

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-SU

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PRE-HEARING STATEMENT OF LINDA COTHERMAN

1. All Known Witnesses:

Witness	Subject Matter	Issue #
Direct		
Linda Cotherman	All	1-14
Rebuttal		
Linda Cotherman	All	1-14

2. All Known Exhibits:

Witness	Proffered By	Exhibit No.	Description	Issue #
Direct				
Linda Cotherman	Linda Cotherman	LBC-3	List of Discrepancies, Inaccuracies and Missing Information in the application by EU, LLC	2,3,5,6,9,14
Linda Cotherman	Linda Cotherman	LBC-4	List of Other Issues and Concerns Regarding the Application by EU, LLC	2,4,5,6,9,14

Linda Cotherman	Linda Cotherman	Charlotte 2050 Comprehensive Plan Charlotte County, FL (charlottecountyfl.gov)	Charlotte County Comprehensive Plan	2,3,8,9,14
Linda Cotherman	Linda Cotherman	https://www.charlottecountyfl.gov/core/fileparse.php/523/urlt/charlotte-county-sewer-master-plan.pdf	Charlotte County Master Sewer Plan	2,3,8,9,14

Linda Cotherman may use other documents at the time of hearing which cannot be precisely identified at this time.

3. Statement of the party's basic position in the proceeding.

Linda Cotherman's position is that the application for certification of the service area should be denied. The applicant has not demonstrated a need for service, nor has he provided evidence of same. The applicant has not shown the financial or technical ability to construct, operate and maintain a project of this scope. Since all costs have not yet been established by the applicant, the estimates of rates and charges associated with the project may be grossly inaccurate.

4. Statement of each question of fact, question of law, and policy question that the party considers at issue, along with the party's position on each issue.

ISSUE 1: Has Environmental Utilities met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code?

POSITION: No. Linda Cotherman's position is that EU has not met the filing and noticing requirements based in part on the following:

- A. The notice of application and initial rates and charges for wastewater service that was published in the newspaper on December 18th, 2020, stated that the tariffs and rates were included in the application. However, they were not included and not available to the potential ratepayers until June 18th, 2020.

ISSUE 2: Is there a need for service in Environmental Utilities' proposed service territory and, if so, when will service be required?

POSITION: No. Linda Cotherman's position is that there is no need for service in the proposed service territory, based in part on the following:

- A. The applicant's reference to need for service relies solely upon selective items from the Sewer Master Plan which are outdated, incorrect and misinterpreted.
- B. The number of customers proposed to be served by customer class and meter size, including the types of customers needed to be served, has not been provided in the application as required.
- C. No letters of request for service from property owners or developers in the proposed service area have been produced.

- D. The application is inconsistent with several government regulations, including the Charlotte County Comprehensive Plan and Executive Order 81-105. In addition, the application is inconsistent with Charlotte County's Sewer Master Plan.
- E. Contrary to applicant's statement that there are no land restrictions, there are in fact numerous land restrictions such as, environmental zoning, land use, archaeological impacts, threatened species, etc. imposed by governmental authorities currently in place. None of these have been addressed.

ISSUE 3: Is Environmental Utilities' application consistent with Charlotte County's Sewer Master Plan?

POSITION: No. Linda Cotherman's position is that the application is not consistent with Charlotte County's Sewer Master Plan [SMP] based in part on the following:

- A. The SMP did not address the bulk of the proposed service area, only the two existing wastewater treatment plants for whom compliance was voluntary.
- B. The applicant cherry-picked items from the SMP as the basis for need for service, specifically three criteria that were used to categorize high-priority areas for septic to sewer conversion. While there is no denying proximity to water, the other two criteria were inaccurate in relation to the proposed service area. Specifically:
 - 1. the "age of septic" criterion was addressed only by estimates based on the age of homes. No consideration was given to replacements and repairs that have been done by homeowners in the proposed service area, nor to new home construction utilizing state-of-the-art septic systems.
 - 2. The "nitrogen loading" rating was extracted from general estimates of averages from other areas in the County and beyond. No water quality testing was done in proximity to the proposed service area.
- C. The priority rating for the proposed service area designated in the SMP is just part of a large overall study of the County, and a small consideration of the general need for service in Charlotte County. Charlotte County has created their own priority list subsequent to the SMP, and the proposed service area is not included in the 5- 10- or 15-year plan.

ISSUE 4: Will the certification of Environmental Utilities result in the creation of a utility which will be in competition with, or duplication of, any other system?

POSITION: Yes. Linda Cotherman's position is that the proposed service area falls within the Charlotte County Utilities' [CCU] certificated area for water and wastewater services based in part on the following:

- A. According to the CCU's utility availability website, Bocilla Utility, Inc. provides water to Knight/Don Pedro Islands and CCU is the utility designated to provide wastewater service. The exception on Knight Island is the wastewater provider "Knight Island Utilities Inc." [KIU] which serves the Palm Island Resort and the Rum Cove and Sabal Palm Point developments. KIU is also currently serving residents on Lemon Bay Lane that are designated properties in the proposed service area. On Little Gasparilla Island, according to the same website, the water provider is designated as Little Gasparilla Water Utility and CCU is designated to provide wastewater service.

ISSUE 5: Does Environmental Utilities have the financial ability to serve the requested territory?

POSITION: No. Linda Cotherman's position is that the applicant has not demonstrated or substantiated their financial ability to serve the requested territory.

ISSUE 6: Does Environmental Utilities have the technical ability to serve the requested territory?

POSITION: No. Linda Cotherman's position is that the applicant has not demonstrated any technical ability nor any experience with wastewater utilities based in part on the following:

- A. The applicant has never substantiated his claim to have experience with installing and maintaining a wastewater utility.
- B. The applicant has no ability to guarantee it can maintain its facilities and respond in a timely manner to malfunctions on a bridgeless barrier island. EU has not produced documentation of how the facilities can be serviced in the event of a breakdown.
- C. There is no evidence of the due diligence involved with identifying and contacting all permitting agencies that will be involved to ascertain their process, fees, requirements, concerns and time frame for approval if required.
- D. In the past Little Gasparilla Water Utility has had many DEP violations, some of which took up to 3 years to rectify. The owner was arrested for redirecting water from Don Pedro State Park to Little Gasparilla Island. The owner was fined and cited by Charlotte County for doing water connections without a permit. The owner was fined and cited by Charlotte County for doing plumbing without a permit or license as part of the same water connections incident. In the past, the owner collected money for water hook-ups without paying the TAP fees that the County requires as each hook-up was done.

ISSUE 7: Will Environmental Utilities have sufficient plant capacity to serve the requested territory?

POSITION: Linda Cotherman's position is that this is not known at this time because there are discrepancies in the submittals from EU pertaining to the GPD flow and the number, locations and classifications of ERCs within the proposed service area.

ISSUE 8: Has Environmental Utilities provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?

POSITION: No. Linda Cotherman's position is that there is no evidence of continued use of the land for the facilities, based in part on the following:

- A. While the wastewater treatment plant is located on the mainland, owned by Charlotte County, there has been no agreement or documents that EU has the guaranteed continued use of land where the tanks, lines and pumping stations will be located. This would include rights-of-way, privately owned lands, Don Pedro Island State Park lands and easements and approval from WCIND, the Army Corps of Engineers and the Board of Trustees of Submerged Land for the subaqueous crossing required for this project.

ISSUE 9: Is it in the public interest for Environmental Utilities to be granted a wastewater certificate for the territory proposed in its application?

POSITION: No. Linda Cotherman's position is that it is not in the public interest for EU to be granted a wastewater certificate for the proposed service area based in part on the following:

- A. There is no demonstrable benefit to the granting of this certification, and the burdens to the stakeholders far outweigh any potential benefit.
 1. We see no evidence of the due diligence required to provide accurate cost estimates for a project of this scope inclusive of a subaqueous crossing, which indicates likely cost overruns.
 2. There are unique challenges of building a centralized sewage collection system on a bridgeless barrier island in a hurricane-prone flood zone which will incur "soft costs" related to environmental and other issues (i.e. wetlands crossing, gopher tortoise identification and relocation costs) ultimately increasing the cost to the stakeholders.

3. The applicant has not addressed the potential impact to stakeholders if the construction costs are substantially higher than the estimated costs.
 4. There are additional expenses that will fall to the homeowner that are not included in the connection charges, such as the installation of a discreet electric panel for the system, clearing of trees, landscaping and hardscaping, and back-up generators in the event of a power outage, which are frequent on these islands.
 5. There is no pay-over-time provision available to the homeowners relative to the connection fee.
- B. Vehicle traffic to these islands is served by privately-owned boats and a privately-owned 6-8 passenger car ferry service which also carries equipment from the mainland. The car ferry has limited hours and service limitations based on weather, tides, staffing and mechanical issues. The applicant has not provided a plan for the logistics of working with an unpredictable ferry service, its impact on cost-effective scheduling and mitigating the disruption to local traffic. These factors may impact the final costs.
- C. If the utility fails in the installation or operation of its proposed facility the County or another entity would assume the expense and responsibility for the service, the cost of which will be borne by the property owners.
- D. The applicant hasn't addressed the potential consequences, and how they would be addressed, of a hurricane or other adverse conditions that could impact the maintenance of the system, such as power outages, line ruptures, etc.
- E. EU has not produced an emergency response plan for a sewer spill, which would take on great significance due to the islands' proximity to water.
- F. The proposed utility is in conflict with the County's Comprehensive Plan, which is put in place to direct growth to areas that are desirable for development, and to limit it in areas that are not.
- G. The introduction of central sewer to an environmentally sensitive area in a hurricane and flood zone will open the door to more intense development and excessive density and greater safety concerns.

ISSUE 10: What are the appropriate rate structures and rates for the wastewater system for Environmental Utilities?

POSITION: Linda Cotherman's position is that the rate structures and rates cannot be analyzed accurately because all of the costs related to the construction and installation have not yet been provided and documented. Knight and Don Pedro Islands are served by a private water utility, and the owner has not yet explained how EU is going to bill the rates and charges once established. In addition, the \$178.78 in estimated monthly billing is nearly double the average monthly *combined* water and sewer

charges billed by CCUD (the County) to residents directly across the water on the mainland in Rotonda West.

ISSUE 11: What are the appropriate service availability charges?

POSITION: Linda Cotherman's position is that the service availability charges cannot be analyzed accurately because all of the costs related to the construction and installation have not yet been provided and documented.

ISSUE 12: What are the appropriate miscellaneous service charges for Environmental Utilities?

Linda Cotherman's position is that the miscellaneous service charges cannot be analyzed accurately because all of the costs related to the construction and installation have not yet been provided and documented. by CCUD (the County).

ISSUE 13: What are the appropriate initial customer deposits for Environmental Utilities?

Linda Cotherman's position is that the initial customer deposits cannot be analyzed accurately because all of the costs related to the construction and installation have not yet been provided and documented.

ISSUE 14: Should this docket be closed?

Yes. Linda Cotherman has no position at this time.

5. Stipulations: None at this time.
6. Statement of all pending motions or other matters the party seeks action upon:
None at this time.
7. Requests for confidentiality: None at this time.

8. Objections to a witness' qualification as an expert: None at this time, but Linda Cotherman reserves the right to object to any opinions that are beyond the scope of the expertise of the witness.

9. Request for sequestration: Yes. Linda Cotherman requests sequestration of witnesses.

10. Statement as to any requirement of the Order Establishing Procedures that cannot be complied with: None at this time.

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/s/Linda Cotherman
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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was emailed this 12th day of January 2022 to:

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