

**ORIGINAL**  
LAW OFFICES

**ROSE, SUNDBSTROM & BENTLEY, LLP**

2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555

FAX (850) 656-4029

www.rsbatorneys.com

CENTRAL FLORIDA OFFICE

600 S. NORTH LAKE BLVD., SUITE 160  
ALTAMONTE SPRINGS, FLORIDA 32701

(407) 830-6331

FAX (407) 830-8522

REPLY TO ALTAMONTE SPRINGS

MARTIN S. FRIEDMAN, P.A.

VALERIE L. LORD, OF COUNSEL  
(LICENSED IN TEXAS ONLY)

CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
DAVID F. CHESTER  
F. MARSHALL DETERDING  
JOHN R. JENKINS, P.A.  
STEVEN T. MINDLIN, P.A.  
DAREN L. SHIPPY  
WILLIAM E. SUNDBSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON  
ROBERT M. C. ROSE, OF COUNSEL  
WAYNE L. SCHIEFELBEIN, OF COUNSEL

October 8, 2003

**HAND DELIVERY**

Ms. Blanca Bayo  
Commission Clerk and Administrative Services Director  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399

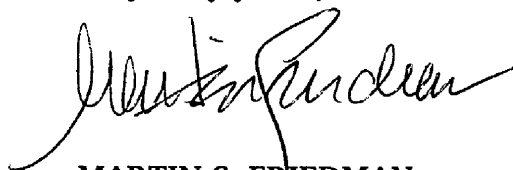
RECEIVED - FPSC  
03 OCT - 8 PM 12: 26  
COMMISSION  
CLERK

Re: Docket No. 020745-SU; Application of Island Environmental Utility, Inc., for  
Original Certificate  
Our File No.: 37025.01

Dear Ms. Bayo:

Enclosed please find for filing in the above-referenced docket the original and seven (7) copies of Island Environmental Utility, Inc.'s Motion to Dismiss as to Daniel Nolan.

Very truly yours,



MARTIN S. FRIEDMAN  
For the Firm

AUS \_\_\_\_\_  
CAF \_\_\_\_\_  
CMP \_\_\_\_\_ MSF/mp  
COM 3 Enclosures  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
SEC 1  
OTH \_\_\_\_\_

cc: Rosanne Gervasi, Esquire (w/enclosure) (via hand delivery)  
Mr. Daniel Nolan (w/enclosure)  
Mrs. Linda Bamfield (w/enclosure)  
Mr. Ronald Koenig (w/enclosure)  
Mr. John R. Boyer (w/enclosure)

DOCUMENT NUMBER-DATE

09768 OCT-8 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for certificate to  
provide wastewater service in Charlotte  
County by Island Environmental  
Utility, Inc.

---

Docket No. 020745-SU

MOTION TO DISMISS

Island Environmental Utility, Inc., (*Island Environmental*), by and through its undersigned attorneys, requests that the Florida Public Service Commission (*Commission*) dismiss Mr. Daniel Nolan as an Intervenor in this matter, and in support shows:

1. Island Environmental served Interrogatories and Requests for Production of Documents (*Discovery Requests*) on Mr. Nolan on March 24, 2003. Mr. Nolan mailed his Objections to the Discovery Requests to Island Environmental on April 16, 2003, after the date for filing objections to the Discovery Requests had expired. Island Environmental filed a Motion to Strike Mr. Nolan's Objections and to Compel Mr. Nolan to provide answers to the Discovery Requests.

2. On July 3, 2003, the Commission issued Order No. PSC-03-0791-PCO-SU (*First Order*), denying Island Environmental's Motion to Strike Mr. Nolan's Objections but directing Mr. Nolan to provide Island Environmental with answers to the Discovery Requests within 30 days of the date of the First Order.

3. In accordance with the terms of the First Order, Mr. Nolan was required to provide Island Environmental with answers to the Discovery Requests by Monday, August 4, 2003, at the latest.

4. Mr. Nolan failed to answer the Discovery Requests or to otherwise respond in any meaningful way, within the time required by the First Order.

5. On September 4, 2003, Island Environmental filed its Second Motion to Strike Mr. Nolan's Objections.

6. On September 17, 2003, the Commission issued Order No. PSC-03-1025-PCO-SU (*Second Order*), granting Island Environmental's first and second Motions to Strike Mr. Nolan's Objections and directing Mr. Nolan to provide Island Environmental with answers to the Discovery Requests within 10 days of the date of the Second Order.

7. In accordance with the terms of the Second Order, Mr. Nolan was required to serve answers to the Discovery Requests of Island Environmental by Monday, October 6, 2003, at the latest.

8. Mr. Nolan has failed to answer the Discovery Requests or to otherwise respond in any meaningful way, within the time required by the First or Second Orders.

9. Island Environmental requires answers to the Discovery Requests in order to give it a fair and reasonable opportunity to assess the nature and extent of Mr. Nolan's claims and to respond to Mr. Nolan's objections to the Application. Mr. Nolan's refusal to answer the Discovery Requests has prevented Island Environmental from investigating Mr. Nolan's objections, assessing the impact of its proposed territory extension on Mr. Nolan's interests, preparing a defense to his objections or structuring reasonable alternatives, all to its detriment.

10. Island Environmental has been prejudiced, and will continue to be prejudiced, in the pursuit of its Application, by Mr. Nolan's failure and refusal to answer the Discovery Requests.

11. Mr. Nolan's continual failure and refusal to obey the terms of the First and Second Orders is purposeful and flagrant. The Commission Staff have given Mr. Nolan assistance in understanding his rights and obligations under the Rules of the Commission and pursuant to the First and Second Orders, as well as tolerance because he is unrepresented. However, despite the able assistance and advice of Commission Staff, Mr. Nolan has flouted, not one, but two, lawful orders of this Commission.

12. It appears unlikely that Mr. Nolan will credibly respond to the Discovery Requests, or that other sanctions such as holding Mr. Nolan in contempt, will be sufficient to enforce the First and second Orders, and that an order dismissing Mr. Nolan as an Intervenor in this matter will be the only method for achieving the objectives of the First and Second Orders and ensuring fairness to the other parties to this matter who are willing to comply with the lawful orders of this Commission.

13. Mr. Nolan's actions have hindered and will continue to hinder, the orderly processes of this Commission. As a result of Mr. Nolan's unjustified and willful failure and refusal to obey the lawful orders of this Commission, Island Environmental has incurred, and will continue to incur, additional legal expense which the rate payers within the area sought to be served pursuant to Island Environmental's Application will have to pay. This Commission, in order to prevent a manifest injustice to the rate payers and Island Environmental, should dismiss Mr. Nolan as an Intervenor.

WHEREFORE, Island Environmental Utility, Inc., respectfully requests that this Commission issue an order dismissing Mr. Nolan as an Intervenor in this matter.

Respectfully submitted on this 8 day of October, 2003.

ROSE, SUNDSTROM & BENTLEY, LLP  
600 S. North Lake Boulevard  
Suite 160  
Altamonte Springs, Florida 32701  
Telephone: (407) 830-6331  
Facsimile: (407) 830-8522  
Email: [mfriedman@rsbattorneys.com](mailto:mfriedman@rsbattorneys.com)



---

Martin S. Friedman, Esquire  
For the Firm

**CERTIFICATE OF SERVICE**  
**DOCKET NO. 020745-SU**

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion to Dismiss Mr. Daniel Nolan as an Intervenor filed by Island Environmental Utility, Inc., has been furnished by U.S. Mail to the following parties on this 6th day of October, 2003:

Mr. Daniel Nolan  
3031 Placida Road  
Englewood, FL 34224


and at

156 Bayview Avenue  
POB 23 S 4  
Port McNicoll, Canada L0K 1R0

Mr. Ronald Koenig  
8006 Lago Vista Drive  
Tampa, FL 33614

Mrs. Linda Bamfield  
P.O. Box 5063  
Grove City, FL 34224

Rosanne Gervasi, Esquire  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

  
\_\_\_\_\_  
MARTIN S. FRIEDMAN