

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: June 14, 2021

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Stefanie-Jo Osborn, Attorney *SJO*

RE: Docket No. 20200226-SU - Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC.

Please place the attached email in the docket file for Docket No. 20200226-SU.

From: Linda C [lcotherman@yahoo.com]
Sent: Sunday, June 13, 2021 4:25 PM
To: Records Clerk
Cc: Jennifer Crawford
Subject: 20200226-SU

Dear Commissioners:

Under Section 25-30.033 (1)(h) FAC, the PSC requires that EU provide documentation of financial ability to provide wastewater service to the proposed service area. Although EU, LLC was established in 2016, the applicant states they have no operating history, and therefore the owner has chosen to substitute his personal finances for company finances.

In October of 2020, the applicant submitted their Request for Confidential Classification in tandem with the Motion to Bifurcate and Temporary Rule Waiver. Had the bifurcation been approved, the applicant would not have had the expenses related to rate-making and tariff charges *prior to approval of the certificate*. However, the Motion to Bifurcate was denied, which increases the importance of the owner's personal finances. It created the need to prove in advance of the certificate being issued that the financial resources are available to hire the experts needed in order to provide realistic and reasonable rates and charges/tariff. This makes analysis of the owner's finances, which were provided in lieu of EU's finances, crucial at this time.

To address certain arguments that were made by EU's attorney to support of EU's Request for Confidential Classification:

1. In paragraph 3, item [A] "The public will not be harmed": There is a danger of public harm as it is the public that will bear the burden if the utility fails due to lack of adequate funding provided by the owner/operator, Mr. Boyer, who chose to rely on his personal finances in preparing this application to the PSC. Failure of new utilities with no history or connection with any other utilities appears to be a common outcome in private utilities and many of these cases have come before the commission. Future customers do not want to have to "pay twice" for their wastewater service, once to the initial utility and again if the utility fails and they have to pay the government or another utility that has to take over subsequent to the failure.
2. In Paragraph 3, item [B] The information "includes personal financial and other information". Mr. Boyer chose to use his personal finances to enable the commission to determine his ability to provide the necessary financial support

to the applicant, EU LLC. In addition, the financial statements provided by Mr. Boyer were self-reported with no certified documents such as IRS reporting, copies of bank statements, deeds, etc. In the absence of such documentation, for instance, if property owned by Mr. Boyer is included in his ability to finance this project, how can it be ascertained that he is the actual owner of the property and that it is not encumbered?

3. In Paragraph 3, item [D] “the Commission has routinely treated the personal financial statements of utility owners submitted to the Commission to support financial ability as confidential.” Mr. Friedman provides no evidence that this is a routine protocol and has provided no evidence of precedent under the identical set of circumstances.

To address “Exhibit A JUSTIFICATION MATRIX”:

The requested financial information is related to rate-making in that the establishment of equitable rates for the stakeholders depends solely on the owner/operator’s personal ability to receive and maintain loans to get the most favorable terms and conditions. Higher loan rates and shorter terms directly impact the ratepayers.

In addition, it was the owner’s choice to use his own financial information to guarantee the financial health of the utility. The owner assumed the expectation of privacy which is not guaranteed under these circumstances. This information is necessary to properly evaluate whether this utility can provide the service it is committing to in its application.

EU’s application to provide wastewater service presents several unique circumstances. The reason I requested status as a “Party of Record” and am representing myself “pro se” in this administrative hearing is multi-fold. First, I have 45 years of engineering, construction and financial experience as a certified Florida general contractor, including 10 years of experience as Project Manager for Giffels-Webster Engineering. This term included consulting on the establishment and workings of a private sewer utility which was ultimately acquired by Englewood Water District. I was also the inspector for a private sewer utility located in Key West. I have consulted in private permitting with Charlotte County, SWFWMD, WCIND, DEP and Army Corps. I have experience in analyzing both financial and technical qualifications as related to utilities and construction, including road and bridge projects for Charlotte County. I have argued pro se before the PSC with respect to local water rates and an earlier effort by a private utility (Island Environmental) to provide wastewater to the same service area.

I have also been a resident in the proposed service area for the past 45 years and have first-hand knowledge of all of the engineering challenges and related costs that present themselves here.

Although I am a pro se litigant, I am in the unique position of having the background, experience and familiarity with the proposed service and the

applicant to be able to answer the most critical question: does the applicant have the wherewithal to provide accurate estimates of the rates and charges and tariff for the proposed project?

Having had experience with two private wastewater utilities that failed because of financial conditions, I have found that it is imperative to ascertain whether the owner/operator of the utility has the necessary finances prior to certification to establish accurate rates and charges relative to service. The continued maintenance, operation and longevity of the proposed system is also dependent upon the ongoing financial health of the applicant.

Without the release of the financial records, I do not have the tools to perform my due diligence as a Party of Record. Unless the PSC can provide an alternative equitable solution, these financials should be made public.

Thank you for your consideration.

Respectfully, submitted this 13th day of June, 2021 by

Linda Cotherman /s/

Sent from my iPad