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FPSC - COMMISSION CLERK

February 9, 2022

Commission Clerk  
Office of the Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

**Via FedEx and Email**

**RE: OBJECTION AND REQUEST FOR ADMINISTRATIVE HEARING  
PURSUANT TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES,  
REGARDING APPLICATION FOR CERTIFICATE TO PROVIDE  
WASTEWATER SERVICE IN ORANGE COUNTY BY GULFSTREAM  
UTILITY LLC (DOCKET NO: 20210191-SU)**

Dear Clerk:

Orange County (the "County") would be substantially affected by the requested Certificate of Authorization ("Certificate of Authorization") sought in Docket No. 20210191-SU by Gulfstream Utility LLC (the "Applicant"). More specifically, the County is the wastewater provider in the area.

Pursuant to Section 367.045(4), Florida Statutes, and Rule 25-30.031, Florida Administrative Code, the County files the following written objections to the above referenced application and requests an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

Pursuant to Rule 25-30.031, F.A.C. Orange County timely files this as its Objection to the Notice dated January 11, 2022. As required by Rule 25-30.031(2), the grounds for Orange County's objections are stated with particularity below and in the attached.

1. The public can be adequately served by the County's central wastewater utility system. The Applicant's system is in competition with, and a duplication of, the County's wastewater system. The County's wastewater system is adequate to meet the reasonable needs of the public and the County is able to provide reasonably adequate service.
2. The Applicant has not demonstrated the financial ability to provide service as required by Rule 25-30.034(1)(i), Florida Administrative Code. The Applicant has not provided any financial statements demonstrating its ability to provide the service as an operating unit separate from the overall mobile home park.
3. The Applicant has not demonstrated the technical ability to provide service as required by Rule 25-30.034(1)(j), Florida Administrative Code. In order to

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provide service, the Applicant is currently relying on an interim private wastewater package plant and the County's central wastewater utility system. Additionally, an inspection conducted by the Florida Department of Environmental Protection at the Applicant's facility on August 1, 2018 identified potential non-compliance with the Applicant's permit for the facility and the requirements of Chapter 403, Florida Statutes, and Chapters 62-602 and 62-620, Florida Administrative Code.

4. The Applicant has not demonstrated that it has the right to access and continued term use of the land upon which the utility treatment facilities are located as required by Rule 25-30.034(1)(m), Florida Administrative Code. The Applicant has only provided an unexecuted, proposed lease agreement.
5. The Applicant has not demonstrated the need for service in the proposed area as required by Rule 25-30.034(2)(a), Florida Administrative Code. As stated above, the public can be adequately served by the County's central wastewater utility system.

As a result of the above objections and as set forth in the County's Objections below, there are disputed issues of material fact and the County requests a hearing in accordance with Section 120.569(1), Florida Statutes.

Sincerely,

/s/ Linda S. Brehmer Lanosa  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for Original Certificate of  
Authorization and Initial Rates and Charges for  
Wastewater Service in Orange County, Florida by  
Gulfstream Utility LLC

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DOCKET NO. 20210191-SU

**ORANGE COUNTY'S OBJECTION TO GULSTREAM UTILITY LLC'S  
AMENDED APPLICATION FOR ORIGINAL CERTIFICATE OF AUTHORIZATION  
AND INITIAL RATES AND CHARGES FOR WASTEWATER SERVICE**

Pursuant to Rule 28-106.201, F.A.C., Orange County, Florida, requests an evidentiary hearing and asserts the existence of a disputed issue of material fact. In support thereof, Orange County states:

1. The name and address of each agency affected is the Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0854, and the docket no. is 2021-191-SU.

2. Counsel for the Petitioner is:

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Orange County Attorney's Office  
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Orange County is the wastewater provider in the area described in the Amended Application. As a result, Orange County's substantial interests will be affected by the Agency determination as described in more detail herein.

3. Undersigned counsel for Orange County received notice by email on or about February 7 or 8, 2022. The Orange County Comptroller, a separate constitutional officer, may have received notice earlier.

### **Disputed Issues of Material Fact**

4. The applicant, Gulfstream Utility LLC (“Applicant”), has not demonstrated that it meets the appropriate requirements to obtain an Original Certificate of Authorization, including, but not limited to the following.

5. The Applicant has not adequately demonstrated that it is an existing utility as required by Rule 25-30.034. Paragraph D.1. in the Amended Application states that “Applicant has never operated as a separate operating unit but instead has been operated as a part of the overall mobile home park. As such, there are no financial statements for the Applicant at present. The Applicant is being organized as a separate entity on a going forward basis . . . .”

6. The Applicant has not adequately disclosed “[t]he name(s), address(es), and percentage of ownership of each entity or person that owns or will own more than 5 percent interest in the utility.”

7. The Applicant has not demonstrated “the necessary financial ability of the applicant to provide service to the proposed service area.” The Amended Application states that “the Applicant has never been operated as a separated operating unit” and “there are no financial statements for the Applicant at present.” The Applicant has not provided copies of any enforceable financial agreements.

8. The Applicant has not demonstrated that it has “technical ability of the applicant to provide service” as required by Rule 25-30.033(1)(i) and 25-30.034(1)(j). As described in paragraph I.1 of the Amended Application, the proposed wastewater treatment would be provided

in part by Orange County. Currently, Orange County is the retail provider for a portion of the proposed area and has the capacity to serve the entire area identified in the Amended Application, including the proposed buildout area. Additionally, in the Applicant's response to the Commission's deficiency letter, the Applicant disclosed an inspection notice from the Florida Department of Environmental Protection ("FDEP") listing several deficiencies that were observed on August 1, 2018, including deficiencies related to records and reports and the facility site.

9. The Applicant has not adequately "describe[d] the proposed service area." Exhibit F to the Amended Complaint has been omitted. Exhibit G to the Amended Complaint does not appear to include "the existing and proposed lines and treatment facilities."

10. The Applicant has not demonstrated that "the need for service in the proposed area" as described in Rule 25-30.033(1)(k) or Rule 25-30.034(2)(a). Exhibit H, referenced in paragraph G.1 of the Amended Application, is missing. Moreover, Orange County's wastewater system meets the reasonable needs of the public and the County is able to provide reasonably adequate service. As a result, the Applicant's system will be in competition with, and a duplication of, the County's wastewater system.

11. The Applicant has not adequately disclosed "the date applicant began or plans to begin serving customers."

12. The Applicant has not provided sufficient "[d]ocumentation of the utility's right to access and continued use of the land upon which the utility treatment facilities are or will be located." Exhibit I is an unsigned document. The Applicant has only provided an unexecuted, proposed lease agreement.

13. The Applicant has not adequately described the "lines and treatment facilities in terms of equivalent residential [units (ERU)] and gallons per day estimated demand per [ERU] for

. . . wastewater and the basis for such estimate.”

14. The Applicant has not adequately described “the type of water treatment, wastewater treatment, and method of effluent disposal.”

15. The Applicant has not adequately supported the proposed rates and charges.

16. Per Section 367.045(1), Fla. Stat., and Rule 25-30.033, F.A.C., the Applicant must demonstrate consistency with the local comprehensive plan. Policy WAT1.1.6 of the Orange County Comprehensive Plan provides that wastewater treatment plants in Orange County, not regulated by the Public Service Commission, shall not be expanded to accommodate new or expanded development. Additionally, Section 37-4 of the Orange County Code provides that all new development in the County's wastewater service area that is within the County's urban service area or functional equivalent, as provided for in the Orange County Comprehensive Policy Plan, must connect to the County wastewater system. The County objects to any expansion of the proposed wastewater treatment facilities. *See also* WAT1.2.6; CIE1.3.5.

#### **Ultimate Facts**

17. The Applicant has not demonstrated that it meets the applicable requirements to obtain an Original Certificate of Authorization.

#### **Statement of Specific Rules**

18. As set forth in Section 367.045(1)(b), Florida Statutes, the Applicant is required to “[p]rovide all information required by rule or order of the commission, which information may include a detailed inquiry into the ability of the applicant to provide service, the area and facilities involved, the need for service in the area involved, and the existence or nonexistence of service from other sources within geographical proximity to the area in which the applicant seeks to provide service.”

19. Rule 25-30.033 and 25-30.034, F.A.C., address the requirements for an application for an original certificate of authorization and an application for an original certificate of authorization for an existing utility currently charging for service.

20. As required by Section 367.045(4), Florida Statutes, when a government, such as Orange County, Florida, who is substantially affected by the requested certification, requests a proceeding pursuant to Section 120.569, Florida Statutes, the Commission shall order such proceeding conducted in or near the area for which application is made.

WHEREFORE, as required by Section 367.045(4), Florida Statutes, Orange County, Florida, who is substantially affected by the requested certification, requests a proceeding pursuant to Sections 120.569 and 120.57, Florida Statutes, and demands that the Commission shall order such proceeding conducted in or near the area for which application is made and deny the Amended Application, and for such further relief as is just.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, pursuant to Rule 28-106.104, F.A.C., on the 9th day of February 2022, a true and correct copy of the foregoing was electronically filed and served via electronic mail and Federal Express to: **Commission Clerk**, Florida Public Service Commission, at Clerk@psc.state.fl.us; **Ryan Sandy, Esq.**, Senior Attorney, Economic Regulation Section, Office of the General Counsel, Florida Public Service Commission 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0854, RSandy@psc.state.fl.us; and **F. Marshall Deterding, Esq.**, Sundstrom & Mindlin, LLP, 2458 Blairstone Pines Drive, Tallahassee, FL 32301, mdeterding@sflaw.com.

/s/ Linda S. Brehmer Lanosa  
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