

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** April 19, 2017

**TO:** Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

**FROM:** Margo Leathers, Attorney, Office of General Counsel

**RE:** Docket No. 160065-WU - Application for increase in water rates in Charlotte County by Bocilla Utilities, Inc.

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Please place the attached letter from John Loar, on behalf of Palm Island Estates Association, Inc., in the above-referenced docket file.

MAL/as

**From:** [Margo Leathers](#)  
**To:** [Ashley Soete](#)  
**Subject:** FW: Letter on Behalf of Palm Island, Docket No. 160065  
**Date:** Wednesday, April 19, 2017 3:33:46 PM  
**Attachments:** [Palm Island letter with attachments.pdf](#)

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Ashley,

Can you please place this email and its attachment in the docket file for Docket No. 160065-WU?

Thanks,

Margo

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**From:** John Loar [mailto:[jloar@broadandcassel.com](mailto:jloar@broadandcassel.com)]  
**Sent:** Wednesday, April 19, 2017 3:30 PM  
**To:** Margo Leathers  
**Subject:** Letter on Behalf of Palm Island, Docket No. 160065

Good Afternoon, Margo,

Please see the attached letter on behalf of Palm Island Estates Association, Inc., to be filed in the BUI Docket No. 160065.

The letter contains attached color images so please let me know if that causes any issues.

Thanks.

-John

<a href="#">HOME</a>	<a href="#">Bio</a>	<a href="#">VCARD</a>
<p><b>John F. Loar, Esq.</b> 215 SOUTH MONROE STREET SUITE 400 TALLAHASSEE, FL 32301 TELEPHONE: 850.681.6810 FACSIMILE: 850.681.9792 DIRECT LINE: 850.205.3310 E-MAIL: <a href="mailto:jloar@broadandcassel.com">JLOAR@BROADANDCASSEL.COM</a></p>		
<p><b>BROAD AND CASSEL LLP</b> <a href="http://www.broadandcassel.com">www.broadandcassel.com</a></p>		

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SUN TRUST BANK BLDG.  
215 SOUTH MONROE STREET  
SUITE 400  
TALLAHASSEE, FL 32301  
TELEPHONE: 850.681.6810  
FAX 850.681.9792  
WWW.BROADANDCASSEL.COM

**JOHN LOAR**  
EMAIL: JLOAR@BROADANDCASSEL.COM

April 19, 2017

Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399

Re: Docket No. 160065-WU-Application for Increase in Water Rates  
in Charlotte County by Bocilla Utilities, Inc.

Dear Commissioners:

This letter is on behalf of Palm Island Estates Association, Inc. (PIE), regarding Bocilla Utilities, Inc.'s (BUI) application to increase the rates it charges its customers for water. The rate increase would give BUI the third highest water rate in the State of Florida. It would also result in BUI customers paying a premium price for water and customer service that is of an unsatisfactory quality and well below industry standards. Until quality and service issues are corrected, BUI should be denied any increase, and it should be monitored to ensure that customers are getting what they pay for, especially given that BUI's current rate is already 300% higher than the state average.

BUI provided acceptable quality water from its facility prior to making the decision to build a pipeline, so that it could purchase water from Englewood Water District (although the lack of water pressure has been a consistent issue<sup>1</sup>). Since building the pipeline, the water pumped in from Englewood Water District is of an unacceptable quality, *i.e.*, discolored (orange/brown) and odorous.

BUI seeks to increase the rates it charges customers to offset the cost of the pipeline. This business decision was made without any actual advantage to or consideration of the consumer customer and resulted in a substantial decline in water quality. After BUI applied for a rate increase it sent out a letter attempting to justify building the pipeline, and the corresponding rate increase, on grounds that a storm in 1982 (35 years ago) knocked out water for two years, and BUI wants its customers to have a dependable *and clean* water supply. (*See Attachment A*). But, surely technology and construction has developed and improved substantially in the last 35 years. The letter acknowledges that the treatment plant and storage tank withstood a near direct hit from category 4 hurricane, Charlie, which made landfall 20 miles away in 2004. BUI's assertion that an untested pipeline would hold up better than the hurricane tested plant is nothing more than unsupported speculation.

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<sup>1</sup> It should be noted that BUI has refused to allow the Charlotte County Fire Department to test the water pressure to confirm compliance with local ordinances. (*See Attachment B*).



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The only parties to *actually* benefit from the pipeline (given the decline in water quality) are BUI and Knight Island Utilities (KIU), who can now utilize the pipeline to allow BUI to pump water from Englewood Water District to provide to KIU. BUI charges KIU for each gallon of water pumped through the pipeline to KIU<sup>2</sup>. The revenues from BUI's contract with KIU are sufficient to cover the entire cost of the requested rate increase, *i.e.* 150%<sup>3</sup> of the entire cost for constructing the Zone 9 assets (*i.e.* the pipeline). But, by creative accounting, BUI seeks to charge its customers an increased rate to offset the cost of the pipeline that makes the KIU contract possible, thereby allowing BUI to reap a higher benefit from the KIU contract, without regard to the decline in water quality suffered by consumers.

BUI's customer service is also unsatisfactory and below industry standards. In assessing the quality of service, the March 23, 2017 Staff Recommendation (the Recommendation) considered the complaints to BUI and BUI's attempts to address the complaints. According to the Recommendation, BUI reported to the PSC that it had *one complaint in the last five years*. It is absurd to take such a claim at face value, especially when considering the records produced by the facility have been, at best, limited. Given BUI's record keeping, it is appropriate to infer that many customer complaints were not recorded, or were simply disregarded, deleted, or ignored.

A recent sample inquiry to BUI customers provides support for this inference. Since the switch to water piped in from Englewood Water District, one customer, George Geiger, has written that he repeatedly complained about brown water, brown ice cubes, brown stains in sinks and commodes caused by the brown water, clogged filters, and sulfurous odors. (*See Attachment C – includes photographs*). He has “contacted [BUI] or talked to John [BUI's field technician] at least ten times.” Mr. Geiger's complaints remain unresolved. He and his wife have given up drinking or cooking with the BUI water and only use it for showers, landscaping, and laundry. “For all other uses [they] have been forced to buy bottled water.”

Another customer, Donald Milroy, Esq., wrote that he took three trips away from his home in 2015, and upon returning home from each trip, found all six of the commodes in his home were stained with dirty brown water and also found brown ice in the ice maker. (*See Attachment D – includes photographs*). The water from the faucet smelled “so horrendous that it drove [him] from the room.” Mr. Milroy left numerous complaints at the BUI office, but never received a reply. He also left a voicemail (no call-back), and tried to leave a follow-up voicemail on a separate occasion but the mailbox was full. As a result of the brown discoloration, Mr. Milroy had to install a whole house filter and spends roughly \$540 annually in filter costs.

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<sup>2</sup> KIU also pays Englewood Water Management District for each gallon that it receives via the subaqueous pipeline.

<sup>3</sup> Pursuant to the contract, KIU pays BUI \$2.52 per thousand gallons that is pumped through the BUI pipeline for use by KIU, for 21 million minimum gallons per year. At a minimum, BUI receives annual payment of \$52,920 (with an escalator clause). During the initial 30 year term this extrapolates to \$1,587,600 (without the price escalator) as a total minimum payment. This represents 150% of the entire cost of Zone 9 plant assets.



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Another customer, James Wade, who spoke at the meeting with the PSC about the dramatic change in water quality over the past few years, also made several complaints. (See Attachment E). When the problems started after the switch, Mr. Wade called BUI and left messages, but his calls were never returned, and he “gave up.” Mr. Wade pays an additional \$300 dollars every three months in filter costs just to have “drinkable water.”

BUI customers, Marie and Ray Smith, emailed BUI several times back in 2016 about yellowish water that was staining clothes and commodes, but never heard anything back. (See Attachment F). Another couple of customers, Sharon and Ed Porro, experienced water heaters full of sand and occasionally algae. (See Attachment G – includes photographs). The Porros called BUI at least three times to complain about the water quality, and an email was also sent to the company web site. The issues have not been addressed.

This lack of service from BUI is only exacerbated by its “very limited office hours.” According to BUI’s Website:

“As we are a small privately owned, publicly regulated utility, we have very limited office hours. It is best to drop us an email at [office@bocillautilities.com](mailto:office@bocillautilities.com) or give us a call at 941-769-0561, with your customer service needs.”

No actual office hours are provided on the Website. Customers who would like to speak to someone in person are left to guess at when the office might be open. Likewise, the actual office provides no office hours. (See Attachment H).

In sum, the customer service provided by BUI is ineffective and grossly inadequate, and does not support the rate currently charged by BUI, let alone the rate BUI is seeking. It is clear that the Recommendation conclusion that there was only one complaint in the last five years and that BUI addressed complaints in a timely manner is based on insufficient and erroneous data provided by BUI, and must be revisited to account for the customer complaints that show otherwise. PIE recommends surveying BUI customers.

The Recommendation also notes that BUI installed a chloramine injection system on March 20, 2017, to address color and odor issues. However, the customers have confirmed that the water provided is still brown. The results of the installation should be verified prior to any conclusion that the odor and discoloration issues are sufficiently or adequately addressed. As it stands now, BUI customers who want clear, odor free drinking water can either expend significant resources on a whole house filter (sometimes to no avail as in the case of the Geigers), or they can buy bottled water.

This lack of customer service leads to serious skepticism regarding the estimated work hours submitted by BUI, which has not furnished adequate documentation to justify or back-up its employment expenses. Additionally, Mr. Craig Noden claims, without supporting documentation, to work 160-200 hours per month: 20% in the field and 80% administratively. If Mr. Noden spends

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80% of his "average" 180 hour month (144 hours) doing administrative functions, why are the office hours so limited that they are not even posted, and why do BUI customers not receive call-backs or responses to their complaints, and how is it possible for BUI, who allegedly only gets one complaint in a five year period, to have a voicemail box that is at capacity and cannot receive any additional messages?

BUI also requests a significant amount of barging expense, which they initially justified by submission of a bill from a related party. BUI did not produce all of the invoices from the Barge Company to the third party when requested, but instead switched gears and opened a new commercial account with Palm Island Transit costing at least \$11,000 per year and claims this as evidence to support the barge expense. But insufficient documentation has been provided justifying this expense and the individual barge tickets indicating the passenger name, vehicle, date, and time have not been supplied. BUI has the burden of proving its expenses with records and should not be permitted to hide the ball. It should either provide adequate documentation of the barge expense or the expense should be disallowed.

As previously indicated by the PIE letter dated March 2, 2017, BUI's rate case expenses are inflated due to deficient record keeping and accounting and should be reduced to a reasonable amount, as contemplated by the statutory scheme.

The quality of service and water that BUI provides is not satisfactory and is well below industry standards. The water is brown and odorous, office hours are not posted, phone calls are not answered, voicemails do not result in call-backs, and quality issues are not addressed. The requested rate increase would unreasonably and unjustifiably give BUI the third highest water rate in the State of Florida. The PSC is charged with regulating and fixing rates that are just, reasonable, compensatory and fair, and must consider the value and quality of the service. Its goals include the "provision of safe utility services at levels of quality and reliability that comply with established industry standards and practices." For a customer to be forced to pay such a premium rate for the subpar service and product that is being provided by BUI is not compensatory, just, fair or reasonable. BUI should be precluded from being awarded *any* rate increase until it can address these problems. Simply promising to fix the problems is not enough.

Sincerely,

BROAD AND CASSEL LLP



John F. Loar, Esq.

JFL:sf

Cc: Palm Island Estates Association, Inc.



Islander Properties is the largest rental company on Palm Island and we can help you with the perfect vacation rental or buying your dream home.

**2015 President-Englewood Area Board of Realtors**

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**From:** Bob Madden [<mailto:bobmadden@islanderproperties.com>]

**Sent:** Friday, September 23, 2016 2:04 PM

**To:** [robinmadden@islanderproperties.com](mailto:robinmadden@islanderproperties.com)

**Subject:** FW: Bocilla Utilities Rate Increase

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**From:** Bocilla Utilities Business Office [<mailto:office@bocillautilities.com>]

**Sent:** Friday, September 23, 2016 1:44 PM

**To:** [bobmadden@islanderproperties.com](mailto:bobmadden@islanderproperties.com)

**Subject:** Bocilla Utilities Rate Increase

Dear Islander,

Recently you have received mailings regarding Bocilla Utilities filing for a rate increase.

**Reason for the Increase**

The primary reason for this increase is to help ensure a safe and dependable water supply in the event of a hurricane or other natural disaster. Other than minor cost of living adjustments, this is our first request for a rate increase in **28 years**.

**Why Now?**

- For many years, wells provided water to island residents until the "No Name Storm" of 1982. Salt water intruded into many of the water wells and ruined them.
- Because of this storm, many island residents were stranded with **no fresh water** and received it by barge or boat for 2 years!
- During this time, we worked to permit and build a water treatment plant that served all of us without incident or rate increase for nearly 3 decades.
- When Hurricane Charley hit in 2004 (just 20 miles south), we realized our treatment plant and storage tank could have been destroyed, stranding us without fresh water, again!
- At that time, we began long-range planning for dependable water supply from the mainland.

**Safe Water Costs Money**

Bocilla Utilities secured a 1-million-dollar loan to pay for the permitting and directional drilling of 10,000 feet of pipe, 2 subaqueous crossings of Buck Creek/Intracoastal Waterway, plus a pumping station on Panama Boulevard.

Numerous engineers, accountants, attorneys, meetings, permitting approvals, leases, long-term agreements, construction contracts, bank loans, and construction projects have connected Bocilla Utilities to the Englewood Water District to provide a reliable long term source of drinking water.

**How Much?**

We know that the increase may seem like a surprise – and a 40 percent increase all at once seems steep.

This increase will add **\$18.22** to your monthly base charge (less than one trip on the Palm Island Ferry) and **\$1.82** per thousand for the first 6000 gallons.

**Our Goal**

It's simple: Safe, clean and dependable water for the residents of Don Pedro-Knight/Palm Islands now and in our future.





22429 Edgewater Drive  
Punta Gorda, Florida 33980 - 2016  
(813) 743-1367

November 15, 1994

Ms. Linda B. Cotherman  
P.O. Box 5063  
Grove City, FL 34224


Dear Ms. Cotherman:

In response to your letter concerning Bocilla Utilities and Fire Flows, let me offer the following information:

1. County Ordinance 91-52 with an effective date of October 4, 1991 was in effect in November, 1991.
2. Copies are enclosed of the ordinance in question.
3. The same requirements are still in effect.
4. To the best of my knowledge the flows from the hydrants on the Bocilla Utilities System flow about 200 GPM. This data was relayed to us from the utilities since we were requested verbally not to flow test their hydrants.
5. Without actually flow testing a hydrant on the Bocilla System, we do not know if the system complies or not.

I hope this information will be of benefit to you. Please feel free to call if we can be of further assistance.

Sincerely,

  
Bob Logan  
Assistant Fire Director

Attachment B

**John Loar**

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**From:** George Geiger <[georgegeiger@mac.com](mailto:georgegeiger@mac.com)>  
**Date:** April 6, 2017 at 9:30:24 AM EDT  
**To:** [sadenwater150@comcast.net](mailto:sadenwater150@comcast.net)  
**Subject:** **Bocilla Utilities Water Problems**

Dick,

Regarding your request for a written summary of our problems with the water supplied by Bocilla Utility, here is what we've been experiencing:

Since Bocilla Water switched to water provided by the Englewood Water District the water quality has been terrible. It's tinted orange, loaded with sediment and quickly stains our toilets, sinks and anything where it stands. It fouls the pipes in our house and quickly loads up our filters. My 5 micron whole house filter system cannot remove all the sediment. After changing filters, a new filter is colored a dark orange the instant I turn on the water. I change filters once a month, but could and probably should do it far more frequently.

We've been repeatedly reporting this problem (I'm estimating) for two years since the switch. Englewood Water District will not deal with the problem directly, but refers us to Bocilla Utility. They in turn refer us to their field technician who is named John. We don't know his last name, but his mobile number is (941) 201-1084. We have contacted Bocilla or talked to John at least ten times.

Because Bocilla Utilities offer no other remedy but to speak with John I've gotten into the habit of calling him directly. John is well aware of the problem, but his only remedy is to open the hydrants to "flush the pipes". This has marginal and only temporary results. Within a day or so the water returns to being laden with sediment.

This orange goo coats the surfaces of pipes, faucets, toilets and our ice maker with a slimy mess. It frequently also has a sulfurous odor. In short, it is so unappetizing we have given up drinking or cooking with the water and use it only for showers, landscaping and laundry. For all other uses we have been forced to buy bottled water.

I consider this water unacceptable for potable use. The PUC should consider not only restricting rate hikes but requiring Bocilla Utilities and its partner, the Englewood Water District, to improve the water quality immediately.

Thank you for pursuing this matter for all of us being served (badly and expensively) by Bocilla Utilities.

George and Lorraine Geiger







Donald Milroy & Kim Peacock  
480 S Gulf Blvd  
Placida, FL 33946  
817-371-3044

April 4, 2017

To Whom It May Concern,

I have been asked to document the events that caused my wife and I to invest in a “whole-house” filtration system in October 2015.

During the summer of 2015 we had taken three trips that took us away from home for four to five weeks at a time. Upon returning home from each of these trips we found dirty brown water and stains in all of our 6 commodes (photo attached) and brown ice in our ice maker (photo attached). In addition, when we turned on the faucets the smell was so horrendous that it drove us from the room. We had to run the faucets for up to 10 minutes before the smell would dissipate.

On October 15, 2015, we paid \$664.00 for the filtration system. However, to our chagrin when we returned from our next trip the buildup of sediment in the filter caused the water pressure to drop to a trickle. For the next six months I had to change the filter every month at a cost of almost \$40 per cartridge, even though the manufacturer recommended changing the filter every six months.

During this timeframe I left numerous notes for John (Bocilla Utilities) at the office near the tennis court, but never received a reply. I did run into John on two occasions while he was working on the water system and told him of my situation, He told me that they were trying to flush the system and that it should improve. I left one message on the Bocilla Utilities voice mail, but never received a reply. On another occasion the mailbox was full.

If I can provide additional information, please don't hesitate to contact me.

Sincerely,

Donald Milroy, Esq.







Donald Milroy & Kim Peacock  
480 S Gulf Blvd  
Placida, FL 33946  
817-371-3044

April 5, 2017

To Whom It May Concern,

This is a follow-up to my letter of yesterday.

Today, April 5<sup>th</sup>, my wife Kim and I returned to our don Pedro Island home having spent the last three weeks in Texas. We found that we had virtually zero water pressure. Toilets would not refill and there was barely a drip from the faucets. I suspected that once again we had a clogged "whole-house" filter. I changed the filter and we had full water pressure. However it ran rusty brown for about 5 minutes.

Attached is a photo of the last six filters that I have had to change on a monthly basis. Each filter costs \$44.97 at Home Depot and as you can see in the photo they are all filled with a dark sediment.

This expense adds \$540 annually to my water costs.

Sincerely,

Donald Milroy, Esq.

From: **Don Milroy** Don@gnsfoods.com  
Subject: **Use this one instead**  
Date: **Today at 4:43 PM**  
To: **Dick & Kathy Sadenwater** sadenwater150@comcast.net

Dick,

My editor (Kim) found a few corrections, so pleas use this one.

Don



TO WHOM IT MAY CONCERN:

At the island meeting with the county, I spoke about the dramatic change in water quality that we have experienced over the past few years.

I have both an RO filter for drinking water and a double (paper and carbon) whole house filter. When our toilets started turning brown two or three days after cleaning we went to the double whole house which now gives us 5 to 7 days before toilets turn brown.

The cost of filter changes is significant. The RO filters are \$106 for the set and the whole house filters are \$100, plus installation of both sets which has been \$95. That's over \$300 just to have clean, drinkable water and be able to clean toilets less frequently.

Before Bocilla water reversed the flow and began getting its water from Englewood, filters lasted 9 to 12 months. I now have the \$300 expense every 3 months.

When we began having problems I called Bocilla water and left messages, but never spoke to a real person, nor were my calls returned. I gave up. I have spoken to John on several occasions when he came out to flush the lines. While flushing improves the situation temporarily, it has not solved it.

James W. Wade  
8405 Anthony Drive  
Placida, Florida



## John Loar

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**From:** Linda C <lcotherman@yahoo.com>  
**Sent:** Thursday, April 6, 2017 12:33 PM  
**To:** John Loar  
**Subject:** Fwd: water

Sent from my iPad

Begin forwarded message:

**From:** Ray Smith <[smith460@hotmail.com](mailto:smith460@hotmail.com)>  
**Date:** April 6, 2017 at 12:23:08 PM EDT  
**To:** Linda Cotherman <[lcotherman@yahoo.com](mailto:lcotherman@yahoo.com)>  
**Subject:** water

Linda, to the best of my 'old' memory, I e-mailed Bocilla water around the time the water was yellowish and was staining clothes and TBowls, maybe around 10/16?.

Never heard back...

Ray has a lot of archived PIE communications and he will go through them today.

Good Luck!

Marie

Attachment F

**John Loar**

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**From:** [ep271@comcast.net](mailto:ep271@comcast.net)

**Sent:** Wednesday, April 05, 2017 9:31 AM

**To:** [smpmco@comcast.net](mailto:smpmco@comcast.net)

**Subject:** Re: Water help

In reply to your email, I have called John and/or the Bocilla Water Company, office phone with water quality complaints at least on three occasions. I sent an email to Craig at the company web site. That message was returned by a woman I did not know. I have contacted the DEP at least three times with water issues. They were no help at all. It might be helpful to see if DEP keeps records of how many complaints have been made. The problems I have experienced has been water heaters full of sand. I put a house water filter system in place and it fills with sand and on occasion algae. I am attaching some photographs of the filter.







