

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide )  
wastewater service in Charlotte County by )  
Environmental Utilities, LLC. }

DOCKET NO. 20240032-SU

MOTION TO DISMISS THE APPLICATION, OR ALTERNATIVELY STAY ALL  
PROCEEDINGS UNTIL SERVICE IS PERFECTED ON OWNERS OF PRIVATE  
PROPERTY LOCATED ON LITTLE GASPARILLA ISLAND.

COME NOW GUY L. HURST, appearing pro se and specially because of failed service,  
moving to dismiss this matter for the following reasons:

Not only is LGI (Little Gasparilla Island) a bridgeless barrier island, it is also a “mailless”  
barrier island. There is no mail delivered to LGI. There is no regular mail, no irregular mail or any  
other kind of mail on LGI.

The Due Process Clause of the Fourteenth Amendment of the United States Constitution  
provides that no state shall “deprive any person of life, liberty, or property, without due process of law.”  
The Supreme Court has construed the Fourteenth Amendment’s Due Process Clause to impose the  
same procedural due process limitations on the states as the Fifth Amendment does on the Federal  
Government.

Andrew Giles Fay, FPSC Chairman, wrote in his 2023 annual report that the Commission had  
made “vital changes that have enhanced transparency, fortified due process, and advanced our  
engagement with the community we serve.”

It is respectfully suggested that the purported fortification of due process is still in need of  
drastic repair.

It is perhaps a priori knowledge that there is tendency of monopolistic for-profit utilities, and to  
a lesser amount the regulators, to limit notice and keep citizens from actually knowing or understanding  
what is going on with the administrative processes. As a retired attorney, who worked a few utility  
cases and many administrative law cases, it is understandable the consternation of citizens who are

unilaterally engulfed in an administrative agency altercation with a system that appears uncomprehensively inane. It is like trying in thirty days to learn Swahili to understand what is going on.

I would think this agency could develop a notice procedure that is understandable, a notice that says that some private for-profit corporation is trying to make you abandon your state approved septic system that you personally own and force you to hire some private for-profit corporation in perpetuity to be in charge of your residential home sewage waste. This is a case to take your Onsite Sewage Treatment and Disposal Systems (OSTDS), as septic systems are called in Florida, and replace it with a private for-profit monopoly that makes a profit from you for services you never requested. You know, it would be nice that a notice tells it's citizens that you, the government of the State of Florida, is considering whether to make it's citizens take on unwanted unneeded services from a private for-profit corporation --- and it would be nice also to mention up front that this state sponsored action could cost you thousands and thousand of dollars continuing for you life and beyond. Further, the notice should mention the fact that private for-profit corporations do not provide citizens with any due process rights or equal protection rights, or really any rights. Governments by Constitutional law must provide substantive and procedural due process, equal protection and other Constitutional and statutory rights. This private for-profit corporation does not.

By Commission rule notice is to be made "(b) By regular mail or personal service to each customer and owner of property located within the existing service area and the service area to be served, extended, deleted or transferred" Rule 25-30.33.

As the private for-profit corporation, which wants to be a monopoly, knows that, as a matter of fact, that there is no regular mail service to Little Gasparilla Island (LGI). No mail comes to the island. There is no regular mail.

Accordingly, by FPSC rule LGI owners must be personally served.

It is unreasonable to interfere with LGI property rights, personal rights or other government interventions into the use of our homes without proper notice served personally on each owner of land on LGI as required by the Commission rules. The agency can take judicial notice of the fact that the two purported owners of this private for-profit corporation actually reside sometimes on a property on LGI. Presumably, they may have noticed that they don't receive regular mail either.

Since there is no regular mail service on LGI, the rule requires personal service. My legal Florida address is 8394 LGI, Placida, Fl 33946, which is on my Fl drivers license and which was required by Florida for me to claim homestead exemption. They can find me at my home, but regular mail cannot.

The unsigned, unpostmarked piece of junk mail that I have seen, which purportedly may have been sent out, is configured to be just like the tri-fold junk mail that was used last time we were forced to suffer through dealing with this private for-profit corporation over the same issues. This notice looks more like an invite to a cremation sales pitch than notice that this private for-profit corporation is trying to be a monopoly and take big chunks of your money for their private use.

The notice I saw also violates rule 25-30.33(h) "A statement that any objections to the application must be filed with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, **no later than 30 days after the last date that the notice was mailed or published.**"

The unpostmarked, unsigned junk-mail notice does not say that. It says "30 days from the date of this Notice". That is not a true statement. Since the unsigned notice does not mention the mailing date or the publication date. The notice should be stricken. Clearly the notice does not even contain a certificate of mailing. This is just a bad notice, an unconstitutional notice.

When a commissioner talks about fortifying due process, I would respectfully suggest that the approval by staff of unsigned junk mail notice is only slightly better than it was last time with the unsigned tri-fold piece of of junk mail that was purported to be a proper notice. (See Case 20200226-SU, which allowed the faulty notice, but denied any relief to this same for-profit corporation. ) This

time around the junk mail notice had an envelope from some unknown entity. It is still meant to be an unpostmarked, unsigned junk mail that no one is expected to actually open and read. The notice purports to say it was given on April 3, 2024. It was not. Personal service is the only way to serve LGI owners and that has not occurred.

Further the notice, purportedly coming from the for-profit corporation, says to copy some attorney and that “objections must state the grounds for the objection with particularity.” Neither of these acts are required by the rules. There is little ability to object with any specificity since they don’t send you any information or copies of the filings in this matter. If you don’t have internet or email you cannot know what this notice is even talking about. Further, if the lawyer won’t send us copies of the application or serve us properly, why should the notice require us to send him anything? He can look it up like he is making us.

It is also complexing to understand why the notice is not like the other filings in this case. Normal legal documents look like the order recently filed by the Commission and not junk-mail. See e.g. the document “FILED 3/11/2024 DOCUMENT NO. 01100-2024 FPSC - COMMISSION CLERK”. Yet the unsigned notice that is sent out by this for-profit corporation does not look like a normal pleading. It would seem more in line with due process if citizens had a hint that they are being sued for serious money in an administrative agency. Alas, I would respectfully suggest that this current notice could be seen as something purposely dressed up with some intent to mislead citizens to not pay attention to the trouble that is brewing. It is not impossible for one to opine that the intent of this notice is to diminish the responses and hide the potential financial and environmental harm that citizens may suffer from the acts of this private for-profit corporation seeking monopolistic power and using the powers of the State of Florida to take your rights away to be given to some private for-profit company.

WHEREAS, prayer is made that this matter be dismissed instanter. Alternatively, this administrative matter should be stayed pending the personal service of a constitutionally appropriate

notice. An order should issue staying all proceeding indefinitely until proof of personal service on LGI property owners is made to this agency in accord with due process and current administrative rules.

\_\_\_\_\_/s/Guy L. Hurst\_\_\_\_\_

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	Interested Persons (5)	Certification of Notice
<p><b>Palm Island Estates Association, Inc.</b>            Brad E. Kelsky            c/o Kelsky Law Firm            Plantation FL 33324            (954) 449-1400            (954) 449-8986            bradkelsky@kelskylaw.com</p>	<p><b>Amanda Small</b>            PO Box 652            Placida FL 33946            (720) 235-9289            Amanda@redrockstech.com</p>	<p>On April 30, 2024, the above</p>
<p><b>Linda Cotherman</b>            PO Box 881            Placida FL 33946            (941) 276-1140            lcotherman@yahoo.com</p>	<p><b>David Cohen</b>            PO Box 3123            Placida FL 33946            (201) 600-1450            david.paul.cohen@gmail.com</p>	<p>swears or affirms that he, via email, gave copies of this</p>
<p><b>Environmental Utilities, LLC</b>            Jack Boyer            P.O. Box 7            Placida FL 33946            (941) 626-8294            eu777offices@gmail.com  <b>Represented By:</b> Dean Law Firm</p>	<p><b>Holtzman Law Firm (24a)</b>            Robert Volpe/Kayla Kentnor            Tallahassee FL            (863) 287-9432            rvolpe@holtzmanvogel.com            Kkentnor@holtzmanvogel.com  <b>Represents:</b> Louise Volpe</p>	<p>pleading to parties and persons of interest as it</p>
<p><b>Dean Law Firm (24a)</b>            Martin S. Friedman            420 S. Orange Ave., Suite 700            Orlando FL 32801            (407) 310-2077            (407) 423-1831            mfriedman@deanmead.com  <b>Represents:</b> Environmental Utilities, LLC</p>	<p><b>Louise Volpe</b>            loubreez570@gmail.com  <b>Represented By:</b> Holtzman Law Firm</p>	<p>appears on the docket web page.</p>
<p>Showing 1 through 4 of 4</p>	<p><b>Office of Public Counsel (24e)</b>            Charles Rehwinkel/Walt Trierweiler            c/o The Florida Legislature            111 W. Madison Street, Room 812            Tallahassee FL 32399            (850) 488-9330            rehwinkel.charles@leg.state.fl.us            trierweiler.walt@leg.state.fl.us</p>	

\_\_\_/s/Guy L. Hurst\_\_\_\_\_

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