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**ORIGINAL**

June 30, 2000

BY HAND DELIVERY

Blanca Bayo  
Director, Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

RECEIVED-FPSC  
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RECORDS AND REPORTING

Re: Docket No. 992040-WS  
In re: Application For Certificates to Operate  
A Water and Wastewater Utility in Duval and St.  
Johns County by Intercoastal Utilities, Inc.

Docket No. 990696-WS  
In re: Application by Nocatee Utility Corporation  
For Original Certificates for Water and Wastewater  
Service in Duval and St. Johns Counties, Florida.

Dear Ms. Bayo:

Enclosed for filing are the original and fifteen copies and a disk formatted in WordPerfect 5.1 of St. Johns County's Prehearing Statement to be filed in the above dockets. Also enclosed is a copy of the Prehearing Statement to be stamped and returned to us for our files.

If you have any questions or need any further assistance regarding this filing please contact me. Thank you for your prompt attention to this matter.

Very truly yours,

*Suzanne Brownless*

Suzanne Brownless  
Attorney for St. Johns County

RECEIVED & FILED  
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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

IN RE: Application For Certificates )  
to Operate a Water and Wastewater )  
Utility in Duval and St. Johns County )  
by Intercoastal Utilities, Inc. ) DOCKET NO. 992040-WS

IN RE: Application by Nocatee Utility )  
Corporation for Original Certificates ) DOCKET NO. 990696-WS  
for water and wastewater service in )  
Duval and St. Johns Counties, Florida. )

PREHEARING STATEMENT

Pursuant to Orders Nos. PSC-99-1764-PCO-WS and PSC-00-1036-PCO-WS, and Rule 28-106.211, Florida Administrative Code, St. Johns County, Florida (County), files this prehearing statement, and states as follows:

A. Witnesses

None

B. Exhibits

- (SJC-1) Judicial Notice St. Johns County Commission Resolution No. 89-214.
- (SJC-2) Judicial Notice St. Johns County Water and Sewer Authority Order No. 99-00012: Preliminary Order Denying Application to Amend Franchise Certificates 13 and 14.
- (SJC-3) Judicial Notice St. Johns County Board of County Commissioners Order No. 99-00015: Final Order Confirming the St. Johns County Water and Sewer Authority's Preliminary Order 99-00012.
- (SJC-4) Judicial Notice St. Johns County Ordinance 99-36, St. Johns County Water and

DOCUMENT NUMBER-DATE

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956

Wastewater Service Area  
Ordinance.

The County reserves the right to identify additional exhibits upon the completion of discovery.

C. Basic Position

The Florida Public Service Commission is without jurisdiction at this time to hear the applications for original certificates filed by Nocatee Utility Corporation (NUC) and Intercoastal Utilities, Inc. (ICU). Further, ICU is estopped from seeking to certify in this proceeding the same service territory in St. Johns County that the St. Johns County Water and Sewer Authority previously denied it permission to serve. Finally, even should the Commission have the jurisdiction to grant ICU an original certificate, the Commission should not grant ICU service territory located in the County's Exclusive Service Territory which the County is already contractually obligated to serve and is in the process of constructing the facilities to serve.

D. Questions of Fact

Issue 1: Is there a need for service in the territory proposed by NUC's application, and if so, when will service be required?

Position: No position.

Issue 2: Does NUC have the financial ability to serve the requested territory?

Position: No position.

Issue 3: Does NUC have the technical ability to serve the requested territory?

Position: No position.

Issue 4: Does NUC have the plant capacity to serve the requested territory?

Position: No position.

Issue 5: What are the appropriate rates and charges for NUC?

Position: No position.

Issue 6: What are the appropriate reuse rates and charges for NUC?

Position: No position.

Issue 7: Is it in the public interest for NUC to be granted a water certificate and wastewater certificate for the territory proposed in its application?

Position: No position.

Issue 8: Is there a need for service in the territory proposed by Intercoastal's application, and if so, when will service be required?

Position: To the extent that ICU is requesting the same service territory as that requested by NUC, the County takes no position. With regard to the service territory which is being requested solely by ICU, there is no need for service either because there is no proposed development or because the area is located in the County's Exclusive Service Territory and is being served by the County.

Issue 9: Does Intercoastal have the financial ability to serve the requested territory?

Position: Based on the materials produced in this proceeding, ICU does not appear to have the financial ability to serve the requested service territory.

Issue 10: Does Intercoastal have the technical ability to serve the requested territory?

Position: Based on the materials produced in this proceeding, ICU does not appear to have a technically and economically feasible plan to serve the requested service territory.

Issue 11: Does Intercoastal have the plant capacity to serve the requested territory?

Position: ICU does not have sufficient current plant capacity to provide for service needs NUC has identified nor does their proposed plan of service provide future plant capacity that is technically or economically feasible to provide service to NUC or the other developments within the proposed service territory.

Issue 12: What are the appropriate rates and charges for Intercoastal?

Position: No position.

Issue 13: What are the appropriate reuse rates and charges for Intercoastal?

Position: No position.

Issue 14: Is it in the public interest for Intercoastal to be granted a water certificate and wastewater certificate for the territory proposed in its application?

Position: No.

E. Questions of Law

Issue 15: Does the Florida Public Service Commission have the jurisdiction to grant an original certificate for water and wastewater service which will transverse county boundaries when a portion of the requested service territory is in a nonjurisdictional county?

Position: No.

Issue 16: Is Intercoastal Utilities, Inc. collaterally estopped in this proceeding from applying for the same service territory in St. Johns County which it was previously denied by St. Johns County?

Position: Yes.

Issue 17: Can the Commission grant Intercoastal Utilities, Inc. an original certificate which will be in competition with, or a duplication of, the County's water and wastewater system?

Position: No, to the extent that ICU has requested service territory located in the Exclusive Service Territory of the County which the County is currently constructing the facilities to serve, §367.045(5)(a), Florida Statutes, prohibits such action.

F. Stipulated Issues

There are no stipulated issues at this time.

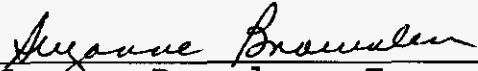
G. Pending motions or other matters

The County has no pending motions at this time but does intend to file a Motion for Summary Order on the res judicata and collateral estoppel issue shortly.

H. Compliance

The County has complied with all requirements of Orders Nos. PSC-99-1764-PCO-WS and PSC-00-1036-PCO-WS.

Respectfully submitted this 30th day of June, 2000 by:

  
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Attorney for St. Johns County,  
Florida

c: 3148

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery (\*) or regular U.S. Mail to the following on this 30th day of June, 2000:

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