

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 990696-WS

In the Matter of:

APPLICATION FOR ORIGINAL  
CERTIFICATES TO OPERATE WATER AND  
WASTEWATER UTILITY IN DUVAL AND  
ST. JOHNS COUNTIES BY NOCATEE  
UTILITY CORPORATION.

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APPLICATION FOR CERTIFICATES TO  
OPERATE A WATER AND WASTEWATER  
UTILITY IN DUVAL AND ST. JOHNS  
COUNTIES BY INTERCOASTAL UTILITIES  
INC.

DOCKET NO. 992040-WS

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VOLUME 4  
PAGES 584 THROUGH 755

PROCEEDINGS: HEARING

BEFORE: CHAIRMAN E. LEON JACOBS, JR.  
COMMISSIONER J. TERRY DEASON  
COMMISSIONER LILA A. JABER  
COMMISSIONER BRAULIO L. BAEZ  
COMMISSIONER MICHAEL A. PALECKI

DATE: Tuesday, May 8, 2001

TIME: Commenced at 9:00 a.m.

PLACE: Clarion Hotel Banquet Room  
1300 Ponce DeLeon Boulevard  
St. Augustine, Florida

REPORTED BY: TRICIA DeMARTE  
Official FPSC Reporter

APPEARANCES: (As heretofore noted.)

FLORIDA PUBLIC SERVICE COMMISSION

DOCUMENT NUMBER-DATE

06492 MAY 23 2001

FPSC-RECORDS/REPORTING

## I N D E X

## WITNESSES

1	NAME:	PAGE NO.
2		
3		
4	TIMOTHY E. PERKINS	
5	Direct Examination by Mr. Menton	587
6	Prefiled Direct Testimony Inserted	590
7	Prefiled Rebuttal Testimony Inserted	605
8	Cross Examination by Mr. Melson	616
9	Cross Examination by Mr. Wharton	617
10	Cross Examination by Ms. Espinoza	626
11	Redirect Examination by Mr. Menton	626
12		
13	MICHAEL E. BURTON	
14	Direct Examination by Mr. Deterding	631
15	Prefiled Direct Testimony Inserted	653
16	Cross Examination by Mr. Melson	666
17		
18	PATRICIA ARENAS	
19	Direct Examination by Mr. Korn	702
20	Prefiled Direct Testimony Inserted	705
21	Cross Examination by Mr. Wharton	709
22	Redirect Examination by Mr. Korn	712
23		
24	RALPH DON FLURY	
25	Direct Examination by Mr. Korn	715
	Prefiled Direct Testimony of Richard Olson adopted by Ralph Don Flury Inserted	719
	Cross Examination by Mr. Wharton	741
	CERTIFICATE OF REPORTER	755

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## EXHIBITS

NUMBER:		ID.	ADMTD.
28	TEP-1	589	628
29	MB-1 and MB-2	635	
30	MB-3	635	
31	PA-1	704	
32	ARO-1 through ARO-5	718	754

## P R O C E E D I N G S

(Transcript continues in sequence from Volume 3.)

CHAIRMAN JACOBS: Good afternoon. We'll go back on the record, and we'll proceed again. I think JEA's next witness is up.

MR. MENTON: Thank you, Mr. Chairman. I do not believe Mr. Perkins was here when the witnesses were sworn.

CHAIRMAN JACOBS: Very well.

(Witness sworn.)

CHAIRMAN JACOBS: Thank you. You may be seated.

TIMOTHY E. PERKINS

was called as a witness on behalf of Jacksonville Electric Authority and, having been duly sworn, testified as follows:

## D I R E C T E X A M I N A T I O N

BY MR. MENTON:

Q Could you please state your name.

A Timothy Perkins.

Q Mr. Perkins, by whom are you employed?

A JEA.

Q And what is your position with JEA?

A Vice president of system planning.

Q Okay. Mr. Perkins, did you cause to be prepared in this docket prefiled direct testimony dated March 17th consisting of 15 pages, and then rebuttal testimony consisting of 8 pages?

1 A Yes, I did.

2 Q Was your testimony true and correct at the time that  
3 it was prepared and filed?

4 A Yes, it was.

5 Q Have there been any changes to your prefiled  
6 testimony since it was submitted?

7 A No.

8 Q Has your position changed since the time --

9 A Well, my title has changed, and my position has  
10 changed slightly.

11 Q And what is your current position with JEA?

12 A Vice president of system planning.

13 Q And do you still oversee water resources planning and  
14 consumptive use permitting for JEA?

15 A Yes, I do.

16 Q With that correction, if I asked you the same  
17 questions today that are in your prefiled and rebuttal  
18 testimony, would your answers be the same?

19 A Yes.

20 Q Your prefiled testimony included one exhibit. Are  
21 there any changes or corrections to that exhibit?

22 A Just my title.

23 MR. MENTON: Mr. Chairman, I would ask that  
24 Mr. Perkins' prefiled and rebuttal testimony be entered into  
25 the record as though read.

1           CHAIRMAN JACOBS: Without objection, show  
2 Mr. Perkins' prefiled direct and rebuttal testimony is entered  
3 into the record as though read.

4           MR. MENTON: And I would ask that his exhibit be  
5 marked as the next exhibit; I think it's 28.

6           CHAIRMAN JACOBS: We will mark 28, and that will  
7 be -- it will contain --

8           MR. MENTON: TEP-1. There's only one exhibit.

9           CHAIRMAN JACOBS: Okay. TEP-1.

10          (Exhibit 28 marked for identification.)

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1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Timothy E. Perkins. My business address is 21 West Church  
3 Street, Jacksonville, Florida 32202-3139.

4 **Q. BY WHOM ARE YOU EMPLOYED?**

5 A. I am employed by JEA.

6 **Q. WHAT IS YOUR POSITION WITH JEA?**

7 A. My current position is Vice President, <sup>of system planning.</sup> ~~Environmental.~~

8 **Q. WHAT IS THE NATURE OF YOUR WORK FOR JEA?**

9 A. My primary responsibilities include oversight of environmental compliance  
10 and permitting issues related to JEA's utility operations in JEA's four county  
11 service area. As part of my responsibilities, I am JEA's primary contact with  
12 environmental and legislative bodies regarding all aspects of electric, water  
13 and sewer permitting as well as water quality and industrial pretreatment  
14 issues.

15 **Q. PLEASE EXPLAIN YOUR ROLE IN PERMITTING FOR JEA'S  
16 WATER AND WASTEWATER TREATMENT FACILITIES?**

17 A. As part of my job responsibilities, I oversee the preparation of permit  
18 applications and participate in the permitting process for all of JEA's water  
19 and wastewater facilities.

20 **Q. FOR PURPOSES OF HAVING YOU QUALIFIED AS AN EXPERT IN  
21 THE FIELD OF ENVIRONMENTAL PERMITTING AND WATER  
22 RESOURCE REGULATION, PLEASE SET FORTH YOUR  
23 EDUCATION AND PROFESSIONAL EXPERIENCE.**

24 A. I received a Bachelor of Science degree in environmental engineering with  
25 highest honors from the Florida Institute of Technology. I am a licensed

1 professional engineer in the State of Florida. I have been in my current  
2 position as Vice President, Environmental for JEA since 1998. I was the  
3 Vice President for water and wastewater treatment for JEA's predecessor, the  
4 Jacksonville Electric Authority from 1997-1998 prior to which I was the  
5 Managing Engineer, Water Division Chief, for the Department of Public  
6 Utilities from 1987-1996. In both of those positions, I was responsible for  
7 the operation and maintenance of 28 water treatment plants, a 2,160 mile  
8 water distribution system, a water quality program and a public education  
9 program. As Vice President for Water and Wastewater Treatment, I was  
10 responsible for operations and maintenance of five regional wastewater  
11 treatment plants and approximately 650 sewage pump stations. I was also  
12 responsible for regulatory compliance and permitting. The Division had a  
13 staff of 236 personnel with an annual operating budget of \$19.7 million.  
14 From 1984-1987, I was a professional engineer in the Water Services  
15 Division of the Department of Public Works. Prior to that, I worked for  
16 private engineering companies from 1979-1984 during which time I was  
17 responsible for the design of water and wastewater facilities and oversaw  
18 contract administration, construction inspection and the start up of water and  
19 wastewater facilities.

20 **Q. WHAT ARE YOUR PROFESSIONAL AFFILIATIONS?**

21 A. I served as the Vice Chair of the Management Committee of the Association  
22 of Metropolitan Water Agencies. I also served on the Florida Section  
23 Governing Board of the American Waterworks Association and I am a  
24 member of the Water Environment Federation.

25 **Q. CAN YOU PLEASE IDENTIFY THE DOCUMENT LABELED**



1           **EXHIBIT \_\_ (TEP-1)?**

2           A.     Yes. It is my resume.

3           **Q.     ARE YOU FAMILIAR WITH JEA'S EXISTING WATER AND**  
4           **WASTEWATER TREATMENT PLANTS?**

5           A.     Yes. In my position as Vice President for Environmental matters, I am  
6           involved in the permitting of all of JEA's plants and facilities.

7           **Q.     ARE JEA'S EXISTING WATER AND WASTEWATER TREATMENT**  
8           **PLANTS OPERATING AT FULL CAPACITY?**

9           A.     No. The capacity of JEA's existing water and wastewater treatment plants  
10          exceeds current usage.

11          **Q.     DOES JEA CURRENTLY OWN OR OPERATE ANY WATER OR**  
12          **WASTEWATER FACILITIES IN ST. JOHNS COUNTY?**

13          A.     Yes. JEA recently acquired the Julington Creek plant in St. Johns County  
14          from JCP Utility Company. In addition, JEA has entered into an agreement  
15          with St. Johns County as reflected by Exhibit \_\_ (SDK-2) (the "St.  
16          Johns/JEA Agreement") which is discussed in the prefiled direct testimony of  
17          Scott Kelly in this consolidated docket. As set forth in that Agreement, JEA  
18          has contracted with St. Johns County to provide bulk water and wastewater  
19          service to certain portions of the territory requested by Intercoastal Utilities,  
20          Inc. ("Intercoastal") in this docket. JEA has also entered into a letter of intent  
21          agreement with DDI, Inc. as reflected by Exhibit \_\_ (DCM-4) pursuant to  
22          which JEA has agreed to provide wholesale water and wastewater service to  
23          the Nocatee development.

24          **Q.     ARE JEA'S AGREEMENTS TO PROVIDE SERVICE TO NOCATEE**  
25          **AND ST. JOHNS COUNTY CONSISTENT WITH THE LONG-TERM**

1                   **ENVIRONMENTAL NEEDS IN THIS AREA?**

2           A.    Yes. These agreements will allow implementation of regionalized water and  
3                   wastewater service in this area. Ground water and ecosystems do not  
4                   recognize political boundaries. Sound environmental planning requires an  
5                   integrated, comprehensive approach. A regionalized system provides a  
6                   comprehensive solution that is consistent with the policies of the  
7                   environmental regulators and will further the long-term strategies that have  
8                   been adopted. Because of the hydrogeology in the South Grid area, some  
9                   localized problems can arise as a result of fracturing near withdrawal sites.  
10                  These localized problems can be dealt with through planning, monitoring and  
11                  modifications to existing wellfields. JEA, with its interconnected system and  
12                  available resources, has the ability to detect and address these problems  
13                  before they become significant. For example, JEA's current capital budget  
14                  allocates \$9 million over the next four years for wellfield optimization efforts  
15                  to help insure that wellfield withdrawals are properly integrated to minimize  
16                  the risk of unacceptable adverse environmental impacts.

17           **Q.    WILL THE PROVISION OF WATER AND WASTEWATER**  
18                   **SERVICES BY JEA IN THE SOUTHERN DUVAL AND NORTHERN**  
19                   **ST. JOHNS COUNTY AREA BE INCORPORATED INTO JEA'S**  
20                   **EXISTING REGIONAL NETWORK?**

21           A.    Yes. JEA is in a unique position to provide environmentally sensitive service  
22                   under the agreements discussed above by incorporating the areas into JEA's  
23                   existing regional network. JEA already has an extensive water and  
24                   wastewater service network in place. As discussed in the prefiled direct  
25                   testimony of Scott Kelly, JEA's Construction and Maintenance Vice-

1 President, construction of the infrastructure necessary to incorporate southern  
2 Duval and northern St. Johns Counties into this network is nearing  
3 completion. Because of the size of JEA's existing service area and the length  
4 of time that it has been providing service in northeast Florida, JEA has  
5 developed a wealth of knowledge and expertise regarding the hydrogeology  
6 and environment of this part of the state. JEA will be able to utilize its  
7 regional network along with its accumulated experience and expertise to  
8 provide service that is effective, dependable and environmentally sensitive.

9 **Q. YOU MENTIONED THE AGREEMENT FOR WATER AND**  
10 **WASTEWATER UTILITY SERVICES BETWEEN JEA AND ST.**  
11 **JOHNS COUNTY. CAN YOU EXPLAIN WHAT YOU KNOW**  
12 **ABOUT THAT AGREEMENT?**

13 A. Yes. That Agreement ((Exhibit \_\_ SDK-2) to the prefiled direct testimony  
14 of Scott Kelly) sets forth, among other things, the terms and conditions for  
15 St. Johns County to procure wholesale water and wastewater utility services  
16 from JEA and for JEA to construct certain water and wastewater facilities in  
17 connection with the provision of such services to St. Johns County. The St.  
18 Johns/JEA Agreement was executed and approved by St. Johns County on  
19 April 13, 1999 and executed and approved by JEA on April 20, 1999.

20 **Q. WHAT IS YOUR UNDERSTANDING OF THE PURPOSE OF THE**  
21 **ST. JOHNS/JEA AGREEMENT?**

22 A. JEA entered into this Agreement with St. Johns County in order to establish  
23 the framework for a long term arrangement to provide efficient,  
24 environmentally sound, regional water and wastewater transmission facilities  
25 in North St. Johns County.

1       **Q. DO YOU HAVE A ROLE IN IMPLEMENTATION OF THE ST.**  
2       **JOHNS/JEA AGREEMENT?**

3       A. Yes. In my capacity as Vice President Environmental, I am involved in  
4       ensuring that there is adequate permitted capacity to implement this  
5       Agreement.

6       **Q. YOU ALSO MENTIONED THE LETTER OF INTENT AGREEMENT**  
7       **BETWEEN JEA AND DDI. WILL YOU BE INVOLVED IN**  
8       **IMPLEMENTING THE AGREEMENT BETWEEN JEA AND DDI?**

9       A. Yes. I will be involved in the permitting necessary to implement the  
10      agreement and will also oversee all of the capacity analysis.

11      **Q. DOES JEA HAVE SUFFICIENT CAPACITY AVAILABLE TO**  
12      **PROVIDE THE SERVICE CALLED FOR IN THESE**  
13      **AGREEMENTS?**

14      A. Yes. JEA has the capacity to provide the immediately needed water and  
15      wastewater treatment services under both agreements through facilities  
16      currently owned and operated by JEA. The existing wellfields which supply  
17      JEA's South Grid have sufficient capacity to provide service to St. Johns  
18      County in accordance with the April 19, 1999 JEA/St. Johns Agreement  
19      without unacceptable adverse environmental impacts. JEA also has the  
20      current capacity to meet the projected needs of at least Phase I of Nocatee  
21      (which is expected to take five years to build). As the Nocatee development  
22      proceeds to its next phases and additional service is needed by others in this  
23      area, it may become necessary to expand current capacity. JEA's long term  
24      plans can handle the anticipated growth in this area and include several  
25      options to address the additional demands as they arise.

1       **Q.     HAVE YOU REVIEWED THE PREFILED DIRECT TESTIMONY OF**  
2       **SCOTT KELLY IN THIS DOCKET?**

3       A.     Yes.

4       **Q.     DOES MR. KELLY'S TESTIMONY ACCURATELY**  
5       **CHARACTERIZE THE CAPACITIES OF JEA'S WATER AND**  
6       **WASTEWATER TREATMENT PLANTS?**

7       A.     Yes.

8       **Q.     WHAT ARE THE CAPACITIES OF JEA'S WATER AND**  
9       **WASTEWATER TREATMENT PLANTS THAT WILL**  
10       **POTENTIALLY SERVE THE TERRITORY REQUESTED BY**  
11       **INTERCOASTAL?**

12       A.     With respect to wastewater, JEA's Mandarin Wastewater Treatment Plant has  
13       a permitted capacity of 7.5 MGD with approximately 6 MGD currently  
14       reserved by developers and other entities. Thus, there is enough excess  
15       capacity available at Mandarin to serve the immediately foreseeable needs in  
16       this area. Mandarin was built with the ability to expand to 15 MGD if  
17       necessary. JEA's Arlington East Wastewater Treatment Plant has recently  
18       been expanded to 15 MGD and has reserve capacity capable of  
19       supplementing Mandarin if needed. JEA has plans to expand Arlington East  
20       to 20 MGD. Those plans are in the process of being implemented and  
21       construction should be completed by December, 2001. Nocatee projects  
22       flows of 5.209 MGD upon buildout which will not be completed for 25 years.  
23       Thus, JEA has more than enough capacity planned to be available to meet  
24       Nocatee's long-term needs.

25               The water capacity in this area will initially be provided from JEA's

1 South Grid. The interconnected water plants that comprise JEA's South Grid  
 2 have a total permitted capacity of 104.4 MGD with a commitment to existing  
 3 and future customers of 43.32 MGD. JEA currently has approximately 60  
 4 million gallons per day excess capacity in its South Grid and JEA also has  
 5 several water plant expansion projects under construction which will add 7  
 6 million gallons per day of additional capacity to the South Grid. Although  
 7 the St. Johns River Water Management District ("SJRWMD" or "District")  
 8 has not established a safe yield for the Aquifer in this region, preliminary  
 9 results of studies undertaken by JEA indicate that it can safely withdraw at  
 10 least 55 MGD from its existing South Grid wellfields without unacceptable  
 11 adverse environmental impacts. The water plants most likely to be affected  
 12 by services to St. Johns County and Nocatee are as follows:

		FEB. 2000 FLOW
		(MGD)
	PERMITTED (MGD)	
16	BRIARWOOD	14.4 7.122
17	DEERWOOD 111	14.4 8.578
18	COMMUNITY HALL	12.96 6.355

19  
 20 The sum of the permitted capacity for these water plants is in excess of 40  
 21 MGD and the February, 2000 flows are 22 MGD. As reflected in Ex. \_\_\_\_  
 22 (DCM-5) to the prefiled direct testimony of Douglas C. Miller submitted on  
 23 behalf of Nocatee Utility Corporation in this docket, Nocatee's water needs  
 24 upon buildout are projected to be 6.121 MGD. Thus, JEA already has

1 adequate capacity to meet this demand.

2 **Q. EXPLAIN WHAT YOU MEAN BY PERMITTED CAPACITY.**

3 A. JEA has secured all of the necessary permits to operate the facilities at the  
4 capacities I cited. JEA received a 10 year consumptive use permit from the  
5 SJRWMD in February 2000 for the wellfields that supply all of JEA's water  
6 plants (including all those in JEA's South Grid).

7 **Q. YOU MENTIONED JEA'S SOUTH GRID. COULD YOU EXPLAIN**  
8 **WHAT YOU MEAN BY THAT?**

9 A. JEA currently meets the water needs of its customers through two separate  
10 interconnected grids of large water plants. One such interconnected grid (the  
11 "North Grid") is located north of the St. Johns River in Duval County. The  
12 second interconnected grid (the "South Grid") is located on the south side of  
13 Duval County. An interconnected water plant configuration provides a very  
14 high level of reliability and allows JEA to balance withdrawals from the  
15 Floridan Aquifer in order to minimize drawdown and other adverse impacts.  
16 The interconnected grids also provide back-up reliability in case of an outage  
17 in the system. In fact, because of the special protections afforded by an  
18 interconnected grid, many of the private utilities in this area of the state have  
19 contracted with JEA for emergency back-up and peaking protection. JEA is  
20 in the process of implementing a long term strategy to interconnect its North  
21 and South Grids. There is excess capacity available in the North Grid which,  
22 through interconnection, can be utilized to minimize the risk of adverse  
23 impacts in the South Grid. The St. Johns River inhibits the flow of  
24 groundwater from the north side to the south side of the river. JEA has  
25 determined that interconnection of the North and South Grids will enable it

1 to utilize the excess groundwater capacity available from the North Grid.  
2 When the interconnection of the North and South Grids is completed, it will  
3 enable JEA to further balance withdrawals from the Floridan Aquifer to  
4 protect against adverse impacts. It will also enhance the development of a  
5 truly regionalized system with many attendant benefits.

6 **Q. ARE THERE ANY ANTICIPATED ENVIRONMENTAL**  
7 **PERMITTING OBSTACLES TO JEA'S DELIVERY OF SERVICES**  
8 **TO THE DISPUTED TERRITORY?**

9 A. No.

10 **Q. ARE YOU FAMILIAR WITH THE TERRITORY REQUESTED BY**  
11 **INTERCOASTAL WHICH IS THE SUBJECT OF THIS DOCKET?**

12 A. Yes. I have reviewed Intercoastal's application and the Conceptual Master  
13 Plan of Service prepared by Post, Buckley, Schuh and Jernigan.

14 **Q. ARE YOU FAMILIAR WITH THE CONCEPT OF "LOCAL**  
15 **SOURCES FIRST"?**

16 A. Yes.

17 **Q. WHAT IS YOUR UNDERSTANDING OF "LOCAL SOURCES**  
18 **FIRST"?**

19 A. Local sources first means that, before water is transported from one area to  
20 another, the transporting authority should confirm that the anticipated needs  
21 of the area from which the water is being withdrawn has been met. There has  
22 been a considerable amount of controversy as to how and when to apply this  
23 concept. It is irrelevant in the context of the water needs of southern Duval  
24 and northern St. Johns Counties. JEA has not proposed to transport any  
25 water out of this area. There are existing sources of water which can



1 reasonably be expected to meet the future growth. By including this area as  
2 part of a regionalized, interconnected network, JEA will be able to minimize  
3 the risk of environmental harm.

4 **Q. IS A REGIONALIZED SYSTEM CONSISTENT WITH THE "LOCAL**  
5 **SOURCES FIRST" POLICY?**

6 A. Yes.

7 **Q. WILL SUCH A SYSTEM ALLOW JEA TO IMPROVE THE**  
8 **EFFICIENCY OF ITS WATER AND WASTEWATER UTILITY**  
9 **SYSTEMS?**

10 A. Yes. Further development of a regionalized system will allow JEA to better  
11 utilize some of its existing water and wastewater treatment plant capacity.  
12 An interconnected water plant configuration is the most efficient and most  
13 environmentally sound way of providing additional capacity as may be  
14 needed to serve future needs in this area.

15 **Q. ARE YOU FAMILIAR WITH THE ST. JOHNS RIVER WATER**  
16 **MANAGEMENT DISTRICT'S 2020 PLAN?**

17 A. Yes.

18 **Q. WHAT IS THE 2020 PLAN?**

19 A. It is a continuation of the water management district's assessment of needs  
20 and sources of water for the areas within its jurisdiction through the year  
21 2020 and an evaluation of potential resource shortfalls. It identifies 5 areas  
22 where demands are projected to exceed the capacity of existing facilities.

23 **Q. HAS THE PLAN BEEN FINALIZED?**

24 A. No. A first draft of the plan was circulated last year and was presented to the  
25 District Board in November. A second draft of the plan has now been

1 released and comments were submitted on March 8.

2 **Q. ARE JEA'S PLANS TO PROVIDE WHOLESALE SERVICE TO ST.**  
3 **JOHNS COUNTY AND DDI CONSISTENT WITH THE DRAFTS OF**  
4 **THE DISTRICT'S 2020 PLAN?**

5 A. Yes. JEA's plans are entirely consistent with the 2020 Plan. An  
6 interconnected system is specifically recognized as one method to address the  
7 long-term needs in this planning area. This system provides JEA with the  
8 capacity to supply water under the agreements in a manner consistent with  
9 the 2020 Plan.

10 **Q. HAVE YOU BEEN INVOLVED WITH THE ST. JOHNS RIVER**  
11 **WATER MANAGEMENT DISTRICT'S PLANNING FOR THE**  
12 **WATER NEEDS OF THE SOUTH DUVAL COUNTY AND NORTH**  
13 **ST. JOHNS COUNTY AREAS?**

14 A. Yes.

15 **Q. CAN YOU EXPLAIN THE NATURE OF THOSE EFFORTS?**

16 A. The District has treated this area as a hydro-geologically linked unit. It is  
17 referred to as Work Area 5 in the 2020 Plan. Essentially, the SJRWMD has  
18 concluded that withdrawal effects in this area are inter-related. There is  
19 anticipated growth in certain areas of southern Duval and northern St. Johns  
20 Counties. The quality of water in certain portions of this area has been  
21 declining and the District is concerned that meeting the future demand will  
22 require alternate sources of water. JEA has concluded that a fully integrated,  
23 regionalized water supply system is the most economical and  
24 environmentally sound way to meet needs in this area. The District has  
25 recognized implementing an interconnected system as one way to balance

1            withdrawals and minimize unacceptable adverse environmental impacts.  
2            JEA's plans to interconnect its South Grid with its North Grid will enable  
3            water to be supplied in southeast Duval County and ultimately St. Johns  
4            County from a number of plants.

5            **Q.    ARE THERE OTHER ENVIRONMENTAL BENEFITS TO HAVING**  
6            **THE REQUESTED AREAS SERVED BY JEA?**

7            A.    Yes. JEA offers several environmental benefits as the provider of services.  
8            Because the wellfields north of the St. Johns River are outside the water use  
9            caution area established by the St. Johns River Water Management District,  
10           completing the interconnection of JEA's North and South Grids will put JEA  
11           in a unique position to provide water service with minimal adverse impact.  
12           In addition, JEA is in the process of implementing an extensive reuse system for  
13           its Mandarin Wastewater Treatment Plant. The wastewater services provided  
14           to the requested territory will be tied into JEA's reuse system. JEA recently  
15           received a \$5 million state grant to implement reuse. JEA has contributed an  
16           additional \$6 million to implement the reuse program. This system will  
17           include 25 miles of reuse transmission mains. Ultraviolet high level  
18           disinfectant is also being added at the plant to insure enhanced disinfection.  
19           Construction of the reuse system is well along. The filtering system has been  
20           completed and the lines are under construction. This reuse system will be  
21           completed by June, 2001. When completed, this reuse system will allow JEA  
22           to reuse over 50% of the flow generated by the Mandarin Wastewater  
23           Treatment Plant. JEA has identified nine potential reuse customers for its  
24           reused water and letters of intent have been executed by eight of the nine  
25           potential reuse customers. JEA is negotiating service contracts with these

1 customers. It is estimated that these customers will use 1.5 MGD of reuse  
2 from the Mandarin Wastewater treatment facility.

3 **Q. ARE YOU INVOLVED IN THE DEVELOPMENT AND**  
4 **IMPLEMENTATION OF JEA'S REUSE PROGRAM?**

5 A. Yes. Part of my job responsibilities include oversight of all of JEA's reuse  
6 programs.

7 **Q. WILL THE REUSE SYSTEM BEING DEVELOPED BY JEA ENABLE**  
8 **IT TO MEET THE INITIAL REUSE NEEDS OF NOCATEE?**

9 A. Yes. JEA has received a reuse service availability request from the Nocatee  
10 developers as shown in Ex. \_\_\_ (DCM-5) to the prefiled direct testimony of  
11 Douglas C. Miller. They have proposed a 5 phase implementation. The first  
12 phase, which is currently projected to extend from years 2002-2007, is  
13 anticipated to require 1.2 MGD of reuse water. Build out of the project in  
14 2027 is estimated to require 5.3 MGD of reuse. The needs of the first phase  
15 of the project, which is projected to take five years to complete, can be met  
16 by reuse water from the Mandarin plant. Several options exist for meeting  
17 the reuse needs of the later phase. How those need will be met will depend  
18 on JEA's decision on expanding Mandarin or routing wastewater to Arlington  
19 East or a new dedicated reuse plant. Regardless of which treatment option  
20 is selected, JEA will have sufficient reuse capacity to meet Nocatee's needs.

21

22 **Q. ANY OTHER ENVIRONMENTAL BENEFITS THAT YOU ARE**  
23 **AWARE OF?**

24 A. On the water supply side, as discussed above, JEA currently has the capacity  
25 under its water supply permits to provide service to the territory in question

1 without the need for additional wells or without the need for locating new  
2 wells in a water use caution area. Another benefit to receiving service from  
3 JEA is JEA's commitment to enhancing the environment through phase-out  
4 of small ineffectual package wastewater plants. JEA has phased out several  
5 hundred small package plants in Duval County in the last 15 years. Service  
6 by JEA under its agreement with St. Johns will enable St. Johns County to  
7 phase-out the existing package plant at Nease High School and provide  
8 service to the surrounding area in an efficient and effective manner.

9 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

10 A. Yes.

11

12 C:\MyFiles\PERKLANE

1 Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A. My name is Timothy E. Perkins. My business address  
3 is 21 Church Street, Jacksonville, Florida 32202-  
4 3139.

5 Q. BY WHOM ARE YOU EMPLOYED?

6 A. I am employed by JEA.

7 Q. WHAT IS YOUR POSITION WITH JEA?

8 A. My current position is Vice President <sup>of</sup>  
9 ~~Environmental~~ *system planning*.

10 Q. HAVE YOU PREVIOUSLY PROVIDED PREFILED DIRECT  
11 TESTIMONY IN THESE DOCKETS ON BEHALF OF JEA?

12 A. Yes.

13 Q. IN YOUR DIRECT TESTIMONY, DID YOU SET FORTH YOUR  
14 QUALIFICATIONS AND EXPERIENCE?

15 A. Yes.

16 Q. HAS THE NATURE OF YOUR WORK FOR JEA CHANGED SINCE  
17 THE FILING OF YOUR DIRECT TESTIMONY?

18 A. No. I still oversee the preparation of permit  
19 applications and participate in the permitting  
20 process for all of JEA's water and wastewater  
21 facilities. I am JEA's primary contact with  
22 environmental and legislative bodies regarding all  
23 aspects of electric, water and sewer permitting as  
24 well as water quality and industrial pretreatment  
25 issues.

1 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY IN  
2 THESE DOCKETS?

3 A. The purpose of my rebuttal testimony is to address  
4 certain issues raised by the prefiled direct  
5 testimony of Caroline Silvers of the St. Johns  
6 River Water Management District ("SJRWMD"), Edward  
7 Cordova of the Florida Department of Environmental  
8 Protection ("DEP"), and Dr. T. James Tofflemire of  
9 the Duval County Health Department ("DCHD")  
10 submitted on behalf of staff.

11 Q. HAVE YOU REVIEWED THE PREFILED TESTIMONY OF  
12 CAROLINE SILVERS IN THESE DOCKETS?

13 A. Yes.

14 Q. ARE THERE ANY ISSUES IN MS. SILVERS' TESTIMONY  
15 WHICH YOU WISH TO COMMENT UPON?

16 A. Yes. On page 4 of her testimony, Ms. Silvers  
17 describes the water needs in the area designated as  
18 Work Group V in the Water 20/20 planning process.  
19 One of the advantages to JEA providing water  
20 service to this area is the ability to utilize  
21 JEA's interconnected grid system to meet the  
22 growing demands in this area. JEA is in the process  
23 of implementing its long term strategy to  
24 interconnect its North and South Grids. There is  
25 water resource capacity available in the North Grid

1           which, through interconnection, can be utilized to  
2           supply water to the Work Group V area from outside  
3           the water use caution region. Thus, JEA will be  
4           able to further minimize the risk of environmental  
5           problems in the South Grid area. When the  
6           interconnection of the North and South Grids is  
7           completed, a large regionalized system will be in  
8           place which will put JEA in a unique position to  
9           balance withdrawals from the Floridian Aquifer to  
10          protect against adverse impacts.

11       **Q. DO YOU HAVE ANY COMMENTS REGARDING MS. SILVERS'**  
12       **TESTIMONY REGARDING THE AVERAGE DAY DEMAND DEFICIT**  
13       **FOR THE YEAR 2020 ACCURATE?**

14       A. Yes. On page 5 of her testimony, Ms. Silvers  
15       refers to an average day demand deficit for JEA in  
16       the year 2020. On page 6 of her testimony, Ms.  
17       Silvers talks about potential options available to  
18       JEA to address the situation. One of the options  
19       that she mentions is an interconnect from the North  
20       to the South Grid to convey new supply. As noted  
21       above, JEA has begun implementing that option. The  
22       interconnection of the North and South grids has  
23       already been budgeted and the work is in the design  
24       phase. When completed, the interconnection will  
25       provide an additional 18 MGD of capacity to service



1 the needs in this area. In its most recent  
2 consumptive use permit, JEA committed to have the  
3 interconnection in service within 3 years. In  
4 other words, the interconnection should be in place  
5 by March 2003. Thus, the SJRWMD's calculation of  
6 the average annual day deficit does not take into  
7 account the improvements to JEA's system that are  
8 in process.

9 **Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO THE GROUND**  
10 **WATER QUALITY CONCERNS IDENTIFIED BY MS. SILVERS?**

11 A. Yes. JEA currently meets the water needs of its  
12 customers through two separate interconnected grids  
13 of large water plants. One such interconnected  
14 grid ("the North Grid") is located north of the St.  
15 Johns River in Duval County. The second  
16 interconnected grid ("the South Grid") is located on  
17 the south side of Duval County. JEA's  
18 interconnected water plant configuration provides a  
19 very high level of reliability and allows JEA to  
20 balance withdrawals from the Floridian Aquifer in  
21 order to minimize draw down and other adverse  
22 impact. The interconnected grids also provide  
23 background reliability in case of an outage in the  
24 system. Because of the hydrogeology in the South  
25 Grid area, some localized problems can arise as a

1 result of fracturing near withdrawals sites. These  
2 localized problems can be dealt with through  
3 planning, monitoring and modifications to existing  
4 wellfields. JEA is in the process of installing a  
5 wellfield optimization system which will utilize  
6 wellhead instrumentation and computer modeling of  
7 the aquifer to minimize impacts on aquifer levels  
8 and water quality.

9 **Q. ARE THERE ANY OTHER ASPECTS OF MS. SILVERS'**  
10 **TESTIMONY THAT YOU WISH TO COMMENT UPON?**

11 A. On page 7, line 19, Ms. Silvers discusses the  
12 SJRWMD's goal of reducing discharges to certain  
13 important water bodies. Under JEA's agreement with  
14 Nocatee Utility Corporation, reuse to the Nocatee  
15 development would come from JEA's Mandarin plant.  
16 The increase in reuse from the Mandarin plant would  
17 enable JEA to reduce its discharges to the St.  
18 Johns River which is identified by Ms. Silvers as  
19 one of the important goals of the water management  
20 district.

21 **Q. HAVE YOU READ THE PREFILED DIRECT TESTIMONY OF**  
22 **EDWARD CORDOVA OF THE FLORIDA DEPARTMENT OF**  
23 **ENVIRONMENTAL PROTECTION IN THESE DOCKETS?**

24 A. Yes.

1 Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO THAT  
2 TESTIMONY?

3 A. Yes. As discussed above, JEA's agreement with  
4 Nocatee will enable JEA to further its reuse  
5 program and reduce discharges to the St. Johns  
6 River. This will help alleviate DEP's concerns  
7 related to effluent disposal in the area.

8 Q. DO YOU HAVE ANY OTHER COMMENTS REGARDING MR.  
9 CORDOVA'S TESTIMONY?

10 A. Yes. On page 3 of his testimony, Mr. Cordova  
11 correctly notes the improvements made to JEA's  
12 Mandarin plant as part of its recent expansion.  
13 With respect to the Capacity Analysis Report  
14 referenced on page 5, the Mandarin plant was  
15 designed with the ability to expand to 15 MGD. Any  
16 further expansions would incorporate the biological  
17 nutrient reduction ("BNR") technology incorporated  
18 in the last expansion. As noted in my direct  
19 testimony, wastewater service to this area could  
20 also potentially be provided through a connection  
21 to JEA's Arlington East plant. The Arlington East  
22 plant currently has a capacity of 15 MGD with an  
23 average daily flow of 11 MGD. That plant is in the  
24 process of expanding to 20 MGD.

1 Q. DID YOU ALSO REVIEW THE PREFILED DIRECT TESTIMONY  
2 OF DR. T. JAMES TOFFLEMIRE?

3 A. Yes.

4 Q. DO YOU HAVE ANY COMMENTS WITH RESPECT TO HIS  
5 TESTIMONY?

6 A. Yes. Dr. Tofflemire refers to problems encountered  
7 during the drought in the summer of 1998. He notes  
8 that some piping changes and new plant construction  
9 have occurred since that time to provide more  
10 pressure and flow to the Mandarin area and  
11 Southside. What he fails to note is that those  
12 corrective measures have proven to be quite  
13 effective. We are currently in the midst of a  
14 drought that is more extreme than the one he  
15 referenced in the summer of 1998. Moreover, demand  
16 has increased and pumping is approximately 20%  
17 higher than it was in the summer of 1998.  
18 Nevertheless, JEA has not suffered any water  
19 pressure problems during the current drought.  
20 Accordingly, it is clear that the corrective  
21 measures implemented by JEA have worked.

22 Q. DO YOU HAVE ANY OTHER COMMENTS WITH RESPECT TO DR.  
23 TOFFLEMIRE'S TESTIMONY?

24 A. Yes. Dr. Tofflemire makes several references to  
25 the "limiting" grid capacity. His comments are

1           directed solely to JEA's South Grid. As previously  
2           discussed, JEA is in the process of implementing  
3           its plan to interconnect its North and South Grids.  
4           Thus, JEA's ability to provide service to this area  
5           even in the most extreme drought conditions will be  
6           significantly enhanced.

7           **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

8           A. Yes.

1 CHAIRMAN JACOBS: Thank you. You may proceed.

2 MR. MENTON: And I would tender Mr. Perkins for  
3 cross.

4 CHAIRMAN JACOBS: Mr. Melson.

5 MR. MENTON: Oh, I'm sorry.

6 BY MR. MENTON:

7 Q Mr. Perkins, do you have a summary of your testimony?

8 CHAIRMAN JACOBS: Yes. I thought we had gotten past  
9 it.

10 A Yes. Good afternoon, Commissioners. I'm  
11 Timothy Perkins. I'm the vice president of system planning for  
12 JEA. At the time I submitted my prefiled testimony, I was the  
13 vice president of environmental for JEA. I assumed the  
14 responsibility for system planning last May. My primary job  
15 responsibilities continue to include oversight of water  
16 resource planning, including consumptive use permitting and  
17 facilities planning for JEA's regional water and wastewater  
18 systems. In addition, I do system planning for the electric  
19 system.

20 The purpose of my testimony is to provide you with  
21 background regarding JEA's water and wastewater systems and to  
22 confirm that JEA has excess capacity within its existing system  
23 to provide the wholesale water and wastewater services called  
24 for in the agreement between JEA and the Nocatee Utility  
25 Corporation. JEA's existing long-term facilities planning

1 easily accommodates providing the bulk service necessary to  
2 Nocatee.

3           As Mr. Kelly previously explained, JEA is one of the  
4 largest water and wastewater utilities in Florida. JEA has an  
5 extensive interconnected system which can provide bulk water  
6 and wastewater service in this area in a manner that minimizes  
7 the risks of unacceptable adverse and environmental impacts.  
8 Because of the size of JEA's regional systems and the length of  
9 time that it has been providing services in northeast Florida,  
10 JEA has a wealth of knowledge and expertise regarding the  
11 hydrogeology and environmental conditions in this part of the  
12 State.

13           JEA has water and wastewater lines near the Nocatee  
14 property that can easily be accessed to provide bulk service to  
15 the developer. The wastewater will be transmitted back to  
16 JEA's Mandarin wastewater plant which currently has  
17 approximately 1.5 million gallons per day of excess capacity.  
18 That plant was built with the ability to expand to 15 million  
19 gallons per day as required in the future. In addition, JEA  
20 could easily divert flows to the Arlington East wastewater  
21 treatment plant from the Mandarin service area. That plant is  
22 currently being expanded to 20 million gallons per day from its  
23 current capacity of 15 million gallons per day. It currently  
24 has an average daily flow of slightly in excess of 11 million  
25 gallons per day.

1           With respect to water, JEA currently operates two  
2 separate interconnected grids of large water plants. An  
3 interconnected water plant configuration is the most efficient  
4 and most environmentally sound way of providing service in this  
5 area. The St. Johns Water Management District has designated  
6 most of southern Duval County and all of St. Johns County with  
7 the exception of a small area to the south as a priority --

8           CHAIRMAN JACOBS: Can I get you to just slow just a  
9 little bit?

10          A     Yes, I'm sorry -- as a priority water use caution  
11 area. JEA's South Grid is located on the south side of Duval  
12 County and includes seven large interconnected water plants.  
13 In addition, JEA is in the process of interconnecting its South  
14 Grid with its North Grid. The North Grid lies west of the  
15 St. Johns River and presently is not interconnected with the  
16 South Grid. This will further regionalize the system and allow  
17 JEA to balance its withdrawals from the Floridian Aquifer on  
18 the South Grid in order to better manage the resource and  
19 prevent damage to the water quality in the South Grid area.  
20 This will also improve our system's already high level of  
21 reliability.

22           I'm also here to explain JEA's reuse program. JEA is  
23 involved currently in an \$11 million program to implement reuse  
24 from its Mandarin wastewater treatment plant. In addition, we  
25 are spending about \$9 million at our District 2 wastewater



1 treatment plant to provide 3 million gallons per day of  
2 wastewater to two of our power plants for reuse purposes.  
3 There are significant reuse projects underway within JEA's  
4 system in addition to those. The Mandarin reuse system will  
5 include 25 miles of reuse transmission mains and will allow JEA  
6 to ultimately reuse approximately 5 million gallons per day of  
7 reuse from the Mandarin facility. JEA will have sufficient  
8 reuse capacity to meet the needs of Nocatee in both the short  
9 and long run. Wholesale reuse service by JEA will not require  
10 JEA to use backup wells to tap into potable water supplies. By  
11 providing reuse to Nocatee, JEA will be able to significantly  
12 reduce its current discharges to the St. Johns River. That's  
13 all I have.

14 MR. MENTON: I would tender Mr. Perkins for cross.

15 CHAIRMAN JACOBS: Very well. Mr. Melson.

16 CROSS EXAMINATION

17 BY MR. MELSON:

18 Q Mr. Perkins, will JEA need to obtain any  
19 modifications to its existing consumptive use permits to  
20 provide water to Phase I of the Nocatee development?

21 A Not as I understand it. When we filed our  
22 consumptive use application, we included 3.3 million gallons  
23 per day of projected water supply to northern St. Johns County.  
24 That quantity was shown in the quantity that we were issued in  
25 our permit.

1 Q In the information that JEA supplied to the Water  
2 Management District in connection with their 2020 plan, did you  
3 provide information that showed the provision of water in the  
4 northern St. Johns County area?

5 A Yes, we did.

6 Q Will JEA's provision of wholesale water service to  
7 Nocatee Utility Corporation require the development of any  
8 additional water sources?

9 A No. The water supply needs for the next ten years  
10 are already in our water resources plan and are currently  
11 constructed or in development. The river crossing is not  
12 completed yet but is in design and construction.

13 MR. MELSON: That's all I've got. Thank you.

14 CHAIRMAN JACOBS: Mr. Hoffman -- or Mr. Menton. Wait  
15 a minute. This is your witness. Never mind. Mr. Korn.

16 MR. KORN: I don't have any questions for  
17 Mr. Perkins. Thank you, sir.

18 CHAIRMAN JACOBS: Mr. Wharton.

19 CROSS EXAMINATION

20 BY MR. WHARTON:

21 Q Mr. Perkins, when did you obtain these consumptive  
22 use permits that you've testified will not need to be modified  
23 for service for Phase I?

24 A In February of 2000.

25 Q Sir, you testified about the local sources

1 first policy, didn't you?

2 A Yes, I did.

3 Q Do you agree that the language of that particular  
4 policy is a bit nebulous?

5 A Yes, I do.

6 Q But it's your belief, isn't it, that the intent of  
7 the local sources first concept was that before a local  
8 government went and asked a neighbor to use resources that are  
9 in their area, that they should make sure they've utilized all  
10 the resources that are feasible to utilize in their own area?

11 A Yes, that was my understanding.

12 Q Okay. Sir, you haven't attempted to evaluate the  
13 proposal of Intercoastal as it relates to consistency of the  
14 2020 plan, have you?

15 A No, I have not.

16 Q Mr. Perkins, do you agree that, as we sit here today,  
17 there are 80,000 connections to septic tanks and 70 to  
18 90 package plants in Duval County?

19 A Yes, that's my estimate.

20 Q How much effluent is currently going into the river  
21 from the Mandarin plant?

22 A Our average daily flow for our last fiscal year was  
23 5.4 million gallons per day.

24 Q And is it your understanding -- or is JEA highly  
25 motivated to apply that same effluent in the form of reuse

1 rather than discharge it into the river?

2 A Yes. JEA on two fronts has made commitments to  
3 reduce the discharge to the river. One is to reduce the  
4 nutrient load on the St. Johns River. We voluntarily committed  
5 to reduce our nutrient discharge for nitrogen to 50 percent of  
6 our 1998-'99 level and keep it at that level. And one of the  
7 ways we'll achieve that is through reuse; the other way is  
8 through advanced wastewater treatment plant at our -- treatment  
9 at our southwest wastewater treatment plant. We have also  
10 committed by the year 2007 to be able to deliver 10 million  
11 gallons per day of reuse across our entire system.

12 Q It would be your goal then to apply as much of that  
13 effluent in the form of reuse as you can possibly find the  
14 customer for?

15 A Yes, in reason, as long as the economic conditions  
16 allow us to do so. The 25-mile transmission system that we're  
17 constructing out of the Mandarin plant is co-funded by the  
18 State at 50 percent of the cost which has allowed us to put in  
19 this backbone system at a more reasonable cost, and also,  
20 within a reasonable distance of that line, we would pursue and  
21 are pursuing all available customers. In this case with  
22 Nocatee, the developer is funding the cost to our line to  
23 interconnect if we succeed in being approved to implement.

24 Q How far is that line?

25 A The interconnect point right now, although there is

1 another route under consideration, is on U.S.1 just north of  
2 where 210 turns off. I don't know the mileage from here to  
3 there. But it's --

4 Q Is it less than a couple of miles?

5 A Yes, probably two or two and a half miles.

6 Q Okay. Let's talk about the other route that's under  
7 consideration. What's that about?

8 A There is another DRI that's being considered, the  
9 Bartum (phonetic) Park DRI. One of the options would be to  
10 send the reuse line through that development and then come  
11 across to the east from their southern boundary which would  
12 come out on U.S.1. I think it's Racetrack Road would be the  
13 road that bounds them on the south.

14 Q So does that mean, though, that the point of  
15 connection for the Nocatee development would still be the same?

16 A It would be the same line. It would shift slightly  
17 to the west. It would be the same transmission line.

18 Q Would that mean that the Nocatee developer would have  
19 to run that connection line out further than they had planned?

20 A That would depend on what arrangements are made with  
21 the other development and how the line is constructed. It  
22 could be jointly funded by both parties if they chose to take  
23 that path.

24 Q Would this be for just the reuse line, or it would  
25 also be for the water and wastewater line?

1 A Just for reuse.

2 Q So the reuse line may be further west than is  
3 indicated on that map?

4 A Just slightly, maybe a half of a mile, three quarters  
5 of a mile.

6 Q Is it fair to say that JEA has decided that it has  
7 the necessary reuse available for Nocatee and that it has the  
8 facilities to transport that reuse to Nocatee and that that is  
9 a good place to sell that reuse?

10 A Yes.

11 Q Okay. As we sit here today, do you know whether JEA  
12 really cares who's on the other side of that point of  
13 connection as long as they are willing to --

14 A I think JEA's only concern would be that we were  
15 providing all three facets of service, both water, sewer and  
16 reuse, to the customer because of fact that we subsidize our  
17 reuse system by our water and wastewater ratepayers paying a  
18 significant share of the cost to provide the reuse. Our rate  
19 is only 20 cents per hundred cubic feet, which is probably 15  
20 percent of what it costs to produce and deliver the reuse  
21 water.

22 Q JEA is just now really beginning to implement on a  
23 large scale its reuse program, isn't that true?

24 A Yes. We have constructed facilities in the Arlington  
25 East plant and built facilities in our District 2 plant, but in

1 the last two years, we have been significantly working to  
2 implement.

3 Q As we sit here today, does JEA have a policy that it  
4 will not provide reuse to anyone who does not receive water and  
5 wastewater service from it?

6 A No, I wouldn't say we have that policy. If a  
7 customer is in reasonable proximity to our transmission  
8 facilities, we would probably provide service as long as we had  
9 capacity available.

10 Q Okay. Let me ask you about the development orders in  
11 this case just as they relate to what Nocatee requires. Are  
12 you aware that the development orders contemplate that the  
13 wastewater effluent will be treated to public access standards?

14 A I'm not really aware -- I haven't reviewed the  
15 development orders, but I am aware of the fact that if we are  
16 going to provide reuse water, that we would have to treat it to  
17 that level.

18 Q Okay. That's what's required for the application of  
19 reuse residentially; correct?

20 A Not just residentially, but also for golf courses and  
21 any facility that has public access.

22 Q Did you have to undertake any modifications to your  
23 Mandarin plant in order to meet those standards?

24 A We added an additional level of ultraviolet  
25 disinfection. We have changed the plant from using chlorine to

1 UV disinfection. And we had to go to high-level ultraviolet  
2 disinfections, so we did have to add additional banks of UV  
3 disinfection components.

4 Q Doesn't your plant have to meet the Class 1 standards  
5 in order to supply public access reuse?

6 A For reliability?

7 Q Yes.

8 A Yes.

9 Q Okay. And as we sit here today, isn't it true --  
10 well, let me ask you this. You've been here earlier today;  
11 right?

12 A Yes.

13 Q Did you hear Mr. Kelly say that right now there are  
14 no plans to apply reuse residentially in Duval County for JEA  
15 other than the Duval portion of Nocatee?

16 A Yes.

17 Q Okay. So JEA does have the reuse treated to that  
18 standard that is going to be available at the point of  
19 connection that's been testified to in this hearing unless it's  
20 moved a little bit west in proximity to the Nocatee  
21 development; is that true?

22 A Yes, we do. And the reason that we currently do not  
23 provide residential reuse is because of the additional cost.  
24 We are making a significant capital investment in the current  
25 system to provide wholesale service, and at this time, we can't



1 bear the additional cost burden to provide retail service.

2 Q But in point of fact, that reuse facility is already  
3 constructed; right?

4 A Presently, the Mandarin plant reuse facility is  
5 constructed to produce two and a half million gallons per day,  
6 and we have a project identified in our capital plan to expand  
7 it to five.

8 Q When will that occur?

9 A The initial design would occur in 2003 and would  
10 probably come on-line in 2004 or early 2005.

11 Q But right now you only have the capacity to provide  
12 two and a half million gallons a day of reuse treated to public  
13 access standards?

14 A At the Mandarin plant, yes, that's correct.

15 Q At the Mandarin plant.

16 And the Mandarin plant is the only plant that will be  
17 supplying reuse in Phase I to Nocatee?

18 A Yes, that's true.

19 Q But let me make sure that we're clear on one point.  
20 The reuse line is constructed. It may not be charged, but it's  
21 pretty well done, is that correct, to the point of connection?

22 A Portions of the line are still under construction.  
23 Our first customer, which is the Deercreek Golf Course, which  
24 is just to the north of the interconnection point, is scheduled  
25 to come on-line in July of this year.

1 Q Would you say that construction of that reuse line  
2 down to the point of connection that we've talked about in this  
3 hearing and that is designated on that map is imminent?

4 A The portion that Nocatee would construct?

5 Q Correct. Well, no, not the part Nocatee would  
6 construct; JEA's line.

7 A It's either completed or under construction, and it's  
8 scheduled to be done by July.

9 Q And the improvements that you needed to make to the  
10 Mandarin plant in order to provide public access reuse through  
11 that line have already been done?

12 A Yes, for the 2.5 million gallon per day capacity.  
13 And we have letters of intent from customers for about  
14 1.1 million gallons per day of use.

15 Q So wouldn't you agree that even though JEA would  
16 prefer to take into account the feasibility of such service,  
17 those facilities have already been constructed even though this  
18 proceeding is not over?

19 A Yes. They are part of our overall environmental  
20 program and commitment that we made prior to this issue even  
21 coming on.

22 Q So that line would have probably been in that  
23 location anyway, and the Mandarin plant would have probably had  
24 those modifications anyway?

25 A Yes.

1 MR. WHARTON: That's all we have.

2 CHAIRMAN JACOBS: Staff.

3 MS. ESPINOZA: We just have one question.

4 CROSS EXAMINATION

5 BY MS. ESPINOZA:

6 Q With respect to JEA's consumptive use permit if it  
7 did need to be modified, which agency would determine that  
8 modification?

9 A The St. Johns River Water Management District.

10 MS. ESPINOZA: Thank you.

11 CHAIRMAN JACOBS: That was quick. Commissioners.  
12 Redirect.

13 MR. MENTON: Just a couple quick questions. Thank  
14 you, Mr. Chairman.

15 REDIRECT EXAMINATION

16 BY MR. MENTON:

17 Q Mr. Perkins, Mr. Wharton asked you a question  
18 regarding the local sources first policy. In your experience,  
19 does the local sources first policy apply to the wholesale  
20 arrangement that has been entered into between Nocatee and JEA?

21 A Not to my knowledge.

22 Q And just to clarify, the reuse connection point is  
23 going to be at that red triangle that's shown up at the map; is  
24 that --

25 A Yes. We have already constructed a stub-out for

1 connection at that point. There is an alternate route under  
2 consideration, but today, that is the connection point.

3 Q Okay. At this point in time, do you anticipate any  
4 difficulty in meeting the projected reuse needs of Nocatee as  
5 they occur on the development schedule?

6 A No, I do not.

7 MR. MELSON: Mr. Jacobs, might I ask a clarifying  
8 question?

9 CHAIRMAN JACOBS: That's going to bring forward a  
10 whole bunch of reaction.

11 MR. MENTON: Let me see if I can do it then.

12 BY MR. MENTON:

13 Q Mr. Perkins, the actual connection point for the  
14 reuse line hasn't been finalized. It could be at the red  
15 triangle, or it could be somewhere else; correct?

16 A Yes. It would be at the red triangle as far as I  
17 know unless the Bartum Park route develops as a viable option.

18 Q So there are options as to where you would bring it  
19 depending upon other developments, but you don't anticipate  
20 that that would impact upon the ability of JEA to meet the  
21 reuse needs of Nocatee?

22 A No, I do not.

23 MR. MENTON: No further questions, Mr. Chairman.

24 CHAIRMAN JACOBS: Exhibits. There's only one, just  
25 one, Exhibit 28.

1 MR. MENTON: Exhibit 28.

2 CHAIRMAN JACOBS: Without objection, show that  
3 admitted into the record.

4 (Exhibit 28 admitted into the record.)

5 CHAIRMAN JACOBS: Thank you, Mr. Perkins. You're  
6 excused.

7 (Witness excused.)

8 CHAIRMAN JACOBS: Now, Mr. Burton, are we planning on  
9 bringing him after all the Intervenor testimony, or how is that  
10 contemplated?

11 MR. WHARTON: I think he's going to testify right  
12 now. That was my understanding.

13 CHAIRMAN JACOBS: Actually, I think you may be right.  
14 I think I may have said that, but let me just make sure because  
15 we're kind of interrupting the flow of Intervenor testimony. I  
16 think Sawgrass is up next.

17 MR. WHARTON: Really, we were kind of taking the  
18 Intervenors at the request out of order.

19 MR. KORN: In actuality, Mr. Chairman, the only  
20 change in the sequence was really moving Mr. Burton from before  
21 Mr. James, which is how he was originally scheduled per the  
22 prehearing order, to whenever he got here because of a prior  
23 commitment, as I understood it. So it would seem to me, since  
24 I understand that he's going to take a little while, I had no  
25 problem with Mr. Wharton just calling Mr. Burton now. If you'd

1 rather do with Sawgrass, I'm at the Commission's pleasure.

2 MR. WHARTON: Mr. Perkins really just testified as an  
3 accommodation --

4 CHAIRMAN JACOBS: Right, right. There were two  
5 options. One is, if your witness was going to take a very  
6 brief time, rather than to have him sit here through the  
7 duration of Mr. Burton's testimony, we could let you -- because  
8 I think you have the head of the consumers' group; correct?

9 MR. KORN: Head of our Association.

10 CHAIRMAN JACOBS: Right. That was the thought so  
11 that he didn't have to sit through all of Mr. Burton's  
12 testimony.

13 MR. WHARTON: Just give me a couple of minutes to get  
14 organized, and we will do those witnesses. That's fine with  
15 me. It's okay with me.

16 CHAIRMAN JACOBS: Let's do that. Let's go ahead and  
17 entertain Sawgrass witnesses, and then we'll bring Mr. Burton  
18 on.

19 MR. KORN: The only thing I would mention,  
20 Mr. Chairman, is we have two witnesses. Mr. Flury, who based  
21 on my conversation with Mr. Wharton, is probably going to be  
22 slightly longer than Ms. Arenas. I expect Ms. Arenas, who is  
23 the second Sawgrass witness, to be very short in duration,  
24 probably no more than about ten minutes is what Mr. Wharton and  
25 I have figured.

1 CHAIRMAN JACOBS: Okay.

2 MR. KORN: And because we thought that Mr. Burton was  
3 going to be up at this point, I told Ms. Arenas that it  
4 probably would be safe not to come until about 3:30, 3:45. I  
5 have no problem with -- and again, if it's of help, we'll take  
6 Mr. Burton now, and then we'll take the Sawgrass witnesses.

7 CHAIRMAN JACOBS: If that's -- I thought it would be  
8 an accommodation for them but --

9 MR. KORN: It would be an accommodation for  
10 Mr. Flury, but ultimately until Ms. Arenas gets here, we're  
11 going to take Mr. Burton anyway at that point.

12 CHAIRMAN JACOBS: Fine.

13 MR. WHARTON: And I hate to speak out of turn, but I  
14 really think after Mr. Burton, witnesses are going to go  
15 quickly all the way through the end of the proceeding.

16 CHAIRMAN JACOBS: With that promise --

17 MR. KORN: I think it's more a hope than a promise,  
18 Mr. Chairman.

19 MR. MELSON: And unfortunately, I will have to  
20 represent that Mr. Burton may take a while.

21 CHAIRMAN JACOBS: I notice he didn't get your  
22 consultation on that. Very well. Mr. Burton is up then.

23 MICHAEL E. BURTON  
24 was called as a witness on behalf of Intercoastal Utilities,  
25 Inc., and, having been duly sworn, testified as follows:

## DIRECT EXAMINATION

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BY MR. DETERDING:

Q Mr. Burton, please state your name and employment address for the record.

A My name is Michael E. Burton.

Is this on?

CHAIRMAN JACOBS: Yes, but it's been mostly silent. You have to get very close to it.

A I'm the president of Burton & Associates. My business address is 2902 Isabella Boulevard, Suite 20, Jacksonville Beach, Florida 32250.

Q And you have previously been sworn, Mr. Burton?

A Yes, I have.

Q Have you been retained by Intercoastal Utilities to provide testimony and expert opinions in this proceeding?

A Yes, I have.

Q Did you prepare a document referred to as direct testimony of Michael E. Burton consisting of nine pages?

A Yes, I did.

Q If I ask you the questions in that testimony here today, would your answers be the same as those contained on those nine pages?

A I do have some corrections to the ultimate exhibit which superceded the exhibit in this -- that was attached to this testimony.



1 Q We'll get to the exhibits in a minute. Let's start  
2 with the testimony. Do you have any corrections to the --

3 A Not to the testimony.

4 Q Okay. Did you prepare in conjunction with the  
5 preparation of that testimony certain exhibits which were  
6 prefiled as MB-1?

7 A I did.

8 MR. DETERDING: And, Commissioners, in trying to keep  
9 along the same lines of what we've done with the other  
10 witnesses who have provided exhibits later in later testimony  
11 that to some extent or wholly supercedes their original filing,  
12 I'm going to have Mr. Burton identify just those that have that  
13 relationship to MB-1 and speak to those briefly and introduce  
14 those as well. So if you'll bear with us a few minutes.

15 BY MR. DETERDING:

16 Q Mr. Burton, you also prepared as part of your  
17 Intervenor testimony an exhibit called MB-2?

18 A Yes, I did.

19 Q And as part of your rebuttal, an exhibit entitled  
20 MB-3?

21 A Yes.

22 Q Would you, first of all, explain to the Commission  
23 the relationship of those exhibits to MB-1? As I understand  
24 it, they don't totally replace MB-1, but they do replace  
25 significant portions of MB-1.

1           A     Yes. MB-1 is a projection using a model which  
2 projects the rate dynamics or the financial dynamics on the  
3 Intercoastal Utility over a ten-year period, through 2009. And  
4 it serves as a source for all three of these exhibits. In  
5 Exhibit 1, it looks at a standalone utility using Mr. Miller's  
6 plan, and it looks at full growth. It looks at one half of  
7 growth, and it looks at one quarter of growth in terms of the  
8 implication. I think the exhibit actually looks at only one  
9 half, and we did an analysis at one quarter, and that's  
10 included in the testimony.

11                     Then the next exhibit, 2, it brings in -- it abandons  
12 the looking at different variations on growth, but it's using  
13 the same model, and it's using changes now that have come to  
14 the table in Nocatee's projections to the extent that they did  
15 come to the table. And it also includes an alternative where  
16 Intercoastal would adopt Nocatee's wholesale plan on the  
17 western service area.

18                     And when I speak today, when I say the "western  
19 service area," I would mean the service area west of the  
20 Intracoastal, the eastern service area, the existing service  
21 area east of the Intracoastal, but my analysis includes it all  
22 as one service area, but just to distinguish conversation,  
23 that's how I refer to it.

24                     And then MB-3 is very much like MB-2, but it then  
25 bring in the capital structure and looks at not only 100

1 percent debt financing, which is what MB-1 and 2 looked at, but  
2 also looks at 60 percent of debt and 40 percent equity. And  
3 those are the fundamental differences as we go from one exhibit  
4 to the other.

5 Factual information was changed too. At some point  
6 in that progression, the growth projections from Nocatee were  
7 lower. Their deal with JEA got changed, and so a number of  
8 things changed. And we tried to represent the most current  
9 facts that were available at the time the exhibits were  
10 projected.

11 Q So to the extent that MB-3 addresses those things in  
12 MB-2 and MB-1, it supercedes them?

13 A It does.

14 MR. DETERDING: Commissioners, because I think  
15 there's not total overlap between the exhibits, unless I'm  
16 mistaken, and you can correct me if I'm wrong, Mr. Burton,  
17 we're going to ask that each of those be marked. I mean, we  
18 can mark them all one, but I think we're going to ask that they  
19 all be entered in the record because they are not mutually  
20 exclusive.

21 CHAIRMAN JACOBS: Do we mark them as one composite,  
22 or do you need separate?

23 MR. DETERDING: That would be fine with us.

24 CHAIRMAN JACOBS: Okay. Mark them as --

25 MR. MELSON: Chairman Jacobs?

1 CHAIRMAN JACOBS: Yes.

2 MR. MELSON: I might ask, because of the briefing  
3 that's going to go on, it will be easier at least for the other  
4 parties if MB-3 is assigned a separate number because that's  
5 the one we're going to refer to in all our briefs.

6 CHAIRMAN JACOBS: The revised financial analysis.

7 MR. DETERDING: That's the last one of the three;  
8 correct.

9 CHAIRMAN JACOBS: Very well. We will mark as  
10 Exhibit 29 composite MB-1 and MB-2. And composite 30 -- I'm  
11 sorry, Exhibit 30 will be MB-3.

12 (Exhibits 29 and 30 marked for identification.)

13 BY MR. DETERDING:

14 Q Mr. Burton, do you have any corrections to make to  
15 those exhibits?

16 A I have corrections to MB-3 that would cause the  
17 ultimate impact of Intercoastal's rates to a 10,000 gallon  
18 residential customer in 2009 to go from \$58.87 to \$62.10, an  
19 increase of approximately \$3.23.

20 Q What is the reason for these corrections? If you  
21 can, explain that.

22 A Would you like me to tell you the corrections?

23 Q Yes.

24 A The reason was primarily through the deposition with  
25 Mr. Melson. A number of issues were identified that needed

1 correcting or being handled in a different way. And a couple  
2 of factual things have changed that have been corrected also.

3 The first correction was with regard to assumptions.  
4 The original exhibit, MB-3, projected 470.1 growth units in the  
5 eastern service area in 2007, which was the last year of  
6 projected growth in that service area. However, that would  
7 cause connections to exceed the sewer plant capacity by  
8 335.9 units, therefore, the growth units in 2007 in the eastern  
9 service area were corrected to be 134.2 units, which brings  
10 connections to the level of the sewer plant capacity. I  
11 believe that was one that we had discovered ourselves.

12 The original MB-3 used a surrogate calculation of the  
13 impact of growth upon O&M expenses. It accomplished this by  
14 including 25 percent of the growth percentage in each year in  
15 the inflationary multiplier. My empirical experience has been  
16 that this calculation results in a similar projection of the  
17 impact of growth as would be derived by the more accurate  
18 marginal cost per growth unit method. However, to make the  
19 projections as accurate as possible, this correction sets forth  
20 the growth component of the inflationary multiplier, it sets it  
21 to zero, in order to more accurately project the impact that  
22 growth will have upon operations and maintenance expenses on an  
23 ERC basis. Marginal operations and maintenance costs that will  
24 increase with growth were identified and multiplied by the  
25 growth units in each year to estimate the additional O&M

1 expenses that will be required to serve the projected growth  
2 units.

3           With regard to the capital improvement program, the  
4 original MB-3 exhibit included a water plant addition in the  
5 eastern service area in 2000 at an estimated cost of  
6 \$1,500,000. That was before the plant was completed. The  
7 actual cost of the plant now is available, and the actual cost  
8 is \$2,700,000. And that was included in the corrections, from  
9 1,500,000 to 2,700,000.

10           The original MB-3 exhibit assumed the additional  
11 water capacity that would be added in 2002 and 2007 was 2 MGD  
12 respectively in each of those years. This number was derived  
13 from Jim Miller, our engineer's report. However, the number  
14 was taken from the maximum day capacity page of his report and  
15 should have been taken from the average day capacity page to be  
16 consistent with the 350 gallons per day per ERC assumption,  
17 which is average day usage. Therefore, this correction was  
18 made, and average day capacity of 1 MGD in each of these years  
19 instead of the 2 MGD that was assumed.

20           Operations and maintenance expense. Additional  
21 operations and maintenance expense associated with capital  
22 projects was originally projected based upon input from  
23 Jim Miller without escalating the expense from 1999 dollars. A  
24 correction was made that escalates those expenses with the  
25 inflationary multiplier that's used elsewhere in the model on

1 O&M costs to the year in which those costs are incurred.

2           And with regard to cost of capital, the original MB-3  
3 exhibit included the cost of issuance, or loan costs, in the  
4 principal amount of the loan, and that cost was reflected in  
5 the annual interest. This corrected exhibit more correctly  
6 includes the annual amortization of that loan cost in the cost  
7 of capital calculation.

8           The original MB-3 exhibit included a First Union loan  
9 with a beginning balance of \$3,835,445. And we've determined  
10 that the correct amount on that loan should be \$4,354,000,  
11 which is included now as the beginning balance in the  
12 corrections.

13           The original MB-3 exhibit did not include the  
14 stockholder subsidy that would be required, identified on the  
15 cash flow analysis in the exhibit, in the cost of capital  
16 calculation. This correction includes that subsidy as an  
17 interest bearing loan, and it is included in the cost of  
18 capital calculation.

19           Utility plant in service and depreciation. The  
20 original MB-3 exhibit included the acquisition adjustment in  
21 the list of assets which was tied to the utility plant in  
22 service in the 1998 annual report; however, the 1998 annual  
23 report lists the acquisition adjustment as an addition to the  
24 utility plant in service appropriately. Therefore, the  
25 acquisition adjustment was excluded from the list of assets in

1 this corrected exhibit and the "adjustment to annual report"  
2 amount was adjusted accordingly. The same adjustment was made  
3 to the corresponding depreciation schedules.

4 A note with regard to this correction. This  
5 adjustment did not have a material effect upon the analysis  
6 because it was part of a calculation that's intent was to  
7 create depreciation schedules for categories of assets that may  
8 reach the end of their depreciation schedules during the  
9 projection period, thus giving us a more accurate depreciation  
10 projection. We had to estimate the original cost to begin the  
11 depreciation schedules and the difference between the total  
12 original cost and utility plant in service, the adjustment to  
13 annual report, was carried throughout the projection period.

14 With regard to expenses, in the original  
15 MB-3 exhibit, insurance expense was projected by maintaining  
16 the ratio of insurance expense in 1999 to rate base in 1999 and  
17 projected the same ratio to rate base in future years. In that  
18 exhibit, the water calculation was inadvertently pulling in the  
19 sewer rate base, and the sewer calculation was inadvertently  
20 pulling in the water rate base. And this was corrected.

21 With regard to used and useful, in the original  
22 MB-3 exhibit, margin reserve was assumed to be 36 months  
23 because of the difficulty regarding margin reserve in  
24 Intercoastal's recent limited proceeding rate case with  
25 St. Johns County. However, to be in strict compliance with the



1 FPSC rules, this corrected exhibit assumes 60 months' margin  
2 reserve and calculates the amount as the average of the next  
3 five years' growth times five.

4           With regard to CIAC, the original MB-3, plant CIAC  
5 for 1999 was assumed -- in the original MB-3 exhibit, plant  
6 CIAC additions for 1999 was assumed to be in the 1999 amount,  
7 which we received from the utility; however, we recognized that  
8 the new plant was not in the 1999 number. Therefore, this  
9 correction includes new CIAC coming in in '99, whereas the  
10 original exhibit had no new CIAC coming in at '99; plant CIAC  
11 we were referring to there.

12           In the original MB-3 exhibit, all growth units in the  
13 eastern service area were assumed to bring with them plant  
14 CIAC, the eastern service area being the one that exists today.  
15 Upon reflection, a number of those growth units will connect to  
16 existing developments as infill, and no new plant CIAC will be  
17 realized. Therefore, in this correction, the number of growth  
18 units that would not be subject to CIAC was estimated and  
19 excluded from the new plant CIAC calculation.

20           And the final two corrections with regard to rate  
21 base. The calculation of working capital was only calculating  
22 off of expenses in the eastern service area in the original  
23 MB-3. This corrected exhibit calculates working capital based  
24 upon the expenses in both the eastern and the projected  
25 expenses in the western service area.

1           The original MB-3 exhibit calculated rate base in the  
2 aggregate, without separating utility plant in service  
3 components of plant and lines. It also applied the used and  
4 useful percentage to -- inappropriately to the acquisition  
5 adjustment and working capital. The correction, number one,  
6 adjust the aggregate rate base calculation to apply used and  
7 useful before the acquisition adjustment and working capital;  
8 and two, uses an alternative rate base calculation which  
9 separates utility plant in service into plant and line  
10 components and applies used and useful to the noncontributed  
11 portion of those components.

12           I might point out that the difference in these two  
13 methods, the more aggregate method versus the more precise  
14 method, is very minor. It amounted to an average annual  
15 difference for water of 27,279 on a rate base, an average rate  
16 base, over the 9 years of 4.3 million. And for sewer of  
17 \$8,227 on an average rate base of 8.4 million. We also ran a  
18 sensitivity analysis on used and useful because it was a point  
19 of some contention about what used and useful really was. And  
20 we set used and useful to 100 percent throughout the duration  
21 of the --

22           MR. MELSON: Mr. Chairman, at this point, I'm going  
23 to object to this next piece of thing he's about to say. We  
24 had asked for a late-filed exhibit showing this calculation to  
25 his deposition. Intercoastal declined to provide it, and now

1 they are coming up at hearing with a number that was previously  
2 asked for that they have declined to provide.

3 MR. DETERDING: I'm sorry, I didn't -- what item is  
4 that, that he was referring to that you're --

5 MR. MELSON: He's now talking about a sensitivity  
6 using 100 percent used and useful.

7 MR. WHARTON: Commissioner Jacobs, Mr. Chairman, I've  
8 got to tell you, and I do not say this lightly, and I do not  
9 say this flippantly, that's another one of those things maybe  
10 Mr. McLean (phonetic) ought to write a memorandum on. There  
11 are discovery devices. They are incorporated by the uniform  
12 rules. This case is 22 months old. What the request was in  
13 the deposition about two weeks ago was, go create this  
14 document, and give it to us as a late-filed exhibit. And it is  
15 not incumbent upon us to do that. We gave a late-filed exhibit  
16 which was just a compilation of what we had, but the two --  
17 what I said at the time was, we would take it under advisement.

18 There's been extensive discovery in this case.  
19 There's been interrogatories, several rounds. There's been  
20 request for production of documents; documents have been  
21 produced. There's no such discovery device. And not only  
22 that, it's a discovery matter that's being brought to you now  
23 for the first time. There was no motion to compel or anything  
24 else appropriate to that. To say that the -- to decline to  
25 create a document and to file it as a late-filed exhibit then

1 bars the testimony at hearing, I think is unprecedented. I  
2 don't think there's anything in the uniform rules that would  
3 allow the Commission to do that.

4 CHAIRMAN JACOBS: You made a request at deposition  
5 and you --

6 MR. MELSON: Commissioner?

7 CHAIRMAN JACOBS: Let me walk through this. There  
8 was a request made at deposition. Was the response that the  
9 information was not available, or was what was provided deemed  
10 a response to the request at deposition?

11 MR. WHARTON: The response was that I would take it  
12 under advisement.

13 CHAIRMAN JACOBS: And it was not -- but it was  
14 ultimately not --

15 MR. WHARTON: It was ultimately not provided. There  
16 were, I think, three requests. Two we did not provide; one we  
17 did. One, it was a compilation of what we had. The others  
18 required us to go out and extrapolate this at 100 percent used  
19 and useful, or something like that. And there's no such  
20 discovery device.

21 MR. MELSON: Chairman Jacobs, you might want to ask  
22 the witness. My understanding was, he had his computer with  
23 the spreadsheets at the deposition. He was able to make this  
24 change as he was sitting there. He would not share the results  
25 with us at that time. We asked for a late-filed exhibit. It

1 was taken under advisement, and it was not provided. So I  
2 don't believe it was creating something that took more than  
3 keying half a dozen numbers into a computer spreadsheet, but  
4 you'd have to ask the witness to be sure of that.

5 CHAIRMAN JACOBS: Two issues: One has to do with  
6 whether or not discovery was had. It sounds like this was not  
7 provided. To offer it now -- and I assume it is not a part of  
8 his prefiled testimony.

9 MR. MELSON: That's correct.

10 CHAIRMAN JACOBS: It makes it -- it sounds like added  
11 supplemental testimony at this point and, therefore, would  
12 probably be outside the scope of his testimony.

13 MR. WHARTON: And, frankly, Mr. Chairman, that's a  
14 different argument, and may be one that is legitimate. I just  
15 don't think the failure to provide a late-filed exhibit to a  
16 deposition can ever be the basis for barring testimony at  
17 trial, so --

18 MR. MELSON: Commissioner Jacobs, let me amend my  
19 objection because I think you probably stated a better one than  
20 I did. There was no sensitivity analysis done in the prefiled  
21 testimony. Up until this point, he has listed 16 corrections.  
22 He's now on number 17 which is not a correction but a  
23 sensitivity analysis, and that goes beyond the scope of his  
24 prefiled testimony. I would object on that basis.

25 MR. DETERDING: That's fine.

1 CHAIRMAN JACOBS: So I'll sustain that objection.

2 BY MR. DETERDING:

3 Q Mr. Burton, are there any other corrections that you  
4 need to make to MB-3?

5 A Actually, I don't know if this is appropriate, but I  
6 just found in the deposition where I actually gave them the  
7 number. Anyway --

8 Q Okay. Well, let's get beyond that.

9 A -- we can talk about that another time.

10 Q What is the --

11 A What was your question?

12 Q You have been through a list, a long list, of  
13 corrections you made. First of all, just so we're clear here,  
14 where did you come up with these corrections? Where did you  
15 find out about the these errors?

16 A Well, I don't know if the number matters. Mine has  
17 nine on this sheet of paper that are numbered but -- or I guess  
18 it's nine subjects, maybe there's more corrections. Some of  
19 them came from the deposition when Mr. Melson pointed out areas  
20 where there was either an error, like simply a cell pulling  
21 from the wrong reference in the model, or a disagreement about  
22 the appropriateness of something. Some of them came from our  
23 review when we reviewed after the deposition in making these  
24 and determined other things that aren't really errors, like the  
25 escalation of Mr. Miller's cost is not really an error, it's

1 just more a conservative assumption. Mr. Miller gave us those  
2 numbers, and as far as I know, that's what he felt the numbers  
3 would be.

4 We noticed that in some instances, however, the  
5 number was the same as the number that was in the historic year  
6 and thought that probably an appropriate thing was he meant the  
7 same type of cost, and therefore, it probably should have been  
8 adjusted. So in the interest of having an accurate projection  
9 as possible, we made corrections like that also.

10 The loan amount was -- in reviewing the cost of  
11 capital calculations with Ms. Ellen Tilley, who is with  
12 Intercoastal Utilities, she indicated to me that the number  
13 that she had given us before was not the right beginning  
14 balance. And she gave me the right beginning balance, and I  
15 inserted that number. And the cost for the water plant was a  
16 fact that became known after the exhibits were filed.

17 Q What is the -- and if you can, give us the changes  
18 that resulted as far as the overall just so we can get a feel,  
19 the Commission can get a feel, for how much things have changed  
20 as a result of these corrections of errors and, of course,  
21 excluding this item about used and useful, this 100 percent  
22 used and useful.

23 A Basically, what our analysis does is look at the  
24 average bill or the bill -- what we would say a typical single  
25 family home would be in the service area using 10,000 gallons a

1 month, calculate that bill today on Intercoastal's -- based  
2 upon the Intercoastal's tariff, and then based upon the  
3 comparison of achieved return to allowed return in the final  
4 year of the projection period 2009. Equalizing those two  
5 numbers results in a bill to that customer of \$58.87 compared  
6 to the current bill of 79.70, I believe it is.

7           The corrections result in that bill of 58.87 becoming  
8 62.10. It doesn't go down as much as we had originally  
9 projected. That's \$3.23 higher per month than it was before.  
10 I think I know the components of that are associated with some  
11 of these items. The water plant accounts for approximately a  
12 little north of 80 cents of that difference, the adjustment to  
13 the water plant, which was the most -- the biggest factual  
14 change. And because the change in the loan balance was -- the  
15 interest rate on the loan balance was pretty close to the cost  
16 of capital anyway, it didn't change things very much when we  
17 changed that. So I would say somewhere about around 80 cents  
18 of that 3.23 because of the change in the cost of the water  
19 plant, which leaves about -- actually, the number I have is 81  
20 cents. It leaves about \$2.42 of these corrections, which are  
21 things other than that pure factual change.

22           Q     And you mentioned some rates, some bottom line  
23 ultimate rates, that was in 2009, the end projection; is that  
24 correct?

25           A     Yes. And I have these materials here. Actually, I



1 have a sheet that summarizes MB-3, the results. The second  
2 page summarizes the same thing but MB-3 corrected in terms of  
3 the rates each year and the achieved return and the allowed  
4 return in each year of the forecast period. And then I have  
5 another exhibit that looks at the corrected MB-3 assuming  
6 100 percent used and useful, if the Commission would be  
7 interested in seeing that.

8 I also have another document similar to this that  
9 includes all of these corrections for MB-3. It's  
10 MB-3 corrected. And I have a disk with me to give to Nocatee,  
11 if that would be something that would be appropriate. I also  
12 have an adjusted late-filed exhibit which was the test of CIAC,  
13 which I had provided to our attorneys who, I think, provided it  
14 to Mr. Melson after our deposition. And these changes affect  
15 that test of CIAC to determine whether it exceeds the  
16 75 percent level at build out. And I would offer all of these  
17 to be either an exhibit, an amended exhibit, or however -- I  
18 don't know how to legally -- I guess that's up to you, not me.  
19 I'm just saying that I have them available today, and I think  
20 they are a better representation of the probable projection of  
21 the impact of this whole service area plan on Intercoastal's  
22 rates.

23 MR. DETERDING: And, Commissioners, with that, what I  
24 think we are suggesting, and you can take it or leave it, is  
25 that he has the revised schedules correcting these errors. If

1 that bothers the other parties, so be it, but we are going to  
2 go through his cross examination at which I believe the  
3 majority of these errors will be raised during cross  
4 examination. They may not be, but certainly if the deposition  
5 is any indication, they will be. And he does have the impact  
6 of correcting those errors in the final schedule form that he  
7 can provide, or we can just do it as we go through each  
8 question.

9 CHAIRMAN JACOBS: As I understand it, there has not  
10 been an official revised MB-3 that has been filed.

11 MR. DETERDING: With these corrections, no, sir.

12 THE WITNESS: Can I --

13 CHAIRMAN JACOBS: You may proceed.

14 THE WITNESS: When we filed the -- just one second.  
15 Let me see what it was called. The additional rebuttal  
16 testimony, a portion of which was accepted and a portion of  
17 which was not. In the portion that was not accepted was  
18 included an exhibit called MB4-8. Wait a minute. Strike that.  
19 Yes, MB4-8. And it's a multipage exhibit, and it includes the  
20 output, the answer page, if you will, for the exhibit. But it  
21 did include the rate adjustments, but it also included the  
22 error corrections. So it has been attempted to be submitted.  
23 It was being worked on from the deposition in anticipation of  
24 coming in with this. It isn't an accurate reflection, however,  
25 because it had the impact of us restructuring the rates, which

1 was in this, which was not allowed, and it had the impact of  
2 the stockholders making an additional subsidy and allowing the  
3 rates to be reduced, which was not allowed. And the one I have  
4 basically is what was here, but it takes away the things that  
5 weren't allowed and just reflects the error corrections and the  
6 additional factual updates.

7 CHAIRMAN JACOBS: Well, we have a twofold problem.  
8 One is, I take it, there is no opportunity for counsel to  
9 review those.

10 MR. DETERDING: As far as the net results of those  
11 error corrections, there has not been. Most of these errors  
12 were raised by --

13 CHAIRMAN JACOBS: I don't think it's beyond the  
14 general -- from what I've heard, it doesn't sound like there's  
15 much that's beyond the idea of simply amending the prefiled  
16 exhibits. However, the volume of them I think makes it a bit  
17 of a challenge for Staff. Let me ask this: Counsel, are you  
18 prepared to go in and deal with all those revisions?

19 MR. MELSON: I am prepared to walk through his prior  
20 MB-3. When I get to a matter that I think he's corrected to  
21 try to understand if he corrected, when I get to a matter that  
22 I think he has not corrected to try to establish that he has  
23 not corrected it, we have been hampered, because while we  
24 suggested these corrections, the electronic copy of the  
25 spreadsheet that we had been provided with was locked. So we

1 had no way to make our own adjustments to the spreadsheet and  
2 see what result we get. For that reason, I am hesitant to put  
3 in an entire new exhibit with a whole host of corrections that  
4 we haven't had an opportunity to try to sort through.

5 CHAIRMAN JACOBS: Okay.

6 MR. MELSON: But I think he's now through this  
7 testimony, summarizing his corrections. He's indicated what  
8 he's corrected; he's indicated the bottom line number. And to  
9 the extent I have questions about intermediate numbers, I am  
10 probably prepared to do that and move forward.

11 CHAIRMAN JACOBS: Very well. Let's do it that way.  
12 It would be my suggestion then that it's probably as a  
13 late-filed; that we come back once you have completed your  
14 cross, we figure out what's going to be and what's not going to  
15 be, we can come back with something that clarifies in the  
16 record what exactly are the best up-to-date representations.

17 You had a point, Mr. Melson?

18 MR. MELSON: I'd simply like to reserve that  
19 discussion until after I have completed my cross.

20 CHAIRMAN JACOBS: Yes. I though --

21 MR. MELSON: After the cross, I might or might not  
22 have an objection to a corrected exhibit. I think I might  
23 still have one.

24 CHAIRMAN JACOBS: Okay. Fair enough. And you were  
25 still in your summary, I think.

1 THE WITNESS: I don't know whether I started my  
2 summary. I think I was just trying to lay the groundwork --

3 MR. DETERDING: I apologize. That was his  
4 corrections. His summary will be fairly brief.

5 THE WITNESS: Fairly short.

6 MR. DETERDING: I request -- certainly briefer than  
7 the corrections. I request that Mr. Burton's prefiled direct  
8 testimony be inserted in the record as though read.

9 CHAIRMAN JACOBS: Without objection, show his revised  
10 testimony entered into the record as though read.

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**Prefiled Direct Testimony of Michael E. Burton**

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- 3 Q. Please state your name and professional address for the record.
- 4 A. My name is Michael E. Burton. My professional address is Burton & Associates, Inc. at 440
- 5 Osceola Avenue, Jacksonville Beach, Florida 32250.
- 6 Q. By whom are you employed and in what capacity?
- 7 A. I am employed by Burton & Associates, Inc. as its President.
- 8 Q. Please state your education and professional experience in matters related to water and wastewater
- 9 utility rates and rate making.
- 10 A. I received a Bachelors of Industrial Engineering degree from the University of Florida in March
- 11 of 1970. I have over 21 years of experience in water and sewer rate making, including 10 years
- 12 with Arthur Young & Company, now Ernst & Young, where I last served as a Principal in charge
- 13 of the Firm's Florida Utility Economics Practice Area. I founded Burton & Associates 11 years
- 14 ago and we have specialized in water and sewer rate making since the Firm's inception. I have
- 15 conducted water and sewer rate studies and related financial analyses for over 60 governmental and
- 16 private clients. I have also served as the regulatory rate consultant for St. Johns County for 9 years
- 17 and as the regulatory rate consultant for Flagler County for three years.
- 18 Q. Have you been accepted as an expert witness in an administrative proceeding?
- 19 A. Yes, in cases before the St. Johns County Water and Sewer Authority, the Flagler County Utility
- 20 Regulatory Interim Authority and the Florida Public Service Commission.
- 21 Q. In what areas?
- 22 A. Utility rates, rate making and related issues.
- 23 Q. Are you familiar with Intercoastal's application and its proposal?
- 24 A. Yes.
- 25 Q. Please tell the Commissioners what Exhibit MB-1 is.

1 A. Exhibit MB-1 is a document which presents a proforma forecast of the financial dynamics of  
2 Intercoastal's operations and the effect upon its rates, assuming the plan presented in PBS&J's  
3 Conceptual Master Plan dated December, 1999 is implemented.

4 Q. Why did you put together Exhibit MB-1?

5 A. I was retained by Intercoastal to develop a multi-year predictive model which would simulate the  
6 financial dynamics of the utility's operations under Florida Public Service Commission (FPSC)  
7 regulations. The model was developed to determine the appropriate level for water and wastewater  
8 rates in each year of the forecast period based upon each year's calculated rate base, weighted cost  
9 of capital and allowed return. The model was developed to determine whether the implementation  
10 of the Conceptual Master Plan would cause Intercoastal's rates to increase over the forecast period?

11 Q. Please explain your conclusions as reflected in Exhibit MB-1.

12 A. Exhibit MB-1 supports the conclusion that, over the forecast period, which is 1999 through 2009,  
13 Implementation of the Conceptual Master Plan will not cause Intercoastal's rates to increase and  
14 in fact will result in reduced rate pressure, and possibly rate reductions, due to the economies of  
15 scale realized by expansion of Intercoastal's customer base.

16 Q. Can you elaborate upon that conclusion based upon the results and other analysis presented in  
17 Exhibit MB-1?

18 A. Yes. Exhibit MB-1 shows that if the Conceptual Master Plan is implemented, Intercoastal will not  
19 require any rate increases over the forecast period. Furthermore, if growth occurs as projected,  
20 Exhibit MB-1 indicates that Intercoastal's rates could decrease as much as 32.6% by 2009.

21 When one looks at the average residential customer's bill (assuming 5,333 gallons per month water  
22 usage), expressed in terms of cost per month, the current Intercoastal rates result in a combined  
23 water and sewer bill of \$54.64 per month. If growth occurs as projected, rates could begin to  
24 decrease in 2003 and subsequent years of the forecast period such that this bill could decrease to  
25 approximately \$36.84 by 2009.

1 Q. You mentioned that these conclusions assumed that growth would occur as projected. Have you  
2 considered any scenarios that assumed that actual growth occurs at a rate that is lower than  
3 projected?

4 A. Yes. In order to test the sensitivity of these conclusions to variability in actual growth from  
5 projected growth, Exhibit MB-1 presents an alternative analysis assuming that capital projects  
6 continue to be sized according to the original projected growth but that actual growth occurs at a  
7 level equal to one-half of the projected growth. Based upon this analysis, Exhibit MB-1 shows that  
8 Intercoastal would still not require any rate increases over the forecast period. Furthermore, if  
9 growth in the requested service area occurs at only one-half of projected growth, Exhibit MB-1  
10 indicates that Intercoastal's rates could still decrease as much as 19.1% by 2009.

11 Converting this to the impact upon the average residential customer's bill shows that the current  
12 average water and sewer bill of \$54.64 per month could decrease to approximately \$44.21 by 2009  
13 even if growth actually occurs at only one half of the projected growth.

14 Q. Did you analyze any other assumptions with regard to growth?

15 A. Yes. Although not included in Exhibit MB-1, I ran the model assuming that actual growth occurs  
16 at only 25% of the projected growth. Even with only 25% of the projected growth, Intercoastal's  
17 rates still would not increase and could possibly be reduced by as much as 9%, or to \$49.75 per  
18 month by 2009.

19 My conclusion with regard to this analysis is that the awarding to Intercoastal of the extension of  
20 service area requested, and implementation of the Conceptual Master Plan to meet projected  
21 demands in the extended service area, will not cause rates to increase. Furthermore, the analysis  
22 in Exhibit MB-1 indicates th/at, all other things being equal, Intercoastal's rates could possibly  
23 decrease during the period of implementation of the Conceptual Master Plan.

24 Q. Will you please tell the Commissioners the bases for this conclusion?

25 A. Intercoastal is an existing utility with approximately 5,500 water customers (ERCs) and 2,800



1 sewer customers (ERCs). As such, it is already covering all of its allowable fixed costs, including  
2 all utility administrative and overhead costs, in its current rates. If Intercoastal is awarded the  
3 extension of its service area, it will then be able to increase the size of its customer base, yet many  
4 of its fixed costs will not increase proportionately, and some will not increase at all. This will  
5 allow these costs to be spread over a larger base of customers, resulting in a lower unit cost for  
6 each customer. Furthermore, this benefit will also positively effect Intercoastal's current customers  
7 as any rate adjustments will also apply to them.

8 Q. In summary, please tell the Commissioners what, in your opinion, will be the effect on existing and  
9 future customers if Intercoastal's application is granted.

10 A. In my opinion, if Intercoastal's application is granted, Intercoastal's rates will experience  
11 downward pressure and Exhibit MB-1 shows that Intercoastal's rates in 2009 could possibly be  
12 from 19.1% to 32.6% lower than its current rates (depending upon actual growth), primarily due  
13 to the economies of scale that Intercoastal will realize as an existing utility with a current customer  
14 base. Therefore, I believe that Intercoastal's customers, current and future, could receive water and  
15 sewer service at no more than, and at possibly a lower cost than, Intercoastal is providing those  
16 services for today.

17 Q. Are there other considerations that could cause rates not to decrease to the levels shown in Exhibit  
18 MB-1?

19 A. Yes. If growth occurs at lower levels than projected or assumed, rates would not decrease as much  
20 as shown in Exhibit MB-1. However, even when growth is assumed to occur at extremely low  
21 levels, such as 25% of the original projections, Intercoastal's rates will still not increase and even  
22 with this lower level of assumed actual growth, rate decreases of as much as approximately 9%  
23 could result by 2009.

24 Also, if regulatory requirements cause additional capital or operations and maintenance (O&M)  
25 expenses to be incurred, the favorable rate impacts calculated in Exhibit MB-1 could be reduced.

1 However, such regulatory requirements would affect whoever the utility provider is for that service  
2 area. That is why we isolated our analysis to only those costs that would be incurred to meet the  
3 service demands projected in the requested service area.

4 Q. Have you been able to compare Intercoastal's proposal to that of Nocatee Utility Corporation  
5 (NUC) at this point?

6 A. Only in a conceptual way.

7 Q. Please explain.

8 A. NUC has not filed its direct testimony so there is no plan of service to evaluate. However, NUC  
9 will be a new utility with no existing customer base. All other things being equal, that fact alone  
10 will cause the actual cost per ERC for NUC to provide service to be greater than Intercoastal's  
11 costs per ERC because Intercoastal will realize economies of scale due to its existing customers  
12 that will be passed on in reduced rate pressure or possibly lower rates.

13 Therefore, I believe that if NUC's cost of service are similar to Intercoastal's costs, Intercoastal  
14 will be able to have lower rates than NUC over the long-term. NUC may be able to commit to  
15 competitive rates in the short-term, because they may be willing to subsidize the utility to facilitate  
16 development of their lands in the service area. However, at some point, the Commission will be  
17 compelled to award cost-based rates, and NUCs rates will be higher than Intercoastal's rates would  
18 be because NUC does not have an existing customer base, whereas Intercoastal's existing customer  
19 base will allow it to realize significant economies of scale in its rates.

20 Q. Could NUC provide service using a wholesale agreement for water and/or sewer service. If so,  
21 how would that affect your assessment of NUC's ability to provide cost effective service as  
22 compared to Intercoastal?

23 A. Yes, NUC could arrange for wholesale water and/or sewer service with another utility service  
24 provider. Depending upon the wholesale rates for water and sewer service, such an arrangement  
25 may result in a lower cost of service for NUC than if they proceeded as a stand-alone utility. In

1 that regard, I believe that if Intercoastal were awarded the service area, Intercoastal could enter into  
2 any agreement for wholesale service that NUC could. So, if NUC bases its argument that it can  
3 provide more cost-effective service than Intercoastal upon a wholesale water and or wastewater  
4 service relationship, Intercoastal could do the same, and then all the arguments discussed earlier  
5 regarding Intercoastal's economies of scale derived from it being an existing utility with a current  
6 customer base will still be applicable in any comparative analysis with NUC.

7 In summary, I cannot see any scenario under which NUC can provide service with rates as low as  
8 Intercoastal can provide service.

9 Q. Please explain to the Commissioners your conclusions regarding reclaimed water costs and rates  
10 as reflected in Exhibit MB-1.

11 A. Exhibit MB-1 presents a forecast of the financial dynamics of the provision of reclaimed water  
12 service in the same way as it does for water and sewer service. Exhibit MB-1 shows that the  
13 proposed reclaimed water system will be self-supporting with rates in the \$9 to \$10 per ERC per  
14 month range by 2005. Economies of scale will begin to materialize in 2009 from customer growth  
15 and less rate pressure will emerge in the reclaimed water rates in subsequent years. This analysis  
16 assumes that reclaimed water rates will be set in accordance with the same rate regulations that  
17 govern water and sewer rates.

18 Q. I believe that Exhibit MB-1 shows higher reclaimed water rates in 2002 through 2004. Will  
19 Intercoastal's customers have higher rates during those start-up years of the reclaimed water  
20 system?

21 A. No. It is my understanding that Intercoastal would not seek full cost recovery in reclaimed water  
22 rates in the years 2002 through 2004, recognizing that some level of customer growth must occur  
23 to reach "steady state" where compensatory rates fall within a range of market acceptance. Based  
24 upon the analysis in Exhibit MB-1 it appears that this will occur in about 2005 with the rate being  
25 in the \$9 to \$10 per month per ERC range.

1 Q. Do you have an opinion as to the reasonableness of this reclaimed water cost per ERC and, if so,  
2 please explain.

3 A. Yes, I have such an opinion. I have conducted, or am currently conducting, reclaimed water  
4 financial feasibility studies and developed reclaimed water rate systems for six cities and counties  
5 in Florida within the past three years. These clients include the City of Tampa, the City of  
6 Clearwater, the City of Fort Myers, the City of Ocoee, Polk County and Orange County. Based  
7 upon my experience with these clients, the costs per ERC derived in Exhibit MB-1 for Intercoastal  
8 are within the ranges that I have seen and would expect for like facilities.

9 Q. In your opinion, does Intercoastal have the financial ability to continue to provide service in its  
10 existing service area?

11 A. Yes.

12 Q. In your opinion does Intercoastal have the financial strength to undertake its proposed expansion?

13 A. Yes. Intercoastal has demonstrated its ability to meet the demands of its service area over its  
14 history and, in fact, has just completed a major improvement to its wastewater treatment facilities.  
15 I have no reason to believe that Intercoastal will not be able to continue to operate its current and  
16 future utility facilities or to fund required expansions to meet the demands of its current and  
17 requested service area.

18 Q. Based on your familiarity with Intercoastal, in your opinion, what is the projected impact on the  
19 utility's capital structure of Intercoastal's proposal?

20 A. I believe that awarding of this application to ICU and implementation of the proposed Conceptual  
21 Master Plan will allow ICU to continue to maintain a viable level of investment in the utility, and  
22 will enable Intercoastal to further improve on its already favorable history of obtaining low cost  
23 capital. This is true in part because Intercoastal's increased size and expected growth will result  
24 in an increase in the markets for capital that are available to it and, therefore, will allow Intercoastal  
25 to continue to obtain low cost capital and possibility to realize a decrease in the cost of money to

1 fund such growth.

2 Q. Does Exhibit MB-1 set forth a statement regarding the projected impact of the extension on the  
3 utility's monthly rates and service availability charges?

4 A. Yes. As discussed earlier in my testimony, implementation of the proposed Conceptual Master  
5 Plan will not cause rates to increase and will actually result in reduced rate pressure due to the  
6 economies of scale of Intercoastal's current customer base. If growth occurs as projected,  
7 Intercoastal may be able to lower its rates by as much as 32.6% by 2009, and if growth occurs at  
8 one-half of the levels assumed in Exhibit MB-1, Intercoastal may be able to lower its rates by  
9 19.1% by 2009. Furthermore, I analyzed another scenario using the model for Exhibit MB-1 that  
10 assumed that actual growth will be only 25% of projected growth and, even with that low growth  
11 assumption, Intercoastal may still be able to lower its rates by as much as 9% by 2009. I believe  
12 that this demonstrates that under any reasonable assumptions regarding growth, no rate increases  
13 will be required by Intercoastal due to awarding of the expanded service area.

14 With regard to service availability charges, Exhibit MB-1 assumes that Intercoastal would maintain  
15 its current service availability charges of \$234.45 and \$625.20 for water and sewer respectively.  
16 Exhibit MB-1 also shows that the level of CIAC as a percent of utility plant in service will be  
17 approximately 65% and 62% for water and sewer respectively by 2009. FPSC regulations restrict  
18 that percentage to 75%. Therefore, it appears that maintaining the current service availability  
19 charges is a reasonable assumption because it would not cause the percentage of CIAC to exceed  
20 the FPSC ceiling, yet it is close enough to the ceiling to be considered compensatory at the current  
21 levels.

22 Q. In your opinion, are the projections and opinions reflected in Exhibit MB-1 reasonable and  
23 obtainable by Intercoastal?

24 A. Yes. I should point out, however, that the assumptions regarding growth in the expanded service  
25 area west of the Intracoastal Waterway were provided by NUC and other smaller developers in the

1 area. Intercoastal will not be able to exert influence over whether those levels of growth are  
2 actually achieved. However, we have evaluated the proforma results with more conservative  
3 growth assumptions equaling only one half and one quarter of the growth rate assumed in Exhibit  
4 MB-1 and the results show that even with the same capital improvement program designed to meet  
5 the demands of the full growth projections, no increases in Intercoastal's rates will be required with  
6 the lower growth assumptions.

7 Q. In your opinion, are the financial and capital representations in Intercoastal's application  
8 reasonable and obtainable by Intercoastal?

9 A. Yes.

10 Q. Does that conclude your prefiled testimony?

11 A. Yes.

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1 BY MR. DETERDING:

2 Q And, Mr. Burton, if you would, please provide a brief  
3 summary of your testimony.

4 A Yes. We were retained by Intercoastal Utilities to  
5 develop -- to determine what kind of effect the economies of  
6 scale may have in the implications with regard to their rates  
7 as they go out into the future. We developed a model, a  
8 predictive long-term model, that actually had two intents. One  
9 was to be used on an ongoing basis by the utility for planning,  
10 and the other was to support this service area case. Most of  
11 the focus became on the service area case, and so it never was  
12 actually yet brought into a user friendly type of a model, but  
13 nonetheless, that was the original intent.

14 What it does is, it takes all the dynamics with  
15 regard to utility ratemaking, not necessarily as if you were  
16 applying for rates in a rate case. Some of the calculations,  
17 as I mentioned earlier, when you're doing a predicted model  
18 like this that's going out into the future, oftentimes you will  
19 use the surrogate for a calculation. It's maybe not be the  
20 exact calculation, but it gives you an answer that's  
21 essentially the same answer.

22 We replaced those that we had in there to start with  
23 with more precise numbers. And what we're doing is predicting  
24 what the allowed return will be in each year based upon  
25 recapitulated cost of capital, and we're predicting what the

1 achieved return would be. And the model has the ability to  
2 adjust the rate revenues to achieve the allowed return, or we  
3 can override the model and keep the revenues at a level that  
4 they are to avoid rates to have to go up and down to have a  
5 more level rate plan. And over a period of time that ends in  
6 2004 or 2005 depending upon what scenario you're in, the  
7 utility will be accepting lower returns than it would be  
8 allowed, much as Nocatee would be accepting lower returns in  
9 that period than what's being allowed -- than their allowed  
10 return would have been -- would be on a normal ratemaking  
11 process because they set their rates at 80 percent, and  
12 therefore, they are not recovering their costs during that  
13 period.

14           A major conclusion of the analysis is that  
15 implementation of Intercoastal's master plan to serve Nocatee  
16 will not cause rates to increase, and in fact, rate reductions  
17 are indicated beginning in or around 2004 or 2005 depending  
18 upon what scenario you're looking at in our model.

19           In the direct testimony, we looked at growth, and we  
20 determined at that time that the rates would be as much as --  
21 could be reduced by as much as 32 percent by 2009. I think in  
22 MB-3 that number is 44 percent, but at any rate, if you reduce  
23 the growth to half, the 32 percent would go to 19 percent  
24 reductions. And if you reduce the growth to a quarter, the  
25 19 percent reductions would go to 9 percent reductions. So we



1 did a sensitivity analysis on growth to determine how sensitive  
2 it is, which brings me to the next point. In our testimony, we  
3 said this is possible because of economies of scale relative to  
4 this growth. And I think this is an important thing. Part of  
5 this whole thing is the believability. Why is this believable?  
6 I mean, I don't know if you sat and looked at it, how long --  
7 it takes a lot to go through it.

8 Intercoastal is going through a tremendous growth  
9 spurt, if you allow this service area to come in. And I'm  
10 going to read you numbers that are in the documents, but it's  
11 really MB-3 type numbers instead of MB-1 type numbers. The  
12 water ERCs are going to more than double. They are going to go  
13 from 5,763 to 12,091 from 2000 to 2009. The sewer ERCs are  
14 going to more than triple. They are going to go from  
15 2,857 to -- I believe the number is 9,328, but they're  
16 basically going to triple. I have a graph of this that shows  
17 just what is in the report. It shows the percentage increases;  
18 that's also in the report. For the convenience of the  
19 Commission, if you'd like, I'd be happy to have copies -- I'd  
20 be happy to provide it to you. But what it shows is down on  
21 the bottom, Intercoastal was going along with -- somewhere in  
22 the neighborhood of 9 percent growth on sewer and 4.6 percent  
23 growth on water. Then over this intervening period while the  
24 service area is building out on the eastern side and Nocatee is  
25 beginning on the western side, they get what for most utilities

1 I would call pretty astronomical growth. The sewer system is  
2 growing anywhere from 13 to 22 percent a year, and the water  
3 system is growing in double digits. This is an incredible shot  
4 of revenue to this utility over this period of time. That  
5 revenue comes with very minor marginal cost increases, except  
6 for the addition of capital to execute the plan.

7           The addition of capital finds its way into the  
8 ratemaking equation, if you will, in a very diluted fashion  
9 also in that depreciation as an O&M expense is diluted by the  
10 term of the depreciation period. So it's coming in on pennies  
11 on the dollar relative to the actual capital cost, and in terms  
12 of the return, it's coming in the same way. It's a small  
13 amount relative to the actual capital costs that are being  
14 expended. So the utility is experiencing a very, very unusual  
15 situation with regard to its growth. It has management  
16 infrastructure costs that can be spread now over many more  
17 customers, so it benefits everyone.

18           And I think that one difference here is with the  
19 wholesale arrangement with -- that Nocatee has. They don't  
20 achieve the same economies of scale. JEA may as it passes  
21 through to them through their rate, but JEA is a very, very  
22 large utility, and this level of growth is not going to affect  
23 JEA that much. We did the same analysis for reclaimed water  
24 and predicted what the reclaimed water rates would be on an ERC  
25 basis. And I think that summarizes that testimony.

1 MR. DETERDING: We tender the witness for cross.

2 CHAIRMAN JACOBS: Very well. Mr. Melson.

3 CROSS EXAMINATION

4 BY MR. MELSON:

5 Q Mr. Burton, let me start just with some general  
6 background. Most of your utility experience is with public  
7 utilities, and by that, I mean governmental utilities. Is that  
8 a fair statement?

9 A The majority of it is.

10 Q The majority of it is. Your experience with  
11 ratemaking for private utilities comes primarily from the time  
12 period when you were a consultant to the St. Johns County Water  
13 and Sewer Authority, and reviewed on their behalf rate filings  
14 by utilities subject to their jurisdiction; is that right?

15 A That's when I had the most extensive involvement. I  
16 have been involved prior to that, though, in utility -- in rate  
17 matters relative to the utility approach to ratemaking.

18 Q And, in fact, the primary utility whose rate filings  
19 and annual reports you reviewed while you were a consultant  
20 with the St. Johns County Water and Sewer Authority were  
21 Intercoastal rate filings; is that correct?

22 A I guess if you characterize that as primary, it  
23 probably is correct. Intercoastal had a full rate case back in  
24 the early '90s, I believe, when I first started serving the  
25 Authority. In the last case while I was there was

1 Intercoastal's limited proceeding with regard to their  
2 wastewater rate. There was a number of filings by other  
3 utilities, none of which were as big or as noteworthy as those.

4 Q Was there ever another full revenue requirements rate  
5 case other than the one Intercoastal rate case?

6 A No.

7 Q The only time before today that you've testified  
8 before this Commission was in a service availability charge  
9 dispute where you testified on behalf of a developer; is that  
10 correct?

11 A That's true.

12 Q Just to be clear, you have never prepared MFRs for a  
13 regulated utility; is that correct?

14 A I have not prepared them, but I have reviewed them.

15 Q And that was at the Water and Sewer Authority?

16 A Yes.

17 Q And that was -- and when I say "full MFRs," that  
18 would have been the one prior Intercoastal rate case that you  
19 reviewed?

20 A Yes.

21 Q And you have never prepared a used and useful  
22 analysis for a regulated utility; is that correct?

23 A I'm not an engineer. The answer is, no, I'm not an  
24 engineer, no. So I have not.

25 Q And you have never prepared an annual report for a

1 regulated utility; is that correct?

2 A I have not. I have reviewed annual reports submitted  
3 to the Authority.

4 Q Now, if I understand in general the purpose of  
5 Exhibit MB-3, your financial analysis and its predecessors, it  
6 was to predict the results that Intercoastal Utilities would  
7 report on an annual report to a regulatory authority if it's  
8 granted the certificate expansion requested in this case; is  
9 that right?

10 A As closely as possible in the predictive model, yes.

11 Q You have not done a similar analysis saying what  
12 Intercoastal's results would be if it's simply operated for the  
13 next ten years in its existing service territory; is that  
14 correct?

15 A I have not.

16 Q And your attempt in preparing this analysis was to  
17 reflect ratemaking principles that would be applied by the  
18 Public Service Commission as closely as you could; is that  
19 right?

20 A Principles that would determine whether the utility  
21 was overearning or not and whether there should be a need to  
22 lower rates or, conversely, was underearning, and over a long  
23 period of time, the need to raise rates.

24 Q Now, in your testimony and in your exhibit, you  
25 compare Intercoastal's existing rates or rates as they might

1 exist in the future to Nocatee Utility Corporation's proposed  
2 rates; is that correct?

3 A Yes.

4 Q And it's your testimony that the Commission ought to  
5 look at 10,000 gallons per day as sort of a level at which  
6 those rate comparisons are done; is that right?

7 A It's the Commission's pleasure to look at whatever  
8 they think is appropriate. We believe that 10,000 gallons is  
9 at least reasonable in that service area based upon the bill  
10 frequency analysis that we did in one of the subdivisions that  
11 is in the eastern area, almost to the Intracoastal Waterway,  
12 which we believe has homes similar in type and usage  
13 characteristics that would probably be similar. In that I  
14 think that showed -- I think it was in my deposition --  
15 somewhere in the neighborhood of 18 thousands gallons a month  
16 average. And when you looked at the distribution, it showed a  
17 significant amount of water usage in the high ranges.

18 The Nocatee engineering documents, as I understand  
19 them, coming from Mr. Miller, assumed a 10,000-gallon average,  
20 and so, therefore, we felt like that was probably a reasonable  
21 number to use for representative impacts.

22 Q Was that a yes?

23 A I think I said yes to start with, and then I  
24 explained it.

25 Q I forgot. I'm sorry. And you indicated that usage

1 in the -- did I understand that you indicated that water usage  
2 in the portion of Intercoastal's service territory that you  
3 think may be most comparable to the type of development to be  
4 seen in Nocatee, you had some figures over a three-month period  
5 that averaged about 18,500 gallons a month?

6 A I can pull the exhibit out. If you've got it there  
7 and you know that's the right number -- and I'm a little  
8 confused. I guess since we're at MB-3, we're kind of going  
9 over -- that was not in my direct testimony. That was in other  
10 testimony. I don't have any problem talking about it, but --

11 Q Let's take your MB-3, and let's turn to Page 3 of it.

12 A I have that testimony, Mr. Melson, if you want me to  
13 verify the 18,500.

14 Q Actually, the 18,000 appears in your MB-3.

15 A Oh, it does.

16 Q So I think we're going to be able to do most of this  
17 just using the one book. And it is the page with the printed  
18 number 3 and the handwritten number 5.

19 A I don't have a -- you're not talking to me, are you?

20 Q I'm talking to whoever is trying to find it. I try  
21 to give both numbers because I understand we all have the  
22 handwritten number, and you have only the printed numbers. If  
23 you'd review the paragraph right below the pictures just for a  
24 moment, and I'll repeat my question.

25 MR. DETERDING: What page are you on?

1 MR. MELSON: Page 3 or handwritten number 5.

2 MR. DETERDING: Thank you.

3 A I'm there. I'm sorry, I thought I told you I was  
4 there.

5 Q Okay. And essentially, you were looking in  
6 Intercoastal's existing service territory for single family  
7 homes that you thought might be comparable to those that will  
8 be in the Nocatee development; is that right?

9 A Yes.

10 Q And over the three months ending January 31, 2000,  
11 you determined they had used an average of 18,590 gallons per  
12 month; is that right?

13 A Yes.

14 Q Now, Intercoastal does not offer residential reuse  
15 today; is that correct?

16 A It's my understanding that they don't. Quite  
17 frankly, I don't believe they do, but I'm not the definitive  
18 answer on that. I don't believe they do though.

19 Q Okay. Well, do you understand from your financial  
20 analysis for the Nocatee development that Nocatee will have a  
21 separate reuse system for irrigation?

22 A Yes, I do.

23 Q And did you perform any analysis to determine how  
24 much of this 15,590 gallon per month demand represented  
25 irrigation demand that would be met by a reuse system in the



1 Nocatee development?

2 A You mean the 18,590? You said 15,000.

3 Q I'm sorry. 18,590. I misspoke.

4 A No. But we believe that the assumption of ten is a  
5 reasonable number. It would provide that, and it's my  
6 understanding that the assumption of ten in Nocatee was for  
7 potable usage.

8 Q Yes, sir. I guess I'm only concerned because you in  
9 your text on Page 5, you describe 10,000 gallons per month as  
10 doubly conservative. I'm trying to figure out whether it's  
11 doubly conservative or whether it represents a reasonable  
12 estimate given the fact that Nocatee will not have potable  
13 water demand for irrigation, whereas Intercoastal's existing  
14 service territory does.

15 A Well, as Mr. Doug Miller said, maybe that wasn't very  
16 artfully stated. Doubly conservative should be something that  
17 maybe you'd put in quotes and say that's for the reader to  
18 determine. I believe it's a conservative number based upon the  
19 analysis we've seen out there and based upon what Nocatee's  
20 engineers have put on the table as their planning criteria.  
21 And that's basically what we ended up pinning it to was the  
22 planning criteria of Nocatee, the 10,000 gallons.

23 Q Let's turn, if you would, to the page with the  
24 printed number 6 and the handwritten number 8. And at the top  
25 of that page, you compare monthly water and sewer bill with

1 10,000 gallon per month usage between Intercoastal's plan and  
2 Nocatee's plan; is that correct?

3 A Yes.

4 Q Would you agree that on the Nocatee side of that  
5 table, that would need to be updated to reflect the correction  
6 that Ms. Swain made to her wastewater rate?

7 A I would agree it needs to be updated. I guess it  
8 depends on what the late-filed exhibits show after Ms. Swain's  
9 testimony the other evening. It seemed that Staff had a number  
10 of items that needed to be changed. So whatever that rate  
11 turns out to be after -- I was not able to hear everything very  
12 clearly, but whatever the final rate is, is the rate that ought  
13 to be in there, not the rate that's in there.

14 Q And let me ask you this. In fact, this table does  
15 not even reflect the impact of the final NUC/JEA agreement; is  
16 that correct? These were earlier rates --

17 A You know what? I'm not sure what the final JEA  
18 agreement was. How many different amendments have there been?  
19 I just don't know. I know that we tried to incorporate the  
20 latest agreement in each exhibit. And I, right here, don't  
21 know. Is this where the JEA lowered their rate?

22 Q Let me ask you this. This table speaks as of  
23 June 2nd, 2000, which is the date on the cover of your report;  
24 is that right?

25 A Yes.

1 Q To the extent -- if the JEA agreement was finalized  
2 after June 2nd of 2000, then your table by its very nature  
3 could not reflect the impact of that agreement. Would you  
4 agree with that?

5 A If that's the case, that's true.

6 Q Now, the back part of Exhibit MB-3 under Tabs 1,  
7 2 and 3 is a series of spreadsheets that present both the  
8 results and some of the inputs to your financial analysis; is  
9 that right?

10 A Yes.

11 Q And you have provided NUC with an electronic copy of  
12 the spreadsheets, both these spreadsheets and some additional  
13 spreadsheets that feed into these; is that correct?

14 A That's correct.

15 Q And that copy was provided only after the  
16 Prehearing Officer entered an order compelling Intercoastal to  
17 produce it; is that correct?

18 A That's my understanding.

19 Q And the electronic spreadsheets that you provided  
20 were in read-only password protected form; is that correct?

21 A That's correct.

22 Q And that means that NUC could not use those  
23 spreadsheets to test the effect of different assumptions; is  
24 that correct?

25 A That's correct. It was my understanding that we were

1 to provide the spreadsheets so that you could view them.

2 Q And it also meant that NUC could not test the effect  
3 of changes to the model logic; is that correct?

4 A That's true.

5 Q And just to be clear, you didn't supply NUC with the  
6 password, did you?

7 A I did not.

8 Q And at your deposition on advice of counsel, you  
9 declined at that point to provide the password; is that  
10 correct?

11 A No, we didn't provide you the password at the  
12 deposition. I don't remember the actual dynamics of that. No,  
13 you have not been provided the password.

14 Q And before I get into the numbers, I want to go just  
15 a minute to how you got from MB-3 as it sits in front of the  
16 Commission to the corrected numbers that you testified to  
17 verbally this morning. When did you complete the corrections  
18 to Exhibit MB-3?

19 A They were substantially completed when we filed  
20 the -- just bear with me one moment.

21 Q The additional rebuttal testimony?

22 A Is that what it was called? Yes. It was  
23 substantially complete when we did that, and then there were  
24 maybe one or two little minor things that were made since then,  
25 but it was substantially complete at that time. It was

1 complete to the point where it was submitted as part of the --

2 Q Well, the entire document was not submitted as an  
3 attachment to that additional rebuttal; is that correct?

4 A It was not, you're right.

5 Q Are you aware of how much -- are you aware that  
6 earlier in this proceeding Ms. Swain discovered a correction  
7 that needed to be made to one of her exhibits and filed  
8 testimony outlining that change?

9 A Her additional direct testimony? Yes, I am.

10 Q And do you recall how long the other parties were  
11 given to analyze that single change and to file responsive  
12 testimony to it?

13 A I don't recall.

14 Q Would you accept, subject to check, that it was two  
15 weeks?

16 A Yes.

17 Q At least two weeks. And you have not provided a copy  
18 of your updated exhibit or any of the specific corrections to  
19 any of the parties or to the Commission Staff prior to your  
20 taking the witness stand today; is that right?

21 A We provided in our testimony, the additional  
22 rebuttal -- is that the name of it -- that was not accepted, an  
23 output of the model. And I believe we would have been prepared  
24 to provide the disk and the printouts had that been desired  
25 also at that time.

1 Q Well, you provided an output that went -- you  
2 provided an output that included both corrections and  
3 additional --

4 A That's true.

5 Q -- rate reductions?

6 A That's true. My point is, we weren't holding it back  
7 from anyone. We thought that was the valid way to submit it  
8 and get it in the record, and so we took the action which  
9 seemed to be the appropriate action to take at that point.

10 Q Now, if I understand correctly, Exhibit MB-3 contains  
11 four scenarios for water and wastewater, and one scenario for  
12 reuse; is that correct? I may have that wrong. There may be  
13 two scenarios for reuse.

14 A I think there's two scenarios -- I think reuse also  
15 has two scenarios.

16 Q Four scenarios for water and wastewater and two  
17 scenarios for reuse.

18 A Yes, that's right.

19 Q And Scenario 1a is Intercoastal Utilities' plan of  
20 service which includes new plants built within the Nocatee  
21 development and assumes 100 percent debt financing for the  
22 incremental additions; is that correct?

23 A That's correct.

24 Q And Scenario 1b is the same plan of service but with  
25 a 60/40 debt equity ratio for the new improvements; is that

1 correct?

2 A That's correct.

3 Q And then Scenarios 2a and 2b are scenarios under  
4 which Intercoastal I believe your term is "stands in the shoes"  
5 of NUC and provides service to the eastern service territory  
6 through a wholesale agreement with JEA; is that correct?

7 A Yes. It adopts that plan that Nocatee put on the  
8 table substantially.

9 Q All right. And that would be the plan as it existed  
10 on June 2nd, which was the date of MB-3, and would not reflect  
11 any changes to the JEA/NUC arrangement which were finalized  
12 after that date; is that correct?

13 A Clearly not.

14 Q And on the water and wastewater side, out of the four  
15 scenarios, I believe you focus primarily on Scenario 1a, which  
16 is the Intercoastal plan of service with 100 percent debt; is  
17 that correct?

18 A Yes.

19 Q And, in fact, I believe you indicated during your  
20 summary that your earlier exhibits, MB-1 and MB-2, included  
21 only a 100 percent debt scenario, and that the 60/40 was added  
22 in MB-3 to provide results that might be more comparable to  
23 Nocatee's financing plan; is that right?

24 A I don't know if it's to be more comparable to  
25 Nocatee's financing plan. It did that, but it was also in

1 response to some of the testimony, I think, by Ms. Swain that  
2 was critical of the finance plan. And we put another finance  
3 plan on the table to show one thing, that it causes the rates  
4 to be higher because Intercoastal's cost of debt is lower than  
5 the cost of equity. And I would just add that to what you  
6 said, not just to be comparable to their plan but also  
7 demonstrate the impact.

8 Q And as we sit here today, do you have an  
9 understanding if Intercoastal is granted the certificate which  
10 of these two scenarios represents their most likely plan of  
11 financing?

12 A The bottom line answer on that would be Mr. James.  
13 It's my understanding, however, that Intercoastal believes it's  
14 in the best interest of the ratepayer to adopt the 100 percent  
15 debt proposal because it has the less rate impact. But I  
16 believe that the stockholders are willing and able to step up  
17 to the table with a debt and equity proposal also. So I think  
18 that either one is a possibility, but I think that we would say  
19 we believe the ratepayers are better served by the debt,  
20 100 percent debt alternative.

21 Q And when you say "the stockholders are willing and  
22 able to step up," that is not based on conversations you have  
23 had with the stockholders; is that correct?

24 A It's based on conversations I have had with Mr. James  
25 and Mr. Bowen.



1 Q So to find out what the stockholders are willing to  
2 do, I really should be talking to one of them instead of to  
3 you?

4 A Absolutely.

5 Q Now, I'm going to step through your Scenario 1a. I  
6 am going to try to hop around a lot less than I did during your  
7 deposition, but we still may be moving back and forth just a  
8 little bit. If you would, start by turning to Figure 1 of  
9 Scenario 1a, and it is hand-numbered Page 17. I'd like to  
10 start on Line 4, which is allowed return. The figure  
11 12.04 percent under 1999 for allowed return is Intercoastal  
12 Utilities' current authorized rate of return; is that correct?

13 A Yes.

14 Q And the 7.10 percent for 2000 is your estimate of the  
15 required rate of return if a rate case had been filed in that  
16 year based on Intercoastal's current 100 percent debt structure  
17 and its current weighted average cost of debt; is that correct?

18 A Which year?

19 Q 2000.

20 A You said 7.10?

21 Q Yes. I'm looking at allowed return on Line 4 for  
22 water.

23 A I don't have the same number in this book I have. I  
24 have 7.13 in this book.

25 MR. MELSON: Might I inquire if the Bench has 7.10 or

1 7.13? You have 7.10?

2 CHAIRMAN JACOBS: Yes, the same.

3 BY MR. MELSON:

4 Q Mr. Burton, are you in MB-3, or are you in some  
5 corrected version of it?

6 A Well, one of the problems is, you are in Section 1;  
7 right?

8 Q Yes.

9 A There you go. I was in Section 2. I have 7.10, the  
10 same line. Sorry, I was just in the wrong section.

11 Q Okay. Now we're on the same page, as they say.

12 A Now, your question was, is that --

13 Q That is your estimate of the allowed return if rates  
14 had been set in 2000 based on Intercoastal's current  
15 100 percent debt capital structure and its current weighted  
16 average cost of debt; correct?

17 A That represents the weighted -- the average cost of  
18 debt, yes.

19 Q In fact, Intercoastal didn't file a rate case in  
20 2000, did they?

21 A They did not.

22 Q In fact, a rate case was scheduled to be filed on  
23 May 1st of this year; is that correct?

24 A Yes, sir.

25 Q And I guess that was a week ago today?

1 A Okay. Go ahead.

2 Q And that was a week ago today?

3 A It was May 1st, Mr. Melson. Today is May 8th, so  
4 that is a week, yes.

5 Q Do you know if that rate case, in fact, was filed on  
6 May 1st?

7 A It was not.

8 Q Do you know how long an extension was obtained?

9 A I believe the extension is to June 1st, but I'm not  
10 absolutely positive. I know it was extended.

11 Q As we sit here today, the actual -- and I recognize  
12 all of this is a projection, but as we sit here today,  
13 Intercoastal's authorized return is still the 12.04 percent?

14 A Yes, it is.

15 Q Now, if you continue across Line 4, you see that the  
16 7.10 percent goes down in 2000. It looks like it may go down  
17 by rounding in 2005, but then makes another change, it goes  
18 down again in 2007; is that correct?

19 A It goes down in 2000, you said, or 2002?

20 Q I'm sorry. 2002 --

21 A Yes, it does.

22 Q -- and 2007.

23 A Yes, it does.

24 Q And that's because there are major plant additions in  
25 those years that are financed with 100 percent debt at a rate

1 that is slightly below your current weighted average cost of  
2 debt; is that correct?

3 A Yes.

4 Q I want to understand a little bit about the logic of  
5 Figure 1, and for that purpose, I want to focus to begin with  
6 just on Lines 1 through 8, which is water. And I know you  
7 prefer looking at the combined results, and we'll get to those  
8 in a minute. Line 2, the rate plan, shows the percent change  
9 from year to year in water rate levels; is that right?

10 A That's true.

11 Q If I read it correctly, it shows no water rate change  
12 until the year 2009 and a 1.4 percent water rate increase in  
13 that year; is that right?

14 A That's true.

15 Q And if we look at Line 5, the average monthly cost  
16 per ERC, I take it that means the average bill for a  
17 10,000-gallon customer?

18 A Yeah. Actually, at the top it says, "Average Monthly  
19 Cost per ERC assumes 10,000 Gallons per Month Average Water  
20 Usage per ERC."

21 Q But that's not a cost to the utility, that's the cost  
22 to the customer, the rate to the customer?

23 A Yes, it is. That's the customer's bill, it's  
24 supposed to represent.

25 Q And the \$15.81 for 1999 is a current Intercoastal

1 rate; correct?

2 A Yes.

3 Q And just as the rate plan shows zero percent changes  
4 in rates until 2009, that 15.81 is shown here to remain  
5 constant until 2009 when it goes up to 16.03; correct?

6 A Yes.

7 Q Now, can you tell me as a result of all of the  
8 corrections you discussed this morning what that 16.03 becomes?  
9 I think you gave us what the total water and wastewater became,  
10 but I didn't get a breakdown for the water and the sewer.

11 A It becomes 18.39.

12 Q 18.39?

13 A Right.

14 Q And while you've got that open, can you tell me what  
15 the 42.84 for wastewater becomes?

16 A 43.71.

17 Q 43.71. And then the total of those down on Line  
18 21 changes from 58.87 to?

19 A To 62.10.

20 Q 62.10. Thank you. Now, if we look at Line 3, we can  
21 see the effect that holding rates constant through 2009 -- or  
22 through 2008, excuse me, has on the utility's achieved return  
23 in each of those years; is that correct?

24 A Yes.

25 Q And if I read this correctly, from the year 2000

1 through the year 2008 on the water side, holding that rate  
2 constant means the utility earns in each year less than it  
3 would be authorized if its rates were sort of set  
4 instantaneously and reflected a fair rate of return in each  
5 year?

6 A Yes.

7 Q And if we wanted to know what the dollar amount of  
8 that shortfall was, we could calculate that by subtracting the  
9 achieved return on Line 6 from the allowed return on Line 7; is  
10 that right?

11 A If you wanted to know the dollar amount of what?

12 Q The dollar amount of the -- the dollar amount by  
13 which you underearned the authorized rate of return.

14 A Yes.

15 Q Are you aware that Intercoastal had committed to file  
16 a conservation rate for water in its upcoming rate case?

17 A Yes.

18 Q In your judgment, is a rate for water that is priced  
19 below the cost to serve is something that you would call a  
20 conservation rate?

21 A No, it was not intended to be a representation of  
22 what the actual water rates would be. I need to interject at  
23 this point to explain that answer, and I'm going to follow up  
24 on something you said earlier. You said I like to focus on the  
25 bottom water and sewer together, because in this projection

1 what we were trying to do was focus on the overall return,  
2 recognizing that at any point in this time that if Intercoastal  
3 was called for a rate case, or went for a rate case, it would  
4 be a reallocation of cost, which, in fact, we did in our  
5 additional rebuttal submittal, which was rejected. We did  
6 reallocate the cost between water and sewer to try to reflect  
7 that more accurately.

8           But for the purposes of projecting the overall  
9 impact, is what we were getting at here, to the utility payer  
10 in general, water and sewer customer together, whether its  
11 allocated between water or sewer, we focussed on the combined  
12 effect given that the water rate gets back to a compensatory  
13 number with a very small increase at the end. But it's not  
14 intended to be a, quote, ratemaking document to say that we're  
15 not asking for rate approval on any of this. This was not, as  
16 I understand it, part of our minimum filing requirements. What  
17 we're doing is trying to give the reader a general sense of  
18 what pressures will be acting upon Intercoastal's rates over  
19 this time period in the aggregate up or down.

20           Q     All right. I'm now prepared to move to the water and  
21 sewer combined section which you would like to talk about.  
22 Let's move down to Line 17 through 24. If we compare Line 19,  
23 achieved return, to Line 20, allowed return, we can see that  
24 the rate plans for water and sewer on a combined basis produce  
25 less than the allowed rate of return beginning in 2000 and

1 running through 2003; correct?

2 A Yes.

3 Q Actually, running through 2004, although it is pretty  
4 close in 2004.

5 A Yes.

6 Q I believe that during your deposition, we did the  
7 math which is essentially subtracting Line 22 from Line 23 for  
8 each of those years and calculate a shortfall from the  
9 four-year period 2000 through 2003 of about \$1,909,000. Do you  
10 recall that?

11 A If you say we did it in our deposition, we must have.  
12 I don't recall.

13 Q Would you accept, subject to check, that if you do  
14 that math, you came up with a shortfall of approximately  
15 \$1.9 million?

16 A Sure, subject to check, I'll accept that.

17 Q And to the extent that the rates produce that  
18 shortfall in those years, those are dollars that would never  
19 get made up in the future; is that right?

20 A A return that won't get made up in the future. They  
21 reflect return.

22 Q Those are dollars of return that the utility is  
23 foregoing, and those dollars would never be recaptured at some  
24 future point?

25 A That return will never be recaptured, that's true.



1 It's very similar to -- if Intercoastal had decided to create a  
2 new utility on the western side and set rates at 80 percent,  
3 just like Nocatee did. There's a period of time when you are  
4 not achieving a compensatory rate. Intercoastal has an  
5 existing utility. It chose to file for an application for  
6 extension of their service area, but was recognizing the fact  
7 that a similar type of a, quote, investment, if you will, would  
8 be appropriate. And that's what that represents. Very similar  
9 to what Nocatee endures until they get up to 80 percent  
10 capacity.

11 Q You would agree with me, wouldn't you, that Nocatee's  
12 proposed rates were prepared in accordance with the  
13 Commission's policy for newly certificated utilities?

14 A I sure would.

15 Q And you would agree --

16 A Well, subject to the corrections that I believe Staff  
17 was talking about.

18 Q And you would agree that setting rates that  
19 produces -- that are designed to produce a fair rate of return  
20 when Phase I of the utility system is 80 percent built out is  
21 the Commission's policy for newly certificated utilities;  
22 correct?

23 A Yes.

24 Q And that is not a policy that is ordinarily applied  
25 in rate cases for existing utilities. Would you agree with

1 that?

2 A I don't think I ever suggested it was. No, I would  
3 agree with you.

4 Q Now, if we look on the sewer rate plan at Line 10, if  
5 I'm reading this correctly, it shows rate reductions in four  
6 out of the five years beginning in 2005; is that correct?

7 A Yes.

8 Q And you're not aware, I take it, of any other utility  
9 that's ever filed for rate decreases in four out of five  
10 successive years?

11 A I am not, but I am also not aware of a utility that  
12 is facing the prospect of the astronomical type growth that  
13 Intercoastal would be facing over this time period either.

14 Q But the assumption that you made for modeling  
15 purposes was to show rate reductions in four out of the five  
16 years?

17 A What the model shows is that there would be pressures  
18 that would cause the rates to have to be reduced, not that  
19 Intercoastal would necessarily volunteer to reduce them, but  
20 that they would have to. If the dynamics happen the way they  
21 happen, then they would not be able to earn more than their  
22 allowed return. In order to do that, there would have to be  
23 reductions in rates. It could be a combination -- it could be  
24 what we have right there, or it could be a combination of  
25 adjustments to the water or the sewer, but in the bottom line,

1 what we were focussing on was the adjustment to the aggregate  
2 water and sewer rates that would have to be done in order to  
3 not exceed the allowed return.

4 Q And on a combined basis, it shows reductions in four  
5 out of five years, beginning in 2005; correct?

6 A It does, yes.

7 Q Now, just to be clear, the rate plans for water and  
8 sewer on Lines 1 and 10 are numbers that are hardwired into the  
9 model, is that correct, they are inputs?

10 A You mean 2 and 10?

11 Q I'm sorry, 2 and 10, yes, sir.

12 A You know, there's actually two lines in the model.  
13 There's a line right above it where you can hardwire the rates,  
14 and if there's a number up there, what's in the yellow panel  
15 will pull that number in. If there's no number up there, the  
16 yellow panel will calculate the increase. I know that the  
17 yellow panels in 2009 are not hardwired. They are calculating  
18 the rate adjustments necessary to achieve the return. I'm also  
19 fairly positive that the rest of these are probably hardwired.  
20 Some of the years may not be, but because the achieved return  
21 doesn't exactly match the allowed return in any one of those  
22 other years, it's probably because it's hardwired, and we got  
23 very close to the return by the rate that was hardwired and  
24 didn't match it exactly.

25 Q Let me ask this: The model is capable of calculating

1 a rate plan for each year which reflects what rate adjustment  
2 up or down would be required to bring you exactly to a fair  
3 rate of return; correct?

4 A Yes, it is.

5 Q You did not use that feature in the Figure 1 that's  
6 presented in your Exhibit MB-3?

7 A No, because that wasn't the intent. The intent was  
8 to show what would happen if Intercoastal made a similar  
9 investment to Nocatee and held their rates constant except at  
10 lower returns. And initially, we would see and what would  
11 happen, would they ever come down to that level? And as it  
12 turns out, they do, and it's 2004 where they get almost equal,  
13 and then they are able to be less in 2005.

14 Q And just to recap, up through 2004, they have  
15 foregone about \$1.9 million in revenues; correct?

16 A Whatever the number is.

17 Q Now, I'm going to ask you to jump for a moment to  
18 Figure 14 again in the same section. And I believe that's  
19 handwritten Page 33; 14 is a six-page exhibit. I'm looking at  
20 Page 1 of 6, which is page number 33. Now, if we look at the  
21 second column from the left, it appears to be labeled "original  
22 loan amount." Do you see that column?

23 A Yes, I do.

24 Q If we look at Lines 15 through 26, those represent  
25 additional borrowings in the years indicated; is that correct?

1 A Yes.

2 Q And I believe what you told us earlier was that --  
3 let me ask this: Were the 2000 borrowings different than the  
4 amount shown here, and is that what resulted in the difference  
5 in the first year loan balance for First Union?

6 A I'm sorry, what now?

7 Q Okay.

8 A No. The loan balance from First Union is not down in  
9 that part.

10 Q All right.

11 A It's in the top part.

12 Q My understanding -- let me ask you this: On a  
13 projection basis in MB-3, isn't it true that the 2000 number,  
14 it looks like 1.9 million -- my copy is very hard to read. Is  
15 it 1.877 million next to the year 2000?

16 A Yes, I believe it is. Mine is hard to read too, but  
17 I believe that's the number.

18 Q Okay. And that was intended to be the additional  
19 borrowings from First Union during the year 2000 for either  
20 water or wastewater treatment plant additions that took place  
21 during that year; correct?

22 A I'm not sure if that's First Union. That wasn't the  
23 loan that I was talking about we corrected.

24 Q Okay.

25 A There's two things here. Let me just make sure we

1 understand. On this schedule at the top, Line 1 is the  
2 First Union Bank loan. If you look over in '99, the  
3 first -- right under the beginning of the underlining, right  
4 next to interest rate, to the right of it, it says "beginning  
5 balance," and it's 3.835 million. That's the number that was  
6 wrong, and it needed to be -- it needed to be the number I said  
7 in my corrections, which was more than 4 million. Just one  
8 moment, and I'll tell you the exact number, 4,354,000.

9           The one you're looking at on Line 17 would be  
10 associated with any capital that is in the plan, in the plan of  
11 service, that Mr. Miller provided and his input into this model  
12 on the capital improvement program page that would need to be  
13 funded.

14           Q     All right. Staying --

15           A     And that would be affected by the increase in the  
16 water plant, I believe. Let me make sure. That's 2000. Is  
17 that 2000? Yes, that would be affected by that increase in the  
18 water plant. I believe it happens in 2000.

19           Q     When you say "increase in the water plant," that was  
20 the increase in the -- I'm going to call it installed cost of  
21 the water plant versus the estimate of the water plant cost;  
22 correct?

23           A     Yes, in the eastern service area.

24           Q     In the eastern service territory. Do you know  
25 whether that was a project that was constructed for

1 Intercoastal by JAX Utilities Management?

2 A I don't know the answer to that.

3 Q Was the \$1.5 million estimate that you got, an  
4 estimate provided to you by Intercoastal?

5 A I believe it was provided by Ms. Ellen Tilley.

6 Q She is an employee of JAX Utilities Management?

7 A I don't know. I know Ms. Tilley handles the  
8 financial matters for Intercoastal with regard to input to us.  
9 I have not seen her paycheck. I don't know who she actually is  
10 employed by.

11 Q Okay. Well, whoever she's employed by, she gave you  
12 both the projected cost of the water treatment plant and the  
13 final installed cost; correct?

14 A Yes.

15 Q And do you know whether that water treatment plant  
16 improvement was constructed by JAX Utilities Management?

17 A I don't know who constructed it.

18 Q And now, if we look at lines -- the lines -- and I'm  
19 not going to try to do the line numbers. The year 2002 and the  
20 year 2007, those include additional borrowings, what looks to  
21 be \$12.8 million, give or take, and 8.-- is it 8.3?

22 A What page are you on?

23 Q I'm still on Figure 14, Page 1 of 6 under the  
24 original loan amount column.

25 A Okay. You're going down the page.

1 Q Going down the page. 2002 appears to be roughly  
2 12.8 million?

3 A Yes.

4 Q And can you read me the number for 2007?

5 A It's either 8.2 or 9.2. I can't read it probably any  
6 better than you.

7 Q I thought it was 8.2, so that's close enough for  
8 government work.

9 A I would have to check the CIP and see if -- you know,  
10 if you think it's 8.2 -- you'd have to do what? I didn't hear  
11 you.

12 COMMISSIONER JABER: I wouldn't go there.

13 MR. MELSON: Excuse me. It's close enough for  
14 Intercoastal Utility work.

15 MR. DETERDING: I wouldn't go there either.

16 COMMISSIONER JABER: That's okay.

17 BY MR. MELSON:

18 Q And if I then move to the right of those numbers to  
19 the interest rate column, that shows an assumed interest cost  
20 of 6.5 percent; is that correct?

21 A Yes.

22 Q And that rate is lower than the current First Union  
23 rate which is shown up on Line 1 of 7.27 percent; is that  
24 right?

25 A Yes, it is.



1 Q Do you know why the new debt is assumed to be cheaper  
2 than the existing debt?

3 A The source of the new debt number was Mr. James, who  
4 is, I assume, the one who works the things out with his banking  
5 relationships. And he had indicated to me that that was the  
6 number that he was going to be able to achieve on a  
7 going-forward basis.

8 Q So that's a number that was given to you, not one you  
9 provided?

10 A That's right.

11 Q Now, if I understand correctly, the figures that  
12 we've just looked at, the 12.8 million and 8.3 million,  
13 represent borrowing for 100 percent of the cost of the water  
14 treatment plant and wastewater treatment plant additions in the  
15 year 2002 and expansions in the year 2007 in the western  
16 service territory; is that right?

17 A Yes.

18 Q And those ultimately come from numbers, costs of  
19 those additions furnished to you by Mr. Jim Miller; is that  
20 correct?

21 A That's correct.

22 Q And you didn't make any changes to Mr. Jim Miller's  
23 capital numbers, you took the numbers he gave you?

24 A Yes, we did.

25 Q So if there was a cost he hadn't included, you didn't

1 add it in somehow in your analysis?

2 A That would be true.

3 Q Now, the numbers on the Page 33 that we've been  
4 looking at do not include any borrowings for the reuse system;  
5 is that right?

6 A No, the reuse is handled in a separate exhibit.

7 Q And if you were to turn to the comparable Figure 14  
8 under Tab 3 -- and that's Page 143 for those of us who have the  
9 handwritten numbers -- if I read those numbers correctly,  
10 that's about an additional 4.6 million in the year 2002 and  
11 about an additional 1.9 million in 2007; correct?

12 A Yes.

13 Q Let's go back into Scenario 1a, again, and let's jump  
14 forward to Figure 18, which is on Page 42. It's labeled "Cash  
15 Flow Projections, Total Water and Sewer System."

16 A I'm there.

17 Q All right. And this is a cash flow projection for  
18 Intercoastal Utilities through 2009, assuming it gets the  
19 western service territory and the rate of growth there and that  
20 the eastern territory matches your projections; correct?

21 A Please repeat that, Mr. Melson.

22 Q Okay. That probably was too much in one question.  
23 This is a cash flow projection assuming that Intercoastal is  
24 awarded the western service territory and that it experiences  
25 continued growth both in the east and in the west?

1 A Yes.

2 Q Let's take a look at Line 26, which is annual subsidy  
3 required from stockholders, and let's look at the year 2002.  
4 If I'm reading that correctly, that means that the stockholders  
5 would have to come up out of pocket with roughly \$461,000 in  
6 that year; is that correct?

7 A That's correct.

8 Q And that's the same year, I believe, in which we had  
9 12.8 million of borrowings just for the water and sewer system  
10 alone; is that right?

11 A Yes.

12 Q And it also shows, if you move over to the next year,  
13 that they have to come out of pocket with an additional  
14 \$204,000 in 2003; correct?

15 A Correct.

16 Q And if I understand correctly, this projects that  
17 that shareholder subsidy is then able to be paid back  
18 essentially over the next three years out of cash flow?

19 A That's correct.

20 Q And then it shows that the shareholders need to come  
21 out of pocket in the year 2008 with \$441,000 and in 2009 with  
22 \$526,000; is that correct?

23 A That's correct.

24 Q And that is after new borrowings for water and  
25 wastewater, the 8.3 million in the year 2007, subject to check?

1 A That's the number you just told me; right?

2 Q Yes, sir.

3 A Yes.

4 Q And your projection doesn't go out far enough to say  
5 when, if ever, this subsidy would get refunded out of cash  
6 flow; correct?

7 A We took it ten years from the '99, which is at a  
8 ten-year projection.

9 Q Now, as this exhibit stands today, it doesn't reflect  
10 whether that subsidy would be in the form of debt or equity;  
11 correct?

12 A That's true.

13 Q And I believe you stated one of your corrections was  
14 to assume that that subsidy was in the form of debt and to  
15 include that debt in your weighted average cost of capital  
16 calculation; correct?

17 A Correct.

18 Q Can you tell me what interest you assumed on that --  
19 on those borrowings from stockholders?

20 A Let me just check it before I tell you.

21 Q Sure.

22 A The same interest as the other new loans,  
23 6.5 percent.

24 Q And so because your existing weighted average cost of  
25 debt is higher than 6.5, the effect of modeling that as

1 shareholder infusion of debt would actually bring down your  
2 overall weighted cost of capital just a little bit; is that  
3 right?

4 A Because -- say that one more time.

5 Q Your existing weighted average cost of debt is  
6 greater than 6.5 percent; correct?

7 A Yes, I believe it is in each year.

8 Q So if you add more debt at 6.5 percent, that's going  
9 to bring down the weighted average cost of capital slightly?

10 A Slightly.

11 Q I want to move for a minute to figure -- excuse me,  
12 Scenario 1b, which is your 40 percent equity, 60 percent debt  
13 scenario, and ask you to turn to the comparable Figure 18,  
14 which I think I'm in the right place is Page 70 of that -- of  
15 your document.

16 Now, this -- I think I asked this before, but this  
17 60/40 scenario wasn't in your original 1b, right -- I'm -- in  
18 your original exhibit --

19 A MB-1.

20 Q -- MB-1?

21 A It was not.

22 Q And I believe you told me it was added in response to  
23 some concerns raised by Ms. Swain's testimony regarding the use  
24 of 100 percent debt financing?

25 A Yes.

1 Q If we turn to the comparable Line 26 on Page 70, if I  
2 understand correctly, this requires an additional \$5 million of  
3 subsidy from shareholders in the year 2002; is that right?

4 A Well, that's actually -- it probably needs to be  
5 labeled more correctly. It's a combination of the total  
6 requirement of the stockholder.

7 Q A combination of the subsidy and putting 40 percent  
8 equity into the new project?

9 A Right.

10 Q And if we look at Line 31, I know that number goes up  
11 and down as cash flow permits it to be adjusted, but it looks  
12 like it by the year 2009 is at a \$4.3 million level; correct?

13 A Yes.

14 Q And is it fair to say looking at Line 31 that  
15 shareholders have got substantial amounts of their own money in  
16 the utility over that period?

17 A Yes.

18 Mr. Melson, at some point, I would like to take a  
19 very brief break.

20 Q Well, I was actually just going to suggest that to  
21 Commissioner Jacobs because I am getting ready to move from  
22 results to inputs, and I was going to suggest this was exactly  
23 the right time to take one.

24 CHAIRMAN JACOBS: Why don't we take a ten-minute  
25 break and come back? Thank you very much.

1 (Brief recess.)

2 CHAIRMAN JACOBS: We'll go back on the record. By  
3 agreement of the parties, it is my understanding that we can  
4 take two witnesses proffered by Sawgrass out of order at this  
5 time, and we'll interrupt Mr. Burton's cross examination and  
6 return to him at the conclusion of that testimony.

7 On that note, Mr. Melson, how long do you think  
8 you'll have after that for Mr. Burton?

9 MR. MELSON: Not as long as I've been, but longer  
10 than you'd like.

11 CHAIRMAN JACOBS: That sounds like a lawyer's answer.

12 MR. MELSON: I would guess 45 minutes, but it's  
13 really hard to tell because the second part I've got to adopt  
14 on the fly to some of the corrections he made in real time. I  
15 think I can do it in about 45 minutes.

16 CHAIRMAN JACOBS: Very well. We'll hold you close to  
17 that, not quite. Mr. Korn.

18 MR. KORN: Thank you, Mr. Chairman. We would call  
19 Patricia Arenas.

20 PATRICIA ARENAS  
21 was called as a witness on behalf of Sawgrass Association,  
22 Inc., and, having been subsequently sworn, testified as  
23 follows:

24 DIRECT EXAMINATION

25 BY MR. KORN:

1 Q Good afternoon. Could you please state your name and  
2 business address for the record.

3 A My name is Patricia Arenas. My business address is  
4 10036 Sawgrass Drive, Ponte Verda Beach, Florida 32082.

5 Q By whom are you employed?

6 A May Management Services.

7 Q What relationship does May Management Services have  
8 to the Sawgrass Association?

9 A We're the managing agent for the Sawgrass  
10 Association.

11 Q As such, did you cause to have certain prefiled  
12 testimony prepared and entered into the docket in this case?

13 A Yes.

14 Q And you're familiar with that testimony?

15 A Yes.

16 Q Has any of that testimony changed?

17 A No.

18 Q Let me also ask that you have offered a document  
19 attached as Exhibit A to your prefiled testimony. Are you  
20 familiar with that document as well?

21 A Yes.

22 Q And there are no other changes or corrections that  
23 would be necessary to that document; is that correct?

24 A That's correct.

25 MR. KORN: Mr. Chairman, we would asked that



1 Ms. Arenas's prefiled direct testimony be introduced into the  
2 record as if read.

3 CHAIRMAN JACOBS: Without objection, show  
4 Ms. Arenas's prefiled testimony is entered into the record as  
5 though read.

6 MR. KORN: Thank you, Mr. Chairman. And likewise, we  
7 would ask that the exhibit to Ms. Arenas's prefiled testimony,  
8 which was marked as Exhibit A to her testimony, be marked as  
9 exhibit -- I believe 31 is the next number in sequence.

10 CHAIRMAN JACOBS: I show that identified as PA-1 on  
11 the prehearing -- is that the same?

12 MR. KORN: That's correct, sir.

13 CHAIRMAN JACOBS: Very well. We'll mark that as  
14 Exhibit 31.

15 (Exhibit 31 marked for identification.)

16 MR. KORN: Thank you, Mr. Chairman.

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1                   BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2                   DOCKET NOS. 990696-WS AND 992040-WS

3                   PREFILED DIRECT TESTIMONY OF PATRICIA ARENAS

4                   MARCH 16, 2000

5  
6           Q.     Please state your name and address for the record.

7           A.     Patricia Arenas, 10036 Sawgrass Drive, Suite 1, Ponte Vedra  
8                 Beach FL 32086

9           Q.     What is your relationship with Sawgrass Association, Inc.?

10          A.     I am President of May Management, Inc., the property  
11                 management company for the Sawgrass Association.

12          Q.     Is your office located near the Intercoastal wastewater  
13                 treatment facility?

14          A.     Yes, my office is located right next door to Intercoastal's  
15                 wastewater treatment facility.

16          Q.     Please describe the odors which come from Intercoastal's  
17                 wastewater treatment plant.

18          A.     The plant regularly gives off strong and foul odors. Many  
19                 of my employees have complained that it is annoying, if not  
20                 disgusting, to have to work under such conditions. One of  
21                 my employees even indicated that the smell permeates her  
22                 automobile and even when she leaves the area, the smell  
23                 remains. As the property manager, I receive numerous  
24                 complaints from Sawgrass residents and visitors about the  
25                 smell.

1 Q. Are you aware of any promises or representations that  
2 Intercoastal made regarding its efforts to fix the odor  
3 problems from their plant?

4 A. Yes, I am. Intercoastal told the community that when their  
5 new processing system was placed in operation, the odors  
6 would substantially subside. It is my understanding that  
7 Intercoastal was supposed to have their expanded plant in  
8 operation by December 30, 1999, but they received an  
9 extension from the Florida Department of Environmental  
10 Protection until February 14, 2000 to come into compliance.  
11 However, the smell has been just as bad, both before and  
12 after all those dates. In fact, the smell over the last  
13 few days and weeks has been particularly awful.

14 Q. Have you received recent complaints about odors from the  
15 wastewater treatment facility from property owners in the  
16 Sawgrass community?

17 A. Yes. In fact, just yesterday I received a written  
18 complaint about the odor from Frances King, a Sawgrass  
19 property owner who described the smell as being "worse than  
20 it has ever been." Ms. King echoed the comments of many  
21 residents who feel it does no good to even call to complain  
22 about the odor, because Intercoastal Utilities has done  
23 nothing to address it. Ms. King further reported that she  
24 is unable to enjoy her property, sit outside or even leave  
25 her windows open at night because of the horrible stench.

26

1 Q. Are you presenting any exhibits with your Prefiled Direct  
2 Testimony?

3 A. Yes, I am. A copy of Ms. King's letter of March 15, 2000  
4 is attached as Exhibit A.

5 Q. Does that conclude your Prefiled Direct Testimony?

6 A. Yes it does.

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1 BY MR. KORN:

2 Q Ms. Arenas, do you have a summary of your testimony  
3 which you would like to present to the Commission at this time?

4 A Yes.

5 Q Please proceed.

6 A The purpose of my testimony is to describe to the  
7 Commission the continuing odors coming from the Intercoastal  
8 Utilities wastewater treatment facility. My offices at May  
9 Management are located right next door to the plant. My  
10 employees have complained regularly about strong and foul  
11 odors. I also get many complaints from Sawgrass residents and  
12 visitors. We have called Intercoastal's agent, JAX Utilities  
13 Management, many times to come and investigate the odor  
14 problem, but it has never been satisfactorily taken care of.  
15 These are the problems that have existed both before and after  
16 Intercoastal was to have switched to their new processing  
17 system as part of their expansion of the plant in early 2000.  
18 This was when Intercoastal represented to the community that  
19 the odors would have been substantially reduced, but they were  
20 not. This concludes my summary.

21 CHAIRMAN JACOBS: Mr. Korn, it occurs to me that  
22 Ms. Arenas was not sworn previously.

23 MR. KORN: Yes, Mr. Chairman. Thank you very much.  
24 I apologize.

25 CHAIRMAN JACOBS: Would you stand and raise your

1 right hand please, Ms. Arenas.

2 (Witness sworn.)

3 MR. KORN: Thank you, Mr. Chairman.

4 BY MR. KORN:

5 Q And if I might just for purposes of the record,  
6 Ms. Arenas, now that the oath has been administered to you,  
7 would any of the responses that you had given previously or  
8 your summary be any different?

9 A No.

10 MR. KORN: Thank you. We would tender the witness  
11 for cross examination.

12 CHAIRMAN JACOBS: Very well. Mr. Menton.

13 MR. MENTON: No questions.

14 CHAIRMAN JACOBS: Very well. Mr. Wharton.

15 MR. WHARTON: Mr. Chairman, at this time I would move  
16 to strike the reference to JAX Utility Management which is  
17 never mentioned in the prefiled testimony. There's nothing in  
18 the prefiled about contacting JUM or Intercoastal.

19 CHAIRMAN JACOBS: It was a passing reference. I  
20 don't think it really had much to do with the substance of her  
21 testimony. If you want to cross her on that --

22 MR. WHARTON: Okay. I'll withdraw that motion.

23 CHAIRMAN JACOBS: Okay. If you want to cross her on  
24 that, feel free to do that.

25 CROSS EXAMINATION

1 BY MR. WHARTON:

2 Q Good afternoon, Ms. Arenas.

3 A Good afternoon.

4 Q Isn't it true that the last word you had from the  
5 Department of Environmental Protection was that the odor  
6 problems in the plant had been taken care of?

7 A That's what they represented to my assistant.

8 Q Okay. And you've never filed a formal written  
9 complaint with anyone regarding odor problems at Intercoastal's  
10 plant, have you?

11 A No. We have many phone calls to the DEP.

12 Q And your office is located within 100 feet of  
13 Intercoastal's wastewater treatment plant; is that true?

14 A Approximately.

15 Q Okay. And your concern about Intercoastal's  
16 application is that if the application is granted, it may mean  
17 the odors will get worse?

18 A Correct.

19 Q And you're not aware of what Intercoastal has done in  
20 order to address odor problems at the Sawgrass plant, are you?

21 A No, I have not, but whatever they have done, it  
22 hasn't worked.

23 Q The letter that you've attached to your testimony as  
24 an exhibit is dated the day before your testimony, isn't it?

25 A I guess it is.

1 Q But you maintain that's only a coincidence that this  
2 other lady wrote that letter to you one day before the date of  
3 your prefiled testimony?

4 A That's correct.

5 Q You have never looked at Intercoastal's application,  
6 have you?

7 A No, I haven't.

8 Q And you've never looked at any of Intercoastal's  
9 testimony in this case?

10 A No, I haven't.

11 Q And you've never looked at the application or the  
12 testimony of any of the other parties in this case?

13 A No.

14 Q And your personal residence is not even in the  
15 Intercoastal service area, is it?

16 A No, but the office that I occupy for eight hours a  
17 day is.

18 Q But you personally are not a customer of  
19 Intercoastal?

20 A No, I'm not.

21 MR. WHARTON: That's all we have.

22 CHAIRMAN JACOBS: Staff.

23 MS. ESPINOZA: We have no questions. Thank you.

24 CHAIRMAN JACOBS: Commissioners. Redirect.

25 MR. KORN: One question, Mr. Chairman.



## REDIRECT EXAMINATION

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BY MR. KORN:

Q Ms. Arenas, do you have an ownership interest in May Management Services?

A Yes, I do.

Q And May Management Services is a tenant of space that is located immediately adjacent or within feet of the wastewater treatment facility in question?

A That's correct.

Q And May Management receives its water and sewer service from Intercoastal?

A That's correct.

MR. KORN: Thank you. I have no further questions, Mr. Chairman.

CHAIRMAN JACOBS: Very well. Exhibits.

MR. KORN: Yes. Mr. Chairman, we would move Exhibit 31 to be introduced into evidence.

CHAIRMAN JACOBS: Without objection, show --

MR. WHARTON: We would object, Mr. Chairman. It's just -- it's uncorroborated hearsay. It's a letter that was written the day before the prefiled testimony. I certainly can't cross examine Frances King or find out any of the circumstances, but I guess it could just go to the weight.

MR. KORN: If I might, Mr. Chairman. Mr. Wharton had the opportunity to talk with Ms. King for, I guess, about 14

1 months since this was filed on March 16, 2000, and Ms. Arenas  
2 was questioned at some length during her deposition about the  
3 correspondence.

4 CHAIRMAN JACOBS: What's the relationship with  
5 Ms. Arenas to --

6 MR. KORN: I'm sorry, the relationship between  
7 Ms. Arenas and Ms. King?

8 CHAIRMAN JACOBS: Yes.

9 MR. KORN: It appears Ms. King is a resident of the  
10 area who was complaining about odor at the plant and wrote a  
11 letter to Ms. Arenas to that effect dated March 15, 2000. It  
12 says, she's been a property owner for seven years in Garden  
13 Homes I, which is near the south entrance to the Sawgrass  
14 County Club Community.

15 MR. WHARTON: And that's the real problem with the  
16 exhibit. It's being offered for the truth of the matter that's  
17 asserted in it. I mean, that just came right from the face of  
18 the letter. You know, he says I could have deposed to  
19 Ms. King, but I had to come to you-all to get an order to  
20 depose Bill Young.

21 MR. KORN: He never asked me, Mr. Chairman. If he  
22 had asked, we certainly would have tried to find Ms. King.

23 MR. WHARTON: I didn't want to depose the author of  
24 this letter.

25 CHAIRMAN JACOBS: Counsel, we can put that letter

1 into the correspondence out of this file; correct?

2 COMMISSIONER JABER: Did you have anything -- did you  
3 want -- Mr. Chairman, I think Mr. Wharton raises a very good  
4 point, that the letter is authored by someone else who is not  
5 here to testify with respect to the authenticity of the letter,  
6 but -- well --

7 CHAIRMAN JACOBS: I think, quite frankly, I agree.  
8 The point has merit. The thought that occurs to me is that we  
9 had customer input here, a time for customer input, and on many  
10 occasions, we've allowed customers to send in their written  
11 comments. However, this is somewhat of a different context,  
12 and I think probably attaches a higher level of scrutiny when a  
13 witness brings in an exhibit. I'm going to grant -- allow the  
14 objection. However, if this is a customer of Intercoastal, I  
15 assume that Ms. King is, I believe that that letter could have  
16 come in as in response to our customer input; is that correct?

17 MS. CIBULA: That's correct.

18 CHAIRMAN JACOBS: So I'll allow that letter to come  
19 in attached as part of the customer testimony, but it can't  
20 come in as an exhibit sponsored by Ms. Arenas.

21 MR. KORN: All right. Thank you, Mr. Chairman.

22 CHAIRMAN JACOBS: Very well.

23 MR. KORN: May Ms. Arenas be excused?

24 CHAIRMAN JACOBS: And thank you, Ms. Arenas. You're  
25 excused.

1 MR. KORN: Thank you, ma'am.

2 (Witness excused.)

3 MR. KORN: Mr. Chairman, the next witness will be  
4 Don Flury.

5 RALPH DON FLURY

6 was called as a witness on behalf of Sawgrass Association,  
7 Inc., and, having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. KORN:

10 Q Good afternoon, Mr. Flury. Could you please state  
11 your full name and address, please.

12 A My name is Ralph Don Flury. I live at 1576 Harbor  
13 Club Drive, Ponte Vedra Beach 32082.

14 Q Could you describe your position with the Sawgrass  
15 Association?

16 A I am the current homeowner's president of Sawgrass  
17 Association.

18 Q Could you briefly describe to the Commission what the  
19 Sawgrass Association is?

20 A It is a makeup of over 1,500 homeowners. We manage  
21 the -- are throughout -- oversee the management of our property  
22 through May Management and common grounds, our lake systems,  
23 our wares. There's a lot of assets that we manage.

24 Q Previously, before you became president of the  
25 Association, was A. Richard Olson the president of the

1 Association?

2 A Yes.

3 Q And you are here today adopting portions of his  
4 prefiled testimony; is that correct?

5 A That's correct.

6 Q Now, let me first ask you: Are there any portions of  
7 Mr. Olson's prefiled testimony that are not applicable to your  
8 adoption? In other words, that you would not be adopting  
9 today.

10 A Yes, there are.

11 Q Could you briefly describe to the Commission what  
12 those points are, please.

13 A I believe it's on Page 1, Lines 7 through 8, where  
14 Dick's name and address -- I obviously don't live there. And  
15 on Page 2, Lines 6 through 8, Dick's service on the Association  
16 Board and the committees that he's served on, that is not the  
17 position I'm taking here.

18 On Page 2, Lines 13 through 17, Dick states he lives  
19 at Quail Point. I do not live at Quail Point. And on Page 15,  
20 Lines 21 through 25, and Page 16, Lines 1 through 4, this  
21 concerns Dick's testimony before the Sewer and Water Authority.  
22 I was not there.

23 On Page 17, Lines 25 through Page 18, Lines 1 through  
24 7, since I was not at the meeting at the 1999 proceedings, I  
25 cannot adopt that.

1 Q Would that be Line 17 (sic) on Page 18, sir?

2 A Yes, I'm sorry.

3 Q And other than those points, would you be adopting  
4 Mr. Olson's testimony today as it stands?

5 A Yes, I will.

6 MR. KORN: Okay. Mr. Chairman, we would ask that the  
7 testimony of Mr. Olson through Mr. Flury with the exceptions  
8 just noted be introduced into the record as if read.

9 MR. WHARTON: And, I'm sorry, Mr. Chairman. One of  
10 the exceptions, Mr. Korn, was on Page 15, or am I wrong about  
11 that?

12 MR. KORN: Give me a moment, please.

13 MR. WHARTON: I'm sorry.

14 MR. KORN: Yes. I believe the witness just described  
15 at Page 15, beginning at Lines 21 through 25, and then carrying  
16 over on Page 16, Lines 1 through 4, which described the Water  
17 and Sewer Authority proceedings in 1999.

18 MR. WHARTON: Don't wait for me.

19 MR. KORN: I think we've resolved Mr. Wharton's  
20 question.

21 CHAIRMAN JACOBS: Okay. Without objection then, we  
22 will enter the testimony that has been adopted by Mr. Flury and  
23 prefiled by Mr. Olson into the record as though read.

24 MR. KORN: Thank you.

25 BY MR. KORN:

1 Q And Mr. Chairman, just for the record, Mr. Flury, you  
2 were here yesterday when the oath was administered to you, were  
3 you not?

4 A Yes, I was.

5 Q Mr. Flury, in connection with the prefiled testimony,  
6 are there any exhibits which you are sponsoring today?

7 A Yes.

8 Q And those would be the exhibits which were marked  
9 previously ARO-1 through 5?

10 A Correct.

11 MR. KORN: Thank you. Mr. Chairman, we would ask  
12 that those be marked in sequence, which would be, I guess, 32,  
13 33, 34, 35, and 36 respectively.

14 CHAIRMAN JACOBS: Unless there's a need to --

15 MR. KORN: Unless you'd like to have them as a  
16 composite.

17 CHAIRMAN JACOBS: I assume there is no real need to  
18 address them separately. We will mark them as one composite  
19 exhibit.

20 MR. KORN: That will be fine. So we will mark them  
21 as composite 32 with the Chair's permission.

22 CHAIRMAN JACOBS: Very well.

23 (Exhibit 32 marked for identification.)

24 MR. KORN: Thank you, Mr. Chairman.

25

## 1                   BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2                   DOCKET NOS. 990696-WS AND 992040-WS

3                   PREFILED DIRECT TESTIMONY OF A. RICHARD OLSON

4                   MARCH 16, 2000

5

6 Q.    Please state your name and address for the record.

7 A.    My name is ~~A. Richard Olson~~ <sup>Ralph Don Flury</sup>.    My address is ~~342 Quail~~ <sup>1576 Harbor Club</sup>  
8        ~~Drive~~  
9        Pointe, Ponte Vedra Beach, Florida 32082.

9 Q.    What is your position with Sawgrass Association, Inc.?

10 A.    I am the President of the Board of Directors of Sawgrass  
11        Association, Inc.

12 Q.    What is Sawgrass Association, Inc.?

13 A.    Sawgrass Association, Inc., which I will refer to as the  
14        Association, is the master homeowners association for the  
15        Sawgrass residential community.    There are approximately  
16        1,500 residential units which comprise the Sawgrass  
17        development.    Those property owners, who all are members of  
18        the Association, own or reside in property located either  
19        adjacent to or near the Sawgrass Country Club, which is  
20        located east of Florida A1A in Ponte Vedra Beach, Florida.  
21        Among other things, the Association owns and is responsible  
22        for the maintenance of various common elements and  
23        property, such as the Sawgrass Lake System, the roadways,  
24        and guard gates.    The Association is responsible for the  
25        protection and maintenance of those common elements, and is



1 involved in other issues which pertain to the Sawgrass  
2 community as a whole, such as the enforcement of the  
3 protective covenants that govern our community.

4 Q. How long have you been involved with the Sawgrass  
5 Association, Inc.?

6 A. ~~I have been a member of the Board of Directors since 1997.~~  
7 ~~Before that, I served on various committees. I became~~  
8 ~~President of the Association in 1998.~~ I have had  
9 significant involvement in the dispute which has arisen  
10 between the Association and Intercoastal Utilities, Inc.,  
11 which I will refer to as Intercoastal. Intercoastal is the  
12 water and wastewater provider for the Sawgrass area.

13 Q. ~~In addition to your duties as President of the Association,~~  
14 ~~are you involved in any other activities at Sawgrass?~~

15 A. ~~Yes, I serve as the Treasurer of the Quail Pente~~  
16 ~~Condominium Association, a sub-association within the~~  
17 ~~Sawgrass development.~~

18 Q. As a resident of the Sawgrass area, you are also an  
19 individual water and sewer customer of Intercoastal, is  
20 that correct?

21 A. Yes, that is correct.

22 Q. What is the purpose of your testimony before the Public  
23 Service Commission?

24 A. Sawgrass Association has intervened in this proceeding to  
25 oppose Intercoastal's attempt to amend its certificate and

1 obtain an extension of its territory, so it could  
2 substantially expand its existing service area from  
3 approximately 4,500 acres in Northern St. Johns County,  
4 Florida to include an additional 21,000 acres in St. Johns  
5 County and 2,000 acres in Duval County.

6 Q. Are you familiar with the prefilled direct testimony of  
7 various Intercoastal witnesses, including H.R. James and M.  
8 L. Forrester, to the effect that, in their opinion,  
9 Intercoastal has the operational, managerial and technical  
10 ability to extend its service area as it has proposed to  
11 do?

12 A. Yes, I have seen their prefilled testimony, and I have heard  
13 them state substantially the same thing at other times as  
14 well.

15 Q. Do you agree with the assertion by these Intercoastal  
16 witnesses that Intercoastal has the operational,  
17 managerial, or technical ability to justify an extension of  
18 its service area as it has sought in this application  
19 before the Public Service Commission?

20 A. No I do not.

21 Q. Why do you believe that to be so?

22 A. In order to fully respond, I must address the history of  
23 the Sawgrass development and this particular wastewater  
24 treatment plant. In 1983, Arvida Corporation was the  
25 developer of the Sawgrass community. The Sawgrass

1 community included single family residential units, multi-  
2 family residential and condominium units, a golf course and  
3 tennis facilities, various other recreational areas, a  
4 nature preserve and a series of lakes running throughout  
5 the development. On September 1, 1983 Arvida entered into  
6 a Utility Service Agreement with Intercoastal and Florida  
7 Title Group, Inc. (referred to as Florida Title).  
8 Intercoastal bought the water and wastewater facilities  
9 previously owned by Arvida's wholly owned utility company,  
10 Sawgrass Utilities, Inc. Sawgrass Utilities, Inc. was the  
11 only source of potable water and sewage treatment service  
12 available to serve the homes and other improvements in the  
13 Sawgrass community. Among the assets which Intercoastal  
14 acquired pursuant to the Utility Service Agreement was the  
15 wastewater treatment plant located immediately adjacent to  
16 the Sawgrass Country Club property. In addition to the  
17 Sawgrass wastewater treatment facility, Intercoastal  
18 acquired the potable water treatment plant, lift stations,  
19 pumps, pipes and other equipment from Sawgrass Utilities,  
20 Inc., in order to continue to serve the residences in the  
21 Sawgrass development owned by members of the Sawgrass  
22 Association, and the Sawgrass Country Club. At that time,  
23 the wastewater treatment plant was permitted by the  
24 appropriate regulatory authorities to process up to 250,000  
25 gallons per day of raw sewage.

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Also as part of the Agreement, Intercoastal was granted the exclusive right to serve all existing improvements on the Arvida land, and any improvements which might be constructed in the future. In this way, Arvida was assured that it would be able to finish its planned development of the Sawgrass community in accordance with its plan, and adequate water and wastewater service would be available as new construction came on line.

10 Q.

Did the Utility Service Agreement make any provision for the reuse of treated wastewater or effluent, once it had been processed at the Sawgrass wastewater treatment facility?

14 A.

Yes, it did. Even before the September 1, 1983 effective date of the Agreement, the Sawgrass Country Club accepted and used substantial amounts of reclaimed or treated effluent from the Arvida wastewater treatment facility as part of Arvida's conservation and water reuse and irrigation system. This use was primarily for irrigation of the Sawgrass Country Club golf course. The Agreement required Intercoastal to continue to provide all the treated effluent the Club would need for its irrigation purposes for the term of the Agreement, which runs until the year 2013.

25 Q.

So the reuse by Sawgrass Country Club predated

1 Intercoastal's acquisition of the utility?

2 A. Yes, it did.

3 Q. What role does the Association play with respect to the  
4 Utility Service Agreement?

5 A. In 1994, Arvida Corporation assigned its rights under the  
6 Utility Service Agreement to the Sawgrass Association, and  
7 the Association is the successor in interest to that  
8 Agreement.

9 Q. Since 1983, has Intercoastal continuously served the  
10 Sawgrass community for its water and wastewater needs?

11 A. Yes, it has.

12 Q. You stated earlier in your testimony that in your opinion  
13 Intercoastal did not have the operational, managerial or  
14 technical ability to justify an extension of its service  
15 area. What specific issues exist between Intercoastal and  
16 the Association to support that opinion?

17 A. Over the past few years, the Association and various  
18 members of the Association and customers of Intercoastal  
19 have had significant concerns about how Intercoastal  
20 operates its water treatment and wastewater treatment  
21 facilities. Our concerns include the following:

22

23 A very recent example was in December 1999, when  
24 Intercoastal had a serious failure at a lift station  
25 located near the North Gate community within Sawgrass. In

1 January 2000, an Association member advised me, as  
2 Association president, that despite Intercoastal's apparent  
3 attempt to fix its lift station failure, raw sewage were  
4 coming out of the nearby manhole covers. I personally went  
5 to the site, which is located on a hill, and I saw how wet  
6 and spongy the ground was in the area near the manhole  
7 cover. This was not the first time that malfunctions of  
8 Intercoastal equipment have caused raw sewage to spill into  
9 our community, including in the lawns of private homeowners  
10 at Sawgrass. Even as of today, there is only a temporary  
11 "fix" by Intercoastal and its operational or service arm,  
12 Jax Utilities Management, of the North Gate lift station  
13 failure. A flexible conduit is coming out of the manhole  
14 cover and was placed into the ground adjacent to the  
15 manhole cover.

16  
17 Of particular concern to the community is that  
18 Intercoastal's operation of its wastewater treatment  
19 facility, located immediately next to the Sawgrass Country  
20 Club and other commercial uses and in close proximity to  
21 many homes, causes continuous and significant noxious  
22 odors. Numerous Sawgrass residents have made complaints to  
23 the Florida Department of Environmental Protection and  
24 other regulatory officials about the odors. The odors have  
25 been particularly noxious during the latter part of 1999

1 and even as recent as this week, in March 2000. This is  
2 particularly disturbing because we were informed by  
3 Intercoastal that once their new sequential batch reactor  
4 system came on line in approximately February 2000, these  
5 odors would be substantially reduced, if not completely  
6 eliminated. H. R. James, Intercoastal's President, sent a  
7 letter to the community on February 4, 2000 which said  
8 there will always be "a small amount of odor" from the  
9 wastewater treatment plant, and there was no way to  
10 eliminate it. We do not believe Intercoastal has taken all  
11 steps necessary to stop these horrible and offensive odors.  
12 The odor problem continues to the present day.

13  
14 We also believe Intercoastal was irresponsible when it  
15 sought permission to nearly double its wastewater plant  
16 capacity, especially when Intercoastal has admitted in  
17 their filings with the Commission, and in their December  
18 1999 Conceptual Master Plan, that significant additional  
19 growth in Intercoastal's existing service area east of the  
20 Intercoastal Waterway is not planned or expected.

21 Q. Didn't Intercoastal recently claim they could use any  
22 excess capacity at the Sawgrass wastewater treatment  
23 facility, after it was expanded, in order to serve  
24 potential future customers on the westside of the  
25 Intercoastal Waterway?

1 A. Yes, they did. In March 1999, Intercoastal filed an  
2 application with the St. Johns County Water and Sewer  
3 Authority to substantially expand its service territory in  
4 St. Johns County, which included the same territory which  
5 is the subject of this application by Intercoastal. Public  
6 hearings were held during June and July 1999 on  
7 Intercoastal's application. Intercoastal represented to  
8 the Authority, through the testimony of its engineer,  
9 Sumner Waitz, that Intercoastal had the immediate ability  
10 to serve the contested area, even in the first phases of  
11 development at Nocatee, by extending a line from the  
12 Sawgrass plant across the Intercoastal Waterway (Authority  
13 hearing transcript; Vol. I, p. 101-102). The manner in  
14 which they said they had the capability to serve the first  
15 phases of Nocatee was from the excess unused capacity of  
16 the Sawgrass wastewater treatment facility once it was  
17 expanded to 1,500,000 gallons per day (g.p.d.) capacity.  
18 Mr. Waitz's testimony was that Intercoastal could build a  
19 pipeline underneath or over the Intercoastal Waterway to  
20 transport raw sewage from the new customer source (i.e.  
21 west of the Waterway) to the Sawgrass wastewater treatment  
22 facility.

23  
24 This plan was also the subject of the testimony of M. L.  
25 Forrester, the Vice President of Jax Utilities Management,



1 ~~Inc. and the person responsible for preparing~~  
2 ~~Intercoastal's application to St. Johns County for an~~  
3 ~~extension of its service area (Vol. III, p. 27, 91-92).~~  
4 ~~Mr. Forrester confirmed that Intercoastal's initial plan of~~  
5 ~~service would extend lines from the existing Sawgrass~~  
6 ~~wastewater treatment plant into the proposed expansion~~  
7 ~~territory. Obviously, this plan by Intercoastal gave the~~  
8 ~~Association substantial concern, because we believe such~~  
9 ~~activities would be a clear breach of our Utility Service~~  
10 ~~Agreement.~~

11 Q. In your opinion, has Intercoastal breached other  
12 obligations set forth in the Agreement?

13 A. Yes. Intercoastal was contractually obligated by the  
14 Agreement to act in good faith to require other developers  
15 to accept treated effluent for irrigation purposes, so that  
16 the burden of effluent disposal would not be solely placed  
17 on the Sawgrass community. We do not believe Intercoastal  
18 acted in good faith on this subject.

19  
20 The Florida Title Group, Intercoastal's affiliated or  
21 parent company, developed the nearby Plantation at Ponte  
22 Vedra. After the development of the Plantation at Ponte  
23 Vedra, other residential developments were built on the  
24 Florida Title land, which is also referred to as the  
25 Sanchez Grant area, and is located off County Road 210.

1           Although the Agreement contemplated that some of the  
2           property developed on the Florida Title land or Florida  
3           Companies land could be served by Intercoastal from its  
4           Sawgrass wastewater treatment facility, it was never  
5           contemplated that all the land owned by the Florida Title  
6           Group or the Florida Companies east of the Intercoastal  
7           Waterway would be served only by Intercoastal's wastewater  
8           treatment plant at Sawgrass. In fact, in Section 2 of the  
9           Agreement Intercoastal specifically represented that it  
10          "plans to provide water and sewer services to the Florida  
11          Title lands primarily from a utility system to be located  
12          on the Florida Title land . . .". To this date,  
13          Intercoastal has never located any wastewater treatment  
14          facility anywhere other than the Sawgrass site which it  
15          acquired from Arvida, which is obviously not part of the  
16          Florida Title land, or the Florida Companies land.

17   Q.    What other breaches do you believe Intercoastal has  
18          committed?

19   A.    As I mentioned, Intercoastal breached its contractual  
20          obligation to use its best efforts to have the treated  
21          effluent used for irrigation on developments located on the  
22          Florida Title land. In fact, Florida Title lands, as an  
23          affiliate of Intercoastal's parent company, had  
24          consistently refused to take reuse water for irrigation  
25          purposes at the Plantation at Ponte Vedra, and

1 Intercoastal's parent company refused to require developers  
2 of residential properties within the Sanchez Grant off  
3 County Road 210 to accept reuse for irrigation, or other  
4 similar purposes to which reuse is best suited.  
5 Intercoastal apparently became very interested in the  
6 concept of reuse beginning in 1999 when it sought an  
7 increase of its certificated area from the St. Johns County  
8 Water and Sewer Authority. Intercoastal has continued that  
9 effort in front of the Public Service Commission in these  
10 proceedings in order to try to convince the decision makers  
11 that they have always been proponents of reuse. It is my  
12 understanding that Intercoastal now claims, in these  
13 proceedings, that the Plantation at Ponte Vedra may accept  
14 reuse water in the future as a back up supply for its  
15 irrigation needs, but it is our understanding that the  
16 Plantation's actual need for reuse water will be minimal,  
17 because they are using stormwater for irrigation of its  
18 golf course.

19 Q. ~~What other breaches do you believe Intercoastal has~~  
20 ~~committed?~~

21 A. ~~Based on the testimony before the St. Johns County Water~~  
22 ~~and Sewer Authority, and from the material presented to the~~  
23 ~~PSC in these proceedings, it appears that Intercoastal had~~  
24 ~~been regularly operating its wastewater plant in excess of~~  
25 ~~the permit issued by the Florida Department of~~

1 ~~Environmental Protection. That permit limited Intercoastal~~  
2 ~~to 800,000 gallons of Average Annual Daily Flow. Of~~  
3 ~~course, even that 800,000 g.p.d. figure exceeds the amount~~  
4 ~~which was contemplated and specifically set forth in our~~  
5 ~~Utility Service Agreement.~~

6  
7 Even the data supplied by Jim Miller in his prefiled direct  
8 testimony for Intercoastal did not explicitly state an  
9 exact amount of the wastewater flow for the existing "east"  
10 portion of Intercoastal's service area; Section 2.3.1 of  
11 Intercoastal's "Conceptual Master Plan - December 1999"  
12 merely states that the plant's discharge flow in 1999 was  
13 approximately 800,000 gallons. Ed Cordova from the Florida  
14 Department of Environmental Protection, Northeast District,  
15 who handles enforcement and compliance actions for our  
16 area, testified before the Water and Sewer Authority that  
17 according to DEP's file records, Intercoastal was operating  
18 in excess of its 800,000 g.p.d. permitted capacity.  
19 Intercoastal was actually processing a current flow of  
20 approximately 820,000 g.p.d. (Vol. X, p. 73). However, Mr.  
21 Cordova testified that FDEP did not plan to bring an  
22 enforcement action against Intercoastal either for this  
23 violation or for the odors coming from a surge pond at the  
24 Intercoastal utility site that contained raw effluent,  
25 because Intercoastal's new plant was scheduled to come

1           online by December 1999. The expanded plant was supposed  
2           to have an improved processing system (Vol. X, p. 72).

3   Q.    Were there any prohibitions in the Utility Service  
4           Agreement about the amounts of treated effluent which  
5           Intercoastal could discharge upon the Sawgrass lands?

6   A.    Yes. Although it was not specifically stated in numerical  
7           terms, Intercoastal and Florida Title Group recognized in  
8           the Agreement that they would not treat a volume of  
9           wastewater generated either from Sawgrass or the Florida  
10          Title lands in such amounts which would constitute an  
11          overburdening of the Sawgrass land. Intercoastal breached  
12          its duty to act in good faith to ensure there was an  
13          equitable distribution of the burden of treated effluent  
14          disposal, after the development on the Florida Title land  
15          caused an increase flow.

16   Q.    Has Intercoastal provided any information to residents of  
17          the Sawgrass area or its customers concerning the quality  
18          of its drinking water?

19   A.    Yes. We received in October 1999 a document which  
20          purported to be Intercoastal's first annual Water Quality  
21          Report. In that report, which covered 1998 operations,  
22          Intercoastal told us that although the level of total  
23          coliform bacteria in our drinking water exceeded the  
24          maximum contaminate level, the community should not worry  
25          because the incident "did not pose a threat to public

1 health and safety." I cannot understand how Intercoastal  
2 could state this was not a threat to public health. I do  
3 not believe Intercoastal could know whether anyone got sick  
4 as a result of the contaminated water. More importantly,  
5 I think this serious health hazard speaks very clearly  
6 about Intercoastal's lack of operational expertise in the  
7 operation of its drinking water system.

8 Q. Has the Association complained to Intercoastal or brought  
9 these issues to Intercoastal's attention?

10 A. Yes, we have. The Association's attorney notified  
11 Intercoastal in writing in March 1999 about Intercoastal's  
12 breaches of the Agreement. As a result of Intercoastal's  
13 failure to address our concerns, the Association filed suit  
14 in the Seventh Judicial Circuit, in and for St. Johns  
15 County, Florida (Case Number CA 99-2277), seeking relief  
16 against Intercoastal for its breach of the Agreement, for  
17 damages caused by Intercoastal's past trespass and nuisance  
18 to the Association property, and to enjoin any continued  
19 activity. That suit is now pending.

20  
21 ~~Before filing the lawsuit, and in connection with the~~  
22 ~~Water and Sewer Authority proceedings last summer, I~~  
23 ~~appeared and testified before the Authority about~~  
24 ~~Intercoastal's breaches of the Agreement, their substandard~~  
25 ~~performance under the Agreement, including the ongoing~~

1 ~~serious odor problem, and the Association's concerns about~~  
2 ~~Intercoastal's further potential expansion of its plant and~~  
3 ~~facilities in such close proximity to residential areas~~  
4 ~~(Vol. X, p. 56).~~

5  
6 ~~Furthermore, Gail Werneburg, a local Ponte Vedra realtor~~  
7 ~~also testified before the Water and Sewer Authority that~~  
8 ~~the odor coming from Intercoastal's wastewater treatment~~  
9 ~~facility had an adverse effect on the ability to market~~  
10 ~~property in that area of Ponte Vedra Beach. When she would~~  
11 ~~drive on A1A, people who were not from the area were~~  
12 ~~surprised and very disgusted by the smell, and they would~~  
13 ~~not show any further interest in owning property in the~~  
14 ~~area (Vol. X, p. 69).~~

15  
16 Intercoastal is also well aware, through the pending  
17 litigation, about the Association's concerns about their  
18 managerial and operational expertise. Intercoastal is also  
19 well aware of the objection of its customers to its past  
20 attempts to obtain rate increases. Mr. Forrester even  
21 acknowledged in his prefiled direct testimony in this case  
22 that there had been "strong and active opposition" to  
23 Intercoastal's proposed rate increase in 1998.

24 Q. Are you aware that various Intercoastal witnesses in this  
25 PSC case have claimed that expansion of Intercoastal's

1 service area will create "economies of scale" which could  
2 prevent further rate increases or even encourage rate  
3 rollbacks for existing Intercoastal customers?

4 A. I have seen that testimony but I have questions about how  
5 they arrived at it. Intercoastal has now represented to  
6 the Commission that it is not cost effective to utilize its  
7 existing "eastern" plant, system and facilities to service  
8 its proposed "western" expansion area. Therefore,  
9 Intercoastal will have to construct a new "stand alone"  
10 wastewater treatment facility, pumps, lift stations and  
11 other parts of its system. I do not understand how this  
12 operates as a helpful factor for the rates of existing  
13 customers.

14 Q. With respect to Michael Burton's prefiled direct testimony  
15 on behalf of Intercoastal, are you aware that in his  
16 opinion, if Intercoastal's request for an extension of its  
17 service territory is granted, rates will actually go down  
18 for existing "east" Intercoastal customers?

19 A. I have seen that testimony but I do not understand the  
20 factors that would cause our rates to drop as a result of  
21 Intercoastal getting any expanded territory. I expect our  
22 rates will go down after the cost of Intercoastal's current  
23 plant expansion and the return of rate case expenses have  
24 been fully amortized.

25 Q. ~~In Mr. Forrester's prefiled direct testimony, he claimed~~



1 ~~that the 1999 hearing before the St. Johns County Water and~~  
2 ~~Sewer Authority was not "unbiased and objective," and~~  
3 ~~Intercoastal was not treated fairly. Do you agree with~~  
4 ~~that assessment?~~

5 A. ~~No, I don't. I was present for several sessions personally~~  
6 ~~and am aware of the testimony that was given.~~  
7 ~~Representatives from the Association attended every~~  
8 ~~session. In my opinion, the members of the Water and Sewer~~  
9 ~~Authority were fair and honest. The Authority chair~~  
10 ~~allowed all sides to present numerous witnesses and to~~  
11 ~~introduce many exhibits concerning the merits of their~~  
12 ~~position. In fact, the Authority chair allowed the~~  
13 ~~proceedings to run for an extended period of time, well in~~  
14 ~~excess of what had been previously estimated by~~  
15 ~~Intercoastal to be necessary in order to complete the~~  
16 ~~proceedings.~~

17 Q. Is there anything else about their current permitted  
18 operation which causes you concern?

19 A. Yes. I have been advised that in order to adequately treat  
20 the huge amounts of raw sewage now being accepted by the  
21 Intercoastal plant, Intercoastal is using, or may have the  
22 option to continuing using, chlorine gas. Although it is  
23 my understanding that chlorine gas has been used in the  
24 past by Intercoastal at its treatment facilities,  
25 Intercoastal will have to store a huge amount of chlorine

1 gas at the Sawgrass utility site to treat a 1,500,000  
2 g.p.d. flow. I have personal experience with the hazards  
3 of chlorine gas. When I worked as a lifeguard in my youth,  
4 I was trapped in a chlorine gas leak near a pool filter  
5 where I was working. I do not want to subject our community  
6 to this increased risk. I believe Intercoastal's continued  
7 storage of such dangerous and hazardous material, located  
8 just yards from residents homes, other residences and  
9 retail establishments, is not safe. Although Intercoastal  
10 representatives have said they would not store chlorine gas  
11 on the premises and were thinking about changing their  
12 chemical treatment method, we have seen no evidence or  
13 assurance that this has taken place.

14 Q. Has Intercoastal created a fail safe plan for the disposal  
15 of effluent not used by the Club for irrigation, if the  
16 plan to dump its treated effluent into the Intercoastal  
17 Waterway does not work or they have an equipment failure?

18 A. No they have not. Their only fail safe would be to allow  
19 effluent to continue to run into the Green Lake, and  
20 ultimately into the Sawgrass lake system.

21 Q. Are you sponsoring any exhibits in this proceeding?

22 A. Yes, I am. Exhibit A is the Utility Service Agreement;  
23 Exhibit B is the assignment of the Agreement from Arvida to  
24 the Association; Exhibit C is the 1998 Intercoastal Water  
25 Quality Report, Exhibit D is Mr. James' letter to

1 Intercoastal customers dated February 4, 2000, and Exhibit  
2 E is the photograph showing Intercoastal's "fix" to their  
3 recent North Gate equipment failure.

4 Q. Does this conclude your prefiled testimony?

5 A. Yes it does.

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1 BY MR. KORN:

2 Q Mr. Flury, do you have a brief summary of your  
3 testimony?

4 A Yes, I do.

5 Q Would you please present it at this time.

6 A Mr. Chairman, the purpose of my testimony here today  
7 is to express the opposition of the Sawgrass Homeowner's  
8 Association to the application of Intercoastal Utilities to  
9 serve the Nocatee development. The Association is the master  
10 Homeowner's Association for Sawgrass Community. As I stated  
11 earlier, it represents over 1,500 homeowner's that are all  
12 customers of Intercoastal. We are the largest single group of  
13 current customers of Intercoastal Utilities. We are also  
14 burdened by Intercoastal's wastewater treatment plant. This  
15 plant is located directly adjacent to the Sawgrass development,  
16 and it's within -- as you heard earlier, it's within a few feet  
17 of May Management, which is our Association's management  
18 company.

19 This plant has consistently given off foul and  
20 disgusting odors which have not been adequately remedied yet.  
21 We further believe that Intercoastal Utilities has breached the  
22 material terms of its service agreement which Intercoastal  
23 entered into in 1983 when it bought the water and wastewater  
24 system from Arvida, the developer of Sawgrass. The Association  
25 is the successor and interest to abide under that agreement.

1 In addition to the odor problems, the Association believes that  
2 ICU has overburdened the Sawgrass Community with the continued  
3 operation and expansion of its wastewater treatment plant which  
4 has grown from its original capacity of 250,000 to over -- it's  
5 at 1.5 million as we speak today.

6 Intercoastal had previously conceded before the  
7 St. Johns Water and Sewer Authority that it was operating its  
8 plant in excess of its then permitted capacity of  
9 800,000 gallons per day, which was before ICU was allowed by  
10 FDEP to expand to its present permitted size of the million and  
11 a half I just mentioned, all in the violation of this service  
12 agreement. ICU has promised not to treat a volume of  
13 wastewater in the amount which would constitute an  
14 overburdening of the Sawgrass lands.

15 When ICU was seeking to be awarded the St. Johns  
16 County portion of the Nocatee development in the summer of  
17 1999, their proposed plan of service included the use of the  
18 wastewater plant at Sawgrass to process raw sewage from the  
19 first phase of Nocatee. The Association intervened in this  
20 case in part to prevent such a plan of service in the future.  
21 We note that ICU has now pledged not to use any of their  
22 existing facility to serve Nocatee. We also are concerned that  
23 despite ICU's representation that its existing customers will  
24 not be adversely affected if they are granted an expansion of  
25 this territory. We do feel that we will be impacted.

1 Q Does that conclude your summary, Mr. Flury?

2 A Yes.

3 MR. KORN: Thank you. Mr. Chairman, unless the Chair  
4 had a question, we would tender the witness for cross  
5 examination.

6 CHAIRMAN JACOBS: Very well. Mr. Melson.

7 MR. MELSON: No questions.

8 CHAIRMAN JACOBS: Mr. Menton.

9 MR. MENTON: No questions.

10 CHAIRMAN JACOBS: Mr. Wharton.

11 CROSS EXAMINATION

12 BY MR. WHARTON:

13 Q Mr. Flury, did you write your own summary?

14 A I participated in it, yes.

15 Q Who else participated in it?

16 A Well, I had some help.

17 Q Who gave you that help?

18 A Mr. Korn.

19 Q All right. Sir, this lawsuit you testify about,  
20 that's a matter that's subject to pending litigation, isn't it?

21 A That is correct.

22 Q And it's a matter on which Intercoastal has taken a  
23 position adverse to the position you've testified about?

24 A That's correct.

25 Q And you rely on the position of your attorney when

1 you say there's been a breach; right?

2 A That is correct.

3 Q You haven't attempted independently to form any legal  
4 opinions about the Sawgrass agreement, have you?

5 A No, I have not.

6 Q And you've relied on your attorney in that regard;  
7 correct?

8 A Certainly.

9 Q Nothing in your testimony is intended to express a  
10 legal opinion; is that correct?

11 A That is correct.

12 Q And you don't feel qualified to express a legal  
13 opinion, do you?

14 A I'm not an attorney.

15 Q And you don't know, as we sit here today, what the  
16 status of the legal action between Sawgrass and Intercoastal  
17 is, do you?

18 A Yes. I believe Intercoastal filed to dismiss the  
19 suit, and I believe it was heard here in St. Augustine, and  
20 that motion was denied, I believe. Intercoastal has filed suit  
21 against the Association's former president, Dick Olson, and the  
22 country club, and I believe that hearing is set for -- within  
23 about three weeks.

24 Q When I took your deposition on April 11, 2001, you  
25 didn't know anything about the status of the case, did you?

1           A     You certainly gave me a chance to refresh my memory  
2 when I got home.

3           Q     But you've learned about it since then?

4           A     Certainly.

5           Q     And you're not aware of whether anyone has gotten any  
6 injunctive relief in that case, are you?

7           A     No.

8           MR. WHARTON: Okay. At this time, Commissioners,  
9 Mr. Chairman, I would move to strike that portion of the  
10 prefiled testimony, first on Page 10, Line 7: Obviously, this  
11 plan by Intercoastal gave the Association substantial concern  
12 because we believe such activities would be a clear breach of  
13 our utility service agreement.

14                 On the next page, Question: What other breaches --  
15 at Line 17, Page 11 -- what other breaches do you believe  
16 Intercoastal has committed? That goes all the way until  
17 there's another question on Line 19, Page 12: What other  
18 breaches do you believe Intercoastal has committed? That  
19 answer goes all the way to Page 14, Line 15, and we would move  
20 to strike that testimony. That's the testimony of Mr. Korn in  
21 absentia. I mean, that's a pending lawsuit.

22           CHAIRMAN JACOBS: Just a moment. Mr. Korn.

23           MR. KORN: Mr. Chairman, I believe it goes, if  
24 nothing, to the weight, if not, to the admissibility. The  
25 testimony describes what in lay terms is believed to be a



1 breach of a contract. Although the witness has already  
2 testified, he is not an attorney. There have been positions  
3 taken on behalf of the Association which are a public record.  
4 As Mr. Wharton indicated, as in most lawsuits that I'm aware  
5 of, there are differing opinions and differing positions, and  
6 that is the position of the Association as set fourth here.  
7 The Commission can apply whatever weight it chooses to apply to  
8 that based on the witness's knowledge as previously described,  
9 but it would not be appropriate to strike it at this point.

10 MR. WHARTON: At a minimum, Mr. Chairman, it is  
11 opinion testimony given by a nonexpert.

12 MR. KORN: It is, frankly, Mr. Chairman, probably  
13 nothing more than if we hauled in the entire complaint and put  
14 it in as a late-filed exhibit, and then the Commission can  
15 determine in its own reading what the allegations are. If the  
16 Commission would rather do that, we can certainly proceed to do  
17 that.

18 MR. WHARTON: I'd object to that too.

19 MR. KORN: Which is precisely why, Mr. Chairman, the  
20 prefiled testimony was filed as it was.

21 MR. WHARTON: This is what a judge will decide at  
22 some unknown future date. It shouldn't go into the record as  
23 an opinion in this proceeding.

24 CHAIRMAN JACOBS: There are some sections here where  
25 probably more -- mostly for terms and terminology than anything

1 else. The wording is unfortunate, I believe. As I read  
2 through most of the section you cited here, Mr. Wharton, very  
3 little of it absolutely goes to legal precedent or legal  
4 conclusions about that lawsuit. Much of it goes to facts  
5 surrounding the interaction of the homeowner's association with  
6 Intercoastal. However --

7 MR. WHARTON: It's the questions that really -- those  
8 are the answers that follow the questions.

9 CHAIRMAN JACOBS: That is exactly -- the question set  
10 up an answer, but the answer is not really, in my mind,  
11 delivering an answer that, in my mind, weighs heavily towards  
12 any kind of harm that would be done to you. I wish the  
13 questions would have been labeled -- would have been termed  
14 differently, quite frankly, because I don't believe the answers  
15 are in any way expressing legal opinions.

16 MR. WHARTON: I'll tell you what, Mr. Chairman. Let  
17 me withdraw the motion and ask a question.

18 CHAIRMAN JACOBS: Okay.

19 BY MR. WHARTON:

20 Q Mr. Flury, nothing in your testimony is intended to  
21 convey in any way, shape, or form that it is your personal  
22 expert opinion that Intercoastal breached this agreement; isn't  
23 that true?

24 A I have my own personal opinion, yes, but I am not an  
25 attorney.

1 Q But you're not qualified to give an expert opinion in  
2 that regard?

3 A You have to define "expert."

4 Q Well, you define "expert" for me.

5 A I can certainly read what the agreement says, but I'm  
6 not an attorney.

7 Q And I think, as I asked you already, you don't feel  
8 qualified to express a legal opinion?

9 A That's correct.

10 Q So let me put it this way then. Absolutely nothing  
11 in your testimony should be construed by the reader in any way,  
12 shape, or form to express a legal opinion; is that correct?

13 A That is correct.

14 Q Okay. Sir, you've testified in here about the prior  
15 case involving Intercoastal before the St. Johns County Water  
16 and Sewer Authority; correct?

17 A Correct.

18 Q Now, you didn't even attend Intercoastal's case  
19 before the Water and Sewer Authority, did you?

20 A That is correct.

21 Q And to the extent Intercoastal filed an application  
22 with the Authority to expand its service territory in St. Johns  
23 County, that's not something you know anything about, is it?

24 A Are you speaking of a 1999 filing?

25 Q Correct.

1           A     I was not familiar with that filing, no, and I did  
2 not attend that meeting.

3           Q     And it's not something you know anything about?

4           A     No.

5           MR. WHARTON: Okay. Commissioners, I move to strike  
6 Page 12, Line 19 through Page 13, Line 5.

7           MR. KORN: We'll withdraw it.

8           MR. WHARTON: Okay. Page 9, Line 1 through Page 10,  
9 Line 10.

10          MR. KORN: I'm sorry, could you repeat that?

11          MR. WHARTON: Page 9, Line 1 through Page 10, Line  
12 10.

13          CHAIRMAN JACOBS: Why don't we do this? Why don't  
14 you go through and finish your cross, and then let's come back  
15 and figure out what we're going to keep and what we're not.

16          MR. WHARTON: Okay.

17 BY MR. WHARTON:

18          Q     Sir, you have never filed a written complaint about  
19 Intercoastal with anyone, have you?

20          A     No.

21          Q     And when you say numerous Sawgrass residents have  
22 made complaints to DEP, you're referring to verbal complaints,  
23 aren't you?

24          A     The phone calls, yes, sir.

25          Q     You don't know, as we sit here today, what

1 determinations DEP has made with regard to those complaints or  
2 with regard to the problems which the complaints address?

3 A I do not.

4 Q There's testimony in here about a notice, I guess,  
5 Intercoastal sent out about coliform bacteria?

6 A Correct.

7 Q Now, you don't really know what coliform bacteria is,  
8 do you?

9 A Not a whole lot, no.

10 Q Okay. And you're not aware of what levels of total  
11 coliform bacteria are deemed to be acceptable?

12 A I do not.

13 Q And you don't know anything about the rules or  
14 regulations with regard to that particular substance?

15 A No. Only if you exceed the maximum limit that -- if  
16 you were to read a report that comes out and says that we have  
17 exceeded a maximum limit, I think that would cause me a  
18 concern.

19 Q Well, your testimony uses the word "contaminated,"  
20 doesn't it?

21 A Yes.

22 Q That's because you believe any water that exceeds any  
23 of the maximum contaminate levels is contaminated; correct?

24 A That would be my opinion, yes.

25 Q And you also believe that in that case the water

1 would pose a serious health hazard?

2 A I think I said it was considered a health hazard. I  
3 don't know if it would be serious. You would obviously have  
4 someone with diarrhea or some type of stomach illness or  
5 whatever. And I think you're referring to the letter that  
6 Intercoastal sent out about the problem they had.

7 Q And you don't know whether or not Intercoastal was  
8 the subject of any action by DEP or any other agency with  
9 regard to that particular instance?

10 A No.

11 Q And you don't know how long that particular condition  
12 persisted?

13 A No.

14 Q And you haven't read any documents or talked to  
15 anyone else about that particular condition; correct?

16 A I have not.

17 Q You just got the notice from Intercoastal?

18 A I got the notice from Intercoastal telling us that  
19 there was a problem, and that they had -- supposedly had gotten  
20 it corrected, but we had hoped that Intercoastal would have  
21 advised people long before that letter had come out.

22 Q You are not to able to quantify whether or to what  
23 extent utilities sometimes experience problems like that, are  
24 you?

25 A No.

1 Q Is United Water a St. Johns County utility?

2 A Yes.

3 Q That's kind of up in your part of the county?

4 A Yes.

5 Q Do you know whether they had a boil water notice out  
6 yesterday?

7 A I believe they did.

8 Q It was in the paper and on the TV, wasn't it?

9 A And I kind of liked it. At least they said, boil the  
10 water. They didn't wait weeks later and send out a notice that  
11 we had a problem, but we got it corrected.

12 Q Do you think United Water did that because of the  
13 same problem Intercoastal had?

14 A I think so.

15 Q And what's the basis of that information?

16 A It's just my opinion. It seemed to be they had the  
17 same type problem.

18 Q Tell me what the basis is for that opinion. How do  
19 you know it was the same problem Intercoastal was experiencing?

20 A The basis is, it's just what I read in the paper,  
21 what they reported and what Intercoastal put out. It appeared  
22 to me to be the same type problem, and I like the response of  
23 them telling the residents to boil the water. At least it made  
24 it safe.

25 Q As we sit here today, are you able to quantify to

1 what extent United Water was experiencing precisely the same  
2 problem Intercoastal was?

3 A No, I'm not.

4 Q Now, you testified that -- about the chlorine in  
5 Intercoastal's plant, didn't you?

6 A Correct.

7 Q Now, you were never aware of how much chlorine  
8 Intercoastal utilizes in its water treatment, were you?

9 A We didn't know how much, but we were very concerned  
10 about the -- we knew there had been a high volume of usage in  
11 the plant. We were very concerned about that chlorine being  
12 stored at that plant.

13 Q You just didn't know how much it was?

14 A No.

15 Q In point of fact, you acknowledge now, don't you,  
16 that Intercoastal has now switched to an alternative substance  
17 which is considered safer than chlorine?

18 A That certainly made us happy to hear that they did  
19 that, yes.

20 Q And the Commissioners were going to hear all about  
21 that substance, but the Allied case got settled. And you agree  
22 that's a positive development; correct?

23 A Yes, I do.

24 Q Sir, you testified about a plan of Intercoastal to  
25 treat effluent and put it in the Intracoastal Waterway;



1 correct?

2 A A plan? You'll have to help me with that one.

3 Q There's some testimony in here about Intercoastal  
4 having that plan. My real point is that that's no longer a  
5 plan; right? Intercoastal has put that into effect.

6 A Correct.

7 Q You're not aware of any attempt of anyone from the  
8 Association to discuss the situation regarding odor concerns at  
9 the Sawgrass plant with the utility recently, are you?

10 A No.

11 Q And you haven't read the testimony or the exhibits or  
12 the application of any of the parties in this case, have you?

13 A I think I mentioned earlier that I had briefly read a  
14 little bit of Mr. Forrester's, but not much of it.

15 Q You made no attempt to compare the application of  
16 Nocatee Utility Corporation in the application of Intercoastal,  
17 have you?

18 A No.

19 MR. WHARTON: That's all I have, Mr. Chairman,  
20 subject to you deferring the motion to strike.

21 CHAIRMAN JACOBS: Very well. Staff.

22 MS. ESPINOZA: Staff has no questions.

23 CHAIRMAN JACOBS: Commissioners. Very well. Let's  
24 go back now and take care of that.

25 MR. WHARTON: Okay. I believe Mr. Korn, and subject

1 to correction, withdrew Page 12, Line 19 through Page 13, Line  
2 5.

3 MR. KORN: I can confirm that, yes.

4 MR. WHARTON: Okay. I would also move to strike  
5 Page 9, Line 1 through Page 10, Line 10.

6 MR. KORN: Let's first start with Page 12 --

7 MR. WHARTON: Oh, I'm sorry, Michael. I  
8 misunderstood what you said.

9 MR. KORN: I just wanted to confirm.

10 MR. WHARTON: Page 12, Line 19 --

11 MR. KORN: -- through 13 at 5, yes.

12 MR. WHARTON: Okay.

13 MR. KORN: Now, what was the next one? Page 9?

14 MR. WHARTON: Page 9 -- sorry, I'm skipping around --  
15 Line 1 through Page 10, Line 10.

16 MR. KORN: If I can have a moment.

17 CHAIRMAN JACOBS: Yes.

18 MR. KORN: I withdraw that.

19 CHAIRMAN JACOBS: That was Page 9, beginning at what  
20 line?

21 MR. KORN: Page 9 at Line 1 through Page 10 at  
22 Line 10.

23 CHAIRMAN JACOBS: Very well. Show those sections are  
24 stricken from the record.

25 MR. WHARTON: Okay. And already some of the

1 testimony on Page 16 was not adopted. I would move to strike  
2 Page 16, Line 6 through Page 16, Line 14.

3 MR. KORN: No objection.

4 MR. WHARTON: Okay. The rest was not adopted.

5 CHAIRMAN JACOBS: Show on Page 16, Line 6 through 14  
6 are stricken from the record.

7 MR. KORN: That's correct, Mr. Chairman.

8 CHAIRMAN JACOBS: Very well. Any redirect?

9 MR. KORN: I don't believe so, but if you'll just  
10 give me about ten seconds.

11 CHAIRMAN JACOBS: Very well.

12 MR. KORN: No redirect.

13 CHAIRMAN JACOBS: Great. And the exhibits.

14 MR. KORN: We would move ARO-1 through 5 as  
15 composite exhibit -- I believe it was 32.

16 CHAIRMAN JACOBS: Thirty-two. Very well.

17 MR. KORN: Thank you.

18 CHAIRMAN JACOBS: Show those are admitted.

19 (Exhibit 32 admitted into the record.)

20 CHAIRMAN JACOBS: Thank you very much, Mr. Flury.

21 You are excused.

22 (Witness excused.)

23 MR. KORN: Thank you, Mr. Chairman. I appreciate the  
24 Chair's courtesy and Mr. Wharton's courtesy.

25 (Transcript continues in sequence with Volume 5.)

1 STATE OF FLORIDA     )  
2                             :             CERTIFICATE OF REPORTER  
3 COUNTY OF LEON        )

4  
5 I, TRICIA DeMARTE, Official Commission Reporter, do hereby  
6 certify that the foregoing proceeding was heard at the time and  
7 place herein stated.

8 IT IS FURTHER CERTIFIED that I stenographically  
9 reported the said proceedings; that the same has been  
10 transcribed under my direct supervision; and that this  
11 transcript constitutes a true transcription of my notes of said  
12 proceedings.

13 I FURTHER CERTIFY that I am not a relative, employee,  
14 attorney or counsel of any of the parties, nor am I a relative  
15 or employee of any of the parties' attorneys or counsel  
16 connected with the action, nor am I financially interested in  
17 the action.

18 DATED THIS 22nd DAY OF MAY, 2001.

19 *Tricia DeMarte*

20 TRICIA DeMARTE  
21 FPSC Official Commission Reporter  
22 (850) 413-6736  
23  
24  
25