

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for water and wastewater  
service in Duval, Baker, and Nassau Counties,  
by First Coast Regional Utilities, Inc.

DOCKET NO. 20190168-WS  
ORDER NO. PSC-2022-0193-FOF-WS  
ISSUED: May 25, 2022

The following Commissioners participated in the disposition of this matter:

ART GRAHAM  
GARY F. CLARK  
MIKE LA ROSA

FINAL ORDER GRANTING CERTIFICATE NOS. 680-W AND 578-S  
AND ESTABLISHING INITIAL RATES AND CHARGES

BY THE COMMISSION:

JOHN L. WHARTON, MARTIN S. FRIEDMAN, AND JORDANE P. WONG,  
ESQUIRE, Dean Mead and Dunbar, 215 South Monroe Street, Suite 815,  
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On behalf of First Coast Regional Utilities, Inc. (FCRU).

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On behalf of JEA (JEA).

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On behalf of the Florida Public Service Commission (Staff).

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### BACKGROUND

Section 367.011(3), Florida Statutes (F.S.), provides that regulation of water and wastewater utilities is in the public interest as an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of Chapter 367, F.S., are to be liberally construed for accomplishment of this purpose. Sections 367.021 and 367.031, F.S., give us the authority to issue a certificate of authorization to a utility to serve a specific water or wastewater service area. Section 367.045(1)(b), F.S., authorizes us to require each applicant for an initial certificate to provide all information required by our rules or orders, which includes a detailed inquiry into the ability of the applicant to provide service, the area and facilities involved, the need for service in the area involved, and the existence or nonexistence of service from other sources within geographical proximity.

On August 27, 2019, First Coast Regional Utilities, Inc. (FCRU or Utility) filed its Application for an Original Certificate to Provide Water and Wastewater Service in Duval, Nassau, and Baker Counties pursuant to Section 367.031, F.S., and Rule 25-30.033, Florida Administrative Code (F.A.C.). On December 26, 2019, JEA, the municipal water and wastewater utility for the City of Jacksonville (City), objected to the application. JEA asserted that it has the exclusive right to provide water and wastewater service in the Duval and Nassau County portions of the proposed service area pursuant to its franchise agreements with those counties, that FCRU's application is inconsistent with local comprehensive plans, and that the public interest is best served if JEA is the provider.

Because there is no development and no existing customers receiving service in the proposed service area, no service hearings were held on this matter. A Prehearing Conference was held on January 26, 2022, and the formal evidentiary hearing was held on February 1-2, 2022, in Tallahassee, Florida. The proposed service territory consists of 11,861 acres, of which 8,741 acres are in Duval and Nassau Counties and 3,120 are in Baker County. According to FCRU, there is no specific development currently planned for the Baker and Nassau County portions of the proposed service territory. The Utility will serve a planned unit development (PUD) in the Duval County portion of the proposed service territory which will be constructed in phases, with Phase I of the development planned to require service for 2,500 equivalent residential connections (ERCs) and 300 commercial ERCs 30 months after the certificates are granted. FCRU's application seeks water and wastewater certificates to provide potable water service, wastewater service, and reuse or reclaimed water service.

At the evidentiary hearing, we found that stipulations<sup>1</sup> reached by the parties for Issues 1, 8, 10, 12, 13, 14, and 16, as set forth in Prehearing Order No. PSC-2022-0045-PCO-WS, were reasonable and we approved the stipulated matters. These stipulations are reflected below. The

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<sup>1</sup> The stipulations were what's known as "type 2" stipulations, by which FCRU supported the stipulation and JEA either took no position or did not object to our approval of the stipulation.

parties filed post-hearing briefs on March 18, 2022. The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.081, and 367.101, F.S.

## DECISION

### I. Noticing

At the February 1, 2022 evidentiary hearing, we approved the stipulation that FCRU has met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, F.A.C.

### II. Need for Service

#### A. Parties' Arguments

FCRU argued that 301 Capital Partners, LLC (301 Capital or Developer) either owns or has purchase rights to approximately 9,000 contiguous acres in Duval, Nassau, and Baker Counties, which it has plans to develop, and for which portions have been granted zoning appropriate for development. An additional parcel (approximately 1,800 acres) in Baker County and contiguous to the 301 Capital property is owned by the Chemours Company FC, LLC (Chemours) and planned for development. The boundaries of these properties are adjacent to major transportation corridors and close to major job centers. The Utility argued that, in the Duval County portion of the development, Jacksonville City Ordinance No. 2021-693, approving the development in and of itself demonstrates the need for service. FCRU argued that 301 Capital is committed to imminently constructing a large, phased, planned development in Duval, Nassau, and Baker Counties on all of the property that it owns, beginning in Duval County and moving into Baker and Nassau Counties. The Developer projects that it would begin the Baker County development in 2026, and that it would begin development of the Nassau County property as soon as utilities become available. The Utility argued that JEA's claim that the development in Baker and Nassau Counties is too far in the future to constitute a valid need for service is unfounded. FCRU stated that its projections for these counties are proper phase development and time planning, appropriate for a project of this size.

JEA argued that FCRU did not show a need for service in Nassau and Baker Counties, and that it did not show a need for service beyond the first phase of the Development in Duval County. JEA stated that the Utility's Preliminary Absorption Schedule showed that no connections were contemplated in Baker or Nassau Counties for at least 10 years, and that few connections in each county were estimated for years 10-15 and 15-20. JEA argued that there was no information provided on who or what might be connected, and no description of proposed customers by customer class and meter size as is required by Rule 25-30.033(1)(k)1., F.A.C. JEA further argued that there had been no local government approval of development in Baker and Nassau Counties, and FCRU has not brought forward any plans or proposals to those counties. JEA noted that, in Baker County, the owner of a parcel on which it is presently conducting mining activities, Chemours, did not request service from the Utility, but rather requested "to be included in the service area." JEA also noted that Chemours did not provide a definite time when water and wastewater service would be needed.

B. Analysis

Section 367.045(1)(b), F.S., requires an examination of the need for service in the requested area, and Rule 25-30.033(1)(k), F.A.C., requires an applicant for an original certificate to provide a statement showing the need for service in the proposed area. According to FCRU's application, the proposed territory includes approximately 10,000 contiguous acres in Duval, Nassau, and Baker Counties, with an additional 1,800 acres located in Baker County. 301 Capital either owns or has exclusive purchase rights to the 10,000-acre property.<sup>2</sup> The additional 1,800-acre property in Baker County is owned by Chemours, a mining company. The Developer intends to develop the property in Duval and Nassau Counties as a PUD community (Development), pursuant to the City of Jacksonville PUD Ordinance No. 2010-874-E (2010 PUD Ordinance), as amended by Ordinance 2021-693-E (2021 PUD Ordinance). The initial phase of the Development is located in Duval County, and will consist of approximately 2,500 ERCs and 300 commercial ERCs.

The Utility anticipates that the Development will begin in Duval County and expand based on economic and housing demand factors. In support of its application, FCRU provided letters from the landowners in the proposed service territory, Chemours and 301 Capital, requesting service from the Utility. In its letter, Chemours stated that the availability of central water and wastewater is very important in obtaining entitlements from Baker County to develop the property when its mining operations are completed. Further, FCRU provided a copy of Nassau County Ordinance No. 2009-26, which rezoned the Utility's proposed service territory in Nassau County from Open Rural to Industrial Warehouse and Commercial General, consistent with 301 Capital's development plans for the property.

FCRU witness Kennelly stated that there is an urgent and growing need for housing within FCRU's proposed service territory, especially for work force housing. Further, he stated that if JEA had not objected to its application for certificates to provide water and wastewater service, work on its utility facilities would have begun as would the construction of Phase I of the Development. Based on his discussions with national homebuilders, witness Kennelly stated he believes they could easily have sold out Phase I and begun planning for Phase II. While the need is immediate, witness Kennelly stated that, from the time water and wastewater certificates are granted, provision of service to customers can be accomplished within 30 months.

Regarding the Baker County parcel, witness Kennelly stated that the property owner is currently in the planning stages for development and anticipates that it will conclude its planning process, including any necessary land use changes, in three to four years. Service will be required within five years.

In its brief, JEA stated that any need for service in Baker and Nassau Counties, and within the City beyond Phase I of the Developer's PUD, is purely speculative. The JEA

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<sup>2</sup> 301 Capital is the sole shareholder of FCRU and is the developer of the proposed service area.

witnesses, in testimony, discovery, and during cross-examination, did not dispute the need for service for Phase I of the development in Duval County.

C. Conclusion

We find that the evidence shows there is a need for potable water service, wastewater service, and reclaimed water service in the proposed service area, with Phase I of the development in Duval County requiring service within 30 months of the granting of the certificates. Though the evidence shows that the timing of the need for service is not as well defined for the later phases of the Development in Duval County and for developments in Baker and Nassau Counties, we find that, with the letters from developers requesting service and the Nassau and Duval County ordinances authorizing development, the Utility has demonstrated that the need for service exists in all three counties.

III. Consistency with Comprehensive Plans

A. Parties' Arguments

FCRU argued that Baker and Nassau Counties did not file objections to the Utility's application for water and wastewater certificates. The Utility also stated that JEA's only position on the issue is that the City of Jacksonville 2030 Comprehensive Plan (City Comp Plan) calls for JEA alone to be the provider throughout the county. FCRU further argued that the City did not object to the application or raise any issues with respect to its own comprehensive plan. The Utility also asserted that JEA has never taken the position that the actual development which FCRU proposes to serve is inconsistent with the City Comp Plan. The Utility believes that granting its application for water and wastewater certificates is consistent with the comprehensive plans of Baker, Duval, and Nassau Counties, and that such a finding by this Commission would not negate the effectiveness of any of the City's authority to control development and growth within the City. Finally, FCRU argued that JEA has failed to show that certification of the Utility is inconsistent with any comprehensive plan, and that even if we find an inconsistency, we should duly consider, but elect not to be bound by, such inconsistency with the comprehensive plan.

JEA argued that certificating FCRU would violate the City Comp Plan in three ways. First, under the City Comp Plan, JEA is to be the provider of service, citing Goal 1 of the Sanitary Sewer sub-element. Second, the City Comp Plan calls for regional facilities, not development-specific plants. Both the Potable Water and Sanitary Sewer sub-elements call for regional facilities, instructing JEA in the Potable water sub-element to regionalize water facilities and to acquire private package plants, incorporating them into the regional system. Third, the plant proposed by the Utility is a non-interim, non-regional facility disallowed by the City Comp Plan. JEA stated the City Comp Plan allows for new, non-regional facilities provided certain requirements are satisfied, but nothing in the record suggests that the Utility has pursued this alternative. Finally, JEA argued that nothing in the City Comp Plan precludes JEA from constructing facilities in the Development.

**B. Analysis**

Section 367.045(4), F.S., provides that notwithstanding the ability to object on any other ground, a county or municipality has standing to object on the ground that the issuance of a certificate violates established local comprehensive plans developed pursuant to Chapter 163, F.S. Section 367.045(5)(b), F.S., provides that, if an objection is made, we shall consider, but not be bound by, the local comprehensive plan of the county or municipality.<sup>3</sup> Although FCRU's position is that its application is consistent with the Baker, Nassau, and Duval County comprehensive plans, JEA takes the position that the application is inconsistent with the City Comp Plan. Because the city limits of the City of Jacksonville encompass the entirety of Duval County, with the exception of four small communities that are not in the vicinity of FCRU's proposed service territory, the City Comp Plan is the one at issue for Duval County.

**Baker County**

Based on the evidence, FCRU's request to provide water and wastewater service in the proposed service territory appears to be inconsistent with portions of the Baker County Comprehensive Plan with regard to zoning restrictions. The current zoning designation of Agricultural makes the planned development inconsistent with portions of the Baker County Comprehensive Plan. However, Objective A.1.11 of the plan provides for review and approval of new development proposals, including zoning changes necessary for the new development. A request for the necessary zoning changes may be made by FCRU at the appropriate time. Therefore, even if we were to take the Baker County Comprehensive Plan into consideration, we do not find we should be bound by it.

**Nassau County**

The Utility's application appears to be consistent with the Nassau County 2030 Comprehensive Plan in that FCRU has committed to abide by the level of service requirements of the Potable Water sub-element, Objective WAT.01, and the Sanitary Sewer sub-element, Objective SEW.01, of the plan. Additionally, Nassau County Ordinance Nos. 2009-20 and 2009-26 changed the zone designation of the Utility's proposed service territory in Nassau County from Agricultural, Conservation, and Open Rural to Industrial Warehouse and Commercial General, pursuant to the previous developer's application for such zoning changes. These entitlements allow the current developer, 301 Capital, to proceed with its development plans for the property. Therefore, the Utility's application is consistent with the Nassau County 2030 Comprehensive Plan.

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<sup>3</sup> See also *City of Oviedo v. Clark*, 699 So. 2d 316 (Fla. 1<sup>st</sup> DCA 1997) (our decision granting a territorial amendment was upheld in spite of our conclusion that the proposed amendment would be inconsistent with the City of Oviedo's comprehensive plan, which favored the city as provider of wastewater service within the city limits; the statute only required that we consider the plan and expressly granted us discretion in deciding whether to defer to the plan, and we had considered the plan).

**City of Jacksonville**

JEA's position is that FCRU's application is inconsistent with the City Comp Plan, and alleges that inconsistency as a basis for its objection to the Utility's application for water and wastewater certificates. JEA witness West argued that granting FCRU water and wastewater certificates is inconsistent with the Potable Water and Sanitary Sewer sub-elements of the City Comp Plan because these sub-elements contemplate JEA as the sole provider of water and wastewater service, and because the facilities built would not be regional facilities. Witness West stated that the Potable Water sub-element, Goal 1, states, "JEA shall regionalize water facilities in a manner which adequately corrects existing deficiencies, accommodates future growth, increases system capacity, acquires investor owned systems and incorporates private package plants into the regional system . . . ." She also stated that Policies 1.1.5 and 1.1.6 under Goal 1 provide that non-regional utility water treatment plants shall continue to be phased out and the systems interconnected to regional systems, and that JEA shall continue to acquire community and investor-owned public utility companies and integrate the systems into the regional network. With respect to the Sanitary Sewer sub-element of the City Comp Plan, witness West testified that this sub-element contemplates JEA as the sole provider of wastewater service. In her direct testimony, witness West quoted Goal 1 of the Sanitary Sewer sub-element, then pointed out that, "It states that 'JEA shall provide . . .' service, not that 'JEA and/or other wastewater utilities shall provide . . .'" Witness West then stated that Goal 1 also calls for the provision of regional wastewater collection and treatment systems rather than small, development-specific package plants as a permanent solution. The witness argued that, in view of language in both the Potable Water and Sanitary Sewer sub-elements that directs JEA either to build regional facilities or to regionalize existing systems, the Utility's plans to build a non-regional facility are inconsistent with the City Comp Plan. However, the City did not file an objection to FCRU's application for water and wastewater certificates, and did not provide its own witness(es) to interpret its comprehensive plan.

In his rebuttal testimony concerning the Potable Water sub-element, FCRU witness Kelly quoted Policies 1.1.1 and 1.1.2 under Objective 1.1 of the City Comp Plan, which state that JEA shall provide for regional water facilities associated with development within the Urban and Suburban area as defined in the Capital Improvements Element, excluding improvements within the service area of an investor-owned public utility. Witness Kelly stated that these sections recognize that investor-owned public utilities may exist within the City limits. Witness Kelly testified that subsection 1.2.10 of the Sanitary Sewer sub-element of the City Comp Plan permits non-regional facilities as long as certain conditions are met including building standards and phase-out plans. Policy 1.1.14 of the Potable Water Sub-Element mirrors this language for new non-regional water facilities. FCRU witness Kennelly affirmed that the facilities that FCRU proposes to build and operate will meet all of these requirements, and that the Utility offered to sell the facilities to the City according to the phase-out terms required. Witness Kelly testified that an investor-owned public utility may be certificated by this Commission and developed in the future to provide service within the City based on the language contained in the Potable Water and Sanitary Sewer sub-elements of the City Comp Plan.

The Potable Water sub-element, Policy 1.1.6 states:

JEA shall continue to acquire community and/or investor-owned public utility companies and integrate the systems into the regional network, where analysis of the acquisition indicates that the costs of acquiring, interconnecting and upgrading the facilities to current standards will be offset by the existing and projected rate base of the utility.

According to this directive, JEA's acquisition of investor-owned public utility companies is conditional in a number of ways. Likewise, the Sanitary Sewer sub-element, Policy 1.2.1 states:

JEA shall continue its efforts toward the acquisition of nonregional investor or community owned public utility companies where analysis of the acquisition indicates that the costs of acquiring, integrating, and upgrading the facilities to City standards will be offset by the existing and projected rate base of the utility.

While this policy directs JEA to make an effort to acquire non-regional investor-owned public utility companies, the directive is conditional upon other factors. One factor of note is that the investor-owned public utility is not *required* to sell its system to JEA. The Definitions portions of both the Potable Water sub-element and the Sanitary Sewer sub-element defines an investor-owned public utility company as:

A water or sewer utility which, except as provided in Section 367.022, F.S., is providing, or proposes to provide, water or sewer service to the public for compensation.

It appears that, given the phrase "or proposes to provide," new investor-owned water and wastewater utilities are not prohibited. Policy 1.1.14 of the Potable Water sub-element and Policy 1.2.10 of the Sanitary Sewer sub-element contain language that says that non-regional facilities may be permitted or allowed as interim facilities providing a number of requirements are satisfied. When asked how a developer or potential investor-owned utility would be permitted to construct such interim facilities, JEA witness West stated that they would broach the subject with the City of Jacksonville. However, in a Commission-jurisdictional county, a city or county cannot authorize an investor-owned utility to provide service to the public for compensation unless such entity were exempt from Commission regulation pursuant to Section 367.022, F.S. Therefore, to the extent that the City Comp Plan authorizes interim or non-regional water and wastewater utilities, it must do so with the expectation that systems that are not exempt from Commission regulation, such as FCRU's, must be certificated by the Commission.

FCRU witness Kennelly argued that FCRU's proposed development in Duval County is in compliance with the City Comp Plan in that the 2010 PUD Ordinance not only entitled 301 Capital to develop the Utility's proposed service territory in Duval County, but also directed it to construct on-site water and wastewater facilities. The 2010 PUD Ordinance contained language that instructed the developer to dedicate its facilities to JEA for operation and maintenance or for contract operation. JEA witnesses Crawford and West argued that this language made granting



FCRU water and wastewater certificates to serve the Duval County portion of the requested service territory inconsistent with the 2010 PUD Ordinance because JEA would not be the service provider.

Much of the prefiled testimony, exhibits, and discovery responses provided by the parties centered on the differing interpretations of the dedication language in the 2010 PUD Ordinance. On December 14, 2021, the City enacted the 2021 PUD Ordinance, which amended the 2010 PUD Ordinance to rezone the land from rural to multiuse, and to remove the requirement for the developer to construct the water and wastewater facilities, instead requiring it only to provide land for the facilities. Thus, it appears that the parties' dispute regarding the dedication language in the 2010 PUD Ordinance is no longer at issue.

JEA witness Zammataro argued that JEA has an exclusive franchise to provide water and wastewater service in Duval and Nassau Counties. Witness Zammataro stated that the City's public works authority under Chapter 180, F.S., makes JEA the exclusive provider of water and wastewater services within the municipal boundaries of the City unless JEA lacks the ability to serve. Witness Zammataro argued that, irrespective of any PUD ordinances, JEA's exclusive authority to serve is already in place from the City's authority under Chapter 180, F.S., and the City's grant of an exclusive franchise to JEA. While FCRU did not address the implications of Chapter 180, F.S., directly, in its brief the Utility argued that Section 367.011, F.S., which addresses jurisdiction and legislative intent, gives the Commission exclusive authority in this matter. Specifically, FCRU quoted Section 367.011(4), F.S., which states that Chapter 367, F.S., shall supersede all other laws on the same subject, and that subsequent inconsistent laws shall supersede it only if they do so by express reference. The Utility then argued that the legislature:

. . . did not have to anticipate that other laws on the same subject, read to be "inconsistent" with Chapter 367, do not and cannot supersede the exclusivity of the PSC's jurisdiction over each utility with respect to its authority, service, and rates unless that subsequent legislation does so by express reference, but it did. There can be no logical interpretation of this language that is consistent with JEA's position – that the statute should be read to allow local governments to pass local laws which tie the PSC's hands and effectively prevent it from fulfilling its statutory mandate to exclusively regulate jurisdictional utilities.

FCRU's argument is consistent with the Commission's decision in *East Central*.<sup>4</sup> In *East Central*, the Commission stated that Chapter 163, F.S., does not make express reference to Chapter 367, F.S. Section 163.3211, F.S., specifically states, "Nothing in this act is intended to withdraw or diminish any legal powers or responsibilities of state agencies or change any requirement of existing law that local regulations comply with state standards or rules."

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<sup>4</sup> Order No. PSC-1992-0104-FOF-WU, issued March 27, 1992, in Docket No. 19910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by y East Central Florida Services, Inc.*

C. Conclusion

FCRU's application is consistent with the Nassau County comprehensive plan; but may not be consistent with the Baker and Duval County comprehensive plans. However, Section 367.011, F.S., gives us exclusive jurisdiction over this matter and Section 367.045(5)(b), F.S., states we shall consider, but not be bound by, local comprehensive plans. In addition, it does not appear that granting FCRU a certificate would deprive the counties of their ability to control development under their comprehensive plans or ordinances. Accordingly, we find that any perceived inconsistencies will not cause us to deny FCRU's application.

IV. Competition with or Duplication of Another System

A. Parties' Arguments

FCRU argued that: (1) JEA has no present existing ability, and no specific plans or allocated funds, to provide water and wastewater service to the proposed service territory; (2) that any finding by this Commission that the Utility's application would result in a utility that is duplicative or in competition with an existing system would be contrary to the record; and (3) that JEA has no authority to serve FCRU's proposed territory in Baker County. The Utility argued that JEA admitted pursuant to discovery requests that it has no water, wastewater, and/or reuse facilities in the proposed territory; that it has no present water or wastewater capacity to serve more than 3,000 ERCs in the proposed territory; and that it has no plans to construct additional water or wastewater capacity in the proposed territory. Additionally, FCRU provided exhibits that show graphically that the distance between its proposed service territory and the Cecil Field area, where JEA's closest facilities lie, is over seven miles. The Utility stated that JEA's position that the Utility will be in competition with or a duplication of JEA's system is based on its claim that it has exclusive franchise rights to serve the area.

JEA argued that FCRU's proposed system would be in competition with or duplication of JEA's system, citing four points in support of the claim, and that JEA has the ability to serve. First, JEA argued that it has exclusive franchise agreements with the City and Nassau County to serve those portions of the Development. JEA argued that, coupled with its present ability to serve, these franchise rights mean that we lack jurisdiction to certificate the Utility. Second, JEA offered the Developer multiple alternatives to connect the Development to JEA for water and wastewater service. Third, FCRU's Feasibility Assessment does not accurately reflect all of the service alternatives provided by JEA. Fourth, the Development is in close proximity to JEA's existing infrastructure, which is within a few miles of the Development. Finally, JEA argued that its system is more than adequate to meet the needs of the public and JEA is ready, willing and able to serve, citing the overall size of its infrastructure, the number of customers it is already serving, and its financial resources.

B. Analysis

Pursuant to Section 367.045(5)(a), F.S., we may not grant a certificate of authorization for a proposed system that will be in competition with, or duplication of, any other system or portion of a system, unless we first determine that such other system or portion thereof is inadequate to meet the reasonable needs of the public or that the person operating the system is unable, refuses, or neglects to provide reasonably adequate service. Section 367.021(11), F.S., defines “system” as facilities and land used or useful in providing service.

FCRU believes that the creation of its utility will not be in competition with, or duplication of any other system. Prior to filing its application for water and wastewater certificates, 301 Capital commissioned a limited feasibility study to determine whether it would be technically feasible and economically prudent to form its own utility to serve its planned developments in Duval, Nassau, and Baker Counties, as well as to provide an estimated timeline to begin serving customers. FCRU witnesses Beaudet and Gandy, professional engineers involved in preparing the Feasibility Assessment for the Utility, each provided detailed estimates based on their experience for the length of time it would take after receiving water and wastewater certificates to begin providing service. Witness Beaudet estimated FCRU could begin providing service in 2 1/3 years, and witness Gandy estimated the Utility could begin providing service 30 months after certification.

Although there was some testimony that JEA might be able to provide service to the Utility’s proposed service territory in Duval County and Nassau County in the future, we have previously held that we cannot determine whether a proposed system will be in competition with or a duplication of another system when such other system does not exist. In an original certificate application by *East Central*, we addressed the issue of competition or duplication of proposed systems, stating:

[W]e cannot determine whether a proposed system will be in competition with or a duplication of another system when such other system does not exist. We do not believe Section 367.045(5)(a), Florida Statutes, requires this Commission to hypothesize which of two proposed systems might be in place first and, thus, which would compete with or duplicate the other. Engaging in such speculation would be of little use.<sup>5</sup>

Additionally, JEA is not authorized to provide service in the Baker County portion of the proposed service territory.

JEA witness Zammataro stated in his testimony and under cross-examination that JEA does not have facilities in the Utility’s proposed service territory, and that JEA’s closest facilities are approximately five miles away. JEA does not have a water reclamation facility (WRF) near

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<sup>5</sup> Order No. PSC-1992-0104-FOF-WU, issued March 27, 1992, in Docket No. 19910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by East Central Florida Services, Inc.*, p. 22. See also Order No. PSC-2004-0980-FOF-WU, issued October 8, 2004, in Docket No. 20021256-WU, *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farnton Water Resources, LLC.*, pp. 17-20.

the proposed service territory, but instead proposed during its April 9, 2019 meeting with FCRU that an off-site regional WRF be built approximately four miles away. In response to discovery, JEA also stated that it does not have specific plans to serve the area, aside from the scenario of the Utility building all facilities necessary and JEA using them to provide service. Despite this, JEA argued in its brief that it has existing infrastructure in close proximity to the development, within a few miles, with which to serve the territory. Based on our prior precedent, we find that FCRU serving proposed territory that is “a few miles away” from existing infrastructure is not a duplication of said infrastructure.

In response to Requests for Admission issued by FCRU, JEA admitted that it does not currently have the capacity to serve the 3,000 ERCs in the proposed service territory, and that it has no present plans to construct, on its own, additional water, wastewater, or reuse water treatment capacity in the proposed service territory. More specifically, JEA witness Orfano stated that JEA’s existing water and wastewater mains and their associated plants do not have existing capacity to provide service to accommodate the 17,500 ERCs that the Utility will ultimately serve. He went on to state that by extending its existing mains to the proposed service territory, JEA’s existing system would accommodate approximately 3,000 ERCs. Connections beyond that would require additional treatment facilities.

Notwithstanding the foregoing, JEA witness Zammataro argued that FCRU should not be granted water and wastewater certificates because JEA has exclusive franchise rights to provide water and wastewater service in the City and in Nassau County. Witness Zammataro stated that in Duval County, JEA is authorized to serve pursuant to provisions of Chapter 180, F.S., and the City’s grant of JEA’s exclusive franchise. In its brief, JEA also relied on our decision denying an original certificate to Conrock Utility Company (*Conrock*), arguing that the existence of JEA’s franchise rights means that FCRU would be in competition with or a duplication of JEA’s system.<sup>6</sup> However, *Conrock* is distinguishable. In *Conrock*, much of the Utility’s proposed service territory was within a territory already being served by the City of Brooksville (Brooksville) pursuant to an interlocal agreement with Hernando County. Unlike the instant case, both Brooksville and Hernando County were actually serving water customers within Conrock’s proposed service territory, and had major distribution lines within the area: “In terms of present physical competition and duplication, Conrock’s proposed system would likely involve the running of water lines parallel to and in duplication of the County’s lines in the same subdivision.” *Conrock* at p. 10.

Additionally, Section 367.045(5)(a), F.S., prohibits us from granting a certificate of authorization, or amending a certificate of authorization to extend an existing system, if the proposed system will be in competition with, or duplication of, any other system. Further, Section 367.021(11), F.S., defines a “system” as “facilities and land used or useful in providing service and, upon a finding by the commission, may include a combination of functionally related facilities and land.” Despite JEA’s franchise rights in the City, it does not have any facilities in the proposed service territory, or even immediately adjacent to it. Therefore, JEA does not have a “system” that can be duplicated or in competition with FCRU.

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<sup>6</sup> Order No. 22847, issued April 23, 1990, in Docket No. 19890459-WU, *In re: Objection to notice of Conrock Utility Company of intent to apply for a water certification Hernando County*.

Despite JEA's testimony that it has the ability to serve the Utility's proposed service territory in Duval and Nassau Counties, the evidence has shown that, absent FCRU constructing all of the necessary facilities as was previously required by the 2010 PUD Ordinance, JEA does not have the ability to serve the Development when services will be required. Further, in *East Central*, we addressed the issue of competing claims of authority to serve, stating:

We do not find [South Brevard Water Authority's (SBWA)] argument persuasive. SBWA offers no cogent legal or policy grounds for excluding the overlapping area from ECFS's proposed territory. Just because SBWA was statutorily created does not mean that the preservation of its territory is any more in the public interest than granting ECFS the same territory, even though ECFS was not similarly created. Furthermore, we think that it is appropriate to reference the Fifth District Court of Appeal's decision in *City of Mount Dora v. JJ's Mobile Homes, Inc.*, 579 So.2d 524 (Fla. 5th DCA 1991). In that case, the court indicated that even though a utility has a prior legal right to provide service to a particular territory, if that utility cannot presently serve the area, another utility, which does have the present ability to do so, may.<sup>7</sup>

Based on the testimony provided by JEA, it does not have existing facilities within the proposed FCRU service territory. Although JEA indicated that it is prepared to serve the Duval and Nassau County portion of the proposed service territory if 301 Capital provided the facilities, no testimony was provided to show that it has the capacity or plans to do so on its own. The nearest JEA facilities are five miles away from the Utility's proposed service area. While JEA testified that it would serve or has a right to provide water and wastewater service in Duval and Nassau Counties, this statement of intent is insufficient to demonstrate that FCRU's proposal would be in competition with, or duplication of JEA's systems. Also, JEA has no facilities and no franchise in Baker County.

### C. Conclusion

Consistent with our prior decisions in *Farmton Water Resources LLC* and *East Central*, since JEA has not demonstrated that it has existing facilities in place to serve the Utility's proposed service territory, we find that FCRU's application complies with Section 367.045(5)(a), F.S., in that it will not be in competition with, or duplication of, any other system.

## V. Financial Ability

### A. Parties' Arguments

In its brief, FCRU stated that the Utility is a wholly owned subsidiary of 301 Capital and is a newly formed entity with a single purpose of providing water, wastewater, and irrigation

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<sup>7</sup> Order No. PSC-1992-0104-FOF-WU, issued March 27, 1992, in Docket No. 19910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by East Central Florida Services, Inc.* See also Order No. PSC-2004-0980-FOF-WU, issued October 8, 2004, in Docket No. 20021256-WU, *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC.*

services to the proposed territory. It has no financial statements. In FCRU witness Kennelly's testimony, he stated that 301 Capital will provide the necessary start-up funding and funds to support any financial shortfalls of the Utility during its initial operation. 301 Capital provided its fair market value balance sheet, which shows a total equity balance of \$128,896,569, and profit and loss statement for the test year, which shows a net income of \$220,112. The Developer recently received a letter from AgAmerica that provides \$40,000,000 in available financing to the Utility. Further, FCRU stated that selling off parcels of land is another way to raise capital to fund the Utility. This option would not change the need for service in the area as those owners would still require FCRU's services. The Utility further asserted that, while JEA has argued that FCRU and the Developer had not provided audited financial statements, it is common practice for a newly formed utility seeking a certificate with the Commission to rely on a developer or long-term debt to finance the construction of a utility. While JEA asserted it has a more stable financial posture, FCRU witness Swain refuted that claim by providing a record of JEA's bond rating downgrade which would put JEA in a less favorable posture to finance a new utility.

In its brief, JEA stated that FCRU has no financial resources and the Developer, 301 Capital, has not provided the necessary financial statements to satisfy Rule 25-30.033(1)(h)1., F.A.C. The Developer provided a fair market value balance sheet and not an original cost balance sheet; therefore, JEA asserted it is a misrepresentation of the Developer's assets and liabilities. Further JEA stated that the Developer did not provide an explanation of the manner and amount of such funding, financial agreements between the listed entities, and proof of the listed entities' ability to provide funding as required by Rule 25-30.033(1)(h)2., F.A.C. FCRU provided options of how it would fund the Utility but has not provided any finalized plans. JEA argued the funding of the Utility is based on "maybe," as in "[m]aybe borrow money, maybe sell off parcels of land, maybe seek additional investors, maybe issue bonds . . ." JEA also noted that the Developer recently lost its majority investor, and that FCRU provided no details about the departure or the financial impact to 301 Capital.

#### B. Analysis

Rule 25-30.033(1)(h), F.A.C., provides that the applicant demonstrate the necessary financial ability to provide service to the proposed service area. As a newly formed entity, FCRU does not have any financial statements at this time. However, the Developer has committed to provide the necessary start-up and operational funding to the applicant to cover any financial shortfalls in the initial development and operation of the Utility. In the initial application, 301 Capital provided a fair market value balance sheet and a profit and loss statement to reflect its ability to financially support FCRU. The rule does not provide that we review the financial ability of another party who is not related to the Utility. JEA's financial ability is not at question in this proceeding.

C. Conclusion

We have traditionally allowed reliance on the parent's financial ability in similar situations.<sup>8</sup> Our reasoning has been the logical vested interest of a parent in the financial stability of its subsidiary. 301 Capital's financial statements demonstrate adequate and stable funding reserves for the Utility. Therefore, we find that FCRU has demonstrated that it will have access to adequate financial resources to operate the Utility.

VI. Technical Ability

A. Parties' Arguments

FCRU argued that JEA presented no evidence on this issue and only brought up concerns relating to the Utility's technical ability at the hearing. FCRU argued that the President of the Utility is well suited for his position, and that FCRU intends to engage well-known utility contractors for the engineering, design, permitting, construction, and operation of the proposed water, wastewater, and reuse water systems. This is demonstrated by the experts that were retained for FCRU's certification application, including a regulatory rates and fees expert and engineers. The Utility argued that it has and will continue to retain the needed expertise for the proposed facilities.

JEA argued that FCRU and its owners lack the technical ability and have no experience in the water or wastewater industry. JEA argued that the Utility's President, Robert Kennelly, a lawyer and certified public accountant, has never worked for a utility and does not have the experience or technical ability needed to run a utility. Additionally, none of the other FCRU officers, such as the Vice President, have the relevant skills or knowledge of the utility business. While the Utility affirmed that it would hire qualified vendors and contractors to construct and operate the utility, JEA argued that no contractor had been identified. Also, JEA argued that despite retaining outside contractors, management must also have experience in the industry. In comparison to other utilities, such as Farmton Water Resources LLC, that sought certifications from the Commission and had extensive experience in managing water resources, JEA stated that FCRU's "management has no utility experience and it has retained no one to design, construct, or operate treatment facilities."

B. Analysis

To demonstrate technical ability, Rule 25-30.033(1)(i), F.A.C., requires a statement of the applicant's experience in the water or wastewater industry and a copy of all current permits. Additionally, the applicant must provide copies of the most recent Florida Department of

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<sup>8</sup> Order Nos. PSC-2020-0059-PAA-WS, issued February 24, 2020, in Docket No. 20190147-WS, *In re: Application for certificates to provide water and wastewater service in Brevard County by River Grove Utilities, Inc.*, p. 3; PSC-2017-0059-PAA-WS, issued February 24, 2017, in Docket No. 20160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.*, p. 4; PSC-2013-0484-FOF-WS, issued October 15, 2013, in Docket No. 20130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*, p.3.

Environmental Protection (DEP) and/or county health department inspections, secondary standards drinking water report, and correspondence for the past five years with the DEP, county health department, and water management district (WMD).

FCRU witness Kennelly testified that 301 Capital would retain professionals for the engineering, design, permitting, construction, and operation of the Utility's water, wastewater, and water reuse systems. As an exhibit to his testimony, witness Kennelly provided FCRU's application for certification which stated that the Utility had not yet obtained the necessary permits, nor had it had any correspondence with the DEP, county health department, or WMD. Pursuant to Section 367.031, F.S., a utility must obtain a certificate of authorization from the Commission prior to being issued a construction permit by the DEP or being issued a consumptive use permit by the WMD. JEA did not provide testimony disputing FCRU's technical ability to serve the requested territory; however, in its post-hearing brief, JEA argued that the Utility and its owners, officers, and members have no prior experience in the water and wastewater industry. JEA also argued that while the Utility asserted that it would retain qualified contractors for the operation of the system, the actual contractors have not been identified.

### C. Conclusion

Based on the above, we find that FCRU has demonstrated that with the retention of outside professionals for the construction and operation of its systems, it has the technical ability to serve the requested territory.

## VII. Plant Capacity

### A. Parties' Arguments

FCRU argued that its witness Beaudet prepared a Feasibility Assessment report outlining a plan for Phase I of the development. Additionally, witness Beaudet testified that based on personal experience, there is a level of uncertainty when it comes to long-term phase planning. The Utility argued that it would not be prudent to construct a plant with the capacity to serve the entire development now considering the capacity required to meet future demand may change. Therefore, rather than constructing a 4 million gallons per day (MGD) plant, the estimated capacity needed at buildout, at the initial stages of the development, FCRU argued that witness Beaudet calculated the needed capacity to be 1 MGD and expandable to 2 MGD for the future, with the appropriate facilities being phased-in over time. Additionally, FCRU argued that the alternative of building on-site facilities was quicker and more economically feasible than the alternatives presented by JEA, such as an interconnection with JEA facilities.

JEA argued the plant capacity proposed by FCRU is insufficient to serve the entire development in Duval County. In JEA witness Zammataro's testimony, he calculated the total estimated flow for the development to be 3.86 MGD. However, the plant site plan presented by the Utility would only have a capacity of 2.0 MGD, and no plans were provided on how FCRU would account for the additional 1.8 MGD of required capacity. JEA argued that the Utility failed to demonstrate that it would have adequate plant capacity to serve the development in



Duval County, which was limited to the first phase, and no provisions were provided for Nassau or Baker counties.

B. Analysis

Rule 25-30.033(1)(n) and (o), F.A.C., require the applicant to provide a description of the plant and proposed line capacities, and the type of treatment and method of effluent disposal that will be used. As an exhibit to his direct testimony, FCRU witness Beaudet presented a Feasibility Assessment that laid out several alternatives for serving the proposed service territory, as well as the selection of the most feasible alternative. The Feasibility Assessment only examined Phase I of the development, which included a total of 2,800 ERCs to be in-service by 2030.

For Phase I of the development, the water demand was calculated to be 756,000 gallons per day (gpd) average daily flow (ADF) using an estimated value of 270 gpd per ERC. Through discovery, the Utility stated that the value of 270 gpd was selected based on data from St. Johns Water Management District's and South Florida Water Management District's Water Supply Plans. Using this data and an assumption of 2.4 persons per dwelling unit, a value of 307 gpd per ERC was calculated. This value was decreased slightly to 270 gpd per ERC to account for 100 percent irrigation from reclaimed water, resulting in a slightly lower demand.

The Feasibility Assessment specified that for new developments, a minimum size of 1.0 MGD ADF be constructed for onsite water facilities. This is consistent with JEA's minimum size requirements for onsite water facilities. In addition, the water treatment plant (WTP) will be expandable up to 2.0 MGD and in conformance with JEA standards. The treatment process will consist of chlorination, and the water will be stored in a one million gallon prestressed concrete storage tank, which will be equipped with a mixing device to help with disinfection and sulfide oxidation.

The Utility's wastewater treatment plant (WWTP) design will also be based on an ADF of 1.0 MGD, and will be expandable up to 2.0 MGD. The wastewater will be treated using a biological treatment system based on sequencing batch reactor technology. The treated effluent will be pumped to a ground storage tank, which will meet the DEP minimum three-day storage requirement for current flows. However, additional storage tanks, storage ponds, or other storage alternatives will be required in the future to meet demand. From the storage tanks, the treated effluent will be pumped to reuse services at the WWTP site or will be utilized for irrigation of public access areas located nearby. Sludge disposal will be completed using an aerobic digestion process and will be trucked off-site for land application.

JEA witness Zammataro testified that the WWTP proposed by FCRU would be unable to meet the demand of the total requested service territory. The total service territory includes 11,250 single-family residences, 3,750 multi-family residences, and 1,050,000 square feet of commercial and office space. Using an estimated demand of 250 gpd for residential units and 0.1 gpd per square foot for commercial usage, witness Zammataro calculated a projected flow for the development of 3.86 MGD. Compared to the 2.0 MGD capacity outlined in witness Beaudet's Feasibility Assessment, witness Zammataro testified that a remaining 1.8 MGD of demand is

unaccounted for, and any provision to accommodate the additional demand was not discussed. In addition to the WWTP capacity, witness Zammataro also testified to insufficiencies with regard to the reclaimed water system proposed by the Utility. While the proposed WWTP plans include the production of reclaimed water, witness Zammataro stated that “nowhere in the Assessment are the piping costs for distributing the reclaimed water provided.” There was also no analysis in the Feasibility Assessment on reclaimed water during the varying seasons, such as a disposal method for effluent during the rainy season or seasonal storage during the dry season, when reclaimed water demand is higher.

Witness Zammataro testified that the Feasibility Assessment did not explore all potential alternatives for the provision of water and wastewater to the service area. Instead, the Feasibility Assessment only compared the construction of an onsite treatment facility with the construction of a remote regional JEA facility. The other alternatives proposed by JEA were (1) extending service mains from JEA’s existing system to the development; (2) extending service mains to connect to a JEA regional facility, paid for by JEA; and (3) the onsite treatment facility could be constructed and dedicated to JEA for operation and future expansions. In particular, the option of connecting directly to JEA’s existing system, which would be able to serve the planned 2,800 ERCs in Phase I, would be a less costly and quicker alternative than the options laid out in the Feasibility Assessment.

In his rebuttal testimony, FCRU witness Beaudet testified that the site layout in the Feasibility Assessment illustrated a 2.0 MGD capacity for both Phases I and II. However, the ultimate build-out demand for the development was projected to be 4.0 MGD, leaving additional capacity available to serve future customers. Regarding reclaimed water, witness Beaudet testified that there would be 100 percent reuse of the reclaimed water for Phase I. The storage that was included in the Feasibility Assessment would be sufficient to store three days of reclaimed water and would meet DEP rules. As the development progresses, the Utility would also have storage ponds, to be constructed by third-party developers, available for storing additional reclaimed water. If an alternate disposal system is required for future phases, the appropriate storage would be addressed at that time. Witness Beaudet testified that dry season augmentation was not a requirement for the permitting of a reclaimed water system, and during prolonged dry periods, the reclaimed water could be mitigated by the pond storage and rationed by contract, as is used by Palm Beach County Utilities. Also, the cost of the reclaimed water lines to be connected to the plant would be paid for by the third-party developers, rather than FCRU.

Witness Beaudet testified that the FCRU facilities, “potentially envisioning acquisition by JEA at some time in the future,” would be designed in conformance with JEA standards. As directed by the City’s Comprehensive Plan, all JEA water systems must be constructed in accordance with JEA Standards and Specifications. Additionally, witness Beaudet testified that he has advised the Developer that “the facility could be built much less expensively by lowering the standard to one that would be regulatorily acceptable at the minimum;” however, this was rejected by the client. Witness Beaudet testified that when initially contracted to complete an engineering assessment, only one option from JEA had been presented to him. This option was the interconnection of water and wastewater lines from the Development to JEA’s existing

facilities, which could serve 2,800 ERCs and would require a 39,000-foot extension of lines from the property to JEA's facilities. Witness Beaudet stated that this option had no provision for reclaimed water and he estimated that the cost to the developer would be over \$34 million, compared to the estimated \$27 million for the construction of onsite facilities by FCRU. At a meeting with JEA in 2019, another option was presented by JEA, which included the Utility constructing a WTP onsite and connecting the wastewater and reclaimed water lines to a new regional WWTP constructed by JEA. The cost of this option was estimated by JEA to be \$39 million, though additional operating costs would be required for pumping wastewater and reclaimed water to and from the new JEA regional plant. The third option, which was rejected by FCRU, was the construction of onsite facilities by the Developer and dedication to JEA.

The Feasibility Assessment presented by witness Beaudet outlined the plant capacity necessary to serve Phase I of the development, as well as provisions for serving Phase II. While witness Zammataro testified that the plant capacity in the Feasibility Assessment was insufficient to serve the development at build-out, witness Beaudet rebutted this claim stating the Feasibility Assessment only examined Phases I & II. In response to discovery, the Utility specified that the selected plant site was chosen because it was sufficient for the 4 MGD capacity that would be required at full build-out. This was also reiterated in witness Beaudet's rebuttal testimony, where he stated that the final projected demand was over the value quantified by witness Zammataro with additional capacity available for future connections. The full build-out of the development is expected by 2050, according to a preliminary absorption schedule provided by FCRU.

### C. Conclusion

Considering the service territory will be developed in phases over the next 30 years, the necessary planning information for the treatment facilities, including the option of connecting to JEA treatment facilities, was provided for the initial stages of the development. Additionally, FCRU provided descriptions of the type of treatment and method of effluent disposal that will be used. Therefore, we find that the Utility has met the requirements of Rule 25-30.033, F.A.C., regarding the plant and proposed line capacities.

### VIII. Continued Use of Land

Pursuant to Section 367.1213, F.S., a Commission-regulated utility must own the land or possess the right to continued use of the land upon which treatment facilities are located. At the February 1, 2022 evidentiary hearing, we approved the stipulation to this issue. FCRU provided a copy of the unrecorded Specialty Warranty Deed, between FCRU and 301 Capital Partners, LLC, the current landowners, as evidence that it will have continued use of the land upon which utility treatment facilities will be located. FCRU shall provide a copy of the recorded instrument within 60 days of our vote approving FCRU's application for certificates.

IX. Public Interest

A. Parties' Arguments

FCRU argued that, for all of the reasons set forth in its brief, it is in the public interest to grant the Utility's water and wastewater certificates. FCRU cited to a prior docket involving Nocatee Utility Corporation's application for original certificates in which the applicant argued that we should consider the landowner's preference for service and the developer's unique ability with the planning of the development. We ultimately concluded in that case that we could consider the landowner service preference; however, we were not bound by it. The Utility argued that we should again consider the developer/landowner's strong preference for service from the FCRU, since it would be more capable of supplying the needed capital expenditures and capacity than JEA. Furthermore, the Utility argued that, as a result of recent legislation, JEA would be required to undertake several projects to address its disposal of reuse water, at an estimated cost of at least \$1.9 billion, and that the effect of these projects on rates is not yet known.

JEA argued that when making a determination on whether to grant a certificate of authorization, the Commission considers the public interest, which includes several factors, including the applicant's financial and technical ability. JEA argued that FCRU did not demonstrate that certification in this case would be in the public interest, nor did it show that there was a need for service in Nassau County, Baker County, or beyond the first phase of the Development in Duval County. Additionally, JEA listed other concerns: the Utility's application is inconsistent with the City Comp Plan; the proposed system would be in competition with or duplication of JEA's system; and FCRU lacks the financial and technical ability to operate a utility. Beyond the required elements of the application, JEA argued that there were other factors to consider, including rates, customer service, rate stability, and reliability. Regarding rates, JEA argued that the Utility's customers would be paying more than double the rates compared to JEA's customers, and JEA's rates are expected to remain stable for at least the next five years. For customer service, JEA offers online resources, community impact initiatives, and has been recognized for its service. JEA also argued it has a large customer base to absorb costs in the event of a problem or natural disaster like a hurricane, while FCRU would have a much smaller customer base over which to distribute the costs.

JEA argued that the Utility offered a purchase option to JEA that also contemplated selling to a community development district once certificated by the Commission, showing FCRU has no intent to be a permanent operator. JEA argued that FCRU witness Beaudet's testimony regarding the virtues of the creation of small private utilities by developers and their subsequent sale to governmental entities when a municipality or county had not been available to provide service does not apply in this case because JEA offered to provide service to the Development. As expressed in the City Comp Plan, the goal of the City was to eliminate small, substandard systems and to "regionalize water and wastewater facilities through JEA." JEA argued that this would improve service and water quality to utility customers, as well as lower demand on the Floridan aquifer. Granting water and wastewater certifications to the Utility would be contrary to this approach and not in the public interest.

## B. Analysis

Sections 367.021 and 367.031, F.S., give us the authority to issue a certificate of authorization to a utility to serve a specific service area. To implement these statutes, Rule 25-30.033(1)(h), (i), and (k), F.A.C., requires statements showing the financial and technical ability of the applicant to provide service, the need for service in the proposed service area, the identity of any other utilities within the proposed service area that could potentially provide service, and the steps the applicant took to ascertain whether such other service is available.

Section 367.045(5)(a), F.S., provides that we may grant or amend a certificate of authorization, in whole or in part or with modifications in the public interest, or we may deny a certificate of authorization or an amendment to a certificate of authorization, if in the public interest. In prior proceedings, we made our determination regarding the public interest based upon whether a utility's application demonstrates there is a need for service, that the application is not in competition with or duplication of another system, that the utility has the financial and technical ability to provide service, and the utility has sufficient plant capacity or will construct the plant when needed.<sup>9</sup>

In Section II of this Order, we found that the Utility's application did comply with Section 367.045(1)(b), F.S., with regard to the need for service in the requested area. FCRU furnished requests for service from landowners in Duval, Nassau, and Baker Counties as evidence that there is a need for service in the requested territory. In addition, the Utility provided the 2010 Ordinance, as revised and amended by the 2021 Ordinance, which permits the construction of a sizeable mixed-use development in Duval County. JEA did not contest the need for service in the Phase I portion of the proposed service territory in Duval County, but stated that any need for service beyond that was purely speculative. Based upon the record evidence in this docket, we found that there appears to be a need for service in FCRU's proposed service area.

In Section III of this Order, pursuant to Section 367.045(5)(b), F.S., we considered but decided we were not bound by the relevant comprehensive plans. Further, in Section IV, we found that the Utility will not be in competition with, or duplication of, any other system. Our decision was consistent with our prior precedent that competition and duplication pursuant to Section 367.045(5)(a), F.S., cannot be determined where another entity has not demonstrated it has existing facilities in place to serve the proposed service area.<sup>10</sup>

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<sup>9</sup> See Order No. PSC-2008-0243-FOF-WS, issued April 16, 2008, in Docket No. 20070109-WS, *In re: Application for amendment of Certificates 611-W and 527-S to extend water and wastewater service areas to include certain land in Charlotte County by Sun River Utilities, Inc. (f/k/a MSM Utilities, LLC)*, pp. 11-13; Order No. PSC-2004-0980-FOF-WU, issued October 8, 2004, in Docket No. 20021256-WU, *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC*, p. 26; Order No. PSC-1992-0104-FOF-WU, issued March 27, 1992, in Docket No. 19910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by East Central Florida Services, Inc.*, pp. 33-34.

<sup>10</sup> Order No. PSC-1992-0104-FOF-WU, issued March 27, 1992, in Docket No. 19910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by East Central Florida Services, Inc.*; Order No. PSC-2004-0980-FOF-WU, issued October 8, 2004, in Docket No. 20021256-WU, *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farmton Water Resources LLC*.

In Sections V and VI of this Order, we found that FCRU demonstrated the financial and technical ability to provide service pursuant to Section 367.045(1)(b), F.S. The Utility has demonstrated that it will have access to adequate financial resources to operate the utility. As a demonstration of FCRU's technical ability, we cited to the Utility's intent to retain professionals for the engineering, design, permitting, construction, and operation of the FCRU water, wastewater, and water reuse systems. JEA did not provide any testimony disputing the Utility's ability to serve the proposed territory.

In Section VII of this Order, we found that since FCRU demonstrated the financial and technical ability to efficiently provide for any existing or future services needed in the proposed service area, it has the means to pursue the steps necessary to obtain sufficient plant capacity. Pursuant to Section 367.031, F.S., a utility must obtain a certificate of authorization from us prior to being issued a construction permit by DEP or being issued a consumptive use permit by the WMD. The Utility is correct in pursuing a Commission certificate prior to approaching DEP, the WMD, or any other entity from whom it may need authorization to construct the facilities necessary to provide service.

In Section VIII of this Order, we approved the parties' Type II stipulation that FCRU had provided evidence that it will have continued use of the land upon which utility treatment facilities will be located.

In summary, we find that the Utility has demonstrated: (1) that there is a need for service; (2) that the application will not be in competition with, or duplication of, any other system; (3) that it will have continued use of the land upon which utility treatment facilities are located; and (4) that it has the financial and technical ability to provide service along with the ability to pursue the steps necessary to obtain sufficient plant capacity. In addition, we find that granting a certificate to FCRU will not deprive the counties of their ability to control development under their comprehensive plans or ordinances.

### C. Conclusion

Based on our findings in Sections I through VIII of this Order, we find it is in the public interest to grant FCRU Certificate No. 680-W to provide water service and Certificate No. 578-S to provide wastewater service to the territory described in Attachment A, attached hereto and incorporated by reference. This Order shall serve as FCRU's certificate and shall be retained by the Utility.

### X. Return on Equity

At the February 1, 2022 evidentiary hearing, we approved the stipulation that the appropriate return on equity for the Utility is 8.12 percent, with a range of plus or minus 100 basis points.

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XI. Rates and Rate Structures

A. Parties' Arguments

FCRU contended that the financial schedules presented in FCRU witness Swain's testimony are consistent with our rules. The financial schedules were supplemented by an additional schedule of plant by NARUC account number provided in response to Commission staff's discovery requests. The Utility modified its financing, which resulted in the revised proposed rates. FCRU argued that its proposed rates have been vetted and are un rebutted.

JEA did not provide a post-hearing position or argument on this issue.

B. Analysis

**Rate Base**

Consistent with our practice in applications for original certificates, rate base is identified only as a tool to aid in setting initial rates and is not intended to formally establish rate base.<sup>11</sup> Rate structure was discussed; however, the individual components of rate base were not disputed by the parties. The Utility's proposed water and wastewater rate base calculations, as well as our approved adjustments, are described below and supported by Schedule Nos. 1-A, 1-B, and 1-C, attached hereto and incorporated by reference.

FCRU projects it will be operating at 80 percent of its design capacity in the fourth year of service. The accounting schedules, provided by witness Swain, reflect proposed utility plant-in-service (UPIS) balances of \$16,170,000 for water and \$35,283,750 for wastewater, inclusive of land.) Through discovery, Commission staff requested a breakdown of the proposed UPIS balances by NARUC account.

Commission staff reviewed the plant accounts and requested support documentation for Accounts 301/351 organization to verify the charges to those accounts. In FCRU's response, it provided a listing of the costs which totaled \$160,000 for both systems. Staff again requested documentation to support the organization costs, and the Utility responded with an updated listing of the costs and explained that, due to the objection filed by JEA, the costs had increased to \$629,322, but no invoices were provided at that time.

A third request was made by Commission staff to FCRU to provide documentation to support the organization costs. The Utility provided an updated listing of the costs then totaling \$820,466, and in a supplemental filing for that request provided invoices to support the costs. We reviewed the invoices and determined there is sufficient information provided to allow for additional legal, engineering and accounting costs.

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<sup>11</sup> Order No. PSC-2018-0271-PAA-WS, issued May 30, 2018, in Docket No. 20160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.*, p. 4.

An adjustment to increase the amount of organization costs by \$714,816, or \$357,408 for water and \$357,408 for wastewater, is approved.

Based on the increased organization costs, we approve a UPIS balance of \$16,527,408 for water and \$35,641,158 for wastewater, inclusive of land.

We reviewed the cost estimates for the WTP, WWTP, and internal infrastructure listed in FCRU witness Beaudet's Feasibility Assessment and witness Swain's Schedule Nos. 1-A and 1-B. Commission staff also requested additional information relating to plant costs through discovery requests. The plant cost estimates were developed based on generalized projections for equipment, experience with similar projects, and manufacturer prices. In its responses, FCRU provided portions of the JEA Water and Wastewater Standards Manual which were used in the development of the internal infrastructure costs, as well as further details on the costs that were included in the plant accounts. Based on the presented information, we make no adjustments to WTP, WWTP, and internal infrastructure costs.

In its filing, the Utility proposed an accumulated depreciation balance of \$1,790,600 for water and \$4,739,611 for wastewater. Based on corresponding adjustments to reflect adjustments to UPIS, as described above, an adjustment to accumulated depreciation shall be made. We approve a decrease to accumulated depreciation of \$31,273 for water and \$31,273 for wastewater to adjust for the increase in UPIS. Therefore, we approve an accumulated depreciation balance of \$1,821,873 for water and \$4,770,884 for wastewater.

In its filing, FCRU proposed a contributions in aid of construction (CIAC) balance of \$9,110,300 for water and \$14,173,390 for wastewater. The Utility recorded the entire CIAC balance for both water and wastewater in main capacity (main extension) which has a 43-year life. Upon review, Commission staff found that FCRU split the service availability charge between main extension and plant capacity. Through discovery, staff requested a breakdown by plant account to calculate the composite average life for each system. Using Depreciation Rule 25-30.140, F.A.C., we determine that the water plant capacity composite rate shall be comprised of Accounts 311 and 320, and the main extension rate from Account 331. The wastewater plant capacity composite rate shall be comprised of Accounts 355, 371, and 380, and the main extension composite rate comprised of Accounts 360 and 361.

Based on the adjustments discussed above, we approve an increase to CIAC of \$1,564 for water and an increase of \$2,431 for wastewater. We also approve a CIAC balance of \$9,111,864 for water and \$14,175,821 for wastewater.

In its filing, the Utility proposed a working capital balance of \$67,306 for water and \$201,345 for wastewater. FCRU did not provide a calculation for working capital. As such, we calculated working capital using the 1/8 Operations and Maintenance (O&M) approach, which results in an adjustment to decrease working capital by \$30,481 for water and \$126,398 for



wastewater.<sup>12</sup> As a result, we approve a working capital balance of \$36,825 for water and \$74,948 for wastewater.

In total, FCRU projected a rate base of \$5,760,141 for water and \$17,231,321 for wastewater. Based on the adjustments discussed above, the projected rate base shall be increased by \$470,386 for water and \$302,527 for wastewater. As such, rate base shall be \$6,230,527 for water and \$17,533,848 for wastewater. Rate base calculations for water and wastewater systems are shown on Schedule Nos. 1-A and 1-B. Our adjustments are shown on Schedule No. 1-C.

### **Cost of Capital**

In its application, the Utility proposed a capital structure of 97.95 percent common equity and 2.05 percent customer deposits, with cost rates of 8.12 percent for equity and 2.00 percent for customer deposits. This resulted in a proposed overall cost of capital of 7.99 percent. Through discovery, Commission staff inquired about the lack of credit accumulated deferred income taxes, and witness Swain responded that in original certificates it is not common practice to include them.

In her rebuttal testimony, witness Swain provided a revised financial accounting schedule which reflected a capital structure of 97.95 percent long-term debt and 2.05 percent customer deposits with cost rates of 5.00 percent for long-term debt and 2.00 percent for customer deposits. As a result of the adjustment necessary to reconcile rate base with the capital structure, we approve a cost of capital that results in 97.98 percent long-term debt and 2.02 percent customer deposits with an approved overall cost of capital of 4.94 percent.

### **Net Operating Income**

FCRU requested net operating income (NOI) for the water and wastewater systems of \$460,279 and \$1,376,913, respectively, based on adjustments to rate base for each system and a projected overall cost of capital of 4.94 percent for water and wastewater. NOI calculations for water and wastewater are shown on Schedule Nos. 3-A and 3-B. Our adjustments are shown on Schedule No. 3-C.

### **Revenue Requirement**

Witness Swain's direct testimony reflected revenues of \$1,566,216 for water and \$4,249,079 for wastewater. In witness Swain's rebuttal testimony, the Utility projected revenues of \$1,291,817 for water and \$3,212,326 for wastewater, which excluded an income tax provision. We find that adjustments are necessary, with the exception of O&M expenses. As such, we approve a revenue requirement of \$1,180,799 for water and \$3,128,867 for wastewater. FCRU's projected revenues include O&M expenses, depreciation expense and CIAC amortization expense and taxes other than income. These adjustments are discussed below.

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<sup>12</sup> Order No. PSC-2018-0271-PAA-WS, issued May 30, 2018, in Docket No. 20160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.*, p. 4.

***Net Depreciation Expense*** – In its original filing, the Utility proposed depreciation expense of \$324,216 for water and \$1,063,762 for wastewater. We reviewed depreciation expense and determined that adjustments were needed. The first adjustment was to move the CIAC amortization expense of \$2,000 for each system, which reflects the organization costs, to the depreciation expense. This adjustment increased depreciation expense by \$2,000 for each system. The next adjustment was to account for the fallout of the UPIS adjustments. This adjustment increased depreciation expense by \$8,935 per system. The final adjustment was to reflect the fallout from the CIAC adjustment, which increased CIAC amortization expense by \$67,260 for water and \$92,709 for wastewater. Therefore, we approve net depreciation expense of \$267,891 for water and \$981,989 for wastewater.

***Amortization*** – FCRU projected an amortization balance of \$2,000 for water and \$2,000 for wastewater. We removed the full amount to reclassify the amount as net depreciation expense.

***Taxes Other Than Income*** – In its filing, the Utility included taxes other than income (TOTI) expense of \$329,641 for water and \$741,709 for wastewater. First, we made corresponding adjustments to decrease regulatory assessment fees (RAFs), which was associated with FCRU's revised operating revenues. Second, in response to discovery, the Utility provided updated millage rates for calculating property tax expenses, to reflect the updated property taxes for 2021. As such, we decreased property taxes by \$1,802 for water and \$10,246 for wastewater. Last, we made corresponding adjustments to decrease RAFs by \$1,737 for water and \$3,723 for wastewater to reflect the fallout from our approved revenue requirement. Therefore, we approve a TOTI balance of \$310,495 for water and \$681,054 for wastewater, as supported in Schedule No. 3-A.

### **Rates and Rate Structure**

The Utility structured its proposed water and wastewater rates in accordance with Rule 25-30.033(2), F.A.C., which requires that a base facility and usage rate structure, as defined in Rule 25-30.437(6), F.A.C., be utilized for metered service. FCRU's proposed rate structure consists of a base facility charge (BFC) and a three-tier inclining block rate structure for its residential water customers. The Utility's proposed general service water rates consist of a BFC and uniform gallonage charge rate structure. In addition, FCRU's proposed wastewater rates include a BFC and gallonage charge rate structure for its residential and general service customers. The residential wastewater rate includes a gallonage cap of 10,000 gallons. Further, the Utility proposed a rate of \$.50 per thousand gallons of reclaimed water (reuse). FCRU's proposed rates were designed to generate the Utility's requested revenue requirements of \$1,291,817 for its water system and \$3,212,326 for its wastewater system.

FCRU's proposed water rates recover 69 percent of the water revenues through the BFC. In FCRU witness Swain's testimony, the Utility indicated that the customer base is non-seasonal. Witness Swain indicated that FCRU's rates were designed to provide rate stability to the Utility while allowing customers to pay rates more closely associated with the actual cost of providing service. It is our practice to recover no more than 40 percent of the water revenues through the

BFC with the exception of a seasonal customer base.<sup>13</sup> However, since customers will be added over time, having a higher BFC allocation from the onset would be essential in providing some revenue stability for FCRU during the early stages of operation. In regard to the inclining blocks, we find that they are reasonable for the Utility's initial rates. We have previously approved an inclining block rate structure in an original certificate with no prior billing data.<sup>14</sup> Therefore, for the water system, we approve a BFC and a three-tier inclining block rate structure for FCRU's residential water customers. For general service water customers, a BFC and uniform gallonage charge rate structure is appropriate and approved.

The Utility's proposed wastewater rates recover 74 percent of the wastewater rates through the BFC. It is our practice to recover 50 percent or greater of the revenue through the BFC for the purpose of recognizing the capital-intensive nature of wastewater plants.<sup>15</sup> Therefore, we find that FCRU's proposed allocation is reasonable. The Utility proposed a residential wastewater cap of 10,000 gallons for its wastewater rates. The wastewater cap is to recognize that not all water consumption is returned to the wastewater system.<sup>16</sup> We find that the proposed 10,000 gallon cap is reasonable for that recognition.

Furthermore, FCRU proposed a reclaimed water rate or reuse rate of \$.50 per 1,000 gallons for its customers. Our practice with respect to setting reuse rates does not include a cost-based justification. Reuse rates typically reflect a comparison of reuse rates of surrounding utilities.<sup>17</sup> The Utility indicated that it determined its proposed reclaimed water rate based on rates charged by nearby utilities, particularly Clay County Utility Authority, which at the time was \$.76 per 1,000 gallons for up to 15,000 gallons, \$1.50 per 1,000 gallons for the next 5,000 gallons, and \$2.26 per 1,000 gallons over 20,000 gallons. As result, FCRU's proposed reclaimed water rate is not priced higher than the market and is reasonable. Therefore, the reuse rate shall be approved.

### C. Conclusion

Based on the above, in accordance with our approved revenue requirement, the appropriate water and wastewater rates and rate structures shown on Schedule Nos. 4-A and 4-B are reasonable and are therefore approved. The approved rates shall be effective for services

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<sup>13</sup> Order No. PSC-2020-0059-PAA-WS, issued February 24, 2020, in Docket No. 20190147-WS, *In re: Application for certificates to provide water and wastewater service in Brevard County by River Grove Utilities, Inc.*

<sup>14</sup> Order No. PSC-2018-0271-PAA-WS, issued May 30, 2018, in Docket No. 20160220-WS, *In re: Application for original certificates in Sumter County, by South Sumter Utility Company, LLC.*

<sup>15</sup> Order No. PSC-2020-0118-PAA-WS, issued April 20, 2020, in Docket No. 20190071-WS, *In re: Application for staff-assisted rate case in Polk County by Deer Creek RV Golf & Country Club, Inc.*

<sup>16</sup> Order No. PSC-2017-0459-PAA-WS, issued November 30, 2017, in Docket No. 20160176-WS, *In re: Application for staff-assisted rate case in Polk County by Four Lakes Golf Club, Ltd.*

<sup>17</sup> Order Nos. PSC-2015-0233-PAA-WS, issued June 3, 2015, in Docket No. 20140060-WS, *In re: Application for increase in water and wastewater rates in Seminole County by Sanlando Utilities Corporation*; PSC-2009-0393-TRF-SU, issued June 2, 2009, in Docket No. 20080712-SU *In re: Application for approval of new class of service for reuse water service in Martin County by Indiantown Company, Inc.*; and PSC-2009-0651-PAA-SU, issued September 28, 2009, in Docket No. 20090121-SU, *In re: Application for limited proceeding rate increase in Seminole County by Alafaya Utilities, Inc.*

rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. FCRU shall be required to charge the approved rates until authorized to change them by us in a subsequent proceeding.

XII. Miscellaneous Service Charges

By stipulation approved at the February 1, 2022 evidentiary hearing, the appropriate miscellaneous service charges for FCRU are a premise visit charge of \$30, and violation reconnection charge at actual cost.

XIII. Late Payment Charge

By stipulation approved at the February 1, 2022 evidentiary hearing, the appropriate late payment charge is \$7.50.

XIV. Non-Sufficient Funds (NSF) Charge

By stipulation approved at the February 1, 2022 evidentiary hearing, the appropriate NSF charge for FCRU shall be as prescribed in Section 68.065(2), F.S.

XV. Service Availability Charges

A. Parties' Arguments

FCRU contended that FCRU witness Swain is an expert in water and wastewater regulatory accounting and her financial schedules for service availability charges are consistent with Commission Rules. The service availability charges result in a level of CIAC at design capacity consistent with Rule 25-30.580, F.A.C. The Utility also argued that no substantive challenge was made to FCRU's proposed service availability charges.

JEA provided no post-hearing position or argument on this issue..

B. Analysis

Pursuant to Rule 25-30.580(1), F.A.C., the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of depreciation, of the Utility's facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(2), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by water transmission and distribution and sewage collection systems. FCRU indicated that the service availability charges are designed to result in maximum CIAC levels allowed by the rule. Service availability charges are one-time charges applicable to new connections, which allow customers to pay their pro rata share of the facilities and plant costs. The Utility's proposed service availability charges are contained in witness Swain's direct testimony.

FCRU proposed a main capacity (or main extension) charge of \$3,158 for water and \$4,833 for wastewater to recover a portion of the cost of the Utility's transmission and distribution and collection system from future customers. FCRU proposed plant capacity charges of \$752 for water and \$1,250 for wastewater to allow the Utility to recover all or part of FCRU's capital costs in construction or expansion of treatment facilities. Although it was not reflected in FCRU's position statement, the Utility provided cost justification for proposed meter installation and service/lateral installation charges. The Utility proposed a meter installation charge for water of \$285 to recover the cost of installing the water measuring device at the point of delivery including materials and labor required. Lastly, FCRU proposed service/lateral installation charges for water of \$610 and wastewater at actual cost to recover the cost of piping used to connect to customers' mains.

As discussed in Section XI of this Order, we made adjustments to increase UPIS. As a result, the Utility's proposed service availability charges result in a contribution level of 73.38 percent for water at design capacity. For wastewater, the proposed service availability charges result in a contribution level of 54.69 percent at design capacity. We find that FCRU's proposed service availability charges are reasonable and result in contribution levels that are within the guidelines established in Rule 25-30.580, F.A.C.; they are therefore approved.

The Utility did not initially propose a service availability policy in its tariff. In response to a Commission staff interrogatory, FCRU provided a service availability policy that indicated developers will install and donate all infrastructure to the Utility and pay such service availability charges. We disagree with FCRU's proposed policy. Service availability charges are not applicable when the infrastructure is installed by the developer and contributed to the Utility. We find the service availability policy shall be revised to reflect that the service availability charges are applicable when the Utility installs the infrastructure.

### C. Conclusion

Based on the above, the appropriate service availability charges shown on Schedule No. 5 are approved. The Utility's proposed service availability policy shall be revised to reflect that the charges are appropriate when the Utility installs the facilities. The approved charges and policy shall be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. FCRU shall collect its approved service availability charges until authorized to change them by us in a subsequent proceeding.

### XVI Initial Customer Deposits

By stipulation approved at the February 1, 2022 evidentiary hearing, the appropriate initial customer deposits for FCRU shall reflect an average of two months service for residential customers with a 5/8 inch x 3/4 inch meter and two times the average customer bill for all other meter sizes.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that it is in the public interest to approve First Coast Regional Utilities, Inc.'s application for water and wastewater service in Duval, Baker, and Nassau Counties, and issue FCRU Certificate No. 680-W to provide water service and Certificate No. 578-S to provide wastewater service to the territory described in Attachment A, attached hereto. This Order shall serve as FCRU's certificate and shall be retained by the Utility. It is further

ORDERED that all matters contained herein, whether set forth in the body of this Order or the schedules attached hereto, are incorporated herein by reference. It is further

ORDERED that FCRU shall provide a copy of the recorded Specialty Warranty Deed between FCRU and 301 Capital Partners, LLC, the current landowners, within 60 days of our vote approving FCRU's application for certificates. It is further

ORDERED that FCRU's initial rates and charges shall be those set forth in the body of this Order. It is further

ORDERED that a return on equity is 8.12 percent, with a range of plus or minus 100 basis points, is hereby approved for FCRU. It is further

ORDERED that the water and wastewater rates and rate structures shown on Schedule Nos. 4-A and 4-B, reasonable and approved. The rates shall be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. The Utility shall charge the approved rates until authorized to change them by this Commission in a subsequent proceeding. It is further

ORDERED that the appropriate service availability charges shown on Schedule No. 5 are approved. The Utility's proposed service availability policy shall be revised to reflect that the charges are appropriate when the Utility installs the facilities. The approved charges and policy shall be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. FCRU shall collect its approved service availability charges until authorized to change them by this Commission in a subsequent proceeding. It is further

ORDERED that this docket shall be closed.

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DOCKET NO. 20190168-WS  
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By ORDER of the Florida Public Service Commission this 25th day of May, 2022.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JSC

DISSENT

Commissioner Art Graham dissents from the Commission's decision.

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.



**TERRITORY DESCRIPTION**  
**First Coast Regional Utilities, Inc.**  
**Baker, Duval, and Nassau Counties**  
**Water and Wastewater Service**

**301 Parcel**

A portion of Sections 28, 31, 32 and 33, Township 2 South, Range 23 East, all of Sections 4, 5, 6, 7, 8, 9 and 17, and a portion of Sections 3, 10, 15, 16, 18, 19, 20, 21, 28, 29 and 30, Township 3 South, Range 23 East, Duval County, Florida, together with a portion of Section 36, Township 2 South, Range 22 East, all of Sections 12, 13 and 24, and a portion of Sections 1, 11, 14, 23, 25 and 26, Township 3 South, Range 22 East, Baker County, Florida, together with a portion of Sections 29, 30 and 31, Township 2 South, Range 23 East, Nassau County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of Section 31, said Township 2 South, Range 23 East; thence North  $00^{\circ}01'21''$  West, along the Westerly line of said Section 31, said line also being the dividing line between said Baker and Nassau counties, a distance of 2,796.10 feet to the Point of Beginning.

From said Point of Beginning, thence continue North  $00^{\circ}01'21''$  West, along the Westerly lines of said Sections 31 and 30, Township 2 South, Range 23 East, a distance of 4,344.06 feet to its intersection with the Southeasterly right of way line of U.S. Highway No. 90 (State Road No. 10), a variable width right of way as presently established; thence Northeasterly along said Southeasterly right of way line the following 12 courses: Course 1, thence North  $83^{\circ}43'11''$  East, departing said Westerly line, 35.46 feet to the point of curvature of a curve concave Northwesterly having a radius of 1,465.39 feet; Course 2, thence Northeasterly along the arc of said curve, through a central angle of  $17^{\circ}28'30''$ , an arc length of 446.94 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $74^{\circ}58'56''$  East, 445.21 feet; Course 3, thence North  $66^{\circ}14'41''$  East, 2,919.19 feet; Course 4, thence South  $23^{\circ}45'19''$  East, 67.00 feet; Course 5, thence North  $66^{\circ}14'41''$  East, 2,423.53 feet to a point lying on the Westerly line of said Section 29, Township 2 South, Range 23 East; Course 6, thence North  $01^{\circ}03'23''$  East, along said Westerly line, 73.81 feet; Course 7, thence North  $66^{\circ}14'41''$  East, departing said Westerly line, 473.55 feet; Course 8, thence South  $23^{\circ}45'19''$  East, 24.28 feet; Course 9, thence North  $66^{\circ}14'41''$  East, 820.21 feet; Course 10, thence North  $23^{\circ}45'19''$  West, 24.28 feet; Course 11, thence North  $66^{\circ}14'41''$  East, 1,328.45 feet to the point of curvature of a curve concave Southeasterly having a radius of 1,399.39 feet; Course 12, thence Northeasterly along the arc of said curve, through a central angle of  $12^{\circ}25'11''$ , an arc length of 303.34 feet to a point lying on the Westerly line of the Northeast one-quarter of said Section 29, also being the Westerly line of those lands described and recorded in Official Records Book 1417, page 135, of the Public Records of said Nassau County, said arc being subtended by a chord bearing and distance of North  $72^{\circ}27'16''$  East, 302.75 feet; thence South  $00^{\circ}37'00''$  West, departing said Southeasterly right of way line and along said Westerly line, 2,636.77 feet to a

point lying on the Northerly right of way line of CSX Railroad, a variable width right of way as presently established; thence Westerly along said Northerly right of way line the following 3 courses: Course 1, thence South  $83^{\circ}25'36''$  West, departing said Westerly line, 50.82 feet; Course 2, thence South  $02^{\circ}02'34''$  West, 50.57 feet; Course 3, thence South  $83^{\circ}25'36''$  West, 430.31 feet to a point lying on the Northerly line of the Northeast one-quarter of the Southwest one-quarter of said Section 29; thence North  $89^{\circ}45'25''$  West, departing said Northerly right of way line and along said Northerly line, 891.56 feet to the Northwest corner of said Northeast one-quarter of the Southwest one-quarter of Section 29; thence South  $00^{\circ}17'37''$  West, along the Westerly line of said Northeast one-quarter of the Southwest one-quarter, a distance of 1,369.31 feet to the Northeast corner of the Southwest one-quarter of said Southwest one-quarter; thence South  $89^{\circ}48'34''$  West, along the Northerly line of said Southwest one-quarter of the Southwest one-quarter of said Section 29, a distance of 1,336.66 feet to the Northwest corner of said Southwest one-quarter of the Southwest one-quarter; thence South  $01^{\circ}03'23''$  West, along the Westerly line of said Section 29, a distance of 1,367.61 feet to the Southwest corner of said Section 29; thence North  $89^{\circ}46'35''$  East, along the Southerly line of said Section 29, a distance of 5,419.51 feet to the Southeast corner thereof; thence North  $00^{\circ}09'35''$  East, along the Easterly line of said Section 29, a distance of 2,685.44 feet to the Southwest corner of the Northwest one-quarter of said Section 28; thence North  $89^{\circ}51'30''$  East, along the Southerly line of said Northwest one-quarter, 2,349.72 feet to the Northwest corner of the Southeast one-quarter of said Section 28; thence South  $01^{\circ}00'44''$  West, along the Westerly line of said Southeast one-quarter, said line also being the Westerly line of those lands described and recorded in Official Records Book 9245, page 2273, along the Westerly line of those lands described and recorded in Official Records Book 9190, page 4192, and the Westerly line of those lands described and recorded in Official Records Book 12628, page 1025, all of the current Public Records of said Duval County, a distance of 2,699.45 feet to the Southwest corner of said Southeast one-quarter; thence North  $89^{\circ}56'32''$  East, along the Southerly line of said Section 28, a distance of 990.82 feet to a point lying on the Northerly limited access right of way line of Interstate No. 10 (State Road No. 8) a variable width limited access right of way per Florida Department of Transportation Right of Way Map Section 72270-2401; thence Southwesterly along said Northerly limited access right of way line the following 3 courses: Course 1, thence South  $85^{\circ}45'37''$  West, departing said Southerly line, 4,434.27 feet to the point of curvature of a curve concave Southerly having a radius of 23,068.31 feet; Course 2, thence Westerly along the arc of said curve, through a central angle of  $06^{\circ}33'27''$ , an arc length of 2,640.17 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $82^{\circ}28'54''$  West, 2,638.73 feet; Course 3, thence South  $79^{\circ}12'10''$  West, 3,013.43 feet to its intersection with the line dividing said Nassau and Duval Counties; thence South  $46^{\circ}06'56''$  West, departing said Northerly limited access right of way line and along said dividing line, 4,887.43 feet; thence Due South, departing said dividing line and along the Westerly line of those lands described and recorded in Official Records Book 18162, page 1115, of the current Public Records of said Duval County, a distance of 438.28 feet to the Southwesterly corner thereof; thence Easterly along the Southerly line of said Official Records Book 18162, page 1115, the following 12 courses: Course 1, thence South  $89^{\circ}08'52''$  East, 4,708.98 feet; Course 2, thence North  $89^{\circ}59'13''$  East, 5,245.32 feet; Course 3, thence South  $89^{\circ}47'34''$  East, 5,252.38 feet; Course 4, thence North  $89^{\circ}36'51''$  East, 833.91 feet; Course 5, thence South  $29^{\circ}17'25''$  East, 198.21 feet; Course 6, thence South  $50^{\circ}34'45''$  East, 114.79 feet; Course 7, thence South  $38^{\circ}07'06''$  East, 849.24 feet to the point of curvature of a curve concave

Northeasterly having a radius of 520.00 feet; Course 8, thence Southeasterly along the arc of said curve, through a central angle of  $46^{\circ}18'27''$ , an arc length of 420.27 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $61^{\circ}16'20''$  East, 408.93 feet; Course 9, thence South  $84^{\circ}25'33''$  East, 493.91 feet to the point of curvature of a curve concave Northerly having a radius of 1,000.00 feet; Course 10, thence Easterly along the arc of said curve, through a central angle of  $13^{\circ}01'31''$ , an arc length of 227.33 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $89^{\circ}03'42''$  East, 226.84 feet; Course 11, thence North  $82^{\circ}32'56''$  East, 145.54 feet; Course 12, thence North  $89^{\circ}27'34''$  East, 771.07 feet to the Southeasterly corner thereof, said corner lying on the Westerly right of way line of U.S. Highway No. 301, a variable width right of way as presently established; thence Southwesterly along said Westerly right of way line the following 5 courses: Course 1, thence South  $18^{\circ}55'48''$  West, 1,785.80 feet; Course 2, thence South  $18^{\circ}55'47''$  West, 5,851.81 feet; Course 3, thence South  $18^{\circ}56'27''$  West, 1,781.26 feet; Course 4, thence North  $71^{\circ}02'55''$  West, 32.00 feet; Course 5, thence South  $18^{\circ}57'05''$  West, 1,024.91 feet to a point lying on the Easterly line of those lands described and recorded in Official Records Book 10507, page 1524, of said current Public Records of Duval County; thence North  $00^{\circ}30'52''$  East, departing said Westerly right of way line and along said Easterly line, 459.40 feet to a point lying on the Northerly line of said Section 15; thence North  $89^{\circ}30'18''$  West, departing said Easterly line and along said Northerly line, 105.00 feet to the Southeast corner of those lands described and recorded in Deed Book 144, page 318, of said current Public Records of Duval County; thence Northerly, Westerly and Southerly along the boundary of last said lands the following 3 courses: Course 1, thence North  $01^{\circ}10'37''$  East, departing said Northerly line of Section 15, a distance of 225.00 feet; Course 2, thence North  $89^{\circ}30'18''$  West, 225.00 feet to a point lying on the Westerly line of said Section 10; Course 3, thence South  $01^{\circ}10'37''$  West, along said Westerly line, 225.00 feet to the Southwest corner of said Deed Book 144, page 318, and the Northwest corner of said Section 15; thence South  $00^{\circ}30'52''$  West, along the Westerly line of said Section 15, a distance of 990.00 feet to the Southwest corner of said Official Records Book 10507, page 1524; thence South  $89^{\circ}30'18''$  East, along the Southerly line of last said lands, 153.09 feet to a point lying on said Westerly right of way line of U.S. Highway No. 301; thence Southwesterly along said Westerly right of way line the following 9 courses: Course 1, thence South  $18^{\circ}57'05''$  West, departing said Southerly line, 4,565.72 feet; Course 2, thence South  $71^{\circ}18'37''$  East, 32.09 feet; Course 3, thence South  $18^{\circ}48'12''$  West, 91.40 feet; Course 4, thence South  $19^{\circ}02'58''$  West, 1,903.63 feet; Course 5, thence South  $18^{\circ}58'32''$  West, 854.92 feet; Course 6, thence North  $71^{\circ}01'28''$  West, 22.00 feet; Course 7, thence South  $18^{\circ}58'00''$  West, 3,713.49 feet; Course 8, thence South  $71^{\circ}02'00''$  East, 22.00 feet; Course 9, thence South  $18^{\circ}58'03''$  West, 238.56 feet to its intersection with the Northerly line of Lot 11, Section 28, as depicted on Plat of Maxville and Maxville Farms, recorded in Plat Book 3, page 94, of said current Public Records of Duval County; thence South  $89^{\circ}56'02''$  West, departing said Westerly right of way line, along said Northerly line of Lot 11 and along the Northerly line of Lot 10, said Section 28 of said plat, 1,035.38 feet to the Northwest corner of said Lot 10; thence South  $00^{\circ}19'39''$  West, along the Westerly line of said Lot 10, a distance of 1,326.85 feet to the Southwest corner of said Lot 10; thence South  $89^{\circ}51'06''$  East, along the Southerly line of said Lot 10, a distance of 586.01 feet to a point lying on said Westerly right of way line of U.S. Highway No. 301; thence South  $18^{\circ}58'03''$  West, departing said Southerly line and along said Westerly right of way line, 411.90 feet to its intersection with the Northerly line of Lot 14, Block

67 of said plat; thence North  $71^{\circ}00'26''$  West, departing said Westerly right of way line, along said Northerly line of Lot 14 and along the Northerly line of Lots 13 through 11, said Block 67, a distance of 161.05 feet to the Northwest corner of said Lot 11; thence South  $18^{\circ}59'34''$  West, along the Westerly line of said Lot 11, a distance of 180.00 feet to the Southwest corner of said Lot 11; thence North  $71^{\circ}00'26''$  West, along the Southerly line of said Block 67, a distance of 90.00 feet to the Southwest corner of said Block 67; thence North  $18^{\circ}59'34''$  East, along the Westerly line of said Block 67, a distance of 180.00 feet to the Northwest corner of Lot 9, said Block 67; thence North  $71^{\circ}00'26''$  West, along the Easterly prolongation of the Northerly line of Lot 16, Block 68 of said plat, and along the Northerly line of Lots 16 through 9, said Block 68, a distance of 390.00 feet to the Northwest corner of said Lot 9; thence South  $18^{\circ}59'34''$  West, along the Westerly line of said Block 68, a distance of 180.00 feet to the Southwest corner of said Block 68; thence North  $71^{\circ}00'26''$  West, along the Westerly prolongation of the Southerly line of said Block 68, a distance of 30.00 feet to the Southeast corner of Block 69 of said plat; thence South  $18^{\circ}59'36''$  West, 80.00 feet to the Northeast corner of Block 50 of said plat; thence South  $18^{\circ}54'10''$  West, along the Easterly line of said Block 50, a distance of 178.95 feet to the Northeast corner of Lot 14, said Block 50; thence North  $71^{\circ}05'50''$  West, along the Northerly line of Lots 14 through 12, said Block 50, a distance of 135.00 feet to the Northwest corner of said Lot 12; thence South  $18^{\circ}54'10''$  West, along the Westerly line of said Lot 12 and its Southerly prolongation, 258.34 feet to a point lying on the Northerly line of Block 49 of said plat; thence South  $71^{\circ}05'50''$  East, along said Northerly line and its Easterly prolongation, and along the Northerly line of Block 48 of said plat, 255.00 feet to the Northwest corner of Lot 6, said Block 48; thence South  $18^{\circ}54'10''$  West, along the Westerly line of said Lot 6, a distance of 178.34 feet to the Southwest corner of said Lot 6; thence South  $71^{\circ}05'50''$  East, along the Southerly line of said Lot 6, a distance of 45.00 feet to the Southeast corner of said Lot 6; thence North  $18^{\circ}54'10''$  East, along the Easterly line of said Lot 6 and its Northerly prolongation, and along the Easterly line of Lot 11, Block 51 of said plat, 436.68 feet to the Northeast corner of said Lot 11; thence North  $71^{\circ}05'50''$  West, along the Northerly line of said Lot 11, a distance of 45.00 feet to the Southeast corner of Lot 7, said Block 51; thence North  $18^{\circ}54'10''$  East, along the Easterly line of said Lot 7, a distance of 178.77 feet to the Northeast corner of said Lot 7; thence South  $71^{\circ}00'26''$  East, along the Northerly line of said Block 51 and its Easterly prolongation, and along the Northerly line of Block 52 of said plat, 551.17 feet to a point lying on said Westerly right of way line of U.S. Highway No. 301; thence South  $18^{\circ}58'03''$  West, departing said Northerly line and along said Westerly right of way line, 356.24 feet to its intersection with the Southerly line of said Block 52; thence North  $71^{\circ}05'50''$  West, departing said Westerly right of way line and along said Southerly line and its Westerly prolongation, 280.76 feet to the Southeast corner of said Block 51; thence South  $18^{\circ}54'10''$  West, along the Northerly prolongation of the Easterly line of said Block 48 and along said Easterly line, 258.34 feet to the Northeast corner of Lot 16, said Block 48; thence North  $71^{\circ}05'50''$  West, along the Northerly line of said Lot 16, a distance of 45.00 feet to the Northwest corner of said Lot 16; thence South  $18^{\circ}54'10''$  West, along the Westerly line of said Lot 16 and its Southerly prolongation, 258.34 feet to the Northwest corner of Lot 1, Block 31 of said plat; thence South  $71^{\circ}05'50''$  East, along the Northerly line of said Block 31, a distance of 45.00 feet to the Northeast corner of said Block 31; thence South  $18^{\circ}54'10''$  West, along the Easterly line of said Block 31, a distance of 356.69 feet to the Southeast corner of said Block 31; thence North  $71^{\circ}05'50''$  West, along the Southerly line of said Block 31 and its Westerly prolongation, 405.37

feet to a point lying on the Easterly line of said Section 29, Township 3 South, Range 23 East; thence North  $00^{\circ}19'41''$  East, along said Easterly line, 4,219.23 feet to the corner common to said Sections 20, 21, 28 and 29; thence North  $89^{\circ}51'06''$  West, along the Northerly line of said Section 29, a distance of 2,621.91 feet to the Northwest corner of the East one-half of said Section 29; thence South  $00^{\circ}32'07''$  West, departing said Northerly line and along the Westerly line of said East one-half of Section 29, a distance of 3,956.58 feet to the Southwest corner of Lot 20, Section 29, said Plat of Maxville and Maxville Farms; thence South  $89^{\circ}57'47''$  East, along the Southerly line of said Lot 20 and along the Southerly line of Lot 19, Section 29, said plat, a distance of 1,250.59 feet to the Northwest corner of those lands described and recorded in Official Records Book 17906, page 1508, of said current Public Records of Duval County; thence South  $00^{\circ}18'53''$  West, along the Westerly line of last said lands, 1,071.87 feet to the Southwest corner thereof, said corner lying on the Northerly right of way line of County Road No. 228 (Maxville Macclenny Highway), a variable width right of way as presently established; thence Westerly along said Northerly right of way line the following 3 courses: Course 1, thence South  $86^{\circ}24'08''$  West, 2,689.67 feet to the point of curvature of a curve concave Northerly having a radius of 11,399.16 feet; Course 2, thence Westerly along the arc of said curve, through a central angle of  $03^{\circ}50'21''$ , an arc length of 763.84 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $88^{\circ}19'19''$  West, 763.70 feet; Course 3, thence North  $89^{\circ}45'30''$  West, 2,988.94 feet to its intersection with the Easterly line of Lot 28, Section 30, said Plat of Maxville and Maxville Farms; thence North  $00^{\circ}37'29''$  West, departing said Northerly right of way line and along said Easterly line, 1,266.06 feet to the Northeast corner of said Lot 28; thence North  $89^{\circ}48'21''$  West, along the Northerly line of said Lot 28 and Lot 27, said Section 30, a distance of 1,329.53 feet to the Northeast corner of Lot 26, said Section 30 of said plat; thence North  $89^{\circ}59'50''$  West, along the Northerly line of said Lot 26 and Lot 25, said Section 30, and its Westerly prolongation, a distance of 1,293.71 feet to a point lying on the Westerly line of said Section 30, also being the line dividing said Baker and Duval Counties; thence South  $00^{\circ}25'12''$  West, along said dividing line, 1,197.72 feet to a point lying on the Northeasterly right of way line of said County Road No. 228; thence Northwesterly along said Northeasterly right of way line the following 5 courses: Course 1, thence South  $00^{\circ}27'02''$  West, continuing along said dividing line, 10.22 feet to a point on a curve concave Northeasterly having a radius of 2,814.79 feet; Course 2, thence Northwesterly departing said dividing line and along the arc of said curve, through a central angle of  $29^{\circ}38'35''$ , an arc length of 1,456.29 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North  $62^{\circ}56'16''$  West, 1,440.10 feet; Course 3, thence North  $48^{\circ}06'59''$  West, 4279.13 feet; Course 4, thence North  $48^{\circ}05'02''$  West, 1,951.98 feet to a point on a curve concave Northeasterly having a radius of 1,742.47 feet; Course 5, thence Northwesterly along the arc of said curve, through a central angle of  $19^{\circ}23'33''$ , an arc length of 589.77 feet to its intersection with the Southerly line of said Section 23, said arc being subtended by a chord bearing and distance of North  $38^{\circ}18'20''$  West, 586.95 feet; thence North  $88^{\circ}35'30''$  West, departing said Northerly right of way line and along said Southerly line, 330.65 feet to the Southwesterly corner of the Easterly one-quarter of said Section 23; thence North  $01^{\circ}11'40''$  East, departing said Southerly line and along the Westerly line of said Easterly one-quarter, 22.27 feet; thence North  $48^{\circ}06'08''$  West, departing said Westerly line, 758.73 feet to a point on a curve concave Northeasterly having a radius of 3,645.43 feet; thence Northwesterly along the arc of said curve, through a central angle of  $43^{\circ}58'14''$ , an arc length of 2,797.61 feet to a point on said curve, said

arc being subtended by a chord bearing and distance of North 26°03'11" West, 2,729.46 feet; thence North 04°00'15" West, 7,196.95 feet to the point of curvature of a curve concave Westerly having a radius of 1,345.00 feet; thence Northerly along the arc of said curve, through a central angle of 29°32'07", an arc length of 693.33 feet to a point on said curve, said arc being subtended by a chord bearing and distance of North 18°46'19" West, 685.68 feet; thence North 49°13'56" East, 9.19 feet to a point lying on the Southwesterly right of way line of said County Road No. 228; thence North 40°46'21" West, along said Southwesterly right of way line, 1,001.38 feet to its intersection with the Westerly prolongation of the Northwesterly line of Tract 1, as described and recorded in Instrument No. 201600003581, of the Public Records of said Baker County; thence North 75°50'34" East, departing said Southwesterly right of way line, along said Westerly prolongation and along said Northwesterly line, 1,401.89 feet to the point of curvature of a curve concave Northwesterly having a radius of 1,909.86 feet; thence Northeasterly, continuing along said Northwesterly line and along the arc of said curve, through a central angle of 41°38'58", an arc length of 1,388.32 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 55°01'07" East, 1,357.95 feet; thence North 34°11'36" East, continuing along said Northwesterly line, 13,246.82 feet to its intersection with the Southerly limited access right of way line of said Interstate No. 10; thence North 79°12'10" East, along said Southerly limited access right of way line, 51.63 feet to the Point of Beginning.

Less and Except from the above described lands the following:

Less and Except Parcel A (Revised)

A portion of Sections 18 and 19, Township 3 South, Range 23 East, Jacksonville, Duval County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of said Section 19; thence North 00°28'56" East, along the West line of said Section 19, a distance of 1,000.02 feet to the Point of Beginning.

From said Point of Beginning, continue North 00°28'56" East, along said West line of Section 19, a distance of 4,246.29 feet to the Northwesterly corner thereof; continue North 00°29'20" East, along the West line of said Section 18, a distance of 4,646.30 feet; thence South 89°40'53" East, departing said West line, 4,665.72 feet, said line being parallel and 600.00 feet Southerly of the North line of said Section 18; thence South 00°54'39" West, parallel and 616.98 feet Westerly of the East line of said Section 18, a distance of 4,625.31 feet to a point lying on the South line of said Section 18; thence South 00°53'22" West, parallel and 616.98 feet Westerly of the East line of said Section 19, a distance of 682.99 feet; thence South 89°06'38" East, 616.98 feet to a point lying on the East line of said Section 19; thence South 00°53'22" West, along said East line, 700.02 feet; thence North 89°06'38" West, departing said East line, 616.98 feet; thence South 00°53'22" West, parallel and 616.98 feet Westerly of the East line of said Section 19, a distance of 2,871.05 feet; thence North 89°51'04" West, parallel and 1,000.00 feet Northerly of the South line of said Section 19, a distance of 4,600.88 feet to the Point of Beginning.

Less and Except Parcel B

A portion of Section 20, Township 3 South, Range 23 East, Jacksonville, Duval County, Florida, being more particularly described as follows:

For a Point of Reference, begin at the Northwest corner of said Section 20; thence South  $00^{\circ}53'22''$  West, along the West line of said Section 20, a distance of 1,091.96 feet to the Point of Beginning.

From said Point of Beginning, thence North  $89^{\circ}38'47''$  East, departing said West line, 1,396.84 feet; thence South  $73^{\circ}54'19''$  East, 624.12 feet; thence South  $69^{\circ}40'09''$  East, 1,692.00 feet; thence South  $58^{\circ}49'25''$  East, 1,913.07 feet to a point lying on the East line of said Section 20; thence South  $00^{\circ}55'09''$  West, along said East line, 127.49 feet; thence North  $48^{\circ}44'13''$  West, departing said East line, 57.82 feet; thence North  $58^{\circ}49'25''$  West, 1,910.90 feet; thence North  $69^{\circ}40'09''$  West, 1,678.81 feet; thence North  $73^{\circ}54'19''$  West, 605.97 feet; thence South  $89^{\circ}38'47''$  West, 1,384.55 feet to a point lying on the West line of said Section 20; thence North  $00^{\circ}53'22''$  East, along said West line, 100.02 feet to the Point of Beginning.

Less and Except Parcel C (Revised)

A portion of Section 21, Township 3 South, Range 23 East, Jacksonville, Duval County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the Southwest corner of said Section 21; thence North  $00^{\circ}55'09''$  East, along the West line of said Section 21, a distance of 2,305.48 feet to the Point of Beginning.

From said Point of Beginning, continue North  $00^{\circ}55'09''$  East, along said West line, 127.49 feet; thence South  $49^{\circ}30'26''$  East, departing said West line, 210.33 feet; thence South  $48^{\circ}44'13''$  East, 1,989.21 feet; thence North  $41^{\circ}15'47''$  East, 85.00 feet; thence South  $48^{\circ}44'13''$  East, 217.74 feet to the point of curvature of a curve concave Northeasterly and having a radius of 576.50 feet; thence Southeasterly, along and around the arc of said curve, through a central angle of  $11^{\circ}14'16''$ , an arc distance of 113.07 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $54^{\circ}21'21''$  East, 112.89 feet; thence South  $59^{\circ}58'29''$  East, 120.84 feet to the point of curvature of a curve concave Northeasterly and having a radius of 643.90 feet; thence Southeasterly, along and around the arc of said curve, through a central angle of  $11^{\circ}00'00''$ , an arc distance of 123.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South  $65^{\circ}28'29''$  East, 123.43 feet; thence South  $70^{\circ}58'29''$  East, 146.25 feet to a point lying on the Northwesterly right-of-way line of U.S. Highway No. 301, a 206 foot right-of-way as presently established; thence South  $18^{\circ}58'00''$  West, along said Northwesterly right-of-way line, 397.77 feet; thence North  $48^{\circ}44'13''$  West, departing said Northwesterly right-of-way line, 853.10 feet; thence North  $41^{\circ}15'47''$  East, 57.53 feet; thence North  $48^{\circ}44'13''$  West, 2,116.98 feet to the Point of Beginning.

## Less and Except Parcel D

A portion of Sections 13 and 24, Township 3 South, Range 22 East, Baker County, Florida, being more particularly described as follows:

For a Point of Reference, commence at the Southeast corner of said Section 24; thence North 00°28'56" East, along the East line of said Section 24, a distance of 1,513.79 feet to the Point of Beginning.

From said Point of Beginning, thence North 89°29'14" West, departing said East line of Section 24, a distance of 200.14 feet; thence North 00°29'09" East, a distance of 5,231.52 feet; thence South 89°30'49" East, 199.98 feet to a point lying on the East line of said Section 13; thence South 00°29'20" West, along the East line of said Section 13, a distance of 1,499.07 feet to the Northeast corner of said Section 24; thence South 00°28' 56" East, along said East line of Section 24, a distance of 3,732.53 feet to the Point of Beginning.

Less and Except a portion of Sections 19 and 30, Township 3 South, Range 23 East, Duval County, Florida, being all of Tracts 2 through 15, and Tracts 19 through 24, and a portion of Tracts 1, 16, 18, and Tracts 29 through, 31, all as depicted Plat of Maxville and Maxville Farms, recorded in Plat Book 3, page 94 of the current Public Records of said Duval County, being more particularly described as follows.

For a Point of Beginning, commence at the Southwest corner of said Section 19, thence North 00°28'56" East, along the Westerly line of said Section 19, a distance of 1,000.02 feet to the Southwest corner of those lands described and recorded in Official Records Volume 7245, page 898 of said current Public Records; thence South 89°51'04" East, departing said Westerly line and along the Southerly line of said Official Records Volume 7245, page 898, a distance of 4,600.88 feet; thence South 00°54'03" West, departing said Southerly line, 6,225.09 feet to a point lying on the Northerly right of way line of Maxville Macclenny Highway, a variable width right of way as presently established; thence North 89°45'30" West, along said Northerly right of way line, 1,906.17 feet to a point lying on the Easterly line of Tract 28, Section 30, said Plat of Maxville and Maxville Farms; thence North 00°37'29" West, departing said Northerly right of way line and along said Easterly line, 1,266.06 feet to the Northeast corner of said Tract 28; thence North 89°48'21" West, along the Northerly line of said Tract 28, and along the Northerly line of Tract 27, said Section 30, a distance of 1,329.53 feet to the Northeast corner of Tract 26, said Section 30; thence North 89°59'50" West, along the Northerly line of said Tract 26, and along the Northerly line of Tract 25, said Section 30, a distance of 1,293.71 feet to point lying on the Westerly line of said Section 30; thence Northerly along said Westerly line the following 3 courses: Course 1, thence North 00°28'42" East, 1,318.91 feet to the Southwest corner of those lands described and recorded in Official Records Volume 8083, page 2485, of said current Public Records; Course 2, thence North 00°27'02" East, along the Westerly line of said Official Records Volume 8083, page 2485, a distance of 1,319.15 feet to the Northwesterly corner thereof, Course 3, thence continue North 00°27'02" East, 1,319.77 feet to the Point of Beginning.



Less and Except any portion lying within the limited access right of way of Interstate No. 10 (State Road No. 8), a variable width limited access right of way as presently established.

Less and Except any portion lying within the right of way of County Road No. 228 (Maxville Macclenny Highway), a variable width right of way as presently established.

Less and Except any portion lying within the right of way of CSX Railroad, a variable width right of way as presently established.

Less and except the sovereign lands of the State of Florida, if any, associated with Deep Creek.

Containing 11,983.15 acres, more or less.

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**First Coast Regional Utilities, Inc.**  
**pursuant to**  
**Certificate Number 680-W**

to provide water service in Baker, Duval, and Nassau Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-2022-0193-FOF-WS	05/25/2022	20190168-WS	Original Certificate

**FLORIDA PUBLIC SERVICE COMMISSION**  
**authorizes**  
**First Coast Regional Utilities, Inc.**  
**pursuant to**  
**Certificate Number 578-S**

to provide wastewater service in Baker, Duval, and Nassau Counties in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-2022-0193-FOF-WS	05/25/2022	20190168-WS	Original Certificate

<b>First Coast Regional Utilities, Inc. Schedule of Water Rate Base Projected at 80% Capacity</b>		<b>Schedule No. 1-A 20190168-WS</b>		
	<b>Description</b>	<b>Test Year Per Utility</b>	<b>Comm. Adjust- ments</b>	<b>Commission Adjusted Test Year</b>
1	UPIS	\$16,120,000	\$357,408	\$16,477,408
2	Land and Land Rights	50,000	0	50,000
3	Accumulated Depreciation	(1,790,600)	(31,273)	(1,821,873)
4	CIAC	(9,110,300)	(1,564)	(9,111,864)
5	Amortization of CIAC	423,735	176,296	600,031
6	Working Capital Allowance	<u>67,306</u>	<u>(30,481)</u>	<u>36,825</u>
7	<b>Rate Base</b>	<u>\$5,760,141</u>	<u>\$470,386</u>	<u>\$6,230,527</u>

<b>First Coast Regional Utilities, Inc. Schedule of Wastewater Rate Base Projected at 80% Capacity</b>			<b>Schedule No. 1-B 20190168-WS</b>	
<b>Description</b>	<b>Test Year Per Utility</b>	<b>Comm. Adjust- ments</b>	<b>Commission Adjusted Test Year</b>	
1 UPIS	\$35,183,750	\$357,408	\$35,541,158	
2 Land and Land Rights	100,000	0	100,000	
3 Accumulated Depreciation	(4,739,611)	(31,273)	(4,770,884)	
4 CIAC	(14,173,390)	(2,431)	(14,175,821)	
5 Amortization of CIAC	659,227	105,221	764,448	
6 Working Capital Allowance	<u>201,345</u>	<u>(126,398)</u>	<u>74,948</u>	
7 <b>Rate Base</b>	<u>\$17,231,321</u>	<u>\$302,527</u>	<u>\$17,533,848</u>	

<b>First Coast Regional Utilities, Inc.</b>		<b>Schedule No. 1-C</b>	
<b>Adjustments to Rate Base</b>		<b>20190168-WS</b>	
<b>Projected at 80% Capacity</b>			
<b>Explanation</b>	<b>Water</b>	<b>Wastewater</b>	
<b>UPIS</b>			
Increase in Organization Costs.	<u>\$357,408</u>	<u>\$357,408</u>	
<b>Accumulated Depreciation</b>			
To reflect 80% of UPIS Adjustment.	<u>(\$31,273)</u>	<u>(\$31,273)</u>	
<b>CIAC</b>			
To reflect 80% of CIAC Adjustment.	<u>(\$1,564)</u>	<u>(\$2,431)</u>	
<b>Accumulated Amortization of CIAC</b>			
To reflect 80% of CIAC Adjustment.	<u>\$176,296</u>	<u>\$105,221</u>	
<b>Working Capital</b>			
To reflect one-eighth O&M expense.	<u>(\$30,481)</u>	<u>(\$126,398)</u>	

<b>First Coast Regional Utilities, Inc.</b>							<b>Schedule No. 2</b>		
<b>Capital Structure</b>							<b>20190168-WS</b>		
<b>Projected 80% Capacity</b>									
<b>Description</b>	<b>Total Capital</b>	<b>Specific Adjustments</b>	<b>Subtotal Adjusted Capital</b>	<b>Pro rata Adjustments</b>	<b>Capital Reconciled to Rate Base</b>	<b>Ratio</b>	<b>Cost Rate</b>	<b>Weighted Cost</b>	
<b>Per Utility</b>									
1 Long-Term Debt	\$0	\$0	\$0	\$0	\$0	0.00%	5.00%	0.00%	
2 Short-Term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
3 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
4 Common Equity	22,519,463	0	22,519,463	0	22,519,463	97.95%	8.12%	7.95%	
5 Customer Deposits	472,000	0	472,000	0	472,000	2.05%	2.00%	0.04%	
6 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%	
7 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>	
8 <b>Total Capital</b>	<u>\$22,991,463</u>	<u>\$0</u>	<u>\$22,991,463</u>	<u>\$0</u>	<u>\$22,991,463</u>	<u>100.00%</u>		<u>7.99%</u>	
<b>Per Commission</b>									
9 Long-Term Debt	\$0	\$22,519,463	\$22,519,463	\$414,280	\$22,933,743	97.98%	5.00%	4.90%	
10 Short-Term Debt	0	0	0	0	0	0.00%	0.00%	0.00%	
11 Preferred Stock	0	0	0	0	0	0.00%	0.00%	0.00%	
12 Common Equity	22,519,463	(22,519,463)	0	0	0	0.00%	8.12%	0.00%	
13 Customer Deposits	472,000	0	472,000	0	472,000	2.02%	2.00%	0.04%	
14 Tax Credits-Zero Cost	0	0	0	0	0	0.00%	0.00%	0.00%	
15 Deferred Income Taxes	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0.00%</u>	0.00%	<u>0.00%</u>	
16 <b>Total Capital</b>	<u>\$22,991,463</u>	<u>\$0</u>	<u>\$22,991,463</u>	<u>\$414,280</u>	<u>\$23,405,743</u>	<u>100.00%</u>		<u>4.94%</u>	
						<b>LOW</b>	<b>HIGH</b>		
RETURN ON EQUITY						<u>7.12%</u>	<u>9.12%</u>		
OVERALL RATE OF RETURN						<u>4.94%</u>	<u>4.94%</u>		

<b>First Coast Regional Utilities, Inc.</b>						<b>Schedule No. 3-A</b>
<b>Statement of Water Operations</b>						<b>20190168-WS</b>
<b>80% of Design Capacity</b>						
	<b>Description</b>	<b>Test Year Per Utility</b>	<b>Comm. Adjustments</b>	<b>Commission Adjusted Test Year</b>	<b>Revenue Increase</b>	<b>Revenue Requirement</b>
1	<b>Operating Revenues:</b>	<u>\$1,566,216</u>	<u>(\$346,815)</u>	<u>\$1,219,401</u>	<u>(\$38,602)</u> -3.17%	<u>\$1,180,799</u>
	<b>Operating Expenses</b>					
2	Operation & Maintenance	\$294,600	0	\$294,600		\$294,600
3	Net Depreciation	324,216	(56,325)	267,891		267,891
4	Amortization	2,000	(2,000)	0		0
5	Taxes Other Than Income	329,641	(17,409)	(312,232)	(1,737)	310,495
6	Income Taxes	<u>155,480</u>	<u>(155,480)</u>	<u>0</u>	<u>0</u>	<u>0</u>
7	<b>Total Operating Expense</b>	<u>\$1,105,937</u>	<u>(\$231,214)</u>	<u>\$874,723</u>	<u>(\$1,737)</u>	<u>\$872,986</u>
8	<b>Operating Income</b>	<u>\$460,279</u>	<u>\$115,601</u>	<u>\$344,678</u>	<u>(\$36,864)</u>	<u>\$307,814</u>
9	<b>Rate Base</b>	<u>\$5,760,141</u>		<u>\$6,230,527</u>		<u>\$6,230,527</u>
10	<b>Rate of Return</b>	<u>7.99%</u>		<u>5.53%</u>		<u>4.94%</u>



<b>First Coast Regional Utilities, Inc.</b>						<b>Schedule No. 3-B</b>
<b>Statement of Wastewater Operations</b>						<b>20190168-WS</b>
<b>80% of Design Capacity</b>						
<b>Description</b>	<b>Test Year Per Utility</b>	<b>Comm. Adjust- ments</b>	<b>Commission Adjusted Test Year</b>	<b>Revenue Increase</b>	<b>Revenue Requirement</b>	
1 <b>Operating Revenues:</b>	<u>\$4,249,079</u>	<u>(\$1,037,488)</u>	<u>\$3,211,591</u>	<u>(\$82,724)</u> -2.58%	<u>\$3,128,867</u>	-
<b>Operating Expenses</b>						
2 Operation & Maintenance	\$599,580	\$0	\$599,580		\$599,580	
3 Net Depreciation	1,063,762	(81,773)	981,989		981,989	
4 Amortization	2,000	(2,000)	0		0	
5 Taxes Other Than Income	741,709	(56,932)	684,777	(3,723)	681,054	
6 Income Taxes	<u>465,115</u>	<u>(465,115)</u>	<u>0</u>	<u>0</u>	<u>0</u>	
7 <b>Total Operating Expense</b>	<u>\$2,872,166</u>	<u>(\$605,821)</u>	<u>\$2,266,345</u>	<u>(\$3,723)</u>	<u>\$2,262,623</u>	
8 <b>Operating Income</b>	<u>\$1,376,913</u>	<u>\$431,667</u>	<u>\$945,246</u>	<u>(\$79,001)</u>	<u>\$866,245</u>	
9 <b>Rate Base</b>	<u>\$17,231,321</u>		<u>\$17,533,848</u>		<u>\$17,533,848</u>	
10 <b>Rate of Return</b>	<u>7.99%</u>		<u>5.39%</u>		<u>4.94%</u>	

<b>First Coast Regional Utilities, Inc. Adjustments to Operating Income Projected at 80% Capacity</b>		<b>Schedule No. 3-C 20190168-WS</b>	
<b>Explanation</b>	<b>Water</b>	<b>Wastewater</b>	
<b>Operating Revenues</b>			
To reflect Utility's revised Operating Revenues.	<u>(\$346,815)</u>	<u>(\$1,037,488)</u>	
<b>Net Depreciation Expense</b>			
To reclassify CIAC amortization expense to depreciation expense.	\$2,000	\$2,000	
To reflect 80% of UPIS.	8,935	8,935	
To reflect 80% of CIAC.	<u>(67,260)</u>	<u>(92,709)</u>	
<b>Total</b>	<u>(\$56,325)</u>	<u>(\$81,773)</u>	
<b>Amortization-Other Expense</b>			
To reclassify CIAC amortization expense to depreciation expense.	<u>(\$2,000)</u>	<u>(\$2,000)</u>	
<b>Taxes Other Than Income</b>			
Corresponding RAF adjustments for above revenue adjustments.	(\$15,607)	(\$46,687)	
To reflect a decrease in property taxes	<u>(1,802)</u>	<u>(10,246)</u>	
<b>Total</b>	<u>(\$17,409)</u>	<u>(\$56,932)</u>	

<b>FIRST COAST REGIONAL UTILITIES, INC.</b>		<b>SCHEDULE NO. 4-A</b>	
<b>MONTHLY WATER RATES</b>		<b>DOCKET NO. 20190168-WS</b>	
	<b>UTILITY REQUESTED RATES</b>	<b>COMMISSION APPROVED RATES</b>	
<b><u>Residential Service</u></b>			
Base Facility Charge	\$31.75	\$30.72	
Gallonage Charge			
0- 3,000 gallons	\$1.55	\$1.19	
3,000 – 10,000 gallons	\$2.33	\$1.78	
Over 10,000 gallons	\$4.66	\$3.56	
<b><u>General Service</u></b>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$31.75	\$30.72	
3/4"	\$47.63	\$46.08	
1"	\$79.38	\$76.80	
1-1/2" Turbine	\$158.75	\$153.60	
2" Turbine	\$254.00	\$245.76	
3" Turbine	\$555.63	\$537.60	
Charge per 1,000 gallons - General Service	\$1.58	\$1.53	
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
3,000 Gallons	\$36.40	\$34.29	
6,000 Gallons	\$43.39	\$39.63	
10,000 Gallons	\$52.71	\$46.75	

<b>FIRST COAST REGIONAL UTILITIES, INC.</b>		<b>SCHEDULE NO. 4-B</b>	
<b>MONTHLY WASTEWATER RATES</b>		<b>DOCKET NO. 20190168-WS</b>	
	<b>UTILITY REQUESTED RATES</b>	<b>COMMISSION APPROVED RATES</b>	
<b><u>Residential Service</u></b>			
Base Facility Charge- All Meter Sizes	\$84.35	\$82.13	
Charge per 1,000 gallons- Residential 10,000 gallon cap	\$5.09	\$4.96	
<b><u>General Service</u></b>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$84.35	\$82.13	
3/4"	\$126.53	\$123.20	
1"	\$210.88	\$205.33	
1-1/2" Turbine	\$421.75	\$410.65	
2" Turbine	\$674.80	\$657.04	
3" Turbine	\$1,476.13	\$1,437.28	
Charge per 1,000 gallons - General Service	\$6.10	\$5.95	
Reclaimed Water Charge Per 1,000 gallons	\$0.50	\$0.50	
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
3,000 Gallons	\$99.62	\$97.01	
6,000 Gallons	\$114.89	\$111.89	
10,000 Gallons	\$135.25	\$131.73	

**FIRST COAST REGIONAL UTILITIES, INC.**  
**Service Availability Charges**

**SCHEDULE NO. 5**  
**DOCKET NO. 20190168-WS**

**Water**

Main Extension Charge	
Residential per ERC (270 GPD)	\$3,158.00
All others per gallon	\$11.70
Meter Installation Charge	
5/8" x 3/4"	\$285.00
All other meter sizes	Actual Cost
Plant Capacity Charge	
Residential per ERC (270 GPD)	\$752.00
All others per gallon	\$2.79
Service Installation	\$610.00

**Wastewater**

Main Extension Charge	
Residential per ERC (216 GPD)	\$4,833.00
All others per gallon	\$22.38
Plant Capacity Charge	
Residential per ERC (216 GPD)	\$1,250.00
All others per gallon	\$5.79
Lateral Installation	Actual Cost