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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20190168-WS

Application for water and
wastewater service in Duval,
Baker, and Nassau Counties,
by First Coast Regional
Utilities, Inc.

_____ /

VOLUME 2

PAGES 156 - 341

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: COMMISSIONER ART GRAHAM
COMMISSIONER GARY CLARK
COMMISSIONER MIKE LA ROSA

DATE: Tuesday, February 1, 2022

TIME: Commenced: 11:10 a.m.
Concluded: 6:10 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

APPEARANCES: (As heretofore noted.)

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume
3 1.)

4 COMMISSIONER GRAHAM: Okay. I think we have
5 JEA witness Crawford.

6 MS. CLARK: We -- I'm sorry? Mr. Chairman, we
7 do call Julie Crawford.

8 Whereupon,

9 JULIA CRAWFORD

10 was called as a witness, having been previously duly
11 sworn to speak the truth, the whole truth, and nothing
12 but the truth, was examined and testified as follows:

13 EXAMINATION

14 BY MS. CLARK:

15 Q Ms. Crawford, have you been sworn?

16 A Yes, I have.

17 Q Would you state your name and business address
18 for the record?

19 A Sure. It's Julia Crawford, 21 West Church
20 Street, Jacksonville, Florida.

21 Q And what is your position with JEA?

22 A I am the Director of Financial Planning and
23 Analysis.

24 Q And did you prepare and cause to be filed
25 prefiled testimony in this proceeding --

1 A Yes, I did.

2 Q -- consisting of eight pages?

3 A Yes.

4 Q And do you have that testimony before you
5 today?

6 A Yes, I do.

7 Q Do you have any corrections or revisions to
8 that testimony?

9 A No, I do not.

10 Q Do you have any updates to that testimony?

11 A I do. I do have an update. It was mentioned
12 previously. JEA's capacity fees are also called service
13 availability fees. The Board has approved increases to
14 be effective April 1st of 2022. Our current fee for a
15 typical residential customer is \$3,308, it will increase
16 to \$5,818 April 1st, then will phase up on October 1st
17 to \$7,309. And then the final approved fee increase on
18 April 1st, 2023, to \$8,798.

19 Q And are those service availability charges
20 still less than that being proposed by First Coast?

21 A Yes, they are.

22 Q With that update, if I were to ask you the
23 questions contained in your prefiled testimony, would
24 your answers be the same?

25 A Yes, they would, except for the fee change.

1 MS. CLARK: Mr. Chairman, there are some
2 exhibits attached to her testimony, it's JEC-1
3 through 4.

4 COMMISSIONER GRAHAM: Duly noted.

5 MS. CLARK: And I believe on your exhibit
6 list, that is 9 through 12.

7 COMMISSIONER GRAHAM: Okay.

8 BY MS. CLARK:

9 Q Ms. Crawford, do you have any changes to your
10 exhibits other than the service availability charge?

11 A I do not.

12 Q And have you prepared a summary of your
13 testimony?

14 A I have. Yes.

15 Q Would you go ahead and provide that now?

16 A Yes.

17 My testimony provides a comparison of JEA
18 water and wastewater rates to the proposed First Coast
19 Regional Utilities' rates. As shown on Exhibit JEC-2
20 attached to my prefiled testimony, First Coast rates for
21 residential service are more than three times that for
22 service from JEA for a five-eighths inch residential
23 service, and First Coast rates for residential service
24 are more than two-and-a-half times that of JEA's
25 three-quarter inch residential service.

1 On an annual basis, residential customers with
2 five-eighths inch meters will pay over \$1,600 more for
3 service from First Coast than from JEA; and for
4 three-quarter inch meters over \$1,500 more for service
5 than First Coast. Service availability charges for
6 First Coast are also higher than JEA's.

7 Comparison of First Coast rates to other
8 municipal water and wastewater rates in Florida also
9 show First Coast rates are comparatively high.
10 Certainly from a rates perspective, it is in the public
11 interest for customers in the proposed service territory
12 to receive service from JEA.

13 And that concludes my summary.

14 MS. CLARK: Mr. Chairman, we would ask that
15 her prefiled testimony be inserted in the record as
16 though read.

17 COMMISSIONER GRAHAM: We will insert Ms.
18 Crawford's prefiled direct testimony into the
19 record as though read.

20 (Whereupon, prefiled direct testimony of Julia
21 Crawford was inserted.)

22

23

24

25

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Original Certificate of) DOCKET NO. 20190168-WS
Authorization and Initial Rates and Charges)
for Water and Wastewater Service in Duval,) FILED:
Baker and Nassau Counties, Florida by)
FIRST COAST REGIONAL UTILITIES,)
INC.)
_____)

**DIRECT TESTIMONY OF
JULIA E. CRAWFORD
ON BEHALF OF JEA**

1 **Q. Please state your name and current employment.**

2 A. My name is Julia Crawford. I am currently employed by JEA as its Director of
3 Financial Planning and Analysis, a position I have held since April, 2018.

4

5 **Q. Please describe your educational background and professional experience.**

6 A. In 2005, I graduated from the University of Florida with a Bachelor of Science degree
7 in Business Administration, with a major in Finance, and have spent the majority of my
8 career in utility finance. I have been employed by JEA since July 2008 holding a series of
9 positions with increased responsibility. I started with JEA as a Risk Analyst then was
10 subsequently promoted to Rate Analyst, then to Financial Analyst for Financial Planning and
11 Rates, then to Financial Analysis Specialist for Planning and Rates, then to Manager of
12 Financial Planning and Rates and finally to my current position as Director of Financial
13 Planning and Analysis. My curriculum vitae is attached as Exhibit JEC-1.

14

15 **Q. What are your responsibilities at JEA?**

16 A. At JEA, I influence strategic and operational financial decisions related to the entire
17 organization by providing analyses, reports, presentations and recommendations to be
18 considered by the CFO, CEO, JEA Board and Jacksonville City Council. The financial
19 analysis encompasses JEA's several hundred-million dollar annual operating budget,
20 significant annual capital budget and the comprehensive ten-year financial model and plan.

21

22 **Q. What is the purpose of your testimony?**

23 A. The purpose of my testimony is to compare the rates and charges for water and
24 wastewater service as proposed by First Coast Regional Utilities ("First Coast") in its
25 Application to JEA's current rates and charges.

1

2 **Q. Are you sponsoring any exhibits?**

3 A. Yes. I sponsor the following exhibits:

4 JEC-1 Curriculum Vitae Of Julia E. Crawford

5 JEC-2 Table Comparing the Proposed Rates and Charges of the Applicant to
6 those of JEA

7 JEC-3 JEA Water and Sewer Rate Document

8 JEC-4 JEA and Other Municipal Water and Sewer Rates in Florida
9 Compared to the Applicant's Proposed Rates

10

11 **Q. Please summarize your testimony.**

12 A. First Coast's proposed rates are more than double those of JEA and its proposed
13 service availability charges are more than triple those of JEA. Assuming a reasonable usage
14 of 6,000 gallons per month, a residential customer in the development if served by First
15 Coast would pay \$204.88 per month for water and sewer, as compared to either \$66.36 per
16 month (5/8" meter) or \$79.71 per month (3/4" meter) with JEA, all before taxes. Attached as
17 Exhibit JEC-2 is a table comparing the rates and charges of First Coast and JEA and showing
18 the details of the calculations.

19 Service availability charges for a residential customer as proposed by First Coast
20 would be \$9,993.00, as compared to \$3,308.50 through JEA. First Coast would be one of the
21 most, if not the most, expensive provider of water and wastewater service in Florida.

22

23 **Q. For purposes of comparing JEA's and First Coast's monthly charges, what**
24 **monthly usage amount did you select and why?**

25 A. I selected 6,000 gallons per month as this is the benchmark amount JEA uses for

1 affordability comparisons. In fiscal year 2019, JEA residential water customers used
2 approximately 5.1 kgals per month on average.

3

4 **Q. Based on 6,000 gallons a month, what would a residential customer pay First**
5 **Coast for water and wastewater service?**

6 A. A residential customer's monthly bill for water and sewer service through First Coast
7 would be \$204.88 before taxes.

8

9 **Q. How did you calculate the \$204.88 monthly water and sewer bill from First**
10 **Coast?**

11 A. By calculating a monthly water bill and a monthly sewer bill, and then adding those
12 together. As to the water component, First Coast's proposed residential water tariff is
13 Exhibit I to its Application, Water Tariff Sheet 13.0 (page 163 of 236 in the Application PDF
14 file). It shows a base facility charge of \$41.05 and a volume charge per thousand gallons of
15 \$1.55 (0-3,000 gallons) and \$2.33 (3,001-10,000 gallons). Assuming a monthly usage of
16 6,000 gallons leads to a volume charge of \$11.64 (3,000 gallons * \$1.55/thousand gallons
17 plus 3,000 gallons * \$2.33/thousand gallons). Adding the \$11.64 volume charge to the base
18 facility charge of \$41.05 equals a monthly water bill of \$52.69 before taxes.

19 For the sewer component, First Coast's proposed residential wastewater tariff is
20 Exhibit I to its Application, Wastewater Tariff Sheet 13.0 (page 196 of 236 in the
21 Application PDF file). It shows a base facility charge of \$112.17 and a volume charge of
22 \$6.67 per thousand gallons with a 6,000 gallon cap. Assuming a monthly usage of 6,000
23 gallons leads to a volume charge of \$40.02 (6,000 gallons * \$6.67/thousand gallons). Adding
24 the \$40.02 volume charge to the base facility charge of \$112.17 equals a monthly sewer bill
25 of \$152.19 before taxes. Adding the water bill of \$52.69 and sewer bill of \$152.19 equals a

1 total monthly bill of \$204.88 before taxes.

2

3 **Q. Based on the same 6,000 gallons a month, what would a residential customer pay**
4 **JEA for water and wastewater service?**

5 A. The customer's monthly bill for water and sewer service would be \$66.36 before
6 taxes for a 5/8" meter and \$79.71 before taxes for a 3/4" meter.

7

8 **Q. How did you calculate the monthly water and sewer bill from JEA of \$66.36 per**
9 **month for a customer with a 5/8" meter?**

10 A. JEA's Water and Sewer Rate Document is attached as Exhibit JEC-3. JEA's rates for
11 water and sewer are shown on page 14 of this Exhibit. For water service the basic monthly
12 charge is \$12.60 for a 5/8" meter. The volume charge is \$0.93 per thousand gallons (up to
13 6000 gallons). JEA also has a water environmental charge of \$0.37 per thousand gallons.
14 Exh. JEC-3, p. 17. For 6,000 gallons of usage, the monthly water bill would be \$12.60 (base
15 charge) plus \$5.58 (volume charge of \$0.93 per thousand gallons * 6,000 gallons) plus \$2.22
16 (environmental charge of \$0.37 per thousand gallons * 6,000 gallons) for a total of \$20.40
17 per month for water, before taxes.

18 For sewer service, the basic monthly charge is \$14.10 for a 5/8" meter. The volume
19 charge is \$4.94 per thousand gallons (1,000 to 6,000 gallons). JEA also has a sewer
20 environmental charge of \$0.37 per thousand gallons (1,000 to 20,000 gallons). Exh. JEC-3,
21 p. 17. For 6,000 gallons of usage, the monthly sewer bill would be \$14.10 (base charge) plus
22 \$29.64 (volume charge of \$4.94 per thousand gallons * 6,000 gallons) plus \$2.22
23 (environmental charge of \$0.37 per thousand gallons * 6,000 gallons) for a total of \$45.96
24 per month for sewer, before taxes. Adding the water total of \$20.40 and sewer total of
25 \$45.96 equals \$66.36 per month before taxes.

1

2 **Q. How did you calculate the monthly water and sewer bill from JEA of \$79.71 per**
3 **month for a customer with a 3/4" meter?**

4 A. By following the same calculation process as above, but using JEA's rates for a
5 customer with a 3/4" meter as shown on page 14 of Exhibit JEC-3. Those rates for water are
6 \$18.90 for a base charge plus a volume charge of \$0.93 per thousand gallons (up to 6000
7 gallons). There is also a water environmental charge of \$0.37 per thousand gallons. Exh.
8 JEC-3, p. 17. For 6,000 gallons the total water bill would be \$26.70 before taxes.

9 For sewer the base charge is \$21.15 and the volume charge is \$4.94 per thousand
10 gallons (1,000 to 6,000 gallons). JEA also has a sewer environmental charge of \$0.37 per
11 thousand gallons (1,000 to 20,000 gallons). Exh. JEC-3, p. 17. For 6,000 gallons the total
12 sewer bill would be \$53.01 before taxes. Adding the water bill of \$26.70 and sewer bill of
13 \$53.01 makes for a monthly total of \$79.71 per month before taxes.

14 Please see Exhibit JEC-2 for a table comparing the rates and charges of First Coast
15 and JEA and again showing the details of these calculations.

16

17 **Q. How would First Coast's monthly water and wastewater rates and charges**
18 **compare to other municipal utilities in Florida?**

19 A. As compared to municipal water and wastewater utilities in Florida, First Coast
20 would be almost twice as much as the next highest utility. Please see Exhibit JEC-4 for a
21 chart comparing First Coast's proposed monthly rates and charges for a residential customer
22 using 6,000 gallons per month.

23

24 **Q. For the comparison chart attached as Exhibit JEC-4, can you please describe the**
25 **municipal utilities included, how the information was obtained, and conclusions to be**

1 **reached regarding First Coast's proposed rates and charges?**

2 A. The utilities included in the chart are the municipal utilities used in the monthly
3 benchmark report JEA conducts in an effort to compare pricing to similar water and
4 wastewater utilities in Florida. JEA staff researches pricing for each utility online every
5 month and updates accordingly. The utilities included are representative of Florida water and
6 wastewater pricing, therefore it is appropriate to conclude that First Coast's proposed rates
7 and charges are much higher than what is typical for a municipal water and wastewater
8 utility.

9 Please note that the amounts shown for JEA in the chart attached as JEC-4 (\$70.45
10 for a 5/8" meter and \$84.85 for a 3/4" meter) include the public service tax and franchise fees
11 collected by JEA, while the amount shown for First Coast using its proposed rates (\$204.88)
12 does not include the public service tax or any franchise fees.

13

14 **Q. What are First Coast's proposed service availability charges?**

15 A. \$9,993.00 per ERC. First Coast requests a water service availability charge per ERC
16 of \$3,910.00 (\$752.00 for plant capacity and \$3,158.00 for main capacity) and a wastewater
17 service availability charge per ERC of \$6,083.00 (\$1,250.00 for plant capacity and \$4,833.00
18 for main capacity), for a total of \$9,993.00 in service availability charges per ERC. This is
19 shown in Schedules 6A and 6B to its Accounting Information, which are at pages 16 and 17
20 of Exhibit H to First Coast's Application.

21

22 **Q. What would be JEA's service availability charges?**

23 A. \$3,308.50 per ERC, or less than one-third that of First Coast. As shown on pages 6
24 and 7 of JEA's Water and Sewer Rate Document, Exhibit JEC-3, for water service JEA
25 charges a Plant Capacity fee of \$339.50 and a Line Extension Growth Capacity Charge of

1 \$1,695.00 and for sewer service charges a Plant Capacity Fee of \$1,274.00. These numbers
2 added together total \$3,308.50.

3

4 **Q. Does this conclude your testimony?**

5 A. Yes.

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1 MS. CLARK: And we tender her for
2 cross-examination.

3 COMMISSIONER GRAHAM: Okay. Mr. Friedman.

4 EXAMINATION

5 BY MR. FRIEDMAN:

6 Q Good afternoon.

7 A Hello.

8 Q You stated that a majority of your career has
9 been in utility finance, is that correct?

10 A That's correct.

11 Q And isn't it also correct that all of that
12 experience has been with governmental utilities?

13 A That is correct.

14 Q And you have no experience in investor-owned
15 utility financing?

16 A I do not.

17 Q So you have never represented a water or
18 wastewater utility in rate-making before this
19 commission?

20 A No, I have not.

21 Q So you are not aware, are you not, as to what
22 rate this commission gives to rate comparisons?

23 A No, I am not familiar with what rate -- what
24 weight they give to rate comparisons.

25 Q You state that the First Coast proposed rates

1 and service availability charges are substantially more
2 than those of JEA. Would you agree that the methodology
3 used by the Public Service Commission in setting rates
4 and charges is different than the methodology that JEA
5 uses?

6 A No, because I am not aware of the difference.

7 Q You don't know whether it's different or the
8 same?

9 A Could you repeat your question?

10 Q Yes. Would you agree that the methodologies
11 used by the Public Service Commission to set rates and
12 charges are different than the methodologies that JEA
13 uses to set rates and charges?

14 A I am not aware if there is a difference or
15 not. I am aware of how JEA sets its rates and charges.

16 Q You would agree, though, wouldn't you, that
17 rates and charges change periodically?

18 A They do.

19 Q And how long is it going to be -- under your
20 scenario, how long will it be before JEA will be serving
21 First Coast and those rates would be effective on First
22 Coast?

23 A Is your question when First Coast --

24 Q Let me rephrase it then.

25 A Thank you.

1 Q All right. It's likely that the rates that
2 are in effect today are not going to be in effect in
3 five years when JEA serves First Coast, if JEA, in fact,
4 serves First Coast; isn't that right?

5 A No, that is not correct.

6 Q You think the rates will stay the same?

7 A Currently our five-year projections have
8 stable rates.

9 Q And that's in spite of the fact -- doesn't --
10 doesn't the County have to spend \$8 billion to get
11 surface water discharge out of the -- out of the -- out
12 of the ponds -- I mean, out of surface water?

13 A I am not certain of the final total, but we do
14 include that surface water discharge line item in our
15 capital improvement plan currently; and, no, we still do
16 not need rate increases in the five years.

17 Q In preparing the rate comparisons with other
18 municipal utilities, did you look at the raw numbers, or
19 did you investigate anything behind each of those rates
20 to see why they may be different?

21 A I did not investigate any further than what
22 their published tariff rates are.

23 Q So you don't know whether that one utility is
24 being subsidized by funding from the county government,
25 or types of treatment, or how old the plants were, or

1 any other circumstances other than just the raw numbers;
2 is that correct?

3 A That's correct.

4 Q Now, what -- in your mind, what was the
5 relevance of comparing the rates of municipalities with
6 the proposed rates of First Coast?

7 A I believe the relevance is looking at things
8 from the customer's perspective. We utilize
9 benchmarking to illustrate a customer's perspective on
10 bill comparisons. It's truly just from the customer's
11 point of view on what they pay.

12 Q Did you do that same benchmarking with other
13 Public Service Commission regulated utilities?

14 A No.

15 Q Why not?

16 A I utilized the benchmark at the time we
17 typically use at JEA to report on affordability. We
18 typically compare ourselves to the utilities that were
19 stated.

20 Q So the purpose of you doing that comparison
21 really nothing to do with this case. It's something
22 that you typically do routinely anyway?

23 A It is. And I believe it was included to
24 illustrate a customer's perspective of bills.

25 Q And you don't think that comparing, the old

1 **proverbial comparing apples with oranges when you are**
2 **comparing what municipality rates are versus what Public**
3 **Service Commission utility regulated rates are?**

4 A I am sorry, what was the question?

5 Q **Do you think that it's comparing apples to**
6 **apples when you are comparing what a municipality**
7 **charges for rates versus what a Public Service**
8 **Commission utility charges?**

9 A I guess that depends on your definition of
10 apples to apples. I do think there is value in seeing
11 what customers pay for water and sewer service within a
12 certain proximity of location.

13 Q **But you didn't look to see investor-owned**
14 **utilities within those locations and compare that with**
15 **JEA's, did you?**

16 MS. CLARK: Asked and answered.

17 COMMISSIONER GRAHAM: I agree.

18 MR. FRIEDMAN: I can't keep asking the same
19 question, huh?

20 BY MR. FRIEDMAN:

21 Q **Now, under the JEA providing service scenario,**
22 **would the customers in Baker and Nassau County also pay**
23 **the same rates that they pay -- that the customers in**
24 **Duval County would pay?**

25 A As far as I am aware, the customers that we

1 serve in Nassau, yes, they pay the same rates.

2 **Q What about Baker?**

3 A I am unsure if we provide service in Baker
4 currently.

5 **Q Are you familiar with any of the options that**
6 **JEA has proposed to First Coast to provide service to**
7 **that area?**

8 A Other than what I have heard today, no, I
9 would not say I am familiar.

10 **Q So you weren't involved in any of the**
11 **discussions about what those alternatives might be?**

12 MS. CLARK: Mr. Chairman, that's outside the
13 scope of her testimony.

14 COMMISSIONER GRAHAM: Mr. Friedman.

15 MR. FRIEDMAN: I was going to the issue of
16 fees, is where that was directed in my first
17 question about whether she was involved in any of
18 those discussions so we can delve into whether fees
19 was being discussed as an issue in those
20 discussions that she had internally.

21 COMMISSIONER GRAHAM: Ask the question again.
22 I believe you asked the question the first time.
23 She said she wasn't involved.

24 MR. FRIEDMAN: That was my question. If she
25 wasn't involved, then she wasn't involved, but that

1 was the point, was to ask her whether she was so I
2 would know whether I should do follow-up questions
3 or not.

4 COMMISSIONER GRAHAM: And the question was you
5 were not involved -- or the answer was?

6 THE WITNESS: Correct. I have heard
7 conversations, but, no, I was not involved.

8 MR. FRIEDMAN: Okay. That's all we have.

9 COMMISSIONER GRAHAM: That's it for this
10 witness?

11 MR. FRIEDMAN: That's all my
12 cross-examination.

13 COMMISSIONER GRAHAM: Staff?

14 MS. LHERISSON: No questions.

15 COMMISSIONER GRAHAM: Commissioners?
16 Redirect?

17 MS. CLARK: No redirect.

18 COMMISSIONER GRAHAM: Okay. Exhibits. JEA, I
19 guess you have exhibits.

20 MS. CLARK: 9 through 12, please, we move them
21 into the record.

22 COMMISSIONER GRAHAM: 9, 10, 11, 12, any
23 objections?

24 MR. FRIEDMAN: No objection.

25 COMMISSIONER GRAHAM: Okay.

1 **address for the record?**

2 A Joseph Orfano, JEA, 21 West Church Street,
3 Jacksonville, 32202.

4 **Q And what is your position with JEA?**

5 A Vice-President Financial Services and
6 Treasurer.

7 **Q Did you prepare and cause to be filed prefiled**
8 **testimony in this proceeding?**

9 A I did.

10 **Q Do you have that prefiled testimony before you**
11 **today?**

12 A I do.

13 **Q Do you have any corrections or revisions to**
14 **that testimony?**

15 A I do.

16 **Q And what are those?**

17 A I would be happy to provide updates in my
18 summary statement.

19 **Q Okay.**

20 MR. CRABB: Mr. Chairman, I would ask that the
21 prefiled testimony of Mr. Orfano be inserted into
22 the record as though read.

23 COMMISSIONER GRAHAM: We will insert Mr.
24 Orfano's prefiled direct testimony into the record
25 as though read.

1 (Whereupon, prefiled direct testimony of
2 Joseph E. Orfano was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Original Certificate of) DOCKET NO. 20190168-WS
Authorization and Initial Rates and Charges)
for Water and Wastewater Service in Duval,) FILED:
Baker and Nassau Counties, Florida by)
FIRST COAST REGIONAL UTILITIES,)
INC.)
_____)

**DIRECT TESTIMONY OF
JOSEPH E. ORFANO
ON BEHALF OF JEA**

1 **Q. Please state your name and current employment.**

2 A. My name is Joseph E. Orfano. I am employed by JEA as its Treasurer and have held
3 that position since December, 2013. I also recently served as JEA's Interim Chief Financial
4 Officer from December, 2019, until June 22, 2020. I also currently serve on the Finance and
5 Audit Committee of The Energy Authority.

6
7 **Q. Please describe your educational background and professional experience.**

8 A. I hold a Bachelor's Degree in Business Administration, with a major in Finance, from
9 the University of Notre Dame and I am a Certified Treasury Professional. Prior to joining
10 JEA, I was Director of Treasury at a mining company in Scottsdale, Arizona. Before that, I
11 held a variety of treasury management positions over the course of more than 20 years in a
12 number of large diversified electric utility companies including NV Energy, Inc., SCANA
13 Corporation and Florida Progress Corporation.

14
15 **Q. What are your responsibilities at JEA?**

16 A. At JEA, I am currently responsible for managing the Treasury and Accounts Payable
17 Departments. In my Interim Chief Financial Officer position, I oversaw all financial affairs
18 for the utility including financial reporting, treasury, rates, financial planning, budgeting and
19 insurance.

20
21 **Q. What is the purpose of your testimony?**

22 A. The purpose of my testimony is to describe the resources JEA would bring to bear in
23 service of the development for the public interest including that of the homeowners and other
24 ratepayers in the development.

25

1 **Q. Are you sponsoring any exhibits?**

2 A. No.

3

4 **Q. Please summarize your testimony.**

5 A. If JEA provides water and wastewater service to the development, homeowners and
6 other ratepayers in the development would benefit from the substantial financial and physical
7 resources of JEA. JEA's service territory covers all of Duval and portions of St. Johns,
8 Nassau, and Clay Counties. We have extensive physical and financial resources that will
9 benefit the development through lower rates, increased efficiencies, and increased system
10 reliability. In short, the public interest is best served by JEA providing water and wastewater
11 service to the development.

12

13 **Q. Please describe JEA's territory for water and wastewater service.**

14 A. JEA's Water and Wastewater System provides service within the urban and suburban
15 areas of Jacksonville, Florida. The Water and Wastewater System's service territory extends
16 into St. Johns County to the southeast of Jacksonville and Nassau County to the north and
17 also serves a number of customers in Clay County to the southwest.

18

19 **Q. What physical resources does JEA's Water and Wastewater System include?**

20 A. JEA's Water System is comprised of 20 major and 18 small water treatment plants
21 and two re-pump facilities. It has 137 active water supply wells and 4,806 miles of water
22 distribution mains. Total finished water storage capacity is in excess of 83 million gallons.
23 The Water System has two major and four small distribution grids.

24 JEA's Wastewater System is comprised of approximately 4,113 miles of gravity
25 sewers and force mains, 1,482 pumping stations and 754 low pressure sewer units. The

1 Wastewater System has 11 treatment plants with a rated average daily treatment capacity of
2 approximately 123 million gallons per day (“MGD”) and maximum daily flow capacity of
3 247 MGD.

4

5 **Q. How many customers does JEA serve?**

6 A. The Water System, including reuse accounts, serves approximately 370,000
7 customers. The Wastewater System serves about 278,000 customers.

8

9 **Q. What are JEA’s annual revenues?**

10 A. In 2019, JEA’s Water and Wastewater Systems generated \$450 million in operating
11 revenue, comprised of 39% water revenues, 57% wastewater revenues and 4% of revenues
12 coming from water reuse.

13

14 **Q. What are some key JEA financial resources?**

15 A. JEA’s Water and Wastewater System had net capital assets of approximately \$2.75
16 billion as of September 30, 2019, with a planned capital program of approximately \$1.5
17 billion over the next five years. Its senior lien revenue bonds maintain current credit ratings
18 of AA+ by S&P Global Ratings, AA by Fitch Ratings and A2 by Moody’s Investors Service.
19 In addition to its substantial revenue bond capacity, JEA’s Water and Wastewater System has
20 access to JEA’s \$500 million revolving credit facility.

21

22 **Q. If JEA serves the development, how would the JEA resources you describe
23 benefit water and wastewater customers in the development?**

24 A. My understanding is that the planned unit ordinance for the property requires the
25 developer to build the water and wastewater treatment facilities to JEA standards and then

1 dedicate them to JEA for operation. Customers in the development would benefit from
2 having JEA as the provider because JEA's extensive resources lead to lower costs to
3 ratepayers, economies of scale, system redundancies that minimize outages, and sufficient
4 funds for capital projects.

5

6 **Q. Does this conclude your testimony?**

7 A. Yes.

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1 BY MR. CRABB:

2 Q Mr. Orfano, is it correct that you have no
3 exhibits to your prefiled testimony?

4 A That's correct.

5 Q Have you prepared a summary? You mentioned
6 that you did. Would you please provide your summary?

7 A Yes, sir.

8 JEA's water and wastewater system provides
9 service within the urban and suburban areas of the
10 Jacksonville, Florida. In addition to Duval County, the
11 water and wastewater system's service territory extends
12 into St. Johns County and Nassau County, while also
13 serving a number of customers in Clay County.

14 JEA has extensive physical and financial
15 resources that will benefit to the planned 301 housing
16 development through lower rates, increased efficiencies
17 and superior system reliability. In short, the public
18 interest is best served by JEA providing water and
19 wastewater service to this development project.

20 JEA's water and wastewater system had net
21 capital assets of approximately \$2.8 billion as of
22 fiscal year-end September 30th, 2021, with a planned
23 capital program of approximately one-and-a-half billion
24 dollars over the next five years. And I would add that
25 that figure is being updated to reflect a service water

1 discharge project that was mentioned earlier.

2 In addition to its substantial revenue bond
3 capacity, the water and wastewater system has access to
4 JEA's \$500 million revolving credit facility with J.P.
5 Morgan Chase Bank. As of September 30th, 2021, the
6 water and wastewater system served approximately 378,000
7 water customers, 298,000 wastewater customers and 21,000
8 reuse customers.

9 In summary, JEA's extensive operational and
10 financial resources will result in lower cost to
11 customers, economies of scale, system redundancy leading
12 to fewer outages, as well as superior access to the
13 municipal bond and bank credit markets.

14 And that completes my summary testimony.

15 MR. CRABB: Commissioner Graham, JEA tenders
16 Mr. Orfano for cross-examination.

17 COMMISSIONER GRAHAM: Okay. Mr. Friedman.

18 MR. FRIEDMAN: Thank you.

19 EXAMINATION

20 BY MR. FRIEDMAN:

21 **Q Mr. Orfano, in your prefiled testimony in**
22 **support of JEA's ability to serve the First Coast**
23 **development, isn't it true that the bond rating agencies**
24 **had downgraded some of the bond prior to you filing that**
25 **testimony?**

1 A That is correct. There were downgrades in
2 fiscal year 2018, and I believe 2019.

3 Q And that wasn't referenced in your testimony,
4 though, was it?

5 A I believe my testimony included the current --
6 I am sorry, my testimony was dated June 2020, and I
7 provided the ratings as of that period -- I believe I
8 provided them. Let's see. I did not provide ratings in
9 my testimony.

10 Q Look at page four, line 17.

11 A I am sorry?

12 Q Would you look at page four, line 17?

13 A Oh, I am sorry. Yes, that's correct.

14 Q And isn't it true, at the time you filed this
15 testimony, that the bond ratings -- that in February of
16 2020, the bonds had been down -- the water and sewer
17 bonds had been downgraded?

18 A By one of the three rating agencies.

19 Q Well, let's see what you said here. You said
20 -- all right, so --

21 COMMISSIONER GRAHAM: Pull that mic towards
22 you, Mr. Friedman.

23 BY MR. FRIEDMAN:

24 Q So you didn't -- you didn't reference the fact
25 that your -- that Standard & Poor's had downgraded your

1 water and sewer bonds from a -- from Triple A to Double
2 A Plus?

3 A I did not.

4 Q Why is that?

5 A My testimony was dated a certain date, and I
6 provided the ratings as of that date.

7 Q Well, that's -- so you are saying that the
8 bond rating changed between February 20th -- I mean,
9 between February 24th, 2020 and the time you filed your
10 testimony on -- in June of that year?

11 A I don't have exact knowledge of the dates of
12 the downgrades.

13 Q But right now, you do admit that the bonds had
14 downgrades by two of the rating agencies, correct?

15 A Correct. Triple A -- a Triple A rating, which
16 is the highest investment grade rating, to a Double A
17 Plus by S&P, and then Moody's down -- was downgraded
18 from AA2 to A2.

19 Q But that's not what your prefiled testimony
20 says, is it?

21 A My prefiled testimony includes ratings as of a
22 certain date.

23 Q But not as of the date that you -- what date
24 is it as of, then? Because it changed in February 20 --

25 A Date was the 26th day of June, 2020.

1 Q And you are -- as we sit here today, you are
2 saying on that date that the bonds were -- had not been
3 downgraded?

4 A I am not saying that at all. My testimony
5 states that that was the rating as of that date.

6 Q But you think this is the rating as of June
7 6th, or whatever date you filed it, of 2020?

8 A June 26th, correct.

9 MR. CRABB: Asked and answered, Commissioner.

10 COMMISSIONER GRAHAM: Well, I think it's kind
11 of squirrely. I think he is trying to pin down
12 exactly what dates he is talking about, because I
13 keep going back from February to June, and his
14 testimony was dated June 22nd, is that what I see
15 here?

16 MR. FRIEDMAN: And it seems like,
17 Commissioner, he is saying that the bonds had not
18 been downgraded on June 2020.

19 COMMISSIONER GRAHAM: So my understanding
20 right now, the witness is saying as of June 26th,
21 2020, the bond ratings, or as you have in your
22 testimony, is that correct?

23 THE WITNESS: That's correct, sir.

24 MR. FRIEDMAN: It's not correct but we will
25 deal with that.

1 COMMISSIONER GRAHAM: Okay. I didn't know if
2 you were going to impeach the witness off of that,
3 or where you are going from there, but that was his
4 testimony.

5 BY MR. FRIEDMAN:

6 **Q Were you involved in discussions with the**
7 **developers of the 301 property?**

8 A I was not.

9 **Q So when were you aware that 301 Partners was**
10 **going to develop that property?**

11 A I can't give you exact. I don't have specific
12 knowledge of a date.

13 **Q Did the lawyers come to you and say, there is**
14 **a controversial hearing, we want you to do something?**

15 A Again, I don't have specific recollection of
16 how far back this goes, other than looking at my
17 prefiled testimony.

18 **Q So other than the date that your prefiled**
19 **testimony was written, you don't have any recollection**
20 **of who came to you beforehand and advised you of this**
21 **proceeding, and the fact that they wanted you to**
22 **participate?**

23 A I don't have specific knowledge of that. I
24 don't.

25 **Q Do you know who it was that first mentioned**

1 this proceeding to you and --

2 COMMISSIONER GRAHAM: I will say asked and
3 answered. He says a couple times he doesn't
4 recall.

5 BY MR. FRIEDMAN:

6 Q Do you have any understanding of the proposals
7 that JEA made to provide service to the 301 Partners
8 property?

9 A I do not. I do not.

10 Q You did say earlier that JEA was going to have
11 to spend substantial funds to remove the surface water
12 discharges, correct?

13 A I did.

14 Q But you haven't figured out exactly how much
15 that was?

16 A We have been provided a study that indicates a
17 total cost of approximately \$1.85 billion.

18 Q Billion with a B?

19 A Correct.

20 Q Does First Coast have the financial ability,
21 does it have the bonding capacity to extend lines from
22 its terminus now out to the First Coast property --
23 JEA -- does JEA have the financial capacity to extend
24 the lines from their existing terminus out to the 301
25 Partners property?

1 A Absolutely.

2 Q So you are saying that they wouldn't have to
3 **have 301 Partners build and donate to the JEA to donate**
4 **that plant?**

5 A So your question is whether JEA has the
6 capacity, and I believe I answered that.

7 Q I asked you whether they had the financial
8 **resources to do the extension themselves versus having**
9 **the utility pay -- I mean, having First Coast pay it.**

10 A Sir, we have a one-and-a-half billion dollar
11 capital program that's about to be disclosed to be
12 significantly higher than that. We absolutely have the
13 capacity to add capital to our system to serve our
14 customers. Absolutely.

15 Q **Are you willing to do it?**

16 MR. CRABB: Object to that as beyond the scope
17 of his direct.

18 COMMISSIONER GRAHAM: I will allow the
19 question.

20 THE WITNESS: Again, I have not been privy to
21 the discussions that have occurred between JEA and
22 the 301 Partners. I can't opine on discussions I
23 have not been privy to.

24 MR. FRIEDMAN: Nothing further.

25 COMMISSIONER GRAHAM: Okay. Staff?

1 MS. LHERISSON: No questions.

2 COMMISSIONER GRAHAM: Commissioners?

3 Redirect?

4 MR. CRABB: Just a few questions.

5 FURTHER EXAMINATION

6 BY MR. CRABB:

7 Q Mr. Orfano, what are JEA's current bond
8 ratings?

9 A In the water and sewer system, Standard &
10 Poor's rates us Double A Plus. Fitch rates us Double A.
11 And Moody's rates us AA3.

12 Q And do those ratings represent an upgrade
13 since the time you filed your prefiled testimony?

14 A They do.

15 Q Would you explain those upgrades?

16 A Moody's upgraded two notches from A2 to AA3.
17 While Fitch has not upgraded the bonds at this time, we
18 on a positive outlook with Fitch.

19 MR. CRABB: I have no other questions.

20 COMMISSIONER GRAHAM: Okay. Exhibits?

21 MR. CRABB: No exhibits for this witness.

22 COMMISSIONER GRAHAM: Okay. Would you like to
23 excuse this witness?

24 MR. CRABB: If we could permanently excuse the
25 witness, I think he would appreciate that.

1 Development.

2 Q And did you prepare and cause to be filed
3 prefiled testimony in this proceeding?

4 A Yes, I did.

5 Q Do you have a copy of that prefiled testimony
6 before you today?

7 A Yes, I do.

8 Q Do you have any of corrections or revisions to
9 that testimony?

10 A Yes, I do.

11 Q Would you please go through those?

12 A Certainly.

13 In page four, there is some discussion about
14 the PUD language that was originally filed, that has
15 since been modified, which I think has been discussed
16 previously. And also on page 12, there is some
17 discussion about capacity fees, which JEA has recently
18 modified their capacity fees.

19 Q Okay. And with those corrections, if I were
20 to ask you the -- would your answers to the same
21 questions would be the same today?

22 A Yes, I believe so.

23 MR. CRABB: I would ask that the prefiled
24 testimony of Mr. Zammataro be inserted into the
25 record as though read.

1 COMMISSIONER GRAHAM: We will insert Mr.
2 Zammataro?

3 THE WITNESS: Yes.

4 COMMISSIONER GRAHAM: -- prefiled testimony
5 into the record as though read.

6 (Whereupon, prefiled direct testimony of
7 Robert J. Zammataro was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|--|---|------------------------|
| In re: Application for Original Certificate of |) | DOCKET NO. 20190168-WS |
| Authorization and Initial Rates and Charges |) | |
| for Water and Wastewater Service in Duval, |) | FILED: |
| Baker and Nassau Counties, Florida by |) | |
| FIRST COAST REGIONAL UTILITIES, |) | |
| INC. |) | |
| _____ |) | |

**DIRECT TESTIMONY OF
ROBERT J. ZAMMATARO
ON BEHALF OF JEA**

1 **Q. Please state your name and current employment.**

2 A. My name is Robert J. Zammataro and I am employed by JEA as the Director of
3 Water and Wastewater Planning and Development.

4
5 **Q. Please describe your educational background and professional experience.**

6 A. I have a Bachelor of Science Degree in Environmental Engineering from the
7 University of Florida and I hold a license as a Professional Engineer. I have over 20 years of
8 experience in all aspects of water and wastewater utility services. That experience includes:
9 design, construction and project management of water and wastewater systems; planning for
10 and development of water, wastewater and reclaimed water systems including developing
11 strategic plans for capital improvements; and forecasting demand for water and wastewater
12 services.

13

14 **Q. Where have you gained your experience in the water and wastewater arena?**

15 A. My entire professional career has been centered in Northeast Florida, in and around
16 Duval, Nassau, St Johns, and Clay Counties and the St Johns River Water Management
17 District (“SJRWMD”). I am very familiar with the requirements for the design, construction
18 and operation of water, wastewater and reclaimed water systems in northeast region and
19 issues associated with planning for such systems. My experience in the area includes: Chief
20 Engineer of Development and Planning for the St. Johns County Utility Department; Bureau
21 Chief of District Projects and Construction for the SJRWMD; Manager of Water and
22 Wastewater System Planning for JEA; and Director of Water and Wastewater Planning and
23 Development for JEA. Attached as Exhibit RJZ – 1 is my complete Curriculum Vitae.

24

25 **Q. What is your current position at JEA and what are your responsibilities?**

1 A. My current position is Director of Water and Wastewater Planning and Development.

2 My responsibilities include to:

3 Plan, develop and administer capital budgets for JEA's Water and Wastewater

4 Utility;

5 Oversee publication and communication of JEA's annual master plan for

6 water, wastewater and reclaimed water systems including the Integrated Water

7 Resource Plan;

8 Oversee the writing of Cost Share and Developer Agreements for new

9 communities within the JEA service area;

10 Act as JEA's representative with relevant agencies such as the Florida

11 Department of Transportation, the City of Jacksonville ("City" or "COJ"),

12 Jacksonville Transit Authority, the SJRWD, and the Northeast Florida

13 Builders Association; and

14 Lead technical communications on and coordination of inter-local agreements

15 with St. Johns and Nassau Counties.

16

17 **Q. What is the purpose of your testimony?**

18 A. In my testimony I will cover omissions and inadequacies in the Feasibility

19 Assessment ("Feasibility Assessment" or "Assessment") provided by First Coast Regional

20 Utilities, Inc. ("First Coast") for the proposed water and wastewater utility, and compare

21 rates for services from JEA to the rates First Coast proposes to charge for the same services.

22 I will further discuss JEA's capability to serve the area and the proposals we have made to

23 First Coast to accommodate the infrastructure needed to serve the area and the cost of that

24 infrastructure. Additionally, I will also discuss the history of private utilities in Duval and St.

25 Johns County and why JEA is in a better position to serve.

1

2 **Q. Are you sponsoring any exhibits?**

3 A. Yes, I sponsor the following exhibits:

- | | | |
|---|---------|--|
| 4 | RJZ – 1 | Robert J. Zammataro Curriculum Vitae |
| 5 | RJZ – 2 | Private Utility Systems Acquired by JEA |
| 6 | RJZ – 3 | JEA Honors and Awards |
| 7 | RJZ – 4 | City of Jacksonville-JEA Franchise Agreement |
| 8 | RJZ – 5 | Nassau County-JEA Franchise Agreement |

9

10 **Q. Please summarize your testimony.**

11 A. My testimony outlines several omissions and errors in First Coast's Feasibility
12 Assessment which demonstrate that the system as proposed will not be adequate to serve the
13 service area requested by First Coast and which calls into question First Coast's commitment
14 to serve the requested area. Further, JEA has an exclusive franchise to provide water and
15 wastewater service in Duval and Nassau counties where the bulk of the requested service
16 territory is located. The Planned Unit Development Ordinance ("PUD" or "PUD
17 Ordinance") for the 301 Capital Partners Development ("301 Development") provides that
18 water and wastewater will be provided by JEA. The PUD requires the developer to construct
19 at its expense water and wastewater facilities to JEA standards and then to dedicate the
20 facilities to JEA for operation and maintenance or for contract operation. JEA is capable of
21 serving the 301 Development and the cost to customers within the development would be
22 considerably less than service from First Coast -- approximately half as much. The long-
23 term cost would be lower for customers to receive service from a regional utility such as JEA
24 as opposed to a stand-alone, private utility. Granting the requested certificate to First Coast
25 would deny water and wastewater customers in the development access to JEA's system,

1 resources and economies of scale, and based on past history in northeast Florida, there is
2 substantial risk that the system would nonetheless require JEA's intervention and assistance.

3

4 **WATER AND WASTEWATER SERVICE BY JEA**

5

6 **Q. Please give us a history and overview of the JEA's water and wastewater utility**
7 **service.**

8 A. JEA's provision of water and wastewater service began in the late 1990's when the
9 water and wastewater systems owned by the COJ became part of JEA's utility service. Upon
10 taking over the systems, JEA embarked on a region-wide effort to acquire private water and
11 wastewater plants and systems with the goal of improving the service to utility customers
12 throughout greater Jacksonville and the surrounding counties, improving the water quality of
13 the St Johns River, and limiting demand on the Floridan aquifer. That effort included the
14 acquisition and upgrade of numerous small package water and wastewater plants at a cost of
15 millions of dollars. JEA also acquired several large private utilities soon after it took over
16 the Jacksonville systems. Exhibit RJZ-2 is a list of those systems, the date acquired, the
17 number of customers and the cost of the acquisition.

18 Since JEA took over providing water and wastewater service no new private utilities
19 have served customers in the Duval/St Johns/Nassau Counties.

20 Currently, JEA operates 137 wells, 38 water treatment plants, 11 wastewater
21 treatment plants, 1,482 wastewater pumping stations, 4,806 miles of water lines and 4,113
22 miles of wastewater collection lines. JEA uses state-of-the-art technology to monitor the
23 safety and supply of water to customers. JEA's water and wastewater utility has
24 approximately 500 employees.

25 Today, this regional approach to water and wastewater service allows JEA to provide

1 safe, reliable and cost-effective service to about 370,000 water customers and about 278,000
2 wastewater customers.

3

4 **Q. Are there any private water and wastewater utilities currently providing service**
5 **in the area?**

6 A. Yes. I am aware of only three private systems in Duval County, all three of which
7 existed prior to JEA owning and operating the water and wastewater utility. Those utilities
8 are: Normandy Village, Neighborhood Utilities, and Regency Utilities. All three of these
9 utilities have had operational issues that have resulted in those utilities being assisted by, or
10 requiring future assistance from, JEA.

11

12 **Q. Please explain.**

13 A. Normandy Village has been cited by the Florida Department of Environmental
14 Protection (“FDEP”) for failure to meet effluent limits and is under a consent order with
15 FDEP to come into compliance with FDEP standards. The FDEP has contacted JEA to ask if
16 JEA could handle the wastewater coming from the Normandy Village system in the event the
17 utility is financially unable to comply with the order.

18 Regency Utilities has abandoned all potable water treatment and now provides water
19 and wastewater service to customers only through bulk meters from JEA.

20 Neighborhood Utilities is a water only utility that currently uses JEA as a backup
21 source of water.

22

23 **Q. How would you characterize the success of private systems in northeast Florida.**

24 A. Private systems, particularly small systems, have a history of being short-lived. This
25 fact is one reason why planned unit development ordinances passed by the COJ include

1 requirements that treatment facilities installed in the development be operated solely by JEA.
2 My understanding is that the COJ's planning department wants to ensure that city
3 constituents in new developments will receive the same quality of utility service as other
4 citizens connected to JEA.

5

6 **Q. Does JEA also provide reclaimed water service?**

7 A. Yes. As part of JEA's commitment to improving the water quality of the St. Johns
8 River and limiting demand on the Floridan aquifer, JEA provides reclaimed water service for
9 irrigation to approximately 15,000 customers.

10

11 **Q. What other services does JEA provide in conjunction with water and wastewater
12 service?**

13 A. JEA strives to make customer interaction with JEA as easy and useful as possible. To
14 that end we maintain an interactive website that allows customers to manage their account
15 and pay their bills online, get rate information, track usage, learn how to conserve, as well as
16 various other aspects of utility service such as notices of outages and advisories.

17

18 **Q. What honors or awards has JEA received that relate to the water and
19 wastewater service it provides?**

20 A. JEA is a respected provider of utility service and the honors and awards we have
21 received are evidence of our achievements in the provision of service to our customers.
22 Exhibit RJZ-3 is a partial list of those awards and honors.

23

24 **Q. Does JEA have a franchise agreement with COJ to provide water and
25 wastewater service in Duval County?**

1 A. Yes. JEA has an exclusive franchise agreement to provide water and wastewater
2 service throughout all of Duval County. Exhibit RJZ-4 is a copy of that franchise agreement.

3

4 **Q. Does JEA have franchise agreements with other local governments?**

5 A. Yes. JEA has exclusive franchise agreements with Nassau and St Johns Counties (in
6 areas of those counties adjacent to Duval County) which allows for consistency of service
7 throughout the region. The Nassau County agreement includes the entirety of the service
8 territory proposed to be served by First Coast. The Nassau County Franchise Agreement is
9 attached as Exhibit RZ-5.

10

11

FEASIBILITY ASSESSMENT

12

13 **Q. What are the inadequacies in the First Coast's Feasibility Assessment?**

14 A. The overall site plan in the Feasibility Assessment for the wastewater plant is
15 inadequate to serve the total requested area. The plant site plan shows a one million gallons
16 per day ("MGD") capacity with room on the site to double the capacity to 2.0 MGD. The
17 PUD has 11,250 single family residences along with 3,750 multi-family residences for a total
18 of 15,000 residential units. In addition, the PUD identifies 1,050,000 square feet of
19 commercial and office space. Using only 250 gallons per day ("gpd") per residential unit and
20 0.1 gpd/sf of commercial usage the total estimated flow for this development is 3.86 MGD.
21 Typically, 350 gpd per customer is the planning number for wastewater plants, however with
22 modern energy-efficient appliances that number has dropped to 250 gpd. The proposed site
23 plan shown in the Feasibility Assessment accompanying the application does not show any
24 room to expand or accommodate the additional 1.8 MGD. This plant capacity problem is
25 further compounded by the addition of the Chemours property in Baker County to First

1 Coast's application. These flows from this additional area are not covered in the Feasibility
2 Assessment.

3

4 **Q. What is reclaimed water?**

5 A. Reclaimed water is highly treated effluent that is not potable, but can be distributed to
6 homes and commercial establishments for irrigation purposes. A distribution system separate
7 from the water distribution system is needed to provide this service to customers. It is
8 beneficial to both water customers and wastewater customers because it minimizes the
9 demand on potable water, and it provides a method of effluent disposal.

10

11 **Q. What are the omissions in the Feasibility Assessment with respect to wastewater
12 treatment and reclaimed water?**

13 A. In the Feasibility Assessment the wastewater plant proposed will be designed to
14 produce reclaimed water. However, nowhere in the Assessment are the piping costs for
15 distributing the reclaimed water provided. The Feasibility Assessment states that the
16 reclaimed water will be pumped to sod farms or tree farms until the development establishes
17 enough green space to irrigate. This plan would still require the water to be distributed
18 throughout the community to all the common areas.

19

20 **Q. Are there other errors or inadequacies in the Assessment with regard to
21 reclaimed water service? If so, what are they?**

22 A. Yes. Even with a fully developed reclaimed system, two key elements are missing
23 from the Assessment: plans for wet weather discharge, and seasonal storage or augmentation
24 for the dry season.

25

1 **Q. Please explain what you mean by a plan for wet weather discharge.**

2 A. The wastewater plant will need an alternative disposal method for effluent disposal
3 during the rainy season when no one is using reclaimed irrigation water. No such alternative
4 method is identified in the Assessment nor are the costs for such a method identified in the
5 Assessment.

6
7 **Q. Please explain what you mean by seasonal storage or augmentation.**

8 A. During the dry season the demand for reclaimed water is higher than the amount of
9 treated effluent available from the wastewater treatment plant, so the augmentation of the
10 resource is needed to meet the higher demand. Typically, augmentation wells or storage
11 ponds are used to cover the deficit. No seasonal augmentation was identified in the
12 application.

13

14 **Q. Is First Coast required to put in a reclaimed system?**

15 A. Not to my knowledge, but if First Coast does not put in a reclaimed water system, it
16 would need a permanent effluent disposal method, which method has not been identified or
17 accounted for in the Assessment. For example, if a spray irrigation field was used as a
18 disposal method it would require 130 acres of uplands with piping distribution system, spray
19 heads and controls.

20

21 **Q. Any other issues regarding reclaimed water?**

22 A. Yes, the proposed tariffs for the utility do not contain any rates for reclaimed water
23 service.

24

25 **Q. Are there any issues in regards to the conclusion of the Feasibility Assessment?**

1 A. Yes, Section 7, “Comparison of Alternatives,” only compares two options, the First
2 Coast onsite treatment facility compared to constructing a remote regional JEA facility. The
3 Assessment does not include directly connecting to the JEA system. This option would
4 provide over the 2,800 ERC’s which are being requested by First Coast. This option would
5 also cost considerably less than and be quicker to construct than the two options listed in the
6 Assessment.

7

8 **Q. What alternatives did JEA propose?**

9 A. JEA has proposed several alternatives to the developer. The first alternative included
10 the developer extending service mains from JEA’s existing system to serve the property. The
11 development would simply be connected by pipes to JEA’s system. This would
12 accommodate over 2800 ERCs. Another alternative is for the Developer to extend mains to a
13 JEA regional facility, with JEA paying for the cost of the new facility. Yet another JEA
14 proposal was for the Developer to construct an initial onsite facility and dedicate it to JEA for
15 operations, with JEA handling all future expansions. This third alternative is further
16 discussed by JEA witness Susan West and is shown in Exhibit SRW-5.

17

18

FIRST COAST’S PROPOSED RATES

19

20 **Q. What are the rates First Coast is proposing to charge customers and how do they**
21 **compare to JEA’s?**

22 A. JEA witness Julia Crawford provides a detailed analysis of the rates First Coast is
23 proposing to charge and how they compare to JEA’s. The rates proposed by First Coast are
24 substantially higher than JEA’s and, based on my general knowledge of rates for water and
25 wastewater service, substantially higher than the norm for the industry. The connection fees

1 (service availability charges) for water and wastewater service from First Coast are more
2 than three times higher than JEA's: \$9,993.00 as compared to \$3,308.00. Monthly rates for
3 water and wastewater service from First Coast for 6,000 gallons of usage would be more than
4 twice JEA's: \$204.88 for First Coast as compared to \$79.71 (3/4" meter) and \$66.36 (5/8"
5 meter) from JEA.

6

7 **Q. What is the long-term stability of the rates for JEA compared to First Coast?**

8 A. Due to the financial stability of JEA and its large customer base JEA is better suited
9 to handle problems or events which may occur that affect utility service, such as a hurricane.
10 First Coast would have a substantially smaller customer base to distribute costs from any
11 unforeseen event. When unforeseen problems and costs occur the First Coast customers
12 would be more directly impacted. JEA has gone through two hurricanes in the past five
13 years and the water/wastewater rates have remained stable. JEA is in a better position to
14 serve the community long term.

15

16 **Q. Does that conclude your testimony?**

17 A. Yes.

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25

1 BY MR. CRABB:

2 Q And do you have any exhibits to your prefiled
3 testimony?

4 A Yes, I do.

5 Q Those are exhibits marked as RJZ-1 through
6 RJZ-5, is that correct?

7 A Yes, it is.

8 Q Do you have any corrections or revisions to
9 those exhibits?

10 A I do not.

11 Q And have you prepared a summary of your
12 prefiled testimony?

13 A Yes, I did.

14 Q Would you please provide that at this time?

15 A Yes.

16 My name is Robert Zammataro. I have been an
17 engineer in the northeast region of Florida for about
18 over 20 years. I primarily work with public utilities
19 and regulatory agencies over the last 20 years. I am
20 currently the Director of Planning. And I was primarily
21 responsible for in this subject for reviewing the
22 feasibility study and evaluating the alternatives that
23 were presented in the alternative study, and over the
24 past two years.

25 In regards to the feasibility study, the

1 one -- basically I review it for red flags, things that
2 may cause additional cost or future complications. The
3 one big red flag I think that's notable is the effluent
4 disposal. They do discuss having a public access
5 reclaim system, and I do think there are some key
6 components missing. So the point being that I do
7 believe the cost would be slightly higher than what was
8 listed in the feasibility study.

9 As far as the alternatives, there are -- there
10 have been numerous alternatives, and variations
11 alternatives discussed over the past two years, and
12 those alternatives all have merits on their own. So I
13 don't think there is a absolute to anything. Everything
14 does have its pros and cons as evaluated, depending on
15 the perspective, so thank you.

16 MR. CRABB: JEA tenders Mr. Zammataro for
17 cross-examination at this time.

18 COMMISSIONER GRAHAM: Okay.

19 EXAMINATION

20 BY MR. WHARTON:

21 Q Good afternoon, Mr. Zammataro.

22 A Good afternoon.

23 Q One of the sections in your prefiled
24 testimony -- well, actually one of the questions says:
25 What is the long-term stability of the rates for JEA

1 compared to First Coast, and you have given an answer to
2 that; do you recall that? And your answer is that you
3 think it's pretty stable over time?

4 A For the most part, yes.

5 Q That's fair? That's on page 12 of your
6 prefiled if you want to look at it.

7 Now, I found a PowerPoint that was given to
8 the JEA board on October 26th, 2021, that had your name
9 on it, about the impact of Senate Bill 64. Does that
10 sounds familiar to you?

11 A Yes.

12 Q Now, Senate Bill 64 basically, as it relates
13 to JEA, is going to you require you to quit putting
14 reuse water into the river within 10 years; is that a
15 fair statement?

16 A Close, yes.

17 Q And JEA has projected that in order to do
18 that, they are going to have to build 30 million gallons
19 of traditional reclaimed water, 18 million gallons of
20 purified water, and 26 deep well injections; is that
21 fair?

22 A Correct. Yes.

23 Q And that that's going to cost \$1.9 billion
24 over 10 years. Do you agree with that?

25 A Yes.

1 **Q And are there some estimates insides JEA that**
2 **are saying that could cause rates to double?**

3 A Well, the way we are set up is that we project
4 the cost of those projects. We then forward those over
5 to finance and they do a rate evaluation.

6 We typically look at rates in that five- to
7 10-year window. And as, I guess, Ms. Crawford
8 indicated, we don't see an increase in those next five
9 years; potentially in 10 years, but that's outside our
10 typical financial projection. We only look at five-year
11 window.

12 So when we say stable, if the five-year window
13 is the discussion, then, yes, they are very stable.
14 Just like with anything, the further you go out, the
15 less uncertain -- more uncertainty there is.

16 **Q You would agree, though, that if, in fact,**
17 **these estimates, \$1.9 billion over 10 years comes to**
18 **fruition, that when you add that to your typical capital**
19 **are and regular capital projects, there is a chance of a**
20 **material rate increase in order to cover those capital**
21 **costs?**

22 A I haven't run -- I do not run the rate
23 numbers, so I wouldn't want to speculate.

24 **Q So you haven't run the numbers on the effect**
25 **of this \$1.9 million on rates?**

1 A No, I do not run rates.

2 **Q Okay.**

3 A But the feedback I did get was that they are
4 stable in the five-year window, from finance, because
5 that wasn't a question when we proposed the plan.

6 **Q I understand.**

7 A I would like to add a clarification. The plan
8 is a proposed plan. It has been submitted to FDEP for
9 approval, and DEP -- FDEP is currently reviewing that
10 plan, so that hasn't been approved yet.

11 **Q Well, Senate Bill 64 is not a plan, is it?**
12 **It's a statute that's been --**

13 A Correct.

14 **Q -- by the Legislature and signed by the**
15 **Governor?**

16 A That's correct.

17 **Q Okay. Let's talk about the section in your**
18 **prefiled testimony that talks about offers, and you**
19 **talked about how JEA had made proposals that you thought**
20 **were reasonable.**

21 **As we sit here today, can you tell me when the**
22 **last time was JEA made an offer to First Coast that**
23 **First Coast could say yes to that was anything other**
24 **than, you design it, you permit it, you build it and you**
25 **give it to us free?**

1 A Well, I guess my question would be from a
2 technical perspective or a financial perspective?

3 **Q I would like a yes or no answer to my**
4 **question. Can you tell me -- I will repeat the**
5 **question.**

6 A I felt -- then I guess I will go back to Mr.
7 McInall's letter in 2019. I felt that since 301
8 Partners had some concerns about the timeline, that we
9 offered that you guys would be able to, 301 Partners
10 would be able to build it and construct it, and we would
11 refund them the cost through the connection fees. So I
12 thought that that was a viable solution that allowed 301
13 Partners to meet their timeline and get reimbursed for
14 the cost.

15 **Q Now, when did that last occur?**

16 A I guess 2019 was the letter.

17 **Q What about right now? What's the offer right**
18 **now?**

19 A I don't know if there is -- I know there is an
20 agreement being discussed, but I have --

21 **Q No, don't -- definitely don't get into that.**

22 A Okay.

23 **Q But before two months ago, JEA's position --**
24 **pardon me, sir.**

25 A Okay.

1 **Q Was JEA's position other than that, you design**
2 **it, you build it, you construct it and we will take it?**

3 A I am not aware of any feedback we got from
4 that letter. When we sent that letter, I fully
5 anticipated a counteroffer or a discussion, and I was
6 never contacted personally regarding the details of that
7 offer, so I don't know if somebody from 301 Partners
8 contacted anybody else from JEA or not.

9 **Q Is it fair to say that, even at the time of**
10 **that letter, that was only a concept, the details hadn't**
11 **been worked out?**

12 A Well, it's the -- the concept that was
13 proposed is the concept that was identified in the
14 feasibility study. So even though you can say it's a
15 concept, it was a fair amount of detail in the
16 feasibility study so I think it's a little bit more than
17 concept.

18 Our first proposal of the connecting by lines
19 was solely driven by the, I guess the need for time. So
20 we felt like we could construct the lines quicker than a
21 facility to get the development off the ground. The
22 movement from connecting lines to an on-site facility
23 was purely based on, I guess, 301's need to or desire to
24 build an on-site facility, so we kind of agreed and
25 acquiesced.

1 JEA's long-term plans for that area actually
2 have a regional facility set out by Cecil, which is four
3 to five miles away recognizably. But we currently have
4 facilities -- JEA currently takes the effluent from
5 Baldwin all the way to Buckman, which is a 20-mile
6 distance. So for us, five miles is not out of the reach
7 of reality. That's why those proposals were made.

8 **Q You don't have any facilities within five**
9 **miles do you, now --**

10 A Oh, no --

11 **Q -- from the service area?**

12 A Correct. They are approximately five miles
13 the connection point.

14 **Q Approximately five miles?**

15 A Yes. Well, we are talking in miles so I
16 didn't want to get down to feet. I am an engineer.

17 **Q Do you agree with me that if First Coast**
18 **designed the facility, permitted the facility,**
19 **constructed the facility and gave it to JEA, JEA still**
20 **could not commit the capacity to First Coast's**
21 **development?**

22 A Not -- no.

23 **Q If you are not sure, that's fine.**

24 A Yeah, I -- no, I -- yeah, I am not sure about
25 that.

1 Q Okay. You talked -- you said something in
2 here about the exclusive jurisdiction of JEA, correct?

3 A Correct.

4 Q Let me ask you about that. There are three
5 private utilities in Duval County, aren't they, and two
6 of them regulated by the PSC? And they are not on --
7 you have to answer audibly, sir.

8 A Oh, I am sorry. Yes.

9 Q And they are not on outparcels, are they?
10 That whole area is JEA's, quote/unquote, exclusive
11 territory?

12 A Yeah, I believe they existed before JEA.

13 Q But my question is, those two service areas of
14 those PSC utilities are not on outparcels, that whole
15 area is JEA's franchise area, correct?

16 A Correct.

17 Q Okay. So the PSC has exclusive jurisdiction
18 over those systems that are in the middle of JEA's
19 franchise areas, don't they?

20 A Yes.

21 Q You talk about the service that is provided --
22 well, rather the franchise agreements that exist in
23 Nassau and St. Johns County, do you recall that?

24 A Yes.

25 Q Now, do you know that Nassau County has

1 written a letter to the Commission in this case claiming
2 they support First Coast's application?

3 A Yes, I am aware of that.

4 Q All right. And isn't it true that St. Johns
5 County has given formal notice to JEA that they want to
6 discuss the possibility of terminating the franchise?

7 A I don't know when that -- I have never seen
8 that letter, but yes, I heard they wrote one during the
9 settlement process.

10 Q All right. Thanks.

11 Let me ask you this: Are you aware of the
12 fact that whether it was because of the PUD, or because
13 JEA thought it was a good alternative, that JEA has
14 proposed at various times to First Coast that you design
15 and construct and build the facility and donate it to
16 us, and then we will provide the service; are you aware
17 of that fact?

18 A Could you --

19 Q Are you aware that JEA has told First Coast,
20 if you will build the facility and contribute it to us
21 without cost, we, JEA, will provide the service?

22 A Well, the only, I guess, offer I am aware of
23 is the one from the letter of 2019 where it stated that,
24 and it also said that we would, as connections came in,
25 we would either waive or refund the ERC credit, so

1 that's -- that's -- isn't that the scenario you
2 presented, or am I missing something?

3 Q Well, it could be.

4 A Okay.

5 Q But I guess I will ask you if you've ever read
6 the petition in this case?

7 A No, sir.

8 Q Okay. And it's fine if the answer is no. I
9 will drop this line of questioning. You are not aware
10 that JEA has ever informed First Coast, if you will
11 donate the land, and build the facility, and contribute
12 it to JEA, then JEA will provide the service? If you
13 are not aware of it that's fine. Are you aware of that?

14 A That is the proposal that is written in the
15 2019 letter, is it not?

16 Q I guess that's what's confusing. I would
17 rather focus on the proposal than the letter, but you
18 are aware of that?

19 A Yes.

20 Q Okay. Doesn't that mean that JEA apparently
21 has confidence in First Coast's ability to come up with
22 the land, design, permit and construct the facility?

23 A That, I believe, was to accommodate the
24 timeline proposed by the developer. If it was JEA's
25 preference, we would prefer to design and construct our

1 own facilities. But to try and accommodate the
2 timeline, they, I guess, acquiesced and thought we could
3 do a private/public partnership, or -- I know that's a
4 technical term probably not applicable, but that was why
5 that offer was provided. So the preference was that we
6 would design and build our own facility, but that was --
7 we are trying to make an accommodation to accompany the
8 timeline or the absorption schedule.

9 Q And I appreciate that testimony, but implicit
10 in the offer that you made to accommodate the timeline
11 was that JEA apparently thought that 301 Capital, or
12 First Coast, could do it, correct?

13 A I guess it's implied.

14 Q Now, JEA master plans quite a bit, right?
15 They come out with very thick planning documents that
16 they do on a periodic basis, more so than most
17 utilities; is that a fair statement?

18 A Yes.

19 Q But having said that, JEA doesn't have a
20 specific plan in place to serve the area that First
21 Coast wants to certificate, the three-county area that
22 is encompassed within the certificated territory?

23 A No, we do not have a plan to serve Baker
24 County. That's not within our area.

25 Regards to the 301, I guess the Villages,

1 which is in the Duval, it's identified just, like the
2 facility plan was very detailed, the first 10 years, and
3 a little less detailed the further out. We kind of do
4 the same thing. We are very, very detailed as far as
5 where there is property, or we have letters of
6 availability and developments kind of, I will say in the
7 forefront. When projects come in that are more
8 conceptual, they are identified in a GIS layer, and we
9 identify them for future growth.

10 So I will say that it was identified. Part of
11 the, I guess, conflict is that the timeline that JEA had
12 in their planning documents didn't line up with the 301
13 expectation, so that was why we kind of acquiesced to
14 that agreement was so to help you with your timeline.

15 So, yes, I will say it was identified. I
16 don't know if it was in a formal document.

17 **Q But -- and I appreciate -- I appreciate that**
18 **answer, but --**

19 A Okay.

20 **Q -- that's pretty high level stuff, right? You**
21 **haven't done any analysis of the costs of the physical**
22 **facilities that would be needed in order to serve the**
23 **area that First Coast proposed to certificate?**

24 A We have done some preliminary work for the
25 regional facility at Cecil, but as far as the

1 distribution and transmission lines, no.

2 Q Or the cost?

3 A Correct.

4 Q Okay. Or the feasibility in terms of
5 permitting, or whatever other problems you might run
6 into, et cetera?

7 A Correct.

8 Q Kind of due diligence that you would do if you
9 were going to actually move forward with a project?

10 A Correct.

11 MR. WHARTON: Give me one second.

12 COMMISSIONER GRAHAM: Sure.

13 MR. WHARTON: That's all I have.

14 COMMISSIONER GRAHAM: Okay. Staff?

15 MS. LHERISSON: No questions.

16 COMMISSIONER GRAHAM: Commissioners?

17 Commissioner Clark.

18 COMMISSIONER CLARK: Yeah, just two quick
19 questions, Mr. Zammataro.

20 No. 1, I have heard a lot of folks that a lot
21 of proposals that have been made and a lot of
22 deals, kind of. Who has the ultimate
23 responsibility and authority within JEA to offer a
24 deal to this developer?

25 THE WITNESS: The CEO or the Board, depending

1 on the value. I believe the has up to \$50 million
2 authority. And then above that, it would be the
3 Board.

4 COMMISSIONER CLARK: Okay. So we've seen
5 letters and proposals, so we haven't heard any
6 testimony today from anyone who has directly put an
7 offer on the table, is that correct?

8 THE WITNESS: Correct.

9 COMMISSIONER CLARK: Okay. My second question
10 is: Should First Coast, should you come to some
11 deal and you reached a conclusion where they were
12 going to build a system and turn it over to JEA,
13 based on the proposed timeline for the development
14 over the next five to 10 years, could you guarantee
15 that they would have that capacity available to
16 them as those customers begin to come on-line based
17 on the timeline that they are providing?

18 THE WITNESS: Just to make sure I am clear, if
19 we built the facility and they got it up in and
20 running then the capacity would be there. So if
21 they constructed Phase I as the 1 mgd that has been
22 discussed, that capacity would be there for all
23 3,000 connections. 1 mgd actually serves
24 significantly more than their first phase, so, yes,
25 the capacity would be there for that development.

1 COMMISSIONER CLARK: Could you take, based on
2 the proposal, all the way through their entire
3 proposed development and guarantee that you would
4 have capacity available at the time they needed it?

5 THE WITNESS: Yes. What happens is once a
6 facility gets constructed, we do build-out curves.
7 So we track the flow. We are required by FDEP.
8 And so many years in advance, we have to begin
9 planning and expanding the facility.

10 So once the facility is expanded and we fall
11 under the Florida Department of Environmental
12 Regulation we are obligated to make sure that
13 capacity is there.

14 COMMISSIONER CLARK: Thank you.

15 COMMISSIONER GRAHAM: Redirect?

16 MR. CRABB: Just a few questions.

17 FURTHER EXAMINATION

18 BY MR. CRABB:

19 **Q Mr. Zammataro, the existing private utilities**
20 **within the City of Jacksonville, I believe you testified**
21 **there were three of them?**

22 A Yes, I believe so.

23 **Q And would you explain why those are private**
24 **utilities and not, those areas are not served by JEA?**

25 A I believe all three of them existed prior to

1 JEA. JEA only became the, I guess, operation authority
2 in around 1997, '96, somewhere in that area. So prior
3 to that, the City of Jacksonville ran the utilities.
4 And due to enforcement action, the City handed it over
5 to JEA. And JEA has since operated the City system and
6 also acquired numerous development -- smaller
7 development private utilities, Florida United Water, I
8 believe there is a list of them, and slowly acquired
9 them and putted them together. So we are kind of a
10 patch quit, should you speak of utilities.

11 So some of the utilities either weren't
12 interested in being purchased or acquired, but all three
13 of them, Regency Utilities actually abandoned their
14 plants, and they currently obtain service from JEA via
15 bulk meters for both water and wastewater.

16 Neighborhood Utilities is a water only. Even
17 though they are fine, and they don't have any consent
18 orders, they do rely on JEA for a backup source. So
19 even though they operate, they kind of came to us, and
20 so there is kind of backup connections.

21 And the last one is, I believe it's Normandy
22 Village. And that is another one that is currently
23 under the consent order for DEP for effluent violations.
24 So they are either looking at being sold or hooking up
25 to JEA. So they are currently under a consent order,

1 and they will be making a decision shortly on how to
2 handle their issues.

3 **Q And there has been a lot of talk today about**
4 **the previous PUD ordinance that has now been superseded**
5 **and the parties have disagreements about the language**
6 **and the interpretation of that. But I think we would**
7 **all agree that various proposals were made to First**
8 **Coast about constructing different facilities.**

9 **My question is: What involvement would JEA**
10 **have if a facility was built on-site by First Coast and**
11 **dedicated to JEA for operation, what involvement would**
12 **JEA have in that process?**

13 **A Well, I guess it's more of a, for me, more of**
14 **a financial discussion. If they built it and paid for**
15 **it and dedicated it, I guess we wouldn't be that**
16 **involved. If there was some type of cost sharing or**
17 **participation, and there was public funds involved, we**
18 **would be very involved. We have to meet out -- any time**
19 **there is public funds, public procurement regulations**
20 **and whatnot, so...**

21 **Q And as far as design and construction**
22 **standards, does JEA have a set of standards for**
23 **facilities?**

24 **A We currently have water facilities and**
25 **distribution and collection. We do not currently have**

1 published wastewater plant standards.

2 Q Got it. So plant constructed by the
3 developer, or JEA or anyone else, has to comply with
4 JEA's standards?

5 A Yes.

6 Q So when Mr. Wharton was asking you whether JEA
7 trusted First Coast to build the plant, would it be
8 the -- would it be a correct statement that trust First
9 Coast to build it only if it was built according to JEA
10 standards?

11 COMMISSIONER GRAHAM: She can't hear you.

12 MR. WHARTON: Objection. Leading. The
13 preferred answer is right in the question.

14 COMMISSIONER GRAHAM: Continue.

15 MR. CRABB: I have no other questions.

16 COMMISSIONER GRAHAM: Thank you.

17 Okay, exhibits. JEA, you have Exhibits 13
18 through 17.

19 MR. CRABB: Correct.

20 COMMISSIONER GRAHAM: Any objection to those
21 exhibits? None? We will enter those in the
22 records.

23 (Whereupon, Exhibit Nos. 13-17 were received
24 into evidence.)

25 MR. CRABB: Thank you, Commissioner. May I

1 excuse witness Zammataro?

2 COMMISSIONER GRAHAM: Yes.

3 Mr. Zammataro, thank you for your testimony.
4 Travel safe.

5 THE WITNESS: Thank you.

6 (Witness excused.)

7 COMMISSIONER GRAHAM: Okay. JEA, you have one
8 more witness, I believe.

9 MR. CRABB: We do, and I think Ms. West has to
10 telephonically be connected to us, or through the
11 technology, I think.

12 THE WITNESS: Hello. Can everyone hear me?

13 COMMISSIONER GRAHAM: Yes, ma'am.

14 THE WITNESS: Hi there.

15 MR. LUNNY: Well, that was easy, Mr. Chairman.
16 I don't believe the witness has been sworn in.

17 THE WITNESS: I have not.

18 COMMISSIONER GRAHAM: Okay, Ms. West.

19 Whereupon,

20 SUSAN R. WEST

21 was called as a witness, having been first duly sworn to
22 speak the truth, the whole truth, and nothing but the
23 truth, was examined and testified as follows:

24 THE WITNESS: Yes, I do.

25 EXAMINATION

1 BY MR. LUNNY:

2 Q Ms. West, would you state your name and your
3 business address for the record?

4 A I am Susan West, address 21 West Church
5 Street, Jacksonville, Florida.

6 Q And what is your position with the JEA?

7 A I am a Consulting Engineer for JEA. That's
8 the title of my position. I am a full-time JEA
9 employee. Don't let the consulting engineer title
10 confuse you.

11 Q Okay. Did you prepare and cause to be filed
12 prefiled testimony in this proceeding?

13 A Yes.

14 Q And do you have that prefiled testimony before
15 you today?

16 A I do.

17 Q And do you have any corrections or revisions
18 to your prefiled direct testimony?

19 A Yes, there are a few corrections and --

20 Q Can you give us a sense of those corrections,
21 Ms. West?

22 A Sure.

23 We've probably already heard two of these
24 already today, but the zoning has changed, and the
25 landuse has changed.

1 **Q Okay. And so the zoning has changed how?**

2 A The zoning has changed. The PUD has been
3 modified to change language that originally required the
4 developer to provide, at his own expense, water and
5 wastewater treatment facilities on-site with dedication
6 to JEA. That has since changed to the developer shall
7 provide a site for water and wastewater utilities.

8 **Q All right. And the landuse, how has that**
9 **changed?**

10 A The landuse has changed from agriculture to
11 multiuse.

12 **Q All right. And how does that change your**
13 **testimony?**

14 A By changing it to multiuse, there is a
15 provision within the comp plan that states the JEA shall
16 not invest in utilities in the rural area except in
17 areas where there is mixed use and for economic
18 development.

19 **Q All right. And so with those changes noted,**
20 **if I were to ask you the questions that are contained in**
21 **your prefiled testimony today, would your answers be the**
22 **same subject to those changes?**

23 A Yes.

24 MR. LUNNY: Mr. Chairman, I would ask that the
25 prefiled testimony of Ms. West be inserted into the

1 record as though read.

2 COMMISSIONER GRAHAM: We will insert Ms.

3 West's prefiled direct testimony as though read.

4 (Whereupon, prefiled direct testimony of Susan
5 R. West was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

| | | |
|--|---|------------------------|
| In re: Application for Original Certificate of |) | DOCKET NO. 20190168-WS |
| Authorization and Initial Rates and Charges |) | |
| for Water and Wastewater Service in Duval, |) | FILED: |
| Baker and Nassau Counties, Florida by |) | |
| FIRST COAST REGIONAL UTILITIES, |) | |
| INC. |) | |
| _____ |) | |

DIRECT TESTIMONY OF
SUSAN R. WEST
ON BEHALF OF JEA

1 **Q. Please state your name and current employment.**

2 A. My name is Susan R. West and I am currently employed by JEA as a Consulting
3 Engineer in the Water/Wastewater Planning and Development Group.

4
5 **Q. Please describe your educational background and professional experience.**

6 A. I have a Bachelor of Science Degree and Master of Engineering Degree in
7 Environmental Engineering from the University of Florida and I am licensed as a
8 Professional Engineer. I have over 20 years engineering experience that includes experience
9 in water and sewer design, stormwater design, project management, construction service, and
10 land developments. My current CV is attached as Exhibit SRW-1.

11

12 **Q. What are your responsibilities at JEA?**

13 A. I am primarily responsible for water and wastewater grid planning. In that capacity I
14 am responsible for evaluating infrastructure needs, prioritizing projects and establishing
15 JEA's 5-year capital plan for water and wastewater projects, coordinating with other JEA
16 departments, and working with private development representatives to determine project
17 connection points and coordinate developer agreements.

18

19 **Q. What is the purpose of your testimony?**

20 A. The purpose of my testimony is to present information regarding the 2030
21 Comprehensive Plan of the City of Jacksonville ("Comp Plan") and City of Jacksonville
22 Ordinance 2010-874, which is the Planned Unit Development Ordinance ("PUD Ordinance")
23 for the 301 Capital Partners Development ("301 Development"), to highlight provisions of
24 the Comp Plan and PUD Ordinance that address JEA's responsibilities to provide water and
25 wastewater service throughout Duval County and to show how the provision of service by

1 the applicant, First Coast Regional Utility (“First Coast”) would be inconsistent with the
2 Comp Plan and contrary to the PUD Ordinance.

3

4 **Q. Are you sponsoring any exhibits?**

5 A. Yes. I sponsor the following exhibits:

6 SRW-1 Susan R. West Curriculum Vitae

7 SRW-2 City of Jacksonville Ordinance 2010-874 (“PUD Ordinance”)

8 SRW-3 Report of the Planning and Development Department for Application
9 for Rezoning 2010 to Planned Unit Development

10 SRW-4 City of Jacksonville Comprehensive Plan Infrastructure Element

11 SRW-5 August 9, 2019 JEA Proposal to 301 Partners

12

13 **Q. Please summarize your testimony.**

14 A. The City of Jacksonville (“City” or “COJ”) passed a PUD Ordinance for this 301
15 Development property that requires the developer to build water and wastewater facilities at
16 its own expense and then dedicate the facilities to JEA for operation and maintenance. First
17 Coast proposes an alternative to the PUD Ordinance service provisions by attempting to
18 build the water and wastewater facilities and then own and operate the facilities itself, rather
19 than dedicating them to JEA. The Application is inconsistent with the COJ Comp Plan in
20 that JEA would not be the provider and the facilities installed would not be a regional
21 system.

22

23 **Q. Please identify the City’s PUD Ordinance for the Development.**

24 A. The 301 Development is subject to PUD ordinance 2010-0874, approved by the City
25 on February 1, 2011. A copy of the PUD Ordinance is provided as Exhibit SRW-2.

1

2 **Q. What requirements does the PUD Ordinance place on the Developer's provision**
3 **of water and wastewater service to the Development?**

4 A. The PUD Ordinance on page 26 states that the Developer "shall provide, at its
5 expense, on-site treatment capacity to serve the needs of this Rural Village PUD for potable
6 water, wastewater, and reuse water at levels and to standards acceptable to JEA, to be
7 dedicated to JEA for operation and maintenance or for contract operation." Under the PUD
8 Ordinance, the Developer must then: 1) provide the water and wastewater facilities at the
9 Developer's expense, 2) build the facilities to standards acceptable to JEA, and then 3)
10 dedicate the facilities to JEA for JEA's operation and maintenance, or for contract
11 operations.

12 When the PUD was being considered, the owner stated JEA would be the provider of
13 water and wastewater service. The report of the Planning and Development Department for
14 Application For Rezoning 2010-874 To Planned Unit Development (Jan. 27, 2011) which
15 recommended approval of the PUD Ordinance, states that "[t]he owner is coordinating with
16 JEA to provide water, sewer, and electric to the area." Exh. SRW-3, p. 5. It is only recently
17 that the Developer has deviated from the PUD Ordinance and expressed a desire to provide
18 water and wastewater service itself.

19

20 **Q. How is First Coast's Application for a certificate contrary to the PUD**
21 **Ordinance?**

22 A. The Developer/Applicant First Coast desires to build the water and wastewater
23 facilities and then own and operate the facilities itself, rather than dedicate them to JEA. The
24 fact that dedication is a requirement of the Developer under the PUD Ordinance is further
25 borne out by the requirement that the facilities have to be built to JEA standards.

1

2 **Q. Is the PUD Ordinance in harmony with the City's Comprehensive Plan?**

3 A. Yes. It is in harmony with both the Sanitary Sewer and Potable Water sub-elements
4 of the Comprehensive Plan.

5

6 **Q. How is the PUD Ordinance in harmony with the Sanitary Sewer sub-element of
7 the Comp Plan?**

8 A. First, consistent with the exclusive franchise agreement between JEA and the COJ,
9 this sub-element of the Comp Plan contemplates JEA as the sole provider of wastewater
10 service. Goal 1 of the Sanitary Sewer sub-element is that "JEA shall provide for
11 economically and environmentally sound regional wastewater collection and treatment
12 systems which protect the public health and investment in existing facilities, promote
13 beneficial land use and growth patterns, and discourage urban sprawl." Exh. SRW-4, p. S2.
14 It states that "JEA shall provide . . ." service, not that "JEA and/or other wastewater utilities
15 shall provide . . ."

16 Second, this same Goal 1 states that the provision shall be for "regional wastewater
17 collection and treatment systems . . ." Exh. SRW-4, p. S2. It does not contemplate small,
18 development-specific package plants like the one proposed by the Applicant as a permanent
19 solution.

20 Third, Policy 1.1.3 states that "The JEA shall not invest in sanitary sewer facilities in
21 the Rural Area as defined in the Future Land Use and Capital Improvements Element, except
22 where necessary to protect the public health or safety, or encourage mixed use or regional
23 economic development." Exh. SRW-4, p. S2. In Rural Areas, such as this Development, the
24 Comp Plan generally prohibits JEA from investing in sanitary sewer facilities. The PUD
25 Ordinance is therefore consistent with this Policy 1.1.3 by requiring the Developer to pay for

1 the wastewater treatment facilities as part of its development costs.

2

3 **Q. How then is the Application inconsistent with the Sanitary Sewer sub-element of**
4 **the Comp Plan?**

5 A. JEA would not be the provider of wastewater service (Goal 1) and the facilities
6 installed would not be a regional system (also in Goal 1).

7

8 **Q. How is the PUD Ordinance in harmony with the Potable Water sub-element of**
9 **the Comp Plan?**

10 A. The Comp Plan Potable Water Goal 1 calls for regional facilities from JEA: “JEA
11 shall regionalize water facilities in a manner which adequately corrects existing deficiencies,
12 accommodates future growth, increases system capacity, acquires investor owned systems
13 and incorporates private package plants into the regional system, and interconnects water
14 systems where required while complying with all federal, State, regional and local
15 regulations.” Exh. SRW-4, p. PW2. This language calls for JEA, not the Developer, to
16 regionalize facilities and for the phase out of any existing private package plants.

17 Similarly, Policies 1.1.5 and 1.1.6 provide that “[n]on-regional utility water treatment
18 facilities shall continue to be phased-out and systems intertied to regional water treatment
19 facilities” and that “JEA shall continue to acquire community and/or investor-owned public
20 utility companies and integrate the systems into the regional network” Exh. SRW-4, p.
21 PW2. Both the PUD Ordinance and Comp Plan state that JEA should be the provider.

22

23 **Q. How then is the Application inconsistent with the Potable Water sub-element of**
24 **the Comp Plan?**

25 A. JEA would not be the provider and the water treatment facility would remain

1 indefinitely as a non-regional standalone facility.

2

3 **Q. Does the Comp Plan provide any alternatives for developers in this situation?**

4 A. Yes, for water. Potable Water Policy 1.1.14 provides that “New non-regional water
5 facilities may be allowed as appropriate interim facilities, provided the following
6 requirements are satisfied: 1. The facility meets all federal, State, regional and city
7 environmental regulations; 2. The developer provides for all operation and maintenance
8 costs; 3. The developer provides for phase out costs where appropriate; 4. The developer
9 enters into an agreement with JEA specifying the date and manner of phase out; 5. The
10 facility operator will reimburse JEA for costs of enforcement of violations of water quality
11 standards; and 6. Minimum fire protection levels of service as specified in Policy 1.3.1 are
12 provided for.” Exh. SRW-4, pp. PW3-PW4.

13

14 **Q. Did JEA offer the Developer this type of alternative?**

15 A. Yes. JEA proposed the construction of an initial treatment plant at the Developer’s
16 expense, followed by the transition to an expanded regional plant to be constructed at JEA
17 expense when the development progressed. See Exhibit SRW-5 for the details of this
18 proposal, which was rejected by the Developer/Applicant. In his testimony, JEA witness
19 Robert Zammataro provides additional information regarding the alternative solutions that
20 JEA has offered the developer.

21

22 **Q. Does this conclude your testimony?**

23 A. Yes.

24

25

1 BY MR. LUNNY:

2 Q Ms. West, have you attached any exhibits to
3 your prefiled testimony?

4 A Yes. There were, I believe, five.

5 Q Are those labeled SRW-1 through SRW-5?

6 A I believe so. Correct.

7 Q Okay. And any revisions to those exhibits?

8 A Two of the exhibits, I believe, had to do with
9 the PUD that has now since been amended, I think Nos. 2
10 and 3, I believe.

11 Q And have you prepared a summary of your
12 testimony as amended?

13 A Yes.

14 Q And would you please provide that to the
15 Commission?

16 A Certainly.

17 I am Susan West, a consulting engineer for JEA
18 Planning and Developmental Department. I have been at
19 JEA for seven years, and my engineering career has
20 spanned over 20 years with experience in water and
21 wastewater drainage, planning design and project
22 management as related to land development and utility
23 projects.

24 The purpose of my testimony was to present
25 information regarding the 2020 City of Jacksonville

1 Comprehensive Plan as it relates to the property landuse
2 designation in the project zoning of planned unit
3 development. Subsequent to the original testimony,
4 changes were made to both the landuse and the zoning of
5 the property.

6 First, the PUD has been modified to remove the
7 provision that developer would provide at his expense
8 on-site treatment capacity with dedication to JEA for
9 operation and maintenance.

10 Second, the property landuse has been changed
11 from agricultural to a multiuse. These changes are
12 significant in that JEA may now invest in facilities in
13 this area, which was previously required for the
14 developer to provide.

15 There is a couple -- the comp plan sanitary
16 sewer sub-element contemplates JEA as the sole provider
17 of wastewater in goal one, which states: JEA shall
18 provide regional wastewater facilities. Goal one
19 includes policies which states: JEA shall continue its
20 efforts towards the acquisition of non-regional investor
21 or community owned public utilities.

22 The comp plan does allow non-regional
23 facilities provided that the developer provides the
24 phaseout cost and specifies the date and manner of
25 phaseout. Granting this certificate is contrary to goal

1 one with JEA as the sole provider of water and
2 wastewater, and does not provide how the phaseout will
3 occur.

4 There is a very similar comp plan sub-element
5 for the potable water, which also contemplates JEA as
6 the sole provider of wastewater in goal one, which
7 states it shall -- JEA shall regional -- provide
8 regionalized water facilities, acquire investor-owned
9 systems and incorporate private package plants into the
10 regional system.

11 There is a couple of policies which state:
12 JEA shall continue its efforts towards the acquisition
13 of those non-regional investor or community owned
14 utilities.

15 Policy 1.4 -- 1.1 -- I am sorry, policy 1.114
16 allows non-regional facilities, provided that the
17 developer provides the phaseout cost, and specifies the
18 date and planner of phaseout. Granting this certificate
19 is contrary to goal one with JEA as the sole provider of
20 potable water, and does not provide how the phaseout
21 will occur.

22 **Q Does that conclude your summary?**

23 A Yes.

24 MR. LUNNY: Okay. Mr. Chairman, JEA tenders
25 Ms. West for cross-examination.

1 COMMISSIONER GRAHAM: Okay.

2 EXAMINATION

3 BY MR. WHARTON:

4 Q Good afternoon, Ms. West.

5 So I heard your modification of your
6 testimony, but am I correct that in your prefiled
7 testimony you said that the 2030 comp plan policy 1.13
8 prohibits JEA from investing in wastewater facilities in
9 the rural areas, and then you said that the 301
10 development area was in a rural area?

11 A Correct. If you read in the policy, it states
12 that JEA shall not provide -- invest in the rural area
13 except for within mixed use areas providing economic
14 development.

15 Q Well, doesn't policy 1.13 says: JEA shall not
16 invest in sanitary sewer facilities in the rural area as
17 defined in the future landuse and capital improvements
18 element, and that hasn't changed? Did the capital
19 improvements element -- future landuse and capital
20 improvements element change?

21 A The landuse has been changed from agricultural
22 to multiuse.

23 Q Well, you said the landuse. The landuse in
24 the comprehensive plan?

25 A The land -- yes. The development landuse has

1 been changed from agricultural to mixed use, or
2 multiuse. Sorry.

3 **Q And are you talking about a zoning change?**

4 A No, sir. There is two underlying -- there is
5 a landuse designation for the property and a zoning
6 designation. The landuse designation is now multiuse,
7 and the zoning designation is PUD --

8 **Q Okay. So --**

9 A -- Planned Unit Development.

10 **Q I am sorry.**

11 **So it's not your testimony that JEA can invest**
12 **in sanitary sewer facilities in the area that First**
13 **Coast proposes to certificate?**

14 A Correct.

15 **Q Are you aware of any specific plans JEA**
16 **intends to do so, or has done a feasibility analysis or**
17 **a cost analysis?**

18 A Well, I mean we've met with the developer
19 multiple times and, you know, I know that some offers
20 have been made as far as different -- several different
21 options to provide service to the area.

22 **Q When you say offer, JEA made an offer to First**
23 **Coast that First Coast could say yes to and the deal**
24 **would be done?**

25 A Well, when I say offer, I mean there has been

1 several options proposed.

2 Q Okay. Some proposals have gone back and forth
3 at various times?

4 A Sure. Correct.

5 Q All right.

6 A Yes. Yes. Yes.

7 Q Let me ask you about the real effect of your
8 testimony, and I don't mean to cast aspersions upon it
9 in that regard, but just given where we sit right here,
10 under your testimony, and under the way you read the
11 comp plan and JEA's franchise, no private utility could
12 go in there where First Coast is proposing to
13 certificate, correct?

14 A I am not -- I am not familiar with all of the
15 provisions within the franchise agreement. I just
16 looked at this from the comp plan standpoint, comp plan
17 and zoning. From the zoning standpoint, at the time of
18 the testimony, it was required that the developer
19 provide the facilities.

20 Q Am I mistaken, though, I thought you did
21 testify about the exclusivity of the franchise
22 agreement. Is it fair to say that's not your area,
23 whether it's exclusive or not?

24 A I don't see in my testimony where I discuss
25 the franchise agreement.

1 Q It's not worth running down. That's not
2 something that you intended to render an opinion on?

3 MR. LUNNY: Asked and answered.

4 COMMISSIONER GRAHAM: I don't know if she
5 answered that.

6 BY MR. WHARTON:

7 Q Ms. West?

8 A I'm sorry?

9 Q That's not something you intended to render an
10 opinion on, the exclusivity?

11 A Correct.

12 Q Okay. Am I correct that nothing in your
13 testimony is actually about First Coast? You would have
14 similar concerns about any private utility that was
15 attempting to do what First Coast is attempting to do in
16 that area? It's not something --

17 A Correct.

18 Q -- unique about First Coast? Okay. I didn't
19 mean to interrupt you, but you said correct?

20 A Correct.

21 Q Let me just -- so you are not sure, as we sit
22 here today -- actually, you were talking about the
23 franchise agreement. It -- let me rephrase my prior
24 question to you.

25 Under the comprehensive plan, and under the

1 documents other than the franchise agreement, it is your
2 opinion that no -- that the PSC could not lawful
3 certificate a utility there, or should I just say --
4 let's strike that question.

5 Am I correct that it's your opinion that, as
6 we sit here today, no private utility could be
7 certificated by the PSC where First Coast is proposing
8 without being a violation of the comp plan?

9 MR. LUNNY: Lack of foundation.

10 COMMISSIONER GRAHAM: Mr. Wharton?

11 MR. WHARTON: What was the objection?

12 COMMISSIONER GRAHAM: Lack of foundation.

13 MR. WHARTON: Lack of foundation?

14 MR. LUNNY: There is nothing in this witness'
15 prefiled direct that talks about the PSC's
16 jurisdiction in relation to comp plans and other
17 things. She --

18 MR. WHARTON: The entirety of her testimony is
19 that what we are attempting to do is a violation of
20 the comp plan, and we are a PSC utility, we are
21 trying to become one.

22 COMMISSIONER GRAHAM: I will allow her to
23 answer the question.

24 BY MR. WHARTON:

25 Q All right. And I am not trying to trick you.

1 It's a simple question.

2 Is it your opinion under the comprehensive
3 plan that any utility that was certificated by the PSC
4 in the area that First Coast is proposing to certificate
5 would be a violation of the comp plan?

6 A I don't under -- I don't know all the powers
7 of the PSC as related to the underlying zoning and
8 landuses of the City of Jacksonville as far as who has
9 more authority over an area or not.

10 Q That's fine.

11 Do you know whether or not if JEA -- do you
12 know whether or not if First Coast had accepted any one
13 of those proposals, could JEA have refused to allow
14 other entities who wanted service from the facilities
15 that were constructed to serve First Coast? Could it be
16 all dedicated to First Coast or 301's property?

17 A I am sorry, could you repeat the question?

18 Q Yeah.

19 A There was -- the audio is kind of breaking up.

20 Q Let's say that First Coast accepted one of
21 JEA's proposals.

22 A Uh-huh.

23 Q Do you know whether or not JEA can commit the
24 capacity that is being generated and transmitted under
25 that proposal to First Coast, or is it available first

1 **come first serve to the people in the area? If that's**
2 **outside your area, let me know.**

3 MR. LUNNY: It's outside the scope.

4 MR. WHARTON: Not you. No, if that's -- if
5 that's a -- yeah.

6 COMMISSIONER GRAHAM: Ms. West, if you can
7 answer the answer feel free. If it's outside your
8 scope, just say so.

9 THE WITNESS: I would say that's outside my
10 scope.

11 MR. WHARTON: Okay. That's all we have.

12 COMMISSIONER GRAHAM: Staff?

13 MS. LHERISSON: No questions.

14 COMMISSIONER GRAHAM: Commissioners?

15 I have a question, Ms. West.

16 You stated that the comprehensive plan
17 provides developers an option to build interim
18 water plants, like on page seven?

19 THE WITNESS: Correct.

20 COMMISSIONER GRAHAM: Can you walk us through
21 that? How does that happen? How does that work?

22 THE WITNESS: As in how does an interim
23 facility occur?

24 COMMISSIONER GRAHAM: I mean, for -- if they
25 are -- if they need to have water service out

1 there, and you said the comp plan allows for that
2 to happen, do they come to you and file some sort
3 of a plan? Do they go to the City Council and get
4 a plan? How do they -- how does a developer, based
5 on the comp plan -- this is the top of page seven.

6 THE WITNESS: I am not aware of one that has
7 ever occurred.

8 COMMISSIONER GRAHAM: But I am looking at your
9 page seven.

10 THE WITNESS: Okay. I don't have page numbers
11 because I just printed it so I don't know --

12 COMMISSIONER GRAHAM: The question is: Does
13 the comp plan provide any alternatives for
14 developers in this situation? And you said:
15 Yes --

16 THE WITNESS: Okay.

17 COMMISSIONER GRAHAM: -- for potable water,
18 policy 1.1.14.

19 THE WITNESS: Uh-huh. The new non-regional
20 facilities?

21 COMMISSIONER GRAHAM: Yes. So how does that
22 work?

23 THE WITNESS: Well, I would think that they
24 would first broach that subject with the City of
25 Jacksonville and with JEA. I would think they

1 would first come to JEA and ask for availability
2 for an area. And the avail-- let's say it's a, you
3 know, a large remote area, or something like that,
4 that that would get addressed during their zoning.

5 And I think in this case, it may be that
6 that's how that original provision was added to the
7 PUD, to the zoning; that, at that point, it was the
8 developer will provide the utility -- provide the
9 facilities at its expense and dedicate it to JEA
10 for operation and maintenance.

11 COMMISSIONER GRAHAM: So -- but now the PUD is
12 already -- now that the rezoning is already done,
13 the PUD has already been issued, how do you go
14 back, based on the comp plan, and do something like
15 this on an interim basis? Can you?

16 THE WITNESS: That would be initiated with the
17 City of Jacksonville.

18 COMMISSIONER GRAHAM: Now, was this --

19 THE WITNESS: JEA is not the author of the
20 comp plan. The City of Jacksonville is.

21 COMMISSIONER GRAHAM: I realize that, but you
22 were the expert for the comp plan.

23 THE WITNESS: Well, I have never been involved
24 with one that actually happened.

25 COMMISSIONER GRAHAM: Now, is this just

1 potable water, or does this also include -- can you
2 do the same thing with wastewater?

3 THE WITNESS: Yes.

4 COMMISSIONER GRAHAM: Okay. That's all the
5 questions I had.

6 Redirect?

7 MR. LUNNY: Sure.

8 FURTHER EXAMINATION

9 BY MR. LUNNY:

10 **Q Picking up on that, Ms. West, is it your**
11 **understanding that under policy 1.14, if there was a new**
12 **non-regional water facility, that there would have to be**
13 **a provision for phaseout costs, and that the developer**
14 **would have to enter into an agreement with the JEA**
15 **specifying the date and manner of the phaseout?**

16 A Yes, those are two provisions under the
17 allowance of those facilities.

18 MR. LUNNY: That's all I have.

19 COMMISSIONER GRAHAM: Okay. Exhibits?

20 MR. LUNNY: JEA would ask to move in Exhibits
21 18 through 22.

22 COMMISSIONER GRAHAM: Any objections to that?

23 Seeing none, we will enter those into the record.

24 (Whereupon, Exhibit Nos. 18-22 were received
25 into evidence.)

1 was called as a witness, having been previously duly
2 sworn to speak the truth, the whole truth, and nothing
3 but the truth, was examined and testified as follows:

4 EXAMINATION

5 BY MR. WHARTON:

6 Q Mr. Beaudet, would you state your name and --
7 just state your name. You have already given your
8 business address previously.

9 A Yes. My name is Bevin Beaudet.

10 Q And have you caused rebuttal of prefiled
11 testimony to be filed in this case?

12 A Yes, I did.

13 Q And if I asked you the same questions today
14 that I asked you in your prefiled rebuttal testimony,
15 would your answers be the same?

16 A No, there would be two differences.

17 Q All right. Do you have corrections or
18 modifications to your testimony?

19 A Well, one that I stated in my direct testimony
20 was the nearly quadrupling of the connection fees that
21 JEA has accomplished since the submittal of the rebuttal
22 testimony. And the other is -- and I have actually
23 spoken with JEA about this -- is that reducing the
24 planning number for gallons per ERC based on current
25 trends and new developments and water conservation. So

1 what that does is extends the life of the facility some,
2 you know, for whatever size it's built to.

3 **Q Okay. Did you cause prefiled exhibits to be**
4 **filed along with your prefiled rebuttal testimony?**

5 A Yes, I did.

6 **Q Comprised of Exhibits 23, 24, 25 and 26?**

7 A That's correct.

8 **Q All right. Do you have a summary for your**
9 **testimony?**

10 A Yes, I do.

11 First I want the Commission to know that I
12 have been directly involved in many public to private
13 and private to public acquisitions. I am very familiar
14 with them. And I am also -- my experience has been that
15 they are very rewarding for the acquiring entity.

16 I rebutted Mr. Zammataro's assertion that 60
17 acres was insufficient for a plant to 4 mgd size water
18 and wastewater and reuse, and I gave numerous examples
19 of plants that are much larger on smaller properties.

20 I pointed out that the standards to which this
21 plant is being planned are going to meet and/or exceed
22 JEA standards. They are going to be very similar to Ave
23 Maria Utility Company in Collier County, which were used
24 as an example of the standard of facilities that we
25 want.

1 I pointed out that there is storage and
2 augmentation provided for in the plan by large drainage
3 lakes that are going to be built there. And I also gave
4 more information about the possible delays that could
5 occur if we had to cross railroad tracks and U.S. 301
6 for the project.

7 **Q Does that conclude your summary?**

8 A Yes, it does.

9 MR. WHARTON: We would move Mr. Beaudet's
10 prefiled rebuttal testimony into the record as so
11 read.

12 COMMISSIONER GRAHAM: We will enter
13 Mr. Beaudet's prefiled direct rebuttal testimony --
14 prefiled rebuttal testimony into the record as
15 though read.

16 (Whereupon, prefiled rebuttal testimony of
17 Bevin A. Beaudet was inserted.)

18

19

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original Certificate of
Authorization and initial Rates and Charges for
Water and Wastewater Service in Duval, Baker,
and Nassau Counties, by First Coast Regional
Utilities, Inc.

Docket No.: 20190168-WS

REBUTTAL TESTIMONY

OF

BEVIN A. BEAUDET

ON BEHALF OF

FIRST COAST REGIONAL UTILITIES, INC.

1 **Q. Please state your name.**

2 A. My name is Bevin A. Beaudet.

3 **Q. Are you same Bevin A. Beaudet that provided pre-filed direct testimony in this case?**

4 A. Yes, I am.

5 **Q. In his direct testimony, JEA Witness Orfano describes the JEA system as having 20**
6 **major water plants, 18 small water plants, and 11 wastewater treatment plants. Many**
7 **of those systems were acquired by JEA, or its predecessor, the City of Jacksonville, over**
8 **the years. Do you consider yourself qualified to discuss the manner and method of**
9 **development and acquisition, in general, of private and public water and wastewater**
10 **utility systems throughout the state of Florida?**

11 A. Yes.

12 **Q. Why is that?**

13 A. Over the course of my career, I have been involved in the development of many private and
14 public utility systems in the State of Florida, including the sale and purchase of private utility
15 systems by governmental entities both in my capacity as Utility Director for Palm Beach
16 County and as a consulting professional engineer.

17 **Q. Describe in general the practice.**

18 A. Throughout Florida, especially along the coast and in and around the major cities, private
19 utilities were constructed by developers or groups of developers to provide service to
20 developments and lands wherein service was not available from the host municipality or
21 county. In general, utilities were designed and built to provide service to lands that were not
22 otherwise served, and the only way that the developer could move his/her project forward
23 was to construct these systems. Of course, all of these systems lost money for the first several
24 years due to their capital-intensive nature and the fact that the system had to be built in
25 substantial segments, with little or no cash flow coming in to support them. As the systems

1 grew, over time, they eventually reached a point where they had amassed a customer base
2 sufficient to generate significant income from operations. At that point, or thereafter, it made
3 economic sense for the host unit of government to acquire these systems based upon their net
4 cash flow as hypothecated against, in general, a 30-year revenue bond. Cities and counties
5 have distinct advantages over private utilities inasmuch as their cost of borrowing is lower
6 and they are immune from the payment of income and property taxes. As such, the host
7 government could acquire these systems and the model was fair to both sides. It was fair to
8 the owners as it offered them an opportunity to recover their investments in the system and,
9 hopefully, earn a return thereon and it was fair to the host unit of government in that the
10 purchase price and at least a portion of any needed capital projects, would digest themselves
11 from its own revenue, without the need of tax payer or customer support.

12 **Q. Tell us how this model has worked for systems that you have personally been involved.**

13 A. In all of the systems that I was involved with, the net result was that it was a good acquisition
14 for the unit of government, and they were cash positive to the buyer. This was the case, for
15 example, in several systems that I have been involved with such as the purchase by Palm
16 Beach County of Century Utilities; the purchase of Meadowbrook by Palm Beach County;
17 the purchase of the residual and future interest of Regional Utilities by Palm Beach County;
18 the purchase of Seacoast Utilities by the Seacoast Utility Authority; the purchase by the City
19 of Gulf Port, Mississippi of the Orange Grove Utility System; the purchase by Palm Beach
20 County of the water and wastewater assets of the Village of Royal Palm Beach; and the sale
21 of North Fort Myers Utility in Lee County to the Florida Governmental Utility Authority.

22 Further, I know from my own study and experience with Scott Kelly that the JEA received a
23 significant growth spurt in 2001 when it completed the largest water and wastewater deal in
24 the history of Florida, which was the purchase by the JEA of the assets of United Water
25 Florida for its systems in Duval, Nassau and St. Johns Counties. A similar pattern occurred

1 in neighboring Clay County when it acquired the assets of Kingsley Service Company, Clay
2 Utilities and Mid-Clay Utilities. The acquisition of those three systems by the County lead
3 to the creation of the Clay County Utility Authority, which is, in my view, an exemplary
4 public utility.

5 **Q. Mr. Beaudet, do all of these purchases and sales have anything in common?**

6 A. Yes. In all such instances, there was an original developer who took the risk to invest in the
7 private system and the ultimate governmental purchaser in each case benefitted by being able
8 to acquire those systems when they had matured, based upon their bonding capacity
9 supported by net cash flow, which, in several instances, also included being able to pay for
10 significant capital upgrades out of the net bonding capacity of that cash flow.

11 **Q. JEA Witness Robert Zammataro has testified to the effect that the proposed First Coast
12 plant site is not adequate for the construction of a wastewater treatment plant with 3.8
13 million gallons per day (“MGD”) of ultimate demand capacity of the 301 Capital
14 Partners’ (“Partners”) project as currently entitled, and that the future addition of the
15 Chemours’ land will only make the situation worse. How do you respond to that?**

16 A. In my long experience in Florida, I find this to be a specious argument at best. There are
17 scores of combined water/wastewater treatment facilities in Florida, private and public, which
18 are 4.0 MGD or greater located on far less than the 40-acre site proposed for First Coast’s
19 facilities in the Feasibility Assessment. Figure-8 Utilities Site Plan Layout on page 19 of the
20 Feasibility Assessment shows both Phase I and Phase II (2.0 MGD) of the proposed First
21 Coast treatment facility. These facilities, including an administration/control building, roads
22 and parking lot to serve both phases, require approximately 8-acres of land and are sited to
23 allow for environmental setbacks of 100 feet from wetlands.

24 I have projected the ultimate build out demand conservatively at 4.0 MGD, not 3.8 MGD as
25 Mr. Zammataro has calculated based on the assumption of 270 g/per ERC per day used in the

1 Engineering Assessment, and this additional capacity will be available to serve the Chemours
2 property. Additionally, data from the St. Johns River Water Management District
3 (“SJRWMD”) show that gross per capita daily water demand to be decreasing over the past
4 several years and their goal, backed up by their recently issued and/or modified Consumptive
5 Use Permits, will result in an even lower per capita demand and free up additional capacity
6 for future development beyond the entitled area and Chemours. Mr. Zammataro’s contention
7 that calls into question FCRU’s commitment to serve the requested area is without merit and
8 represents a highly biased speculation.

9 **Q. Mr. Zammataro states in his direct pre-filed testimony that developer-built, standalone**
10 **systems are likely to have operational issues that will require assistance from the JEA,**
11 **are short-lived and are basically unsustainable in the long run and implied that this**
12 **would be the case for FCRU’s facilities if they are built as standalone systems. Mr.**
13 **Beaudet, how would you, in your professional opinion, respond to that?**

14 A. Mr. Zammataro’s claim is without merit. In my experience, it is true that while many
15 developer-built standalone facilities are problematic and short lived, this is only true of
16 facilities that are cheaply built. In utility parlance, these are called “package plants” which
17 are essentially off-the-shelf field erected steel plants with inexpensive pumps, valves, piping
18 and other key appurtenances. This is not the case with developer-built plants that are
19 designed and constructed to a high standard, such as the proposed FCRU facility. The FCRU
20 facility is planned to be a long term, sustainable facility. First of all, the FCRU plant,
21 potentially envisioning acquisition by JEA at some time in the future, is planned to be built
22 strictly to JEA standards. Major structures are planned to be built as concrete structures, not
23 field erected steel. The FCRU plants will be equipped with only the highest value pumps,
24 valves, instrumentation as well as other key appurtenances. The direction that I received
25 from my client, the Partners, was to conceptually plan a facility of the highest quality and

1 long-term sustainability. At the beginning of my consultancy, I explained to the Partners that
2 the facility could be built much less expensively by lowering the standard to one that would
3 be regulatorily acceptable at the minimum, and this was soundly rejected by my client.

4 There are numerous private water/wastewater utilities in Florida that rebut Mr. Zammataro's
5 implication that all private utilities, including the future FCRU utility, are poorly built and
6 operationally unreliable. I will give two as an example.

7 The first is Seacoast Utility Authority located in Palm Beach Gardens and serving that city
8 as well as all or part of the Villages of North Palm Beach, Juno Beach, Lake Park and parts
9 of unincorporated Palm Beach County, which now jointly own and operate the utility as a
10 governmental authority under an Interlocal Agreement. In the late 1960's, John D.
11 MacArthur owned much of the undeveloped land in Northeast Palm Beach County. He began
12 to develop this land and built what became Seacoast Utilities to serve that development. The
13 utility was built to a high and sustainable standard, as there was no nearby municipality
14 available to serve this large property, nor was Palm Beach County Utilities close enough to
15 serve it. The utility was constructed and operated as the permanent utility for Mr.
16 MacArthur's development, with no consideration for future sale to any governmental entity.
17 Seacoast Utility served its fast-growing population for over 20 years, in a highly regarded
18 manner by its customers and regulatory authorities. Upon Mr. MacArthur's death in 1978,
19 ownership of the utility passed to the John D. And Catherine T. MacArthur Charitable
20 Foundation. The Foundation was prohibited by law to be in an active (as opposed to passive)
21 business, so it put the utility up for bid in 1986. For two years, the County, Palm Beach
22 Gardens and three national private water and wastewater utilities fought over ownership. In
23 1988, the Foundation agreed to sell the utility to a newly created governmental authority
24 named the Seacoast Utility Authority, whose board is comprised of appointees from the four
25 cities and Palm Beach County due to the unincorporated county area that it serves. At the

1 time of transfer, Seacoast Utilities had little deferred maintenance nor significant capital
2 improvement needs. I have personal knowledge of this because I was the Utility Director at
3 Palm Beach County in 1988. Robert Weisman, former Palm Beach County Administrator
4 and my direct superior, served on the Seacoast Utility Authority Board from its inception
5 until his retirement in 2016 and kept me apprised of the details and successful results of the
6 acquisition.

7 The second and more current example is Ave Maria Utility Company (“AMUC”) in
8 Northeastern Collier County, Florida. This example is remarkably close in situational
9 circumstances as First Coast. In the late 1990’s, the Barron Collier Company, along with
10 associated investors, owned a similar sized parcel of undeveloped land in Collier County.
11 The cost to connect to Collier County Utilities was far too high and impractical. In the early
12 2000’s, AMUC was granted Certificates by the Collier County Utility Authority for its own
13 service area to provide water and wastewater utilities. AMUC decided to build a standalone
14 utility to a high standard of quality and sustainability as is planned for First Coast. In 2003,
15 I was personally involved in the infancy of AMUC as the Florida Manager for CH2M Hill,
16 who was selected as their Design/Build/Operate engineering firm. I can state unequivocally
17 that AMUC expected to be the utility provider for this large development for the long run,
18 and in their contract negotiations with CH2M Hill, made clear that the facilities be
19 constructed accordingly and without unreasonable cost as a limitation. Photos of the AMUC
20 facilities are attached as Exhibit BAB-4.

21 Not only is AMUC a prime example of a sustainable small private utility, but it is also an
22 award winning one. The list of awards won by AMUC:

23 2008 – Design Build Institute of America – National Design-Build Awards Competition for
24 Water/Wastewater Facilities over \$15 million – Merit Award.

25 2010 – American Water Works Association – Best Tasting Drinking Water – Florida

1 2013 – FDEP Plant Operations Excellence Award.

2 2014 – American Water Works Association – Best Tasting Drinking Water – Florida.

3 Another fact to consider is the benchmark of sewer system overflows (SSOs) during extreme
4 weather conditions. During Hurricane Irma, AMUC did not experience a single SSO.
5 AMUC was the only utility in Collier County which did not experience SSOs during Irma.
6 In contrast, according to JEA, Consent Orders 06-1796 (as amended July 10, 2017) for
7 Hurricane Matthew and 17-210 for Hurricane Irma, JEA experienced 121 SSOs which
8 impacted surface waters in violation of FDEP rules.

9 These examples are used to demonstrate that a private utility built and operated to a high
10 standard are perfectly suitable to long-term sustainable operation without the assistance of a
11 neighboring publicly owned utility. This is the standard to which FCRU is planning to
12 construct its standalone utility.

13 **Q. Mr. Beaudet, JEA witnesses testified to the effect that First Coast standalone utility**
14 **facilities would deny its customers the reliability benefits of not being connected to the**
15 **JEA system. How would you respond to that?**

16 A. The First Coast system is between 7 and 22 miles from the JEA pipelines, which currently do
17 not have the capacity to meet FCRU's ultimate demand. If, at some point in the future, JEA
18 builds closer facilities or upgrades the capacities of their existing plants and pipelines, and
19 both parties feel it is advantageous to do so, they would be able to interconnect to FCRU's
20 standalone utility with a simple interconnect agreement with FCRU. Also, First Coast's
21 wastewater treatment plant is planned for Class I reliability, which means that the plant will
22 operate at 75% capacity with one or more major treatment units out of operation. This design
23 will provide substantially increased reliability of the standalone facility.

24 Further, JEA's operational record of its water grid and wastewater collection system also calls
25 into question the additional reliability that JEA interconnection would provide. Attached to

1 this rebuttal testimony as Exhibit BAB-5 is the Management Presentation that JEA executives
2 presented to the Jacksonville City Commission in December, 2019. Pages 72-73 show
3 metrics for water outages, low pressure occurrences, sanitary sewer overflows and
4 wastewater effluent standards exceedances that compare poorly with American Waterworks
5 Association and the Water Environment Federation national benchmarks. Note that the
6 metrics contained in this presentation do not include over a hundred SSOs that have occurred
7 during Hurricanes Matthew and Irma, for which JEA is under Consent Orders to correct at
8 high expense. These reliability problems are clearly due to the age, condition and lengthy
9 pipelines of JEA's highly decentralized system.

10 **Q. In his direct testimony, Mr. Zammataro claims that your Feasibility Assessment lacks**
11 **plans for seasonal storage of reclaimed water, or augmentation for the dry season. Can**
12 **you discuss this?**

13 A. Phase I is planned for 100% reuse of reclaimed wastewater. The Engineering Feasibility
14 Assessment describes and costs out, according to FDEP rules, a 3 MGD reclaimed water
15 storage tank sufficient to store 3 days of reclaimed water. Since the projected demand of
16 Phase I at buildout is 756,000 gpd, the actual storage time at full capacity is essentially 4
17 days. During the first few years of the development, however, storage time provided by the
18 tank will be many more than 4 days. The development will be accomplished in pods, with
19 each pod requiring a storage pond for drainage and stormwater retention purposes.
20 Consequently, FCRU will have these storage ponds available to store additional reclaimed
21 water. Such storage of reclaimed water is routinely permitted by FDEP, particularly given
22 the low level of nutrients that will be in the reclaimed water. The ponds will be constructed
23 by the third-party developers of each pod. Since the retention ponds are required regardless
24 of their potential use of storing additional reclaimed water, the cost accrues to the third-party
25 developers, not FCRU and thus this additional storage was not included as a cost in the

1 Assessment. In my experience, the treatment facilities in Phase I can be permitted by FDEP
2 based on the large amount of storage available, particularly in Phase I. Should an alternate
3 disposal system be necessary for future phases, this can be addressed at the appropriate time.
4 Regarding augmentation, dry season augmentation is not a requirement for permitting of a
5 reclaimed water system, it is a function of the contract between FCRU and the property
6 owners. The on-site and drainage pond storage will mitigate much of this requirement for
7 augmentation, and during prolonged dry periods, the reclaimed water can be rationed by
8 contract. This is the case in Palm Beach County Utilities where reclaimed water demand, as
9 is generally the case, is that the need is greater than the amount of reclaimed water available.
10 As the development progresses into later phases, the issue of augmentation can be revisited
11 at the discretion of FCRU, and as Mr. Zammataro has correctly pointed out in his testimony,
12 such augmentation is routinely permitted by the Water Management Districts.

13 **Q. In his direct testimony, Mr. Zammataro claims that your Feasibility Assessment did not**
14 **include the piping costs for distributing reclaimed water. Can you explain why you did**
15 **not include those costs?**

16 A. The cost of connecting the reclaimed water lines to the plant's major line is a cost to be paid
17 for by the third-party developers, not a cost incurred by FCRU, as is common practice.

18 **Q. In his direct testimony, Mr. Zammataro states that your Feasibility Assessment is**
19 **flawed because it only compares the cost of onsite treatment facilities to the option JEA**
20 **presented at the April 9, 2019 meeting between FCRU representatives and JEA staff.**
21 **Can you discuss this and any other options presented to either to you, the Partners, or**
22 **other representatives of FCRU?**

23 A. Of course. At the April 9, 2019 meeting, the option presented in writing by JEA to the
24 Partners can be summarized thusly:

25 1. JEA constructs a new regional wastewater treatment plant on JEA owned land

- 1 (the Peterson Tract) Northeast of the CSX Railyard;
- 2 2. FCRU would connect both wastewater and reclaimed water lines to the new
- 3 plant, with both lines having to be tunneled under the CSX tracks and four
- 4 lanes of US 301;
- 5 3. FCRU would build a 1.0 MGD water treatment plant on its property with a
- 6 future connection to the existing JEA system needed for redundancy.
- 7 Alternatively, First Coast could connect to a remote JEA existing system by
- 8 installing approximately 25,500 LF of 16" water main which would limit
- 9 capacity to 3,000 units before needing a storage and repumping facility.

10 The cost to FRCU of this option was estimated by JEA at \$39 million to be paid for by raising

11 JEA's standard capacity fee from \$3,300 per unit to \$13,000 per unit. The Assessment Report

12 rejected this option in favor of full onsite facilities based on Cap x alone, the difference being

13 \$12 million more than the \$27 million cost of First Coast stand-alone onsite utilities.

14 Operating costs of pumping wastewater and reclaimed water to and from the new regional

15 plant to JEA's point of connection on Normandy Blvd. would only add to the Net Present

16 Value cost of JEA's alternative so operating expenses were not calculated nor presented in

17 the report.

18 When I was first contracted to prepare the Engineering Assessment, the only JEA option on

19 the table, presented verbally to FCRU representatives, was interconnection of water

20 distribution and wastewater lines 39,000 feet (not 25,500 feet as Mr. Zammataro claims in

21 his testimony) from the Partner's development to JEA's point of connection on Normandy

22 Boulevard to serve 2,800 ERC's. Note that this option, presented by Mr. Zammataro as

23 Option (1) in his direct testimony, makes no provision for availability of reclaimed water as

24 JEA's closest source of reclaimed water is over 20 miles away originating at JEA's Southwest

25 Regional Plant. I did perform a cost analysis of this option but did not include it in the report.

1 A summary of the cost of this option is presented here:

- 2 1. The cost of the interconnecting water and wastewater pipelines, including
3 necessary in-line pump stations, assuming that JEA would upsize the pipeline
4 to serve future customers along Normandy Boulevard and along the east side
5 of the US 301 corridor is \$19,951,000. As previously pointed out, these lines
6 must cross two critical tracks of the CSX railroad and four lanes of US 301,
7 adding cost to the pipeline. I have attached a table to this rebuttal detailing
8 the cost estimate as Exhibit BAB-6.
- 9 2. The above cost does not include engineering costs for design and construction
10 management which would add another 25% bringing the total cost of the
11 pipeline to \$24,939,000.
- 12 3. When the connection fees of \$3,300 per ERC for 2,800 ERC's are added to
13 the pipeline cost, the total cost to the developer is over \$34 million -- far
14 higher than the \$27 million cost of stand-alone onsite treatment facilities.

15 Mr. Zammataro's Option (2) referenced in his direct testimony has not been cost estimated
16 at this time since the exact location of the proposed new regional wastewater treatment plant
17 and its Point of Connection have not been identified. I have no reason to believe that this
18 cost would not be substantially close to the cost of Option (1). The water line would still
19 have to be constructed to the Normandy Boulevard Point of Connection. While the
20 wastewater line might be shorter, an additional reclaimed water line would be needed to
21 return to the FCRU property. This option also involves *two* crossings of US 301 and the CSX
22 Railroad tracks.

23 Mr. Zammataro's Option (3) for the developer to construct all facilities onsite and dedicate
24 them to JEA has been soundly rejected by my client in his Rebuttal Testimony and will not
25 be discussed further in my testimony.

1 In my comparison of costs between alternatives, the Engineering Assessment Report focused
2 on comparing Cap x costs only, since the capital cost advantage of onsite facilities is so
3 significant. I question, however, why JEA, in doing a full business case themselves, does not
4 look at life cycle costs. A Life Cycle Cost Analysis or Net Present Value Analysis would
5 show the true actual cost to the owner including operation and maintenance costs over the
6 life of the system or the life of the bonds required to construct the facilities. I have done a
7 quick Life Cycle Cost Analysis of Option (1) shown in the attached table as Exhibit BAB-7.
8 My assumptions are listed as notes in the table. I reduced the pipe size for the analysis to
9 show only those costs accruable to my client. The analysis shows the Net Present Value of
10 the operating expenses for Option (1) over 30 years to be \$3,648,000. When added to the
11 Cap x of Option (1), the total cost of that option becomes \$28,587,000. The additional \$3.6
12 million, which will have to be paid by all JEA customers, is completely avoidable if FCRU
13 is awarded a certificated service area and builds onsite facilities.

14 Also, as stated in the Engineering Assessment, there are environmental consequences of
15 pipelines crossing canals, creeks and wetlands. There is also the high carbon footprint of
16 pumping water and wastewater long distances in pipelines that are not needed if FCRU builds
17 all facilities onsite.

18 **Q. Did JEA indicate in the April 9, 2019 meeting that JEA could not provide wastewater**
19 **services to the proposed territory for at least five years?**

20 A. Yes. JEA's notes of the April 9, 2019 meeting state that its schedule for the wastewater
21 facility "is roughly 5 years; siting, permitting, design and construction." This 5-year timetable
22 was confirmed to me by Mr. Zammataro during our February 14, 2019 meeting.

23 **Q. Do you believe that to be accurate?**

24 A. Yes, assuming there are no issues that arise during the process.

25 **Q. Why is that?**

1 A. Because in order to construct the necessary facilities JEA must, as a municipally owned entity
2 in Florida, follow a time-consuming process to get from the idea of serving to actually being
3 able to serve the territory.

4 **Q. Are you familiar with the general process that municipal or county utilities must follow**
5 **for major utility infrastructure?**

6 A. Yes, I am.

7 **Q. How did you become familiar with that process?**

8 A. Both as Palm Beach County Utility Director and during my many years as a consulting
9 engineer with large, international firms, I was directly involved with the procurement,
10 planning, design, bid and construction of major infrastructure, including regional treatment
11 plants and large pipeline infrastructure. It should be noted that the Palm Beach County
12 Utility's process was very efficient compared to other municipalities or counties where the
13 process can take much longer.

14 **Q. Based on your experience, please explain the steps necessary for getting a new water or**
15 **wastewater plant approved, budgeted, and constructed, and the time you have observed**
16 **for each step.**

17 A. It is necessary to understand that under Florida law, no money can be spent on a major project
18 without being funded in the utility's budget. Before money can be budgeted, a study must be
19 performed to develop the budget estimate. This task is usually given to the utility's general
20 consulting engineer and, in my experience, the minimum time for the engineer to develop a
21 planning level budget estimate would be three months. Once the required budget is
22 developed, it needs to be placed in the utility's approved fiscal year budget. The budget
23 process is an annual one, based on the utility's fiscal year. This budgeting process adds 12
24 months to the time frame for the project. These 12 months could be shortened only if the
25 utility has sufficient money in reserves to fund the project. My review of JEA's budget and

1 current FY 2020 Capital Plan does not show such reserves and Mr. Zammataro told me
2 personally in our meeting on February 14, 2020 that JEA has neither planned for nor
3 designated specific funding for a regional plant project available to serve FCRU. If JEA
4 needs to issue bonds to pay for the project that could add another six months or more to the
5 project. Once the project is approved in the Capital Plan, a design engineer must be selected
6 under the Florida Consultants' Competitive Negotiating Act. In order to have a design
7 engineer ready to put pencil to paper, the utility must develop a scope of services, publish the
8 project, give bidding entities time to prepare responses, review the responses, interview short
9 listed engineers, and negotiate and award a contract with the selected engineer. This is
10 generally at least a six-month process. The design of a project as large as a regional treatment
11 plant would take a minimum of another 12 months. The project must be bid, bids reviewed,
12 and the project approved by the utility's governing board. This is generally at least a three-
13 month process. An absolute minimum of 24 months of construction needs to be added to the
14 process. When these time frames are added up, not including time for bond issuance, the
15 typical time frame adds up to 60 months or 5 years. In our meeting referenced above, Mr.
16 Zammataro agreed that a regional wastewater treatment plant available to serve FCRU would
17 be approximately five years away, should it be approved.

18 **Q. Are there any issues that could arise that would add additional time to this process?**

19 A. Yes. There are some additional wild cards that in my experience could delay the project even
20 further. The first is a potential bond issuance. The second is dealing politically with
21 neighboring property owners who could take a "not in my backyard" position that would need
22 to be dealt with politically. The third, and very probable wild card, is a long delay in the CSX
23 Railroad issuing a permit to construct large connecting pipelines from a regional plant to
24 FCRU under two of their most critical railroad tracks in Florida. CSX has a reputation across
25 Florida in delaying permits, which by federal law they have total prerogative over. The

1 pipelines would also have to go under US Route 301, which involves another federal permit
2 as well as several long stretches of environmentally sensitive land for which permits would
3 be required from FDEP.

4 **Q. So, in your opinion the estimated five-year projection is most likely the absolute**
5 **minimum?**

6 A. Correct. I would not be surprised if the timing were pushed back at least one year, and
7 possibly further beyond the five-year estimate.

8 **Q. In your Feasibility Assessment you stated that FCRU could design, permit and**
9 **construct the necessary water, wastewater and reclaimed water facilities in**
10 **approximately 30 months. Can you explain how you calculated that schedule?**

11 A. The 2 1/3-year design and construction schedule is based on many years of experience in
12 Florida by both myself and Globaltech Design/Builders, my sub-contractor for the
13 Engineering Assessment. The delivery method of design build expedites project completion,
14 and as private developers, the time-consuming bureaucracy required by government agencies
15 is not required.

16 **Q. Does that conclude your testimony?**

17 A. Yes, it does.

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1 MR. WHARTON: Tender for cross.

2 MR. CRABB: We have one cross exhibit for Mr.
3 Beaudet.

4 COMMISSIONER GRAHAM: Sure. We'll go ahead and
5 give this Exhibit 71 -- I am sorry, 72, so my
6 attorneys don't yell at me.

7 (Whereupon, Exhibit No. 72 was marked for
8 identification.)

9 EXAMINATION

10 BY MR. CRABB:

11 Q Mr. Beaudet, do you have a copy of your
12 rebuttal testimony?

13 A I am sorry, could you speak a little louder,
14 please?

15 Q Mr. Beaudet, do you have a copy --

16 MR. WHARTON: Can we get a copy of the
17 exhibit?

18 MR. CRABB: I'm sorry, I thought that you
19 already had it.

20 MR. WHARTON: Thank you.

21 BY MR. CRABB:

22 Q Mr. Beaudet, do you have a copy of your
23 rebuttal testimony in front of you?

24 A Yes, I do.

25 Q I would like to turn your attention to the

1 bottom of page one and top of page two for a moment.

2 Bottom of page one and top of page two of your
3 rebuttal testimony, you testify about the development of
4 private utilities by developers and subsequent sale of
5 those utilities to a governmental entity, is that
6 correct?

7 A Yes, I did.

8 Q And what relation does that testimony have to
9 this case?

10 A I was asked in interrogatories this question,
11 so you might have to be the one to tell me its
12 relevance.

13 Q So this rebuttal testimony was not intended to
14 rebut prefiled direct testimony of JEA?

15 A I was asked in interrogatories what type of
16 experience that I had in acquisition of private
17 utilities by public utilities, and vice-versa. And I
18 answered it by basically stating tremendous amount of
19 experience, both as a public entity acquiring a private
20 utility, and as a consultant for a private utility
21 selling to a public entity. I have also been involved
22 in several public to public mergers.

23 Q Is the plan in this case with First Coast that
24 First Coast intends to build a system and then sell is
25 it to JEA, or some other governmental entity?

1 MR. WHARTON: Objection. It's outside the
2 scope. If you go further up the page here you can
3 clearly see why he was talking about that subject
4 in his prefiled testimony. Orfano talked about at
5 so he talked about it. Now we are getting into
6 whether there is some secret plan to settle with
7 JEA, and this witness didn't talk about anything
8 conceivably within that scope.

9 MR. CRABB: Commissioner, he testifies
10 extensively about this concept of developers
11 building systems and then selling them to
12 governmental entities, and then how that's
13 financially advantageous to the parties to do that,
14 I would like to ask just a few questions about
15 that.

16 COMMISSIONER GRAHAM: I will allow the
17 question.

18 BY MR. CRABB:

19 **Q So, again, sir, is that the plan here, that**
20 **First Coast intends to build a system and then sell it**
21 **to JEA or some other governmental entity?**

22 A As their engineer, I have not been privy to
23 the details of their goals. However, in many meetings
24 with the partners, I have been told that they want to be
25 able to pursue all their options, whether that includes

1 running their own utility for the far future in a
2 sustainable manner like Ave Maria Utility Company, for
3 instance; or whether that means being able to sell the
4 utility to JEA after some period of operation. So I
5 know that they were considering both options, but if you
6 are asking me which one that was their primary goal, I
7 can't answer that.

8 **Q Okay. I would like to turn your attention to**
9 **the one exhibit that I provided. Have you seen this**
10 **document before?**

11 **A Yes, I have.**

12 **Q And would you agree that this document is an**
13 **offer from First Coast to give JEA an option to purchase**
14 **the assets of First Coast in the future at a purchase**
15 **price derived from the bonding capacity of gross**
16 **revenues of the system?**

17 **A I would not characterize this as an offer. I**
18 **would characterize this as a potential model to be used**
19 **if that were a decision to be made between the parties.**

20 **Q This document, to your understanding, was**
21 **provided by First Coast to JEA?**

22 **A I am sorry?**

23 **Q Is it your understanding that this document**
24 **was provided by First Coast or counsel for First Coast**
25 **to JEA?**

1 A And again, this is attorney to attorney
2 correspondence. I believe that there was discussion
3 about a purchase, and I believe that it is my
4 understanding, which is probably hearsay, that there was
5 a request for JEA to say what -- if we were going -- if
6 you were going to sell it to us, what would be -- what
7 would be the terms? How would it be done? And this is
8 what they call the Martin Downs model, which is very
9 famous in Florida. It's used everywhere. Nothing
10 special about this. And I guess, again, I saw the
11 memorandum. I didn't see the transmittal letter from
12 Mr. Harden, so I didn't know who gave it to who.

13 **Q It should be the first page of the exhibit,**
14 **page one of four, letter addressed to Aaron F. Zahn,**
15 **Managing Director and CEO of JEA.**

16 A Right. I have never seen this letter.

17 **Q Okay. So to clarify, you have seen the**
18 **memorandum of understanding but not --**

19 A That's correct --

20 **Q -- the cover letter?**

21 A -- yes.

22 **Q And then if I could quickly turn your**
23 **attention to that memorandum of understanding, paragraph**
24 **number seven on the last page. Would you review that**
25 **for a moment and refresh your recollection of that?**

1 A All right. Well, again, this just shows you
2 that First Coast is exploring all other options, you
3 know, and one of the options would be to form a
4 community development district and then sell the utility
5 to the community development district. So they are
6 maintaining an open option in this memorandum to do
7 that, so I think it makes the point that they are not
8 focusing on a sale to JEA. They are looking at all
9 their options.

10 **Q Okay. So you would agree that this paragraph**
11 **contemplates the potential sale of the system to a**
12 **community development district before JEA's option would**
13 **mature?**

14 MR. WHARTON: Objection. It calls for a legal
15 conclusion. This paragraph contemplates --

16 COMMISSIONER GRAHAM: I will agree with the
17 objection.

18 THE WITNESS: Do I have to answer?

19 COMMISSIONER GRAHAM: No.

20 THE WITNESS: Okay.

21 BY MR. CRABB:

22 **Q Okay. I would like to turn your attention to**
23 **page five of your rebuttal testimony, on line number**
24 **four.**

25 A Okay.

1 Q And on this line you provide testimony to
2 rebut what you describe is an implication of Mr.
3 Zammataro's testimony, that private utilities are poorly
4 built and operationally unreliable; is that correct?

5 A What I said was I don't disagree with his
6 premise that that's true in some cases. I don't believe
7 that that's true in all cases.

8 Q So you would agree with the general
9 proposition, not in all cases, but the general
10 proposition that private utilities are poorly built and
11 operationally unreliable?

12 A No. You are making it sound like I would
13 agree that all of them are. I used the word numerous in
14 this. I said there are numerous which are built poorly,
15 I didn't say all of them were, and there are many that
16 are.

17 Q And then as rebuttal, you provide examples of
18 two systems, Seacoast Utility Authority and Ave Maria
19 Utility. Seacoast, if I understand your testimony, had
20 a successful 20-year run as a private utility before
21 being transferred to a governmental authority, and Ave
22 Maria has been operating about 20 years; am I right
23 about those two?

24 A That's correct, and are still private.

25 Q And the Florida Public Service Commission has

1 jurisdiction over around 150 water and wastewater
2 utilities?

3 A I don't know the number.

4 Q So if I agree with you about the success of
5 Seacoast and Ave Maria, would you agree that they are
6 exceptions that prove the general rule discussed by Mr.
7 Zammataro?

8 A No, I would not agree, because I also
9 presented in my rebuttal testimony a list of utilities,
10 private utilities, smaller ones, like the ones that we
11 are building, that are exemplary in their standards, and
12 I received this list from the Rural Water Association
13 Executive Director Gary Williams, and I am pretty sure
14 that was included as an exhibit, or at least in writing
15 in my rebuttal testimony.

16 MR. CRABB: I have no further questions.

17 COMMISSIONER GRAHAM: Staff?

18 MS. LHERISSON: No questions.

19 COMMISSIONER GRAHAM: Commissioners?

20 Redirect?

21 FURTHER EXAMINATION

22 BY MR. WHARTON:

23 Q Mr. Beaudet, are there numerous private
24 utilities that have done well in Florida once they were
25 constructed and put into service?

1 A Absolutely.

2 Q **Have some of them operated for decades?**

3 A Yes, they are.

4 Q **Do some of them have tens of thousands of**
5 **customers?**

6 A I would say a few do. Most of the private
7 utilities that are on that list, again, were from Rural
8 Water Association, so they were smaller.

9 But there is examples, and I will give you
10 one, like Bonita Springs. It's not exactly a private
11 utility. It's sort of a cooperative, but it doesn't
12 lend itself to a public entity. And that's another
13 example of a large, fairly large utility that operates
14 very well.

15 Q **Would you agree with me, or if you know, that**
16 **JEA itself, as it was growing into what it is now,**
17 **bought up some pretty well run utilities in Duval**
18 **County?**

19 A I am -- I would say, yes, they probably bought
20 up some good ones and they bought up some bad ones.

21 Q **I understand.**

22 **Just so we are clear, take a look at page five**
23 **of your prefiled.**

24 A Prefiled or rebuttal?

25 Q **Well, your rebuttal, your prefiled rebuttal.**

1 **And actually, what I want to do is go back to that --**
2 **never mind. I withdraw the question.**

3 MR. WHARTON: That's all I have.

4 COMMISSIONER GRAHAM: Okay. Exhibits?

5 MR. WHARTON: We would move Exhibits 23, 24,
6 25 and 26.

7 COMMISSIONER GRAHAM: Seeing no objections, we
8 will enter those into the record.

9 (Whereupon, Exhibit Nos. 23-26 were received
10 into evidence.)

11 MR. CRABB: And, Mr. Chairman, we would also
12 like to move in our rebuttal exhibit.

13 MR. WHARTON: We would object to the extent
14 the evidence is that he has seen this, that's one
15 thing. Trying to get it in for the proof of its
16 contents, I think there is an inadequate
17 foundation.

18 COMMISSIONER GRAHAM: I will allow it into the
19 record. We will enter 72 into the record.

20 (Whereupon, Exhibit No. 72 was received into
21 evidence.)

22 MS. HELTON: Mr. Chairman, can I say that if a
23 party is going to object to a cross-examination
24 exhibit, it would be helpful to know that at the
25 time that the exhibit is, you know, being used,

1 not?

2 A Yes, I have.

3 Q Ms. Swain, did you prepare prefiled rebuttal
4 testimony in this case?

5 A Yes, I did.

6 Q And did you prepare any exhibits along with
7 your prefiled rebuttal?

8 A Yes, there is several exhibits.

9 Q Am I correct that those would be -- on the
10 CEL, those would be Exhibit 31 through 36?

11 A That sounds correct. I believe so, yeah. I
12 don't have that in front of me.

13 Q And if I were to ask you the questions in your
14 prefiled rebuttal testimony, would your answers be the
15 same?

16 A Yes, they would.

17 Q Do you have any corrections or additions to
18 your testimony?

19 A No, I don't.

20 MR. FRIEDMAN: I would like to ask that Ms.
21 Swain's prefiled rebuttal testimony be admitted
22 into the record as though read.

23 COMMISSIONER GRAHAM: We will enter Ms.
24 Swain's prefiled rebuttal testimony into the
25 record as though read.

1 (Whereupon, prefiled rebuttal testimony of
2 Deborah D. Swain was inserted.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original Certificate of
Authorization and initial Rates and Charges for
Water and Wastewater Service in Duval, Baker,
and Nassau Counties, by First Coast Regional
Utilities, Inc.

Docket No.: 20190168-WS

REBUTTAL TESTIMONY

OF

DEBORAH D. SWAIN

ON BEHALF OF

FIRST COAST REGIONAL UTILITIES, INC.

1 **Q. Please state your, name profession and address.**

2 A. My name is Deborah D. Swain. I am Vice President of Milian, Swain & Associates, Inc. and
3 head up the firm's finance, accounting and management team. My business address is 2025
4 SW 32nd Avenue, Suite 110, Miami, Florida 33145.

5 **Q. Have you presented direct testimony in this case.**

6 A. Yes, I have.

7 **Q. What is the purpose of your rebuttal testimony?**

8 A. The purpose of my rebuttal testimony is to present information to refute some of the issues
9 and arguments presented by JEA Witnesses Joseph Orfano, Julia E. Crawford, and Robert
10 Zammataro.

11 **Q. Are you sponsoring any exhibits?**

12 A. Yes, I am sponsoring the following exhibits: Exhibit DDS-4, a description of my experience
13 with municipal and county bond feasibilities, annual reporting to bond holders, and
14 coordination of rating agency reviews; DDS-5, an exhibit describing the downgrading of
15 JEA's bonds by rating agencies; DDS-6, an exhibit with JEA statements of cash flow; DDS-
16 7, JEA's "FY2021 Budget Snapshot" presented to their board in June 2020, DDS-8, an exhibit
17 consisting of a letter with preliminary financing terms; and DDS-9, an exhibit with revisions
18 to certain pages in the Accounting Information contained in the original application.

19 **Q. Were these Exhibits prepared by you and your staff?**

20 A. Yes, they were.

21 **Q. What issues will you be addressing in your testimony?**

22 A. I address each witness one at a time, and cover the following issues:

23 JEA Witness Joseph Orfano and JEA Witness Robert Zammataro

24 • JEA Financial Stability

25 JEA Witness Julia E. Crawford

- Rate Comparisons

JEA Witness Joseph Orfano and JEA Witness Robert Zammataro, JEA Witness Susan West

- Dedication of utility facilities for no compensation

JEA FINANCIAL STABILITY

Q. Did you review Witnesses Orfano’s testimony regarding JEA’s financial resources?

A. Yes, I did. In addition to giving an overview of the water and wastewater systems, he provided some financial statistics, including revenues, capital assets, and bond capacity. He then concludes that First Coast customers would benefit by having JEA provide services because “JEA’s extensive resources lead to lower costs to rate payers, economies of scale, system redundancies that minimize outages, and sufficient funds for capital projects.”

Q. Do you agree with Witness Orfano’s statements?

A. No, I do not. First, Witness Orfano states that JEA has extensive resources, presumably due to the amount of revenues, capital assets, and bond capacity. Although I do not necessarily dispute the magnitude of the resources, while describing the bond capacity, he omits that the rating agencies have recently downgraded their rating of the JEA bonds, which I first found disclosed in their FY 2019 Audited Financial Statements, which stated “...with respect to Water and Sewer Revenue Bonds and Water and Sewer Subordinated Revenue Bonds, the long term ratings were lowered from “Aa2” to “A2”...”

Q. Why is that important?

The general reason this is important is that a lower rating usually results in higher bond costs, particularly where new bonds are contemplated for future capital improvements.

Q. Have you determined why the bonds were downgraded?

A. I have reviewed documentation publicly available, which is included in my Exhibit DDS-5. Moody’s Investor Services (“Moody’s) downgraded the bonds I mention above in October 2018. The report I was able to find did not provide a reason for the downgrade.

1 Then in a June 26, 2020 report from Moody's, they announced "Moody's Investors Service
2 has assigned an A2 rating to the planned issuance by JEA, FL Water & Sewer Enterprise of
3 approximately \$103.7 million Water and Sewer System Revenue Bonds, 2020 Series A and
4 \$26.3 million Water and Sewer System Subordinated Revenue Bonds, 2020 Series A.
5 Moody's maintains the A2 rating on JEA's senior lien water and sewer system debt and an
6 A2 on the system's subordinate lien debt. The outlook is negative." They summarize the
7 reason as "Water and Sewer system's credit profile primarily reflects governance and social
8 risks relating to pending litigation and significant ongoing organizational changes." They
9 elaborate further, "JEA also faces credit challenges relating to substantial organizational
10 changes following the abrupt decisions in late 2019 to cancel plans to restructure or privatize
11 JEA and to terminate JEA's CEO, with cause, and CFO, without cause. In May 2020, JEA
12 has since replaced the entire seven-member Board, terminated its interim CEO, and hired a
13 former JEA CEO to fill the interim CEO role for a six-month term while undertaking a search
14 for a new CEO. More recently, nine additional senior leaders were placed on 30-day paid
15 administrative leave, pending their dismissal and were replaced with interim leaders primarily
16 from within JEA."

17 Finally, I was able to find a newspaper article, also included in DDS-5, which describes that
18 Standard & Poor's downgraded its rating on JEA's senior-lien water and sewer revenue bonds
19 from AAA to AA+, and the subordinate bonds were dropped from AA+ to AA. The stated
20 reason is "uncertainty surrounding transparency and independence of both senior
21 management and the board of directors."

22 I should also point out that according to the article, Fitch Ratings determined that JEA's
23 outlook is "stable" and did not change its ratings.

24 **Q. What do you conclude from this information?**

25 A. Although the obvious result from the ratings downgrades could be an increase in debt service

1 cost, the reason for the downgrade highlights activities that call into question JEA's true
2 stability. If the organization has been in disarray, at a minimum this is a distraction. This
3 clearly can call into question how much financial and management stability JEA can claim. I
4 also reviewed JEA's 2019 Audited Financial Statements and see that JEA has stated that for
5 the next several years they plan to fund capital expenditures from cash (customer revenues)
6 rather than bonds. From just the publicly available financial reports, it does not appear that
7 this is sustainable. For the year 2019, the Statement of Cash Flows shows that JEA's Water
8 and Sewer Enterprise Fund had a net cash outlay of \$22,848 million in 2018 followed by a
9 net cash inflow of \$30,671 with a final cash balance of \$153,732 million. In JEA's "March
10 2020 Quarterly Analysis of Financial Performance", JEA reports a net cash outlay of \$58,068
11 million with a reported remaining cash balance of \$95,664 for the first six months of the year.
12 Although the second half of 2020 may result in a turnaround in the cash flow, the trend creates
13 questions as to the sustainability of using customer revenues to fund the sizable capital budget
14 for the upcoming years, without increasing customer rates. The pages to which I am referring
15 are included in Exhibit DDS-6.

16 **Q. Do you agree with JEA Witness Zammarato that JEA is better suited to handle events**
17 **that may affect utility service due to its financial stability?**

18 A. I don't think the recent financial and management disarray necessarily means that they are
19 not able to provide responsible, stable utility service. However, it is a stretch to claim
20 financial stability in light of recent events. Also, a bond downgrading can easily result in
21 higher costs, and the rating agencies will need to have clear assurance that the utility is willing
22 to increase rates as needed to cover costs. Furthermore, the \$1.267 billion capital budget from
23 fiscal years 2020 - 2023 can easily require a rate increase. My Exhibit DDS-7 is JEA's "FY
24 Budget Snapshot" dated June 23, 2020 presented to their board for consideration. I marked
25 the section showing the capital expenditures. I would also like to point out that on that

1 document they contemplate that to meet that budget they will need some sort of debt financing
2 next year, and does not show a funding plan for the subsequent years.

3 **Q. Do you agree with Witness Zammarato that First Coast customers would be more**
4 **directly impacted by unforeseen costs?**

5 A. The only way unforeseen costs could more directly impact First Coast customers than the
6 entire JEA area is if they only affected First Coast customers, and not the JEA customers.
7 Furthermore, if something only occurred within First Coast's area, and service was provided
8 by JEA, if those costs were spread over this much larger base, it means that the remainder of
9 JEA's customers would be subsidizing the First Coast area customers, and vice versa if JEA
10 makes extraordinary expenditures. It is important to also point out that the First Coast utility
11 facilities will be brand new with the newest technology. It is unlikely that events would
12 significantly impact the facilities, but if it did, there is nothing presented that would call into
13 question First Coast's ability to fund any related costs.

14 **Q. Do you agree with JEA Witness Crawford's analysis of First Coast rates versus JEA**
15 **rates?**

16 A. Although her calculations are mathematically correct, I do not agree with the point she is
17 trying to make in her testimony. I will explain step by step.

18 COMPARISONS IN GENERAL

19 First, it is important that the FPSC does not consider rates of other utilities in the
20 establishment of rates. This is largely because there are too many factors that cause variability
21 among utilities, and each must prove the cost of providing service based on those factors.

22 Below is a description of some of those factors:

23 Infrastructure

24 Water Source of Supply, Quality and Treatment: There are significant differences among
25 utilities throughout the state regarding both quantity and quality of water. Some water utilities

1 in Florida have the good fortune of access to an abundant supply of high-quality water, which
2 may require only chlorination for disinfection, while others may only have access to water a
3 considerable distance from the customers, requiring costly treatment to remove chlorides, or
4 require softening. Diminishing availability of sources requiring less costly treatment, and
5 regulatory limitations may restrict withdrawal from higher quality water sources.

6 Wastewater Treatment and Effluent Disposal: Wastewater utilities experience vast
7 differences in conditions which impact the cost for disposal of effluent. Utilities may have
8 access to property on which they can simply apply the effluent, and for others, wastewater
9 must be treated to remove contaminants similar to drinking water. This can be dictated by
10 regulatory requirements, and water supply availability.

11 Compliance with Current and Future Regulatory Requirements: Utilities building state of the
12 art facilities today are more likely to avoid costs associated with future improvements to meet
13 new regulatory requirements. Utilities with older facilities will have to face possible
14 significant investments in system improvements, facing making decisions about replacement
15 or retrofit.

16 Contributions in Aid of Construction: Utilities may be anywhere from 0% or 100%
17 contributed. An investor-owned utility is entitled to earn a return on its investment, and the
18 predominant portion of the investment is determined by calculating the utility's net plant less
19 any contributions. This amount may constitute a significant portion of the rates. The more
20 the customer pays up front as a contribution, the lower the utility's investment, and therefore
21 the monthly rate over time will be lower.

22 Other factors include size and scale, efficiency, water demand and seasonality of the
23 customers.

24 COMPARISON WITH JEA

25 I have not analyzed the JEA rates in any detail, but whether provided service by JEA or by

1 First Coast, the customers will pay the actual allowable cost – either up front or over time.
2 And if JEA does not charge the First Coast customers their actual cost, it is because the other
3 JEA customers are subsidizing the First Coast area in some way.

4 COMPARISON WITH MUNICIPAL UTILITIES

5 In addition to my general discussion about reasons why costs between utilities may be
6 different, there are many factors that cause difference between investor-owned and municipal
7 utilities.

8 First, even if all capital costs, contributions, and operating and maintenance costs are identical
9 the cost of service determination method is different between municipal and private utilities.

10 The cost of service for municipal utilities is primarily cash flow based, and includes factors
11 not included for investor-owned utilities. Includable cost components include debt service
12 (principal plus interest), capital outlay, and providing cash for such things as rate
13 stabilization, renewal and replacement, general fund contributions, etc. On the other hand,
14 they have no reductions to revenue requirement for non-used and useful plant, excess inflow
15 and infiltration or unaccounted-for water, periodic costs are not deferred and amortized over
16 time. Rates are often set with a five-year forward look.

17 Investor-owned utilities must pay certain expenses from which municipal utilities are exempt,
18 such as property taxes and income taxes. They are subject to the adjustments I mention above
19 which reduce their revenue requirement. Although they all pay income taxes, only the few
20 that are C-Corporations are able to recover income taxes in rates. Finally, they are allowed to
21 earn a return on investment, but it is out of this return that they must pay interest expense,
22 which often time does not cover their actual interest payments.

23 Efficiency is a cost factor, and in my experience, because of the economic regulation to which
24 they are subjected, investor-owned utilities are more likely to operate highly efficiently than
25 the larger municipal utilities.

1 COMPARISON WITH INVESTOR-OWNED UTILITIES

2 Once again, the differences among utilities are vast, and the costs will be significant. We can
3 look at utility systems under single ownership to highlight this. In 2015, Utilities, Inc. of
4 Florida (UIF) filed a rate case requesting uniform rates. Prior to filing that request, virtually
5 every system had a unique rate, although some were uniform within counties.

6 Prior to consolidation, one system had a residential rate of \$4.49 base facility charge and
7 gallage of \$.95 per 1,000 for under 6,000 gallons. The sewer rate was \$15.19 base charge
8 plus \$1.89 per 1,000. Another had a water rate of \$13.76 plus \$8.68 per 1,000 and a sewer
9 rate of \$27.43 plus \$19.41 per 1,000. A 6,000 gallon usage customer in UIF example 1 would
10 have received a bill of \$10.19 for water and \$26.53 for sewer, totaling \$36.72. Example #2
11 would result in a water bill of \$65.84 and \$143.89 for sewer, totaling \$209.73. Just to
12 summarize, in a comparison of the rates between two systems owned by the same Utility,
13 customers in one system would have a \$36.72 bill, and the other would have a \$209.73. I
14 would like to also point out that these are 2016 rates, and all of UIF systems share one rate.
15 These rates are detailed in Order No. PSC-2017-0361-FOF-WS, issued on September 25,
16 2017.

17 **Q. You have explained why it is not appropriate to make rate comparisons among utilities,**
18 **but do you agree with Witness Crawford's claim that the rates First Coast is proposing**
19 **are comparatively high?**

20 A. Yes, they are somewhat high. Because of this First Coast discussed potentially phasing in the
21 rates, which can be a reasonable mechanism to provide customers rate relief without requiring
22 the owner to permanently relinquish its opportunity to earn a fair rate of return on its
23 investment. However, in subsequent discussions with First Coast, it was determined that
24 rather than financing the construction of the utility facilities with equity, the owner would
25 obtain debt financing to fully fund construction. This will dramatically reduce the revenue

1 requirement by reducing the overall rate of return as the debt will carry a lower cost than
2 equity, and eliminating a provision for income taxes. Although the financing has not been
3 executed, the letter in Exhibit DDS-8, preliminary terms have been laid out indicating a
4 tentative 5% interest rate. I support that the actual terms be incorporated into the
5 determination of revenue requirement and rates at the time it becomes known, or that a best
6 estimate available be use if the terms have not been finalized.

7 I have recalculated the impact with 100% debt at a 5% rate. This is shown his is in Exhibit
8 DDS-9, which includes those schedules that would be updated from the accounting schedules
9 in the original application.

10 **Q. Can you please summarize the results shown in that Exhibit?**

11 A. A financing plan whereby the facilities are fully funded by 5% debt would reduce the revenue
12 requirement and rates for water by 22%, and for sewer the reduction would be 24%. The
13 average residential water and sewer bill would be \$158.54 instead of \$204.38 in the original
14 application. You can see these numbers on Schedule 5 page 2 of 3, lines 9 and 32, in Exhibit
15 DDS-9, and Schedule 5 page 1 of 3, lines 9 and 32 in Exhibit DDS-1.

16 **Q. With a new financing plan, would you also recommend phasing in the rates?**

17 A. No, I would not. First, by definition, a utility that is fully debt financed has no opportunity to
18 generate any earnings for owners and 100% of the calculated net income is actually to be
19 used to pay interest on debt. With this financing plan, any further reduction in rates even on
20 a temporary basis would mean that during that period, the revenues generated would not be
21 adequate to cover interest expense. In that situation, the utility would incur book losses, and
22 the retained earnings, the only equity a utility will have if it is otherwise fully debt funded,
23 would show a negative balance. This is not a desirable financial situation and I would not
24 recommend it.

25 DEDICATION WITH NO COMPENSATION

1 **Q. When you reviewed JEA witnesses' testimony, did you form an opinion about their**
2 **discussions about dedicating First Coast's utility facilities to JEA?**

3 A. Yes. I did. Although no JEA witness explicitly states that the supposed requirement that First
4 Coast dedicate its utility facilities to JEA without compensation, it seems to be implied.
5 Several of JEA's witnesses discuss a comparison of rates. As I previously stated, I believe
6 such a comparison is inappropriate and not helpful. The issue is not what rates are currently
7 being charged by JEA or proposed to be charged to by First Coast. Instead the issue is who
8 can provide the needed service at the least cost. Cost of service is the true issue, not rates. In
9 order to analyze costs of service, one must include the capital costs. JEA's discussion of rates
10 and provision of service ignores capital costs for all of the treatment and distribution and
11 collection facilities needed to service the proposed territory, and implies that all facilities will
12 be provided to JEA free of any cost. This ignores the fact that ultimately the customers of
13 the utility will have to pay all costs of operating the utility, be they capital cost or operating
14 costs. In some instances, such costs are recovered through a combination of service
15 availability fees and monthly service rates. In others, they are mostly in rates or mostly in
16 service availability fees. However, they are still costs of providing service and cannot be
17 ignored as JEA has done. That approach is nonsensical. If First Coast were to receive all of
18 the capital facilities free of charge, of course they could provide service at a lower cost. But
19 that is not a basis for a reasonable comparison of methods of providing service.

20 Although I do not intend to argue the legal aspects nor the true definition of "dedication", I
21 did have a chance to review the Nassau County Interlocal Agreement attached to JEA witness
22 Zammataro's testimony. JEA entered into an Interlocal Agreement pursuant to Chapter 163,
23 F.S., whereby Nassau County consented to JEA's owning and operating a water and
24 wastewater system within its jurisdiction. In my review, I found that JEA agreed to give the
25 County the exclusive right to purchase the utility under certain conditions including the end

1 of the term of the agreement. Furthermore, a formula was defined to determine the price. It
2 is puzzling that JEA recognizes the value of an investment they made in this Nassau County
3 and established a mechanism for compensation, but seemingly do not wish to establish a
4 purchase option for First Coast assets.

5 **Q. Can you please address witness Zammataro's claim that reclaimed water rates were not**
6 **included in the proposed tariffs filed with First Coast's application**

7 A. Yes, he is correct. Although I propose a reclaimed water rate of \$.50 per 1,000 gallons, we
8 inadvertently did not include the rate page in the utility tariff. The rate, when approved,
9 should be included in the final tariffs.

10 **Q. Does that conclude your rebuttal testimony at this time?**

11 A. Yes, it does.

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1 BY MR. FRIEDMAN:

2 Q Ms. Swain, do you have a summary?

3 A Yes, I do.

4 The purpose of my rebuttal testimony is to
5 present information to refute some of the issues and
6 arguments presented by JEA witnesses Orfano, Crawford
7 and Zammataro. In particular, I point out that JEA
8 witness Orfano's direct testimony described JEA's
9 extensive resources, but he failed to mention that the
10 two rating agencies, Moody's and Standard & Poor's, had
11 recently downgraded their rating on certain of their
12 water and sewer revenue bonds.

13 Similarly, JEA witness Zammataro claimed JEA
14 was better suited to handle events that may affect
15 utility service, which I found disingenuous considering
16 the bond ratings issue and an organizational upheaval
17 that had recently taken place. There was some
18 discussion earlier, and I have in my testimony the
19 timeline of the -- of the bond rating downturns and also
20 where it was mentioned in my testimony.

21 First of all, in -- what I say on page two,
22 line 16, is that I looked at the fiscal year audited
23 financial statement, and that's where I first discovered
24 that there was a downgrading of certain of the bonds. I
25 looked it up, and I found it on October 2018 -- and this

1 is -- these are exhibits to my testimony -- October
2 2018, Moody's downgraded certain of the bonds. That's
3 on page -- my testimony page two, line 24. On
4 June 26th, 2020, Moody's downgraded certain other bonds.
5 That's page three, line one. And then fiscal year -- or
6 excuse me, February 2020, Standard & Poor's downgraded
7 other bonds. Mr. Orfano is the Treasurer, I believe,
8 and I think that he would have known that there was a
9 downgrading.

10 Now, I -- this is part of my summary. I did
11 state very clearly that I don't believe that JEA does
12 not have the resources or the capability, but I just
13 found that it was something that was omitted that would
14 have been important for the Treasurer to have stated in
15 his testimony, since he did state that the bonds -- bond
16 ratings had not changed.

17 I then go on just very quickly to take a look
18 at witness Crawford's direct testimony regarding a
19 comparison of rates. I go into an analysis of why
20 that's not appropriate, and explain it -- explain that
21 there is too many factors, the difference between --
22 differences between private and municipal utilities,
23 differences between all types of utilities, for a
24 varieties of reasons.

25 And that's my summary.

1 MR. FRIEDMAN: Tender Ms. Swain for
2 cross-examination.

3 COMMISSIONER GRAHAM: Okay.

4 MS. CLARK: Mr. Chairman, we do have some
5 exhibits that we would like to pass out. I will
6 say at this time we have some exhibits in there
7 that I may not need to use, so rather than labeling
8 them now, can we do it as --

9 COMMISSIONER GRAHAM: We'll label them as you
10 use them.

11 MS. CLARK: Okay.

12 COMMISSIONER GRAHAM: All right. Ms. Clark,
13 you can get started.

14 MS. CLARK: Okay.

15 EXAMINATION

16 BY MS. CLARK:

17 Q Ms. Swain, I would like to start with your
18 comment regarding the failure of Mr. Orfano to mention
19 something. And the statement that you refer to is a
20 quote from his testimony, JEA's extensive resources to
21 lower cost to ratepayers, economies of scale, system
22 redundancies that minimize outages and sufficient funds
23 for capital projects; that's the statement we are
24 talking about, correct?

25 A No. What I am referring to is on his

1 testimony, page four, line 17, senior lien revenue bonds
2 maintain current credit ratings of AA Plus by S&P global
3 ratings, AA by Fitch and A2 by Moody's Investors
4 Service. This is part of his discussion regarding
5 their -- the overall financial capability, and that's
6 the one which I am taking issue with.

7 **Q I am sorry, I didn't understand that to be the**
8 **case, and let me just look. You provide the quote from**
9 **his testimony, and then go on to discuss your issue with**
10 **that being the recent downgrades. If you look at --**

11 A Okay. Yes.

12 **Q -- page two, line nine and 10 --**

13 A Yes.

14 **Q -- that is the one you are rebutting, correct?**

15 A I -- no. I start out in my -- yes. I start
16 out in my statement about a specific quote, and then I
17 go on to explain that his omission of the bond rating
18 changes --

19 **Q All right --**

20 A -- that I have issue with, yes.

21 **Q -- let's go through that.**

22 **The first downgrade you mention occurred in**
23 **2018, is that correct?**

24 A Yes. That's the one that was disclosed in the
25 fiscal year 2019 annual report.

1 **Q But you have no information as to the reason**
2 **for that downgrade?**

3 A Correct. That was not -- that was not
4 disclosed in either the announcement or the annual
5 report.

6 **Q Okay. The information you provided was with**
7 **regard to a JEA water and sewer bond issuance in June of**
8 **2020, correct?**

9 A Well, I provide two. One was February of
10 2020 --

11 **Q Let me just ask you about the first one.**

12 A Okay.

13 **Q Let's look at your -- it's DDS-5, and it's**
14 **page five.**

15 A Okay.

16 **Q And that is the Moody's rating, isn't that**
17 **correct?**

18 A I am sorry, you are pointing me to DDS-5, page
19 what? I looked at the wrong page.

20 **Q Page five up at the top.**

21 A Yes.

22 **Q Okay. Where do you -- where did you find this**
23 **particular rating?**

24 A I just did a search on the internet to see if
25 there was any update or any more information about the

1 bond ratings.

2 Q So you did a Google search?

3 A Yes, essentially.

4 Q And you could get this information from
5 Moody's website, is that correct?

6 A Yes.

7 Q Okay. So this is the kind of report that is
8 regularly produced by rating agencies for use in
9 evaluating the credit worthiness of an entity, is that
10 correct?

11 A Yes.

12 Q And you can find the same reports for Fitch
13 and Standard & Poor's, because that's the business they
14 are in, isn't it?

15 A Yes.

16 Q Okay. And you are -- you quote from the
17 Moody's report in your exhibit, and from a newspaper,
18 that is page 10 of your exhibit. And you rely on these
19 statements by credit agencies as the basis for your
20 questioning JEA's financial and management stability, is
21 that correct?

22 A No. No. I state that I don't doubt their
23 financial capability. I just felt that the -- that it
24 was an omission by the witnesses to not disclose that
25 there were certain other things taking place that was so

1 substantial that bond ratings were dropped, and that
2 information was not included in testimony that was filed
3 when this was taking place. So I called to the
4 reliability of the JEA witnesses who are expounding
5 about how wonderful the financial resources are when
6 they are undergoing turmoil and bond downgradings.

7 MS. CLARK: Mr. Chairman, I would ask that she
8 answers yes and no and give a short answer.

9 COMMISSIONER GRAHAM: Sure.

10 BY MS. CLARK:

11 Q But you were relying on those statements for
12 your view that management is in disarray, or they have
13 other issues with their financial picture, is that
14 correct?

15 A Yes. And I had heard that from other sources;
16 but, yes, this is where I found in writing what had
17 taken place.

18 Q And in those credit profiles that you have
19 attached and quote from -- and I am at your testimony on
20 page three, lines seven and eight, and then 21 -- 20
21 through 21, and I will paraphrase it a little bit.

22 You talk about Moody's statement saying that
23 the downgrade primarily reflects governance and social
24 risks relating to pending litigation and significant
25 ongoing organizational changes, is that correct?

1 A Yes.

2 Q And then Standard & Poor's talks about
3 transparency and independence of both senior management
4 and the board of directors?

5 A Correct.

6 Q Isn't it true at that same time that Fitch had
7 a different take on the impact of the Governor's --
8 governance issues that were mentioned in Standard &
9 Poor's?

10 A Yes. I state here, and I don't see it here,
11 but I state here that Fitch did not change its rates. I
12 did not omit that from my testimony.

13 Q All right. I wasn't suggesting you did, but
14 Fitch did not downgrade the ratings and said, in fact,
15 that the outlook looks stable, correct?

16 A Correct.

17 Q Do you recall our discussion of your testimony
18 when we did a deposition and I asked you about these
19 bond ratings?

20 A Yes.

21 Q All right. And you stated in the deposition
22 that you had no oral base --

23 MR. FRIEDMAN: I object. That's not the way
24 you cross-examine a witness on a deposition.

25 MS. CLARK: All right. I am fine. I will

1 withdraw it.

2 BY MS. CLARK:

3 **Q You have no other basis other than these bond**
4 **ratings to question JEA's ability to serve customers,**
5 **correct?**

6 A I don't have any other involvement with JEA
7 other than this case, and so -- and as I mentioned, I
8 have had discussions with people. I have heard things.
9 But my specific information, I am relying on these bond
10 rating agencies.

11 **Q Okay. You, in fact, acknowledge that JEA --**
12 **well, let me -- do you acknowledge that JEA has the**
13 **resources in the form of facilities, labor, equipment**
14 **and systems to provide service to this development?**

15 A I believe that they have all that available,
16 yes. However, I don't -- I do a lot of work with
17 governmental utilities, or governmental entities, and I
18 don't believe that the timing -- that they are going to
19 be able to meet the timing requirements of the
20 development.

21 **Q But that's not within your scope of your**
22 **testimony?**

23 A No. Correct.

24 **Q You also acknowledged, I believe, that things**
25 **may have significantly changed since you filed this**

1 **testimony, which was, what, two years ago, a**
2 **year-and-a-half?**

3 A I think it was. Yeah, I filed my testimony --
4 my rebuttal in May of 2020.

5 MS. CLARK: Mr. Chairman, I would like to go
6 to Tab 4.

7 COMMISSIONER GRAHAM: Okay. So we will give
8 this No. 73, and it's Credit Rating Scales by
9 Agency.

10 (Whereupon, Exhibit No. 73 was marked for
11 identification.)

12 BY MS. CLARK:

13 Q Ms. Swain, you will take a minute to look at
14 this chart of the credit ratings by agencies?

15 A Okay.

16 Q Does that look to be true and correct, to your
17 knowledge?

18 A I believe you previously asked me if I knew
19 what rating a junk bond was, and I don't. And I still
20 don't today. So I don't -- I don't argue with it but I
21 don't know.

22 Q I am sorry, I didn't hear what you said.
23 Would you repeat it?

24 A You had asked me in my deposition if I knew
25 what rating was considered a junk bond, and I said no, I

1 don't.

2 Q Okay.

3 A I don't have any clients that have junk bond
4 rating. So this depicts junk bond, I don't know that's
5 true, but I don't doubt that that's a fair depiction.

6 Q Okay. I am not asking you about that.

7 A Okay. Well, you asked me if I --

8 Q Does this look like an accurate depiction of
9 what each of the rating agencies, how they rate their
10 various bonds?

11 A The ones that I am familiar with at the top of
12 this level, yes. I don't know the lower ones.

13 Q I think we are talking past each other. I am
14 not talking about what is on the right side. I am
15 simply asking, does this reflect how Moody's, Standard &
16 Poor's and Fitch, the rating system that they use?

17 A Yes. This looks -- this looks like the
18 ratings system now.

19 Q So now let's talk about on the right. Do you
20 have reason to disagree with their -- this depiction of
21 what the various ratings by each agency across the board
22 means in terms of how you think about those, whether
23 they are high risk, low risk, that sort of thing?

24 A It's -- the scale is certainly probably right.
25 I don't know the terminology for the lower levels.

1 That's all I am saying.

2 Q Oh, but you do know the terminology for the
3 prime, high grade, upper medium and lower medium?

4 A Right.

5 Q And you agree with those?

6 A I do.

7 Q Okay. I don't know anybody that has junk
8 bonds either, so we don't need that one.

9 Are you aware of that JEA recently issued \$126
10 million in revenue bonds?

11 A No.

12 Q Okay. If you would go ahead and turn to Tab
13 5, please.

14 MS. CLARK: Mr. Chairman, can I have an
15 exhibit number?

16 COMMISSIONER GRAHAM: This will be No. 74, and
17 Moody's Ratings for JEA's Water and Sewer System
18 Bonds.

19 (Whereupon, Exhibit No. 74 was marked for
20 identification.)

21 BY MS. CLARK:

22 Q And this is -- this represents the rating
23 action that Moody's -- of Moody's, which is essentially
24 the same as the one you attached to your rebuttal
25 testimony, correct?

1 A Yes.

2 Q And would you look at the first paragraph, the
3 first sentence, what is the -- Moody's has assigned a
4 AAA3 and a AA3. I am not very good at these, how you
5 say things, but it's a big A, little A and then a three,
6 is that correct?

7 A Yes.

8 Q Okay. And if we go back and look at the
9 chart, this is -- this falls in the category of high
10 grade?

11 A Yes. Yes, it does.

12 Q Okay. And would you also agree with me, if we
13 look at the chart, when it was A2, it is now AA3; is
14 that correct?

15 A Correct.

16 Q Okay. So the rating is two notches higher
17 than the rating shown in your DDS-5, am I correct with
18 that?

19 A I -- yes. The ratings -- and to clear up some
20 confusion, or potential confusion, the rating agencies
21 gave different ratings to different bond issues. They
22 didn't downgrade everything and they -- so I am not
23 sure, looking at this, this is a new bond, 2021, this is
24 after my testimony. The downgrading referred to some
25 older bonds and some upcoming 2020 series. I am not

1 sure what rating, if the ratings changed for those that
2 had previously been downgraded, but the point that you
3 are making that the bonds increased, yes, they went from
4 one level to a higher level after having been
5 downgraded. And as I said in my testimony, my point was
6 simply the omission.

7 **Q Okay. So we can agree that going up two**
8 **notches is pretty impressive, isn't it --**

9 A Okay.

10 **Q -- in a year?**

11 A This is -- I don't know if those --

12 **Q May I have a question yes or no, please?**

13 A No, because I don't know if those bonds
14 increased two notches also.

15 **Q Okay. We can agree that the difference**
16 **between whatever it was that you attached to your**
17 **testimony and this testimony is two notches difference?**

18 A Yes. That's correct.

19 MS. CLARK: Let me go to Tab 6, please. This
20 is 75, Mr. Chairman?

21 COMMISSIONER GRAHAM: This would be 75,
22 correct. And a short title is Fitch Rating JEA.

23 MS. CLARK: Dated June 30th, 2021.

24 (Whereupon, Exhibit No. 75 was marked for
25 identification.)

1 BY MS. CLARK:

2 Q And again, this is -- this is the type of
3 publication that these ratings put out with regard to
4 bonds, is that correct?

5 A Yes.

6 Q Okay. And we can see that this is the Fitch
7 rating for the same bonds that we looked at in Exhibit
8 74?

9 A Correct.

10 Q And again, if we refer to the chart, both
11 rates reflect high grade bonds, is that correct?

12 A Yes. That's correct.

13 Q So would you agree with me that it's quiet
14 clear that any concerns Wall Street had about
15 governments at JEA no longer exists?

16 A As of the -- I would agree, yes, as of the
17 time that this was published. I don't know if anything
18 has changed since then.

19 Q Okay. But this is the most recent that we've
20 looked at today.

21 A Okay.

22 Q Now, attached to your testimony is your
23 experience with working with rating agencies and
24 developing annual reports, is that correct?

25 A Yes.

1 Q And you would agree, wouldn't you, that a good
2 finance department for a municipality, or any company,
3 will take steps to ensure good bond ratings, and will
4 watch the market and make sure they take advantage of
5 low interest rates?

6 A Yes. Certainly, when they are looking to
7 issue bonds, they are -- they are monitoring that for a
8 while.

9 Q And that's the way they save money when it
10 comes to borrowing?

11 A Yes.

12 Q They have good bond ratings, and they look to
13 time the market right?

14 A Yes.

15 Q Let's go back to your DDS-5 for a minute. And
16 I am on page six. And under the term use of proceeds,
17 you see that the use of the proceeds was to refund
18 existing bonds?

19 A Yes.

20 Q And then also in the two paragraphs, it shows
21 how much money JEA saved by refunding those bonds, am I
22 correct?

23 A Yes, it does state the savings.

24 Q And do you see that by refunding those bonds,
25 JEA saved its ratepayers almost two -- \$26 million?

1 A Correct.

2 Q Now let's turn back to the Exhibit 5 that was
3 under Tab 5, which is the Moody's.

4 COMMISSIONER GRAHAM: Which exhibit number was
5 that? 74?

6 MS. CLARK: I think it was, Mr. Chairman.

7 COMMISSIONER GRAHAM: Okay.

8 MS. CLARK: I am fumbling a bit. Let me try
9 and get there.

10 COMMISSIONER GRAHAM: You are quite all right.

11 BY MS. CLARK:

12 Q Let's look at the -- do you have the Moody's
13 in front of you?

14 A What I have in front of me is Moody's dated
15 June 24th, 2021.

16 Q Yes. Would you look down again and look at
17 the use of the proceeds?

18 A Yes. This is to refund 20 -- Series 2020 --
19 excuse me, 2012 bonds.

20 Q And how much money is saved by refunding those
21 bonds?

22 A It says 41.6 million.

23 Q Okay. Again, the finance department did a
24 pretty good job of timing the market, wouldn't you say?

25 A Yes, they did, but this is standard for

1 entities that engage in the bond market.

2 Q Would you look at Tab 7 for a minute?

3 COMMISSIONER GRAHAM: We are at Exhibit 76.

4 MS. CLARK: Thank you, Mr. Chairman.

5 (Whereupon, Exhibit No. 76 was marked for
6 identification.)

7 BY MS. CLARK:

8 Q And the title of that is, Wells Fargo
9 Securities Final Numbers for JEA Water and Sewer System
10 Revenue Bonds, 2021 Series; do you see that?

11 A Yes. Yes, I do.

12 Q Are you familiar with what this is? Have you
13 seen anything like this in your work in working with
14 bonding?

15 A Yes. This would be the financial support
16 generally, and an official statement for issuing bonds.

17 Q So this is a final wrapup to tell you what you
18 actually got and what you actually saved?

19 A It looks like it.

20 Q Okay. And it look -- down there, it says it
21 was prepared July 13th, 2021, at 3:09 p.m. So this is
22 the same bond that was -- Fitch was rating and Moody's
23 was rating, is that correct?

24 A Yes.

25 Q And if you would, would you please go all the

1 way over to page four of the report, which is page five
2 of the exhibit?

3 A Okay.

4 Q You see there that the final number is \$46.2
5 million, not the 41.6 predicted by Moody's?

6 A Yes, I see that.

7 Q So to sum up, as a result of the bond issuance
8 of 2020, and in 2021, the finance department of JEA
9 saved its water and wastewater companies over \$72
10 million; is that correct?

11 A Dog doing the math quickly in my head, it
12 sounds correct.

13 Q Thank you.

14 Pretty good management of the finances, isn't
15 it?

16 A It is. And as I said, it's typical of
17 entities that are engaged in the bond market and are
18 obtaining bonds. I see this refinancing is practical
19 and useful when rates have gone down. I wouldn't say
20 it's exceptional. It's very good, but it's expected.

21 Q Thank you.

22 Another basis for your disagreement with Mr.
23 Orfano was that what you refer to as -- you refer to
24 Moody's, quote, and you refer to it as management being
25 in disarray. And that's on page four, line nine --

1 **excuse me -- line three of your testimony. Do you see**
2 **that?**

3 A Page four, line what?

4 Q **Three, I believe, of your testimony. Have I**
5 **got that wrong?**

6 A I don't think that's where it is.

7 Q **I may have it wrong.**

8 **COMMISSIONER GRAHAM: Lines two and three.**

9 BY MS. CLARK:

10 Q **It's on page four, line two, I believe.**

11 A Oh, okay. Yes.

12 Q **And you imply there that management has been**
13 **in disarray, is that correct?**

14 A Well, I was quoting the information in the
15 downgrading report, stating that management was in
16 disarray. And then I am concluding that that would, at
17 minimum, be a distraction.

18 Q **Okay. Have you done any research since July**
19 **2020, when you filed that rebuttal testimony regarding**
20 **the current state of JEA's board and the senior**
21 **management team?**

22 A I believe that, from what I have heard, that
23 the -- that a permanent CEO, or as permanent as can be
24 expected CEO has been hired. The Board is no longer in
25 disarray. I have heard that.

1 MS. CLARK: Okay. Mr. Chairman, I think now I
2 am on Tab 8.

3 COMMISSIONER GRAHAM: Okay. This would be No.
4 77.

5 (Whereupon, Exhibit No. 77 was marked for
6 identification.)

7 MR. FRIEDMAN: Which one?

8 MS. CLARK: Tab 8. It's the JEA Website pages
9 on JEA Board Members and Senior Management.

10 BY MS. CLARK:

11 Q Ms. Swain, do you see there that this comes
12 from JEA's website? I think, if you look at the second
13 page, you will see the web address is down there and
14 it's on most of the pages.

15 A Okay.

16 Q And as you page through it, do you see that
17 all six Board -- that six Board members were appointed
18 in April 2020, and they are still on the Board to date?

19 A Yes, I do.

20 Q And then there was a Mr. Morales that was
21 appointed in September of 2020, is that correct?

22 A Yes.

23 Q And do you also see, as you page through
24 there, that senior management -- there is a senior
25 management seem team currently in place?

1 A And what page is that on this document?

2 Q It might be the very last page. Well, if you
3 start on page 11 of 18 --

4 A Okay.

5 Q -- you will see that. And if you look at 10
6 of 18, there is a listing of the senior management, and
7 then what follows is bios about each one of them; do you
8 see that?

9 A Yes. Yes, I see that.

10 Q Okay. And if we look for a minute at page 11
11 of 18, it shows that the CEO, Mr. Stowe, was hired in
12 November of 2020?

13 A Okay.

14 Q Okay. And do you also see that his bio shows
15 that he has extensive experience in the public power
16 sector, specifically he was a Senior VP at TVA, spent 10
17 years at Huntsville Utilities, and two municipal
18 utilities in North Carolina; do you see that?

19 A Yes, I do.

20 Q So I think it's safe to say we can conclude
21 that management team is no longer in disarray, is that
22 correct?

23 A It appears -- it appears that with the -- with
24 the new board and with the new leadership group, that
25 there is certainly stability and leadership.

1 Unfortunately, that wasn't the case when the -- when
2 JEA's witnesses filed their direct testimony.

3 Q Thank you.

4 Before I go, I have just two more questions.

5 MS. CLARK: And I would like to have next tab,
6 Tab 9 labeled as an exhibit.

7 COMMISSIONER GRAHAM: We'll give it 78.

8 (Whereupon, Exhibit No. 78 was marked for
9 identification.)

10 BY MS. CLARK:

11 Q Ms. Swain, will you take a minute to look at
12 this chart, if you would? And I can represent to you
13 that this chart is the same one that Ms. Crawford had in
14 her rebuttal testimony with which you agreed that the
15 math was done right; is that correct? But let me just
16 tell you that the only difference here is we have redone
17 the First Coast residential rates using your new numbers
18 that you provided for the first time in your rebuttal
19 testimony; is that correct?

20 A That looks like the order of magnitude --
21 without checking each of the numbers, it looks like the
22 order of magnitude.

23 Q Okay. So if we look at page two of two, we
24 can see that JEA -- that First Coast rates are still
25 substantially higher than JEA's rate. And if we look at

1 the bottom, where it says, annual cost savings to
2 customers of JEA, we see that, on an annual basis,
3 customers will save over \$1,000 if they get service from
4 JEA when they use the five-eighth inch meter, and then
5 almost \$1,000 if they are the three-quarter inch meter?

6 A Yes. I am -- that's what this chart says, and
7 I don't doubt that this is a representation of JEA's
8 current rates, but these are First Coast Regional
9 Utilities' rates that will be in place when the first
10 customers come in, which will be several years from
11 that.

12 I don't know what JEA's rates are going to be
13 at the time that First Coast Regional Utilities starts
14 providing service. There is a lot of indications that
15 there is quite a bit of capital costs coming in. We've
16 heard it in testimony. It's got to be financed --

17 MS. CLARK: Mr. Chairman, that goes way beyond
18 my question.

19 COMMISSIONER GRAHAM: I will let them handle
20 it in redirect.

21 MS. CLARK: Okay.

22 BY MS. CLARK:

23 Q But I guess -- did you hear Ms. Crawford say
24 that there are no plans currently to raise rates for at
25 least five years?

1 A And that is --

2 **Q Yes or no?**

3 A Yes, I did, and it is dumbfounding. It is
4 ridiculous. I don't understand how the person who is in
5 charge of rates can say, with all the financing that's
6 going to have to be obtained in order to meet the
7 capital requirements, that there won't have to be some
8 sort of increase in the rates. So, yes, I heard it, and
9 I -- there may not be plans, but in the back of their
10 minds, they have to realize somebody is going to have to
11 pay for --

12 **Q You are speculating now, correct?**

13 A I am -- no, I have done -- I have been doing
14 rates for public and private utilities for over 30
15 years. I looked at their audited financial statements,
16 I looked at what their capital plans are; and to say
17 that there is no plan on how to finance or fund it is
18 unbelievable.

19 **Q Ms. Swain, would you agree with me that**
20 **municipal utilities have other sources that they may**
21 **rely on rather than raising rates that investor-owned**
22 **utilities don't have?**

23 A They -- yes. If it's a government utility, it
24 can get subsidies from the general fund for the city --
25 from the city or county which it's a department of. I

1 don't know how JEA gets funding for water and sewer,
2 other than maybe from the electric utility, or if they
3 get funding from the City of Jacksonville. But it
4 can -- that is not sustainable, and it is also -- not
5 only is it not sustainable, it's unreliable, and I don't
6 believe it's appropriate.

7 **Q And you -- what -- you offered that opinion.**
8 **Now, what are the facts on which you base that? Is it**
9 **on a current financial?**

10 A Yes. Yes. As a matter of fact, in my
11 rebuttal testimony, I talk about -- which is why I even
12 looked at the audited financial statement. I wanted to
13 see, in light of all this capital -- the capital plans
14 that were -- that were in the works, how they were going
15 to be able to fund it or finance it.

16 **Q Mr. Chairman, just to be clear, you are saying**
17 **that Ms. Crawford wasn't truthful when she said that**
18 **there were no plans to raise rates in the next five**
19 **years?**

20 A No. I think she may have very well been
21 truthful, but it is dumbfounding that there would not be
22 a plan in place. I think that that is irresponsible.

23 **Q But you have no basis to dispute the numbers**
24 **that they have provided, or dispute the presentation**
25 **that they intend to make to Wall Street about their**

1 **plans for rate increases? Yes or no?**

2 MR. FRIEDMAN: I object to that question
3 because it assumes facts not in evidence. She's
4 talking about --

5 MS. CLARK: I believe Mr. Orfano testified to
6 that.

7 MR. FRIEDMAN: I don't think she testified
8 that what JEA presented to Wall Street. I have
9 never heard that phrase used today.

10 COMMISSIONER GRAHAM: The question was, and I
11 will paraphrase: In your opinion, do you think
12 that she was incorrect? And she says, yes, I think
13 she was incorrect. I thought it was ludicrous.
14 That's what the witness said.

15 MS. CLARK: And I just wanted to explore the
16 basis on which she says that, which is not based on
17 any current review of the finances of JEA and how
18 they intend to finance that without doing a rate
19 increase.

20 COMMISSIONER GRAHAM: The way I look at this
21 is just her expert testimony and her opinion.

22 MS. CLARK: The last exhibit.

23 THE WITNESS: I wasn't finished -- I wasn't
24 finished with my answer.

25 COMMISSIONER GRAHAM: We'll handle that in

1 redirect.

2 THE WITNESS: Okay.

3 COMMISSIONER GRAHAM: Your attorney will bring
4 that --

5 THE WITNESS: Okay.

6 COMMISSIONER GRAHAM: -- will circle back
7 around to that for you.

8 BY MS. CLARK:

9 **Q The last exhibit I have, Ms. Swain, is, again,**
10 **it's similar to the chart that Ms. Crawford attached to**
11 **her testimony.**

12 A What tab are you looking at?

13 **Q I am at Tab 10, I believe.**

14 MS. CLARK: Excuse me, Mr. Chairman, may I
15 have a number for that?

16 COMMISSIONER GRAHAM: For the one that we just
17 did, 78, the description is Comparison of
18 residential bills using rates provided by DDS-9.

19 And this is No. 79, and it's Comparison of
20 Municipal Utility rates to FCRU using rates
21 provided by DDS-9.

22 (Whereupon, Exhibit No. 79 was marked for
23 identification.)

24 BY MS. CLARK:

25 **Q Ms. Swain, does this look like the same chart**

1 that Ms. Crawford attached to her prefiled direct
2 testimony?

3 A Without looking at it, it looks like it could
4 be.

5 Q Okay. I can represent to you that this is the
6 same chart, and she's using your new numbers --

7 A Okay.

8 Q -- for the rates, which is that 158 over
9 there. And if we look at this chart, it depicts that
10 First Coast rates are still going to be substantially
11 higher than the 18 other municipal utilities listed on
12 that chart, is that correct?

13 A Yes. And I would -- I would say that I could
14 probably --

15 Q Thank you.

16 A -- find 18 other utilities where -- that are
17 more come probably to First Coast Regional Utilities.

18 Q And you could have done that as part of your
19 rebuttal testimony, correct?

20 A Yes.

21 Q And you didn't do that?

22 A No, I -- I did not.

23 Also, I want to clarify, because there seems
24 to be some misunderstanding about the \$158 that I have
25 in my rebuttal testimony. I had, in response to witness

1 Crawford's comparison of rates, where she stated that
2 our rates were very high. I had offered an alternative
3 that would bring the rates down, but that is -- that
4 wasn't ever the position of the utility, to request a
5 lower rate. I just want to make sure that the record is
6 clear on that.

7 **Q Yeah, I would concede that because in the**
8 **prehearing order, you do use your original rates.**

9 A Okay.

10 **Q We are just doing that for illustrative**
11 **purposes with your new new rates?**

12 A Yes.

13 MS. CLARK: Mr. Chairman, that's all I have.

14 COMMISSIONER GRAHAM: Okay. Staff?

15 MS. LHERISSON: No questions.

16 COMMISSIONER GRAHAM: Commissioners?

17 Redirect?

18 MR. FRIEDMAN: Thank you, Mr. Chairman.

19 FURTHER EXAMINATION

20 BY MR. FRIEDMAN:

21 **Q Let me start at the end, Ms. Swain.**

22 **Ms. Clark asked you about whether you did a**
23 **rate comparison with other PSC regulated utilities, and**
24 **you said you didn't do one. Is there reason why you**
25 **didn't do a rate comparison?**

1 MS. CLARK: Mr. Chairman, I object. I did not
2 ask about other rate utilities. I asked about
3 municipal utilities.

4 MR. FRIEDMAN: I thought she asked
5 specifically if she had done a rate comparison with
6 other investor-owned utilities and that she could
7 have done it when she filed her testimony but she
8 didn't do it. And maybe I heard that wrong, and if
9 I did --

10 COMMISSIONER GRAHAM: I want to hear the
11 answer to the question.

12 BY MR. FRIEDMAN:

13 Q Why didn't you do a rate comparison between
14 First Coast rates and other PSC regulated utilities?

15 A Well, I went very extensively in my rebuttal
16 testimony to explain why comparisons of rates are
17 irrelevant, and so I did not do a comparison because
18 it's irrelevant.

19 Q Thank you.

20 Ms. Clark confused me and I need some help on
21 this bond stuff, all right. I am not a bond expert.
22 Let me -- so let me see if I understand.

23 JEA, as an entity, doesn't get a bond rating,
24 is that correct? The entity JEA does not get one bond
25 rating?

1 A Well, there is different rating agencies that
2 give rating -- give bond ratings to JEA. It's not the
3 entity that gets it. It's the bond that gets it.

4 Q That's my point. Okay, that's what I am
5 trying to understand.

6 So when Ms. Clark, I thought she was trying to
7 compare exhibit, Moody's Exhibit 74 with your Exhibit 5,
8 which I guess on this would -- I guess on this sheet
9 would be 32, your Exhibit DD --

10 COMMISSIONER GRAHAM: I need you to speak into
11 the microphone. I need you to speak into the
12 microphone.

13 BY MR. FRIEDMAN:

14 Q In your DDD -- DDS-5 was the Moody's that you
15 printed from the Moody's website, correct?

16 A Yes. DDS-5 had several different rating
17 agencies in it.

18 Q The one from Moody's was the one I was looking
19 at because the format looks kind of like the one that
20 she gave you that was 76 -- I mean, 74.

21 Now, this doesn't -- this bond rating that JEA
22 got for the new bonds doesn't affect the bond rating
23 that the agencies had placed on other existing bonds,
24 does it?

25 A No. That's correct. And that's what I said

1 when -- when I was asked about jumping up two levels,
2 but that's for that specific bond, not for the -- not
3 for the other bonds.

4 Q So the fact that they may have gotten a good
5 bond rating in 2021 doesn't affect the fact that bonds
6 were downgraded, another series of bonds were
7 downgraded?

8 A That's correct.

9 Q Thank you for clarifying that.

10 So am I correct that the whole purpose of
11 mentioning the bond grade -- the downgrading of the
12 bonds was just to point out the insincerity of that
13 witness' testimony about the bond ratings?

14 A Yes. Exactly. That it was omitted -- it was
15 specifically brought up in the testimony and yet failed
16 to include the bonds that were downgraded.

17 MR. FRIEDMAN: That's all I have. Thank you.

18 COMMISSIONER GRAHAM: Okay. Exhibits?

19 MR. FRIEDMAN: Well, I would like to move
20 exhibits --

21 COMMISSIONER GRAHAM: So Exhibits 31, 32, 33,
22 34 --

23 MR. FRIEDMAN: I'm getting there.

24 COMMISSIONER GRAHAM: -- 35, 36?

25 MR. FRIEDMAN: That's correct. Thank you, Mr.

1 Chairman.

2 COMMISSIONER GRAHAM: Any objections to those
3 exhibits?

4 MS. CLARK: No objection.

5 COMMISSIONER GRAHAM: Seeing none, we will
6 enter those exhibits into the record.

7 (Whereupon, Exhibit Nos. 31-36 were received
8 into evidence.)

9 MS. CLARK: Mr. Chairman, JEA would move
10 Exhibits 73 through 78.

11 MR. FRIEDMAN: Can we take them one by one,
12 please?

13 COMMISSIONER GRAHAM: Sure.

14 MS. CLARK: Okay.

15 COMMISSIONER GRAHAM: 71, credit rating by
16 agencies.

17 MR. FRIEDMAN: That's the Moody's -- I believe
18 that was the Moody's one, is that correct?

19 COMMISSIONER GRAHAM: No, 74 is Moody's.

20 MR. FRIEDMAN: 75 is -- oh, okay. No, I don't
21 have any objection do that one. It's just showing
22 what the ratings are.

23 COMMISSIONER GRAHAM: Okay.

24 Okay. 74?

25 MR. FRIEDMAN: 74, I have an objection to

1 because, on two points. One is that they didn't
2 have any witness -- at least when Ms. Swain did
3 this, she was able to testify that she did it, and
4 how she went about getting this information, and it
5 was something -- it's got somebody sponsoring it.
6 What JEA is trying to do is to pull something, and
7 this is true of the other ones as well, and to ask
8 Ms. Swain about information that she has no
9 personal knowledge about, that is looking at
10 something that got pulled off the internet and
11 said, oh, yeah, well, that looks like it's
12 something pulled off the internet, but that's not
13 appropriate. There is no predicate for introducing
14 that into evidence based upon just, yeah, it looks
15 like it's what their current bond ratings are. So
16 I think that applies to 74, 75 and 76.

17 COMMISSIONER GRAHAM: I thought the whole
18 purpose was just to show a snapshot of what that
19 current bond was, but I will defer to my attorney
20 for advice.

21 MR. FRIEDMAN: That's those bonds. That's got
22 nothing to do with the bonds that he testified
23 about in his testimony --

24 COMMISSIONER GRAHAM: And I think --

25 MR. FRIEDMAN: -- those bonds weren't even

1 issued back then.

2 COMMISSIONER GRAHAM: I thought that's what
3 you brought up on your redirect, was it's not like
4 the agency is rated for, like, a year or the next
5 couple of years, the specific bond is almost like
6 let me dumb it down for myself.

7 MR. FRIEDMAN: Okay.

8 COMMISSIONER GRAHAM: It's like going and
9 getting a car loan. Well, this time I got a car
10 loan for two-and-a-half percent, this time I got a
11 car loan for two percent, this time I got one for
12 one-and-a-half percent.

13 MR. FRIEDMAN: It didn't change the fact that
14 you got the first one at that percent and that's
15 what that percent is. I'm just -- what my point is
16 there is no predicate for presenting evidence on
17 bonds that were issued three months ago.

18 COMMISSIONER GRAHAM: And in an abundance of
19 caution, I am looking to the left.

20 MS. HELTON: He is going to listen to me.

21 MR. FRIEDMAN: Well, yeah, I can hear you. I
22 can't hear the Chairman.

23 MS. HELTON: First of all, Mr. Friedman did
24 not heed my advice and object when Ms. Clark was
25 cross-examining the witness concerning these

1 exhibits. So that, to me, is a fundamental issue
2 because it gave Ms. Clark absolutely no opportunity
3 to attempt to cure any deficiencies that there
4 might have been on the record. And --

5 MR. FRIEDMAN: How do I know about whether I
6 have an objection until she finishes going through
7 whatever she's going through? I mean, I don't know
8 whether there is any predicate until she finishes
9 asking all of her questions, and at that point,
10 then I know there is no predicate laid. But I
11 can't do it when she just says, here's the exhibit.
12 When she presents the exhibit, I can't know whether
13 to the predicate is going to be laid or whether
14 it's going to be appropriate until I hear
15 everything the witness has to say.

16 So I understand what you are saying. It just,
17 practically speaking, can't work because you can't
18 know whether it's -- whether it's admissible until
19 all of the testimony is done. And when all the
20 testimony was done, there was no predicate laid for
21 those --

22 MS. HELTON: I guess I am a little bit
23 confused, Mr. Chairman, because I always thought
24 you laid the predicate first and then you went in
25 and asked questions about the exhibit, so you would

1 have asked if, you know -- not that I want to do a
2 101 lesson here, but I always thought would you
3 say, okay, Ms. Swain, do you recognize this
4 exhibit? Do you have --

5 MR. FRIEDMAN: That's what her job is.

6 MS. HELTON: Exactly. So that is the
7 predicate, and that is the predicate that is
8 supposed to happen first. So if you did not hear
9 Ms. Clark doing that, then the time to have
10 objected was when Ms. Clark was questioning the
11 witness.

12 MR. WHARTON: I think -- I think counsel is
13 right, but we are going to have to change a little
14 bit the way PSC does this. I don't think anyone
15 should be crossing with an exhibit that hasn't been
16 admitted. That's the answer to that about what
17 order the objections come in. You got to get that
18 thing admitted before you start crossing somebody.
19 You have done it previously, or it's
20 self-authenticating, or something.

21 COMMISSIONER GRAHAM: I don't have a problem
22 with entering 74, 75, 76, so let's go to 77.

23 MR. FRIEDMAN: That's a website. I mean, I
24 don't -- I don't know the probative value of
25 printing something off your own website, which is

1 your own PR piece, not even a third-party. At
2 least the rating agency is a third-party. There
3 is -- they probably hired and got some person on
4 the staff who gets paid a lot of money to puff up
5 their websites. And I don't think that you can --
6 that you can just print out the website of your own
7 company and say this has got some probative value.

8 COMMISSIONER GRAHAM: Ms. Clark?

9 MS. CLARK: These are public records. They
10 are documents uploaded to JEA's website providing
11 information about JEA. The address of the website
12 was shown. And as a public record, it is an
13 exception to a hearsay rule and it doesn't need a
14 predicate laid for it if it is a public record.
15 And I would quote Section 90.803 subsection (8).

16 MR. FRIEDMAN: And that says a website is a
17 public record?

18 MS. CLARK: It says: Public records are an
19 exception to the hearsay. And then if you look at
20 119.011, you will see that the definition of public
21 records includes documents, in whatever form, as
22 public records.

23 MR. FRIEDMAN: The document is the website.

24 COMMISSIONER GRAHAM: I agree with you, Mr.
25 Friedman. I don't see the need.

1 How about 78 and 79?

2 MS. CLARK: Mr. Chairman, can I understand,
3 you say you don't see the need for it.

4 COMMISSIONER GRAHAM: We've had -- we've had
5 many different websites put before us before, and
6 pretty much as Mr. Friedman is saying, is anybody
7 can have anything put on a specific website, and we
8 don't even know the facts based behind the website.
9 You say that person was appointed this date. You
10 say that person was appointed this date. You say
11 that person was appointed that date. Granted it is
12 on the website, do we know that to be fact?

13 MS. CLARK: Well, it's an exception to the
14 hearsay rule that you can take the truth of what is
15 in that document because it is an exception to the
16 hearsay rule and you don't need a witness to
17 testify to it. That's my point.

18 COMMISSIONER GRAHAM: Okay. 78 and 79?

19 MR. FRIEDMAN: My only problem with 78 -- 78
20 and 79 are really together. 78 has got the
21 numbers, and this is just a graph based on what
22 this is. My problem with that is, as Ms. Swain
23 pointed out, it shows rates that First Coast is
24 going to have at some point in the future, and it
25 shows JEA's rates today, and that's a mix-match,

1 and I don't see probative value between what JEA's
2 rates are today and what First Coast rates are
3 going to be in five years.

4 MS. CLARK: Mr. Chairman, I didn't hear an
5 objection to the admissibility of it.

6 COMMISSIONER GRAHAM: I think that it should
7 go in. It's in the record that she says
8 specifically what you just said, that one's a
9 snapshot of what it is today and it's not relevant
10 to what JEA is five years from now, so that is sill
11 in the record.

12 So right now, we are going to put in 73 --
13 basically 73 through -- 73 through 79 except for
14 77. 77 is not going in.

15 (Whereupon, Exhibit Nos. 73-76 & 78-79 were
16 received into evidence.)

17 COMMISSIONER CLARK: Mr. Chairman, could I ask
18 a question?

19 COMMISSIONER GRAHAM: Yes.

20 COMMISSIONER CLARK: How do we know that that
21 information is correct and accurate? Nobody
22 sponsored that document. I saw your information.
23 I don't know if that's true or not. And I agree
24 with that on the website, Mr. Chairman. I don't
25 know who did that website. I get what you are

1 saying, but nobody sponsored that, no one is
2 testifying to the fact that that is actually the
3 website. Am I correct?

4 MS. CLARK: If I could answer it. If you
5 look --

6 COMMISSIONER CLARK: Let Ms. Helton answer
7 first, if you don't mind.

8 MS. HELTON: I would actually love to hear
9 what Ms. Clark says, though.

10 COMMISSIONER CLARK: I am sorry, Ms. Clark.

11 MS. CLARK: Yeah, I referred her to please
12 look at the website that was on those documents,
13 and it is the JEA website. She didn't disagree
14 with that.

15 And going back to my statement, the website
16 constitutes a public record of JEA. As such, it is
17 -- I ask you to go ahead and ask Ms. Helton if that
18 constitutes a public record. It is an exception to
19 the hearsay rule and, it is admissible without a
20 witness testifying to the truth of what is in the
21 document. That's my point. I am fine with having
22 it out, but I would appreciate her clearing that
23 up.

24 COMMISSIONER GRAHAM: Okay.

25 MR. FRIEDMAN: May we excuse this witness,

1 please?

2 COMMISSIONER GRAHAM: We may excuse this
3 witness.

4 (Witness excused.)

5 COMMISSIONER GRAHAM: And I promise you guys I
6 would get you all out of here at six o'clock.

7 MR. FRIEDMAN: And we are not.

8 COMMISSIONER GRAHAM: I know we have three
9 witnesses left. I assume we can't get this done in
10 the next 10 minutes.

11 MR. FRIEDMAN: I think there is only two.
12 Isn't one of them stipulated?

13 MR. WHARTON: Although Mr. Kennelly was the
14 longest.

15 MR. FRIEDMAN: Oh, it will be -- it will be
16 longer than 10 minutes, but I'm just saying we
17 really don't have three. We have got two, but we
18 won't finish those two tonight.

19 COMMISSIONER GRAHAM: So how long are you
20 anticipating for? Okay, I said we would get out of
21 here at six o'clock. We are going to adjourn for
22 the day and start tomorrow at nine o'clock.

23 MR. FRIEDMAN: Thank you.

24 (Transcript continues in sequence in Volume
25 3.)

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CERTIFICATE OF REPORTER

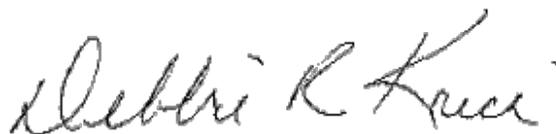
STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 16th day of February, 2022.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024