

Antonia Hover

From: Office of Commissioner Passidomo
Sent: Thursday, February 24, 2022 3:09 PM
To: Commissioner Correspondence
Subject: FW: Docket #20200226-SU opposition

Please place the e-mail below in Docket No. 20200226.

Thank you!

From: Mike Riley <mikenriley@comcast.net>
Sent: Thursday, February 24, 2022 3:08 PM
To: Records Clerk <CLERK@PSC.STATE.FL.US>; Office of Commissioner Clark <Commissioner.Clark@psc.state.fl.us>; Office of Commissioner La Rosa <Commissioner.LaRosa@psc.state.fl.us>; Office of Commissioner Passidomo <Commissioner.Passidomo@psc.state.fl.us>
Subject: FW: Docket #20200226-SU opposition

February 23, 2022

Reference docket # 20200226 – Environmental Utilities

Commissioners,

This email is a follow up to my earlier email from below.

I would like to supplement my January 18th email below and my verbal testimony from February 9, 2022.

In cross examination from Mr. Friedman, he read a line from my original email and asked me to confirm if that was true and my opinion – i.e. “public sewers vs private sewers”. In reading from my original email, Mr. Freidman read the below sentence (highlighted in red). I agreed that it was my testimony – HOWEVER, that was out of context to my email because the sentence before makes the assumption that Charlotte County will force our conversion from septic systems to a sewer system in their long range plan and if that happens, THEN, I am in favor of a public sewer and not a private sewer system.

My basic opinion is still that septic systems are the best solution for our Island at this time and a sewer system is NOT NECESSARY. Neither Charlotte County nor EU has done any water or soil testing to prove there is a need for sewers at this time or even to prioritize our island for a 3-5 year plan. Charlotte County’s long range plan is flawed in this respect. Several individuals on island, including myself, have done water testing without producing a negative result on our water quality or proving a need to force abandonment of our current septic systems. Our waters are clear and our residents are responsible in maintaining their septic systems and drain fields, despite Charlotte County’s failure in managing a State required system of monitoring and testing of septic systems.

As for water quality and pollution (the most basic principle in proving a need for a sewer system), I tested my well water 3 years ago and again last year. I started using my well shortly after the PSC approved a significant water rate increase for Bocilla Utilities. My well is located within 100 feet of 1. my septic system to the east, 2.

my neighbors septic system to the north, and 3. my neighbors septic system to the south. It is also within 150 feet from my neighbors septic system across the street to the west. My well had not been used for over 10 years. It is considered an open pit well – it is 5 feet in diameter (concrete block walls) and 5 feet deep, with a screened structure around it to avoid mosquito or bug nesting and hatching. It was installed in the 1970's when the house was built. I did not send my water samples to a lab, but took them to Home Depot who did the water quality test. I was told both times that my water was 'within the states standards of drinking water'. Based on those results, I converted all my outside spigots to well water, with my inside house usage through Bocilla Utilities. Being environmentally conscious, I use between 1700 and 2200 gallons of water a month from Bocilla Utilities, keeping my water bill at around \$90 per month or 4.5 cents per gallon, still excessive in my opinion. If EU were forced to do water and soil tests, I am confident that they would not find a problem and the need for a sewer system would be negated.

Next, regarding my testimony, is my continued discussion of the design concepts and EU's 'quiet' partnering with Knight Island Utilities. The EU sewer system design as shown on their application has a 6 inch line starting at the Resort gate on Gulf Blvd then dumping into an 8 inch line down Gulf Blvd and eventually off island. As I testified on February 9th, this is not consistent with the rest of the design because it is a 'beginning point' for EU's service area – all other beginning points start with a 3 inch, to a 4 inch, to the 8 inch main, then off island. Please review the system design map included in their application. I do not know what the cost of these larger lines are but the total cost is being placed on the existing EU service area customers, i.e. Knight and Don Pedro Island residents not in the Resort (Down islanders) and LGI residential users. EU's application shows no "general service" customers, only residential, so EU has no need or purpose for a larger line conveniently beginning at the Resort gate, unless EU plans on hooking up the Resort (Knight Island Utilities). Mr. Boyer has held and continues to hold meetings (one scheduled for next week) on the Resort (which is currently serviced by Knight Island Utilities – under the jurisdiction of the PSC) to discuss the sewer system. Knight Island Utilities is not a part of EU and are not included in EU's service territory, so there is no need to consult with the Resort or Knight Island Utilities, unless there is a silent, non-discussed side agreement between them, i.e. partnering to help only the Resort, and placing the total cost burden on the remaining non-Resort down island residents and LGI residents.

Discussions on the Resort with Mr. Jack Boyer have been centered around the fact that Knight Island Utilities has a problem with their holding tank and cannot have it filled over half full or there may be an environmental spill (as I testified on Feb 9th). Knight Island Utilities 'trucks' their sewage off island. The Resort (Knight Island Utilities) wants to connect to EU's main line and have their waste moved off island via EU's transmission lines under the Intracoastal Waterway. The Resort is arguing that they will not pay an individual hook up fee or monthly rates for each resort residence, as all other residents in EU's territory have to pay, and that the Resort only wants to pay a transmission fee through EU's system to get their sewage off island. Knight Island Utilities already has a bulk agreement with Charlotte County, so they simply meter their sewage at the entrance to EU's transmission lines and pay some nominal "transmission fee" to get it to the mainland. **THIS IS UNFAIR AND UNREASONABLE to the Down Island residents and LGI residents who are paying for the entire system without any compensation for use of it by the Resort or Knight Island Utilities. This has not been included in EU's application and has not been considered by Staff in the rate making procedure.** Basically, the hookup fees and rates proposed by EU and diligently studied by the Staff are faulted and inaccurate by the fact of the Resort wanting to "join in", after the fact, without a cost – and the EU sewer system being purposely engineered from day 1 to handle the Resort sewage volume. Again, the total cost being paid by the Down Island and LGI residents, not the Resort.

Let me go one step further. Lemon Bay Lane and Yacht Basin Drive are currently being serviced by Knight Island Utilities, but are included in the EU service area per the application. Mr. Boyer testified under oath that each of the residences/properties in this area will need to pay the individual hookup fees and the scheduled

rates to EU even though they have already paid these fees to Knight Island Utilities. A definite double cost for those residents. However, EU and Knight Island Utilities (Resort) are trying to do just the opposite with the Resort residents – no hookup fee and limited charges – all at the expense of EU’s service area customers – not the Resort. If Knight Island Utilities is servicing this area, how come EU suddenly gets priority to serve it above Knight Island Utilities? A question only the staff and Commissioners can answer. Again, a fault with the application and rate justification studies.

This type of politics on our island is long standing with the Down Islanders paying for the Resort residents, whether in barge fees (owned by the Resort), golf cart repair, water usage, or now, the attempted Sewer application. Enough is Enough.

Please hear the voices of the Down Islander residents and the LGI residents, **DENY THIS APPLICATION FOR CERTIFICATE** and let the majority of the island residents (non-resort) handle their sewage through their existing safe, properly maintained septic systems, until a TRUE NEED is proven. Knight Island Utilities and the Resort need to handle their sewage problem themselves. If they want to become a part of EU, they need to abandon their Utility designation and become part of the EU service territory with all the individual residence hookup fees and rates equal to everyone else serviced by EU. **BE FAIR AND EQUITABLE.**

I guess it gets down to the idea that **EU has done inadequate engineering studies to properly estimate the true costs**, and Mr. Boyer complains about the cost of doing so BEFORE receiving the certificate, **BUT, has done adequate design and engineering studies to enable him to hook up the Resort and handle their sewage without mention in their application or statements or rate justification.** This application is for one reason only – **personal profit for Mr. Boyer.**

EU needs to prove the need for sewers, then do complete and adequate engineering studies to know the actual cost, then design the system for his territory only (and not the Resort or Knight Island Utilities), and then ask for the certificate. Don’t put the cart before the horse. **Deny this application** and force future applicants to do all the leg work before asking for a financially valuable waste water/sewer certificate.

Lastly is the Easement issue that I testified about on February 9. EU is asking for an easement on each residences private property – WITHOUT COMPENSATION. He is asking to be given private property rights not allowed without a condemnation action or an imminent domain proceeding. He wants to put the blame on the Commission because, if approved, they (the Commissioners) said he could do it. Also, cleverly avoided in the technical hearing, EU’s application is requesting other costs, like permit fees, electrical service modifications, crushing of the old tank, backup power to avoid an environmental spill, etc. be ‘PAID BY THE HOMEOWNER’. Mr. Boyer’s testimony states that these items are supposedly included in one of the lump items, but his application and basic customer agreement are more specific and put the cost burden on the homeowner. Mr. Boyer stated that he needed to do more studies and wasn’t sure exactly what all was in the lump numbers.

Bottom line, this application has not proven need, has inadequate engineering studies to do fair and equitable rate making, has been tainted by a quiet, non-discussed partnering with the Resort and Knight Island Utilities to hook the Resort up placing all the costs on the EU service area residential customers (down island residents and LGI residents).

I suggest that the Commission or staff send a representative to the Mr. Boyer meetings on Palm Island Resort next week and get the real answers. These meetings are informal, but it would let the Commissioners and Staff know what side agreements Mr. Boyer, EU, Knight Island Utilities, and the Resort are making and the real reasons for the inconsistencies in the sewer system design and lack of any general service or wholesale customers in his application, causing the rate justification to be flawed and inaccurate.

PLEASE REMEMBER, Knight Island Utilities is also under PSC jurisdiction in service area, rates, etc. and as far as I am aware, it has made no application to tie into the lines of another Utilities (EU) or transfer a portion of their service area to another Utility, or enter into a bulk agreement with another Utility.

PLEASE DENY THIS APPLICATION

Thank You

Michael Riley
303-570-7710

From: Mike Riley [<mailto:mikenriley@comcast.net>]
Sent: Thursday, January 20, 2022 5:23 PM
To: 'clerk@psc.state.fl.us' <clerk@psc.state.fl.us>; 'commissioner.LaRosa@psc.state.fl.us' <commissioner.LaRosa@psc.state.fl.us>; 'commisioner.clark@psc.state.fl.us' <commissioner.clark@psc.state.fl.us>; 'commissioner.passidomo@psc.state.fl.us' <commissioner.passidomo@psc.state.fl.us>
Subject: Docket #20200226-SU opposition

January 18, 2022

Reference: Docket #20200226 – Environmental Utilities, Inc. (EU)

To Whom it may concern:

My name is Michael Riley and I own and live on Don Pedro Island at 220 Kettle Harbor Dr. which is a property within the service area of the proposed central sewer system, Docket #20200226-SU

I am in opposition to this application and REQUEST THAT THE PSC DENY Environmental Utilities application for an Original Certificate of Authorization.

My arguments against this application go to the 4 criteria used to grant the application:

1. NEED FOR SERVICE:

Don Pedro island has no necessary or urgent need for the proposed central sewer system. No documentation has been given that there is a problem or pollution in our waterways or canals. To my knowledge, No water or ground testing has been done by the applicant. All waste water is currently handled with Septic systems, that must be approved and permitted by Charlotte County prior to installation. In addition, all individual septic systems must be pumped out and tested on a regular basis to insure proper, safe, and adequate operation per Charlotte County code. There have been no pollution or spills, small or disastrous, that I am aware of, in the 12+ years I have lived on the island. Several independent companies are used to pump and test these systems, all approved by Charlotte County.

Understanding that the Charlotte County long range plan calls for removal of septic systems, a private sewer system is not the answer. **It would be in everyone's best interest to have a public entity handle any sewer system so there is transparency, guaranteed cost control, unquestionable financial ability to build and operate, and avoid the need for stakeholders to 'pay a profit' to a private individual for a "utility".**

Bocilla Islands Conservancy, Inc. (a 501(c)(3) public charity on island) owns and maintains conservation land and easements as well as providing awareness of potential environmental issues (pertaining to flora, fauna, protection of endangered species, removal of invasive plants, and water pollution) on our islands. In 2020, they

sold and/or donated 81 mini reefs as part of the '1,000 reef challenge' participated in by numerous cities and communities on or near the barrier islands in south west Florida. They plan on doing another campaign to try to get an additional 100 reefs in place on our island in the near future. These mini reefs help keep our waterways clean and create a habitat for growing smaller fish and sea life.

The Charlotte County Director of Utilities supported EU's application with a written letter to the PSC, but I am not sure that the Charlotte County Administration does. This Director of Utilities recently and suddenly resigned his position (around the time depositions for EU were held)...and according to emails between him and Jack Boyer he was a close ally and friend of Jack Boyer. This alone lends itself to the applicants fitness.

2. FINANCIAL ABILITY:

The applicants ability to adequately and safely build and finance the proposed central sewer system is questionable, at best. EU as a company does not have the financial capability to fund a project of this magnitude without a "contribution for aid in construction". Whether this contribution is from a bank or financial institution (loan) or another unidentified entity (potential partner or owner) is not known. The latest statement (in depositions) is that the owner of EU, Mr. Jack Boyer will finance the entire project personally, but his personal financial statements or financial capability are only available to the PSC staff. I am a former CPA with utility rate making experience and I am unable to get copies to evaluate. There are too many unknowns and financial information is strategically being withheld by attorney Martin Freidman.

The applicant has not done adequate engineering studies to be able to justify the estimated costs of this project. EU is attempting to get the certificate first, then spend the money to do the engineering studies – in other words 'the cart before the horse', as the certificate has enough value in itself to allow EU to move forward in trying to get 'contributions in aid of construction' Aid . The actual cost of installation of the system is unknown and the estimated initial cost to hook up to this system has varied from \$20,000 to 11,000 to 13,221 since the application was filed – definitely an inadequate study and an estimate that could vary significantly, generally higher. EU needs to do additional and complete engineering studies to enable them to know the actual cost – before applying for certification.

3. TECHNICAL EXPERTISE:

Jack Boyer (owner of EU) has experience with operating a small water utility on Little Gasparilla Island for many years, but NO EXPERIENCE WITH WASTE WATER. Mr. Boyer hired Martin Friedman, a well-connected utility attorney, to handle his application, so he can probably hire competent advisors, constructors, etc. to build and operate a central sewer system. Unfortunately, it is the stakeholders, the residents of the Islands, that must bear the cost of these highly paid consultants and advisors.

Mr. Boyer's experience as a water small utility operator supposedly includes tapping into the Don Pedro State Park water system and selling their (the State parks water supply) water to his customers (the residents of Little Gasparilla Island) and hooking up new water customer residents on Little Gasparilla Island without adequate licensing and delaying payment for the Charlotte County hookup fees per Charlotte County's agreement. Obviously he has experience in how to make money for himself whether ethical or not.

The system EU is proposing is supposedly the lowest cost to build but the highest cost to maintain. Looking at other island communities including the Florida Keys, as well as personal experience operating a pumping station in multiply businesses I owned, a vacuum system seems to be the best and preferred type. EU is proposing a system requiring a pumping station at each residence to push the waste. This type system includes a small tank and a grinder pump at each residence. Being located on a barrier island, we have a lot of corrosion from the salt air causing the pumps to be replaced, possibly on 5 year interval's.

Being on a bridgeless barrier island we are subject to many things the mainland is not. We have a ferry to contend with that operates from 6:30 am to 10:00 pm (slightly later on weekends) and does not operate if winds exceed 45 mph. We are also subject to more electrical outages than the mainland. EU has not addressed how the sewer system will be serviced in the event of a major storm failure or adverse conditions. If our electrical

service is out for an extended period of time, the small storage tank at each residential pump, could overflow creating a localized spill or leak, which could become catastrophic in a major storm. A generator would be required (at the homeowners expense) to keep the sewage moving, where we do not have this issue with our current approved septic systems. There is also the increased risk of a central sewer system leak into the intra-coastal waterway with a potential leak at the subaqueous crossing – pollution at its best. Look back at the hurricane that hit Ft Myers Beach community which was devastated by waste water and closed for over 10 days after the hurricane because there was not a backup generator in place to move the waste off island.

4. FAIR AND EQUITABLE RATES & CHARGES:

This is a total unknown. EU has done inadequate engineering studies to properly evaluate ‘actual’ costs, only supplying estimates, which have changed dramatically over the period of application. The hookup fees have varied from \$20,000 per residence to \$13,221 and this does not include the cost of a customer installed separate electric panel and landscape/hardscape modifications or changes to install a grinder pump and to crush and fill the septic tank area.

Even using his estimates, which should be considered the lower end of the cost structure, the proposed rates are \$178.45 per month for sewer service only. This is roughly two times the rate Rotonda pays – and that rate includes **both water and sewer**.

I currently pay \$78 to \$90 per month for water only and that is with me personally and strictly controlling my volume, which runs between 1,800 and 2,200 gallons per month (well below the 3,000 average customer water consumption). I consider our water rates to be excessive [even though these rates were approved by the PSC] and as proposed, our water/sewer combined rates would be in the neighborhood of \$275 to 300 per month – very excessive.

Other items that I feel are important in my opposition to this application:

Without proof of need, discussed above in item 1, there is an inherent cost to each resident because we will be required to hook up to the central sewer within 1 year. Many residents have recently built and installed new septic systems and many have repaired or replaced the drain fields to ensure safe adequate operation. This proposal allows for no “grandfathering” of newer septic system or recently repaired systems.

If approved, there is no single point of contact for general oversight of this private sewer system. The PSC only approves certification and then only regulates rates and charges. Multiple other agencies including Charlotte County, DEP, Army Corps, etc. oversee or regulate their specific areas so we have no one point of contact.

If the county builds and operates the sewer system, they are the one point of contact for all issues....again, a private entity is not in the best interest of the residents and stakeholders.

The Palm Island Transit ferry is a significant problem not only in construction but also maintenance. The ferry is just about at capacity during season, and this would cause further delays (of over an hour), just in access to and from the island by increasing the construction traffic, probably for several years.

The individual residence pump and holding tank is planned to be on the homeowners/stakeholders property and EU is trying to claim an easement from the sewer pump and holding tank to the road connection without compensation.

Many of us on the island do not have the excess cash funds to pay for hookup. EU’s application does not allow for a deferred payment plan, only a cash up front program.

Development always carries a toll on communities, whether time, delays, cost, noise pollution, air pollution, loss of life style, etc. Island residents enjoy a quiet environment with open space, but pay for it in time delay waiting to cross to the mainland by ferry. This project will for many years cause substantial trees and landscaping to be removed, increased dust pollution and traffic from construction, increased noise from heavy equipment, invasion of our own property in crushing our existing tanks and installing a new tank, pump, lines, and electrical, and an excessive cost increase for

waste water removal. This does not even take into consideration each homeowners loss by a general easement grant to EU without compensation to the homeowner.

Once again, I formally request the PSC to deny EU's application for a private sewer system on Don Pedro Island.

Thank you

Michael Riley
mikenriley@comcast.net