

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for certificate to provide
wastewater service in Charlotte County, by
Environmental Utilities, LLC

DOCKET NO. 20200226-WS

_____/

ENVIRONMENTAL UTILITIES, LLC.'S
RESPONSE TO MOTION TO DISMISS

Environmental Utilities, LLC. ("EU"), by and through its undersigned attorneys and pursuant to Rule 28-106.204(1), Florida Administrative Code, files this response to the Motion to Dismiss filed by Guy L. Hurst [Document #01412-2021], and states:

The threshold issue to be addressed is whether this Motion is ripe for determination or otherwise Moot. The Notices were sent prior to the Commission denying EU's request for bifurcation. Thus, EU in the future will be re-filing its Application with the rates and charges, which will require re-noticing. Thus, the original noticing is irrelevant.

1. Movant's first complaint is the assertion is that the Notices were mailed to addresses on Little Gasparilla Island, and that no residents receive mail on LGI. That is inaccurate. The notices were mailed to property owners at the mailing addresses as reflected on the records of the Charlotte County Property Appraiser (presumably the same address that the real estate tax bills are sent. See Attachment 1 which is one of the mailed envelopes. The envelope clearly has the name of EU as the return address. In fact many of the notices were mailed to out of state addresses, and a number were mailed out of country.

2. Movant's next complaint is the assertion that the Notices were sent as "junk mail". Because of the number of notices to be mailed (over 1,300), EU had them sent by a third-party

mailing company who sent them as bulk mail. See Attachment 2. There is no prohibition against sending notices in this manner.

3. Movant's further complaints interspersed within his Motion are the assertion that the form of the Notice is inadequate. The notice was prepared in accordance with the requirements of Rule 25-30.030, F.A.C. and was approved by Staff as required by Rule 25-30.030(4), F.A.C. Further, EU has been very transparent in this application. Mr. Boyer met with representatives of the Little Gasparilla Island Property Owner's Association (see its website referencing such meetings: <https://lgpoa.org/>), and the Palm Island Estates Association (see its website referencing such meetings: <https://www.palmislandestates.org/sewer--utilities-report.html>). Mr. Boyer also sought to meet with the Cape Haze Property Owner's Association which denied such request.

4. Movant next complains about lack of notice of the Motion to Bifurcate filed by Environmental Utilities, LLC. However, Movant has pointed to no requirement that such notice be provided, nor has such notice been required or provided in any prior case in which bifurcation has been considered by the Commission.

5. Next Movant makes statements regarding the need for central wastewater service on the island, which is the ultimate determination to be made by this Commission and has no bearing on Movant's Motion. Further, such statements are contrary to the determination made by Charlotte County as set forth in its Sewer Master Plan.

WHEREFORE, Environmental Utilities, LLC., requests that this Commission enter an Order denying the Motion to Dismiss [Documents #01412-2021].

Respectfully submitted this 20th day of
January, 2021, by:

Dean Mead

420 S. Orange Ave., Suite 700
Orlando, FL 32801
Telephone: (407) 310-2077
Fax: (407) 423-1831
mfriedman@deanmead.com

/s/Martin S. Friedman
MARTIN S. FRIEDMAN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

E-mail to the following parties this 20th day of January, 2021:

Brad Kelsky, Esquire
1250 S. Pine Island Road, Suite 250
Plantation, FL 33324
bradkelsky@kelskylaw.com

Guy L. Hurst
7153 Regina Dr.
Englewood, FL 34224
retiretoecuador@gmail.com

Jennifer Crawford, Esquire
Stephanie-Jo Osborn, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
sosborn@psc.state.fl.us
jcrawfor@psc.state.fl.us

/s/ Martin S. Friedman
Martin S. Friedman

ATTACHMENT 1

Environmental Utilities, LLC
PO Box 7
Placida, FL 33946

PRST STD
US POSTAGE PAID
MANASOTA FL
PERMIT #765



*****AUTO**MIXED AADC 320



United States Postal Service
Postage Statement - USPS Marketing Mail

Post Office: Note Mail Arrival
 Date & Time (Do Not Round-Stamp)

Mailer	Permit Holder Name, Address, Email, Telephone Olde Englewood Mailing Lisa Boyle 315 Yale ST Englewood, FL 34223-0000 oemail@gmail.com 941-468-2916	Mailing Agent (if other than permit holder) Name, Address, Telephone	Mail Owner (if other than permit holder) Name, Address Environmental Utilities, LLC PO Box 7 Placida FL 33946
	CAPS Cust. Ref. No. _____ CRID <u>2827667</u>	CRID _____	CRID _____

Mailing	Post Office of Mailing Manasota, FL 34260-0000	Mailer's Mailing Date Oct 29, 2020	Federal Agency Cost Code	Statement Seq. No. 121943	For Automation Pieces, Enter Date of Address Matching and Coding 10/29/2020 For Carrier Route Pieces, Enter Date of Address Matching and Coding 10/29/2020 For Carrier Route Price Pieces, Enter Date of Carrier Route Sequencing For Pieces Bearing a Simplified Address Enter Date of Delivery Statistics File or Alternative Method	No. & Type of Containers _____ 0 Sacks _____ 4 1 ft. Letter Trays _____ 2 ft. Letter Trays _____ 0 EMM Letter Trays _____ 0 Flat Trays _____ 0 Pallets _____ 0 Other
	Type of Postage <input checked="" type="checkbox"/> Permit Imprint <input type="checkbox"/> Precanceled Stamps <input type="checkbox"/> Metered	Processing Category <input checked="" type="checkbox"/> Letters <input type="checkbox"/> Flats <input type="checkbox"/> Marketing Parcels <input type="checkbox"/> Parcels-Machinable <input type="checkbox"/> Parcels-Irregular <input type="checkbox"/> CMM <input type="checkbox"/> Catalogs	Total # of Pieces in Mailing 1,240	SSF Transaction #		
	For Mail Enclosed within Another Class <input type="checkbox"/> Bound Printed Matter <input type="checkbox"/> Library Mail <input type="checkbox"/> Periodicals <input type="checkbox"/> Media Mail	Move Update Method: <input type="checkbox"/> Alternative Method <input type="checkbox"/> Ancillary Service Endorsement <input checked="" type="checkbox"/> NCOA Link <input type="checkbox"/> ACS <input type="checkbox"/> Multiple <input type="checkbox"/> OneCode ACS n/a Alternative Address Format	Total Weight 19.3440	Permit # 765		
	Weight of a Single Piece <u>0.0156</u> pounds <input type="checkbox"/> Letter-size or flat mailpiece contains DVD/CD or other disk.	Combined Mailing <input type="checkbox"/> Mixed Class <input type="checkbox"/> Single Class	<input type="checkbox"/> Mailpiece is a product sample _____ % Samples	This is a Political Campaign Mailing <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Parts Completed (Select all that apply): A B C D E F G H L S NSA

Postage	1	Subtotal Postage (Add parts totals)	\$343.38
	2	Price at Which Postage Affixed (Check one). <input type="checkbox"/> Correct <input type="checkbox"/> Lowest <input type="checkbox"/> Neither Complete if mailing includes pieces bearing metered/PC Postage or precanceled stamps	pcs. x \$ = Postage Affixed
	3	Incentive/Discount Flat Dollar Amount	-
	4	Fee Flat Dollar Amount	+
	5	Permit # _____	Net Postage Due (Line 1 +/- Lines 2, 3, 4)

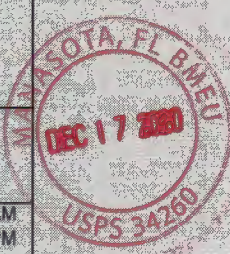
USPS Use Only	Additional Postage Payment (State reason) For postage affixed, add additional payment to net postage due for permit imprint add additional payment to total postage	Total Adjusted Postage Affixed
	Postmaster: Report Total Postage in AIC 130 (Permit Imprint Only, Excluding Simplified Addressing (EDDM))	Total Adjusted Postage Permit Imprint
	Postmaster: Report Total Postage in AIC 208 (Simplified Addressing (EDDM), Permit Imprint Only)	Total Adjusted Postage Simplified Addressing (EDDM)

Incentive/Discount Claimed: _____ Type of Fee: _____

Certification
 The mailer's signature certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent signs this form, the agent certifies that he or she is authorized to sign on behalf of the mailer and that the mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and the mailing qualifies for the prices and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation. I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment.

Privacy Notice: For information regarding our Privacy Policy visit www.usps.com.

Signature of Mailer or Agent _____ Printed Name of Mailer or Agent Signing Form **Lisa Boyle** Telephone **941-468-2916**

USPS Use Only To be completed in non-Postal/One! elites	Weight of a Single Piece _____ pounds	Total Weight _____	Are postage figures at left adjusted from mailer's entries? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, reason: _____	Round Stamp (Required) Payment Date 
	Total Pieces _____	Total Postage _____		
	Presort Verification Performed? (if required) <input type="checkbox"/> Yes <input type="checkbox"/> No	Date Mailed Notified _____	Contact _____	
	I CERTIFY that this mailing has been inspected for each item below if required: (1) eligibility for postage prices claimed; (2) proper preparation (and presort where required); (3) proper completion of postage statement; (4) payment of annual fee; and (5) sufficient funds on deposit (if required)	By (Initials) _____	Time _____ AM PM	
	USPS Employee's Signature _____	Print USPS Employee's Name _____		

USPS Marketing Mail**Part A—Automation Letters****Letters 3.5 oz. (0.2188 lbs.) or less**

	Entry	Price Category	Price	No. of Pieces	Subtotal Postage	Discount Total*	Fee Total	Total Postage
A1	None	5-Digit	\$0.259	357	92.463			92.4630
A2	None	AADC	0.284	157	44.588			44.5880
A3	None	Mixed AADC	0.299	464	138.736			138.7360
A4	DNDC	5-Digit	0.239					
A5	DNDC	AADC	0.264					
A6	DNDC	Mixed AADC	0.279					
A7	DSCF	5-Digit	0.233					
A8	DSCF	AADC	0.258	262	67.596			67.5960

* May contain both Full Service Intelligent Mail and other discount-see Instructions page for additional information.

A9	Part A Total (add lines A1-A8)							343.3830
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Full Service Intelligent Mail Option

A10	DISPLAY ONLY	Letters—Number of Pieces that Comply	_____ x \$ 0.003 =
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