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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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IN RE: Application by Nocatee Utility Corporation for original certificates for water and wastewater service in Duval and St. Johns Counties, Florida.

RECORDS AND REPORTING DOCKET NO. 990696-WS

IN RE: Application for certificates to operate a water and wastewater utility in Duval and St. Johns County by Intercoastal Utilities, Inc.

DOCKET NO. 992040-WS

MOTION FOR CONTINUANCE

St. Johns County, Florida (County), by and through its undersigned counsel and pursuant to Rules 28-106.204 and 28-106.210, Florida Administrative Code, hereby files this Motion for Continuance and in support thereof states as follows:

1. Rule 28-106.210, Florida Administrative Code, provides that a presiding officer can grant a continuance of an administrative hearing involving disputed issues of material fact upon a showing that there is good cause to do so. A motion for continuance must be made no later than five (5) days prior to the noticed date of the hearing unless an emergency exists.

2. Dates for the evidentiary hearing in this combined docket have been noticed for August 16, 17 and 18, 2000 in St. Augustine, Florida. That being the case, this request for continuance is timely filed.

3. Yesterday at the deposition of Mr. Douglas Miller, Nocatee Utility Corporation's (NUC) engineering witness, parties to this docket were informed for the first time that JEA and Nocatee had entered into an "Agreement For Wholesale Utilities, Operations, Management and Maintenance" (JEA/NUC Agreement) the day before on

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Monday, July 24, 2000.

4. Pursuant to the JEA/Nocatee Agreement and the deposition testimony of Mr. Miller, this Agreement provides the contractual basis for JEA to provide bulk water and wastewater treatment, as well as operation and maintenance services, to NUC's proposed service territory at issue in this docket. Of particular significance is the fact that main water and wastewater lines transversing county boundaries which NUC previously represented in prefiled testimony would be owned by NUC, will now be owned by JEA. At today's deposition of Ms. Deborah Swain, NUC's accounting/rate witness, it was established that this change of ownership will affect the regulatory treatment of the funds expended by NUC to design, permit and construct these backbone lines and mains and may affect the rates proposed by NUC to recover these costs.

5. Ms. Swain testified today that she not had conducted a thorough analysis of the impact of the JEA/NUC Agreement on NUC's application but would be filing additional testimony on this point early next week. Counsel for NUC also represented to the parties at today's deposition that additional testimony supporting the JEA/NUC Agreement would be provided to the Commission as soon as possible.

6. The ownership of these backbone lines by JEA, rather than NUC, raises a new and fundamental jurisdictional issue not previously before the Commission: whether the Commission has jurisdiction over a utility whose service transverses county boundaries where the actual facilities (lines and mains) providing

that service are owned by a third party (JEA) who is not subject to the Commission's jurisdiction. This is by no means an easy question and the facts need to be developed through deposition and other means of discovery to provide a reasoned and legally supportable answer.

7. The hearing in this case is only 20 days away. Many parties to this proceeding are also involved in other cases before this Commission and other forums which need attention and where hearings and status conferences have been long scheduled. The magnitude of the impacts of the JEA/NUC Agreement are such that all parties should be given an opportunity to conduct discovery on the Agreement and file supplemental testimony of their own should such be warranted. Due process requires that parties be given this opportunity; and these steps can not be effectively completed in a mere 20 days.

8. In addition to the newly produced JEA/NUC Agreement, attorneys for the counties of Sarasota, Collier, and Citrus have represented to the undersigned counsel that these counties have received permission from their respective Boards of County Commissioners to file Notices of Interlocutory Appeal of Order PSC-00-1265-PCO-WS, issued on July 11, 2000, denying these counties intervenor status in this docket. These counties intend to file such notices by the end of this week.

9. As the Commission is well aware, the filing of a notice of appeal by a governmental authority results in an automatic stay under Rule 9.310(b)(2), Rules of Appellate Procedure.

10. Intercoastal Utilities does not object to a continuance. Nocatee Utility Corporation opposes the continuance. Counsel for JEA has been contacted but did not provide a response prior to the filing of this motion.

WHEREFORE, St. Johns County, Florida would request that the Commission continue this docket for a period of at least 60 days to enable the parties to fully explore and adequately address the new developments discussed above.

Respectfully submitted this 26th day of July, 2000 by:

Suzanne Brownless

Suzanne Brownless, Esq.
1311-B Paul Russell Road
Suite 201
Tallahassee, Florida 32301
Phone: (850) 877-5200
FAX: (850) 878-0090

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by Hand Delivery (*), U.S. Mail, Electronic Mail (**), and/or FAX (***) this 26th day of July, 2000 to the following persons:

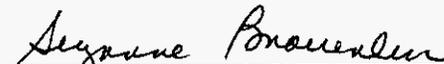
(**)(***)Richard D. Melson, Esq.
Hopping Law Firm
P.O. Box 6526
Tallahassee, Florida 32314-6526

(***) Samantha Cibula, Esq.
Division of Legal Services
Florida Public Service Comm.
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

(***)J. Stephen Menton, Esq.
Kenneth A. Hoffman, Esq.
Rutledge Law Firm
P.O. Box 551
Tallahassee, Florida 32302

(***)Michael J. Korn, Esq.
Korn & Zehmer, P.A.
Suite 200, Southpoint Bldg.
6620 Southpoint Drive South
Jacksonville, FL 32216

(***)John L. Wharton, Esq.
Rose Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301



Suzanne Brownless, Esq.

c: 3175