

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 020745-SU

RECEIVED
COMMISSION
CLERK
DEC 23 PM 4:04

MOTION FOR RECONSIDERATION

Island Environmental Utility, Inc., (*Island Environmental*), by and through its undersigned attorneys, files this Motion for Reconsideration of the Commission's Order No. PSC-03-1415-PCO-SU, dated December 15, 2003 (*Order*), pursuant to Rule 25-22-0376, Florida Administrative Code, and in support shows:

1. Island Environmental timely filed objections to certain discovery requests propounded on it by Mr. Ronald Koenig and Ms. Linda Bamfield (collectively, the *Intervenors*). Both Intervenors filed motions to Strike Island Environmental's objections and to compel answers to their discovery. Island Environmental timely filed a response to Ms. Bamfield's motion and a motion to strike Ms. Bamfield's motion to compel. Ms. Bamfield filed a response to Island Environmental's motion. Both Intervenors are *pro se* litigants.

2. The discovery to which Island Environmental objected was comprised of a request

AUS _____
CAF _____
CMP _____
COM 3 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____
for all documentation that relates to the financial resources of the shareholders of Island Environmental, including the personal financial statements of such shareholders (*Confidential Information*). Island Environmental objected to these requests on the grounds that there is no

RECEIVED & FILED

Jh
FPSC-BUREAU OF RECORDS

DOCUMENT FILED DATE
13414 DEC 23 8
FPSC-DEPT. OF CLERK

requirement that the Confidential Information become public record, and there is no Commission decision requiring that the Confidential Information be turned over to *pro se* litigants.

3. In addition, and more critically, Ms. Bamfield and her husband have directed a course of extreme antagonism toward one of Island Environmental's shareholders, Mr. Dean Beckstead, and his family. Ms. Bamfield's conduct has shown that she will not respect any of this Commission's protective orders or any confidentiality obligations toward the Confidential Information that she may undertake. Ms. Bamfield will not use discretion in her efforts to halt development on the island, and has specifically struck out at Mr. Beckstead's legitimate business activities and members of his family on many occasions. Her past conduct makes her highly untrustworthy as a potential discloser of the Confidential Information.

4. No one has argued or shown that the Confidential Information is not highly sensitive or personal.

5. In the Order, the Commission failed to adequately consider the potential for harassment, prejudice and personal harm that the shareholders of Island Environmental by the disclosure to Ms. Bamfield of the Confidential Information. Ms. Bamfield's history of antagonism and violence toward Mr. Beckstead and members of his family, and her extreme opposition to development in the area which Island Environmental seeks to serve gravely upsets the balance between the needs of the Intervenors and the privacy interests of the shareholders of Island Environmental which the Commission must attempt to achieve. Rasmussen v. South Fla. Blood Serv., 500 So. 2d 533 (Fla. 1987); CAC-Ramsay Health Plans, Inc. v. Johnson, 641 So. 2d 434 (Fla. App. 3rd Dist. 1994); Higgs v. Kampgrounds of America, 526 So. 2d 980 (Fla. App. 3rd Dist. 1988).

6. The Confidential Information is not merely sensitive and highly personal; it is a weapon in the hands of untrustworthy and unscrupulous persons who have ulterior motives in procuring its possession. No protective order that could be issued by this Commission would adequately protect the shareholders of Island Environmental against the harm that would be caused if the Confidential Information was disclosed to the Intervenors.

7. Both Intervenors may have alluded to their *right* to inspect the Confidential Information, but neither has adequately demonstrated a sufficient, convincing *need* to review the Confidential Information. CAC-Ramsay Health Plans, Inc. v. Johnson, 641 So. 2d at p. 436; Higgs v. Kampgrounds of America, 526 So. 2d at p. 981.

8. Neither Intervenor has shown that this Commission is unable or unqualified to carry out its legislative duty to determine the financial ability of Island Environmental to provide wastewater service to the area to seeks to serve. As the Applicant, Island Environmental, is required to provide its financial information to Commission Staff pursuant to Rule 25-30-033, Florida Administrative Code; however, there is no rule requiring the provision of the financial information of the shareholders of an applicant. In fact, the Confidential Information may not even be relevant if the issue of the financial ability of Island Environmental is resolved.

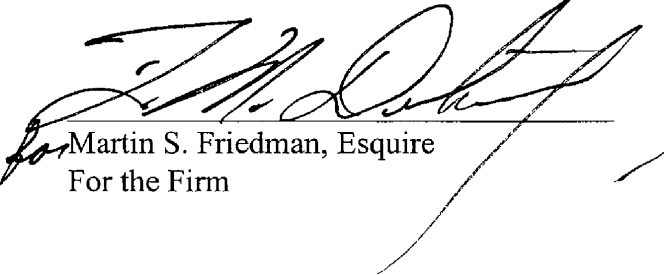
9. The Commission should consider alternatives that would adequately serve the interests of the Intervenors regarding the Confidential Information (for example, loan commitments from financial institutions and similar undertakings that demonstrate the financial resources of Island Environmental).

WHEREFORE, Island Environmental respectfully requests that this Commission reconsider its decision to require Island Environmental's shareholders to disclose the Confidential Information,

for the reasons discussed in this Motion, and deny the Intervenor's Motion to Compel the production of the Confidential Information.

Respectfully submitted on this 23rd day of December, 2003.

ROSE, SUNDSTROM & BENTLEY, LLP
600 S. North Lake Boulevard
Suite 160
Altamonte Springs, Florida 32701
Telephone: (407) 830-6331
Facsimile: (407) 830-8522
Email: mfriedman@rsbattorneys.com



for Martin S. Friedman, Esquire
For the Firm

CERTIFICATE OF SERVICE
DOCKET NO. 020745-SU

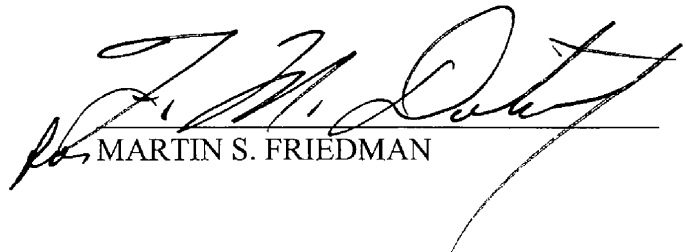
I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Reconsideration filed by Island Environmental Utility, Inc., has been furnished by U.S. Mail to the following parties on this 23rd day of December, 2003:

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

Mrs. Linda Bamfield
P.O. Box 5063
Grove City, FL 34224

Jannette S. Knowlton, Esq.
Linda Carroll, Esq.
Assistant County Attorney
18500 Murdock Circle
Port Charlotte, FL 33948

Rosanne Gervasi, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850


MARTIN S. FRIEDMAN