

SARASOTA COUNTY GOVERNMENT  
Office of the County Attorney

1660 Ringling Blvd.  
Second Floor  
Sarasota, Florida 34236

Jorge L. Fernández  
County Attorney

May 9, 2000

ORIGINAL

VIA FEDERAL EXPRESS

Ms. Blanca Bayo, Director  
Division of Records and Reporting  
Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0850

Re: Docket Nos. 990696-WS and 992040-WS

Dear Ms. Bayo:

Enclosed is the original and fifteen(15) copies of Sarasota County's Petition for Intervention in the above-referenced proceedings.

Please indicate receipt of this filing on the enclosed copy of this letter and return to the undersigned in the enclosed stamped envelope. Thank you for your attention to this matter.

Sincerely,

Kathleen F. Schneider  
Assistant County Attorney

Enclosures

2000 MAY 10 PM 4:13  
DIVISION OF  
ADMINISTRATION  
H. J. ...

Done 5/16/00

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

ORIGINAL

**Consolidated Dockets:**

**IN RE: Application for Original  
Certificates to Operate Water and  
Wastewater Utility in Duval and  
St. Johns Counties by Nocatee  
Utility Corporation**

**DOCKET NO. 990696-WS**

**IN RE: Application for Certificates  
to Operate a Water and Wastewater  
Utility in Duval and St. Johns Counties  
By Intercoastal Utilities, Inc.**

**DOCKET NO. 992040-WS**

**PETITION FOR INTERVENTION**

COMES NOW, Sarasota County, Florida (the "County"), a political subdivision of the State of Florida, pursuant to Rule 25-22.039, F.A.C. by and through its undersigned attorney, and requests that it be allowed to intervene in this consolidated proceeding for the purpose of filing its Motion to Dismiss and other filings, as may be deemed necessary. In support of its Petition, the County states as follows:

**Petitioner**

1. The name, address and telephone number of the petitioner is:

Sarasota County, Florida  
c/o Kathleen F. Schneider, Assistant County Attorney  
Office of the County Attorney  
1660 Ringling Blvd., 2<sup>nd</sup> FL.  
Sarasota, FL 34236  
Phone: (941) 316-7272

**Representative to receive notices and pleadings:**

2. The name, address and telephone number of the petitioner's representative who is authorized to receive service and all notices and pleadings during the course of this proceeding is:

DOCUMENT NUMBER-DATE  
05816 MAY 10 8  
FPSC-RECORDS/REPORTING

608

Kathleen F. Schneider, Assistant County Attorney  
Office of the County Attorney  
1660 Ringling Blvd., 2<sup>nd</sup> FL.  
Sarasota, FL 34236  
Phone: (941) 316-7272

Substantial Interest

3. Pursuant to Chapter 67-2064, Laws of Florida, Chapter 125, Florida Statutes, Sarasota County Ordinance No. 96-002, as amended, and the home rule power of self-government constitutionally granted by adoption by its charter, Sarasota County has authority to regulate privately-owned water and wastewater facilities located in unincorporated Sarasota County, Florida.
4. Pursuant to section 367.171(3), Florida Statutes, Sarasota County is excluded from the provisions of Chapter 367 until such time as the Board of County Commissioners takes action to subject the County to the regulatory authority of the Public Service Commission ("PSC"). The Board of County Commissioners of Sarasota County has not taken such action. Accordingly, the County is a nonjurisdictional county with regulatory authority over water and sewer utilities providing service solely within its boundaries.
5. In the above-referenced consolidated proceeding, Intercoastal Utilities, Inc. and Nocatee Utility Corporation have each filed applications to provide utility service to an area that encompasses Duval County, a jurisdictional county, and St. Johns County, a nonjurisdictional county.
6. Similar to St. Johns County, Sarasota County is bordered by jurisdictional counties which have opted to forego their regulatory authority and to have water and wastewater utilities within their county boundaries regulated by the FPSC.
7. The issue before the FPSC as to whether the FPSC has jurisdiction to consider an application for a proposed utility system which will serve both a nonjurisdictional county and a jurisdictional county is a first impression issue before the FPSC, and one which has far-reaching implications for all nonjurisdictional counties which are bordered by jurisdictional counties.
8. FPSC staff has issued a recommendation to the Commission stating that, pursuant to section 367.171(7), Florida Statutes, an investor-owned utility can circumvent the regulatory authority of a nonjurisdictional county by applying to the FPSC for a certificate of authorization for a proposed utility system that would provide service in both a jurisdictional and a nonjurisdictional county.
9. A determination adopting Staff's interpretation of section 367.171(7), Florida Statutes would severely undermine Sarasota County's statutory authority and would allow private

investor-owned utilities to circumvent the regulations of the county and, in effect, forum shop for a regulator.

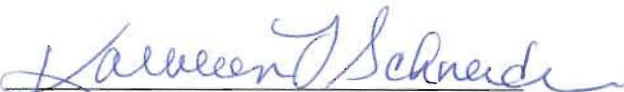
10. There is currently pending before the FPSC a Petition for Intervention and Motion to Dismiss filed on behalf of St. Johns County in Docket No. 992040-WS. Sarasota County requests that the hearing on this motion be postponed for two weeks from the scheduled hearing date to allow the County the opportunity to file its Motion to Dismiss.
11. The parties to this proceeding will not be prejudiced by permitting Sarasota County, Florida to intervene or by postponing the hearing on St. John's Petition for Intervention and Motion to Dismiss in that the hearing on the applications is not scheduled until August 2000.

**WHEREFORE**, Sarasota County, Florida requests that the FPSC grant Sarasota County's Petition to Intervene on the ground that a decision in this consolidated proceeding predicated on a legal interpretation of section 361.171(7), Florida Statutes, will have a substantial impact on Sarasota County's regulatory authority. Further, Sarasota County, Florida further requests that the FPSC postpone the hearing on the Petition for Intervention and Motion to Dismiss filed by St. Johns County for two weeks to allow Sarasota County to file its Motion to Dismiss.

Respectfully submitted this 9th day of May, 2000.

Jorge L. Fernández, County Attorney  
Kathleen F. Schneider  
Assistant County Attorney  
Office of the County Attorney  
1660 Ringling Boulevard, Second Floor  
Sarasota, Florida 34236  
(941) 316-7272

By:

  
Kathleen F. Schneider  
Assistant County Attorney  
Florida Bar No. 0873306  
(Direct all subsequent filings in this matter to  
Attorney Schneider)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing document has been furnished by regular U.S. Mail to on this 10<sup>th</sup> day of May, 2000, to the following person:

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Suzanne Brownless, P.A.  
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Samantha Cibula, Esq.  
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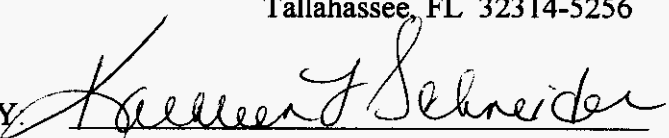
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BY:   
Kathleen F. Schneider, Esquire