

Antonia Hover

From: Antonia Hover on behalf of Records Clerk
Sent: Monday, May 6, 2024 5:04 PM
To: 'rvolpe@HoltzmanVogel.com'
Cc: Consumer Contact
Subject: FW: Objection to Application for Original Wastewater Certificate and Request for Administrative Hearing - Environmental Utilities, LLC (Docket No. 20240032-SU)
Attachments: Written Objections to Certificate of Authorization Application (LGIPA).pdf

Good Afternoon, Robert Volpe.

We will be placing your comments below in consumer correspondence in Docket No. 20240032, and forwarding them to the Office of Consumer Assistance and Outreach.

Thank you!

Toni Hover
Commission Deputy Clerk I
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
Phone: (850) 413-6467

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From: Robert Volpe <rvolpe@HoltzmanVogel.com>
Sent: Monday, May 6, 2024 4:56 PM
To: Records Clerk <CLERK@PSC.STATE.FL.US>; Dorothy Menasco <DMenasco@PSC.STATE.FL.US>
Cc: Brad Kelsky <bradkelsky@kelskylaw.com>; retiringtoecuador@gmail.com; lcotherman@yahoo.com; nporter@dgfirm.com; Caroline Dike <CDike@psc.state.fl.us>; Major Thompson <MThompso@psc.state.fl.us>; mfriedman@deanmead.com; Kayla Kentnor <kkentnor@HoltzmanVogel.com>; Randall Raban <rraban@HoltzmanVogel.com>
Subject: Objection to Application for Original Wastewater Certificate and Request for Administrative Hearing - Environmental Utilities, LLC (Docket No. 20240032-SU)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon,
Please find attached, filed on behalf of Little Gasparilla Island Preservation Alliance, Inc., objections to the application for wastewater certificate and a request for formal administrative hearing in Docket No. 20240032-SU. We kindly request that you confirm receipt of these objections, and also that you place the Little Gasparilla Island Preservation Alliance, Inc. as party of record in this case. Please let me know if you have any questions.
Sincerely,
Robert Volpe



Robert Volpe
Partner
Tallahassee, FL
m 863.287.9432
o 850.354.5124

email bio in

Holtzman Vogel
HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

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DISCLAIMER

Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Holtzman Vogel Baran Torchinsky & Josefiak PLLC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

Holtzman Vogel

HOLTZMAN VOGEL BARAN TORCHINSKY & JOSEFIAK PLLC

May 6, 2024

VIA ELECTRONIC FILING

Florida Public Service Commission
Attn: Commission Clerk
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850
Email: Clerk@psc.state.fl.us

RE: Written Objections to Application for Certificate of Authorization, Document No. 01108-2024, by Environmental Utilities, LLC, Docket No. 20240032-SU and Request for Formal Administrative Hearing

Public Service Commission Clerk:

Our law firm represents Little Gasparilla Island Preservation Alliance, Inc., a Florida not for profit corporation (“LGIPA”), in LGIPA’s opposition to that certain Application for Original Certificate of Authorization for a Proposed or Existing System Requesting Initial Rates and Charges (the “Certificate Application”) filed by Environmental Utilities, LLC, a Florida limited liability company (“EU”), as Document No. 01108-2024 and reflected in PSC Docket No. 20240032-SU. LGIPA is an organization whose members are property owners on Little Gasparilla Island, Florida and whose purpose is, among other things, to protect the interests of individuals owning land on Little Gasparilla Island.

On April 5, 2024, LGIPA became aware of EU’s Certificate Application for the construction and maintenance of a low-pressure wastewater system on the barrier islands of Little Gasparilla Island, Don Pedro Island, and Knight Island (the “Project”), as more particularly described in the Certificate Application. LGIPA believes that the Project will adversely impact the interests of landowners located within the Project’s proposed service boundary. Accordingly, LGIPA hereby provides its written objections to the Certificate Application pursuant to F.A.C. § 25-30.031 and requests a formal administrative hearing pursuant to §§ 120.569 and 120.57 Fla. Stat.

The substantial interest of LGIPA and its members includes the following, without limitation:

1. LGIPA is a not-for-profit corporation formed under the laws of Florida. It’s members are property owners on Little Gasparilla Island and within the proposed service area of the Project.
2. President, Michelle Barnes, owns property located at 9802 Little Gasparilla Island, Placida, Florida 33946.
3. Vice President, Teresa Weibley, owns property located at 9782 Little Gasparilla Island, Placida, Florida 33946.
4. Treasurer, Jeffrey Hayes, own property located at 9810 Little Gasparilla Island, Placida, Florida 33946.
5. Other members and related persons to the LGIPA are property owners on Little Gasparilla Island within the proposed service area of the Project.

6. If the Certificate Application is approved, the LGIPA's members would be subject to the proposed wastewater utility, along with the associated connection costs, fees, required system upgrades, easements, and other requirements both physical and financial.
7. Accordingly, the LGIPA has a substantial interest in the Project and the Certificate Application.

LGIPA hereby objects to the Public Service Commission's issuance of the Certificate of Authorization on the following grounds:

1. EU has failed to demonstrate that it has the necessary financial ability to provide the services to the proposed service area. LGIPA disputes whether EU has accurately estimated the costs associated with the construction and maintenance of the Project. It appears that the cost estimates EU has provided in the Certificate Application date back to a previous application that EU submitted to the PSC for the same project, which the PSC denied. EU failed to provide assurance of the financial ability to provide the proposed services, as demonstrated by, among other deficiencies, outdated costs estimates. .
2. EU has failed to demonstrate that it has the technical ability to provide the service in a manner that will (i) result in wastewater management services that are superior to wastewater management systems already in place, and (ii) will not result in harmful effects to the environment. LGIPA disputes whether EU has the technical ability to successfully construct and operate the Project due to EU's lack of experience with this type of wastewater facility. It is LGIPA's understanding that EU does not currently (nor has it in the past) constructed, operated, or maintained any type of wastewater management system. Permitting EU to cut its teeth on a project of this magnitude (especially considering the environmental damage that might result from a failed underwater sewer system) is too risky to justify.
3. EU has failed to demonstrate the need for service in the proposed area. LGIPA disputes whether additional wastewater systems are needed on Little Gasparilla Island since effective wastewater management systems are already in place. In many cases, construction of the project will result in duplicative and unnecessary wastewater management services. In the case of individual wastewater systems (i.e. OSTDS systems), faulty or outdated wastewater systems can be upgraded or enhanced in order to improve functionality or efficiency, and the cost of such upgrades would be significantly less to individual landowners than the cost of connecting to EU's low-pressure sewer line. Approving the Certification Application would result the invasive construction of an unnecessary sewer system that imposes significant economic burdens on local landowners with no noticeable benefit.
4. EU has failed to demonstrate that the environmental data they have supplied accurately represents the area to be served by the Project. LGIPA disputes the applicability of the environmental data in the Certificate Application since the supporting environmental report does not include any sampling from the waters surrounding the service area. In addition, the data and analysis presented in the Certificate Application does not demonstrate a need or justify the proposed Project.
5. EU has failed to show that it has obtained the necessary rights to access and use the land upon which the utility treatment facilities will be located. LGIPA disputes whether EU has obtained the necessary rights to access and use the land upon which the Project's infrastructure will be

located since, as of the date of this letter, none of the landowner's whose real property interests are represented by LGIPA (or any other landowners that LGIPA is aware of) have negotiated or agreed to grant any utility easements or similar property rights to EU which would be necessary to construct the Project.

6. EU has failed to provide sufficient information to support the rates and charges that landowners will have to pay in order to utilize EU's sewer system. As stated above, LGIPA disputes that the financial data and cost estimates provided by EU are accurate. Furthermore, connection fees and similar costs relating to the Project are higher than rates charged to landowner for similar systems installed elsewhere. Accordingly, LGIPA disputes whether landowners should be required to make such contributions to the Project.
7. EU has failed to demonstrate that the proposed Project is in the public interest. LGIPA disputes whether the proposed Project is in the public interest since an overwhelming majority of the landowners who will be affected by the Project are strongly opposed to it. The justification for the Project is based on generalized interest in converting septic systems to sewer or wastewater systems. However, the proposed low-pressure system does not replace septic systems. Therefore, the basis for the justification or environmental benefits are not supportive of the application.
8. EU has failed to demonstrate consistency with the Charlotte County's Sewer Master Plan or Comprehensive Plan. LGIPA disputes whether the Project is consistent with the Charlotte County Sewer Master Plan and Comprehensive Plan since neither contemplate the establishment of a wastewater system as proposed in the Certificate Application.

For the reasons stated above, LGIPA objects to the PSC's issuance of the Certificate of Authorization pursuant to F.A.C. § 25-30.031 and requests that PSC deny UA's Certification Application. In addition, LGIPA a formal administrative hearing pursuant to §§ 120.569 and 120.57 Fla. Stat. **LGIPA formally requests that it be made a party to all proceedings relating to the Certificate Application and the Project.** If you have any questions concerning the content of this letter, please do not hesitate to contact me at rvolpe@holtzmanvogel.com.

Sincerely,
HOLTZMAN VOGEL, PLLC



Robert C. Volpe
On behalf of Little Gasparilla Island Preservation Alliance, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by E-mail to the following parties this 6th day of May, 2024.

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/s/ Robert Volpe
Robert Volpe