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February 7, 2000

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Betty Easley Conference Center, Room 110
Tallahassee, Florida 32399-0850

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RECORDS AND REPORTING

Re: Docket No. 990696-WS

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of JEA is:

1. The original and fifteen copies of JEA's Petition to Intervene and
2. A diskette formatted in Word Perfect 6.0.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me. Thank you for your assistance with this filing.

Sincerely,

J. Stephen Menton
J. Stephen Menton

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01670 FEB-78

FPSC-RECORDS/REPORTING

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application by Nocatee Utility)
Corporation for Original Certificates)
for Water & Wastewater Service in)
Duval and St. Johns Counties, Florida)

Docket No. 990696-WS
Filed: February 7, 2000

JEA'S PETITION TO INTERVENE

JEA, by and through its undersigned counsel, and pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and Rule 28-106.205, Florida Administrative Code, hereby files its Petition to Intervene in this proceeding to support the application of Nocatee Utility Corporation ("NUC") for an original certificate to operate a water and wastewater utility in Duval and St. Johns County, Florida. As grounds for its Petition, JEA states as follows:

- 1. The name and address of the agency affected is:

Florida Public Service Commission (the "Commission" or "PSC")
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

- 2. The name and address of the party seeking Intervention is:

JEA
21 West Church Street
Jacksonville, FL 32202-3139

DOCUMENT NUMBER-DATE

01670 FEB-78

FPSC-RECORDS/REPORTING

3. The name, address and telephone number of the designated representatives authorized to receive notices, pleadings, orders and other documents on behalf of JEA during the course of these proceedings are:

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(904) 630-1834

Background

4. On June 1, 1999, NUC filed an application for an original certificate for a proposed multi-county water and wastewater system in Duval and St. Johns Counties ("NUC's Application").

5. On June 30, 1999, Intercoastal Utilities, Inc. ("Intercoastal") filed an Objection of Intercoastal Utilities, Inc. to the Application of Nocatee Utility Corporation for Original Certificates for Water and Wastewater Service in Duval and St. Johns Counties, Florida, and Request for Formal Administrative Hearing ("Intercoastal's Objection").

6. Intercoastal currently operates as a single county utility subject to the jurisdiction of the Board of County Commissioners of St. Johns County (the "Board").

Intercoastal claimed in its Objection that its substantial interests would be affected by NUC's Application because Intercoastal had an application pending before the St. Johns County Water and Sewer Regulatory Authority (the "St. Johns County Authority") for an extension of its service territory to cover much of the territory which is the subject of NUC's Application. As discussed in more detail below, Intercoastal's request to expand its territory in St. Johns County has now been denied by the St. Johns County Authority and that denial has been confirmed by the Board.

7. JEA received notice of Intercoastal's Objection and request for formal administrative hearing as a result of an Agenda conference conducted by the PSC with respect to this proceeding on July 27, 1999. JEA seeks to intervene in this proceeding to support NUC's Application.

8. The most recent scheduling order entered in this case, Order No. PSC-99-2428-PCO-WS issued December 13, 1999, referenced the possibility of consolidating this proceeding with a docket expected to be opened with respect to an application that Intercoastal indicated it was going to file for authorization to service some of the same territory covered in NUC's Application. Intercoastal has now submitted an application with the PSC for a certificate of authorization to serve the property described in Paragraph 17 below. On January 31, 2000, JEA filed an Objection and Request for Administrative Hearing in Docket No. 992040-WS regarding Intercoastal's Application to the Commission.

The Parties

9. NUC is a wholly owned subsidiary of DDI, Inc. ("DDI"), a development company. NUC was created for the specific purpose of providing water and wastewater service to a large scale, multi-use development to be known as "Nocatee." DDI and its affiliates own all of the proposed development which consists of approximately 15,000 acres.

10. As set forth in its Objection, Intercoastal is an investor-owned, water and wastewater utility that currently provides service in St. Johns County, Florida subject to regulation by the County.

11. JEA, formerly known as the Jacksonville Electric Authority, was created and established by Chapter 67-1569, Laws of Florida, as amended by Chapter 78-538, Laws of Florida, and as amended and re-adopted by Chapters 80-515 and 92-341, Laws of Florida. In accordance with the statutory authority, JEA is a body politic whose operations, duties and responsibilities are set forth in Article 21 of the Charter of the City of Jacksonville. JEA is empowered to exercise all powers granted to the City, with regard to water and sewer authority, pursuant to Chapter 180, Florida Statutes. Under Section 21.04 of the Charter, JEA is authorized to provide water and wastewater services throughout Florida. The enabling Statute and Ordinances grant JEA a wide range of powers to operate and finance utility systems.

12. JEA's water and wastewater operations were transferred from the City of Jacksonville which had been providing these services for over 100 years. JEA's water and sewer systems' service territory includes virtually all of the City of Jacksonville and consists

of (a) facilities for the provision of potable water in a current service area of approximately 228 square miles; and (b) facilities for the collection and treatment of wastewater in a current service area of approximately 258 square miles. JEA's water system, which served an average of 175,766 customer accounts in fiscal year 1998, is comprised of 32 water treatment plants, 107 water supply water wells, over 2,800 miles of water distribution mains and water storage capacity of over 55 million gallons. The sewer system, which served an average of 131,354 customer accounts in fiscal year 1998, is comprised of 5 regional wastewater plants and 3 smaller wastewater treatment plants that currently have a combined rated average daily treatment capacity of approximately 91 MGD, approximately 635 pumping stations and over 2,100 miles of gravity sewers and force mains.

13. JEA currently provides water and wastewater services in Duval, Clay and St. Johns Counties.

JEA's Substantial Interests

14. As set forth in NUC's Application, DDI has entered into a Letter of Intent Agreement with JEA dated April 14, 1999 pursuant to which JEA will provide wholesale water and wastewater service to Nocatee. The Letter of Intent Agreement is Attachment A-1 to NUC's Application. Accordingly, JEA has a substantial interest in seeing that Nocatee's Application is granted. The Letter of Intent Agreement provides that JEA will cooperate in good faith with Nocatee and support NUC's application for PSC certification.

Intercoastal's Unsuccessful Efforts in St. Johns County

15. In its Objection, Intercoastal claimed that it was best able to serve those portions of the proposed development for which NUC has sought certification and that approval of NUC's Application would result in an uneconomic duplication of facilities and utilities services. Intercoastal also claimed that NUC's Application was in competition with the application submitted by Intercoastal to the St. Johns County Authority to extend its service area to include Nocatee.

16. Intercoastal's request to extend its service area was pending before the St. Johns County Authority at the time Intercoastal filed its Objection in this Docket and that pending request was a primary basis for Intercoastal's Objection. However, after a series of lengthy hearings, Intercoastal's request to expand its service area was denied by the regulatory authority with jurisdiction over Intercoastal. JEA participated in the extensive evidentiary proceedings before the St. Johns County Authority on Intercoastal's request to extend its service area to include Nocatee. During a meeting of the St. Johns County Authority on August 4, 1999, the Authority voted 3-0 to deny Intercoastal's requested extension. The Authority's Preliminary Order dated August 6, 1999 was approved by the St. Johns County Board of County Commissioners on September 7, 1999 and memorialized in Board Order No. 99-00015.

17. In an apparent effort to by-pass the results of the proceedings on its territory extension request in St. Johns County, Intercoastal has filed an application with the PSC seeking an original certificate that would encompass (a) the water and wastewater service

territories already granted to Intercoastal by the St. Johns County, (b) the additional territory sought by Intercoastal in its application submitted to the St. Johns County Authority in March 1999 and (c) an area in Duval County which is included in NUC's Application. As noted above, Intercoastal's Application with the PSC is now pending in Docket No. 992040-WS. JEA has submitted an Objection and Request for Hearing with respect to Intercoastal's application in Docket No. 992040-WS.

Factual Issues

18. In its Objection, Intercoastal has listed a number of alleged disputed issues of material fact. JEA suggests that it is not necessary to reach many of those issues because Intercoastal is collaterally estopped from challenging the findings of fact made during the hearing on its territory extension application before the St. Johns County Authority. Moreover, since Intercoastal's Objection was premised upon its pending application before the St. Johns County Authority and that application has now been denied and the denial has been confirmed by the Board of County Commissioners, Intercoastal's Objection no longer states a basis for denying NUC's Application. Intercoastal's desperate attempt to re-litigate the facts established before the St. Johns County Authority by unjustifiably seeking to invoke the jurisdiction of the PSC should be rejected. If the Commission decides to allow Intercoastal to proceed with its Objection to NUC's Application, JEA suggests the disputed issues of fact should include:

(a) Whether Intercoastal has the technical ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(b) Whether Intercoastal has the financial ability to provide reliable, high quality service to the disputed territory with the time frames required by the development plan for Nocatee and for the life of the development.

(c) Whether Intercoastal has the managerial ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(d) Whether Intercoastal has the operational ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(e) Whether Intercoastal has sufficient water, wastewater and reuse capacity to provide service to the disputed territory within the time frames required by the development plan for Nocatee.

(f) Whether Intercoastal's application is in compliance with all applicable law, rules and policies of the Commission, the Department of Environmental Protection, and the St. Johns County Water Management District.

(g) Whether Intercoastal can provide service to the disputed territory in a more cost-effective manner than NUC.

(h) Whether Intercoastal can provide service to the disputed territory in an environmentally sensitive manner that is consistent with the development plan for Nocatee.

(i) What is the effect on rates and charges to existing customers of Intercoastal of its proposed service to the disputed territory?

(j) What is Intercoastal's current quality of service?

(k) Whether the landowner of the disputed territory prefers to receive service from Intercoastal or from NUC.

(l) Whether Intercoastal or NUC is best suited to serve the disputed territory.

Ultimate Facts

19. The ultimate facts alleged in support of this Petition are as follows:

(a) NUC proposes to serve the disputed territory by obtaining wholesale water, wastewater and reuse service from JEA, which has facilities in close proximity to the disputed territory. Service in this manner will be less costly, more efficient, and more environmentally sensitive than service by Intercoastal.

(b) Intercoastal is not ready, willing and able to provide all required services, including reuse service, to the disputed territory in the quantities and time frames required by the development. NUC and JEA are ready, willing and able to provide such service.

(c) NUC and JEA can provide superior water, wastewater and reuse service to the disputed territory more efficiently and more cost-effectively than can Intercoastal.

(d) JEA has sufficient water supply and wastewater capacity to serve the disputed territory, whereas Intercoastal does not have sufficient capacity.

(e) The landowner desires to receive service from NUC and not from Intercoastal. As an affiliated utility, NUC is uniquely positioned to ensure that utility planning and provisioning is integrated with the overall development and resource management planning for Nocatee.

(f) It is in the public interest for NUC and JEA to serve the disputed territory.

(g) The Authority and the Board have already considered and rejected Intercoastal's application to extend its service area to serve the portion of the disputed territory which is located in St. Johns County. Intercoastal's application is therefore barred by application of the doctrines of res judicata and/or collateral estoppel and Intercoastal has no standing to object to NUC's Application.

WHEREFORE, JEA requests that the Florida Public Service Commission deny the objections to NUC's Application filed by Intercoastal Utilities, Inc. and enter an order granting the certificate requested by Nocatee Utility Corporation for a multi-county water and wastewater system in Duval and St. Johns Counties.

Respectfully submitted this
7 day of February, 2000, by:


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CERTIFICATE OF SERVICE

I HEREBY certify that a copy of the foregoing was furnished as set forth below to the following this 7 day of February, 2000:

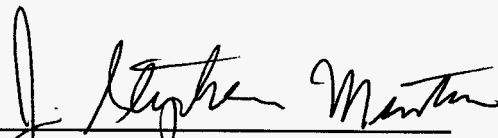
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