BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|  |  |
| --- | --- |
| In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc. | DOCKET NO. 20190168-WS  ORDER NO.  ISSUED: |

**DRAFT – 01/21/22 @ 10:37 A.M.**

PREHEARING ORDER

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on January 26, 2022, in Tallahassee, Florida, before Commissioner Art Graham, as Prehearing Officer.

APPEARANCES:

JOHN L. WHARTON, ESQUIRE, Dean Mead Law Firm, 215 South Monroe Street, Suite 815, Tallahassee, Florida 32301 and WILLIAM E. SUNDSTROM and ROBERT C. BRANNAN, ESQUIRES, Sundstrom Law Firm, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301.

On behalf of First Coast Regional Utilities, Inc.

RICHARD GENTRY, Public Counsel; MARY WESSLING, Associate Public Counsel; Office of Public Counsel, c/o The Florida Legislature, 111 West Madison Street, Room 812, Tallahassee, Florida 32399-1400

On behalf of Office of the Public Counsel (OPC).

THOMAS CRABB, SUSAN CLARK, and CHRISTOPHER B. LUNNY, ESQUIRES, 301 S. Bronough Street, Suite 200, Tallahassee, Florida 32301 and JODY L. BROOKS, ESQUIRE, 21 West Church Street, Jacksonville, Florida 32202.

On behalf of JEA (JEA).

BIANCA LHERISSON and JENNIFER CRAWFORD, ESQUIRES, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

MARY ANNE HELTON, ESQUIRE, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Advisor to the Florida Public Service Commission.

KEITH C. HETRICK, ESQUIRE, General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850

Florida Public Service Commission General Counsel.

**I. CASE BACKGROUND**

On August 27, 2019, pursuant to Sections 367.031 and 367.045, Florida Statutes (F.S.), and Rule 25-30.033, Florida Administrative Code (F.A.C.), First Coast Regional Utilities, Inc. (First Coast or FCRU) filed an application for original certificate of authorization and initial rates and charges for water and wastewater service in Duval, Baker, and Nassau Counties. On December 26, 2019, JEA filed an objection to First Coast’s application. Pursuant to Order No. PSC-2020-0112-PCO-WS, issued April 17, 2020, the hearing for First Coast’s application is scheduled on February 1 through February 3, 2022.

**II. CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, F.A.C., this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

**III. JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-6, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

**IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION**

Information for which proprietary confidential business information status is requested pursuant to Section 367.156, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 367.156, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, F.S., at the hearing shall adhere to the following:

* 1. When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must follow the procedures for providing confidential electronic exhibits to the Commission Clerk prior to the hearing.
  2. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by electronic exhibit.

If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk’s confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

**V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES**

Testimony of all witnesses to be sponsored by the parties has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to three minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

**VI. ORDER OF WITNESSES**

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

| Witness | Proffered By | Issues # |
| --- | --- | --- |
| Direct |  |  |
| Bevin A. Beaudet  Deborah D. Swain  Robert Kennelly  Joseph E. Orfano  Robert Zammataro | FCRU  FCRU  FCRU  JEA  JEA | 2, 4, 6, 7, 9, 12-16, 22  1, 6, 9, 10-16  1-6, 8, 9, 22  4, 9, 22  4, 7, 9, 18-22 |
| Susan West | JEA | 3, 4, 9, 22 |
| Julia Crawford | JEA | 9 |
| Rebuttal |  |  |
| Bevin A. Beaudet | FCRU | 2, 4, 6, 7, 9, 12-16, 22 |
| Deborah D. Swain | FCRU | 1, 6, 9, 10-16 |
| Robert Kennelly | FCRU | 1-6, 8, 9, 22 |
| Paul Gandy  Scott D. Kelly | FCRU  FCRU | 6-7  3, 4, 6, 7, 9, 18-22 |

**VII. BASIC POSITIONS**

**FCRU:** First Coast seeks to provide water, wastewater and reuse/irrigation utility services within the proposed service territory. There is a significant need for this service and no other utilities currently serve or are planned to serve the proposed territory. First Coast has the financial and technical ability to provide the necessary utility services. Consequently, it is in the public interest to grant First Coast’s Certificate Application. 301 Capital Partners, LLC, (301) the owner of First Coast, either owns or has exclusive rights to 10,000 acres of contiguous property located in Duval, Nassau and Baker Counties. An additional 1,800 acre property located in Baker County and included in the Application, is owned by the Chemours Company FC, LLC. The Duval property is fully entitled for significant development as noted below. The current development order, Jacksonville Ordinance 2021-693, requires that 301 shall provide a site to serve the needs of this PUD for potable water, wastewater and reuse water. The Ordinance does not require that the facilities be dedicated to or operated by JEA.

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

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

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

**STAFF:** Staff’s positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff’s final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

**VIII. ISSUES AND POSITIONS**

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

**FCRU:** Yes. (Kennelly)

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** Yes. The land which is the subject of the Application consists of approximately 11,800 acres of contiguous property located in Duval, Nassau and Baker Counties. The development will begin in Duval County and will expand based on the economy and housing demand in the area. In Duval County, Ordinance 2010-874-E, as revised and amended by Ordinance 2021-693, permits the construction of: 11,250 single family units; 3,750 multi-family units; 750,000 square feet of commercial space; 300,000 square feet of industrial use and 300,000 square feet of office space. The properties in Baker County are in the planning stage and the properties in Nassau County are currently zoned for commercial and industrial use. Service is needed for the property now. In fact, 301 has already lost the opportunity to develop and sell several thousand lots during the pendency of this case, due to lack of water and wastewater service to the area. (Kennelly)

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

**STAFF:** No position at this time.

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

**FCRU:** Yes. Baker and Nassau Counties have both filed letters in this docket in support of First Coast and its Application. (Kennelly and Kelly)

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

**STAFF:** No position at this time.

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

**FCRU:** No. There are no utility systems in Duval, Baker or Nassau Counties currently serving or planned to serve the proposed territory. (Kennelly & Beaudet)

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

**STAFF:** No position at this time.

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

**FCRU:** Yes. (Kennelly)

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

**STAFF:** No position at this time.

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

**FCRU:** Yes. (Kennelly, Kelly, Beaudet & Swain)

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

**STAFF:** No position at this time.

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

**FCRU:** Yes. First Coast will construct necessary capacity in phases to meet the expected demand as the properties comprising the requested territory are developed. (Beaudet)

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

**STAFF:** No position at this time.

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

**FCRU:** Yes. 301 Capital Partners, LLC, the owners of the land upon which the utility facilities will be located, will deed said land to First Coast upon the Commission’s granting of the Application for Certificates. A form of the Special Warranty Deed between 301 Capital Partners, LLC and First Coast is attached to the Application as Exhibit “F”. (Kennelly)

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** Yes. (Kennelly & Beaudet)

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

**STAFF:** No position at this time.

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

**FCRU:** 8.12% (Swain).

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** See below. (Swain).

|  |  |  |  |
| --- | --- | --- | --- |
| **Water (Monthly)** | |  | |
|  | **Requested Rates - Residential** | |  | |
|  | Base Facility Charge | | **$ 41.05** | |
|  | Gallonage Charge | |  | |
|  | First 3,000 gls | | **$ 1.55** | |
|  | Over 3,000 gls - 10,000 gls | | **$ 2.33** | |
|  | Over 10,000 gls | | **$ 4.66** | |
|  | **Requested Rates - General Service** | |  | |
|  | 5/8" x 3/4" | | **$ 41.05** | |
|  | 3/4" | | **61.58** | |
|  | 1" | | **102.63** | |
|  | 1-1/2" Turbine | | **205.25** | |
|  | 2" Turbine | | **328.40** | |
|  | 3" Turbine | | **718.38** | |
|  | Charge per 1,000 gallons | | **$ 2.01** | |
| **Wastewater (Monthly)** | |  | |
|  | **Requested Rates - Residential** | |  | |
|  | Base Facility Charge | | **$ 112.17** | |
|  | Gallonage Charge, 10,000 gallons cap | | **$ 6.67** | |
|  | **Requested Rates - General Service** | |  | |
|  | 5/8" x 3/4" | | **$ 112.17** | |
|  | 3/4" | | **168.26** | |
|  | 1" | | **280.43** | |
|  | 1-1/2" Turbine | | **560.85** | |
|  | 2" Turbine | | **897.36** | |
|  | 3" Turbine | | **1,962.98** | |
|  | Charge per 1,000 gallons | | **$ 8.00** | |
| **Reclaimed Water (Charge per 1000 gallons)** | | **$ .50** | |

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** See below. (Swain).

|  |  |  |
| --- | --- | --- |
|  | **Charge During Regular Business Hours** | **Charge After Regular Business Hours** |
| Initial Connection | $30.00 | N/A |
| Normal Reconnection | $30.00 | N/A |
| Violation Reconnection | Actual Cost | Actual Cost |
| Premise Visit Charge | $30.00 | N/A |

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

**ISSUE 13:** **What are the appropriate late payment charge for First Coast?**

**FCRU:** See below. (Swain).

|  |  |  |
| --- | --- | --- |
| Late Payment Fee | $7.50 | N/A |

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** See below (Swain).

|  |  |
| --- | --- |
| Bad check Charge | Pursuant to 68.065 (2), Florida Statutes |

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** See below (Swain).

|  |  |  |
| --- | --- | --- |
|  | **Plant** | **Main** |
| **WATER** | **Capacity** | **Capacity** |
| Requested Service Availability Charge Per ERC | $ 752.00 | $ 3,158.00 |
| Requested Service Availability Charge Gallon Per Day | $ 2.79 | $ 1.70 |
|  | **Plant** | **Main** |
| **WASTEWATER** | **Capacity** | **Capacity** |
| Requested Service Availability Charge Per ERC | $ 1,250.00 | $ 4,833.00 |
| Requested Service Availability Charge Gallon Per Day | $ 5.79 | $ 22.38 |

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

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

**FCRU:** Two times the average monthly bill each for residential and general service:

Residential Deposit: $400.00

General Service Deposit: $600.00. (Swain)

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

**ISSUE 17:** **Should this docket be closed?**

**FCRU:** Yes.

**JEA:** JEA has no position on this issue.

**STAFF:** No position at this time.

**JEA PROPOSED ISSUES (CONTESTED)**

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

**FCRU:** This legal issue is not an issue in this case. To the extent that it is an issue in this case, FCRU’s position is “No”.

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

**STAFF:** No position at this time.

**ISSUE 19:** **Is the portion of First Coast’s proposed service territory in Duval County located in the City of Jacksonville?**

**FCRU:** This is not an issue in this case.

**JEA:** Yes. (Zammataro)

**STAFF:** No position at this time.

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

**FCRU:** This legal issue is not an issue in this case. To the extent that it is an issue in this case, FCRU’s position is “No”.

**JEA:** Yes. See Exhibit RJZ-5. (Zammataro)

**STAFF:** No position at this time.

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

**FCRU:** This legal issue is not an issue in this case. To the extent that it is an issue in this case, FCRU’s position is “No”.

**JEA:** Yes. (Zammataro)

**STAFF:** No position at this time.

**ISSUE 22:** **Does JEA have the ability to provide water and wastewater service to First Coast’s proposed service territory?**

**FCRU:** No. Throughout the pendency of this case, JEA has premised its ability to serve 301 by 301 permitting, designing, financing, and dedicating facilities to JEA. That option was removed by the City of Jacksonville. (Kennelly, Beaudet).

**JEA:** Yes. (Orfano, West, Zammataro)

**STAFF:** No position at this time.

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

**FCRU:** This legal issue is not an issue in this case. To the extent that it is an issue in this case, FCRU’s Position is that the PSC’s enabling statute and the decision of the First District Court of Appeals in this case clearly establish that the PSC has exclusive jurisdiction over the proposed certification of First Coast.

**JEA:** No. (None (issue of law).)

**STAFF:** No position at this time.

**IX. EXHIBIT LIST**

| Witness | Proffered By |  | Description |
| --- | --- | --- | --- |
| Direct |  |  |  |
| Robert Kennelly  Deborah D. Swain | FCRU  FCRU | RK-1  DDS-1 | Application  Accounting Information |
| Deborah D. Swain | FCRU | DDS-2 | Water Tariff |
| Deborah D. Swain | FCRU | DDS-3 | Wastewater Tariff |
| Bevin A. Beaudet, PE | FCRU | BAB-2 | Feasibility Assessment |
| Bevin A. Beaudet, PE | FCRU | BAB-3 | Service Area Maps |
| Robert Zammataro | JEA | RJZ-1 | CV |
| Robert Zammataro | JEA | RJZ-2 | Private Utility Systems Acquired by JEA |
| Robert Zammataro | JEA | RJZ-3 | JEA Honors and Awards |
| Robert Zammataro | JEA | RJZ-4 | City of Jacksonville-JEA Franchise Agreement |
| Robert Zammataro | JEA | RJZ-5 | Nassau County-JEA Franchise Agreement |
| Susan West | JEA | SRW-1 | CV |
| Susan West | JEA | SRW-2 | City of Jacksonville Ordinance 2010-874 (“PUD Ordinance”) |
| Susan West | JEA | SRW-3 | Report of the Planning and Development Department for Application for Rezoning 2010 to Planned Unit Development |
| Susan West | JEA | SRW-4 | City of Jacksonville Comprehensive Plan Infrastructure Element |
| Susan West | JEA | SRW-5 | August 9, 2019 JEA Proposal to 301 Partners |
| Julia Crawford | JEA | JEC-1 | CV |
| Julia Crawford | JEA | JEC-2 | Table Comparing Proposed Rates and Charges of Applicant to those of JEA |
| Julia Crawford | JEA | JEC-3 | JEA Water and Sewer Rate Document |
| Julia Crawford | JEA | JEC-4 | Chart of JEA and Other Municipal Water and Sewer Rates in Florida Compared to FCRU’s Proposed Rates |
|  |  |  |  |
| Rebuttal |  |  |  |
| Bevin A. Beaudet, PE  Bevin A. Beaudet, PE | FCRU  FCRU | BAB-4  BAB-5 | Photos of AMUC facilities  JEA Management Presentation |
| Bevin A. Beaudet, PE  Bevin A. Beaudet, PE  B. Paul Gandy, PE | FCRU  FCRU  FCRU | BAB-6  BAB-7  BPG-1 | Preliminary Cost Estimate  Life Cycle Cost Analysis  Resume of Bernard Paul Gandy |
| B. Paul Gandy, PE | FCRU | BPG-2 | Globaltech Images |
| Scott D. Kelly, PE | FCRU | SDK-1 & 2 | Maps |
| Robert Kennelly | FCRU | RK-1 & 2 | Maps |
| Deborah D. Swain | FCRU | DDS-4 | Resume |
| Deborah D. Swain | FCRU | DDS-5 | Moody’s Investor Services |
| Deborah D. Swain | FCRU | DDS-6 | Cash Flow Statements |
| Deborah D. Swain | FCRU | DDS-7 | 2021 Budget Snapshot |
| Deborah D. Swain  Deborah D. Swain | FCRU  FCRU | DDS-8  DDS-9 | Preliminary Finance Terms  Revised Accounting Schedules |

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

**X. PROPOSED STIPULATIONS**

There are no proposed stipulations at this time.

**XI. PENDING MOTIONS**

First Coast’s Notice of Intent to Use Depositions, filed January 19, 2022.

**XII. PENDING CONFIDENTIALITY MATTERS**

There are no pending confidentiality matters at this time.

**XIII. POST-HEARING PROCEDURES**

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position, set off with asterisks, shall be included in that statement. If a party’s position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party’s proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages and shall be filed at the same time.

**XIV. RULINGS**

Opening statements, if any, shall not exceed five minutes per party.

Each witness shall be given three minutes for a summary of their testimony.

The parties shall provide cross-examination exhibits, including impeachment exhibits, to the Commission Clerk by the close of business on January 27, 2022, following the procedures set forth in Attachment A. The exhibits that are pre-filed and designated as cross-examination or impeachment exhibits shall not be viewed by opposing witnesses or opposing counsel or otherwise have their contents or identity communicated to such witnesses or counsel.

It is therefore,

ORDERED by Commissioner Art Graham, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Art Graham, as Prehearing Officer, this            day of                               ,                     .

|  |  |
| --- | --- |
|  |  |
|  | ART GRAHAM  Commissioner and Prehearing Officer |

Florida Public Service Commission

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

**ATTACHMENT A**

**Requirements related to providing Cross-Examination Exhibits prior to Hearing**

By January 27, 2022, each party must provide the Commission Clerk an electronic copy of all cross-examination exhibits, including impeachment exhibits, the party plans to use during the hearing. All cross-examination exhibits must be provided to the Clerk’s Office on either USB flash drives or CDs. Confidential documents must be placed on one USB flash drive or CD, and non-confidential exhibits must be placed on a different or separate USB flash drive or CD. This is because the Clerk’s Office will process the confidential exhibits, and will transmit all non-confidential exhibits to the General Counsel’s Office for processing. All USB flash drives or CDs provided to the Clerk’s Office must be clearly labeled as confidential or non-confidential, and the label must also include the Docket Number(s) and the name of the party providing the exhibits.

Each party must also provide to the Clerk by January 27, 2022, a table listing the exhibit numbers and short titles of each cross-examination exhibit provided to the Clerk. Pursuant to Rule 25-22.006(3), F.A.C., a notice of intent to request confidential classification must be filed for all confidential information.

Each party must pre-number each exhibit with the following sequential numbering system that clearly denotes confidential exhibits. For example, PGS will pre-identify its cross-examination exhibits PGS-1, PGS-2, PGS-3, etc. All confidential exhibits must include the letter “C” placed after the number. Thus, if PGS’s third exhibit is confidential, it will be labeled PGS-3C.

Each exhibit must be saved as a separate electronic file, and each file must be labeled with the exhibit number that reflects the information contained in the exhibit. The exhibit number will serve as the filename in the virtual folder during the hearing. Each exhibit must also include a cover page that includes the exhibit number. In addition, each exhibit must include sequentially numbered pages. The page numbers must be placed in the upper right-hand corner of each page.

The confidential and non-confidential cross-examination exhibits will be made available to the parties in virtual folders the day before the hearing. The cross-examination exhibits will be made available to the parties for the sole purpose of providing the witnesses and their counsel with the opportunity to print the exhibits or download them to their electronic devices for use during the hearing.[[1]](#footnote-1) The parties must not view or read the exhibits prior to the hearing. Parties will be provided usernames and passwords by Commission staff that will give them access to the confidential exhibits and any other confidential information that will be used during the hearing. By January 27, 2022, parties must provide the Commission Clerk with the list of names of those persons who should be given a user name and password to access confidential information.

1. Microsoft Chrome is the best internet browser to use to access the virtual folder. [↑](#footnote-ref-1)