

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

IN RE: Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC                      DOCKET NO. 20250032-SU

**ENVIRONMENTAL UTILITIES, LLC'S MOTION  
FOR RECONSIDERATION OF ORDER NO. PSC-2024-0324-PCO-SU**

Environmental Utilities, LLC ("Company"), by and through its undersigned counsel, and pursuant to Rule 25-22.060, Florida Administrative Code, respectfully files this motion ("Motion") requesting that the Florida Public Service Commission ("Commission") reconsider the requirement to prefile exhibits that it intends to use for cross examination or impeachment purposes, and in support states:

1. Section V F of the Order provides in pertinent part:

if a party plans to use exhibits that were not already prefiled with their witnesses' testimony for cross-examination, impeachment, or demonstrative purposes during the hearing, the party must provide a copy of such exhibits to all other parties and the Commission's Office of General Counsel by January 21, 2025.

2. This requirement would negate the effectiveness of cross-examination by eliminating any element of surprise, and affording the witness an opportunity to consult with his/her counsel and others and devise a response. This is tantamount to a witness being able to discuss a response with his/her attorney during a recess in testimony, which is a clear violation of due process. "A civil party does not have a right to consult with his counsel at any time about any matter during the course of his or her testimony." *McDermott v. Miami-Dade County*, 753 So.2d 729 (Fla. App. 2000). Basically, this provision of the Order requires a party to disclose its cross-examination in advance of the hearing.

3. Notwithstanding the clear constitutional question of a violation of due process to require a party to disclose cross-examination in advance, it violates the concept of fundamental fairness. Admittedly, the advance disclosure of cross-examination and impeachment exhibits in

advance may have some benefit in the orderly presentation of the proceeding, the damage done by such disclosure outweighs the administrative convenience.

WHEREFORE, Environmental Utilities, LLC requests this Commission strike the portion of the Order requiring advance disclosure of cross-examination and impeachment exhibits.

Respectfully submitted this 19<sup>th</sup> day of August 2024, by:

Dean Mead  
420 S. Orange Ave., Suite 700  
Orlando, FL 32801  
Telephone: (407) 310-2077  
Fax: (407) 423-1831  
[mfriedman@deanmead.com](mailto:mfriedman@deanmead.com)

/s/Martin S. Friedman  
MARTIN S. FRIEDMAN