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DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

# Public Service Commission

October 31, 2002

Martin S. Friedman, Esquire  
Rose. Sundstrom & Bentley, LLP  
650 S. North Lake Boulevard, Suite 420  
Altamonte Springs, Florida 32701

Re: Docket No. 020745-WU, Application for certificate to provide wastewater service in Charlotte County by Island Environmental Utility, Inc.

Dear Mr. Friedman:

Thank you for the September 20, 2002, response to staff's August 16, 2002, notice of deficiencies. Staff has found the response still deficient with respect to the proofs of ownership as described below. In addition, staff still has questions and concerns regarding the application. Finally, based on the protests to the application filed by Bocilla Utilities, Inc., (Bocilla) and a number of prospective customers, the docket has been set for hearing on October 14, 2003, with a Customer Meeting the prior evening. Therefore, beyond curing application deficiencies, all further discovery will be formal.

### REMAINING DEFICIENCIES

1. Transfer of Ownership. As you are aware, the application was filed under Rule 25-30.034, Florida Administrative Code, which is for a certificate of authorization for an existing utility currently charging rates. However, this rule does not exactly fit as Island Environmental Utility, Inc. (Island or utility) does not yet own or control the utility facilities. In this respect, the application is more like an application for authorization to transfer pursuant to Rule 25-30.037, Florida Administrative Code. By letter dated August 5, 2002, it was clarified that the utility assets will be conveyed to Island upon Commission approval. Based on the Commission's rules for a transfer, staff does not believe it is appropriate to make a recommendation regarding the certificate of authorization absent a review of the proposed terms and conditions of the conveyance.

Please provide a copy of the terms and conditions of the proposed conveyance.

2. Ownership of Land. As indicated in staff's August 16, 2002 letter, Rule 25-30.034(1)(e), Florida Administrative Code, requires evidence that the utility owns the land upon which the utility treatment facilities are located, or copy of an agreement which provides for the continued use of the land. The utility's September 20, 2002, response indicated that the utility is currently negotiating a lease which will be provided to the Commission upon conclusion of the negotiations.

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The late-filed exhibit will be acceptable. However, until staff has reviewed the proposed lease, this requirement must remain deficient. Also, if the negotiated lease is for a period of less than 99 years, please remember that staff will need justification.

ADDITIONAL INFORMATION, CLARIFICATION, CORRECTIONS

3. Rates and Charges. Rule 25-30.034(1)(g), Florida Administrative Code, requires a statement specifying on what date and under what authority the current rates and charges were established. In the September 20th response to this matter, minutes of Knight Island Utilities, Inc. (KIUI) Board of Directors meetings, the Tariff and Fee Schedule and a billing history for one of the customers were to be attached. No attachments were filed.

Please provide documentation specifying on what date and under what authority the current wastewater rates and charges were established.

4. Rate Base. Because the original owners were developers and because a non-profit corporation, KIUI, rented the utility facilities during the exemption period, staff believes that it is both appropriate and prudent to (1) attempt to identify the original cost when the utility plant and land were first placed into public use and (2) attempt to establish rate base at the time of the proposed conveyance. It has been staff's experience that when the utility facilities are constructed by developers not intending to be regulated utilities, the cost of the plant and lines are recovered in sale of the lots. And, in this instance, the rent paid by KIUI may represent additional contributions. Therefore, it is possible that rate base for Knight could be zero or even negative.

Since a zero or negative rate base would be a public interest concern, staff is requesting that:

- a. the original cost records with regard to utility plant, land, and lines be filed along with the developers' tax returns for each year beginning with the year the utility facilities were constructed to the present.
  - b. to the extent that KIUI was responsible for plant additions and upgrades during the period in which it rented the utility facilities, staff requests that KIUI's plant records and tax statements also be provided to verify additional plant and to determine whether the plant was expensed rather than capitalized.
5. Schedule of Customers. Rule 25-30.034(1)(n), Florida Administrative Code, requires a schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the requested service territory is fully occupied. Staff is somewhat confused by the utility's September 20th response which indicates a total of 450 lots within the service area, of which there are 210 current connections, and approximately 150 more connections not being served in the remainder of Thornton Key. Please clarify whether the 150 additional lots not being served in the remainder of Thornton Key are included in the total of 450 lots within the service area or whether they are in addition to the 450 lots. Also, the September 20<sup>th</sup> response, indicated that a schedule of customers would be attached but no attachments were filed.

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6. Territory Not Served. Since the applicant appears to be requesting territory not served at the time of the application, Rule 25-30.034(2)(a), Florida Administrative Code, requires a showing of the need for service. If the 150 unconnected lots discussed in Item 5, above, for the remainder of Thornton Key represent another development, rather than an undeveloped portion of the current development, please provide documentation of the need for service in the area

Also, the September 20<sup>th</sup> response indicates that Island is intending to serve approximately 750 additional connections in Don Pedro and Knight Island and 1,000 additional connections in Little Gasparilla. Please provide documentation of the need for service in these areas.

7. KIUI's Decision. In its August 16<sup>th</sup> letter, staff requested the minutes of the KIUI's meeting(s) in which its members decided they no longer wished to serve themselves causing this application to be filed. The October 20<sup>th</sup> utility response, indicated that minutes were to be provided of such meetings but no attachments were filed. Please provide the minutes of the meeting which resulted in the filing of the certificate application with the PSC.

An original and five copies of the information requested above should be provided as soon as possible but no later than, November 29, 2002. Until Items 1 and 2 are satisfied, the application will be considered deficient. The response should be filed directly with the Director, Division of the Commission Clerk and Administrative Services. Should you have any questions, please call Patricia Brady at (850) 413-6686, [pbrady@psc.state.fl.us](mailto:pbrady@psc.state.fl.us) or Rosanne Gervasi at (850) 413-6224, [rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us).

Sincerely,

  
Patti Daniel  
Supervisor of Certification

PD:PB

cc: Robert Dennis, Department of Community Affairs  
Doug Wells, Department of Environmental Protection  
Division of Economic Regulation (Brady, Redemann)  
Office of the General Counsel (Gervasi)  
Division of the Commission Clerk and Administrative Services (Docket)