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BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240032-SU

Application for certificate to provide  
wastewater service in Charlotte County  
by Environmental Utilities, LLC.

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PROCEEDINGS: PREHEARING CONFERENCE  
COMMISSIONERS PARTICIPATING: COMMISSIONER GABRIELLA PASSIDOMO  
DATE: Tuesday, January 14, 2025  
TIME: Commenced: 9:30 a.m.  
Concluded: 10:12 a.m.  
PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida  
REPORTED BY: DEBRA R. KRICK  
Court Reporter

PREMIER REPORTING  
TALLAHASSEE, FLORIDA  
(850) 894-0828

1 APPEARANCES:

2 MARTIN S. FRIEDMAN, ESQUIRE, Dean Law Firm,  
3 420 S. Orange Avenue, Suite 700, Orlando, Florida;  
4 appearing on behalf of Sunshine Water Services (EU).

5 BRAD E. KELSKY, ESQUIRE, Kelsky Law, P.A., 150  
6 South Pine Island Road, Suite 300, Plantation, Florida  
7 33324, appearing on behalf of Palm Island Estates  
8 Association, Inc. (PIE).

9 ROBERT VOLPE and VALERIE L.  
10 CHARTIER-HOGANCAMP, ESQUIRES, Holtzman Vogel, PLLC, 119  
11 South Monroe Street, Suite 500, Tallahassee, Florida  
12 32301, appearing on behalf of Little Gasparilla Island  
13 Preservation Alliance, Inc. (LGIPA).

14 DANIEL DOSE and MAJOR THOMPSON, ESQUIRES,  
15 FPSC General Counsel's Office, 2540 Shumard Oak  
16 Boulevard, Tallahassee, Florida 32399-0850, appearing on  
17 behalf of the Florida Public Service Commission (Staff).

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1 P R O C E E D I N G S D

2 COMMISSIONER PASSIDOMO SMITH: Okay. We can  
3 start. Everybody is here. Give ourselves an extra  
4 minute.

5 THE COURT: So good morning, everyone. Today  
6 is January 14th, 2025. It is 9:29 a.m., and I will  
7 now call this Prehearing Conference to order.

8 Staff, will you please read the notice?

9 MR. DOSE: By notice issued on December 30th,  
10 2024, this time and place has been set for a  
11 Prehearing Conference in Docket No. 20240032-SU.  
12 The purpose of the Prehearing is set out more fully  
13 in the notice.

14 COMMISSIONER PASSIDOMO SMITH: Thank you.

15 Let's take appearances, starting with  
16 Environmental Utilities.

17 MR. FRIEDMAN: Thank you. Marty Friedman on  
18 behalf of Environmental Utilities.

19 MR. KELSKY: Good morning, Brad Kelsky on  
20 behalf of Palm Island Estates Association, Inc.

21 COMMISSIONER PASSIDOMO SMITH: Thank you.

22 MS. CHARTIER-HOGANCAMP: Valerie  
23 Charier-Hogancamp on behalf of Little Gasparilla  
24 Preservation Alliance.

25 MR. VOLPE: Good morning, Commissioner.

1 Robert Volpe on behalf of is Little Gasparilla  
2 Island Preservation Alliance.

3 COMMISSIONER PASSIDOMO SMITH: Thank you.

4 And, staff?

5 MR. DOSE: For Commission staff, Daniel Dose  
6 and Major Thompson.

7 MS. HELTON: And Mary Anne Helton here as your  
8 Advisor. I would also like to enter an appearance  
9 for Keith Hetrick, your General Counsel.

10 COMMISSIONER PASSIDOMO SMITH: Thank you.

11 I am also going to note for the record that  
12 Ms. Linda Cotherman has been excused from today's  
13 Prehearing Conference. Okay.

14 MR. FRIEDMAN: I am sorry, what about  
15 Ms. Cotherman?

16 COMMISSIONER PASSIDOMO SMITH: Oh, she's been  
17 excused from the Prehearing Conference.

18 MR. FRIEDMAN: Is there a reason?

19 COMMISSIONER PASSIDOMO SMITH: Staff, do you  
20 -- that's just what I was told. I think that --

21 MR. FRIEDMAN: This is the first I have heard  
22 of it.

23 COMMISSIONER PASSIDOMO SMITH: Okay.

24 That's --

25 MR. THOMPSON: Ms. Cotherman made a request.

1           It was reviewed. Good cause was found for her  
2           absence, and the Prehearing Officer allowed her to  
3           be excused.

4           COMMISSIONER PASSIDOMO SMITH: Okay. Moving  
5           on to preliminary matters. Staff, are there any  
6           preliminary matters we need to address before we  
7           get to the Prehearing Order?

8           MR. DOSE: Yes, if the Intervenors filed a  
9           motion to strike certain portions of EU's rebuttal  
10          testimony, to which EU filed a response on Friday.  
11          We recommend that motion be taken up when we get to  
12          the pending motion of the Prehearing Order in  
13          Section XI.

14          Additionally, Palm Island Estates Association  
15          made a request to sequester the witnesses at the  
16          technical hearing. We recommend that this request  
17          be taken up when we get to the witness section of  
18          the Prehearing Order, Section V.

19          COMMISSIONER PASSIDOMO SMITH: Okay. Sounds  
20          good. Well, we will take those up at that time.

21          Does any other party have any other  
22          preliminary matters they wish to address? Seeing  
23          none.

24          All right. We are going to move through the  
25          draft Prehearing Order. I will identify sections,

1 and I just request that the parties let me know if  
2 they have any corrections or changes to be made.  
3 And if I am moving too quickly, just feel free to  
4 shout out at me and we will slow down and make  
5 those corrections as needed.

6 All right. So starting with Section I, Case  
7 Background.

8 Section II, Conduct of Proceedings.

9 Section III, Jurisdiction.

10 Section IV, Procedure for Handling  
11 Confidential Information.

12 Staff?

13 MR. DOSE: Any confidential cross-examination  
14 exhibits a party intends to offer will need to be  
15 in paper copies in red folders in the course of  
16 hearing.

17 COMMISSIONER PASSIDOMO SMITH: Does any party  
18 have any other matters related to confidential  
19 information? Mr. Friedman? No, sir, okay. No  
20 other parties?

21 Okay. We will go to of Section V then, which  
22 is Prefiled Testimony and Exhibits and Witnesses.  
23 Staff?

24 MR. DOSE: We have three items.

25 First, staff recommends that the witness

1 summary testimony be limited to three minutes.

2 Staff also notes that EU objects to the  
3 qualifications of Robert Robbins as detailed in its  
4 prehearing statement. Any voir dire will be taken  
5 up as part of cross-examination at the technical  
6 hearing.

7 COMMISSIONER PASSIDOMO SMITH: Okay. So the  
8 parties are on notice as to the objection to  
9 Mr. Robbins' qualifications.

10 Any objections to the length of the summary  
11 testimony being three minutes?

12 Okay. That's good.

13 MR. DOSE: All right. And lastly, Palm Island  
14 Estates requested witness sequestration as part its  
15 prehearing statement. Mr. Kelsky may want to speak  
16 on this issue that.

17 COMMISSIONER PASSIDOMO SMITH: Mr. Kelsky,  
18 would you like to speak on this?

19 MR. KELSKY: Thank you, Commissioner  
20 Passidomo.

21 This kind of dovetails into the motion to  
22 strike the rebuttal testimony. It is our position  
23 -- and I will let counsel argue, because they are  
24 the ones who drafted the motion -- the substantive  
25 testimony being offered on rebuttal is

1 diametrically different from what was presented in  
2 the prefiled testimony. In other words, we don't  
3 believe it's actually true rebuttal. We believe  
4 it's new opinions.

5 The problem is, is that any attempt to  
6 cross-examine, if the witnesses who are offering  
7 the rebuttal testimony are present given the fact  
8 that it contradicts its prefiled testimony, we  
9 don't want to give a free preview of what that  
10 cross-examination may entail and, therefore, don't  
11 want the witnesses present while that examination  
12 is happening. So that's really the basis of the  
13 sequestration.

14 COMMISSIONER PASSIDOMO SMITH: Okay. Do the  
15 other parties have anything else to add to that?

16 Mr. Friedman?

17 MR. FRIEDMAN: I mean, I don't really oppose  
18 it. I just don't see how it would impacts. I  
19 think they are complaining about Mr. Cole's  
20 testimony, and he is only one person. I don't  
21 think there is anybody else. Ms. Swain's testimony  
22 is always just a fallout of the numbers from -- or  
23 the numbers and construction costs from Mr. Cole.  
24 So other than that, I don't see anybody's testimony  
25 that's going to listen to what's going to happen



1 before and make any difference.

2 Mr. Boyer is the corporate representative. He  
3 will be in the room anyway. So Mr. Boyer and Mr.  
4 Cole, I mean, I don't understand who else they  
5 really think has got information that's going to  
6 paint somebody subsequently testifying.

7 COMMISSIONER PASSIDOMO SMITH: Do you have  
8 followup, Mr. Kelsky?

9 MR. KELSKY: It really is limited to Mr. Cole.  
10 I accept the fact that Mr. Boyer is a party, and  
11 entitled to be there. And I don't frankly have a  
12 problem with Ms. Swain being present. But in terms  
13 of engineering and need, we believe this issue is  
14 important and it should be addressed.

15 COMMISSIONER PASSIDOMO SMITH: Okay. I am  
16 going to go to staff and see if they have a  
17 position on this.

18 MR. DOSE: Staff's position is that according  
19 to the Florida Supreme Court, sequestration is  
20 entirely within the Commission's discretion. It's  
21 atypical within Commission proceedings to exclude  
22 witnesses, as all testimony and exhibits are  
23 prefiled, and witnesses testifying before the  
24 Commission are frequently experts in their field.  
25 Therefore, staff recommends that the request for

1           sequestration be denied.

2           COMMISSIONER PASSIDOMO SMITH:   Yeah, Mr.  
3           Kelsky, I am going to have to -- I kind of agree  
4           with staff on this.  Generally, we don't really  
5           sequester witnesses unless there is really  
6           compelling reason.  So I think we are just going to  
7           move forward and just deny this sequestration.

8           MR. KELSKY:  May I ask that we revisit this  
9           after the motion is heard, because I do believe  
10          that it is directly relevant to what we are  
11          requesting?

12          COMMISSIONER PASSIDOMO SMITH:  We can revisit  
13          it at that time, I mean, when we go through, but, I  
14          mean, I think we need to kind of stick along with  
15          the -- along the lines of how we are moving here.  
16          So we will definitely -- we can talk about it  
17          again.  I will make it -- I will make a new ruling  
18          at that time, if you prefer that.

19          MR. KELSKY:  Okay.  Thank you.

20          COMMISSIONER PASSIDOMO SMITH:  All right.  
21          Let's just move forward, then.

22          All right.  Any other issues as far as --  
23          okay.

24          All right.  We are going to move on to the  
25          order of witnesses.  Are there any changes to the

1 order of witnesses?

2 MR. FRIEDMAN: Yes, Commissioner.

3 We propose to put Mr. Watson on first. He is  
4 a County employee, and we want to accommodate his  
5 schedule best we can, so we think putting him on  
6 first, letting him come and go would be the best --

7 COMMISSIONER PASSIDOMO SMITH: Yeah, do any  
8 parties have any objections to Mr. Watson  
9 testifying first? No, okay. All right. Good,  
10 then.

11 MR. FRIEDMAN: And then on rebuttal, I would  
12 try to do the same thing, have him come first on  
13 rebuttal as well.

14 COMMISSIONER PASSIDOMO SMITH: Okay. We can  
15 accommodate that. We generally try to -- and if no  
16 parties have any issues --

17 MR. FRIEDMAN: Thank you.

18 COMMISSIONER PASSIDOMO SMITH: -- I don't have  
19 a problem with that at all.

20 Are there any witnesses that can be  
21 stipulated?

22 MR. DOSE: Staff is not aware of any  
23 stipulated witnesses at this time. However, if the  
24 parties are willing to excuse any witnesses, staff  
25 is willing to confirm with each Commissioner that

1 any identified witnesses can be excused. If  
2 Commissioners don't have any questions for these  
3 witnesses, the witnesses may be excused from the  
4 hearing and their testimony and exhibits entered  
5 into the record at hearing as though read.

6 COMMISSIONER PASSIDOMO SMITH: All right.  
7 Thank you.

8 Are there any other issues related to witness  
9 order that the parties would like to discuss?

10 MR. VOLPE: Commissioner, it might be the  
11 appropriate time to request this. It's actually a  
12 request for a stipulation as to LGIPA's standing,  
13 and the witness that we would request stipulation  
14 to would be Teresa Weibley and her prefiled  
15 testimony.

16 COMMISSIONER PASSIDOMO SMITH: Okay.

17 MR. VOLPE: We can revisit that under the  
18 proposed stipulations if you prefer, but it relates  
19 to that witness as well.

20 COMMISSIONER PASSIDOMO SMITH: Let's move --  
21 let's put that in proposed stipulations. I think  
22 that's where we would handle it in the Prehearing  
23 Order anyway, so -- but noted. We will get there  
24 soon.

25 MR. VOLPE: Okay.

1           MR. FRIEDMAN: Commissioner, I do have one  
2           question for that witness. Even though I stipulate  
3           to standing of the association, I have a question  
4           for that witness.

5           COMMISSIONER PASSIDOMO SMITH: Well, then it's  
6           not stipulated then.

7           MR. VOLPE: Okay, that answers --

8           COMMISSIONER PASSIDOMO SMITH: Yeah. Yeah.  
9           Okay. Sorry, yeah, I just assumed that you guys  
10          had discussed, but if that's the case, then -- all  
11          right.

12          All right. Move to basic positions. Do any  
13          parties have my changes to their basic positions?  
14          Seeing none, we are going to move on to the issues.

15          Staff?

16          MR. DOSE: Issues and positions are included  
17          in the draft Prehearing Order.

18          COMMISSIONER PASSIDOMO SMITH: Parties, are  
19          interest any other related matters that need to be  
20          discussed?

21          MR. KELSKY: Yes, Commissioner.

22          The close of discovery was last Monday, and on  
23          last Tuesday, the Charlotte County Commission held  
24          a hearing which specifically addressed the sewer  
25          master plan, which is a critical part of the

1 presentation being offered by the applicant, in  
2 that they are relying heavily on this sewer master  
3 plan.

4 According to the outcome of that hearing, not  
5 only was the subject service area removed from the  
6 sewer master plan, it also specifically addressed  
7 the LPS aspect of the sewer systems as being  
8 completely disfavored in the option of last resort.

9 This becomes critical because, number one, it  
10 happened after discovery, and we have no ability to  
11 address it with our witnesses, or through prefiled  
12 testimony, or through cross-examination. But this  
13 is what the foundation is of the applicant in their  
14 support that they are trying to elicit from the  
15 County.

16 So given that this is something that is not  
17 within our control, and it happened after  
18 discovery, and it happened after the prefiled  
19 testimony, this rather seismic change in the  
20 County's position and, consequently, how that  
21 affects the applicant, has created a situation  
22 where the parties in opposition are potentially  
23 being precluded from addressing a current situation  
24 with the County.

25 And obviously, the removal of the service area

1 from the sewer master plan, and the very system  
2 that is being offered by the applicant, this,  
3 frankly, requires a need for discovery, both from  
4 the County, both in terms of experts, may result in  
5 the modification of testimony, and leaves us in a  
6 position where we really don't know what to do  
7 because we don't believe that we are getting a fair  
8 shake in terms of timing.

9 So I am raising this issue because one of the  
10 direct questions is about consistency between the  
11 sewer master plan and the comprehensive plan. And  
12 this is an entirely new area, and an entirely  
13 different time. And we don't see how it would be  
14 fair to the parties opposing the application to  
15 have to go to a final hearing and not be able to  
16 have time to discover and address this issue.

17 And this happened on the 7th. I found out  
18 about it yesterday, as I was trying to get to  
19 Tallahassee from South Florida. And I want to  
20 bring it to your attention, because it's a  
21 critical, critical issue to the whole substance of  
22 these proceedings.

23 COMMISSIONER PASSIDOMO SMITH: Well, I  
24 appreciate you bringing it to our attention. I am  
25 going to turn to staff real quick if they have --

1 MR. FRIEDMAN: I mean --

2 COMMISSIONER PASSIDOMO SMITH: Yeah, Mr.

3 Friedman, you can go first, yeah.

4 MR. FRIEDMAN: Just a quick comment.

5 Number one is that we rely on the sewer master  
6 plan. It's not the, you know, the give all thing.  
7 If the sewer master plan didn't have it in there,  
8 that wouldn't say that we wouldn't say there is  
9 still a need. That's one of the many elements that  
10 we rely on for support of septic to sewer on the  
11 islands.

12 I am at a loss, because I have no idea what  
13 happened, whatever they -- Mr. Volpe said there was  
14 a hearing. I have got no idea what was said, what  
15 went on. This is the first I have heard of it. So  
16 I can't weigh in on what they really did or did not  
17 do.

18 COMMISSIONER PASSIDOMO SMITH: Okay. I think  
19 because this is such new information, I think we  
20 should take, like, maybe five-minute break. I am  
21 going to confer with staff, because, yeah, we just  
22 need to know what was going on, and we will come  
23 back.

24 MR. KELSKY: Just so we are clear, I literally  
25 found out about this yesterday.



1           COMMISSIONER PASSIDOMO SMITH: No, I  
2 understand. I don't think you are withholding -- I  
3 understand. Yeah. So I think let's take a --  
4 let's come back at 9:50, but there is a small  
5 enough group we can all convene when we are ready.

6           MR. KELSKY: All right. Thank you.

7           COMMISSIONER PASSIDOMO SMITH: Thank you.

8           (Brief recess.)

9           COMMISSIONER PASSIDOMO SMITH: Okay. Thank  
10 you for that brief intermission.

11           I am going to go to staff and kind of see what  
12 their recommendation is as we take this  
13 information.

14           MS. CRAWFORD: So, of course, we haven't had  
15 an opportunity to review the document. We are  
16 unfamiliar with it. I think to the extent there  
17 has been a modification to the master sewer plan,  
18 that certainly affects at least one, if not  
19 multiple issues that we will be going to hearing  
20 on. So I think it's appropriate to allow all  
21 parties an opportunity to obtain a copy of the  
22 document, including -- and staff, too, and then  
23 review the document.

24           I think it would be appropriate to allow  
25 parties some latitude to revise their prehearing

1 positions to the extent that those are changed or  
2 modified by whatever the contents of this document  
3 is, as long as it's -- do I understand correctly,  
4 if you know us, Mr. Kelsky, is this something that  
5 was voted on and ratified by?

6 MR. KELSKY: To the best of my understanding,  
7 there was a public hearing that was recorded. It's  
8 actually on Charlotte County's website. The  
9 information that I have is that this was the final  
10 quarterly update before it was going to be  
11 formally adopted. So that's the best information  
12 that I have.

13 MS. CRAWFORD: So there is into actual adopted  
14 document at this time?

15 MR. KELSKY: So my knowledge, that is correct.

16 MS. CRAWFORD: And the disc -- it is really  
17 only just discussion at this meeting that you are  
18 concerned with.

19 MR. KELSKY: I don't believe it's the  
20 discussion. This was the final quarterly report by  
21 the engineering company hired by the County to  
22 discuss the systems, and designs, and locations of  
23 where this is going to be ultimately adopted.

24 The problem is, like you, I don't know enough  
25 about what happened and how that impacts the

1 overall aspect of the case.

2 MS. CRAWFORD: Okay. I think my opinion would  
3 be a little different if I knew this was a  
4 finalized document that had been adopted by the  
5 County, and had the force and effect, like our  
6 orders do as.

7 COMMISSIONER PASSIDOMO SMITH: Yeah, I agree.  
8 I sort of was under the impression that it was the  
9 County taking a vote.

10 MS. CRAWFORD: That being said, I think it is  
11 still appropriate for everybody to have a chance to  
12 investigate the information that's been raised.

13 MR. KELSKY: The investigation, if I may -- I  
14 am sorry. I don't mean to step in.

15 MS. CRAWFORD: Yeah.

16 MR. KELSKY: The investigation would directly  
17 impact at least three experts' testimony, the  
18 parties' testimony, the County's testimony. My  
19 point is this is not just a simple review the  
20 document, or review what happened one time and then  
21 leave everybody to have to conduct discovery in  
22 what is effectively a two-week period. I don't  
23 know -- I don't know how that's possible.

24 And on top of that, I can tell you  
25 unequivocally, I am in a trial in front of Judge

1 Curley in West Palm Beach from next Tuesday to next  
2 Thursday. So it poses a practical problem as to  
3 where this goes and where this stand, and that's  
4 why I wanted to raise it when we did.

5 MS. CRAWFORD: Can I offer something? One of  
6 my concerns is to the extent that this is not final  
7 action by the County, I don't know what the County  
8 might do with this report. So I am struggling -- I  
9 would have to say that this information would have  
10 to be subject to any objections as to relevance, as  
11 to -- if it's not an actual change to the master  
12 sewer plan, I am struggling to under -- it may be  
13 incipient, but it doesn't sound like we are there  
14 yet.

15 MR. KELSKY: So the only -- the only -- may I  
16 go? I am sorry.

17 COMMISSIONER PASSIDOMO SMITH: Yeah.

18 MR. KELSKY: The only thing I would say is  
19 that the crux of the County's position has been  
20 that the sewer master plan -- or the master sewer  
21 plan is consistent with the development. The  
22 witness that has been offered by the County has  
23 only deferred to what has already been done and not  
24 necessarily to what has been happening. And that  
25 is why, at this point in time, we are left with an

1           unclear position, because clearly, if the County is  
2           going one way, that may differ from the testimony,  
3           which may impact expert testimony, and it's an  
4           ongoing process.

5           It would be unfair to say that, oh, well, you  
6           know, it's consistent -- you know, this is what the  
7           position is, knowing that they had a final  
8           quarterly report, knowing this has been going on  
9           for quite some time, and then they changed their  
10          decision, and then we have an entirely inconsistent  
11          position.

12          So the point is, to your point earlier, I  
13          don't think anybody knows what this means right  
14          now, and we need to kind of figure out where this  
15          lands in order to fairly give the parties an  
16          opportunity to comment on what is an unknown issue.

17                COMMISSIONER PASSIDOMO SMITH: Mr. Friedman,  
18                yeah.

19                MR. FRIEDMAN: May I make a brief comment?  
20                And like I say, this is the first I have heard of  
21                it. But they do the quarterly report quarterly,  
22                hence the name quarterly report.

23                I listened to the last one, the quarterly  
24                report. And they discuss the plan, Commissioners  
25                through out all kind of stuff. They didn't make

1 any decisions. They didn't do anything. They just  
2 expressed comments. If this one isn't any  
3 different, I don't think you can pull a comment,  
4 which is what one of their experts did, pulled a  
5 comments -- and matter a fact, it wasn't out of the  
6 sewer master plan discussion, it was out -- it was  
7 about the K page discussion. They pulled it out as  
8 if it was gospel, and it was a comment by one  
9 commissioner.

10 Commissioners may make comments, but unless  
11 they take some official action, it's irrelevant  
12 here. And I can't tell you as we sit here, because  
13 I didn't know about it, but if there is not  
14 something, official action that was taken, it  
15 doesn't matter. Discussion doesn't matter.

16 MS. CRAWFORD: With the understanding that  
17 this was -- the information we are discussing was  
18 an actual action taken by the County, what I had  
19 anticipated saying is to allow parties to revise  
20 their prehearing positions, give them some  
21 latitude, maybe through the beginning of next week  
22 to review the information and incorporate changes  
23 to their positions, and be permitted to conduct  
24 cross-examination on what I presumed would be  
25 probably a stipulated document to the extent it was

1 something the County had approved. It doesn't  
2 sound like we are in that posture.

3 So having no knowledge of what the actual  
4 information is, or what value I think it would or  
5 would not bring to the proceeding, it's very  
6 difficult for me to provide a suggestion on what  
7 should be done about it.

8 At this point, we have an approved master  
9 sewer plan. We don't know at what juncture it may  
10 be changed. It sounds like these documents do go  
11 through periodic review and possible revisions. I  
12 haven't heard anything that makes me think that  
13 this is going to require putting off the hearing.  
14 Depending on the information that's provided, it  
15 may be appropriate to allow some latitude for  
16 cross-examination of witnesses at the hearing.

17 COMMISSIONER PASSIDOMO SMITH: Mary Anne, is  
18 that -- you are nodding.

19 MS. HELTON: I agree with Ms. Crawford on that  
20 point.

21 COMMISSIONER PASSIDOMO SMITH: Okay. So that  
22 being said, allowing cross-examination regarding  
23 this document at this hearing, would that mean that  
24 we would need to have the document stipulated into  
25 the record?

1 MS. CRAWFORD: Not necessarily stipulated, but  
2 proffered, and then it would have to survive any  
3 objections --

4 COMMISSIONER PASSIDOMO SMITH: Okay.

5 MS. CRAWFORD: -- as with any other evidence.

6 COMMISSIONER PASSIDOMO SMITH: And would we  
7 take that up at the hearing as a preliminary  
8 matter, or as --

9 MS. HELTON: I think as it flows organically  
10 through the process.

11 COMMISSIONER PASSIDOMO SMITH: Okay.

12 MS. HELTON: And as Ms. Crawford said, I am  
13 not convinced that there is a document that, you  
14 know, stems from the meeting that was held that's  
15 being discussed now, so --

16 And I also do think that if this does change a  
17 party's position, though, I do think that if maybe  
18 they had until the end of the week to change their  
19 position on the issues impacted, that could be  
20 incorporated in the Prehearing Order. I am not  
21 sure that that is the case, but that at least gives  
22 that flexibility to do that.

23 COMMISSIONER PASSIDOMO SMITH: Yeah. Yeah.  
24 We can -- because prior to this, you know, I was  
25 going to say changes that you would have made, I



1           would have preferred to have by tomorrow. But what  
2           we can do is, if this information does change your  
3           basic position, to the close of business on Friday,  
4           if you can change your basic positions there so  
5           that we can incorporate into the Prehearing Order,  
6           and then we will, at the hearing, you know, your --  
7           this can be, you know, this document can be  
8           proffered as evidence, assuming that there is no  
9           objection from the other parties, there could be  
10          cross-examination regarding it. Is that kind of a  
11          good summary of where we think we can be with it?

12                 MR. FRIEDMAN: All of that presumes that there  
13                 is some resolution or some formal action by the  
14                 Board itself that does something.

15                 COMMISSIONER PASSIDOMO SMITH: Right. Yeah.  
16                 I mean, presuming that there isn't -- if -- you  
17                 know, it's -- you can cross, and your witness can  
18                 cross and get to the bottom of what is actually --  
19                 what actually took place at that, you know, that  
20                 meeting, but if there isn't anything that -- if  
21                 there is no resolution, then, you know, it's taken  
22                 for what it is. I mean, I don't -- I don't want to  
23                 preclude potentially substantive information, but I  
24                 agree with our staff here, that the way that it's  
25                 being presented to us now, which we are only taking

1 at face value from, you know, one perspective, is  
2 that it's a quarterly discussion. We have these  
3 all the -- you know, we have discussions here.  
4 That doesn't mean that we have taken a formal  
5 action on anything. Different Commissioners or  
6 different, you know, they have different opinions,  
7 but that doesn't mean that, as a body, they have  
8 acted on it. But I also don't want to preclude,  
9 you know, in case it does have some sort of  
10 substantive change.

11 So with that being said, I think that's kind  
12 of -- we will move from there. Review -- you know,  
13 if you need to alter your basic positions on  
14 issues, to please get them back to our staff by the  
15 close of business on Friday, and then we can  
16 incorporate that into the Prehearing Order.

17 MR. KELSKY: Just so I am clear, ma'am. We,  
18 as PIE, have taken the position that it is not  
19 consistent anyway. We are not really changing our  
20 position. But I just -- I want to make sure that  
21 we will be allowed to cross-examine to the extent  
22 necessary regarding the current thought process  
23 that's going on in the County, since the County is  
24 providing itself as a witness to talk about  
25 consistency of the sewer master plan. I just don't

1 want to be precluded from going over that.

2 MR. FRIEDMAN: I don't think thought process  
3 is the same as County action.

4 COMMISSIONER PASSIDOMO SMITH: I have to -- I  
5 agree -- yeah.

6 MS. CRAWFORD: And if I may, it sounds like  
7 this is not the place to decide that --

8 COMMISSIONER PASSIDOMO SMITH: Yeah.

9 MS. CRAWFORD: -- as with any  
10 cross-examination that's offered, it will always be  
11 subject to appropriate objections at the time, and  
12 that will be resolved at the time of the hearing.

13 COMMISSIONER PASSIDOMO SMITH: Right.

14 MR. KELSKY: All right. Fair enough. Thank  
15 you.

16 COMMISSIONER PASSIDOMO SMITH: Okay. All  
17 right. All right. Well, thank you, I think we  
18 have kind of gotten through that.

19 So let's kind of pick up where we left off,  
20 which I think was the exhibit list, is that  
21 correct, staff?

22 MR. DOSE: Yes. Staff has prepared a  
23 Comprehensive Exhibit List, which lists all  
24 prefiled exhibits and those exhibits staff wishes  
25 to include in the record. The draft list was

1 provided to the parrots to see if there were any  
2 changes or objections to the CEL, or to the  
3 introduction of any staff's exhibits being entered  
4 into the record.

5 All parties have stipulated to the entry of  
6 staff's hearing exhibits, marked on the CEL as  
7 Exhibits 40 through 54. At this time, we would  
8 like to see if there are any known changes that  
9 need to be made to the parties' prefiled exhibits.

10 COMMISSIONER PASSIDOMO SMITH: Any changes?

11 MR. FRIEDMAN: I don't have any changes to my  
12 exhibits, but I noticed that the OEP said that we  
13 had to identify demonstrative exhibits, and I do  
14 expect to use a aerial photograph of the islands in  
15 my opening statement.

16 COMMISSIONER PASSIDOMO SMITH: Okay.

17 MR. FRIEDMAN: And I will provide a picture of  
18 that if you want. I was going to provide that as  
19 part of my rebuttal exhibits, or whatever y'all  
20 call it, I was going to put it in there, too,  
21 because I may use that same exhibit in rebuttal --

22 COMMISSIONER PASSIDOMO SMITH: Okay.

23 MR. FRIEDMAN: -- but I do have a, you know,  
24 big ole board of --

25 COMMISSIONER PASSIDOMO SMITH: Yeah, I don't

1 think that's an issue, right?

2 MR. FRIEDMAN: Okay. I just wanted to --

3 COMMISSIONER PASSIDOMO SMITH: Yeah, I  
4 appreciate it. Yeah, that's okay. Yeah.

5 Anybody else changes to the prefiled exhibits?  
6 No.

7 Okay. All right. So stipulations.

8 MR. FRIEDMAN: Let me mention one other --

9 COMMISSIONER PASSIDOMO SMITH: Sorry, yes.

10 MR. FRIEDMAN: I feel like, what's that guy  
11 who walks out there and just actively goes out of  
12 the room and he says one more thing.

13 COMMISSIONER PASSIDOMO SMITH: Yeah.

14 MR. FRIEDMAN: I have down here as an exhibit  
15 Mr. Cole's maps, and he revised his maps. We filed  
16 that as a revision to a discovery request. And I  
17 think that's one of the things on the CEL.

18 COMMISSIONER PASSIDOMO SMITH: Yeah.

19 MR. FRIEDMAN: So if it is, then we probably  
20 don't need to have him do that unless somebody  
21 wants us to do that.

22 COMMISSIONER PASSIDOMO SMITH: Is that  
23 correct, staff, do you recognize that?

24 MS. CRAWFORD: We can talk off-line and  
25 confirm that one way or the other.

1 COMMISSIONER PASSIDOMO SMITH: Okay.

2 MS. CRAWFORD: Yeah.

3 MR. FRIEDMAN: Thank you.

4 COMMISSIONER PASSIDOMO SMITH: Thank you.

5 Staff, are there any stipulations?

6 MR. DOSE: There are currently no proposed  
7 stipulations.

8 MR. FRIEDMAN: I don't know how we can  
9 stipulate if Ms. Cotherman is not here.

10 COMMISSIONER PASSIDOMO SMITH: Well, we --  
11 yeah, we already -- your point that you brought up  
12 earlier --

13 MR. VOLPE: Our request was to stipulate to  
14 LGIPA's standing, but I think we already addressed  
15 that.

16 COMMISSIONER PASSIDOMO SMITH: Yeah.

17 MR. FRIEDMAN: Well, I will stipulate to  
18 standing. I just want to ask the witness a  
19 question. I think -- I don't -- it's not -- I  
20 don't think standing is -- was standing an issue?  
21 I left it open as maybe an issue, but I don't  
22 think --

23 MR. VOLPE: It was not one of the listed  
24 issues.

25 MR. FRIEDMAN: Yeah. Yeah.

1 MR. VOLPE: You raised as a question, and we  
2 just wanted to --

3 MR. FRIEDMAN: No. No. No. And I appreciate  
4 that because it needed to be -- the box needed to  
5 be checked, but I do have one question of that  
6 witness.

7 MR. VOLPE: Understood. That's --

8 COMMISSIONER PASSIDOMO SMITH: Okay.

9 MR. KELSKY: The only other issue we would  
10 have is, is there any objection to PIE's standing?

11 COMMISSIONER PASSIDOMO SMITH: Is there any  
12 objection to PIE's standing?

13 MR. FRIEDMAN: No.

14 COMMISSIONER PASSIDOMO SMITH: Okay. Yeah.  
15 So, I mean, I -- so that's -- that goes?

16 MR. FRIEDMAN: That had to be an issue, and I  
17 didn't raise it.

18 COMMISSIONER PASSIDOMO SMITH: Right, I didn't  
19 see that either, so that's not a problem.

20 MR. FRIEDMAN: You know, there are a lot of  
21 things in here that ought to be stipulated. I  
22 mean, what are the customer deposits? You know, I  
23 mean, it's two times average monthly bill. I mean,  
24 you know, y'all have got a rule that says that, but  
25 there is an objection saying, you know, can't be

1 analyzed accurately.

2 And so it seems to me that a lot of these  
3 financial things, that and miscellaneous service  
4 charges, presuming that they get a certificate,  
5 there has been no testimony or anything complaining  
6 about miscellaneous service charges, about the --  
7 let's see, customer deposits. I mean, we can leave  
8 it as an issue and write of a sentence about it in  
9 our briefs, but it's just ridiculous.

10 COMMISSIONER PASSIDOMO SMITH: Yeah.

11 MS. CRAWFORD: It sounds like there may be  
12 some possible discussion among the parties, and  
13 staff is happy to engage in that. But it doesn't  
14 sound like we are going to get resolution here  
15 today on things.

16 COMMISSIONER PASSIDOMO SMITH: Yeah. Yeah.  
17 And this probably isn't really the forum to, you  
18 know, to do it, but, yeah, I think, you know, we  
19 can't force anybody to stipulate to anything.

20 MR. FRIEDMAN: Yeah.

21 COMMISSIONER PASSIDOMO SMITH: You just kind  
22 of have to take it how it is. So then -- okay, so  
23 now no proposed stipulations.

24 Any -- staff, are there any pending motions?

25 MR. DOSE: Yes. The Little Gasparilla Island



1 Preservation Alliance, Palm Island Estates  
2 Association and Linda Cotherman filed a joint  
3 motion to strike rebuttal testimony on January 7th.  
4 A written response in objection to the motion was  
5 filed by EU on Friday, January 10th.

6 COMMISSIONER PASSIDOMO SMITH: Okay. All  
7 right. Well, thank you.

8 Yeah, to the parties, I have read these  
9 pleadings. I am going to take them under  
10 advisement and we will issue an order later.

11 MR. FRIEDMAN: Thank you.

12 COMMISSIONER PASSIDOMO SMITH: Pending  
13 confidentiality matters. Staff?

14 MR. DOSE: There are no pending confidential  
15 matters at this time.

16 COMMISSIONER PASSIDOMO SMITH: Are there any  
17 post-hearing procedures that need to be addressed?

18 MR. DOSE: Yes. Staff recommends that  
19 post-hearing briefs be limited to 40 pages unless  
20 briefs are waived. If the parties do submit  
21 post-hearing briefs, staff notes that they are due  
22 on February 28th, 2025. And staff recommends that  
23 a summary of each position should be included in  
24 each post-hearing statement.

25 COMMISSIONER PASSIDOMO SMITH: Are there any

1 objections?

2 Okay. Are there -- staff, are there any  
3 rulings that need to be addressed?

4 MR. DOSE: Yes. Staff recommends that opening  
5 statements be limited to three minutes per party.

6 COMMISSIONER PASSIDOMO SMITH: Any objections  
7 to three minutes?

8 MR. FRIEDMAN: I would ask that -- squeeze  
9 another couple minutes out of it, so he has got  
10 five minutes. I do have a map I want to go  
11 through. And typically, I cut to the chase, but  
12 with the maps, wanting to go through that process,  
13 I would ask the Commissioners' indulgence to make  
14 that limited to five minutes.

15 COMMISSIONER PASSIDOMO SMITH: Okay. I am  
16 okay with five minutes, if that's -- yeah, if we  
17 can be as concise as possible. I understand what  
18 you are saying.

19 All right. So opening statements shall be  
20 limited to five minutes per party.

21 MR. DOSE: Staff would also include the ruling  
22 with respect to Palm Island Estates' request for  
23 witness sequestration in the final Prehearing  
24 Order.

25 COMMISSIONER PASSIDOMO SMITH: Okay. And are

1           there any other matters to address in this  
2           Prehearing Conference?

3                   MR. DOSE:   None from staff.

4                   COMMISSIONER PASSIDOMO SMITH:  Parties, any  
5           additional thing that needs to be addressed?

6                   MR. FRIEDMAN:  Nothing from Environmental  
7           Utilities.  Thank you, Commissioner.

8                   COMMISSIONER PASSIDOMO SMITH:  Okay.  All  
9           right.  Seeing no additional matters, this  
10          Prehearing Conference is adjourned.  Thank you.

11                   MR. VOLPE:  Thank you, Commissioner.

12                   (Proceedings concluded.)

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CERTIFICATE OF REPORTER


STATE OF FLORIDA )  
COUNTY OF LEON )

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 26th day of January, 2025.

  
DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #HH575054  
EXPIRES AUGUST 13, 2028