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May 22, 2001

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VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

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RECORDS AND REPORTING

Re: Intercoastal Utilities, Inc.; Docket Nos. 990696-WS and 992040-WS
Our File No. 26003.13

Dear Ms. Bayo:

Attached are the original and fifteen copies of the Redirect Testimony of M.L. Forrester filed on behalf of Intercoastal Utilities, Inc. in the above-referenced docket. All parties stipulated at the hearing, and it was so ordererd, that this testimony would be placed into the record as though read and sworn.

Should you or any members of the Commission staff have any questions in this regard, please let me know.

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Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP


John L. Wharton, Esquire
For The Firm


JLW/kll

Enclosures

cc: All Counsel of Record (w/enclosure)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application by Nocatee)
Utility Corporation for Original)
Certificates for Water & Wastewater) Docket No. 990696-WS
Service in Duval and St. Johns)
Counties, Florida)
_____)
In Re: Application for certificates)
to operate water & wastewater) Docket No. 992040-WS
utility in Duval and St. Johns)
Counties by Intercoastal Utilities, Inc.)
_____)

**REDIRECT TESTIMONY OF M.L. FORRESTER
ON BEHALF OF INTERCOASTAL UTILITIES**

1 **Q: Are you the same M.L. Forrester who has previously provided testimony in this**
2 **docket?**

3 A: Yes.

4 **Q: Mr. Melson asked you a few questions about Intercoastal's present plan of service**
5 **as opposed to the plans which Intercoastal put before the St. Johns County Water**
6 **& Sewer Authority in 1999. Please describe the evolution which Intercoastal has**
7 **undergone since that initial plan of service was proposed in 1999.**

8 A: As described in Intercoastal's original March 1999 application and my prior testimony
9 in this proceeding, Intercoastal has planned since 1996 for regional plants to be
10 installed to provide service within the territory for which it has applied. The
11 announcement of the Nocatee Development, after Intercoastal's original application
12 was filed, resulted in the submission of an April 1999 revised engineering plan to the
13 Authority which described how the Nocatee announcement would accelerate
14 Intercoastal's design and installation of the first phase of those new plant facilities, to
15 be completed within the first two to three years expected to be required for approval
16 of the Nocatee DRI.

17 Intercoastal was unable to obtain detailed plans and development schedules from DDI
18 for the entire Nocatee Development until the current application to this Commission
19 was filed and discovery procedures forced the disclosure of such information. The
20 information obtained from that discovery allowed Intercoastal to develop and submit,
21 with its application to this Commission, its December 1999 Conceptual Master Plan
22 which addressed service to all phases of the Nocatee Development.

23 In its pre-filed Direct Engineering testimony, DDI/NUC made further changes to the
24 first phase plans for Nocatee; to which Intercoastal responded by submitting its
25 Revised March 2000 Conceptual Master Plan.

1 The evolution of Intercoastal's plan of service to this territory since its initial
2 application to St. Johns County has been in direct response to the increase in
3 availability of detailed development information. In my opinion, the "evolution" of
4 Intercoastal's plans attests to the technical and planning capability of Intercoastal to
5 ensure that superior services will be provided to this territory if Intercoastal's
6 application is approved.

7 **Q: Mr. Melson asked you some questions about the amount of reclaimed water which**
8 **is "committed" to the Plantations. Please discuss that issue.**

9 A: There is no commitment of a specific amount of reclaimed water to the Plantations
10 development. The connection proposed for the provision of reclaimed water service to
11 Plantations is purely a "backup" to the Plantations' use of its storm water system as a
12 primary irrigation supply and as such does not constitute a firm commitment against
13 Intercoastal's reclaimed water supply.

14 **Q: Mr. Melson asked you about Nocatee Utility Corporation's technical ability to**
15 **provide service to the Nocatee development. In your opinion, does Nocatee Utility**
16 **Corporation have the requisite technical ability?**

17 A: No, in my opinion, Nocatee does not have the technical ability to serve the
18 development. Instead of attempting to hire individuals with the necessary experience
19 and ability to operate a utility such as NUC has proposed, NUC has chosen to
20 completely contract for those services with an unrelated party who will not even
21 arguably be under NUC's control or subject to NUC's direction. It is an unrelated
22 utility, JEA, who will send the bills, read the meters, make repairs and perform routine
23 operation and maintenance, answer the phones whenever there are complaints, and who
24 will provide the service. NUC will really exist in name only. I would have to agree
25 with the testimony of Bill Young, prefiled on behalf of St. Johns County, that NUC is

1 essentially a strawman for the provision of service by JEA.

2 In my opinion, Nocatee Utility Corporation (NUC) has not demonstrated any technical
3 ability to provide service to the Nocatee Development. NUC's principals have no prior
4 experience in the water and wastewater utility industry as managers, operators or
5 investors.

6 **Q: Mr. Melson asked you several questions about the technical ability of Intercoastal.**
7 **Please comment upon Intercoastal's technical ability.**

8 A: I believe Intercoastal's situation, as it relates to Intercoastal's utilization of JUM, is
9 completely different than the relationship between NUC and JEA. Intercoastal and
10 JUM are related parties in that there are shareholders who are common to each
11 operation, and more importantly, the two entities have worked together in this type of
12 arrangement for many years. Intercoastal and JUM operate as they do because of the
13 cost efficiencies which Mr. James explained during the hearing. However, the JUM
14 employees who perform work for Intercoastal are essentially Intercoastal employees,
15 and they consider themselves such. Those employees are specifically designated to
16 perform specific tasks on behalf of Intercoastal and those same individuals are
17 responsive to the needs of Intercoastal with regard to its billing, collection, operation,
18 maintenance, customer concerns, etc. In my opinion, it is a certainty that if the
19 relationship between JUM and Intercoastal were ever severed, for some unforeseeable
20 reason, those same employees who are considered by JUM to be Intercoastal
21 employees would in fact become, as a technical matter, Intercoastal employees. I can
22 not foresee any situation where Intercoastal would suddenly be without employees or
23 without the experience and expertise of the individuals who operate the Utility now.
24 Those same individuals are going to be onboard with Intercoastal no matter what
25 happens between Intercoastal and JUM.

1 Intercoastal's stockholders and directors have a long history of experience in the water
2 and wastewater industry, both as individuals and as a corporate body. Intercoastal's
3 president has over 45 years of planning, construction and operational experience in this
4 industry, and Intercoastal's other officers and directors have actively cooperated and
5 participated in guiding Intercoastal's management, financing, regulatory affairs and
6 systems operations for nearly two decades. In addition, several of those officers and
7 directors have been intimately involved in those same activities for other utility
8 systems since approximately 1955.

9 In my opinion, Intercoastal Utilities -- as a corporate entity - has superior technical,
10 managerial, and operational capabilities and experience to carry out its proposed plan
11 of service to the territory it has requested. Intercoastal's long-standing affiliation with
12 Jax Utility Management and its other engineering, legal, and rate consultants only
13 enhance Intercoastal's capabilities and experience.

14 **Q: Mr. Melson asked you several questions about the possibility that Intercoastal**
15 **would be willing to explore the provision of bulk service by JEA. Is Intercoastal**
16 **willing to explore such a relationship?**

17 **A:** Only if such a relationship resulted in the ability of Intercoastal to provide services in
18 a more economical or more reliable fashion than the plan Intercoastal has proposed.
19 However, Intercoastal feels that its current service proposals have the capability to
20 provide those services at least as reliably and in the long term, more economically than
21 any arrangement that we can presently envision with JEA. Because of those conditions,
22 any arrangement with JEA for bulk service would most likely be limited in scope and
23 longevity.

24 Intercoastal will continue to be willing to explore any provision of service to the
25 territories for which it has applied to see if any particular option is the best option for

1 both the Utility and its present and future customers. It would be irresponsible for
2 Intercoastal to rule out any option in the future, and Intercoastal would not do so.

3 **Q: Would Intercoastal ever entertain the idea of obtaining operation and**
4 **maintenance services from JEA?**

5 A: No. I cannot envision Intercoastal ever seriously entertaining such a notion.
6 Intercoastal can and will provide those services as reliably and efficiently as JEA, and
7 we believe more economically than JEA. Moreover, such an arrangement with JEA
8 would effectively circumvent the ability of Intercoastal and this Commission to control
9 the costs and quality of service to this territory and its future customers.

10 As opposed to (at least) exploring the potential for obtaining either water, wastewater
11 or reuse service from JEA, I cannot imagine a scenario where Intercoastal would ever
12 entertain the idea of using JEA to perform its O&M. Intercoastal already has the
13 individuals in place who are more than capable of performing that operation and
14 maintenance, and would obviously hire whatever personnel were necessary, as
15 Intercoastal's customer base grew, so that operation and maintenance services, and our
16 response to our customers, would not diminish. Unlike NUC, Intercoastal is and has
17 been a regulated utility for many years and is more than capable of continuing to
18 operate its own regulated utilities as the company grows and expands.

19 **Q: Mr. Melson asked you several questions about the borrowing arrangement**
20 **between Intercoastal and First Union. Please comment on Intercoastal's**
21 **relationship with First Union and the letter which Mr. Hogshead wrote which was**
22 **put into evidence in this proceeding.**

23 A: In my opinion, the June 1, 2000 letter from Mr. Hogshead clearly indicates that based
24 on its long-standing relationship with the utility's principals, First Union Bank is ready
25 and willing to provide the funding necessary for Intercoastal to effectuate its plan of

1 service. The letter unquestionably shows that First Union has confidence in the
2 financial capacity of Intercoastal's stockholders as well as the managerial and technical
3 capabilities of Intercoastal and its principals to support these operations.

4 **Q: Mr. Melson asked you several questions about Intercoastal and past discussions**
5 **concerning the possible acquisition of Intercoastal by St. Johns County or JEA.**
6 **What is your understanding of the status of these matters at this time?**

7 A: Right now, I don't understand that there are any discussions ongoing with JEA, nor
8 have there been any such discussions in recent months. I also understand that, as
9 testified to at the hearing, there are no ongoing discussions with St. Johns County and
10 that it's the clear and unequivocal position of Intercoastal that if this Application is
11 granted by the PSC, Intercoastal is not for sale and does not wish to negotiate any
12 possible sale.

13 **Q: You were asked several questions about the pending rate case which Intercoastal**
14 **had contemplated filing with St. Johns County. What is the status of that matter?**

15 A: It's my clear understanding that if Intercoastal comes under the jurisdiction of the
16 Public Service Commission, any proceeding that is currently being conducted by the
17 County will cease to continue. This would apply to any potentiality that Intercoastal
18 will be filing a rate case with St. Johns County or the PSC in the near future given our
19 Principals' commitment in recent months to reduce rates if the requested territory is
20 granted.

21 **Q: Mr. Melson asked you some questions about how Intercoastal and Jax Utility**
22 **Management handle bids for the construction of facilities. Please state for the**
23 **record what you know about how that process has worked in the past.**

24 A: As I understand it, all the significant jobs which Intercoastal has engaged in for the
25 construction of facilities have been bid by Intercoastal. I am certainly not aware of any

1 instance, ever, where utilizing JUM has resulted in the Utility incurring additional or
2 unnecessary costs on any given project. It has been Intercoastal's experience that the
3 utilization of JUM for these types of services has consistently resulted in costs which
4 were at or below market cost.

5 **Q: Mr. Melson asked you questions about Intercoastal's proposed wet weather**
6 **discharge. Do you anticipate that Intercoastal's wet weather discharge would be**
7 **made to the Tolomato River?**

8 A: No, as I explained elsewhere in my testimony, Intercoastal's discharge will not be
9 made into either the Tolomato River or its tributaries.

10 **Q: Mr. Melson asked you several questions about the Development Order in this**
11 **case. Why do you understand the Development Order has the conditions**
12 **regarding the provision of water and wastewater and reuse service to the**
13 **development that it has?**

14 A: I think it is pretty clear that the Development Order only has the conditions which it
15 has because the developer specifically asked those conditions be placed upon the
16 development. And, it certainly does not appear to be any coincidence to me that that
17 request, that the Development Order contained those conditions, is in fact consistent
18 with the service to the development that is planned by the Applicant's related party and
19 that it is inconsistent with Intercoastal's plan of service. I believe it is clear that neither
20 the Water Management District nor the Department of Community Affairs either
21 requested these conditions to be place in the Development Order, nor investigated
22 whether the conditions were even appropriate. I also know there was no evidence or
23 testimony in this case from either Duval County or St. Johns County that either of
24 those entities require these conditions to be put in the Development Order.

25 **Q: Mr. Melson asked you several questions about the Local Sources First policy. Do**

1 **you understand your interpretation of Local Sources First policy to in fact be very**
2 **much like the Water Management District's present interpretation?**

3 A: Yes, as I understand it, it is the position of the Water Management District that the
4 Local Sources First policy is implicated when water is transported from one
5 jurisdiction to another, such as from JEA's water wells in Duval County to consumers
6 in St. Johns County. The Water Management District took this into account when it
7 processed JEA's last Consumptive Use Permit Application and Caroline Silvers
8 testified about those matters at the hearing.

9 **Q: Mr. Melson asked you about the need for service in the areas adjacent to the**
10 **Nocatee development. Do you believe there will be a need for service in those**
11 **areas in the future?**

12 A: Yes, I believe there may be a need for service in those areas in the future. Initially, it's
13 obvious that JEA has, through the construction of the "joint projects", anticipated
14 service east of the Nocatee development. Perhaps JEA knows something right now
15 that they are not sharing with us. Additionally, those lands are no different than the
16 lands on which the Nocatee development will lie were, at least to the public's
17 perception, a couple of years ago. The principals who own the land on which the
18 Nocatee development lies were quoted in the paper a few years ago as saying the land
19 would never be developed. Obviously, that changed and so could the status of the
20 other lands located within Intercoastal's proposed certificate expansion also.

21 I would note that the testimony in this case has been that the comprehensive plan
22 provides that these areas are appropriate for silvaculture. However, I would note that
23 silvaculture, at least as that word is normally used in this area, normally refers to pine
24 tree farming which would seem to be at odds to the great "environmental ethic" that
25 was promoted by the landowner and which was suggested as entirely at odds with the

1 location of any utility facilities on a small portion of the land. Locating the facilities
2 outside the development on a small parcel located on the other lands for which
3 Intercoastal has proposed to expand its certificate, would obviously satisfy the
4 requirements of the Development Order that the facilities be located offsite. It is
5 interesting to note that the Development Order from St. Johns County doesn't require
6 that the facilities "not be located in St. Johns County". They only require that they be
7 located outside the development. Assumably, if St. Johns County had been insistent
8 upon a condition that the facilities not be located in St. Johns County, it could have
9 clearly so stated in the Development Order.

10 **Q: Mr. Menton asked you whether it was true that JEA's Consumptive Use Permit**
11 **includes water designated for the northern St. Johns County area. What is your**
12 **understanding in that regard.**

13 A: As I testified, I have not reviewed the permits. But, I understand now that a significant
14 question in that regard arose at trial based upon the testimony of the witness from the
15 St. Johns Water Management District. It now appears that JEA's pertinent
16 Consumptive Use Permits do not provide for the provision of water to the portion of
17 the Nocatee development which lies with St. Johns County, as JEA previously thought
18 they did.

19 **Q: Mr. Menton asked you several questions about the conditions in the Development**
20 **Orders and their effect on the future of the development. If Intercoastal's**
21 **Application is granted, how do you anticipate the Development Orders will be**
22 **brought into harmony with Intercoastal's plan of service?**

23 A: I believe that if Intercoastal's Application is granted that the service will be able to be
24 provided in complete harmony with the Development Order one way or another.
25 Intercoastal would be willing to investigate options which complied with the

1 Development Order as it currently reads. Additionally, I understand from a review of
2 his deposition that the only individual in this case who can really claim to be an expert
3 in the area of processing Development Orders, Mr. Charles Gauthier from the
4 Department of Community Affairs, felt that in his opinion any modification to the
5 Development Order of these conditions would be a minor modification, which I
6 understand can be rather easily and quickly accomplished.

7 Accordingly, I believe Intercoastal could either provide service in some way such that
8 plants were not located on the development or, under a much more likely scenario, and
9 the one that I believe would be in the best interest of Intercoastal and its present and
10 future customers, the Development Orders can be easily be modified to accommodate
11 Intercoastal's plan of service.

12 **Q: Mr. Menton asked you questions about Intercoastal's commitment to provide**
13 **reuse to Sawgrass. Please explain what you understand Intercoastal's**
14 **commitment to be in that regard?**

15 A: Intercoastal is obligated by its FDEP Permit to provide at least 300,000 gallons per day
16 to the Sawgrass development. We do not agree with any contention on the part of
17 Sawgrass or any other party that the obligation is any greater than that.

18 **Q: Does Intercoastal discharge now to an Outstanding Florida Water?**

19 A: No, there seems to be confusion about where the Intracoastal Waterway and the
20 Tolomato River begins. Intercoastal currently discharges Intracoastal Waterway north
21 of the 210 Bridge. The "Tolomato River" is the name used for that same water body
22 south of the 210 Bridge. DEP already allows Intercoastal to discharge into that water
23 body, and did not express any particular concerns in permitting that activity just two
24 years ago. Of course, Intercoastal's plan of service would actually result in less
25 discharge going into the Intracoastal Waterway, not more. Intercoastal's plan of

1 service would allow the elimination of routine discharges into the Intracoastal
2 Waterway and would reduce those discharges to only wet weather discharges as and
3 when needed.

4 Not only are the Intracoastal Waterway and the Tolomato River two different bodies
5 of water located in two different areas, but the Intracoastal Waterway, at the point
6 where Intercoastal currently discharges and at the point where Intercoastal proposes to
7 discharge, is not a tributary of the Tolomato River. A tributary is water “flowing into
8 a larger stream or lake, and which is secondary, dependant, or subordinate to that larger
9 stream or lake”. There is no reasonable argument that the Intracoastal Waterway, north
10 of the 210 Bridge, fits that definition as it relates to the Tolomato River, south of the
11 210 Bridge.

12 **Q: Mr. Menton asked you some questions about the water quality findings in the**
13 **Nocatee groundwater supply plan. What do you understand the plan to**
14 **determine with regard to the quality of the water which lies beneath the proposed**
15 **Nocatee development?**

16 A: The groundwater supply plan specifically determined that the ample amount of water
17 which Ch₂M Hill found beneath the development was “high quality” water. To this
18 date, I have never seen anything which is inconsistent with that determination.

19 **Q: Mr. Menton asked you several questions about the land upon which Intercoastal**
20 **would propose to locate its facilities. What do you anticipate Intercoastal will do**
21 **in order to obtain land on which to locate its facilities?**

22 A: It has been my experience, and the experience of all the principals of Intercoastal, that
23 once a utility obtains the legal right to provide service to a development, the developer
24 and the utility work hand-in-hand to allow the provision of that service. It is rather
25 absurd to think that if Intercoastal receives the certificate that the Nocatee developer

1 would refuse to cooperate in the provision of service which is a prerequisite to the
2 development of the property. Intercoastal would immediately meet with the
3 landowners and negotiate a fair price, or a contribution if possible, of the land on which
4 the facility should be located. It is obvious from the filings in this case and from my
5 knowledge of the area that there is ample land on which to locate the facilities
6 necessary to implement Intercoastal's plan of service. If necessary, (which is unlikely)
7 Intercoastal has condemnation authority as a public utility.

8 **Q: You were asked several questions about JEA's provision of service and the monies**
9 **JEA has invested in making water, wastewater, and reuse available to that**
10 **portion of Duval County in which the Nocatee development will lie. Do you**
11 **believe JEA's investment creates a powerful incentive to sell those products, if**
12 **they were approached by a willing buyer?**

13 **A:** It is clear to me that JEA, who has made a substantial investment in locating and sizing
14 lines necessary to provide services to areas south of the Duval County/St. Johns
15 County line, has a powerful incentive to sell those services. JEA has certainly argued
16 that it has ample capacity available, and as with any utility, it has an incentive to sell
17 that capacity. Notwithstanding Mr. Kelly's recent testimony about JEA's "new policy"
18 regarding the provision of bulk service in the future, it seems a bit unbelievable to me
19 that JEA would not be willing to sit down and discuss the possibility of providing
20 service to Intercoastal (such as supplying reuse or a backup source of reuse to the
21 development) when the time was right to do so. Particularly with regard to the
22 provision of reuse, JEA is a utility which is currently only reusing a tiny portion of its
23 daily discharge. It would seem to be in everyone's interest, including JEA's and its
24 present customers, for JEA to find as many customers as it can for that reuse. I believe
25 that any suggestion by the Nocatee development that its reuse needs will not be met if

1 Intercoastal's Application is granted, to be completely unfounded and unsubstantiated,
2 both based upon Intercoastal's plan of service and based upon the location of the JEA
3 reuse facilities near the Nocatee development.

4 **Q: Mr. Menton asked you several questions about the prior extension case before**
5 **St. Johns County. In what ways do you believe this present PSC case is dissimilar**
6 **to that prior case?**

7 A: Certainly, the PSC Application differs from the prior Application which was filed
8 before the Authority in that it proposes a different plan of service, proposes a project
9 for a different cost, has been filed pursuant to a different set of rules and statutes, it is
10 a litigation which involved different parties, it is an Application for a different service
11 territory, it is an Application that is responsive to the additional information we now
12 have about the Nocatee development, and it is an Application that is simply being filed
13 in a different time frame to the extent that things are not the same in St. Johns County
14 as they were in the prior case. Really, the only thing that is similar about the
15 Applications is that they were both requests for an extension of Intercoastal's present
16 service territory. Otherwise, the Applications are dissimilar in many, many ways.

17 **Q: What do you understand to be the status of any acquisition discussions regarding**
18 **Intercoastal if in fact Intercoastal's Application is granted?**

19 A: It's my understanding that if Intercoastal's Application is granted, Intercoastal is not
20 for sale.

21 **Q: You were asked a few questions about alleged odor problems at Intercoastal's**
22 **existing wastewater treatment plant. Is it your understanding that such**
23 **complaints have decreased dramatically since Intercoastal finished the**
24 **improvements at its wastewater treatment plant?**

25 A: Yes, it's our perception that the recent modification to the treatment plant have gone

1 a long way to satisfying the odor concerns that we had occasionally heard in the past
2 from residents who lived near the plants.

3 **Q: Mr. Melson asked you several questions about Intercoastal's relationship with**
4 **JUM and questions about JUM's construction of the recent improvements to**
5 **Intercoastal's water treatment plants. What is your recollection as to the cost of**
6 **Intercoastal's recent improvements to its plants in Ponte Vedra as those costs**
7 **relate to the projections for the cost of that particular project?**

8 A: The original cost projections for that project, submitted to First Union National Bank
9 to obtain the project loan commitment, totaled \$ 2,700,000. The final cost to complete
10 that project was \$2, 570,070; nearly 5% less than the original cost estimate. In my
11 experience, the final costs of such complex projects are much more likely to exceed the
12 original estimates than to come-in under budget. I would like to think that project cost
13 control performance of this type is one reason the Intercoastal team enjoys excellent
14 relationships with its lenders.

15 **Q: Mr. Melson asked you about Intercoastal's position that rates for existing**
16 **customers would fall if Intercoastal's Application was granted. Do you anticipate**
17 **that those rate decreases could become a reality if the Application were granted?**

18 A: Yes, not only do I believe the rates, as projected by Mr. Burton, will fall if the
19 Application is granted, I know that the shareholders have committed to reduce the rates
20 if the Application is granted. The shareholders were informed of the commitment
21 necessary in order to put into place such a rate reduction, and the shareholders made
22 the commitment necessary in order to make such a rate reduction come to fruition. The
23 shareholders have the wherewithall to make this commitment, they did make the
24 commitment and I would expect Intercoastal's present and future rate payers to benefit
25 from that commitment.

1 **Q: Does this conclude your testimony?**

2 A: Yes.

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