

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original certificates to operate a 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-00-2320-PCO-WS  
ISSUED: December 5, 2000

ORDER GRANTING NOCATEE UTILITY CORPORATION'S MOTION FOR  
LEAVE TO FILE SUPPLEMENTAL DIRECT TESTIMONY AND  
PERMITTING THE FILING OF SUPPLEMENTAL REBUTTAL TESTIMONY

On June 1, 1999, Nocatee Utility Corporation (NUC) filed an application for original certificates to provide water and wastewater service to a development 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 or utility) 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 territory in St. Johns County; and for an original certificate for its existing service area. Docket No. 992040-WS was assigned to that application. NUC, Sawgrass Association, Inc., and JEA (formerly known as Jacksonville Electric Authority) timely filed objections to Intercoastal's application and requested a formal hearing. St. Johns County was granted intervention by Order No. PSC-00-0336-PCO-WS, issued February 17, 2000.

By Order No. PSC-00-0210-PCO-WS, issued February 2, 2000, Dockets Nos. 990696-WS and 992040-WS were consolidated. The prehearing conference and hearing dates are scheduled for March 12, 2001, and April 4, 5 and 6, 2001, respectively.

DOCUMENT NUMBER-DATE

15509 DEC-58

FPSC-RECORDS/REPORTING

On March 17, 2000, NUC prefiled direct testimony for Mr. Douglas C. Miller and Ms. Deborah D. Swain. On July 31, 2000, NUC filed a Motion for Leave to File Supplemental Direct Testimony for Douglas C. Miller and Deborah D. Swain. In support of its motion, NUC states that on July 24, 2000, NUC and JEA entered into an Agreement for Wholesale Utilities, Operations, Management and Maintenance (Agreement). NUC seeks leave to file Mr. Miller's supplemental direct testimony in order for him to sponsor the Agreement and explain the Agreement's key terms. Furthermore, Mr. Miller's supplemental direct testimony "sponsors relevant excerpts from the Sufficiency Response to the Application for Development Approval for the Nocatee project, a document which was not in existence at the time previous testimony was filed . . . ." In addition, NUC seeks leave to file supplemental direct testimony for Ms. Swain to "present the ratemaking impact of the reduction in operation and maintenance expense which results from the Agreement." In further support of its motion, NUC states that allowing it to file supplemental direct testimony will not prejudice any parties and that it will make Mr. Miller and Ms. Swain available for additional depositions related to the Agreement and its impact of NUC's plan of service and proposed rates. As to rebuttal testimony, NUC suggests that the parties be allowed two work weeks (until the close of business on August 11, 2000) to file rebuttal to the supplemental testimony if its motion is granted.

On August 7, 2000, Intercoastal filed a timely response to NUC's motion. In its response, Intercoastal states that it does not object to the supplemental direct testimony "provided that Intercoastal is given a full and fair opportunity to conduct discovery . . . and to respond, in the form of pre-filed testimony and exhibits, to the supplemental direct testimony as necessary and appropriate." However, Intercoastal states that if it is not allowed the opportunity to conduct discovery and respond to the supplemental direct testimony, it would object to the filing of the supplemental direct testimony.

Because Mr. Miller's and Ms. Swain's supplemental testimony contains new information that was not available when their testimonies were prefiled on March 17, 2000, and the filing of the supplemental testimony will not affect the currently scheduled prehearing and hearing dates, NUC's motion is reasonable and it is hereby granted. The parties shall have until January 2, 2001, to

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file rebuttal testimony to the supplemental testimony. NUC's supplemental direct testimony for Mr. Miller and Ms. Swain which was submitted concurrently with its motion shall be considered filed as of the issuance date of this Order.

Based on the foregoing, it is

ORDERED by Chairman J. Terry Deason, as Prehearing Officer, that Nocatee Utility Corporation's Motion for Leave to File Supplemental Direct Testimony is hereby granted, as set forth in the body of this Order. It is further

ORDERED that parties shall have until January 2, 2001, to file rebuttal testimony to the supplemental direct testimony of Mr. Douglas C. Miller and Ms. Deborah D. Swain.

By ORDER of Chairman J. Terry Deason as Prehearing Officer, this 5th day of December, 2000.

  
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J. TERRY DEASON  
Chairman 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.