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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240032-SU

Application for certificate to
provide wastewater service in
Charlotte County by Environmental
Utilities, LLC.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 2

COMMISSIONERS
PARTICIPATING: CHAIRMAN MIKE LA ROSA
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, October 1, 2024

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

1 P R O C E E D I N G S

2 CHAIRMAN LA ROSA: Let's now move to
3 discussion items. Let's move to Item No. 2.

4 Mr. Thompson, you are recognized.

5 MR. THOMPSON: Good morning, Chairman and
6 Commissioners. Major Thompson on behalf of the
7 Office of General Counsel.

8 This Agenda item is a recommendation on two
9 motions currently pending in this docket. The
10 first is a Motion to Dismiss filed by Mr. Guy Hurst
11 alleging that the notice of the application sent by
12 the utility was deficient.

13 The other is a motion for reconsideration
14 filed by Environmental Utilities requesting that
15 the Commission remove the requirement to exchange
16 cross-examination exhibits from the Order
17 Establishing Procedure.

18 Staff's recommendation is to deny both
19 motions. The motion to dismiss should be denied
20 because there was no demonstration that the utility
21 failed to state a cause of action. And the motion
22 for reconsideration should be denied because the
23 Prehearing Officer did not make a mistake of fact
24 or law.

25 No request for oral argument was made, and

1 participation is at the Commission's discretion.

2 Staff is available to answer any questions, as
3 well as Volpe on behalf of the Little Gasparilla
4 Island Preservation Alliance.

5 CHAIRMAN LA ROSA: Commissioners, are there
6 questions or do we -- does anyone else want to
7 speak on this, or we are just here to answer --

8 MR. THOMPSON: My understanding is Mr. Volpe
9 did not want to make a presentation, but is
10 available to answer any questions.

11 MR. VOLPE: That's correct. Good morning,
12 Commissioners.

13 CHAIRMAN LA ROSA: Okay.

14 MR. VOLPE: Robert Volpe on behalf of Little
15 Gasparilla Island Preservation Alliance.

16 I am just here to answer questions. We filed
17 a response and objection to the motion for
18 reconsideration.

19 Thank you.

20 CHAIRMAN LA ROSA: Excellent.

21 Commissioners, are there questions? Are there
22 questions?

23 Commissioner Fay, you are recognized.

24 COMMISSIONER FAY: Thank you, Mr. Chairman.

25 I just -- I have a few questions. I am going

1 to start probably with Mr. Thompson.

2 So I don't have any issues with the
3 recommendation for Issue 1, but on Issue 2, so the
4 motion for reconsideration, the language that's
5 provided here in the recommendation, just for
6 clarity, I know we have to meet this issue of law
7 or fact dismissing, but from a process perspective,
8 all parties would have to -- under this language in
9 the OEP, all parties would have to submit their
10 cross-examination materials equally. Like, there
11 is no difference between a petitioner or an
12 intervenor, like, the same standard would be
13 applied to all parties, is that accurate?

14 MR. THOMPSON: That's correct.

15 COMMISSIONER FAY: Okay. And then the
16 language in here from the Supreme Court that you
17 provided regarding the attempts for, essentially to
18 limit the Commission from any surprise components
19 that occur through litigation. It sounds like in
20 the recommendation you are saying that's consistent
21 with the way DOAH performs their hearings, is
22 that -- so if there is an administrative -- we do a
23 lot of administrative processes that are
24 quasi-judicial, there is a hearing at DOAH, are
25 they -- are the intervenors or the petitioners, are

1 they -- the parties there, are they supplying their
2 cross-examination exhibits ahead of time similar to
3 this -- do you know if it's, like, an identical
4 timeline, or similar timeline, or --

5 MR. THOMPSON: I don't know exactly what the
6 timeline is, but this is a very similar process, if
7 not almost identical. And considering that we are
8 both governed by Chapter 120, I felt like that was
9 very persuasive.

10 COMMISSIONER FAY: Okay. Great. Yeah. I
11 mean, I think there is questions from the challenge
12 here about due process, it seems to me almost the
13 other way. It seems like as we go through this
14 process, the more improvement we have with the
15 filing with these cross-examinations -- our Chair
16 just ran a meeting for an entire electric rate case
17 where we had updated technology and operations, and
18 it seemed to work very well. So to me, it seems
19 that it's improving it.

20 I just want to make sure we address that --
21 the due process question, because I have trouble
22 finding where that challenge arises based on the
23 claim that's filed here. And I am happy to hear
24 from the lawyer that's here for Little Gasparilla
25 Island. I know that area actually, I think, was

1 just hit a little bit by the storm, the storm
2 surge, so you are probably navigating a number of
3 other things, but if you have anything to add on
4 this, please feel free do so, at the discretion the
5 Chairman.

6 CHAIRMAN LA ROSA: Sure. Sure. You are
7 recognized.

8 MR. VOLPE: That's correct. Thank you,
9 Commissioner. Yes, Little Gasparilla did suffer
10 several feet, I think eight feet of storm surge in
11 the storm, so water across the island completely,
12 and our members and other residents of the island
13 are cleaning up, so thank you for mentioning that.

14 We filed an objection on the same grounds as
15 what are in the staff report and in the
16 recommendation, that there is no violation of due
17 process, and that we are all governed by these same
18 procedural rules of transparency and filing of
19 exhibits ahead of the scheduled hearing. So that's
20 our position.

21 COMMISSIONER FAY: Great. And I tend to agree
22 with that, and the recommendation, and I am
23 prepared to make a motion, Mr. Chairman, just my
24 colleagues --

25 CHAIRMAN LA ROSA: Sure.

1 Any other questions or discussion?

2 Okay. Then let's go ahead and open the floor
3 for a motion.

4 COMMISSIONER FAY: Okay. With that, I would
5 move approval of staff recommendation on Item No.
6 2, all issues.

7 CHAIRMAN LA ROSA: On Item 2, okay, all
8 issues. Gotcha.

9 Is there a second.

10 COMMISSIONER CLARK: Second.

11 CHAIRMAN LA ROSA: All right. Hearing a
12 motion and hearing a second.

13 All those in favor signify by saying yay.

14 (Chorus of yays.)

15 CHAIRMAN LA ROSA: Show that Item No. 2 passes
16 as recommended.

17 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

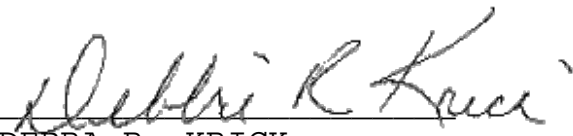
STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby
certify that the foregoing proceeding was heard at the
time and place herein stated.

IT IS FURTHER CERTIFIED that I
stenographically reported the said proceedings; that the
same has been transcribed under my direct supervision;
and that this transcript constitutes a true
transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative,
employee, attorney or counsel of any of the parties, nor
am I a relative or employee of any of the parties'
attorney or counsel connected with the action, nor am I
financially interested in the action.

DATED this 14th day of October, 2024.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
EXPIRES AUGUST 13, 2028