

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for transfer of
Certificates 617-W and 531-S in Duval and
St. Johns Counties from Nocatee Utility
Corporation to JEA.

DOCKET NO. 040257-WS
ORDER NO. PSC-04-0575-FOF-WS
ISSUED: June 7, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER APPROVING TRANSFER AND CANCELLING CERTIFICATES NOS. 617-
W
AND 531-S HELD BY NOCATEE UTILITY CORPORATION

BY THE COMMISSION:

Nocatee Utility Corporation (NUC or utility) is a Class C water and wastewater utility providing service to a development located in Duval and St. Johns Counties. The utility is not in a priority water resource caution area of the St. Johns River Water Management District. NUC was granted Certificates Nos. 617-W and 531-S by Order No. PSC-01-1916-FOF-WS, issued September 24, 2001, in Docket No. 990696-WS, In Re: Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation. The utility's 2003 annual report indicates gross revenue and net operating income of \$0 for water and wastewater.

NUC and JEA, a public body corporate and politic of the State of Florida, have entered into a Conveyance Agreement in which NUC will assign all of its right, title and interest in Certificates Nos. 617-W and 531-S to JEA. On March 24, 2004, NUC filed an application for the transfer of the utility facilities to JEA and for the cancellation of Certificates Nos. 617-W and 531-S. The application contained no deficiencies. We have jurisdiction pursuant to Sections 367.045 and 367.071, Florida Statutes.

Pursuant to Section 367.071(4)(a), Florida Statutes, the sale of facilities, in whole or in part, to a governmental authority shall be approved as a matter of right. JEA is a governmental authority which was created and passed by a special act of the 1967 Florida Legislature (Chapter 67-1569, Laws of Florida), authorizing it to own, manage and operate electric utility systems in the City of Jacksonville and in any or all counties adjacent thereto. In 1997, the City of Jacksonville, through amendments to its governing charter, transferred the City's Department of Public Utilities water and wastewater

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operations to JEA. This Commission has consistently recognized JEA as being a governmental authority for the purposes of utility transfers.¹

JEA is exempt from this Commission's regulation pursuant to Section 367.022(2), Florida Statutes. Moreover, because the transfer of facilities to governmental authorities are approved as a matter of right, no notice of the transfer is required and no filing fees apply. The application contains a statement that JEA obtained NUC's most recent income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions-in-aid-of-construction, pursuant to Rule 25-30.037(4)(e), Florida Administrative Code. Also included in the application was a statement that there are no customer deposits or interest to refund, as required by Rule 25-30.037(4)(g), Florida Administrative Code.

Pursuant to Rule 25-30.037(4)(f), Florida Administrative Code, the application is to contain the date on which the governmental authority proposes to take official action to acquire the utility. According to the application, on March 16, 2004, the JEA Board approved the acquisition of NUC for a purchase price of \$2,250,000. However, the closing will not take place until after this Commission approves the transfer. The closing is scheduled to take place fifteen days after the last to occur of issuance of Commission consent, issuance of St. Johns County consent, if required, and conclusion of the Chapter 180, Florida Statutes, public hearing process and expiration of all applicable appeal periods without appeal, but no later than December 31, 2004.

Additionally, pursuant to the requirements of Rule 25-30.037(4)(h), Florida Administrative Code, the utility has filed its 2003 annual report and is current on regulatory assessment fees (RAFs) through 2003. Since the utility plant was not operational for the period of January 1, through December 31, 2004, Nocatee paid the minimum RAF of \$25 each for water and wastewater systems on April 30, 2004. The corresponding RAF return was submitted on May 4, 2004. Because JEA is an exempt from Commission regulation, the 2004 annual report need not be filed. The utility has no other open dockets pending before this Commission.

We find that the application is in compliance with the provisions of Rule 25-30.037, Florida Administrative Code. Therefore, we hereby approve the transfer of utility facilities from NUC to JEA as a matter of right, pursuant to Section 367.071(4)(a), Florida Statutes. Certificates Nos. 617-W and 531-S shall be cancelled administratively upon receipt of the executed purchase agreement confirming the date of closing, which is anticipated to occur by December 31, 2004.

Based on the foregoing, it is

¹See, e.g., Order No. PSC-01-0142-FOF-SU, issued January 18, 2001, in Docket No. 000241-SU, In Re: Application for transfer of facilities of J. Strauss Utility to JEA and cancellation of Certificate No. 244-S in Duval County; and Order No. PSC-02-0060-FOF-WS, issued January 8, 2002, in Docket No. 010986-WS, In Re: Notice of sale of assets of Regency Utilities, Inc. in Duval County to Jacksonville Electric Authority, and request for cancellation of Certificate Nos. 197-W and 143-S.

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ORDERED by the Florida Public Service Commission that the transfer of utility facilities from Nocatee Utility Corporation to JEA is approved as a matter of right. It is further

ORDERED that Certificates Nos. 617-W and 531-S, held by Nocatee Utility Corporation, shall be cancelled administratively upon receipt of the executed purchase agreement confirming the date of closing. It is further

ORDERED that this docket shall remain open pending receipt of the executed purchase agreement confirming the date of closing, after which time the docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 7th day of June, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.