telecopier)

3. All pleadings, motions, orders and other documents directed to JEA should be served on the following:

Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
(850) 681-6788 (Telephone)  
(850) 681-6515 (Telecopier)

Michael B. Wedner, Esq.  
Office of the General Counsel  
City of Jacksonville  
117 West Duval Street, Suite 480  
Jacksonville, Florida 32202  
(904) 630-1834 (Telephone)  
(904) 630-1731 (Telecopier)

4. JEA became aware of the Application filed by Timucuan Utilities by review of the Commission's web site on or about November 16, 2006. JEA was not provided a copy of the Notice of Application for Original Water and Wastewater Certificates as required by Section 367.045, Florida Statutes, and Rule 25-30.030, Florida Administrative Code.

**B. JEA's Substantial Interests**

5. JEA is a municipal water and wastewater utility providing service throughout the City of Jacksonville. Pursuant to Chapter 180, Florida Statutes, and specifically Sections 180.02(1) and 180.06(3), (4) and (6), Florida Statutes, JEA has the statutory authority to provide water, reclaimed water and wastewater services within and throughout the corporate limits of the City of Jacksonville.

6. Timucuan Utilities has filed an Application for Original Water and Wastewater Certificates for the purpose of providing water and wastewater services to the proposed Timucuan DRI. The land encompassing the Timucuan DRI is located within the corporate limits of the City of Jacksonville. JEA has the prior statutory right to provide water and wastewater services to the Timucuan DRI pursuant to Chapter 180, Florida Statutes. Further, JEA has the capability to provide water and wastewater services promptly and efficiently to the Timucuan DRI consistent with the Timucuan DRI's anticipated need for such service.

7. JEA is entitled to participate in this proceeding as a matter of statutory right under Section 367.045(4), Florida Statutes. Further, JEA's substantial interests as the water and wastewater utility with the prior right and capability to provide water and wastewater services to the territory at issue is subject to determination or will be affected to this proceeding. As confirmed by Section 367.045(4), Florida Statutes, this proceeding is the type of proceeding that is intended to permit an existing utility such as JEA to object to the Application and request a formal administrative hearing for the purpose of protecting and preserving its prior legal right to provide water and wastewater services to the territory that is the subject of the Application and avoid uneconomic and wasteful duplication of JEA's water and wastewater facilities and systems.

**C. Disputed Issues of Material Fact**

8. Without waiving its right to raise additional disputed issues of material fact and law, and subject to discovery in this proceeding, JEA alleges that the disputed issues of material fact and law in this proceeding, include, but are not limited to:

- (a) Whether JEA has the prior legal right to provide service to the territory that is the subject of the Application.

- (b) Whether JEA has the capability to provide water and wastewater services to the territory that is the subject of the Application.
- (c) Whether Timucuan Utilities has the financial and technical capability to provide water, reclaimed water, and wastewater services to the territory that is the subject of the Application.
- (d) Whether granting the Application of Timucuan Utilities would be in competition with or result in duplication of the water and wastewater facilities and services that JEA is authorized to and intends to provide to the Timucuan DRI.
- (e) Whether the issuance of the requested original water and wastewater certificates to Timucuan Utilities would violate the City of Jacksonville's local comprehensive plan.
- (f) Whether Timucuan Utilities has a history and track record of providing reasonably adequate water and wastewater services.
- (g) Whether Timucuan Utilities intends to provide 100% reuse throughout the developable portions of the Timucuan DRI consistent with the intentions of JEA, and, if so, whether Timucuan Utilities will be able to secure the necessary wet weather discharge permit(s) and the rates, charges, terms and conditions associated with any reclaimed water that Timucuan Utilities may intend to provide for purposes of irrigation;
- (h) Whether Timucuan Utilities will incorporate water conservation strategies, including provision of reclaimed water and the use of native vegetation, drought resistant landscaping, and low-flow plumbing fixtures in the construction, operation and maintenance phases of the Timucuan DRI development; and

- (i) Whether it is appropriate, under the specific facts and circumstances presented by Timucuan Utilities, to grant the Motion for Temporary Rule Waiver.

**D. Ultimate Facts and Legal Authority**

9. JEA maintains that the ultimate facts and legal authority, including but not limited to applicable parts of Chapter 180 and Section 367.045, Florida Statutes, as well as relevant case law and Commission orders, supporting the denial by the Commission of Timucuan Utilities' Application for Original Water and Wastewater Certificates and Motion for Temporary Rule Waiver include, but are not limited to:

- (a) JEA has the prior legal right and ability to provide water and wastewater services to the territory included in the Application.
- (b) A granting of the Application by the Commission would be in competition with and result in the duplication of facilities and services currently provided by JEA in the City of Jacksonville, including duplication of existing JEA water supply and treatment facilities and wastewater treatment and disposal facilities that have capacity to serve all or part of the anticipated demand of the Timucuan DRI.
- (c) As an existing utility provider providing water and wastewater services adjacent to Timucuan DRI, JEA's consent is required as a legal condition precedent to the provision of water and wastewater services by Timucuan Utilities pursuant to Section 180.06, Florida Statutes.
- (d) JEA has an excellent history and track record of providing safe, efficient and sufficient water and wastewater services throughout the City of Jacksonville and has the financial capability, redundant sources of water supply, and superior

operating capability to provide water, wastewater and reuse services to the Timucuan DRI.

- (e) Timucuan Utilities has no operating history and can provide no reasonable assurance that it is capable of providing safe, efficient and sufficient water and wastewater services to the expansive territory that is the subject of the Application. Further, Timucuan Utilities has made no commitment to provide water conservation and provide the level of reuse throughout the Timucuan DRI that will be provided by JEA and Timucuan Utilities lacks JEA's extensive experience in providing all of the aforementioned utility services in a manner that promotes and effects water conservation.
- (f) The Application filed by Timucuan Utilities is inconsistent with the City of Jacksonville's established local comprehensive plan which seeks to continue and insure the provision of regional municipal water and wastewater service in the City of Jacksonville, to prevent construction of additional package plants and to promote a reliable, high level of service, operating expertise, and commitment to and provision of reuse.

**E. Timucuan Utilities' Motion for Temporary Rule Waiver**

10. The Commission should deny Timucuan Utilities' Motion for Temporary Rule Waiver. The Commission orders cited by Timucuan Utilities in support of its Motion are easily distinguishable. Further, the Motion for Temporary Rule Waiver raises disputed issues of material fact which must be addressed as part of the formal administrative hearing.

11. In support of its Motion, Timucuan Utilities cites In re: Application for Certificates to Provide Water and Wastewater Service in Sumter County by Central Sumter Utility Company, L.L.C., Order No. PSC-05-0844-PAA-WS issued August 18, 2005 (“Central Sumter”). In Central Sumter, the Commission granted the utility’s request for a temporary rule waiver for information similar to that for which a waiver is sought by Timucuan Utilities. However, the two cases are quite different. In Central Sumter, it was appropriate to grant the rule waiver to allow the utility to obtain a certificate from the Commission to secure necessary water management district and DEP permits as there was no other competing utility seeking to serve the proposed service territory. In this case, JEA has the prior legal right to provide service and is capable of providing such service. Further, in Central Sumter, the Commission found that the utility had the financial and technical ability to provide service to the proposed service area. In this case, these issues have been raised as disputed issues of material fact and can only be resolved through a formal administrative hearing. Finally, in Central Sumter, the Commission, based on the review conducted by the Department of Community Affairs, determined that the utility’s application was consistent with the applicable local comprehensive plan. In this case, JEA maintains that Timucuan Utilities’ Application is not consistent with the City of Jacksonville comprehensive plan, and the disputed issues of material fact arising from JEA’s allegation can only be resolved through the evidentiary hearing process.

12. Timucuan Utilities also cites the Commission to In re: Application for Certificates to Provide Water and Wastewater Service in Putnam County by Mariposa Utility Company, LLC, Order No. PSC-06-0835-PAA-WS issued October 9, 2006 (“Mariposa Utility”). The granting of the temporary rule waiver in Mariposa Utility is similarly distinguishable for the reasons outlined above.



WHEREFORE, for the foregoing reasons, JEA respectfully requests that the Commission:

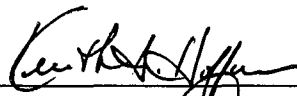
A. Grant JEA's Petition for Leave to Intervene in this proceeding and afford JEA full party rights;

B. Schedule a formal administrative proceeding pursuant to Section 120.569 and 120.57, Florida Statutes, on Timucuan Utilities' Application for Original Water and Wastewater Certificates in Duval County, Florida, and on Timucuan Utilities' Motion for Temporary Rule;

C. Deny Timucuan Utilities' Application for Original Water and Wastewater Certificates in Duval County, Florida, and Timucuan Utilities' Motion for Temporary Rule Waiver; and

D. Grant such further relief as deemed just, reasonable and proper by the Commission.

Respectfully submitted,



---

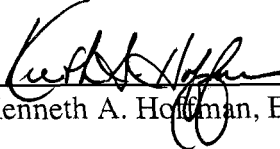
Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, Florida 32302  
(850) 681-6788 (Telephone)  
(850) 681-6515 (Telecopier)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by U.S. Mail to the following this 13<sup>th</sup> day of December, 2006:

Martin S. Friedman, Esq.  
Rose, Sundstrom & Bently, LLP  
2180 West State Road 434, Suite 2118  
Longwood, Florida 32779

Lorena A. Holley, Esq.  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

  
\_\_\_\_\_  
Kenneth A. Hoffman, Esq.

JEA\petitiontointervene.dec4