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January 24, 2000

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Blanca S. Bayó  
Director, Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

Re: Intercoastal Utilities, Inc.  
Docket No. 992040-WS

Dear Ms. Bayó:

Enclosed for filing are the original and 15 copies of each of the following:

- (1) Nocatee Utility Corporation's Objection and Request for Hearing. ~~00997-00~~
- Hong* (2) DDI, Inc.'s Objection and Request for Hearing ~~00998-00~~
- (3) DDI Inc. and Nocatee Utility Corporation's Joint Motion to Dismiss or, in the Alternative, to Preclude Litigation of Issues ~~00999-00~~

By copy of this letter, these documents have been furnished to the parties on the attached service list.

If you have any questions regarding these filings, please call.

Very truly yours,

*Richard D. Melson*

Richard D. Melson

RDM/mee  
Enclosures  
cc: Certificate of Service

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*Done 1/27/00*

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of	)	
Intercoastal Utilities, Inc.	)	Docket No. 992040-WS
for Water and Wastewater	)	
Certificates in Duval and	)	Filed: January 24, 2000
St. Johns Counties, Florida	)	
_____	)	

DDI, INC.'S  
OBJECTION AND REQUEST FOR HEARING

DDI, Inc. and Estuary Corporation (collectively, "DDI"), pursuant to Section 367.045(4), Florida Statutes, hereby object to the application filed by Intercoastal Utilities Inc. ("Intercoastal") on December 30, 1999 for extension of its service area in Duval and St. Johns County, insofar as the proposed extension includes property owned by DDI in Duval and St. Johns County, Florida. DDI hereby requests a formal evidentiary hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on Intercoastal's application. As grounds for its objection, DDI states:

1. DDI's name and business address is:

DDI, Inc.  
4310 Pablo Oaks Court  
Jacksonville, FL 32224

2. The name and address of DDI's counsel to receive copies of correspondence, pleadings and other documents in this docket is:

Richard D. Melson  
Hopping Green Sams & Smith, P.A.  
P.O. Box 6526  
Tallahassee, FL 32314

3. DDI received notice by publication on January 3, 2000 of Intercoastal's intent to file an application with the Commission for both (a) an initial certificate of authorization to serve the existing territory in St. Johns County for which Intercoastal currently holds a franchise from St. Johns County; and (b) an extension of that existing territory to serve additional lands in Duval and St. Johns Counties.

4. DDI is the owner of approximately 25,000 acres of land in St. Johns County, Florida and approximately 25,000 acres of land in Duval County, Florida. DDI is planning a multi-use development of approximately 15,000 acres ("Nocatee") on about 12,800 acres of the St. Johns County property and about 2,200 acres of the Duval County property. The filing of an Application for Development Approval for Nocatee as a Development of Regional Impact under Chapter 380, Florida Statutes, is expected to occur in the first quarter of 2000.

5. In connection with the development of Nocatee, DDI has created Nocatee Utility Corporation ("NUC") as a wholly-owned subsidiary to provide water, wastewater and reuse service to Nocatee. NUC filed an application with the Commission on June 1, 1999 for original, multi-county water and wastewater certificates to serve the land comprising the Nocatee development.

6. Intercoastal's application for extension of its water and wastewater service area consists primarily of land owned by DDI, some of which is included in Nocatee and some of which is outside Nocatee and is not planned for development.

7. As the owner of the bulk of the property covered by Intercoastal's application, DDI's substantial interests as a consumer, a land owner, a land developer, and a utility owner will be substantially affected by the Commission's action on Intercoastal's application to serve its property.

8. Intercoastal currently operates as a single county utility subject to the jurisdiction of the Board of County Commissioners of St. Johns County ("Board"). In 1999, Intercoastal applied to St. Johns County for an extension of its certificated territory to serve the St. Johns County portions of the territory for which it has now applied to the Commission. DDI was one of several parties which filed objections to that application. After six days of formal hearings before the St. Johns County Water and Sewer Authority ("Authority"), the Authority on August 4, 1999 issued a preliminary order denying Intercoastal's application to extend its certificated territory. That preliminary order was confirmed and made final by the Board in its order issued September 7, 1999 and served on the parties on September 21, 1999.

9. The disputed issues of material fact known at this time are as follows. DDI reserves the right to supplement this list in accordance with Commission procedures if and when additional issues are identified.

(a) Whether there is a need for service to the portion of the proposed territory which consists of lands owned by DDI outside of the boundaries of Nocatee.

(b) Whether Intercoastal has the technical ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(c) Whether Intercoastal has the financial ability to provide reliable, high quality service to the disputed territory with the time frames required by the development plan for Nocatee and for the life of the development.

(d) Whether Intercoastal has the managerial ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(e) Whether Intercoastal has the operational ability to provide reliable, high quality service to the disputed territory within the time frames required by the development plan for Nocatee.

(f) Whether Intercoastal has sufficient water, wastewater and reuse capacity to provide service to the disputed territory within the time frames required by the development plan for Nocatee.

(g) Whether Intercoastal's application is in compliance with all applicable law, rules and policies of the Commission, the Department of Environmental Protection, and the St. Johns County Water Management District.

(h) Whether Intercoastal can provide service to the disputed territory in a more cost-effective manner than NUC.

(i) Whether Intercoastal can provide service to the disputed territory in an environmentally sensitive manner that is consistent with the development plan for Nocatee.

(j) What is the effect on rates and charges to existing customers of Intercoastal of its proposed service to the disputed territory?

(k) What is Intercoastal's current quality of service?

(l) Whether DDI as the owner of the disputed territory prefers to receive service from Intercoastal or from NUC.

(m) Whether Intercoastal or NUC is best suited to serve the disputed territory.

(n) Whether it is in the public interest for Intercoastal to serve the disputed territory.

(o) [Issue of Law] Whether Intercoastal's application is barred in whole or in part by the doctrines of res judicata and/or collateral estoppel.

10. The ultimate facts alleged are as follows:

(a) Intercoastal proposes to extend its service territory to include areas within the Nocatee development which DDI's wholly-owned subsidiary, NUC, has requested and plans to serve under its pending application with the Commission.

(b) Intercoastal also proposes to extend its service territory to include areas owned by DDI outside of Nocatee for which there are no development plans and no need for service.

(c) NUC proposes to serve the disputed territory by obtaining wholesale water, wastewater and reuse service from JEA,

which has facilities in close proximity to the disputed territory. Service in this manner will be less costly, more efficient, and more environmentally sensitive than service by Intercoastal.

(d) Intercoastal is not ready, willing and able to provide all required services, including reuse service, to the disputed territory in the quantities and time frames required by the development. NUC is ready, willing and able to provide such service.

(e) NUC can provide superior water, wastewater and reuse service to the disputed territory more efficiently and more cost-effectively than can Intercoastal.

(f) DDI desires to receive service from NUC and not from Intercoastal. As an affiliated utility, NUC is uniquely positioned to ensure that utility planning and provisioning is integrated with the overall development and resource management planning for Nocatee.

(g) Intercoastal's application is not consistent with or in compliance with all applicable statutes, rules and policies of the Commission, the Department of Environmental Protection, and the St. Johns River Water Management District.

(h) Intercoastal's application proposes a utility system which will be in competition with, or a duplication of, the proposed system of NUC.

(i) It is not in the public interest for Intercoastal to serve the disputed territory.

(j) It is in the public interest for NUC to serve the disputed territory.

(k) The Authority and the Board have previously considered and rejected Intercoastal's application to extend its service area to serve the portion of the disputed territory which is located in St. Johns County. Intercoastal's application is therefore barred by application of the doctrines of res judicata and/or collateral estoppel.

10. DDI is entitled to relief pursuant to Chapters 120 and 367, Florida Statutes; Chapters 25-22, 25-30, and 28-106, Florida Administrative Code; and relevant Commission and judicial precedents.

WHEREFORE, DDI requests that the Commission:

- (a) conduct a formal hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, on Intercoastal's application and on DDI's objection thereto; and
- (b) deny Intercoastal's application insofar as it covers land owned by DDI in Duval and St. Johns County.

RESPECTFULLY SUBMITTED this 24th day of January, 2000.

HOPPING GREEN SAMS & SMITH, P.A.

By: Richard D. Melson  
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Attorneys for DDI, Inc. and  
Estuary Corporation



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served by Hand Delivery on the following this 24th day of January, 2000.

Samantha Cibula  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

John L. Wharton  
Rose, Sundstrom & Bentley, LLP  
2548 Blaiirstone Pines Drive  
Tallahassee, FL 32301



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Attorney