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REPLY TO: Port Charlotte

February 25, 2004

Ms. Blanca S. Bayo, Director  
Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Application of Island Environmental Utility, Inc.  
Docket No. 020745-SU

Dear Ms. Bayo:

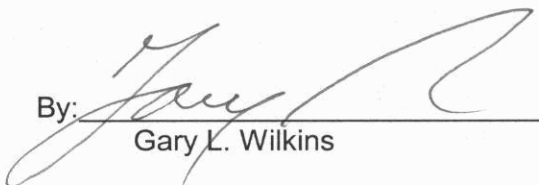
Enclosed are the original and fifteen (15) copies of PIE's Response to IEU's Opposition to PIE's Request for an Extension of Time to File Direct Testimony and Exhibits in the above referenced proceeding.

Please acknowledge receipt of these documents by stamping the extra copy of this letter filed and returning the same to the undersigned in the self-addressed stamped envelope enclosed.

Thank you for your assistance with this filing.

Very truly yours,

WILKINS, FROHLICH, JONES, HEVIA,  
RUSSELL, HANAOKA & MIZELL, P.A.

By:   
Gary L. Wilkins

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GLW/kbd  
Enclosures  
cc: PIE, c/o Valerie Guenther

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 07 FEB 27 AM 8:52  
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DOCUMENT NUMBER-DATE

02893 FEB 27 04

FPSC-COMMISSION CLERK

ORIGINAL

STATE OF FLORIDA  
BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application of ISLAND ENVIRONMENTAL  
UTILITY, INC., for an original Wastewater Certificate  
in Charlotte County, Florida

Docket No. 020745-SU

**PIE'S RESPONSE TO IEU'S OPPOSITION TO PIE'S REQUEST FOR AN  
EXTENSION OF TIME TO FILE DIRECT TESTIMONY AND EXHIBITS**

PIE, through its undersigned attorneys, files this its Response to IEU's Opposition to PIE's Request for an Extension of Time to File Direct Testimony and Exhibits and states:

1. In its opposition to PIE's Motion and Request for Extension, IEU has acknowledged that it is not contesting PIE's Amended Motion to Intervene; rather, it objects to PIE's request for additional time to file testimony and exhibits. Although it has set forth its objections to PIE's request in twelve separate paragraphs, essentially, IEU is asserting as a basis for its objections that PIE has been deficient in seeking status as an intervenor, that PIE has failed to timely file direct testimony and that to extend the time for filing direct testimony and exhibits will prejudice the applicant. Further, the applicant maintains that PIE's constituents will be represented adequately through cross examination and by riding on the shirrtails of other intervenors.

2. In representing more than 190 property owners, PIE represents the largest number of potentially affected persons of the proposed utility. It should be noted that Section 3-8-103 of the Charlotte County Code provides for mandatory connection to available sewer facilities throughout Charlotte County. There is a 365-day connection period, with financial penalties imposed for the failure to connect or for tardy connections. The mandatory connections are required of all improved lots or parcels. Accordingly, there are substantial interests that will, or may, be impacted by these proceedings and these interests should or must be represented.

3. As was abundantly clear at the pre-pre-hearing conference held on February 24, 2004, not only was the applicant's initial application deficient, but even when combining the original Application with both the Amended Application and the Restated Application, significant deficiencies continue to plague IEU's Application. Serious questions have been raised regarding the accuracy of the property descriptions of the certificated areas in the applicant's public notice. There is no evidence of a contract with the Englewood Water District. The proposed utility contravenes the County's Comprehensive Plan. And, the proposed direct testimony of the applicant has changed.

4. The February 10, 2004 Restated Application, among other charges, has referenced a substantial increase in the rates to be charged. As such, the Restated Application is tantamount to a "new" application.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

5. Finally, since it appears to be all but impossible for the proceedings to advance to a hearing in April of 2004, the applicant's position that it will be prejudiced by allowing PIE an extension of time within which to provide direct testimony and identify exhibits appears to be without merit.

**Wherefore**, for the foregoing reasons, PIE requests either additional time within which to file direct testimony, list exhibits and obtain intervenor status or that IEU's application be dismissed without prejudice and that, upon refile, these proceedings recommence under a new docket.

Respectfully submitted this 25<sup>th</sup> day of February, 2004.



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#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail this 25<sup>th</sup> day of February, 2004 to: Roseanne Gervasi, Staff Counsel, Florida Public Service Commission, Gerald L. Gunter Building, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850; Janette S. Knowlton, Assistant County Attorney, Charlotte County, 18500 Murdock Circle, Port Charlotte, FL 33948; W. Kevin Russell, Esq., Wilkins, Frohlich, et al., 14295 S. Tamiami Trail, North Port, FL 34287, Daniel Nolan, 156 Bayview Avenue, POE 23-S4, Port McNicoll, Ontario, Canada LOK 1RO, Ronald A. Koenig, 8006 Lago Vista Drive, Tampa, FL 33614; Linda Bamfield, P.O. Box 5063, Grove City, FL 34224; and Martin S. Friedman, Esq., Rose, Sundstrom & Bentley, LLP, 600 S. North Lake Boulevard, Suite 160, Altamonte Springs, FL 32701.



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