

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original certificates to operate water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation.

DOCKET NO. 990696-WS

In re: Application for certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Intercoastal Utilities, Inc.

DOCKET NO. 992040-WS  
ORDER NO. PSC-00-0980-PCO-WS  
ISSUED: May 18, 2000

ORDER ESTABLISHING FILING DATES  
FOR SPECIAL AGENDA CONFERENCE

On June 1, 1999, Nocatee Utility Corporation (NUC) filed an application for original certificates to provide water and wastewater service to a proposed development that will be located in Duval and St. Johns Counties known as Nocatee. Docket No. 990696-WS was assigned to that application. On June 30, 1999, Intercoastal Utilities, Inc. (Intercoastal) timely filed a protest to NUC's application and requested a formal hearing.

On December 30, 1999, Intercoastal filed an application requesting an amendment of certificates to provide water and wastewater service in the Nocatee development; to extend its service area in St. Johns County; and for an original certificate for its existing service area. Docket No. 992040-WS was assigned to that application. NUC, its parent company, DDI, JEA, and Sawgrass Association, Inc., filed objections to Intercoastal's application. St. Johns County filed a Petition to Intervene in this matter which was granted by Order No. PSC-00-0336-PCO-WS, issued February 17, 2000.

By Order No. PSC-00-0210-PCO-WS, issued February 2, 2000, these dockets were consolidated. For the foregoing reasons, these dockets are scheduled for administrative hearing.

On January 24, 2000, NUC and DDI filed a joint Motion to Dismiss Intercoastal's application based on res judicata and collateral estoppel. On January 26, 2000, St. Johns County also filed a Motion to Dismiss Intercoastal's application, stating that

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the Commission does not have jurisdiction over the application based on Section 367.171, Florida Statutes, and based on res judicata and collateral estoppel.

On May 10 and 11, 2000, Sarasota and Hillsborough Counties, respectively, filed Petitions for Intervention in these dockets requesting the opportunity to file Motions to Dismiss based on the argument that the Commission lacks jurisdiction under Section 367.171, Florida Statutes, to consider Intercoastal's and NUC's applications. On May 15, 2000, Collier and Citrus Counties filed a Petition for Intervention, and Alternative Petitions for Declaratory Statement, for Initiation of Rulemaking, and for Permission to Submit Amicus Curiae Motion on Jurisdiction. At the May 16, 2000, agenda conference, the Commission deferred consideration of NUC and DDI's and St. Johns County's Motions to Dismiss to consider the petitions for intervention and motions to dismiss at a special agenda conference.

After the May 16, 2000, agenda conference, representatives for the parties and the interested counties met and agreed to the following filing dates to submit their petitions, motions, briefs, and responses:

- 1) All petitions, motions,  
and/or briefs May 23, 2000
  
- 2) All responses to the petitions,  
motions, and/or briefs June 6, 2000


These dates are reasonable and shall govern with respect to the special agenda conference. The special agenda conference will be held on June 19, 2000, at 9:30 a.m. to consider the briefs filed and to hear oral arguments pertaining to the Commission's jurisdiction over the applications and the petitions for intervention filed in these dockets. Additionally, the Commission will consider NUC and DDI's joint Motion to Dismiss, St. Johns County's Motion to Dismiss, as well as all the petitions for intervention and motions.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that the filing dates set forth in the body of this Order shall govern for the June 19, 2000, special agenda conference.

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By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 18th day of May, 2000.

  
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J. TERRY DEASON  
Commissioner and Prehearing  
Officer

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of

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Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.