

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application of ISLAND)
ENVIRONMENTAL UTILITY, INC., for) DOCKET NO. 020745-SU
original Water Certificate in Charlotte)
County, Florida.)
_____)

OBJECTIONS TO DISCOVERY

ISLAND ENVIRONMENTAL UTILITY, INC. (“Utility”), JOHN R. BOYER, DEAN BECKSTEAD and GARFIELD BECKSTEAD, by and through their undersigned attorneys, file the following objections to discovery served in this Docket:

Bamfield’s Request for Production

Ms. Bamfield’s discovery includes a request to produce the following:

Please provide any and all documentation that relates to the financial resources of the principals of IEU including, but not limited to financial statements, preferably certified, showing all assets and liabilities.

Jack Boyer and Dean Beckstead have provided copies of Financial Statements to their attorneys which have been made available to the Staff for review and which we believe have been reviewed by the Staff. This is a procedure that is commonly utilized by the Commission regarding Personal Financial Statements. See, Order No. PSC-99-0756-FOF-WS (Hunter Creek Utilities, LLC), and Order No. PSC-01-1483-PAA-WS (Labrador Services, Inc.) In the latter case, the Personal Financial Statements were

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reviewed by the PSC Staff in the attorney's office in Bradenton. In this case, those Personal Financial Statements were made conveniently available to the Staff in the attorney's office in Tallahassee.

While the financial statements of the principals of a new utility company may be relevant to show the ability of the utility to operate in its early years, there is no requirement that such information become public record. On one occasion, the Commission has required a utility's principal shareholder to produce that shareholder's personal financial statements, but such production was to an attorney. Order No. PSC-94-1202-PCO-WS (JJ's Mobile Homes, Inc.) The undersigned's research has disclosed no Commission decision that ordered that personal financial statements be turned over to pro se litigants, such as the instant case. Thus, although personal financial statements of a utility's principals may be classified as specified confidential material pursuant to Rule 25-22.006, Florida Administrative Code (See, Order No. 20175), where the litigants are pro se, such as in the instant case, such confidentiality would be meaningless.

Pro se litigants are not subject to the same consequences as attorneys are should this confidentiality be breached. The Becksteads and Mr. Boyer have serious and legitimate concerns that their Personal Financial Statements would be made public. The potential damage to the Becksteads and Mr. Boyer by disclosure of their personal financial information clearly outweighs any need for that information by the pro se litigants. This is further supported by the fact that the Becksteads and Mr. Boyer do not expect to have to personally guarantee any of the Utility debt.

Koenig's Interrogatories and Request for Production

Mr. Koenig served identical Interrogatories and Requests for Production upon the Becksteads and Mr. Boyer. Interrogatories 8, 24 and 25, and Requests for Production 1,5, 6 and 9 seek the disclosure of personal financial information of these individuals who are stockholders of the Utility.

The argument set forth above regarding the sensitive and confidential nature of personal financial information is equally applicable to this information.

Interrogatories 34 and 35, and Requests for Production 12 and 13 request information as to whether these shareholders, either individually “or as a part of any business enterprise” initiated or have been named as a defendant in any lawsuit. This information is irrelevant, immaterial and not calculated to lead to the discovery of admissible evidence as it relates to these shareholders involvement with the Utility. Further, “as a part of any business enterprise” is ambiguous and there is no time frame on the request. These shareholders may hold stock in any number of publicly held companies which may have been parties to litigation. Mr. Koenig has interrogatories specifically asking for similar information regarding these shareholders’ involvement with other utilities, to which the shareholders are not objecting.

Although many of Mr. Koenig’s discovery requests are highly unlikely to lead to the discovery of admissible evidence, the Becksteads and Mr. Boyer have chosen to respond to them, and have only objected to those discovery requests which involve the disclosure of personal financial information or clearly will not lead to the discovery of admissible evidence.

Respectfully submitted on this
3rd day of October, 2003, by:

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By: 
MARTIN S. FRIEDMAN

CERTIFICATE OF SERVICE
DOCKET NO. 020745-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S.

Mail to the following parties on this 3rd day of October, 2003:

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