

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020745-SU

FILED:

COMMISSION'S PREHEARING STATEMENT

Pursuant to Orders Nos. PSC-02-0611-PCO-SU and PSC-03-0485-PCO-SU, issued November 20, 2002, and April 14, 2003, respectively, the Commission files its prehearing statement as follows:

A. All Known Witnesses

Abdul B. Ahmadi, Ph.D

David A. Tomasko, Ph.D

Thomas J. Tumminia

B. All Known Exhibits

Staff has identified a list of exhibits that it intends to utilize at hearing, which are listed below. Staff reserves the right to identify additional exhibits at the Prehearing Conference and at hearing for purposes of cross-examination.

TT-1 Letter from the Department of Community Affairs to the Commission Clerk and Administrative Services dated December 13, 2002, regarding Island Environmental Utility, Inc.'s application.

TT-2 Letter from the Department of Community Affairs to the Commission Clerk and Administrative Services dated January 28, 2003, regarding Island Environmental Utility, Inc.'s amended application.

TT-3 Urban Service Area Overlay District 1997-2010 Map.

C. Basic Position

Because Island Environmental Utility, Inc.'s (IEU or applicant) application for original certificate, as filed, amended, and restated, does not meet all of the filing requirements set forth

COMMISSION'S PREHEARING STATEMENT  
DOCKET NO. 020745-SU

in Rule 25-30.033, Florida Administrative Code, staff is unable to preliminarily determine whether it would be in the public interest for the Commission to grant IEU a certificate of authorization to provide service in the requested territory, and it may be premature to proceed to hearing at this time. 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, should a hearing be conducted in this docket. Staff's final positions will be based upon all of the evidence in the record and may differ from the preliminary positions stated herein.

D. Issues & Staff's Respective Positions

Staff's positions are preliminary and based on materials filed by the parties and on discovery. These preliminary positions are offered to apprise the parties of those positions. Staff's final positions will be based upon an analysis of the evidence presented at the hearing.

**ISSUE 1:** **Is there a need for service in IEU's proposed service territory and, if so, when will service be required?**

**POSITION:** IEU has not provided sufficient evidence showing need for wastewater service in the proposed service area or evidence that the existing septic tanks are not providing adequate service. In addition, because IEU's application is deficient with regard to Rules 25-30.033(1)(m) and 25-30.033(1)(n), Florida Administrative Code, staff is unable to identify where the utility proposes to provide service. The system map attached as Exhibit D to IEU's restated application does not contain sufficient scale and detail to enable correlation with the description of territory proposed to be served, as required by Rule 25-30.033(1)(m), Florida Administrative Code. Moreover, the system map is inconsistent with the legal description of the territory proposed to be served. Finally, IEU has not provided a map showing township, range, and section, with the proposed territory plotted and drawn to scale, as required by Rule 25-30.033(1)(n), Florida Administrative Code.

**ISSUE 2:** **Is IEU's application inconsistent with Charlotte County's comprehensive plan?**

**POSITION:** Yes, IEU's application is inconsistent with Charlotte County's comprehensive plan. In addition, even if the County approves its proposed amendments to the comprehensive plan, a portion of IEU's proposed service territory would be inconsistent with the comprehensive plan.

COMMISSION'S PREHEARING STATEMENT  
DOCKET NO. 020745-SU

**ISSUE 3:** Will the certification of IEU result in the creation of a utility which will be in competition with, or duplication of, any other system within geographical proximity to the proposed service area?

**POSITION:** No position pending further development of the record.

**ISSUE 4:** Can the public be adequately served by modifying or extending a current wastewater system?

No position pending further development of the record.

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

**POSITION:** IEU has not provided evidence to support its financial ability to serve the requested territory. The application is deficient with regard to Florida Administrative Code, Rule 25-30.033(1)(s), Florida Administrative Code, which requires the applicant to provide financial statements and agreements with entities being relied upon for funding. The letter from Peninsula Bank, attached as Exhibit A to IEU's restated application, does not appear to fulfill the requirements of this rule because it does not contain an explanation of the manner and amount of funding.

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

**POSITION:** Due to conflicting information provided by IEU, staff is unable to determine whether IEU has the technical ability to provide service. Other systems owned by the applicants do not appear to have current outstanding violations with DEP. However, there is evidence regarding an illegal connection by the Little Gasparilla Water Utility, Inc. (LGWU) to the Don Pedro State Park water system and Mr. Boyer admits that, to date, he has not obtained an easement for the connection. In addition, it appears that LGWU may have collected unauthorized deposits from its customers.

**ISSUE 7:** Has IEU contracted for sufficient wastewater plant capacity to serve the requested territory?

**POSITION:** No. The Letter of Intent between IEU and the Englewood Water District (EWD) dated January 21, 2004 and filed as Exhibit B to IEU's restated application,

COMMISSION'S PREHEARING STATEMENT  
DOCKET NO. 020745-SU

indicates that EWD and IEU will enter into a mutually acceptable agreement for EWD to provide bulk wastewater treatment and disposal services to IEU, but that a binding contract on both parties will require EWD Board approval.

**ISSUE 8:** **Is it in the public interest for IEU to be granted a wastewater certificate for the territory proposed in its application?**

**POSITION:** No position pending further development of the record.

**ISSUE 9:** **What is the appropriate return on equity (ROE) for IEU?**

**POSITION:** The ROE for IEU should be based on the most recent leverage formula established by the Commission and in effect on the date the Commission approves rates for IEU.

**ISSUE 10:** **What are the appropriate wastewater rates and charges for IEU?**

**POSITION:** Due to conflicting information provided in IEU's application, testimony, and proposed tariff regarding the proposed rates, staff is unable to determine whether the wastewater rates and charges proposed by IEU are appropriate. IEU has not provided sufficient evidence in support of its proposed investment, contributions-in-aid-of-construction (CIAC), cost of capital, operating expenses, number of anticipated customers, and the resulting rates and charges.

**ISSUE 11:** **What are the appropriate service availability charges for IEU?**

**POSITION:** Due to conflicting information provided in IEU's application, testimony, and proposed tariff regarding the proposed service availability policy and charges, staff is unable to determine whether the service availability charges proposed by IEU are appropriate. IEU has not provided sufficient evidence in support of its proposed investment, CIAC, number of anticipated customers, and service availability policy and charges.

**ISSUE 12:** **What is the appropriate allowance for funds used during construction (AFUDC) rate for IEU?**

**POSITION:** IEU has not requested an AFUDC rate.

COMMISSION'S PREHEARING STATEMENT  
DOCKET NO. 020745-SU

E. Stipulated Issues

There are no issues that have been stipulated at this time.

F. Pending Matters

The requests to intervene filed by Mr. Dan Kett, Mr. Andrew N. Nichols, The Preserve of Don Pedro Owners Association, and Palm Island Estates Association, Inc., are pending at this time.

G. Pending Confidentiality Claims or Requests

There are no pending confidentiality claims or requests at this time.

H. Requirements That Cannot Be Complied With

There are no requirements of Orders Nos. PSC-02-0611-PCO-SU and PSC-03-0485-PCO-SU that cannot be complied with at this time.

  
\_\_\_\_\_  
ROSANNE GERVASI, STAFF COUNSEL

FLORIDA PUBLIC SERVICE COMMISSION  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Telephone: (850) 413-6224  
Facsimile: (850) 413-6225

BEFORE THE PUBLIC SERVICE COMMISSION

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

DOCKET NO. 020745-SU

FILED:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Commission's Prehearing Statement has been furnished by U.S. Mail, this 16<sup>th</sup> day of February, 2004, to the following:

Martin S. Friedman, Esquire  
Rose, Sundstrom & Bentley LLP  
600 S. North Lake Blvd., Ste. 160  
Altamonte Springs, FL 32701

W. Kevin Russell, Esquire  
Wilkins, Frohlich, Jones, Hevia,  
Russell, Hanaoka & Mizell, P.A.  
14295 South Tamiami Trail  
North Port, FL 34287

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

Ms. Linda Bamfield  
P.O. Box 5063  
Grove City, FL 34224-0063

Janette S. Knowlton  
Assistant County Attorney  
Office of the County Attorney  
18500 Murdock Circle  
Port Charlotte, FL 33948-1094

Gary L. Wilkins, Esquire  
Wilkins, Frohlich, Jones, Hevia,  
Russell, Hanaoka & Mizell, P.A.  
18501 Murdock Circle, 6<sup>th</sup> Floor  
Port Charlotte, FL 33948

  
\_\_\_\_\_  
ROSANNE GERVASI, STAFF COUNSEL

FLORIDA PUBLIC SERVICE COMMISSION  
Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850  
Telephone: (850) 413-6224  
Facsimile: (850) 413-6225