

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

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DOCKET NO. 20200226-SU

**PALM ISLAND ESTATES ASSOCIATION, INC.'S POST-HEARING BRIEF**

PALM ISLAND ESTATES ASSOCIATION, INC. ("PIE"), pursuant to the Order Establishing Procedure in this docket, issued August 25, 2021, hereby submits this Post-Hearing Brief.

**INTRODUCTION**

References to the Comprehensive Exhibit List shall be "(CEL [#])." References to the hearing transcripts shall be "(Tr. [#])." References to exhibits shall be, for example only, "(EHS-3").

**STATEMENT OF PALM ISLAND ESTATES ASSOCIATION, INC.'S BASIC POSITION**

PIE contends that there is a lack of demonstrable need for sewer services to the Charlotte County bridgeless barrier islands and that the imposition of such service would be contrary to Charlotte County's development scheme. PIE further contends that the applicant, Environmental Utilities, LLC, lacks the financial wherewithal and technical ability to be able to operate the utility in accordance with the Florida Statutes and Florida Administrative Code.

This proceeding involves a request by Environmental Utilities, LLC (sometimes "EU") for the issuance of a Certificate of Authorization consistent with § 367.031, Fla. Stat., pursuant to an application made under § 367.045, Fla. Stat. (CEL 2, JRB-1, pages 1-13.) As part of the application process, EU was required to establish a "need for service." § 367.045(2)(b), Fla. Stat.

EU's premise that there is a demonstrable need for sewer service is based upon a single conclusion in its application: that the environmental benefits by the provision of central wastewater service to eliminate septic tanks "should be unquestioned" as per the Charlotte County Sewer Master Plan. *Exhibit "C" to the Application for Original Certificate of Authorization for a Proposed or Existing System Requesting Initial Rates and Charges.* As the evidence and testimony showed at the Final Hearing (February 8 and 9, 2022), there is no "need for service" as there has been no showing of any degradation of water quality and as EU merely extrapolated data from other areas of Charlotte County to the proposed service area (the bridgeless barrier islands) by relying upon the Sewer Master Plan (without any testimony of its drafters or even Charlotte County's water quality personnel). Additionally, the red tide Environmental Utilities contends exists because of septic on the bridgeless barrier islands is a function of ocean dynamics and not from pollution associated therewith. This testimony was un rebutted and Environmental Utilities could not, and did not, offer any testimony of any pollution on Don Pedro Island, Knight Island or Thornton Key.

EU also contends that the land use designation for the bridgeless barrier islands is Compact Growth Mixed Use and that no comprehensive plan amendment is required. EU offered no testimony from a land use planning professional to establish this contention whereas PIE offered direct testimony that EU's position was erroneous, that the proposed application is inconsistent with Charlotte County's Comprehensive Plan, that the Sewer Master Plan was also inconsistent with the comprehensive plan and that there were multiple provisions of the comprehensive plan which, by definition, prohibited the extension of wastewater service to the bridgeless barrier islands. Charlotte County, in turn, had not even considered whether an amendment to the

comprehensive plan was necessary. In sum, EU has not demonstrated there is any need for sewer on Don Pedro, Knight Island, Thornton Key or Little Gasparilla Island.

Further, EU contended that it had the financial wherewithal to undertake the project in the proposed service area for which the Certificate of Authorization was sought. EU provided two potential financiers for the project – one of whom (Centennial Bank) would not commit to financing and one who allegedly would create a purchase money interest that would potentially give an unknown creditor the opportunity to take possession of ownership of the utility. As the evidence and testimony showed, EU does not possess the financial ability to construct the utility service.

Finally, EU, as the evidence and testimony showed, lacked the technical capability to operate the utility as EU's principal did not possess a wastewater license and was unfamiliar with the laws associated with wastewater operation.

**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 position\*

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

Position: \*No, EU has not established a need for service\*

## **ARGUMENT**

### **A. The testimony established an absence of need.**

There has been no water quality testing for the bridgeless barrier islands of Knight Island, Don Pedro Island or Thornton Key. (Deposition Transcript of Craig Rudy, CEL 42, page 17, 33; Tr. 55 of testimony of John Boyer; Tr. 158 of testimony of Meryl Schaffer.) There is no clear and convincing evidence of health problems in the bridgeless barrier islands to justify sewer

infrastructure. (Deposition Transcript of Craig Rudy, CEL 42, page 17.) There is no data to establish the water quality of the bridgeless barrier islands. (Deposition Transcript of Craig Rudy, CEL 42, page 19) except to say that no testing found elevated nitrates in the proposed certificated area. (Tr. 164 of testimony of Meryl Schaffer.) Importantly, Environmental Utilities, LLC, offered no testimony establishing any health problems, the existence of testing, photographs depicting septic issues, etc., or complaints of Charlotte County residents concerning the claimed noxiousness of septic systems on the bridgeless barrier islands. Neither Charlotte County's water quality personnel nor any of the authors of the Sewer Master Plan testified or corroborated any adverse condition impacting the bridgeless barrier islands. In fact, there are strict policies and procedures that cover how samples are to be taken for pollutant loading, but none were performed in the bridgeless barrier islands. (CEL 42, Tr. 22 of Deposition of Craig Rudy.) Thus, if "need" was so important to Charlotte County, and if testing procedures were so regimented, testing and data for testing would have been put forth in front of the Public Service Commission. Indeed, the question was put squarely in front of Mr. Rudy: "Q:...what clear and convincing evidence exists of a health problem in the Bridgeless Barrier Islands to justify sewer infrastructure? A: None that I know of." (CEL 42, Tr. 17 of deposition of Craig Rudy.) Moreover, the data relied upon by Mr. Rudy was an extrapolation of how other areas of the state "*could apply to the islands*" (emphasis added). (CEL 42, Tr. 18 of deposition of Craig Rudy.) The testimony was not that there was a problem in the bridgeless barrier islands; the testimony was a hypothetical that there "could" be a problem.

Dr. Robert Weisberg, a Distinguished Physical Oceanography professor at University of South Florida, testified that there was no scientific support for the proposition that the bridgeless barrier islands' septic tanks exacerbated red tide and algae outbreaks. (CEL 12, RW-1, pages 3-

4.) Instead, the occurrence of red tide is more of a phenomenon of ocean circulation than human-inducement, with the recent exception of a major sewage spill from a municipality. (CEL 12, RW-1, pages 2-3.) Dr. Weisberg testified, “So we could remove all the people that live on the bridgeless barrier islands and it wouldn’t do anything regarding red tide.” (Vol. II, Tr. 196.) He testified that he was not aware of any professional literature establishing that residential uses on the bridgeless barrier islands adversely impacted the environment. (Vol. II, Tr. 204.) He concluded, unrebutted by Environmental Utilities, LLC, that there is no need for service (CEL 12, RW-1, page 4) and that there was no testing of the water quality on the bridgeless barrier islands. (Vol. II, Tr. 215.) In conclusion, the absence of testing and of testimony failed to establish a need for service.

**B. The Charlotte County Comprehensive Plan establishes a lack of need for service.**

As part of the application process, EU was required to establish a “need for service.” § 367.045(2)(b), Fla. Stat. The Florida Administrative Code states as follows:

(k) To demonstrate the need for service in the proposed area, the applicant shall provide:

1. The number of customers currently being served and proposed to be served, by customer class and meter size, including a description of the types of customers currently being served and anticipated to be served, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, or commercial. If the development will be in phases, this information shall be separated by phase;
2. A copy of all requests for service from property owners or developers in areas not currently served;
3. The current land use designation of the proposed service territory as described in the local comprehensive plan at the time the application is filed. If the proposed development will require a revision to the comprehensive plan, describe the steps taken and to be taken to facilitate those changes, including changes needed to address the proposed need for service; and,
4. Any known land use restrictions, such as environmental restrictions imposed by governmental authorities.

Fla. Admin. Code R. 25-30.033(1)(k).

The testimony and evidence elicited at the technical hearing showed an absence of copies of any requests for service from property owners or developers in the proposed service area. (Tr. Vol. I and Vol. II). Thus, EU failed to comply with Fla. Admin. Code R. 25-30.033(1)(k)(2).

While the application for the certificate referenced the current land use designation as Compact Growth Mixed Use (CEL 1, Application, page 6), the correct designation is Coastal Residential and Preservation. (CEL 10, EH-3, Page 64.) The proposed service area is in the Rural Service Area and not the Urban Service Area (Tr. Vol. I, page 45). The testimony of Ellen Hardgrove, AICP, a certified land planner (Tr. Vol. II, page 168-69, 173), was, unequivocally, that the proposed development was contrary to the Charlotte County Comprehensive Plan. (Tr. Vol. II, pages 169-171.) Specifically, Ms. Hardgrove testified that Future Land Use Policy 3.2.4 states that Charlotte County “will continue to primarily rely upon the individual septic systems as the method of wastewater disposal in the rural service area.” (Tr. Vol. II, page 170.) Thus, the Charlotte County Comprehensive Plan separates the need for sewer in the Urban Service Area from the Rural Service Area.

Future Land Use Policy 3.2.4 further states: “The County shall prohibit the provision of water and sewer infrastructure within the Rural Service Area and shall:

2. Continue to rely primarily upon individual on-site septic systems as the method of disposal of wastewater;
3. Require that new development shall not be designed nor constructed with centralized potable wastewater or sanitary sewer systems with the following exceptions:
  - a. Rural Community Mixed Use community; or
  - b. It is clearly and convincingly demonstrated by the proponents of the system expansion that a health problem exists in a built but un-served area for which there is no other feasible solution.

(CEL 10, EH-3, Page 25.) Thus, even though the stated intent of the plan was that, in the Rural Service Area, the County was to continue to rely upon septic systems, the Comprehensive Plan

would allow sewer infrastructure when there is clear and convincing evidence that a health problem exists. “Clear and convincing evidence is defined as an ‘intermediate level of proof’ entailing both a qualitative and quantitative standard. It requires the evidence to be credible and memories of the witnesses to be clear and without confusion. In addition, the total sum of the evidence must be of sufficient weight to convince the trier of fact ‘without hesitancy.’” *R.L. v. Department of Children and Families*, 63 So. 3d 520 (5<sup>th</sup> DCA 2011). *Accord, In re S.F. v. Department of Children and Family Services*, 22 So. 3d 650 (Fla. 2d DCA 2009).

Here, there is no clear and convincing evidence of an existing problem on the bridgeless barrier islands; in fact, there is no evidence of any problem anywhere in any of the proposed certificated areas and nothing to establish that the total sum of the evidence is of sufficient weight to convince the trier of fact “without hesitancy.” As stated above, there has been no testing of the water quality for the bridgeless barrier islands of Knight Island, Don Pedro Island or Thornton Key. (Deposition Transcript of Craig Rudy, CEL 42, page 17, 33; Tr. 55 of testimony of John Boyer; Tr. 158 of testimony of Meryl Schaffer.) There is no clear and convincing evidence of health problems in the bridgeless barrier islands to justify sewer infrastructure. (Deposition Transcript of Craig Rudy, CEL 42, page 17.) There is no data to establish the water quality of the bridgeless barrier islands. (Deposition Transcript of Craig Rudy, CEL 42, page 19) except to say that no testing has found elevated nitrates in the proposed certificated area (Tr. 164 of testimony of Meryl Schaffer). Importantly, Environmental Utilities, LLC, offered no testimony establishing any health problems, the existence of testing, photographs depicting adverse septic issues, etc. Neither Charlotte County’s water quality personnel nor any of the authors of the Sewer Master Plan testified or corroborated any adverse condition impacting the bridgeless barrier islands. In fact, there are strict policies and procedures that cover how samples are to be taken for pollutant

loading, but none were performed in the bridgeless barrier islands. (CEL 42, Tr. 22 of Deposition of Craig Rudy.) Thus, if “need” was so important to Charlotte County, and if testing procedures were so regimented, then if there was a need for service, testing and testing data would have been put forth in front of the Public Service Commission by EU. Mr. Rudy, Charlotte County’s designee, was asked: “Q:...what clear and convincing evidence exists of a health problem in the Bridgeless Barrier Islands to justify sewer infrastructure. A: None that I know of.” (CEL 42, Tr. 17 of deposition of Craig Rudy.) Moreover, the data relied upon by Mr. Rudy to establish “need” was an extrapolation of how other areas of the state “*could apply to the islands*” (emphasis added). (CEL 42, Tr. 18 of deposition of Craig Rudy.) The testimony was not that there was a problem in the bridgeless barrier islands; the testimony was a hypothetical that there “could” be a problem. EU did not establish that the “could” actually happened. To the contrary, there was no competent substantial evidence from anybody that there were elevated nitrates or any other chemical that would be indicative of a septic failure in the sparsely-populated bridgeless barrier islands.

Despite the overwhelming testimony establishing an absence of negative or degraded water quality, the proposed certificated area is located in the Barrier Island Overlay District (“BIOD”) per the Charlotte County Comprehensive Plan. The overlay specifically and unequivocally states: “The County shall not expand the scope of potable water or sanitary sewer service to the bridgeless barrier islands.” (CEL 10, EH-3, page 96). Environmental Utilities, however, took the position that the Bulk Service Agreement between Charlotte County and Environmental Utilities was prima facie evidence of consistency with the Comprehensive Plan. (Tr. 53-54, Testimony of John Boyer.) Craig Rudy, however, testified that the issue of whether a comprehensive plan amendment would be required had not yet been determined. (CEL 42, Tr. 22 of deposition of Craig Rudy.) Of note, he is not a comprehensive planner (CEL 42, Tr. 15 of deposition of Craig Rudy) and had



not looked at the Barrier Island Overlay District designation of the Comprehensive Plan (CEL 42, Tr. 26 of deposition of Craig Rudy). The issue of a comprehensive plan amendment was not addressed in Environmental Utilities, LLC's application and its conclusion that no amendment would be needed is contrary to Charlotte County's testimony via Craig Rudy.

Continuing with the Comprehensive Plan, as testified by Ellen Hardgrove, the proposal is also inconsistent with a policy targeted specifically for the Bridgeless Barrier Islands where EU proposes service. Because of the difficulty in providing public services such as fire and Emergency Medical Services, and the extreme difficulty for hurricane evacuation, the policy is to discourage development and population concentrations on the Bridgeless Barrier Islands. In fact, the comprehensive plan incentivizes transferring development rights off the island. As stated in the Water and Sewer Sub-element of the Comprehensive Plan, the provision of centralized water or sewer lines, whether by a public agency or a private company, encourages development. Thus, the policy is to only allow sewer expansion in this area when there is a public health need.

FLU Policy 1.1.6 states that all county regulations are subordinate to the Comprehensive Plan. (CEL 10, EH-3, page 3.) CST Policy 3.2.7 states, "the County shall not provide nor allow infrastructure and services to be provided to offshore islands, coastal swamps, marshland and beaches. Infrastructure and services to the Bridgeless Barrier Islands, depicted in FLUM Series Map # 9, are addressed in the Barrier Island Overlay in the FLU Appendix I." WSW Policy 3.2.1 requires new certificated areas to be consistent with and advance the Goals, Objectives and Policies of the Comprehensive Plan. (CEL 10, EH-3, page 126.) Further WSW Policy 3.2.4, "The County shall discourage expansion of the service areas of utility companies regulated by the Florida Public Service Commission (PSC) to any areas outside of the Urban Service Area, in accordance with FLU Policy 3.2.5." Per Craig Rudy, the priority of conversion of septic to sewer was to take place

in the Urban Service Area and not the Rural Service Area. (CEL 42, Tr. Page 20 of deposition of Craig Rudy.) Given the above Goals, Objectives and Policies, not only is the proposed development contrary to the Charlotte Comprehensive Plan, the plan supports an absence of need for service. Therefore, having been unable to satisfy this threshold, Environmental Utilities, LLC's application should be denied.

**C. Public testimony via Service Hearing**

Of the 54 speakers at the Service Hearings, only one expressed a desire for application approval—the other 53 voiced opposition. Commissioner La Rosa asked if there were any elected officials at the service hearing and not a single county official was there to voice support of the application. (Service Hearing, Vol. II, page 12.) Environmental Utilities, LLC's reliance upon Craig Rudy, who did not know whether a plan amendment was needed and was not familiar with the Barrier Island Overlay District, speaks volumes about the need for service—if there was such a compelling need, testimony from the county officials would have been provided and it is pure and unfounded speculation that the Sewer Master Plan be given much weight from a credibility standpoint.

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

Position: \*No, the application is inconsistent with Charlotte County's Sewer Master Plan.\*

**ARGUMENT**

The application is inconsistent with the Sewer Master Plan by virtue of that plan's inconsistency with the Charlotte County Comprehensive Plan. Without rehashing the argument made above in response to Issue 2, which is incorporated herein by reference, the Sewer Master Plan was offered as a document without testimony or corroboration of the contents contained

therein. It was merely submitted from the standpoint that it should be taken at face value as being correct.

As Ellen Hardgrove, AICP, explained, the only two projects on the bridgeless barrier island listed in the master plan are the connection of existing private utilities using existing sewer infrastructure. (Vol II, Tr. 170.) The only way the application could be consistent with the Sewer Master Plan would be if the proposed project was added to the Comprehensive plan, which could only occur if there was an amendment to allow sewer on the bridgeless barrier island or there was a public health need. FLU Policy 1.1.6 states that all county regulations are subordinate to the Comprehensive Plan. (CEL 10, EH-3, page 3.) Thus, the application is inconsistent with the Sewer Master Plan which, as a pathway of infrastructure development, is not allowed on the bridgeless barrier islands.

**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: \*No position on this issue.\*

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

Position: \*No, Environmental Utilities does not have the financial wherewithal to serve the requested territory.\*

### **ARGUMENT**

Section 367.045, Fla. Stat., requires the applicant to have the financial ability to serve the requested territory. Sheri Schultz, CPA/ABV/CFF's testimony was admitted by stipulation. It was Ms. Schultz's opinion that Environmental Utilities did not have the financial wherewithal to serve the proposed certificated area.

In support of Environmental Utilities, LLC's position on its financial capabilities, it attached correspondence from (a) Centennial Bank and (b) Freedom Holdings Manatee, LLC. (Vol I., Tr. 47). The Centennial Bank letter, dated June 29, 2020 specifically states, in bold, **"This letter is NOT a commitment to lend, and is for discussion purposes only"** (emphasis in original). The Freedom Holdings Manatee, LLC letter (CEL 20, JRB-4, page 1), states that the lender will lend "up to 75% of the pro forma appraised value of the wastewater system for to invest in Environmental Utilities, LLC, secured by your and your wife's membership interests in Environmental Utilities, LLC." According to Mr. Boyer, nobody has appraised the value of the utility (Vol. I, Tr. 48) and his membership interest in the utility has not been appraised. (Vol. I, Tr. 48.) He has not received any loan terms from Freedom Holdings Manatee, LLC. (Vol. I, Tr. 49.) He did not know the interest rate that will be charged by the purported lender. (Vol. I, Tr. 49.) While Mr. Boyer and Mrs. Boyer each own 50% of the units of the company, any money loaned to them by the lender will be secured by their membership interest in the company. (Vol. I, Tr. 50.) This means that, in the event of a default, the lender will wind up owning the utility. (Vol. I, Tr. 50.) Additionally, the Boyers made loans to Environmental Utilities but there is no agreement how those loans would be repaid. (Vol. I, Tr. 50-51.) Even Ms. Swain, Environmental Utilities, LLC's financial expert, testified that the company could not be appraised because, "As far as I know, there is really almost no company currently until the certificate is authorized." (Vol. II, Tr. 148.) Mr. Boyer, in fact, admitted that Environmental Utilities, LLC, has not secured financing (Vol. I, Tr. 49) and there was no testimony about the financial strength, reputation or wherewithal of Freedom Holdings Manatee, LLC, to fund a project whose costs have not been fully determined.

According to Ms. Schultz, assuming a favorable loan rate of 3% with a repayment schedule of 10 years, the working capital deficit would be \$4,025,000 with a fixed yearly debt service of \$402,500 annually. (CEL 13, SFS-1, Page 4.) Based upon Environmental Utilities, LLC's pro forma financial projections, it would have a net income of \$241,077 in 2033 (CEL 13, SFS-1, Page 4) which means that it could not service the debt associated with the cost of construction.

Of note, significant construction costs were omitted from the total construction cost of the sewer project. For example, tasks like engineering, mobilization, bonds and insurance were not included. (Vol. II, Tr. 204.) Obviously, the greater the cost of construction, the greater the debt service would be on the utility. If the utility cannot repay the debt service associated with the \$4,025,000 debt, then adding to the debt only increases the likelihood of default. As a result, Environmental Utilities has not, and cannot, demonstrate that it has the financial ability to serve the requested territory.

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

Position: \*No, Environmental Utilities does not have the technical ability to serve the requested territory.\*

### **ARGUMENT**

While Mr. Boyer was a formerly-licensed water utility operator, he is not licensed as a wastewater utility operator. (Vol. I, Tr. 69-70). He described his own working knowledge of the Florida rules and laws that govern a wastewater utility to be from the standpoint of a "very lay person." (Vol. I, Tr. 70). He was unfamiliar with any Florida laws or rules that mandate construction and installation of a central sewer system in a proposed service area. (Vol. I, Tr. 70-71.) Further, he was unfamiliar with any state agencies (like the Department of Environmental Protection or the Public Service Commission) that are mandating installation of a central sewer

system in a proposed service area through order or some other means. (Vol. I, Tr. 71.) Given Mr. Boyer's overt acknowledgement of his lay person understanding of wastewater and the laws/regulations involving wastewater, it is clear Environmental Utilities, LLC lacks the technical capacity to operate a wastewater facility.

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

Position: \*No position.\*

**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, the applicant does not have continued use of the land upon which the utility treatment facilities are or will be located.\*

### **ARGUMENT**

Environmental Utilities budgeted a mere \$250,000 for the purchase of easements to be able to conduct utility services. (Tr. Vol. I, pages 62-63.) These easements will be required from the low pressure system pump including the line to the road right-of-ways where they will exist. (Tr. Vol. I, pages 62-63.) These are easements that will have to be created by Environmental Utilities for purposes of encumbering property to be able to operate the utility. (Tr. Vol. I, page 63.) Though budgeted at \$250,000 (Vol. I, Tr. 65), this is an arbitrary number as, in the past, Mr. Boyer's existing water utility has had to pay as much as \$7,000 for an easement and had to go through the eminent domain process to obtain another for his water utility. (Vol. I, Tr. 63-64). There are approximately 1200 ERCs and, unless the residents donate an easement, Environmental Utilities, LLC will have to pay each resident for the easement on the property, even going so far as to go through the eminent domain process. Thus, a \$250,000 budget for the number of ERCs associated with the project is incorrect and understated at best. Moreover, in Section 2 of the Bulk

Service Agreement, Environmental Utilities, LLC, would have to obtain easements through Don Pedro Park. There has been no testimony that this has been accomplished. Thus, Environmental Utilities, LLC, does not possess the continued use of the land upon which the utility treatment facilities are or will be located.

**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, the public interest will not be served if a wastewater certificate for the territory proposed is issued to Environmental Utilities.\*

### **ARGUMENT**

As stated above, and incorporating the prior arguments herein by reference, Environmental Utilities, LLC's proposed application demonstrates a dearth of need. With the absence of any testimony to show the degradation of water quality in and around the bridgeless barrier islands, the absence of any expert witness testimony establishing a need for service and the numerous inconsistencies of the proposed application with the Charlotte County Comprehensive Plan, it is clear there is a total lack of a need for service to justify the imposition of septic to sewer upon the residents of the bridgeless barrier islands. Additionally, the proposed utility has not provided proof of any funding commitment with actual loan terms; as it stands, the Boyers are the ones obligated to the utility and they cannot independently support the construction of same.

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

Position: \*PIE has no position on this issue.\*

**Issue 11: What are the appropriate service availability charges?**

Position: \*PIE has no position on this issue.\*

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

Position: \*PIE has no position on this issue.\*

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

Position: \*PIE has no position on this issue.\*

**Issue 14: Should this docket be closed?**

Position: \*Yes, the docket should be closed.\*

### **ARGUMENT**

As stated above, given the lack of need, the financial inability of Environmental Utilities, LLC, to fund construction and the lack of technical experience in wastewater operations, the application should be denied and the docket should be closed.

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing was emailed this 16th

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