

		RJZ – 3	JEA Honors and Awards	9
		RJZ – 4	City of Jacksonville-JEA Franchise Agreement	4, 9, 18-19
		RJZ – 5	Nassau County-JEA Franchise Agreement	4, 9
Susan West	JEA	SRW-1	CV	
		SRW-2	City of Jacksonville Ordinance 2010-874 (“PUD Ordinance”)	4
		SRW-3	Report of the Planning and Development Department for Application for Rezoning 2010 to Planned Unit Development	4
		SRW-4	City of Jacksonville Comprehensive Plan Infrastructure Element	3, 4
		SRW-5	August 9, 2019 JEA Proposal to 301 Partners	4, 22
Julia Crawford	JEA	JEC-1	CV	
		JEC-2	Table Comparing Proposed Rates and Charges of Applicant to those of JEA	9
		JEC-3	JEA Water and Sewer Rate Document	9
		JEC-4	Chart of JEA and Other Municipal Water and Sewer Rates in Florida Compared to FCRU’s Proposed Rates	9

3. JEA’S BASIC POSITION

JEA is the City of Jacksonville’s municipal utility, providing water and wastewater service as part of the City’s public works under chapter 180, F.S. The service territory sought by FCRU in Duval and Nassau counties is entirely within the service territory of JEA pursuant to exclusive franchises from the City of Jacksonville and Nassau County issued to JEA as a municipal utility.

Accordingly, the certification of FCRU would result in the creation of a utility which will be in competition with, and duplication of, JEA's system. Moreover, the franchise rights of municipal utilities are coequal to the franchise rights of investor-owned utilities that can be granted by the Commission. Neither set of rights is superior to the other. Instead, between the municipal and private utility, first in time is first in right provided there is the ability to serve. JEA has preexisting exclusive franchise rights as a municipal utility to the service territory sought by FCRU in Duval and Nassau counties, and JEA has the ability to provide service to this development. Accordingly, the Commission has no authority to certificate FCRU for the territory it seeks in Duval and Nassau counties and displace JEA from its territory held as a municipal provider.

In addition to the jurisdictional bases discussed above, the Commission must deny FCRU's Application because FCRU fails to satisfy the substantive elements necessary for certification. Any need for service in the portion of the requested territory in Baker and Nassau counties is a decade away or longer. FCRU lacks the financial ability, technical ability, and plant capacity needed to serve the requested territory. FCRU has neither the cash nor the financing commitments necessary to build and operate a system. To the extent their identities are known, FCRU's officers have no utility experience. FCRU proposes a plant that is undersized even if the development never progresses to Baker and Nassau counties. Certification of FCRU is not in the public interest and its application must be denied.

4. ISSUES LIST

The issues numbered 1-17 correspond to Staff's Tentative List of Issues, dated May 7, 2020. The issues numbered 18 and above are additional issues raised by JEA.

Issue 1: Has First Coast met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 2: Is there a need for service in First Coast's proposed service territory and, if so, when will service be required?

JEA Position: No. Any need for service in Nassau and Baker counties, and within the City of Jacksonville beyond Phase 1 of the development, is purely speculative. There are no customers currently being served in the territory and no customers that have requested service. There has been no local government approval of the development in Nassau or Baker counties. The City of Jacksonville planned unit development ordinance 2010-874-E, attached as Exhibit B to the Application, has been superseded by City of Jacksonville ordinance 2021-692-E, which was enacted on November 23, 2021. First Coast has not amended its Application to reflect the revised ordinance. Application Exhibit D includes a letter from Chemours requesting to be included in the service area. Chemours does not request service. It says mining operations will be completed "in the not too distant future" but offers no timeline on when or how that property

may be redeveloped. When and the extent to which Chemours may need service is purely speculative.

JEA Witnesses: None.

Issue 3: Is First Coast’s application inconsistent with Duval County’s, Nassau County’s, or Baker County’s comprehensive plans?

JEA Position: Yes, it is inconsistent with the City of Jacksonville’s comprehensive plan. The City’s comprehensive plan calls for JEA alone to be the provider of water and wastewater service and for water and wastewater facilities to be regional, not small, development-specific plants. Non-regional facilities, like the one proposed by First Coast in its application, are to be phased-out.

JEA Witnesses: Susan West.

Issue 4: Will the certification of First Coast result in the creation of a utility which will be in competition with, or duplication of, any other system?

JEA Position: Yes. JEA has exclusive service franchises from the City of Jacksonville and Nassau County for the proposed service area, and is ready, willing, and able to provide service. Accordingly, FCRU would be in competition with, and duplication of, JEA.

JEA Witnesses: Joseph Orfano, Susan West, Robert Zammataro.

Issue 5: Does First Coast have the financial ability to serve the requested territory?

JEA Position: No. First Coast has established no financial ability. There is nothing in the Application about First Coast’s financial ability, apart from its parent. The developer 301 Capital Partners, LLC (First Coast’s parent) has not explained either the manner or amount of any funding it intends to provide to First Coast. Application Exhibit G states the developer has \$137 million in land (and \$128 million in “total equity”) based upon unaudited “fair market value” financial statements with no supporting appraisals. Even according to these unaudited unsupported financial statements that are not based on original cost, the developer has shown no money for construction or operation of a water and wastewater utility, nor has the developer secured any outside funding commitments.

JEA Witnesses: None.

Issue 6: Does First Coast have the technical ability to serve the requested territory?

JEA Position: No. First Coast’s officers, to the extent they are disclosed in the Application, have no experience in the water or wastewater industry.

JEA Witnesses: None.

Issue 7: Does First Coast have sufficient plant capacity to serve the requested territory?

JEA Position: No. The proposed 2 MGD plant is insufficient for the site plan, which would support 10,000 ERCs at 200 gpd. The developer proposes 11,250 single family homes, 3,750 multi-family ERCs, and 1,050,000 square feet of commercial space, just in the City of Jacksonville portion of the development.

JEA Witnesses: Robert Zammataro.

Issue 8: Has First Coast provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 9: Is it in the public interest for First Coast to be granted water and wastewater certificates for the territory proposed in its application?

JEA Position: No. First Coast has not shown a need for service for the territory requested, nor does it have the financial ability or technical ability to serve the territory, or adequate plant capacity. The rates and charges proposed by First Coast are approximately double those of JEA. The public interest is served by compliance with the local franchise agreements, comprehensive plans, and planned unit development ordinance, all of which would be violated by FCRU becoming certificated. Customers would be denied access to JEA's system, resources and economies of scale.

JEA Witnesses: Susan West, Joe Orfano, Robert Zammataro, Julia Crawford.

Issue 10: What is the appropriate return on equity for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 11: What are the appropriate rates and rate structures for the water and wastewater systems for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 12: What are the appropriate miscellaneous service charges for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 13: What are the appropriate late payment charges for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 14: What are the appropriate Non-Sufficient Funds (NSF) charges for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 15: What are the appropriate service availability charges for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 16: What are the appropriate initial customer deposits for First Coast?

JEA Position: JEA has no position on this issue.

JEA Witnesses: None.

Issue 17: Should this docket be closed?

JEA Position: JEA has no position on this issue at this time.

JEA Witnesses: None at this time.

Issue 18: Does JEA have an exclusive franchise from the City of Jacksonville to provide water and wastewater service to customers within the City limits?

JEA Position: Yes. See Exhibit RJZ-4; § 21.07(1), Charter of the City of Jacksonville, Florida.

JEA Witnesses: Robert Zammataro.

Issue 19: Is the portion of First Coast's proposed service territory in Duval County located in the City of Jacksonville?

JEA Position: Yes.

JEA Witnesses: Robert Zammataro.

Issue 20: Does JEA have an exclusive franchise from Nassau County to provide water and wastewater service to certain areas of Nassau County?

JEA Position: Yes. See Exhibit RJZ-5.

JEA Witnesses: Robert Zammataro.

Issue 21: Is the portion of First Coast's proposed service territory in Nassau County located in an area of Nassau County for which JEA has an exclusive franchise from Nassau County to provide water and wastewater service?

JEA Position: Yes.

JEA Witnesses: Robert Zammataro.

Issue 22: Does JEA have the ability to provide water and wastewater service to First Coast's proposed service territory?

JEA Position: Yes.

JEA Witnesses: Joe Orfano, Susan West, Robert Zammataro.

Issue 23: Given JEA's existing franchises and ability to provide water and wastewater service to the portions of the service territory in the City of Jacksonville and Nassau County, does the Commission have jurisdiction to issue a certificate of authorization for those portions of the service territory?

JEA Position: No.

JEA Witnesses: None (issue of law).

5. STIPULATED ISSUES

The parties have stipulated to no issues to date.

6. JEA's PENDING MOTIONS

JEA's Amended Motion To Compel Discovery From First Coast (Filed January 11, 2022)

7. JEA's PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY

None.

8. JEA's OBJECTIONS TO EXPERT WITNESS QUALIFICATIONS

None at this time.

9. REQUEST FOR SEQUESTRATION

JEA does not request sequestration of the witnesses.

10. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE

JEA is presently unaware of any requirement in the Order that presents a compliance issue.

Respectfully submitted this 11th day of January, 2022.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via electronic mail to the following this 11th day of January, 2022.

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