

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

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

PALM ISLAND ESTATES ASSOCIATION, INC. (“PIE”), pursuant to the January 24, 2025 Prehearing Order, 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.

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 5 #C2-19 to C2-31.) As part of the application process, EU was required to establish a “need for service.” § 367.045(2)(b), Fla. Stat.

EU submitted a substantively identical application in 2020 that was denied in 2022 by the Public Service Commission (“PSC”). Order No. PSC-2022-0267-FOF-SU, issued July 8, 2022, in Docket No. 20200226-SU, *In re: Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC*. After reviewing the evidence from that first

application's proceedings, the Public Service Commission determined in 2022 that "EU has not demonstrated that there is a need for service in the proposed service territory. Further, [the PSC found] that EU's application is inconsistent with the Charlotte County Comp[rehensive] Plan." *Id.* at 11.

In holding that there was no demonstrated need for service, the PSC stated that "[n]o evidence was presented to demonstrate that any state or local environmental regulator had mandated the installation of central sewer wastewater service in the proposed service territory at this time or identified any immediate health concerns." *Id.* at 8. Since the first denial of EU's application, EU has still not provided evidence of any environmental testing of the proposed service territory—much less identified any requisite state or local environmental regulation mandating central sewer installation. Likewise, EU failed to produce evidence of any health data to identify an immediate health concern. EU had more than two (2) years from the denial of the first application to conduct water quality testing in the service area that would support its environmental and health contentions necessary to establish need of service. However, EU essentially resubmitted the same application without providing any new evidence. As such, EU still failed to demonstrate need for service, and the PSC should again deny this insufficient application.

Additionally, in 2022, the PSC found that "EU's application is inconsistent with the Charlotte County's local comprehensive plan." *Id.* at 10. The comprehensive plan has remained unaltered since the time of the PSC's last denial. If the County support was as substantial as EU

owner Jack Boyer contended, the County could have amended the comprehensive plan in the two (2) years since the original application was denied.¹

EU also touted Resolution 2023-155 by the Board of County Commissioners as an endorsement of the application's consistency with the comprehensive plan. *Exhibit D-1*. As was exposed by the testimony of Ellen Hardgrove, AICP, the resolution was adopted by consent, which bypasses public comment or any discussion whatsoever as to the resolution's merits. Further, the resolution was drafted by EU's counsel specifically to bolster EU's chances at attaining a certificate with no changes to the already-denied application. The resolution also offered no rationale or explanation as to the comprehensive plan compatibility with the application and is merely composed of conclusory statements. With no changes having been made to the Charlotte County Comprehensive Plan in the two (2) years since the first application was rejected, the PSC should again deny the unaltered application as the inconsistency still exists.

EU's premise that there is a demonstrable need for sewer service is based upon a handful of conclusory statements in its application: there is a "mandate from Charlotte County," there are "numerous requests for service," the proposed service "is consistent with the Comprehensive Plan," and a \$40,000 paid-for report based on no data from the bridgeless barrier islands. *Exhibit "D-1" to the Application for Original Certificate of Authorization for a Proposed or Existing System Requesting Initial Rates and Charges*. [CEL 17, C2-33 (LaP report).] As the evidence and testimony showed at the Final Hearing, there is no "need for service" as there has (still) been no showing of any degradation of water quality and as EU merely extrapolated data from other areas of the State of Florida to the proposed service area by relying upon cherry-picked scientific results

¹ EU's owner, Jack Boyer, testified that at least one County commissioner would attend the public hearing to confirm County support for EU's application. However, no County commissioner attended either day of public hearings to offer any support. (Tr. [128])

and the Sewer Master Plan (without any testimony of its drafters or even Charlotte County’s water quality personnel). Additionally, the sea grass die-off Environmental Utilities contends exists because of septic on the bridgeless barrier islands is (still) a function of ocean dynamics and not from pollution associated therewith—notwithstanding the fact that EU’s own expert stated the densest sea grass in the region is located by the proposed service area. Environmental Utilities could not, and did not, offer any testimony of any pollution on Don Pedro Island, Knight Island, Little Gasparilla Island, or Palm Island.

EU also again 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 still offered no testimony from a land use planning professional to establish this contention whereas PIE offered direct testimony that EU’s position is erroneous, that the proposed application is inconsistent with Charlotte County’s Comprehensive Plan, that the Sewer Master Plan is also inconsistent with the Comprehensive Plan and that there are 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 amended the Comprehensive Plan knowing that EU’s same application was denied in part for the same inconsistency two (2) years ago. As was held by the PSC in 2022, “EU’s application erroneously identified the proposed service territory’s current land use designation as Compact Growth Mixed Use.” Docket No. 20200226-SU p. 5. In sum, EU has again failed to demonstrate any need for sewer on Don Pedro, Knight Island, Little Gasparilla Island, or Palm Island.

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, Environmental Utilities has not met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code*

ARGUMENT

A. EU materially altered the engineering and location of the proposed system without following the required amendment process.

EU did not file any of the required amendments to its application despite materially altering the engineering and location of the proposed service territory. Rule 25-30.030(5) of the Florida Administrative Code provides the procedural notice requirements for changes to the service area proposal. Rule 25-30.033(1) of the Florida Administrative Code requires applications for original certificates to abide by the notice requirements of Rule 25-30.030. At no time did EU provide any notice that it would materially alter the service area proposal in accordance with the Florida Administrative Code. In fact, EU's application provided for a direct sewer line connection through Don Pedro State Park but, without alerting any of the parties before offering rebuttal testimony to the contrary, EU now claimed the plan would have two separate connections that diverged from what was claimed in the application. As PIE was unable to present evidence regarding this "new" sewage plan that had no relation to the pending application, the final hearing was essentially regarding a completely different sewage proposal and, therefore, noncompliant with rule. Notwithstanding EU's failure to provide notice of the material plan changes, neither plan is sufficient as there is no need for service and the plans are inconsistent with the Comprehensive Plan. Each will be discussed below.

Issue 2: Is there a need for service in EU's proposed service territory?

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

ARGUMENT

A. The testimony established an absence of need.

There has still been no water quality testing for any of the bridgeless barrier islands in the proposed service territory. (CEL 12, C4-558; CEL 7, C9-637; Tr. [64, 66]) There is still no clear

and convincing evidence of health problems in the bridgeless barrier islands to justify sewer infrastructure. (CEL 16, C7-613; Tr. [64-65]) There is still no data to establish the water quality of the bridgeless barrier islands (Tr. [64, 66]), except to say that no testing found elevated nitrates in the proposed certificated area. (Tr. [151]). 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 (beyond those who were related by family to EU's principal), concerning actual 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. Indeed, the question was put squarely in front of Dr. Lapointe: "Q:...you can't say there was any clear and convincing evidence exists of any health problem on the barrier islands, correct? A: No data that I have collected." (Tr. [64-65]). Moreover, the data relied upon by Lapointe was an extrapolation of how other areas of the state *could* apply to the Bridgeless Barrier Islands. (CEL 12, C4-544). Notably, Lapointe did not account for the fact that the subject islands are only occupied full-time by seven percent (7%) of the residents in extrapolating conclusions from testing performed in different parts of the state. (Tr. [306]). The testimony was not that there was a problem in the Bridgeless Barrier Islands; the testimony was a hypothetical that there merely could be a problem. Notably, this was the same hypothetical unproven "problem" that the PSC found unconvincing in the prior application.

Robert J. Robbins, Ph.D. testified that there was no scientific support for mass seagrass die-off in the waters surrounding the bridgeless barrier islands due to septic systems as contended by EU. Instead, the testimony proffered by EU through Dr. Brian Lapointe admittedly was not based upon any data taken from the islands or the surrounding waters. (CEL 17, C9-637.) Lapointe

merely applied data taken elsewhere in the state to the bridgeless barrier islands from cherry-picked testing locations based on known septic failure locations. (CEL 17, C9-638.) These deliberately misleading data points only referenced potential pollution elsewhere in Florida—not on the islands or related waters. *Id.* Lapointe even acknowledged that the data he used was not adjusted to account for the fact that the subject islands maintain only 7% occupancy regularly. (Tr. 306.) Large communities and sparsely populated islands simply cannot be conflated. Additionally, Lapointe asserted in his testimony that the seagrass beds at issue by the barrier islands are “some of the densest seagrass beds in the area.” (CEL 12, C4-559.) This admission hardly supports the notion that seagrass beds are dying off in the bridgeless barrier island waterways, at all, much less attributing die-off to a 7% populated community. As no new environmental evidence in the bridgeless barrier islands was offered compared to the last denied application, the PSC’s previous analysis still stands: “Nor did EU present evidence of an environmental need that would demonstrate a need for service.” In other words, because this application is virtually identical to the previously-denied application and EU again chose not to conduct any water quality testing, EU still has not demonstrated any need for sewer conversion. 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).

While the application for the certificate referenced the current land use designation as Compact Growth Mixed Use (CEL 5, C2-24), the correct designation is “coastal residential” (Tr. [175]). The proposed service area is outside of the Urban Service Area (CEL 16, C7-613; Tr. [179]). Magnifying the lack of planning knowledge by the applicant, EU only provided testimony from Dave Watson who was “not familiar” with the Rural Service Area and was not a planner. (Tr. [45, 48].) The testimony of Ellen Hardgrove, AICP, the only certified land use planner who testified (Direct Testimony of Ellen Hardgrove, AICP), was, unequivocally, that the proposed development was contrary to the Charlotte County Comprehensive Plan. (CEL 16, C7-610 to C7-618.) 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 areas outside the Urban Service Area.” (CEL 16, C7-614.) Thus, the Charlotte County Comprehensive Plan separates the need for sewer within the Urban Service Area and outside the Urban Service Area.

Future Land Use Policy 3.2.4 further prohibits “the provision of sewer infrastructure outside the Urban Service Area. The exception to the prohibition of extending sewer outside the Urban Service Area is only in cases where there is clear and convincing evidence that a health

problem exists.” (CEL 16, C7-613.) Thus, even though the stated intent of the plan was that, outside the Urban Service Area, the County was to continue to rely upon septic systems, the Comprehensive Plan would allow sewer infrastructure *only* 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 (5th 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, at all. (CEL 12, C4-588; CEL 17, C9-637.) There is no clear and convincing evidence of health problems in the bridgeless barrier islands to justify sewer infrastructure. There is no data to establish the water quality of the bridgeless barrier islands (CEL 12, C4-588; CEL 17, C9-637) except to say that no testing has found elevated nitrates in the proposed certificated area. Importantly, Environmental Utilities, LLC, for the second time, 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. Again, the question was put directly in front of Dr. Lapointe: “Q:...you

can't say there was any clear and convincing evidence exists of any health problem on the barrier islands, correct? A: No data that I have collected.” (Tr. [64-65].) Moreover, the data relied upon by Lapointe was an extrapolation of how other areas of the state could apply to the Bridgeless Barrier Islands. (CEL 12, C4-554.) Notably, Lapointe did not account for the fact that the subject islands are only occupied full-time by seven percent (7%) of the residents in extrapolating conclusions from testing performed in different parts of the state. (Tr. [306].) In short, the testimony was not that there was a problem in the Bridgeless Barrier Islands but, instead, the testimony was a hypothetical that there merely could be a problem. As discussed previously, this was the same hypothetical unproven “problem” that the PSC found unconvincing in the previous application. 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 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 16, C7-613.) Environmental Utilities, however, took the position that the Bulk Sewer Treatment Agreement between Charlotte County and Environmental Utilities was prima facie evidence of consistency with the Comprehensive Plan. (Testimony of Dave Watson, page 2.) However, the Comprehensive Plan was never amended since the previous application was denied for being inconsistent with the Plan. The only new development is the Board of Commissioner’s adoption of Resolution 2023-155. (CEL 5, C2-32.) This Resolution was adopted via consent agenda without discussion or public input and merely stated that EU’s application was

consistent with the Comprehensive Plan without any supporting evidence. (CEL 16, C7-611; Tr. [172].) As mentioned previously, it did not have any explanation and is not dispositive as to consistency with the Plan. In fact, the Board of Commissioners approved this unsupported resolution without any input from the Planning Department that would determine consistency. (Tr. [172].) The resolution was riddled with inaccuracies, including the first “Whereas” clause incorrectly claiming the County “strongly supports the installation of a central wastewater system for the Barrier Islands to eliminate septic tanks.” (CEL 16, C7-612.) This statement is directly contrary to the Future Land Use Policy 3.2.7 as discussed above. As the present application and Comprehensive Plan have not been amended since PSC’s prior denial, the PSC’s original conclusion remains prescient: “Based on the land designation and policies contained within the Comp Plan, [the PSC] find[s] EU’s application is inconsistent with the Charlotte County’s local comprehensive plan.” Docket No. 20200226-SU p. 10.

Continuing with the Comprehensive Plan, as testified by Ms. 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 and transport to and from the islands, the policy is to discourage development and population concentrations on the Bridgeless Barrier Islands. (Tr. [161-162].) In fact, the Comprehensive Plan incentivizes transferring development rights off the island. *Id.* 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 (Tr. [161])—a need that was never established.

FLU Policy 1.1.6 states that all county regulations are subordinate to the Comprehensive Plan. (CEL 16, C7-615.) CST Policy 3.2.7 states, “[t]he 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. Further WSW Policy 3.2.4 provides that “[t]he County shall discourage expansion of the service areas of utility companies regulated by the Florida Public Service Commission to any areas outside of the Urban Service Area, in accordance with FLU Policy 3.2.5.” Per FLU Policy 1.2.4, the priority for extending public services was to take place in the Urban Service Area and not the Rural Service Area, where the bridgeless barrier islands are located. (CEL 16, C7-613; Tr. [160].) Given the above goals and policies, not only is the proposed development contrary to the Charlotte County Comprehensive Plan, the Plan supports an absence of need for service. Therefore, having still been unable to satisfy this threshold for need as Charlotte County did not amend the Comprehensive Plan or the Sewer Master Plan, Environmental Utilities, LLC’s application should be denied again for exactly the same reasons the PSC already determined in the 2022 final order.

C. Public testimony via Service Hearing

Of the 105 members of the public who spoke at the Service Hearings, only a handful expressed a desire for application approval (including the applicant’s daughter, son-in-law, friends, and wife/co-owner)—the other 95 individuals voiced opposition. Chairman Graham 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 (despite the overt representation by EU that a county commissioner

would testify on its behalf at the Service Hearing). (Tr. [128]; Service Hearing Vol. 1 Tr. [27]; Service Hearing Vol. 2 Tr. [11].) Environmental Utilities, LLC's reliance upon John Boyer to establish "need" as a mouthpiece for Charlotte County should be rejected when, despite his representation, there was no voice from any commissioner to support the application and his contention that the consent resolution was "evidence" merely established a statement with no supporting data and should be rejected.

The public also raised the issue of EU's oppressive costs that would be borne by the Bridgeless Barrier Island residents. For instance, members of the public asserted: "We just got slammed with hurricanes. I can't afford this..." (Service Hearing Vol. 1, Tr. [45]); "The financial hit to the island residents as a result of the last three hurricanes has been painful. The last thing my neighbors and I need is an additional \$30,000 expense for something we don't even need." (Service Hearing Vol. 1, Tr. [113]); "My family, like many others in the area, are dealing with the aftermath of Hurricane Ian, and now we are facing additional costs due to damage caused by Hurricanes Helene and Milton, and we simply cannot afford a \$40,000 hookup." (Service Hearing Vol. 2, Tr. [56]); "[H]urricanes have depleted the residents both mentally and financially, so, please, I would like you, our Florida Public Service Commission, to deny this request." (Service Hearing Vol. 2, Tr. [74]). Of course, this sentiment was raised numerous times by many more members of the public throughout the Service Hearings. In addition to demonstrating that there is no need for sewer conversion, EU's application would place an insurmountable financial burden on the island residents who clearly are still reeling from damages caused by multiple major hurricanes in less than three years.

ISSUE 3: Is Environmental Utilities’ application consistent with Charlotte County’s Comprehensive Plan and/or Sewer Master Plan?

Position: *No, the application is inconsistent with Charlotte County’s Comprehensive Plan and 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 (CEL 16, C7-610 to C7-612). 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. *Exhibit D-1*. 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 projects on the bridgeless barrier island listed in the master plan are the connection of existing private utilities using existing sewer infrastructure. (CEL 16, C7-612.) 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 16, C7-615.) Additionally, the only change to the Sewer Master Plan since the previous application denial was the County Commission requiring “evidence-based decision-making, specifically mandating water quality data to justify septic tank to sewer conversions.” (CEL 16, C7-611.) At the July 16, 2024 Utilities Department Quarterly Update Meeting, County Commissioner Tiseo asserted: “I made this crystal clear several times from the dais. I want water testing done....” (CEL 16, C12-611.) Further, Commissioner Dougherty agreed:

“The testing you were talking about makes sense.” *Id.* The waters at issue in the Meeting were, notably, the waters proximate to the Bridgeless Barrier Islands. *Id.* Still, however, EU refused to conduct any water testing whatsoever in direct opposition to the Sewer Master Plan. Thus, the application is even more 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 EU result in the creation of a utility which will be in competition with, or duplication of, any other system?

Position: *PIE specifically adopts the position taken by Linda B. Cotherman regarding this topic*

Issue 5: Does EU have the financial ability to serve the requested territory?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 6: Does EU have the technical ability to serve the requested territory?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 7: Will EU have sufficient plant capacity to serve the requested territory?

Position: *PIE specifically adopts the position taken by Linda B. Cotherman regarding this topic*

Issue 8: Has EU provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 9: Is it in the public interest for EU 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 and, therefore, is not in the public's interest. 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. Simply put, the current application should be denied for the same reason the prior application was denied when EU continued to offer nothing new to establish a substantive difference between applications.

Issue 10: What is the appropriate return on equity for EU?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 11: What are the appropriate rates and rate structures for EU?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 12: What are the appropriate initial customer deposits for EU?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 13: What are the appropriate miscellaneous service charges for EU?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 14: What are the appropriate service availability charges for EU?

Position: *PIE specifically adopts the position taken by LGPIA and Linda B. Cotherman regarding this topic*

Issue 15: Should this docket be closed?

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

ARGUMENT

As stated above, given the lack of need and inconsistency with the Comprehensive Plan that was never altered from the time of the previous denied identical application, the application should also be denied and the docket should be closed.

CONCLUSION

EU'S 2024 application deserves the same fate as its prior application that was denied in 2022. The applicant offered nothing new in terms of water quality testing, any health concerns, amendments to the Comprehensive Plan, amendments to the Sewer Master Plan, any substantive requests for service from locals who are not family members of the applicant's principal, or any material alteration to the previously denied application. As a result, the Public Service Commission should, again, deny EU's insufficient application.

KELSKY LAW, P.A.
Counsel for Palm Island Estates Association, Inc.
150 S. Pine Island Road
Suite 300
Plantation, FL 33324
954.449.1400
Fax: 954.449.8986
Primary: bradkelsky@kelskylaw.com
Secondary: barbarallinas@kelskylaw.com

BY: /s/ Brad E. Kelsky
BRAD E. KELSKY
FBN: 0059307

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was emailed this 28th

day of February 2025 to:

Martin S. Friedman, Esq.
Dean Mead
420 S. Orange Avenue, Suite 700
Orlando, FL 32801
mfriedmand@deanmead.com

Major Thompson, Esq.
David Dose, Esq.
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850
ryan.sandy@psc.state.fl.us
jennifer.crawford@psc.state.fl.us

Robert Volpe, Esq.
Holtzman Vogel PLLC
119 S. Monroe Street
Suite 500 Tallahassee,
FL 32301

Linda B. Cotherman
P.O. Box 881
Placida, FL 33946

/s/ Brad E. Kelsky
BRAD E. KELSKY
FBN: 0059307