

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-00-1036-PCO-WS
ISSUED: May 25, 2000

ORDER GRANTING STIPULATED MOTION FOR
EXTENSION OF PREFILED REBUTTAL FILING DATE
AND
NOTICING CHANGE IN DATES FOR PREHEARING STATEMENTS,
PREHEARING CONFERENCE, AND HEARING

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.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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 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 filing dates in which to submit their petitions, motions, briefs, and responses. By Order No. PSC-00-0980-PCO-WS, issued May 18, 2000, in the above-referenced dockets, the Commission established filing dates for the special agenda conference scheduled to be held on June 19, 2000.

As a result of the May 16, 2000, agenda conference, on May 17, 2000, Intercoastal, with the stipulation of all parties to this docket, filed a Stipulated Motion for Extension of Prefiled Rebuttal Filing Date. The motion states that the parties have stipulated and agreed that the May 26, 2000 Prefiled Rebuttal filing date should be moved one week to June 2, 2000. In support of its motion, Intercoastal states that "[t]he granting of this Motion will not prejudice any party, the public, nor the Commission and will allow and facilitate the orderly presentation of the Prefiled Testimony yet to be filed as well as certain legal issues which have recently arisen in this case."

Pursuant to Rule 28-106.204(5), Florida Administrative Code, Intercoastal's motion was filed prior to the deadline sought to be extended and states good cause for the request. Therefore,

Intercoastal's Stipulated Motion for Extension of Prefiled Rebuttal Filing Date is granted. Additionally, the Chairman's Office has changed the hearing date to accommodate the Commission's calendar. Thus, the following revised dates shall govern this case.

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|---------------------------------------|--------------------|
| 1) Rebuttal Testimony
and Exhibits | June 2, 2000 |
| 2) Prehearing Statements | June 30, 2000 |
| 3) Prehearing Conference | July 12, 2000 |
| 4) Hearing | August 15-16, 2000 |


This Order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code, which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based on the foregoing, it is

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that Intercoastal Utilities, Inc.'s Stipulated Motion for Extension of Prefiled Rebuttal Filing Date is hereby granted. It is further

ORDERED that the dates for filing testimony are hereby changed as set forth in the body of this Order.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 25th day of May, 2000.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

DTV/SMC

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 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.