

Table of Contents
Commission Conference Agenda
April 1, 2025

1**PAA	Docket No. 20240155-EI – Petition for approval of accounting treatment for the transfer of proportional share of Plant Daniel Units 1 and 2 to Mississippi Power Company, by Florida Power & Light Company.....	1
2	Docket No. 20250011-EI – Petition for rate increase by Florida Power & Light Company.....	3
3**PAA	Docket No. 20240117-WU – Application for grandfather certificate to operate water utility in Citrus County by Hash Utilities, LLC. (Forest Hills Water System).....	4
4**	Docket No. 20240118-SU – Application for grandfather certificate to operate wastewater utility in Columbia County, by Kirby D. Morgan, Inc.	6
5	Docket No. 20240032-SU – Application for certificate to provide wastewater service in Charlotte County by Environmental Utilities, LLC.	7

Item 1

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 20, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Mason, Norris, Vogel) *ALM*
Division of Economics (Galloway, Wu) *EJD*
Division of Engineering (Davis, Ellis, King) *LVK*
Office of the General Counsel (Stiller, Crawford) *JSC*

RE: Docket No. 20240155-EI – Petition for approval of accounting treatment for the transfer of proportional share of Plant Daniel Units 1 and 2 to Mississippi Power Company, by Florida Power & Light Company.

AGENDA: 04/01/25 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On November 8, 2024, Florida Power & Light Company (FPL or the Company) filed a petition for approval to transfer FPL's 50 percent share of Plant Daniel Units 1 & 2 (Units 1 & 2) to Mississippi Power Company (MPC). This follows a 2019 acquisition of Gulf Power Company (Gulf) by NextEra Energy, Inc. (NextEra), where NextEra gained control of Gulf's 50 percent share of Units 1 & 2 and transferred ownership to FPL. After Gulf's acquisition, FPL announced it would continue with plans made by Gulf to retire its shares of Units 1 & 2 by January 2024. FPL has stated that while its shares of Units 1 & 2 have been retired, based on a 2022 operating agreement made between FPL and MPC, the Company is responsible for Common Facilities costs, related to common ownership, until MPC retires its shares in 2031. On November 8, 2024,

FPL entered into a purchase and sale agreement (PSA) with MPC to transfer its shares of Units 1 & 2 to MPC and pay MPC \$45 million (the Transaction), to alleviate FPL's ongoing Common Facilities costs. FPL has stated that this PSA will result in approximately \$10 million in avoided costs per year for the years 2025 through 2031.

In the Petition, FPL also requested the Commission to authorize the Company to continue to accrue its proportional share of dismantlement costs in base rates.

FPL is not requesting a regulatory asset for the remaining net book value of its ownership share of Units 1 & 2 in the instant docket. Since FPL's retirement of the units, the Company has reflected the estimated remaining investment as a negative amount in the accumulated reserve for the respective plant accounts, and has continued its depreciation for the retirements using rates approved as part of its 2017 rate case settlement.¹

In FPL's petition, the Company proposed the creation of a regulatory asset worth \$39.3 million, representing the proportion of the transfer price associated with base rate components, to be collected over 10 years, beginning at FPL's next base rate adjustment. Until this adjustment, FPL has requested to continue recovering dismantlement and decommissioning costs related to Units 1 & 2 in base rates. FPL also proposed the creation of a regulatory asset worth \$5.7 million representing the proportion of the transfer price associated with environmental costs, to be recovered through the Environmental Cost Recovery Clause (ECRC) over 10 years, beginning January 1, 2026. FPL has stated that it is still responsible for environmental costs for anything that occurred before the transfer, and has requested to continue recovering these costs through the ECRC. Until the balance on the regulatory assets has been fully recovered, FPL has requested that it receive a return based on the unamortized balances of the regulatory assets.

The Office of Public Counsel (OPC) intervened in this docket on March 17, 2025, and its intervention was acknowledged in Order No. PSC-2025-0083-PCO-EI, filed March 18, 2025.

The Commission has jurisdiction pursuant to Sections 366.04, 366.06, and 366.07, Florida Statutes.

¹Order Nos. PSC-2021-0446-S-EI and PSC-2024-0078-FOF-EI, issued December 2, 2021, and March 3, 2025, respectively, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

Date: March 20, 2025

Discussion of Issues

Issue 1: Is FPL's proposed transfer of its 50 percent ownership in Units 1 and 2 to MPC reasonable and cost-effective?

Recommendation: Yes. The PSA between FPL and MPC transferring FPL's 50 percent ownership in Units 1 & 2 to MPC should be approved as the PSA appears cost-effective. (Davis)

Staff Analysis: FPL is requesting Commission approval of the PSA with MPC which transfers FPL's 50 percent ownership share of Units 1 & 2 to MPC. Such approval would alleviate FPL's share of ongoing cost responsibilities associated with the common facilities at Units 1 & 2. FPL is asking the Commission to determine that the PSA is in the best interest of its customers. To evaluate this, staff reviewed both the initial decision by FPL to retire its share of Units 1 & 2 and the PSA terms and conditions.

Ownership Interests in Plant Daniel Units 1 & 2

Gulf acquired 50 percent ownership in Units 1 & 2 by sharing in the construction and operating expenses with MPC in 1976. A subsequent Plant Operating Agreement was established in 1981 between the two parties. In 2019, Gulf's ownership in Units 1 & 2 was transferred to FPL following the acquisition of Gulf by NextEra Energy, Inc., the parent company of FPL. Following this transfer, FPL provided a notice to MPC that it intended to retire its share of Units 1 & 2 in January 2024. According to FPL's petition, Units 1 & 2 were not needed for reliability and were inefficient compared to the other generating units in FPL's fleet. In 2023, the average heat rate for Units 1 & 2 was 11,210 British thermal unit per kilowatt-hour (Btu/kWh) compared to an average of 7,032 Btu/kWh for the other FPL generating units. Therefore, FPL claims it was not feasible to consider using Units 1 & 2 for economic dispatch, and that FPL's retirement of Units 1 & 2 was reasonable since the units were not needed at the time by FPL for reliability purposes and the retirement was projected to result in a net present value (NPV) of \$229 million for FPL's customers based on a cumulative present value of revenue requirements (CPVRR) analysis.

In 2022, FPL and MPC negotiated an amendment to the 1981 Plant Operating Agreement between Gulf and MPC. This negotiation resulted in the 2022 Second Amended and Restated Plant Daniel Operating Agreement (2022 Operating Agreement) which was used to adjust the cost allocation between FPL and MPC due to FPL's announced retirement of share of Units 1 & 2. MPC had an option to purchase FPL's 50 percent ownership of Units 1 & 2 for one dollar (\$1.00) at any time 120 days prior to and including the retirement date of January 15, 2024, but did not exercise this option. In 2024, FPL engaged in discussions and negotiations with Southern Company, the parent company of MPC, to reduce or eliminate costs associated with FPL's share of Plant Daniel. These discussions and negotiations culminated in the PSA to transfer FPL's share of Units 1 & 2 to MPC.

Purchase and Sale Agreement

Under the 2022 Operating Agreement, FPL pays common facilities costs for ownership of Units 1 & 2 through MPC's proposed retirement of Units 1 & 2 in 2031. These costs are approximately \$10 million per year regardless of whether Units 1 & 2 are providing service to FPL customers. The PSA required a \$45 million payment by FPL to MPC, if the transaction closed on or before

Date: March 20, 2025

December 31, 2024, and eliminated all ongoing common facilities expenses and capital costs, including ad valorem tax associated with Units 1 & 2. If the transaction occurred after December 31, 2024, the Ad Valorem liability for the accrual year 2025 would stay with FPL and the transfer payment would be reduced by the same amount. In response to a staff data request, FPL stated that if the Commission approves this petition in April 2025, the most probable closing date would be July 2025, resulting in a transfer payment to MPC of approximately \$36.02 million.² Under the PSA, FPL will relinquish its 50 percent interest in Units 1 & 2 and MPC will assume FPL's share of certain operating costs and incremental liabilities created after the closing date.

PSA Cost-Effectiveness

While FPL has retired its share of the Plant Daniel Units, it is still responsible for maintaining the site and associated environmental concerns until Plant Daniel has been decommissioned as a whole, including MPC's ownership share. Operation and maintenance exposures and capital costs for projects such as security and water management are ongoing. FPL will not be obligated for most common facilities costs, but it will remain obligated for common costs related to coal combustion residuals produced prior to the closing and decommissioning of Units 1 & 2. In addition FPL is liable for 50 percent of the decommissioning costs both pre-closing and post-closing. FPL's petition asserted that the PSA results in an NPV savings to FPL's customers of \$13.4 million based on a 2031 retirement date by MPC and the PSA closing before December 31, 2024. The actual savings could be impacted by FPL's future cost obligations identified above. Staff reviewed MPC's initial retirement date and reasons for subsequent retirement date extensions, which is discussed in greater detail below.

MPC Retirement Date of Remaining Ownership Interest in Units 1 & 2

At the time the 2022 Operating Agreement was approved, MPC's planned retirement date for its ownership share of Units 1 & 2 was 2027 based on its April 2021 Integrated Resource Plan (IRP) update. Subsequently, MPC's 2024 IRP revised this retirement date to 2028 to meet near-term and medium-term capacity needs while new generation was being built, with further changes possible if capacity needs arose. On January 9, 2025, MPC notified its regulator, the Mississippi Public Service Commission, that it had entered into two separate electric service agreements, totaling approximately 600 MW of load, that would require extending the retirement date for Units 1 & 2 beyond 2028 and into the mid-2030s. Without the PSA, a retirement date beyond 2031 would increase the cost obligation of FPL's customers, while consummation of the PSA would further increase the economic benefit to the same customers.

MPC's retirement of Units 1 & 2 in 2031 is currently the most probable scenario due to existing US Environmental Protection Agency (EPA) greenhouse gas (GHG) rules which were finalized in April 2024. The rules require coal plants to convert to 100 percent gas operation or to install carbon capture equipment in order to remain operational beyond 2031. These costly modifications would most likely require MPC to retire Units 1 & 2 in 2031. However, if the EPA GHG rules are repealed, it may be economical for MPC to continue operating the units beyond 2031. The NPV savings would increase and make a retirement beyond 2031 more beneficial for FPL's customers. Based on staff's review, it is reasonable to assume that MPC's share of Units 1

²Document No. 00416-2025 in Docket No. 20240155

& 2 will continue to operate until at least 2031 based on currently available information and regulatory filings.

Avoided Costs

The common facilities expense includes FPL’s 50 percent allocation of common facilities O&M and capital expenses, such as Jackson County (Mississippi) Port Authority’s Black Creek Cooling Facility maintenance projects, administrative and general expense, and property insurance. The Property/Ad Valorem Tax of \$15.32 million NPV includes two years following retirement for decommissioning of Units 1 & 2. FPL assumes the transaction closing date takes place on July 31, 2025, which FPL identified as the expected closing date with an April 2025 Commission approval. These costs includes both expenses covered in base rates and the ECRC. Using this date and its preferred recovery of the regulatory assets beginning January 1, 2026, FPL projects the estimated net benefit to customers is \$13.4 million, assuming a complete retirement of Units 1 & 2 by MPC in 2031. Table 1-1 outlines the annual and total NPV values by category.

**Table 1-1
 Cost-Effectiveness Analysis for PSA (\$ Millions)**

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	SUM (NPV)
<i>Avoidable Costs</i>												
Common Facilities	(2.9)	(6.5)	(6.6)	(6.9)	(7.0)	(7.1)	(7.3)	0.0	0.0	0.0	0.0	(33.15)
Property/Ad Valorem Tax	-	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	-	-	(15.32)
Avoidable Costs	(2.9)	(9.3)	(9.4)	(9.6)	(9.8)	(9.9)	(10.1)	(2.8)	(2.8)	-	-	(48.47)
<i>Regulatory Asset Costs</i>												
Amortization of Reg Assets	-	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	3.6	23.09
Interest, ROE, Income Tax	1.4	2.8	2.5	2.2	1.9	1.6	1.4	1.0	0.7	0.5	0.1	11.98
Regulatory Asset Costs	1.4	6.4	6.1	5.8	5.5	5.2	4.9	4.6	4.3	4.0	3.7	35.07
Net Customer Costs/Savings	(1.5)	(2.9)	(3.3)	(3.8)	(4.3)	(\$.7)	(5.1)	1.8	1.5	4.0	3.7	(13.40)

Source: FPL’s Response to Staff’s Second Data Request

Conclusion

The PSA between FPL and MPC transferring FPL’s 50 percent ownership in Units 1 & 2 to MPC should be approved as the PSA appears cost-effective.

Date: March 20, 2025

Issue 2: Should the Commission approve FPL's request to create regulatory assets representing its payment to MPC?

Recommendation: Yes, the Commission should approve FPL's request to create a regulatory asset, in the amount of \$31.04 million, representing the base rate portion of the transfer price and allow recovery to begin when base rates are next reset. The Commission should also authorize the creation of a separate regulatory asset, in the amount of \$4.98 million, representing the portion that would have been recovered through the ECRC, to be recovered through the ECRC beginning January 1, 2026. Both regulatory assets should be amortized over a period of 10 years. Furthermore, staff recommends allowing FPL to begin recovery at its next base rate reset, which has been filed as Docket No. 20250011-EI, with a recovery period of 10 years, as well as earn a return on the unamortized asset balance at the Company's overall weighted average cost of capital. (Mason)

Staff Analysis: The amount originally requested by FPL to cover the portion of the transfer price related to otherwise recoverable base rate expenses was \$39.3 million. The original amount requested by FPL related to environmental costs otherwise recovered through the ECRC was \$5.7 million. FPL has proposed a recovery period of 10 years for both the base rate and ECRC regulatory assets, commencing at the resetting of base rates and January 1, 2026, respectively. On February 28, 2025, FPL filed a petition for a base rate increase, with new rates requested to be implemented January 1, 2026. In its petition, FPL highlighted previous Commission Orders approving settlements that established regulatory assets for the purpose of exiting unprofitable generation agreements and thereby creating customer savings.³

The Commission has cited Financial Accounting Standards Board's Accounting Standards Codification 980 Regulated Operations (FASB ASC 980) in previous decisions regarding the approval of regulatory assets. The recognition and establishment of regulatory assets are addressed in FASB ASC 980, which allows a regulated entity to capitalize all or part of an incurred cost, provided that: 1) it is probable that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for ratemaking purposes; and 2) based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. Based on staff's recommendation on the prudence of the transaction transferring ownership of Units 1 & 2 to MPC, as addressed in Issue 1, staff believes the recognition and recovery of each regulatory asset should be approved.

As FPL stated in its initial petition, due to the PSA approval going beyond the original requested date of December 31, 2024, the \$45 million transfer price has been reduced to approximately \$38.1 million to reflect the \$6.9 million in property taxes that FPL was required to pay.

³See Order No. PSC-15-0401-AS-EI issued September 23, 2015 in Docket No. 150075-EI, *In re: Petition for approval of arrangement to mitigate impact of unfavorable Cedar Bay power purchase obligation, by Florida Power & Light Company*; Order No. PSC-16-0506-FOF-EI issued November 2, 2016 in Docket No. 160154-EI, *In re: Petition for approval of a purchase and sale agreement between Florida Power & Light Company and Calypso Energy Holdings, LLC, for the ownership of the Indiantown Cogeneration LP and related power purchase agreement*, and Order No. PSC-2017-0415-AS-EI issued October 24, 2017 in Docket No. 20170123-EI, *In re: Petition for approval of arrangement to mitigate unfavorable impact of St. Johns River Power Park, by Florida Power & Light Company*.

Furthermore, FPL has stated that it is responsible for approximately \$0.3 million in monthly operating costs, which will also reduce the transfer price. According to FPL in its response to staff's second request for data, if approved in April 2025, the PSA would have a price of \$36.02 million, with \$31.04 million being the new value for the portion of the transfer price that represents base rates and \$4.98 million being the portion that represents the environmental costs that would otherwise be recovered through the ECRC. Staff agrees that the creation of regulatory assets worth \$31.04 million and \$4.98 million is the appropriate accounting treatment for recovery of the transfer price related to base rates and environmental costs, respectively. Furthermore, staff recommends allowing FPL to begin recovery at its next base rate reset, which has been filed as Docket No. 20250011-EI, with a recovery period of 10 years, as well as earn a return on the unamortized asset balance at the Company's overall weighted average cost of capital.

Issue 3: Should the Commission approve FPL's request to continue recovering eligible pre-closing environmental costs through the ECRC?

Recommendation: Yes, the Commission should approve FPL's request to continue recovering eligible environmental costs incurred through the closing date of the PSA through the ECRC. (Mason)

Staff Analysis: In its petition, FPL requested the Commission's authorization to continue recovery of eligible prudently incurred pre-closing environmental costs pertaining to FPL's proportionate share of Units 1 & 2 through the ECRC. While the PSA shifts most Common Facilities costs to MPC, FPL remains obligated to cover common costs related to Coal Combustion Residuals produced prior to the Transaction's closing date, as well as other environmental liabilities arising from pre-closing activities. As discussed in Issue 1, staff believes the transaction transferring ownership of the units is prudent. As such, obligated environmental costs incurred prior to the Transaction's closing date should be eligible for recovery through the ECRC. Those costs are still reviewed as part of the annual ECRC proceeding.

Issue 4: Should FPL be permitted to accrue Units 1 & 2 dismantlement costs in base rates until the annual accrual is next reset with the support of a dismantlement study?

Recommendation: Yes. Staff recommends approval of FPL's request to continue to accrue its proportionate share of dismantlement costs associated with Plant Daniel Units 1 & 2 in base rates. (Wu)

Staff Analysis: In its Petition, the Company stated that under the PSA, FPL will retain dismantlement and asset retirement obligations on the existing plant, including decommissioning liabilities related to dismantling Plant Daniel and restoration of the plant site. These obligations are calculated as a percentage of FPL's pre-closing ownership interest.⁴ As such, FPL requests that it be permitted to continue to accrue Units 1 & 2 dismantlement costs in base rates until the annual accrual is next reset with the support of a dismantlement study. The Company claimed that this request is consistent with Paragraph 19 of FPL's 2021 rate case settlement agreement that was approved by the Commission.⁵ Both Orders specify that the base rates, in which the dismantlement accrual amounts are incorporated, in effect at the beginning of the settlement's term will remain in effect until FPL's base rates are next reset in a general base rate proceeding.

On February 28, 2025, FPL filed a new petition for a general base rate proceeding.⁶ With the rate case petition, the Company also submitted an updated dismantlement study which includes the updated dismantlement costs and accruals pertaining FPL's ownership share of Units 1 & 2 for Commission approval.⁷

Staff believes that FPL's request discussed in this issue is in accordance with Rule 25-6.04364(1), Florida Administrative Code, which provides that "[e]ach utility that owns a generating unit is required to establish a dismantlement accrual as approved by the Commission to accumulate a reserve to meet all expenses at the time of dismantlement." Further, the request is inline with Rule 25-6.04364(6), Florida Administrative Code, which specifies that "[a] utility shall not establish a new annual dismantlement accrual, revise its annual dismantlement accrual, or transfer a dismantlement reserve without prior Commission approval."

Based on the above, staff recommends approval of FPL's request to continue to accrue its proportionate share of dismantlement costs associated with Plant Daniel Units 1 & 2 in base rates.

⁴Document No. 09846-2024, paragraph 12.

⁵Order Nos. PSC-2021-0446-S-EI and PSC-2024-0078-FOF-EI, issued December 2, 2021 and March 25, 2024, respectively, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

⁶ Docket No. 2025011-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

⁷Document No. 09846-2024, paragraph 21.

Issue 5: Should this docket be closed?

Recommendation: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Stiller)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order

Item 2

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 20, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Norris) *ALM*
Division of Economics (Hampson) *CP*
Office of the General Counsel (Stiller, Sparks) *JSC*

RE: Docket No. 20250011-EI – Petition for rate increase by Florida Power & Light Company.

AGENDA: 04/01/25 – Regular Agenda – Tariff Suspension – Participation is at the Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: 04/29/2025 (60-day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On February 28, 2025, Florida Power & Light Company (FPL or Company) filed its petition for a permanent rate increase. The Company is a public utility providing electric service as defined in Section 366.02, Florida Statutes (F.S.), to 6 million retail customers throughout both Northwest Florida and the peninsula.

FPL has requested an increase in its retail rates and charges to generate \$1.55 billion in additional gross annual revenue, effective January 1, 2026. The Company also has requested an increase in its retail rates and charges to generate \$927 million in additional gross annual revenue, effective January 1, 2027. FPL asserts that the combined increases will allow the Company an opportunity to earn a return on equity (ROE) midpoint of 11.90 percent. The Company based its requests on projected test years ending December 31, 2026 and December 31,

2027. FPL stated that these test years are the appropriate periods to be utilized because they best represent expected revenues, costs, and investment in the period immediately after the proposed base rates go into effect. FPL has also requested Solar Base Rate Adjustments (SoBRAs) of approximately \$296 million and \$266 million for 2028 and 2029, respectively. The current proposal also includes a Tax Adjustment Mechanism (TAM), which is a non-cash accounting mechanism that accelerates the recording of deferred tax benefits over the proposed 4-year rate period by reversing certain deferred tax liabilities. FPL states it will use the TAM like its predecessor mechanism, the theoretical depreciation reserve surplus (RSAM), to respond to changes in underlying revenues and expenses to avoid additional general base rate increases over the 4-year rate period. In total, the Company is requesting approximately \$9.80 billion in additional revenue over the 4-year rate period. FPL did not request any interim rate relief.

In FPL's most recent base rate proceeding, Docket No. 20210015-EI, the Commission approved a settlement agreement which authorized a revenue increase of \$692 million effective January 1, 2022, and a revenue increase of \$560 million effective January 1, 2023.¹ The settlement agreement provided that retail base rates, with certain exceptions, would be frozen through the last billing cycle in December 2025. Section 16(g) of the settlement agreement permitted FPL to continue to amortize its RSAM beyond December 31, 2025, if the Company provided notice to the Parties of the settlement agreement, prior to March 31, 2025, that it did not intend to seek a base rate increase with an effective date prior to January 1, 2027.² FPL did not exercise this option.

On January 15, 2025, the Commission acknowledged the Office of Public Counsel's notice of intervention in this proceeding.³ On March 17, 2025, the Commission granted petitions to intervene filed by Florida Rising, Inc. (FL Rising), League of United Latin American Citizens of Florida (LULAC), and Environmental Confederation of Southwest Florida, Inc. (ECOSWF); Florida Industrial Power Users Group (FIPUG); Southern Alliance for Clean Energy (SACE); and Florida Executive Agencies (FEA).⁴ A hearing has been tentatively scheduled for August 11-22, 2025.

This recommendation addresses the suspension of the requested permanent rate increase. The Commission has jurisdiction over this matter pursuant to Sections 366.06(2) and (4), F.S.

¹Order No. PSC-2021-0446-S-EI, issued December 2, 2021, in Docket No. 20210015-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

²*Id.*

³Order No. PSC-2025-0020-PCO-EI, issued January 15, 2025, in Docket No. 20250011-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

⁴Order Nos. PSC 2025-0078-PCO-EI; PSC-2025-0080-PCO-EI; PSC 2025-0079-PCO-EI; and PSC-2025-0077-PCO-EI, issued March 17, 2025, in Docket No. 20250011-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

Discussion of Issues

Issue 1: Should Florida Power & Light Company's request for a \$1.55 billion permanent rate increase effective January 1, 2026, a \$927 million permanent increase effective January 1, 2027, SoBRAs of approximately \$296 million and \$266 million for 2028 and 2029, respectively, and the associated tariff revisions be suspended pending a final decision in this docket?

Recommendation: Yes. The \$1.55 billion permanent rate increase effective January 1, 2026, a \$927 million permanent rate increase effective January 1, 2027, SoBRAs of approximately \$296 million and \$266 million for 2028 and 2029, respectively, and the associated tariff revisions should be suspended pending a final decision in this docket. (Norris)

Staff Analysis: FPL filed its petition, testimony, and minimum filing requirements on February 28, 2025. The Company has requested an increase in its retail rates and charges to generate \$1.55 billion in additional gross annual revenue, effective January 1, 2026. FPL also has requested an increase in its retail rates and charges to generate \$927 million in additional gross annual revenue, effective January 1, 2027. Further, FPL has requested SoBRAs of approximately \$296 million and \$266 million for 2028 and 2029, respectively.

Historically, the Commission has suspended requested permanent rate schedules in order to adequately and thoroughly examine the basis for the new rates. Suspension of a requested rate increase is authorized by Section 366.06(3), F.S., which provides:

Pending a final order by the commission in any rate proceeding under this section, the commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such increase, within 60 days, a reason or written statement of good cause for withholding its consent.

Staff recommends that the Commission suspend the requested permanent rate schedules to allow staff and any intervenors sufficient time to adequately investigate whether the request for permanent rate relief is appropriate.

Issue 2: Should this docket be closed?

Recommendation: No, this docket should remain open to process the Company's revenue increase request. (Stiller)

Staff Analysis: This docket should remain open pending the Commission's final resolution of the Company's requested permanent base rate increase.

Item 3

FILED 3/20/2025
DOCUMENT NO. 01952-2025
FPSC - COMMISSION CLERK

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 20, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, Ramos, Smith II) *TB*
Division of Accounting and Finance (Bardin, Sowards) *ALM*
Division of Economics (Bruce, Chambliss) *CD*
Office of the General Counsel (Farooqi) *ACW*

RE: Docket No. 20240117-WU – Application for grandfather certificate to operate water utility in Citrus County by Hash Utilities, LLC. (Forest Hills Water System)

AGENDA: 04/01/25 – Regular Agenda – Proposed Agency Action for Issues 2-4 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 28, 2024, the Board of County Commissioners of Citrus County (County) adopted Resolution No. 2024-040 (Resolution), transferring regulation of the privately-owned, for profit water and wastewater utilities in Citrus County to the Florida Public Service Commission (Commission). Effective upon the adoption of the Resolution, all non-exempt water and wastewater systems in Citrus County became subject of the provisions of Chapter 367, Florida Statutes (F.S.). By Order No. PSC-2024-0267-FOF-WS, the Commission acknowledged the Resolution.¹

¹ Order No. PSC-2024-0267-FOF-WS, issued July 25, 2024, in Docket No: 20240095-WS, *In re: Resolution of the Board of County Commissioners of Citrus County declaring Citrus County subject of the provisions of Sections 367, F.S.*

Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day the chapter becomes applicable to the utility. On August 6, 2024, Hash Utilities, LLC (Forest Hills or Utility) filed an application for a certificate under grandfather rights to provide water service in Citrus County for its Forest Hills water system pursuant to Section 367.171(2), F.S., and Rule 25-30.035, Florida Administrative Code (F.A.C.). Forest Hills' application was found to be deficient, and staff sent a deficiency letter to the Utility on September 17, 2024. The Utility cured the deficiencies on January 27, 2025.

Forest Hills was established in 1972 and provides water service pursuant to a bulk water purchase agreement to approximately 81 residential customers, in single family homes and duplexes, and one general service customer. Wastewater service is provided by septic tank. The Utility's service area is located in the Southwest Florida Water Management District. This recommendation addresses the application for a grandfather water certificate and rates and charges. The Commission has jurisdiction pursuant to Section 367.171, F.S.

Discussion of Issues

Issue 1: Should Hash Utilities, LLC's application for a grandfather water certificate in Citrus County for its Forest Hills water system be acknowledged?

Recommendation: Yes. Forest Hills' application should be acknowledged and the Utility should be issued Certificate No. 687-W, effective May 28, 2024, to serve the territory described in Attachment A. The resultant order should serve as Forest Hills' certificate and should be retained by the Utility. (M. Watts, Bardin)

Staff Analysis: The Utility's application for a certificate under grandfather rights to provide water service in Citrus County is in compliance with Section 367.171(2)(b), F.S., and Rule 25-30.035, F.A.C. The application contains a bulk water purchase agreement with the Citrus County Municipal Service Benefit Unit. Because the Utility does not have a water treatment plant but purchases the water it provides to customers, it does not require proof of access to the land under the treatment plan. Forest Hills also provided an adequate service territory description, and system maps. The territory description is provided in Attachment A.

As stated in the case background, Forest Hills serves approximately 81 residential customers and one general service customer. The Utility does not currently have any outstanding citations, violations, or consent orders on file with the Florida Department of Environmental Protection.

The Utility is aware of its obligation to submit its 2024 Annual Report pursuant to Rule 25-30.110, F.A.C., and is also aware of its obligation to pay regulatory assessment fees pursuant to Rule 25-30.120, F.A.C. In addition, the Utility is aware that it must maintain its books and records according to the National Association of Regulatory Utility Commissioners' Uniform System of Accounts.

Based on the above, staff recommends that Forest Hills be granted Certificate No. 687-W to serve the territory described in Attachment A. The resultant order should serve as the Utility's certificate and should be retained by the Utility.

Date: March 20, 2025

Issue 2: What rates, charges, and deposits should be approved for Forest Hills Utilities, LLC?

Recommendation: Of the Utility's rates, charges, and deposits that were in effect when Citrus County transferred jurisdiction to the Commission, only the rates, charges, and initial customer deposit shown on Schedule No. 1 are appropriate and should be approved. The rates, charges, and initial customer deposit shown in Schedule No. 1 should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets. The Utility should be required to charge the approved rates, charges and initial customer deposit shown in Schedule No. 1 until authorized to change them by the Commission in a subsequent proceeding. (Chambliss)

Staff Analysis: Citrus County Water and Wastewater Authority (CCWWA) approved the Utility's current monthly rates by Final Order 23-03 on August 14, 2023. The bi-monthly water rates consist of a base facility charge (BFC) and gallonage charge per 1,000 gallons. However, it appears that the Utility has not been billing the appropriate rates, which will be addressed in Issue 4. Staff recommends that the rates that were last approved in Final Order 23-03 by Citrus County should be billed to customers and approved by the Commission.

The Utility's water charges consist of miscellaneous service charges and service availability charges, which include a service availability policy. The miscellaneous service charges were put in place under the prior owner. The remaining miscellaneous service charges are not consistent with the Florida Statutes or Commission Rules and are discussed in Issue 3. The Utility's service availability charges were approved in Final Order 24-01 on January 29, 2024.

Staff recommends that, of the Utility's rates, charges, and deposits that were in effect when Citrus County transferred jurisdiction to the Commission, only the rates, charges, and initial customer deposit shown on Schedule No. 1 are appropriate and should be approved. The rates, charges, and initial customer deposit shown in Schedule No. 1 should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets. The Utility should be required to charge the approved rates, charges and initial customer deposit shown in Schedule No. 1 until authorized to change them by the Commission in a subsequent proceeding.

Issue 3: What are the appropriate miscellaneous service charges for Forest Hills Utilities, LLC?

Recommendation: The appropriate miscellaneous service charges shown on Table 3-2 should be approved. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. In addition, the tariff sheets will be approved upon staff’s verification that the tariffs are consistent with the Commission’s decision and that the proposed customer notice is adequate. (Chambliss)

Staff Analysis: The Utility did not request to revise its existing miscellaneous service charges. Section 367.091, F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. Staff recommends that some of the Utility’s existing charges that are set forth in Table 3-1 be revised to conform with Rule 25-30.460, F.A.C. The Utility’s current miscellaneous service charges for water service consist of various charges and are shown on Table 3-1.

**Table 3-1
 Forest Hills Utilities, LLC Existing Miscellaneous Service Charges**

	<u>Existing Charges</u>
Initial Connection Charge	\$45.00
Normal Reconnection Charge	\$45.00
Violation Reconnection Charge	\$45.00
Premises Visit Fee (in lieu of disconnection)	\$45.00
Premises Visit Charge	\$30.00
Late Payment Charge	\$5.00
NSF Charge	Pursuant to Section 68.065, F.S.
Tampering Charge	\$150.00

Source: Utility’s current tariff and response to staff’s deficiencies

Initial Connection, Normal Reconnection Charge, Violation Reconnection Fee, and Premises Visit Fee

As shown on Table 3-1, the Utility currently has an initial connection charge, a normal reconnection charge, a violation reconnection charge, and a premises visit charge of \$45. The Utility also has a premises visit charge of \$30. However, pursuant to Rule 25-30.460, F.A.C., initial and reconnection charges are obsolete and are subsumed in the definition of the premises visit charge. Therefore, staff recommends that the initial and reconnection charges be removed. According to the Utility owner, the premises visit charge of \$30 is assessed when customers request a meter re-read. A meter re-read is usually assessed when an initial reading is not an error of the Utility. Therefore, staff recommends that the premises visit charge of \$30 be removed as it is covered under the premises visit charge of \$45. Staff recommends that the definition for the premises visit charge be updated to comply with Rule 25-30.460, F.A.C.

Tampering or Prohibited Connection or Use Charge

The Utility has a tampering fee of \$150 for water service. Rule 25-30.320(2)(j), F.A.C., provides that a utility may refuse or discontinue service without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of such service, the Utility, before restoring service, may require the customer to make at his own expense all changes in piping or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the deficiency in revenue resulting from the customer's fraudulent use before restoring service. Based on the above, staff recommends that the Utility's tampering charge of \$150 be approved at actual cost.

**Table 3-2
Staff Recommended Miscellaneous Service Charges**

	<u>All Hours</u>
Premises Visit	\$45.00
Violation Reconnection	\$45.00
Tampering or Prohibited Connection or Use Charge	Actual Costs
NSF Charge (Water and Wastewater)	Pursuant to Section 68.065, F.S.
Late Payment Charge	\$5.00

Conclusion

Based on the above, the appropriate water miscellaneous service charges shown on Table 3-2 should be approved. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for service rendered or connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(2), F.A.C. In addition, the tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision and that the proposed customer notice is adequate.

Date: March 20, 2025

Issue 4: Did Forest Hills bill the appropriate rates pursuant to Citrus County Final Order 23-03, and, if not, what is the appropriate action?

Recommendation: The Utility did not bill the appropriate rates pursuant to Citrus County Final Order 23-03. Staff recommends that a docket be opened to investigate improper billing practices and determine the appropriate action. (Chambliss)

Staff Analysis: As mentioned in Issue 2, the Utility is currently charging unauthorized rates. As reflected in the current tariff, Forest Hills bills a bi-monthly BFC of \$27.16 and a gallonage charge of \$5.10 for its residential, multi-residential, and general service customers. Staff contacted Citrus County, which indicated that the Utility's last price index increase was approved in Final Order 23-03 on August 14, 2023.

Subsequently, Citrus County Water and Wastewater Authority was scheduled to meet, on May 20, 2024, to make its decision on Final Order 24-04 for the 2024 price index increase, which was expected to be a 3.24 percent increase. However, the meeting was canceled due to the change of Citrus County jurisdiction in progress with the Commission. The Utility implemented the 3.24 percent increase to its rates in March of 2024 before Citrus County Water and Wastewater Authority could decide on the rates. According to the Utility's tariff, the customers are being overcharged. Staff recommends that this matter should be investigated further.

Based on the above, the Utility did not bill the appropriate rates pursuant to Citrus County Final Order 23-03. Staff recommends that a docket be opened to investigate improper billing practices and determine the appropriate action.

Issue 5: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action portion of this recommendation files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets have been filed by the Utility and approved by staff. Once this action is complete, this docket should be closed administratively. (Farooqi)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action portion of this recommendation files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets have been filed by the Utility and approved by staff. Once this action is complete, this docket should be closed administratively.

DESCRIPTION OF TERRITORY SERVED

Hash Utilities, LLC
Forest Hills Subdivision, Citrus County.

That part of the Southwest 1/4 of the Southeast 1/4 of Section 30, Township 18 South, Range 18 East, Citrus County, Florida, lying North of State Road No. 44, more particularly described as follows:

Begin at the Northwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 30, Township 18 South, Range 18 East, which is the Point of Beginning. Thence go North 88°46'34" East along the North line of said Southwest 1/4 of the Southeast 1/4 a distance of 1,272.6 feet, which is the South side of Safari Rd; thence South 45°02'06" East to the East line of said Southwest 1/4 of the Southeast 1/4 a distance of 164.96 feet; thence South 00°03'06" East along the East line of said Southwest 1/4 of the Southeast 1/4 a distance of 1,220 feet to the Southeast corner of the Southwest 1/4 of the Southeast 1/4 of Section 30; thence South 88°46'34" West a distance of 176.1 feet; thence North 00°03'36" West a distance of 309.5 feet; thence South 88°46'34" West a distance of 168.97 feet; thence North 00°03'36" West a distance of 160.36 feet; thence South 88°46'34" West a distance of 168.97 feet; thence North 00°03'36" West a distance of 80.18 feet; thence South 88°46'34" West a distance of 168.97 feet; thence North 00°03'36" West a distance of 80.18 feet; thence South 88°46'34" West a distance of 168.98 feet; thence North 00°03'36" West a distance of 80.18 feet; thence South 88°46'34" West a distance of 336.41 feet; thence North 00°11'48" West a distance of 46.46 feet; thence South 88°46'34" West a distance of 195.1 feet; thence North 00°11'48" West a distance of 595 feet to the Point of Beginning.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes
Hash Utilities, LLC (Forest Hills)
pursuant to
Certificate Number 687-W

to provide water service in Citrus County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	20240117-WU	Grandfather Certificate

***Order Number and date to be provided at time of issuance.**

**Forest Hills Utilities, LLC
Existing Bi-Monthly Water Rates**

**Residential, Multi-Residential, and General
Service**

Base Facility Charge by Meter Size 5/8" X 3/4"	\$26.33
Charge Per 1,000 gallons	\$4.94

Customer Deposits

Residential and General Service All Meter Sizes	\$85.00
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Miscellaneous Service Charges

Miscellaneous Service Charges

Late Fee	\$5.00
NSF Charge	Pursuant to Section 68.065, F.S.

Service Availability Charges

Customer Connection (Tap-in) Charge 5/8" X 3/4"	\$650.00
Meter Installation Charge 5/8" X 3/4"	\$650.00
1"	\$750.00
Plant Capacity Charge Residential – Per ERC (GPD)	\$795.00

Item 4

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 20, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Lewis, Ramos) *TB*
Division of Accounting and Finance (Bardin, Cicchetti, Norris, Swards) *ALM*
Division of Economics (Sibley, Bruce) *JP*
Office of the General Counsel (Thompson, Crawford) *JSC*

RE: Docket No. 20240118-SU – Application for grandfather certificate to operate wastewater utility in Columbia County, by Kirby D. Morgan, Inc.

AGENDA: 04/01/25 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On May 16, 2024, the Board of County Commissioners of Columbia County (County) adopted Resolution No. 2024R-13 (Resolution), transferring regulation of the privately-owned, for profit water and wastewater utilities in Columbia County to the Florida Public Service Commission (Commission). Effective upon the adoption of the Resolution, all non-exempt water and wastewater systems in Columbia County became subject to the provisions of Chapter 367, Florida Statutes (F.S.). By Order No. PSC-2024-0222-FOF-WS, the Commission acknowledged the Resolution.¹

¹ Order No. PSC-2024-0222-FOF-WS, issued July 1, 2024, in Docket No: 20240089-WS, *In re: Resolution of the Board of County Commissioners of Columbia County declaring Columbia County subject of the provisions of Section 367, F.S.*

Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system shall be entitled to receive a certificate for the area served by such utility on the day the chapter becomes applicable to the utility. On August 6, 2024, Kirby D. Morgan, Inc. (Kirby Morgan or Utility) filed an application for a certificate under grandfather rights to provide wastewater service in Columbia County pursuant to Section 367.171(2), F.S., and Rule 25-30.035, Florida Administrative Code (F.A.C.). Kirby Morgan's application was found to be deficient, and staff sent a deficiency letter to the Utility on August 22, 2024. The Utility cured the deficiencies on January 14, 2025.

Kirby Morgan provides wastewater service to approximately 217 residential customers, in single family homes, located in Eastside Village. Water service is provided by Lake City. The Utility's service area is located in the Suwanee River Water Management District. This recommendation addresses the application for a grandfather wastewater certificate and rates and charges. The Commission has jurisdiction pursuant to Section 367.171, F.S.

Discussion of Issues

Issue 1: Should Kirby D. Morgan, Inc.'s application for grandfather wastewater certificate in Columbia County be acknowledged?

Recommendation: Yes. Kirby Morgan's application should be acknowledged and the Utility should be issued Certificate No. 586-S, effective May 16, 2024, to serve the territory described in Attachment A. The resultant order should serve as Kirby Morgan's certificate and should be retained by the Utility. (Lewis, Bardin)

Staff Analysis: The Utility's application for a certificate under grandfather rights to provide wastewater service in Columbia County is in compliance with Section 367.171(2)(b), F.S., and Rule 25-30.035, F.A.C. The application contains a warranty deed as proof of ownership of the land on which the Utility's facilities are located, an accurate territory description, and adequate service territory and system maps. The territory description is provided in Attachment A.

As stated in the case background, Kirby Morgan serves approximately 217 residential customers. The Utility does not currently have any outstanding citations, violations, or consent orders on file with the Florida Department of Environmental Protection.

The Utility is aware of its obligation to submit its 2024 Annual Report pursuant to Rule 25-30.110, F.A.C., and is also aware of its obligation to pay regulatory assessment fees pursuant to Rule 25-30.120, F.A.C. In addition, the Utility is aware that it must maintain its books and records according to the National Association of Regulatory Utility Commissioners' Uniform System of Accounts.

Based on the above, staff recommends that Kirby Morgan be granted Certificate No. 586-S to serve the territory described in Attachment A. The resultant order should serve as Kirby Morgan's certificate and should be retained by the Utility.

Issue 2: What rates and charges should be approved for Kirby D. Morgan, Inc.?

Recommendation: The Utility's monthly rates that were in effect when the County transferred jurisdiction to the Commission, shown on Schedule No. 1, should be approved. The Utility has no miscellaneous service charges. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by this Commission in a subsequent proceeding. (Sibley)

Staff Analysis: The County approved Kirby Morgan's existing rates by Resolution No. 2011-R13 on March 17, 2011. The rates consist of a single flat rate and no gallonage charge. On February 17, 2025, the Utility filed a revised tariff sheet into the docket file, stating that the miscellaneous service charges tariff sheet filed with the application erroneously contained charges the Utility did not have the authority to charge.² However, the Utility never assessed any miscellaneous service charges to its customers. Currently, the Utility does not have any miscellaneous service charges nor service availability charges. In addition, the Utility does not have customer deposits.

Staff recommends that the Utility's monthly rates that were in effect when the County transferred jurisdiction to the Commission, shown on Schedule No. 1, should be approved. The Utility has no miscellaneous service charges. The rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by this Commission in a subsequent proceeding.

² Document No. 00990-2025.

Issue 3: Should this docket be closed?

Recommendation: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of the final order. (Thompson)

Staff Analysis: Yes. Since there are no pending issues in this docket, the docket should be closed upon the issuance of the final order.

DESCRIPTION OF TERRITORY SERVED

KIRBY D. MORGAN, INC. Wastewater Service Territory

A PART OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 17 EAST AND A PART OF SECTION 3, TOWNSHIP 4 SOUTH, RANGE 17 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF THE SE $\frac{1}{4}$ OF SAID SECTION. 34 AND RUN N 6°20'43" E ALONG THE WEST LINE THEREOF, 136.68 FEET TO THE NORTHWEST CORNER OF LOT 17 BLOCK "A" OF EASTSIDE VILLAGE UNIT 2 FOR A POINT OF BEGINNING. THENCE CONTINUE N 6°20'43" E, 1330.74 FEET TO THE SOUTHEASTERLY RIGHT-OF-WAY OF BAYA AVENUE; THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1474.39, AN INCLUDED ANGLE OF 5°28'48", WHOSE CHORD BEARING IS N 53°33'25" E AND A CHORD DISTANCE OF 140.96 FEET; THENCE N 87°30'43" E 230.41 FEET TO THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF THE G.S. & F. RAILROAD; THENCE S 52°07'56" E ALONG SAID RIGHT-OF-WAY, 162.49 FEET; THENCE S 6°20'43" W, 483.65 FEET;

THENCE S 89°51'02" E, 357.36 FEET; THENCE N 13°20'19" E, 214.29 FEET TO SAID RAILROAD RIGHT-OF-WAY; THENCE S 52°07'56" E ALONG SAID RIGHT-OF-WAY, 1170.54 FEET; THENCE S 31°47'05" W, 335.04 FEET TO THE NORTHEAST CORNER OF SUZANNE SUBDIVISION UNIT 5, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4 PAGE 100 OF THE PUBLIC RECORDS OF COLUMBIA COUNTY, FLORIDA; THENCE CONTINUES 31°47'05" W, 129.2 FEET TO THE NORTH LINE OF SAID SECTION 3; THENCE S 89°50'36" W, 60 FEET TO THE WEST RIGHT-OF-WAY OF PEARL STREET; THENCE S 1°23'36" E ALONG SAID RIGHT-OF-WAY 129.6 FEET MORE OR LESS TO THE CENTERLINE OF A CREEK; THENCE SOUTHWESTERLY ALONG THE MEANDER OF THE CENTERLINE OF SAID CREEK, WHICH FOLLOWS NEAR TO THE FOLLOWING CHORD BEARINGS AND DISTANCES: S 63°04'54" W, 30.86 FEET; S 26°06'04" W, 64.19 FEET; S 80°25'24" W, 62.15 FEET; S 34°39'00" W, 29.11 FEET; S 33°57'54" W, 50.37 FEET; S 72°18'44" W, 88.16 FEET; S 85°29'07" W, 62.81 FEET; N 74°00'46" W, 18.73 FEET; N 79°05'46" W, 23.82 FEET; S 81°11'14" W, 59.00 FEET; S 64°54'26" W, 36.3 FEET; S 51°25'14" W, 41.00 FEET; S 76°17'04" W, 71.40 FEET TO THE SOUTHWEST CORNER OF LOT 1 OF SUZANNE SUBDIVISION UNIT 5 ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 4 PAGE 100 OF THE PUBLIC RECORDS OF COLUMBIA COUNTY, FLORIDA; THENCE CONTINUE ALONG SAID CREEK S 79°48'17" W, 43.15 FEET; S 27°01'33" W, 30.42 FEET; N 29°30'01" W, 26.27 FEET; S 33°14'49" W, 46.87 FEET; S 68°29'07" W, 38.38 FEET; N

82°41'45" W, 31.13 FEET; S 55°33'23" W, 43.13 FEET; S 38°59'15" W, 25.00 FEET, TO THE SOUTHWEST CORNER OF LOT 3 BLOCK "D" OF EASTSIDE VILLAGE UNIT 2 ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 5, PAGES 137-137A OF THE SAID PUBLIC RECORDS; THENCE CONTINUE ALONG THE MEANDER OF THE CENTERLINE OF SAID CREEK; S 38°59'55" W, 21.85 FEET; N 52°04'35" W, 21.08 FEET; S 18°38'29" W, 29.62 FEET; S 67°53'37" W, 44.07 FEET; N 19°38'08" W, 51.61 FEET; S 80°14'19" W, 89.19 FEET; N 30°21'55" W, 19.42 FEET; S 62°43'43" W, 92.18 FEET; S 5°31'19" E, 52.04 FEET; S 68°39'52" W, 81.80 FEET; N 65°04'52" W, 105.25 FEET; S 20°53'15" W, 52.55 FEET; N 82°46'58" W, 109.19 FEET; S 66°03'58" W, 120.37 FEET; S 42°23'20" W, 86.66 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF EASTSIDE VILLAGE UNIT III AS PER PLAT THEREOF RECORDED IN PLAT BOOK 6 PAGE 65 OF SAID PUBLIC RECORDS; THENCE CONTINUE ALONG THE MEANDER OF SAID CENTERLINE, S 47°17'22" W, 216.25 FEET; S 34°02'02" W, 41.48 FEET; S 74°10'53" W, 285.0 FEET; S 8°09'42" W, 19.86 FEET; S 58°21'50" W, 24.41 FEET; S 34°40'57" W, 35.69 FEET; S 8°50'16" W, 27.89 FEET; S 11°25'26" E, 71.85 FEET; S 51°23'04" W, 70.94 FEET; S 72°37'09" W, 26.37 FEET; S 55°40'39" W, 57.01 FEET; S 15°16'39" W, 61.72 FEET; S 82°45'03" W, 18.63 FEET; S 60°46'49" W, 46.0 FEET; S 48°33'19" W, 61.39 FEET; S 66°42'05" W, 32.29 FEET; S 46°52'45" W, 35.78 FEET; S 39°43'00" W, 61.06 FEET TO ITS INTERSECTION WITH THE SOUTH LINE OF THE NE¼ OF NW¼ OF SAID SECTION 3; THENCE S 88°52'08" W, 605.43 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE N 1°49'57" W ALONG THE WEST LINE OF SAID NE¼ OF NW¼ 1070.99 FEET; THENCE N 88°56'56" E, 134.92 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 224.54 FEET, A CHORD BEARING OF N 30°07'31" E, AND A CHORD DISTANCE OF 92.16 FEET, FOR AN ARC DISTANCE OF 92.83 FEET; THENCE S 30°01'43" E, 171.63 FEET TO THE SOUTHERNMOST CORNER OF LOT 1 BLOCK "F" OF SAID EASTSIDE VILLAGE UNIT 2; THENCE N 22°46'18" E, 98.92 FEET; THENCE N 88°55'54" E, 860.0 FEET TO THE SOUTHEAST CORNER OF LOT 12 OF SAID BLOCK "F"; THENCE N 1°04'06" E, 39.32 FEET; THENCE S 87°19'34" E, 193.38 FEET TO THE SOUTHEAST CORNER OF LOT 1, BLOCK "E", OF SAID EASTSIDE VILLAGE UNIT 2; THENCE N 1°04'06" E, 83.17 FEET TO THE SOUTH LINE OF DOGWOOD DRIVE; THENCE N 88°55'54" E, 115.77 FEET; THENCE S 46°56'00" E, 22.28 FEET; THENCE N 88°45'28" E, 67.24 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 40.0 FEET, AN INCLUDED ANGLE OF 85°20'31", FOR AN ARC DISTANCE OF 59.58 FEET; THENCE N 5°53'56" W, 28.20 FEET; THENCE N 6°20'43" E, 65.71 FEET TO THE SOUTHWEST CORNER OF LOT 2 OF BLOCK "B" OF SAID EASTSIDE VILLAGE UNIT 2; THENCE N 88°45'28" E, ALONG THE SOUTH LINE OF SAID LOT 2 AND EXTENDING ACROSS THE SOUTH LINE OF LOTS 3, 4, 5 AND 6 OF SAID BLOCK "B", 398.29 FEET; THENCE S 82°32'32" E, 94.57 FEET TO THE SOUTHEAST CORNER OF LOT 1 BLOCK "C" OF SAID EASTSIDE VILLAGE UNIT 2;

THENCE N 0°47'32" W ALONG THE EAST LINE OF SAID LOT 1 BLOCK "C", 108.0 FEET TO THE SOUTH RIGHT-OF-WAY OF PEARL STREET; THENCE N 82 ° 32' 32" W, 67.32 FEET.; THENCE N 87°45'10" W, 100.66 FEET; THENCE N 0°30'09" E, 11.02 FEET TO THE CENTERLINE OF PEARL STREET; THENCE S 88°45'28" W ALONG SAID CENTERLINE, 332.02 FEET; THENCE N 6°20'43" E, 13.51 FEET; THENCE N 83°39' 17" W, 144.0 FEET TO THE POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

authorizes
Kirby D. Morgan, Inc.
pursuant to
Certificate Number 586-S

to provide wastewater service in Columbia County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

Order Number	Date Issued	Docket Number	Filing Type
*	*	20240118-SU	Grandfather Certificate

*Order Number and date to be provided at time of issuance.

**Kirby D. Morgan, Inc.
Monthly Wastewater Rates**

Residential and General Service

Base Facility Charge by Meter Size

Flat Rate

\$44.09

Item 5

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 20, 2025

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (M. Watts, King, Ramirez-Abundez, Ramos, Smith II) *TB*
 Division of Accounting and Finance (Norris, Przygocki, Sowards) *ALM*
 Division of Economics (Bruce, Sibley) *CP*
 Office of the General Counsel (Dose, Crawford, Thompson) *JSC*

RE: Docket No. 20240032-SU – Application for certificate to provide wastewater service in Charlotte County by Environmental Utilities, LLC.

AGENDA: 04/01/25 – Regular Agenda – Post Hearing Decision – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: Graham, Clark, Passidomo Smith

PREHEARING OFFICER: Passidomo Smith

CRITICAL DATES: 04/29/25 (90 days under Section 120.569(2)(1), Florida Statutes, to render final order following administrative hearing)

SPECIAL INSTRUCTIONS: None

Case Background

Section 367.011(3), Florida Statutes (F.S.), provides that regulation of water and wastewater utilities is in the public interest as an exercise of the police power of the state for the protection of the public health, safety, and welfare. The provisions of Chapter 367, F.S., are to be liberally construed for accomplishment of this purpose. Section 367.031, F.S., gives the Florida Public Service Commission (Commission) the authority to issue a utility a certificate of authorization to serve a specific water or wastewater service area. Section 367.045(1)(b), F.S., authorizes the Commission to require each applicant for an initial certificate to provide all information required by rule or order of the Commission which includes a detailed inquiry into the ability of the

applicant to provide service, the area and facilities involved, the need for service in the area involved, and the existence or nonexistence of service from other sources within geographical proximity.

On February 12, 2024, Environmental Utilities, LLC (EU or Utility) filed its Application for an Original Certificate to Provide Wastewater Service in Charlotte County pursuant to Section 367.031, F.S., and Rule 25-30.033, Florida Administrative Code (F.A.C.). The Utility seeks to provide central sewer service to certain residents of the barrier islands of Little Gasparilla, Don Pedro, and Knight Islands, which are currently served by septic tanks. The proposed service territory includes an estimated 964 existing equivalent residential connections (ERCs) and 284 potential future ERCs, for a total of 1,248 ERCs at buildout. The Utility seeks to begin serving customers in 2026.

EU previously filed an application to provide central sewer service to the same geographic area in Docket No. 20200226-SU (2020 Docket). The Commission denied the Utility's request because EU did not demonstrate a need for service, and therefore, its request for certification was found not to be in the public interest.¹

Timely objections to EU's application in this docket were filed on behalf of Palm Island Estates Association, Inc. (PIE), Linda Cotherman (LC), and Little Gasparilla Island Preservation Alliance (LGIPA) (collectively, the Intervenors). The Intervenors raised a number of issues in their filings, some of which are relevant and some of which are not relevant, to a Commission proceeding for approval of an original certificate and initial rates and charges. The issues which were established in this case are guided by the requirements in Sections 367.031 and 367.045, F.S., and the administrative rules implementing those sections. The Commission will only address the issues for which it has been given jurisdiction by the Florida State Legislature. Therefore, the Commission will not address the approval of the system design, environmental concerns, or legal issues concerning easements, as these issues are within the purview of other regulatory bodies.

On January 28, 2025, the Commission held an evidentiary hearing in Englewood, Florida. The technical portion of the hearing was followed by two service hearings: one on January 28, 2025, and one the following morning on January 29, 2025. A total of 104 people spoke at the service hearings and over 440 written comments were received in the docket file during the pendency of the proceedings.

EU, PIE, LGIPA and LC filed post-hearing briefs on February 28, 2025. The Commission has jurisdiction pursuant to Sections 367.011, 367.031, 367.045, 367.081, and 367.101, F.S.

¹ Order No. PSC-2022-0267-FOF-SU, dated July 8, 2022, in Docket No. 20200226-SU, *In re: Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC.*

Discussion of Issues

Issue 1: Has Environmental Utilities, LLC met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code?

Recommendation: Yes. The Utility properly notified potential customers of its application and met the noticing requirements of Rule 25-30.030, F.A.C. The application meets all other requirements of Rule 25-30.033, F.A.C. (M. Watts)

Position of the Parties:

LC: No.

LGIPA: No, EU has not met the filing requirements because EU has not satisfied all of the requirements set forth in Rule 25-30.033, F.A.C., including a need for service, consistency with the Comprehensive Plan and Sewer Master Plan, financial and technical ability, and continued use of the land, i.e., easements. Additionally, EU has not satisfied the noticing requirements because the grinder sewer system proposed in its rebuttal case was not noticed with EU's original Application.

PIE: No, Environmental Utilities has not met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code

EU: Yes.

Staff Analysis:

ANALYSIS

For original certificates, Rule 25-30.030, F.A.C., requires a utility to notice relevant local government authorities, nearby utility entities, and each owner of property within the proposed service territory. The notice must contain a description of the proposed service area, contact information, and instructions on how potential customers could file objections with the Commission. The Utility provided affidavits of noticing as required by Rule 25-30.030(5), F.A.C. (EXH 48) Several potential customers, including PIE, LGIPA, and LC, timely objected to EU's application for an original certificate after receiving this notice. Based on staff's review of the record, it appears that the Utility has met the noticing requirements of Rule 25-30.030, F.A.C.

Rule 25-30.033(1), F.A.C., requires a utility to file with its application certain information, including a description of the proposed utility, technical and financial information, a description of the proposed service territory, need for service, and other documentation. On February 27, 2024, EU filed its application pursuant to the rule. (EXH 5) On May 13, 2024, the Utility filed a service territory modification deleting Hideaway Bay Beach Club (Hideaway Bay) from the proposed service territory. (EXH 48) If the requested amendment had been to add territory, which would include prospective customers or landowners who had not received notice, EU would have been required to issue a second round of notices. Staff reviewed and verified the amended legal description and territory map filed pursuant to the request for service territory

Date: March 20, 2025

modification. (EXH 50) The proposed service territory is included in this recommendation as Attachment A.

PIE and LC contended in their briefs that the changes to the information required by Rule 25-30.033(1), F.A.C., provided through discovery and rebuttal testimony, constituted a material change to the application such that the application required amendment. (PIE BR 5; LC BR 5) LGIPA argued in its brief that EU's application did not establish a need for service, did not demonstrate the financial or technical ability to serve the requested territory, failed to provide evidence that it has continued use of the land upon which treatment facilities will be located, and that the application is not in the public interest. LGIPA further contended that EU did not satisfy the noticing requirements because EU did not include notice of the grinder sewer system in its original application. (LGIPA BR 3-4) As such, the Intervenor argue that the application EU filed does not meet the filing requirements of Rule 25-30.033, F.A.C. However, staff does not agree. Commission rules do not require an applicant to file an amendment to its application when information is supplemented, amended, or clarified during the certification process. Staff believes this would not only be inefficient but also could be an additional cost to a utility and potentially its customers. Section 367.031, F.S., clearly contemplates that obtaining a certificate of authorization is only a first step towards the construction and operation of a utility.² Docket No. 160220-WS provides a relevant example.³ In that docket, the applicant filed an application for original water and wastewater certificates, proposing to build a water and a wastewater treatment plant to provide service to the prospective customers. The Commission granted the certificates, and approved a rule waiver to bifurcate the certification and rate-setting portions of the application. When the applicant filed the information required to set the rates, the method to provide wastewater service had changed from building and operating the treatment plant to purchasing bulk wastewater treatment. The Commission did not require an amendment to the application, but determined the rates based on the information provided. Staff believes the Utility provided the information required by Rules 25-30.030 and 25-30.033, F.A.C., in its testimony and exhibits from its witnesses, and provided supplemental information needed for its application through discovery. (EXH 5; TR 310-311; EXH 33; TR 357-361; EXH 39) This information not only meets the requirements of the rules, but also allowed the Intervenor the opportunity to review and vet this information during the pendency of the hearing process.

CONCLUSION

Staff recommends that the Utility properly notified potential customers of its application and met the noticing requirements of Rule 25-30.030, F.A.C. The application meets all other requirements of Rule 25-30.033, F.A.C.

² "...A utility must obtain a certificate of authorization from the commission prior to being issued a permit by the Department of Environmental Protection for the construction of a new water or wastewater facility or prior to being issued a consumptive use or drilling permit by a water management district." Section 367.031, F.S.

³ Order No. PSC-17-0059-PAA-WS, issued February 24, 2017, in Docket No. 160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.*

Date: March 20, 2025

Issue 2: Is there a need for service in Environmental Utilities, LLC's proposed service territory?

Recommendation: Yes. The Utility has provided the four items, required by Rule 25-30.033(1)(k), F.A.C., an applicant must provide to demonstrate a need for service, including requests for service from existing property owners and potential developers. In addition, a resolution adopted by the Charlotte County Board of County Commissioners affirming a need for service was provided. (M. Watts)

Position of the Parties:

LC: No.

LGIPA: No, EU has not established a need for service in the proposed service territory, either through requests for service or an environmental or public health and safety need.

PIE: No, EU has not established a need for service

EU: Yes. Central wastewater service is needed at this time as set forth by expert witness Lapointe, the Sewer Master Plan and Resolution 2023-155, and it is a priority of Charlotte County

Staff Analysis:

ANALYSIS

Section 367.045(1)(b), F.S., requires an examination of the need for service in the proposed service territory. Pursuant to Rule 25-30.033, F.A.C., an applicant for an original certificate must provide a statement showing the need for service in the proposed territory. Rule 25-30.033(k), F.A.C., which is discussed more fully below, provides certain information a utility must provide to establish need. Although PIE quoted Rule 25-30.033(k), F.A.C., in its brief, neither it nor the other Intervenor provided arguments that specifically addressed all the rule requirements. The Intervenor instead focused their arguments on the lack of environmental need, inconsistencies with the Comp Plan, lack of local support, and lack of County support for EU's application. Specifically, the Intervenor argued that there was no water quality testing in the bridgeless barrier islands in the proposed service territory to show that septic systems caused pollution or health and safety problems. (LC BR 5-7; PIE BR 5-7; LGIPA BR 7) LC argued that water quality standards are already met in the waters surrounding the proposed service area. (LC BR 6-7) PIE and LGIPA contended that EU only raised hypothetical environmental concerns without demonstrating that any actual environmental damage has occurred. (PIE BR 6-7; LGIPA BR 6-7) LC and PIE contended that the Comp Plan supports septic on the bridgeless barrier islands. (LC BR 7-8; PIE BR 7-12) The Intervenor all argued that there was a lack of substantial local support for service from potential customers. (PIE BR 12-13; LC BR 8-9; LGIPA BR 4-6) LC and LGIPA additionally claimed that there was little evidence of County support for EU's application (LC BR 9-10; LGIPA BR 8).

In the 2020 Docket, the Utility did not provide any requests for service. Typically, when an applicant provides one or more requests for service to demonstrate need, no additional factors are

considered apart from the rule requirements to establish need.⁴ Since the Utility did not provide any requests for service, the Commission considered other factors that the Intervenors discussed in their briefs. However, based primarily on the fact that EU did not provide any requests for service, the Commission determined that the record did not support a need for service.⁵ In contrast, in the instant docket, EU's application included 29 requests for service from current property owners and developers. (EXH 5, BSP 55-63)

As in the 2020 Docket, there continues to be a high level of opposition to EU's proposal by its prospective customers. PIE witness McCully testified that the overwhelming majority of the members of PIE, a voluntary homeowner's association representing 240 households and over 390 individuals, opposed the notion of septic to sewer conversion and preferred to remain on septic systems. (TR 151) However, under cross examination, witness McCully stated, "We don't wish to engage in the debate over the environmental benefits of central sewer versus on-site septic systems. Our opposition is and always has been that our membership opposes the installation of central sewer by a privately owned, for-profit utility." (TR 157; EXH 57) Similar to witness McCully, LGIPA witness Weibley testified that no member of LGIPA had expressed support for EU's application. Witness Weibley stated that its 241 members were polled on the issue, and 229 stated that they were opposed to the application, five were neutral, and seven did not respond. None expressed support. (TR 218) The written comments submitted in the docket were largely in opposition to the Utility's application, with a small minority in support.

Of the 104 people who testified at the service hearings, only 10 indicated support for EU's application, and one speaker was neutral. (1/28 S-TR 16, 18, 32, 65, 68, 121-124, 149; 1/29 S-TR 17, 27, 42, 147) Ninety-three people testified against the application, and multiple prospective customers testified that they have their septic systems inspected and serviced regularly, that their septic systems are working, and that they do not need or want central wastewater service. (1/28 S-TR 100, 105, 127, 132, 137, 155, 157; 1/29 S-TR 18, 30, 37, 61, 63, 80, 90, 99, 103, 110) Several more prospective customers testified that their septic systems work fine, particularly even after the impacts from storms caused power outages and other damage.

The common theme amongst the opposition testimony was that the prospective customers do not need the sewer system as they already have a functioning septic tank. However, our rules do not specifically define "need for service." Instead, Rule 25-30.033(1)(k), F.A.C., requires a utility to provide certain information to prove a need for service exists. The rule first requires the utility to

⁴ See Order No. PSC-13-0484-FOF-WS, issued October 15, 2013, in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services cf Hendry & Collier, LLC*; Order No. PSC-17-0059-PAA-WS, issued February 24, 2017, in Docket No. 160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC*; Order No. PSC-2022-0193-FOF-WS, issued May 25, 2022, in Docket No. 20190168-WS, *In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc.*; Order No. PSC-2022-0437-PAA-WS, issued December 27, 2022, in Docket No. 20220088-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Sumter County, by Middleton Utility Company, LLC*; and Order No. PSC-2024-0380-PAA-WS, issued August 28, 2024, in Docket No. 20240023-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Lake County, by North Lake County Water & Sewer Company LLC*.

⁵ Order No. PSC-2022-0267-FOF-SU, dated July 8, 2022, in Docket No. 20200226-SU, *In re: Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC*, pp. 10-11.

Date: March 20, 2025

provide the number of customers currently being served and proposed to be served by customer class and meter size, including the types of customers to be served. In the application, witness Boyer gives the number of current and proposed customers, and states that virtually all are single family homes. (EXH 5, BSP 23) Wastewater customers do not have wastewater meters. Therefore, the information provided by EU is sufficient for the purposes of this subsection of the rule.

Second, the rule requires the utility to provide a copy of all requests for service from property owners or developers in areas not currently served. As noted above, the application contained 29 requests from developers, current residents, and one landowner with a house under construction. At the service hearing, the speakers challenged the number of requests because some are from family members, friends, and developers who requested service for multiple properties. (1/28 S-TR 97, 147-148; 1/29 S-TR 78-79) However, the Commission has never considered the relationship of a requester to the utility owner in considering a need for service, nor has it given weight to the relative number of requests. It is not uncommon for the Commission to grant certificates to utilities owned by a developer, accepting the request from the owner of the development company for service when the utility is owned by the same individual as proof of a need for service.⁶

Third, the rule to establish need for service requires the utility to provide the current land use designation of the proposed service territory as described in the local comprehensive plan. The application states that the current land use designation is Compact Growth, Mixed Use. (EXH 5, BSP C2-23) However, according to the Charlotte 2050 Comprehensive Plan (Comp Plan), the correct land use designation is Coastal Residential. (EXH 53, BSP E627)

Finally, the rule requires the utility to provide any known land use restrictions. In its application, EU stated that it knew of no land use restrictions in the proposed service territory. LC asserted there were multiple land use restrictions in the Comp Plan and from other government agencies. (LC BR 4, 11) LC indicated that the Utility would need multiple permits to deal with these restrictions. (LC BR 7; EXH 27, BSP C13-835) When LC questioned EU witness Boyer about permits, witness Boyer replied that dealing with permitting requirements was in the Utility's budget as part of standard engineering and construction costs. He went on to testify that Florida Power & Light Company, an electric utility providing service to the area, as well as three other water utilities, have dealt with these issues in the proposed service area multiple times, and that EU is familiar with the process. (TR 144) While the Comp Plan is discussed in greater detail in Issue 3, staff notes that LC's permitting concerns are not under the jurisdiction of the Commission, and therefore, will not be addressed by this recommendation.

⁶ See Order No. PSC-2022-0193-FOF-WS, issued May 25, 2022, in Docket No. 20190168-WS, *In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc.* (2 letters, one from the applicant's parent company, a developer with over 8,000 acres to develop, the other from a mining company requesting service for over 3,000 acres it owned which would soon be ready for development); Order No. PSC-17-0059-PAA-WS, issued February 24, 2017, in Docket No. 160220-WS, *In re: Application for original water and wastewater certificates in Sumter County, by South Sumter Utility Company, LLC.* (1 request from the developer (the Villages), an affiliated company)

Date: March 20, 2025

Following the 2020 Docket, the Charlotte County Board of County Commissioners (BOCC) adopted Resolution No. 2023-155 (Resolution), which supports the Utility's application for a wastewater certificate for the proposed service territory.⁷ The Resolution specifically requests that:

. . . the PSC assist the County in protecting our waters and enhance the health, safety and welfare of Charlotte County by approving Environmental Utilities, Inc.'s application for a wastewater certificate to provide central wastewater service to the Barrier Islands.

(EXH 14, BSP C6-597)

PIE witness Hardgrove objected to the Resolution on the grounds that it was not reviewed by planning department professionals for Comp Plan consistency and was presented at the meeting on the consent agenda. (TR 172, 176-177) In its brief, PIE argued that the Resolution merely stated that EU's application was consistent with the Comp Plan without any supporting evidence. PIE further stated that EU's application remains contradictory to the Comp Plan as the Resolution did nothing to change the Comp Plan. (PIE BR 10-11) LC's exhibit echoed witness Hardgrove's concerns with the Resolution. (EXH 27, BSP C13-834) In her brief, LC stated that the application remains inconsistent with the Comp Plan. (LC BR 11) Nonetheless, the Resolution affirms the County's concerns regarding the current septic systems' impact on the area, and purports that the proposed system is "not inconsistent" with the Comp Plan or the Sewer Master Plan (SMP). (EXH 14)

Additionally, the Charlotte County Code of Ordinances, Section 3-8-41(a) (Mandatory Connection Ordinance), requires all developed property to connect the plumbing system for any structure on the property to an available public or private sewer system within 365 days after written notification by the public or private sewer system that the system is available for connection. (EXH 5, BSP C2-72) LGIPA noted that the Commission found that the Mandatory Connection Ordinance did not establish a need for service simply by existing. (LGIPA BR 8). LGIPA argued that, since there have been no changes to the County ordinances since the previous decision, that the ordinance should continue to be given no weight by the Commission. (LGIPA BR 8) Staff agrees that the Mandatory Connection Ordinance does not establish need for service. Need for service is established via Rule 25-30.033(1)(k), F.A.C., as discussed above.

Since the Utility provided the information required by Rule 25-30.033(1)(k), F.A.C., including requests for service by property owners and developers, the record does support a need for service based upon these requests. Also, the County's Resolution states the County's belief that there is a need for wastewater service in the proposed territory.

⁷ The Utility also provided evidence that Charlotte County previously supported the Utility's septic-to-sewer conversion project in 2002. (EXH 66)

CONCLUSION

EU has provided the four items required by Rule 25-30.033(1)(k), F.A.C., to demonstrate a need for service: the number of customers proposed to be served; a copy of all requests for service from property owners or developers in areas not currently served; the current land use designation; and any known land use restrictions. In addition, a resolution adopted by the Charlotte County Board of County Commissioners affirming a need for service was provided. Based on the foregoing, staff recommends that EU has demonstrated there is a need for service in the proposed service area.

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

Recommendation: EU’s application does not appear to be consistent with the County’s Comprehensive Plan but does appear to be consistent with the Sewer Master Plan. However, the County’s Resolution establishes support for EU’s application, and the Commission is not bound by Charlotte County’s Comp Plan or Sewer Master Plan. (M. Watts, Thompson, Dose)

Position of the Parties:

LC: No.

LGIPA: EU’s Application is inconsistent with Charlotte County’s Comprehensive Plan and Charlotte County’s Sewer Master Plan.

PIE: No, the application is inconsistent with Charlotte County’s Comprehensive Plan and Sewer Master Plan.

EU: Yes as to both.

Staff Analysis:

ANALYSIS

Under Section 367.045(5)(b), F.S., when granting or amending a certificate of authorization, the Commission need not consider whether the issuance or amendment of the certificate of authorization is inconsistent with the local comprehensive plan of a county or municipality unless a timely objection to the notice required by this section has been made by an appropriate motion or application. If an objection has been timely made, the Commission shall consider, but is not bound by, the local comprehensive plan of the county or municipality.⁸ Unlike a local comprehensive plan, there is no statutory or rule requirement that the Commission consider the County’s Sewer Master Plan (SMP). Just as the Commission is not bound by a local comprehensive plan in a certificate proceeding, staff believes that a document such as the SMP – which is not contemplated in Section 367.045, F.S., or Rule 25-30.033, F.A.C. – is not binding upon the Commission. However, consistency with the SMP was identified as an issue in this proceeding, and there was substantial evidence and discussion at the hearing regarding this issue. The SMP and Comp Plan are both discussed below.

The Utility states in its application that, according to the SMP, all areas within a certain environmental impact score range should be converted from septic to sewer within five years, including the proposed service territory.⁹ (EXH 5 BSP C2-41) The SMP does not indicate that

⁸ *City of Oviedo v. Clark*, 699 So. 2d 316, 318 (Fla. 1st DCA 1997) (“The plain language of the statute only requires the Commission to consider the comprehensive plan. The Commission is expressly granted discretion in the decision of whether to defer to the plan.”)

⁹ The Sewer Master Plan used an environmental impact level scoring criteria to identify project areas as part of its methodology to prioritize areas for future capital improvement plans, which also considered infrastructure sequencing, utility input, cost considerations, and other factors. The environmental impact level score is an average of three factors, which are each given a score between 1 and 5. Those factors are: (1) proximity to surface waters;

Date: March 20, 2025

the conversion of all similarly scored areas should be accomplished within five years, but the proposed service territory was included in the five-year plan.¹⁰ (EXH 5 BSP C2-144, C2-152) PIE argued that the only projects on the bridgeless barrier islands are for connecting existing private wastewater utilities to the County infrastructure, and that the Comp Plan would need to be amended to allow the proposed project to be implemented. (PIE BR 14) LC also argued that the SMP only addresses the two existing systems in its 5-Year Improvement Plan, and no other systems in its 10-Year and 15-Year Improvement Plans. (LC BR 12) However, staff notes that while the overall objectives of the SMP purport to encompass the benefits to the County at large and thus provided the scoring criteria for all areas of the County not served by central wastewater service, the specific buildout and capital improvement plans apply to the areas that the County intends to expend County funds to implement. (EXH 5, BSP C2-110, C2-134-157, C2-244-255) Additionally, LGIPA argued that the SMP has not changed since the 2020 Docket, and since the Commission concluded then that the application did not appear to be consistent with the SMP, it should make the same finding in the instant docket. (LGIPA BR 11) However, staff believes that to the extent that the proposed service territory is identified as an area that would benefit from septic-to-sewer conversion, EU's application is consistent with the SMP.

PIE and LC provided several examples in their briefs of policies within the Comp Plan that they asserted were inconsistent with EU's application. LC argued that Future Land Use (FLU) Policy 3.2.4 states that sanitary sewer services may not be extended outside the Urban Service Area with the exception of where it has been clearly demonstrated that a health problem exists for which there is no other feasible solution, and EU has not provided evidence such health problem exists. She also contends that the Barrier Island Overlay District (BIOD) language in the FLU Element Appendix I prohibits the wastewater system in the proposed service area. (LC BR 11) In its brief, PIE echoed LC's arguments regarding FLU Policy 3.2.4. (PIE BR 8-10) PIE also argued that the Utility's proposal is inconsistent with a policy for the bridgeless barrier islands due to the difficulty of transporting items to and from the islands, and incentivizes transferring development rights off the island. (PIE BR 11) PIE also cited Coastal Planning (CST) Policy 3.2.7 which states that the County shall not provide nor allow infrastructure and service to be provided to offshore islands, coastal swamps, marshland and beaches, as well as Water and Sewer (WSW) Policy 3.2.4 which states that the County shall discourage expansion of the service areas regulated by the Commission outside the Urban Service Area. (PIE BR 12) LGIPA argued that the Resolution did not equate to consistency with the Comp Plan, and EU witness Watson, who sponsored the Resolution as an exhibit, was unknowledgeable about the Comp Plan. (LGIPA BR 9-10) Additionally, LGIPA adopted PIE's argument on the issue, and stated that the Commission's conclusion regarding the Comp Plan's inconsistency with the Utility's application in the 2020 Docket should remain the Commission's conclusion in the instant docket. (LGIPA BR 10; EXH 16, BSP C7-612-C7-617; EXH 27, BSP C13-832-C13-834)

Upon review, staff does not entirely agree with the Intervenor's assessments of the applicability of the Comp Plan citations to the proposed system. First, LC's argument that the BIOD language in the FLU Element Appendix I prohibits the wastewater system in the proposed service area.

(2) age of septic tanks; and (3) nitrogen loading. The impact scores of the areas addressed in this docket are those that range from 4 to 5. (EXH 5 BSP C2-144, C2-152)

¹⁰ The Sewer Master Plan prioritizes conversion for more than 30 areas with an average impact score of 4 to 5. (EXH 5 BSP C2-144) Only 14 are included in the 5-year plan. (EXH 5 BSP C2-152)

Date: March 20, 2025

Staff notes that this element states, “The County shall not expand the scope of potable water or sanitary sewer service to the bridgeless barrier islands.” Staff does not believe that this supports LC’s position on this issue as the County is not the one that would be expanding wastewater service to the bridgeless barrier islands. Second, CST Policy 3.2.7 is entitled, “Infrastructure and Services to other than the Bridgeless Barrier Islands.” This policy is applicable to “offshore” islands and specifically states that services to the Bridgeless Barrier Islands are addressed in the BIOD in the FLU Element Appendix I. As such, it is not applicable to the proposed service territory. Third, WSW Policy 3.2.4 states:

The County shall discourage expansion of the service areas of utility companies regulated by the Florida Public Service Commission (PSC) to any areas outside of the Urban Service Area, in accordance with **FLU Policy 3.2.5: Support Economic Viability of Agricultural Lands** and Special Provision 1(b) of the Rural Settlement Overlay District contained in FLU Appendix I.

(EXH 53, BSP E743) (emphasis in original)

Staff notes that this policy specifically restricts expansion of service areas of utilities regulated by the Commission outside of the Urban Service Area to “agricultural” lands (FLU Policy 3.2.5), which the proposed service territory is not, and to the Rural Settlement Overlay District, which is a special district located on the eastern edge of the County. Finally, PIE witness Hardgrove testified that FLU Policy 3.2.4, cited in both LC’s and PIE’s briefs, was the most significant one. (TR 160) This policy provides:

FLU Policy 3.2.4: Limitation on the Extension of Urban Infrastructure
Infrastructure such as water and sewer utilities and stormwater facilities within the Rural Service Area shall reflect a rural level of service and shall not be modified to the point that it allows for urban development. The County shall prohibit the provision of water and sewer infrastructure within the Rural Service Area¹¹

Of all the Comp Plan inconsistencies argued by the Intervenors, staff believes that this policy is the only one with which the Utility’s application is inconsistent. In the 2020 Docket, the Commission addressed the concerns expressed by the parties regarding the Comp Plan in the issue on the need for service. The Commission found that EU’s application appeared to be inconsistent with the Comp Plan, and no change has been made to the relevant portion of the Comp Plan since that time.¹² However, in its Resolution, the Charlotte County BOCC stated its position that granting the Utility’s application to provide wastewater service in the proposed service territory is consistent with both the Comp Plan and the SMP. (EXH 14) LGIPA and PIE argued in their briefs that the statements in the Resolution did not constitute consistency with the

¹¹ The proposed service area is entirely within the Rural Service Area as defined by the Comp Plan.

¹² 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*. By Order No. PSC-2022-0033-FOF-SU, issued September 27, 2022, the Commission denied EU’s Motion for Reconsideration, finding that EU failed to demonstrate that the Commission erred in finding EU’s application to be inconsistent with the County Comp Plan and that the Sewer Master Plan was not compelling evidence towards the demonstration of need.

Comp Plan because it lacked factual support, was voted on as a consent agenda item with no discussion, and an email suggests that EU's attorney was the author of the Resolution (LGIPA BR 9-10; PIE BR 10-11; EXH 79) Despite the Resolution, the language of the Comp Plan cannot be read in any way so as to be consistent with the system proposed in this docket. As noted above, however, the Commission is not bound by a county's comprehensive plan.

CONCLUSION

Staff recommends that EU's application is inconsistent with the County's Comp Plan, but not with the SMP. However, the County Resolution expresses support for the Utility's application for a wastewater certificate for the proposed service territory, and while the Commission must consider Charlotte County's Comp Plan, it is not required to defer to it.

Date: March 20, 2025

Issue 4: Will the certification of Environmental Utilities, LLC result in the creation of a utility which will be in competition with or duplication of any other system?

Recommendation: No. There are no other wastewater service providers in or near the area who are willing or able to provide wastewater service to the proposed service territory. (M. Watts)

Position of the Parties:

LC: Yes.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: No.

Staff Analysis:

ANALYSIS

Pursuant to Section 367.045(5)(a), F.S., the Commission may not grant a certificate of authorization for a proposed system that will be in competition with, or duplication of, any other system or portion of a system, unless it first determines that such other system or portion thereof is inadequate to meet the reasonable needs of the public or that the person operating the system is unable, refuses, or neglects to provide reasonably adequate service. Section 367.021(11), F.S., defines “system” as facilities and land used or useful in providing service.

LC attested that the proposed service territory is in Charlotte County Utilities’ (CCU) certificated service area. She also stated that the north end of Knight Island is already being served by Knight Island Utilities. (LC BR 13) PIE stated in its brief that it adopted LC’s position on this issue, but provided no further argument. (PIE BR 15) LGIPA adopted the positions of PIE and LC, but provided no further argument on this issue. In its brief, EU argued that there is no competition with another system in the area for which the certificate is requested, as the area is currently served by individual septic systems. (EU BR 10) Further, Charlotte County’s Comp Plan does not allow the County to serve the area, and the County has evidenced its intention to allow EU to serve the area by executing the Bulk Sewer Treatment Agreement. (EU BR 10)

In its application, the Utility provided a letter from Knight Island Utilities that affirmed it did not object to the Utility serving the proposed service territory. (EXH 5, BSP C2-458) Since CCU has no facilities near the proposed service territory, and Knight Island’s letter indicates that it is not interested in extending service to the proposed service territory, the certification of EU would not result in the creation of a utility which will be in competition with, or duplication of, another system.

CONCLUSION

Staff believes EU has met the requirements of the Statute, demonstrating that there are no other wastewater service providers in or near the area who are willing or able to provide wastewater service to the proposed service territory. Therefore, the certification of EU will not result in the creation of a utility which will be in competition with or duplication of any other system.

Date: March 20, 2025

Issue 5: Does Environmental Utilities, LLC have the financial ability to serve the requested territory?

Recommendation: Yes, the Utility has the financial ability to serve the requested territory. (Przygocki)

Position of the Parties:

LC: No.

LGIPA: No, EU has not demonstrated the financial ability to serve the requested territory. EU's proposed system and cost analysis, both in the original application and modified by rebuttal testimony, significantly underestimate the cost of the proposed system. Therefore, EU has not demonstrated the financial ability to construct the proposed system and serve the requested territory.

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

EU: Yes.

Staff Analysis:

ANALYSIS

Under Section 367(1)(b), F.S., when a utility applies for an initial certificate of authorization from the Commission, it must provide all information required by rule or order of the Commission, including a detailed inquiry into the ability of the applicant to provide service. For original certificates, the Commission requires a demonstration from the applicant that it has both the financial and technical ability to serve the requested territory. *See* Rule 25-30.030(1)(h) and (i), F.A.C.

EU provided personal financial statements for the owners of the Utility, John and Diane Boyer. (EXH 5, BSP C2-29, C2-30) The Utility also provided a letter from Freedom Holdings Manatee LLC confirming it will make a personal loan of up to 75 percent of the pro forma appraised value of the wastewater system available for the Utility to draw upon. (EXH 5, BSP C2-31)

LC argued that John and Diane Boyer have not properly demonstrated they can successfully construct and maintain this system. (TR 261) LC argued the evidence of financial resources for this project primarily consists of a non-binding letter. (LC BR 14) LC also stated that significant costs were omitted from the total construction costs. (LC BR 15) LGIPA and PIE adopted the position of LC. PIE also adopted the position taken by LGIPA and provided no further testimony on this subject. (PIE BR 15) LGIPA witness Hull testified that EU has severely underestimated the total cost of this Utility, as well as the overall cost of doing work on the Bridgeless Barrier Islands. (LGIPA BR 14) Witness Hull estimated the total cost of this project to be \$51,244,204, much higher than the Utility estimate of \$17,363,148. (LGIPA BR 13; TR 229) However, EU witness Swain stated that the costs used in the financial schedules included engineering estimates at the time of the filing, which is typical for an original certificate in which the facilities have not

been constructed. (TR 362) EU also stated there may be low interest loans and grants available once EU obtains a wastewater certificate. (EU BR 10; TR 379) Rule 25-30.033(1)(p)1., F.A.C., states that the applicant shall provide the existing and proposed costs of the system. Staff believes the Utility has met this requirement with the estimates included in its filing. (EXH 39) Additionally, staff believes that even the higher estimated costs would not have an impact on the Utility's financial ability to serve the requested territory because of the financial documents provided by the owners and Freedom Holdings Manatee LLC.

CONCLUSION

Based on a review of the financial documents provided for the owners and Freedom Holdings Manatee LLC, staff believes the Utility has met its burden of demonstrating the financial ability necessary to fund the Utility. Therefore, staff recommends that EU has the financial ability to serve the requested territory.

Issue 6: Does Environmental Utilities, LLC have the technical ability to serve the requested territory?

Recommendation: Yes, EU demonstrated that, with the retention of outside professionals for the construction and operations of its system, it has the technical ability to serve the requested territory. (Ramirez-Abundez)

Position of the Parties:

LC: No.

LGIPA: No, EU has not demonstrated the technical ability to serve the requested territory. EU's proposed system, which has been significantly modified several times throughout the discovery process in this proceeding, does not fully account for the technical requirements of serving the requested territory. Therefore, EU has not demonstrated the technical ability to construct the proposed system and serve the requested territory.

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

EU: Yes.

Staff Analysis:

ANALYSIS

Section 367.045(1)(b), F.S., and Rule 25-30.033(1)(i), F.A.C., require a utility applying for an original certificate to provide information showing that it has the technical ability to provide service in the territory requested. EU witness Boyer testified that he has owned and operated Little Gasparilla Water Utility, Inc. for over 35 years. (TR 119) Furthermore, EU stated that it will employ technical professionals to operate the wastewater system. (TR 126; TR 146; EU BR 11) LGIPA does not believe EU demonstrated its technical ability to serve the requested territory due to the proposed system being modified throughout the discovery process in this proceeding. (LGIPA BR 16) LC argued that the applicant has not demonstrated any technical ability nor any maintenance experience with wastewater utilities. (LC BR 15-16) PIE adopted the same positions as LGIPA and LC regarding this issue, without providing additional argument in its brief. (PIE BR 15)

LGIPA is correct in that EU did modify its proposed system during the course of this docket, but staff does not believe this impacts EU's ability to employ the technical professionals needed to operate the wastewater system. Furthermore, staff disagrees with LC's position that the applicant has not demonstrated any technical ability since EU indicated its intent to hire external professionals for its operations. The Commission has found in prior certification cases that the hiring of external professionals is reasonable and an appropriate demonstration of technical ability.¹³ Staff believes that EU has met the requirement of the rule demonstrating that, with the

¹³ Order No. PSC-2022-0193-FOF-WS, issued May 25, 2022, in Docket No. 20190168-WS, *In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc.*; Order

retention of outside professionals for the construction and operation of its system, EU has the technical ability to serve the requested service territory.

Conclusion

Staff believes EU has met the requirement of the rule demonstrating that, with the retention of outside professionals for the construction and operation of its systems, it has the technical ability to serve the requested territory.

Issue 7: Will Environmental Utilities, LLC have sufficient plant capacity to serve the requested territory?

Recommendation: Yes. The Bulk Sewer Treatment Agreement (Agreement) with Charlotte County reserves adequate capacity to serve the proposed service territory and demonstrates that EU has planned for the estimated needs of the proposed service area. (Ramirez-Abundez)

Position of the Parties:

LC: Not necessarily.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: Yes, by virtue of the Bulk Sewer Treatment Agreement entered into with Charlotte County.

Staff Analysis:

ANALYSIS

In order to provide wastewater service to the proposed service territory, EU entered into a Bulk Wastewater Agreement with Charlotte County on July 14, 2020. (TR 33; EXH 15, P 1) Under the terms of the Agreement, EU would transport wastewater to a lift station on the mainland and the wastewater would then be treated in the County's treatment facilities. (EXH 15, P 3-4) The Agreement reserves capacity for up to 2,200 ERCs and has a 30-year term. (EXH 15) While EU believes it has sufficient capacity due to the Agreement, LC argued that EU cannot guarantee plant capacity until Transmission, Accrued Guaranteed Revenue, and Plant Fees are remitted to the County to reserve capacity. (EU BR 11; LC BR 16-17) LC argued that EU did not analyze the information for gallons per day (GPD) flow and ERCs for the requested territory. (LC BR 17) LGIPA and PIE adopted LC's position on this issue and did not provide any further argument in their briefs. (LGIPA BR 3; PIE BR 15)

Staff disagrees with LC's argument that EU cannot guarantee plant capacity until transmission, guaranteed revenue, and plant fees are paid because the Agreement clearly indicates the County's reserved treatment capacity for EU. (EXH 15, P 2) Furthermore, EU stated that the Agreement was for the maximum amount of capacity that the Utility believed would be needed to serve all the islands. (EXH 43, P 7) Based on the above, staff agrees with EU and believes it has demonstrated adequate capacity to serve the proposed service territory.

Conclusion

The Agreement with the County reserves adequate capacity to serve the proposed service territory and demonstrates that EU has planned for the estimated needs of the proposed service territory. Therefore, EU has sufficient plant capacity to serve the requested territory.

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

Recommendation: Wastewater treatment will occur pursuant to a Bulk Service Agreement. As such, the Utility does not own or operate the treatment facilities and evidence of continued use of the land is not required or applicable in this instance. (M. Watts)

Position of the Parties:

LC: No.

LGIPA: No, EU has not provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located. EU has not provided evidence of easements or other real property rights necessary for the installation and operation of the proposed system.

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

EU: This requirement is effectively satisfied through the Bulk Sewer Treatment Agreement entered into between EU and Charlotte County.

Staff Analysis:

ANALYSIS

Continued Use of the Land

Section 367.1213, F.S., and Rule 25-30.033(1)(m), F.A.C., requires evidence that a utility has the right to access and the continued use of the land upon which the utility treatment facilities are or will be located. As discussed in Issue 7, EU will utilize the County's treatment facilities through the Bulk Sewer Treatment Agreement. (EXH 5, BSP C2-64-C2-71) The Agreement, which has a term of 30 years, grants the Utility the ability to send wastewater to CCU's treatment facilities located on the mainland. In the 2020 Docket, the Commission found that, notwithstanding concerns regarding easements, since wastewater treatment would occur pursuant to a bulk service agreement, evidence of continued use of the land upon which treatment occurred was not required or applicable.¹⁴

LGIPA argued that EU has not provided evidence that it has continued use of the land upon which the utility treatment facilities are located. LGIPA quotes the definitions of "treatment" and "wastewater facility" in Rule 62-600.200, F.A.C., as follows:

"Treatment" means any method, technique, or process which changes the physical, chemical, or biological character or composition of wastewater and thereby reduces its potential for polluting waters of the state.

¹⁴ Order No. PSC-2022-0267-FOF-SU, pp. 16-17.

Date: March 20, 2025

”Wastewater facility” or “facility” means any facility which discharges wastes into waters of the State or which can reasonably be expected to be a source of water pollution and includes any or all of the following: the *collection and transmission* [emphasis added by witness Cotherman] system, the wastewater treatment works, the reuse or disposal system, and the biosolids management facility.

(LGIPA BR 19)

However, Rule 25-30.033(1)(m), F.A.C., requires that the utility furnish documentation for continued access to the land which the utility *treatment* [emphasis added] will be located. LGIPA contends that EU witness Bell’s description of the process the grinder pump uses to prepare the raw sewage for transport, grinding it into a fine slurry before it leaves the pump, qualifies as “treatment” as defined in Rule 62-600.200(74), F.A.C. LGIPA states that the definition “includes *any* method, technique, or process which changes the physical, chemical, or biological character or composition of wastewater . . .” (emphasis added). (LGIPA BR 22)

Staff does not agree. While the grinder pump does change the physical character of the wastewater (though not the chemical or biological character), there is no evidence in the record that such a change “. . . thereby reduce[s] its potential for polluting the waters of the state,” as the final clause of the definition of “treatment” states in Rule 62-600.200, F.A.C. LGIPA correctly argues that the collection system proposed by the Utility meets the stated definition of a wastewater facility. However, while the system proposed by EU may be a wastewater facility, no treatment takes place within the system. Therefore, it is not a wastewater treatment facility and evidence of continued use of the land Section 367.1213, F.S., and Rule 25-30.033(1)(m), F.A.C., is not required or applicable in this instance.

Easements

The Intervenor devoted considerable effort in their prefiled testimony and exhibits to the issue of easements, as well as discussing easements in their post-hearing briefs, contending that EU has not sufficiently accounted for the need for easements for its proposed service area. (LGIPA BR 20-21; LC BR 18-19)¹⁵ This is an issue separate and apart from the need to demonstrate continued access to the land upon which utility treatment facilities will be located under Section 367.1213, F.S. While there are no Commission statutes or rules that require an applicant to demonstrate that it has secured easements needed to serve the requested service territory, staff recommends it is appropriate to address the parties’ arguments with respect to easements in this issue.

EU witness Boyer described the proposed system as a grinder tank system where the grinder tank would be located on a customer’s private property. (TR 222) EU witness Cole testified that the waste would be ground up and pumped out to the low pressure system. (TR 314) The Utility would need access to customers’ private property to remove existing septic tanks, as well as to install the grinder pump. Witness Cole testified that the easement for the installation would require around a 15 foot by 15 foot area on private property. (TR 335) This would be a one-time

¹⁵ PIE adopted the positions taken by LGIPA and LC on this issue, but provided no additional argument in its brief.

Date: March 20, 2025

event. Once the grinder pump is installed, the easement necessary for it would be much smaller since the grinder pump is 24 inches in diameter. (TR 334-335) Witness Cole also testified that during installation, crews try to place sewer lines in existing easements that also have another utility such as water lines in them. (TR 324-325) EU witness Boyer acknowledged the possibility that the Utility would need to claim eminent domain as a last resort and compensate property owners for the use of the land. (TR 132) Witness Boyer testified that EU has set aside \$500,000 for this process. (TR 133) In its brief, EU contends that PIE and LC mistakenly interpret this issue to require the Utility to demonstrate it has access to easements to property where pump stations and other non-treatment facilities are located. (EU BR 12)

While both LGIPA and LC argued in their briefs that the various easement issues to be addressed by the Utility constitute a finding that EU has not provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located, staff notes that “treatment,” as defined by Rule 62.600-200(74), F.A.C., will not take place within the collection system. Staff agrees with EU that Section 367.1213, F.S., and Rule 25-30.033(1)(m), F.A.C., do not require an applicant to demonstrate that it has acquired easements to property where pump stations and other non-treatment facilities are located. The issue of acquiring such easements is one of many issues to be negotiated by an applicant subsequent to the award of a certificate of authorization under Section 367.031, F.S., and is outside of the Commission’s jurisdiction.

CONCLUSION

Wastewater treatment will occur pursuant to a Bulk Service Agreement. As such, the Utility does not own or operate the treatment facilities; therefore, staff recommends that evidence of continued use of the land upon which the utility treatment facilities are or will be located is not required or applicable in this instance.

Issue 9: Is it in the public interest for Environmental Utilities, LLC to be granted a wastewater certificate for the territory proposed in its application?

Recommendation: Yes. Based on the recommendations in Issues 1 through 8, it is in the public interest to grant the Utility Certificate No. 585-S to provide wastewater service to the territory described in Attachment A. (M. Watts)

Position of the Parties:

LC: No.

LGIPA: No, it is not in the public interest for EU to be granted a wastewater certificate for the proposed territory. The vast majority of residents in the proposed service territory object to the proposed system, and EU has not provided evidence of an environmental or public health and safety need. Nor has EU has provided evidence of public benefit, and the proposed fees and rates will not be just and reasonable.

PIE: No, the public interest will not be served if a wastewater certificate for the territory proposed is issued to Environmental Utilities

EU: Yes. The County has identified these islands as a priority for the removal of septic tanks which the Charlotte County Master Sewer Plan identifies as a major contributor to the degradation of water quality in the waters adjacent to the County.

Staff Analysis:

ANALYSIS

LC argued that the proposed system is not in the public interest because of the cost burden it will place on the prospective customers. (LC BR 19-20) Additionally, LC argued that the proposed system would have significant environmental impacts. (LC BR 21-22) PIE argued that the Utility's application should be denied because it demonstrated a dearth of need, there was no evidence that the water quality in and around the bridgeless barrier islands was degraded, and that it was inconstant with the Comp Plan. (PIE BR 16) LGIPA argued that the elements that the Commission considers in determining public interest – need, no competition or duplication of another system, that the utility has the financial and technical ability to provide the service, and the utility has sufficient plant capacity – weighs in favor of the Commission denying the application. (LGIPA BR 24) LGIPA further argues that the cost of the system to the prospective customers, coupled with the financial burdens imposed by damage from hurricanes and with the frequency and duration of power outages supports its position that EU's application is not in the public interest. (LGIPA BR 24-27)

Under Section 367.031, F.S., the Commission has the authority to issue a utility a certificate of authorization to serve a specific service area. Under Section 367.045(1)(b), F.S., when a utility applies for an initial certificate of authorization from the Commission, it shall provide all information required by rule or order of the Commission, including a detailed inquiry into the ability of the applicant to provide service, the area and facilities involved, the need for service in

Date: March 20, 2025

the area involved, and the existence or nonexistence of service from other sources within geographical proximity to the area in which the applicant seeks to provide service. To implement these statutes, Rule 25-30.033(1)(h), (i), and (k), F.A.C., require statements showing the financial and technical ability of the applicant to provide service, the need for service in the proposed service area, the identity of any other utilities within the proposed service area that could potentially provide service, and the steps the applicant took to ascertain whether such other service is available.

Section 367.045(5)(a), F.S., provides that the Commission may grant or amend a certificate of authorization, in whole or in part or with modifications in the public interest, or it may deny a certificate of authorization or an amendment to a certificate of authorization, if in the public interest. In prior proceedings, the Commission has made its determination regarding the public interest based upon whether a utility's application demonstrates there is a need for service, that the application is not in competition with or duplication of another system, that the utility has the financial and technical ability to provide service, and the utility has sufficient plant capacity or will construct the plant when needed.¹⁶

In Issue 2, staff recommends that EU's application did comply with Section 367.045(1)(b), F.S., and Rule 25-30.033(1)(k), F.A.C., with regard to the need for service in the requested area. The Utility furnished requests for service from residents and developers in the proposed service territory as evidence that there is a need for service in the requested territory. EU provided Charlotte County Resolution No. 2023-155, adopted by the Charlotte County BOCC, which affirms a need for central sewer service in the proposed service territory. Based upon the record evidence in this docket, staff recommends that there is a need for service in the Utility's proposed service area.

In Issue 3, staff recommends that EU's application does not appear to be consistent with the County's Comp Plan but does appear to be consistent with the SMP. However, the County's Resolution establishes support for EU's application, and under Section 367.045(5)(b), F.S., the Commission shall consider but is not bound by the Comp Plan or SMP. Further, in Issue 4, staff recommends that the Utility will not be in competition with, or duplication of, any other system.

In Issues 5 and 6, staff recommends EU has demonstrated the financial and technical ability to provide service. The Utility has demonstrated that it will have access to adequate financial resources to operate the utility. As a demonstration of EU's technical ability, staff cited the Utility's intent to retain professionals for the engineering, design, permitting, construction, and operation of the EU wastewater collection system.

¹⁶ See Order No. PSC-08-0243-FOF-WS, issued April 16, 2008, in Docket No. 070109-WS, *In re: Application for amendment of Certificates 611-W and 527-S to extend water and wastewater service areas to include certain land in Charlotte County by Sun River Utilities, Inc. (j/k/a MSM Utilities, LLC)*, pp. 11-13; Order No. PSC-04-0980-FOF-WU, issued October 8, 2004, in Docket No. 021256-WU, *In re: Application for certificate to provide water service in Volusia and Brevard Counties by Farmon Water Resources LLC*, p. 26; Order No. PSC-92-0104-FOF-WU, issued March 27, 1992, in Docket No. 910114-WU, *In re: Application for water certificate in Brevard, Orange and Osceola Counties by East Central Florida Services, Inc.*, pp. 33-34.

Date: March 20, 2025

In Issue 7, staff recommends that, since the Utility has demonstrated that, via the Bulk Service Agreement with CCU for 2,200 ERCs of treatment capacity, it will have sufficient plant capacity to serve the customers in the proposed service territory.

In Issue 8, staff notes that wastewater treatment will occur pursuant to a Bulk Service Agreement. As such, EU does not own or operate the treatment facilities; therefore, staff recommends that evidence of continued use of the land upon which treatment facilities are located is not required or applicable in this instance.

Although LGIPA contends that the costs to customers inure against the public interest, financial burden is not an element contemplated by statute or rule and has not been a factor for consideration by the Commission in past certification proceedings.¹⁷ See Section 367.045, F.S. and Rule 25-30.033, F.A.C.

In summary, staff recommends that the Utility has demonstrated: (1) that there is a need for service; (2) that the application will not be in competition with, or duplication of, any other system; (3) that evidence of continued use of the land upon which treatment facilities are located is not required or applicable in this instance; and (4) that it has the financial and technical ability to provide service along with the sufficient plant capacity via the bulk service purchase agreement with CCU to serve the customers in the proposed service territory. Staff does not believe that the inconsistency with the Comp Plan is sufficient to outweigh the other elements discussed herein. As such, staff recommends EU has proven that its application is in the public interest.

CONCLUSION

Based on the recommendations in Issues 1 through 8, staff recommends it is in the public interest to grant the Utility Certificate No. 585-S to provide wastewater service to the territory described in Attachment A.

¹⁷ See generally Order No. PSC-2024-0380-PAA-WS, issued August 28, 2024, in Docket No. 20240023-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Lake County, by North Lake County Water & Sewer Company LLC*; Order No. PSC-2020-0263-PAA-WS, issued July 27, 2020, in Docket No. 20190194-WS, *In re: Application for original water and wastewater certificates and approval of initial rates, charges, and standard service agreements in Lee County, by CPI Citrus Park Utility TRS, LLC*; and Order No. PSC-01-1916-FOF-WS, issued September 24, 2001, in Docket No. 990696-WS, *In re: Application for original certificates to operate a water and wastewater utility in Duval and St. Johns Counties by Nocatee Utility Corporation*.

Issue 10: What is the appropriate return on equity for Environmental Utilities, LLC?

Recommendation: The appropriate return on equity (ROE) is 8.66 percent with a range of plus or minus 100 basis points. (Przygocki)

Position of the Parties:

LC: Not Applicable.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: 8.62%

Staff Analysis:

ANALYSIS

EU proposed an ROE of 8.67 percent, based on the current leverage formula.¹⁸ (EU BR 115; EXH 13) The intervening parties did not provide any testimony on this matter. LC argued that no return on equity is appropriate because the area should be handled by a governmental entity or a not-for-profit corporation. (LC BR 22) No argument was provided by LGIPA's or PIE's post-hearing briefs with respect to this issue. Staff notes that LC's position on this issue is a general disclaimer that EU should not provide service to the area, and doesn't speak specifically to the appropriate return on equity.

In its filing, the Utility incorporated customer deposits into its calculation, however, the leverage formula does not consider non-investor sources of funding.¹⁹ Staff recalculated the ROE using only investor sources of funding and recommends an ROE of 8.66 percent with a range of plus or minus 100 basis points and an overall cost of capital of 8.63 percent, as shown on Schedule No. 2, attached to the recommendation.

CONCLUSION

Based on the above, a return on equity of 8.66 percent, with a range of plus or minus 100 basis points, should be approved.

¹⁸ Order No. PSC-2024-0165-PAA-WS, issued May, 22, 2024, in Docket No. 20240006-WS, *In re: Water and wastewater industry annual reestablishment cf authorized range cf return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S., p. 5.*

¹⁹ *Id.*

Issue 11: What are the appropriate rates and rate structures for Environmental Utilities, LLC?

Recommendation: Staff’s recommended wastewater rates, shown on Schedule No. 4, should be approved. The Utility’s proposal to include a repression adjustment should be denied; therefore, the staff-recommended rates shown on Schedule No. 4 do not include a repression adjustment. The rates should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. (Sibley, Przygocki)

Position of the Parties:

LC: Not Applicable.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: Base Facility Charge: 5/8” x 3/4” \$ 109.29
[all other meter sizes to be increased pursuant to Rule 25-30.055(1)(b), F.A.C.]
Residential Gallonage Charge (10,000 cap) \$ 18.82
General Service Gallonage Charge \$ 22.59

Staff Analysis:

ANALYSIS

LGIPA and PIE adopted the position of LC. (LGIPA BR 3; PIE BR 16) LC argued that the estimated residential billing is neither a fair nor equitable rate. Specifically, LC noted that the SMP’s formula for determining an equitable monthly bill results in a \$113 per month bill for sewer alone. However, the projected BFC for EU will be \$109 per month without any volumetric use and thus will inevitably exceed the ceiling established by the SMP. The rates are discussed more fully in the following Projected Rates and Rate Structure section.

Projected Rate Base

Consistent with Commission practice in applications for original certificates, rate base is identified only as a tool to aid in setting initial rates and is not intended to formally establish rate base.²⁰ Based on EU’s growth projections, the Utility originally anticipated operating at 80 percent of its design capacity in 2034, but it subsequently updated that year to be 2038 through rebuttal testimony. (TR 361) The Utility’s proposed wastewater rate base calculations, as well as staff adjustments, are described below.

²⁰ Order No. PSC-2024-0380-PAA-WS, issued August 28, 2024, in Docket No. 20240023-WS, *In re: Application for certificates to provide water and wastewater service and approval of initial rates and charges in Lake County, by North Lake County Water & Sewer Company LLC.*

In its original filing, the Utility proposed a utility plant in service (UPIS) balance of \$20,900,608. (EXH 13) In rebuttal testimony, witness Swain provided an updated UPIS balance of \$20,329,767. (EXH 39) As discussed in EU witness Cole's rebuttal testimony, the cost estimates have been updated based on a revised layout and recent unit prices. (TR 310) Staff agrees with the Utility updates to UPIS. As such, staff recommends a decrease of \$565,362 to UPIS. Based on the above, staff recommends a total UPIS balance of \$20,335,246.

In its filing, EU proposed a balance of \$800,000 in land. (EXH 13) The Utility provided no updates to its land balance from its original filing. Staff does not have any adjustments to land. Based on the above, staff recommends a land balance of \$800,000 be approved.

In its filing, the Utility proposed an accumulated depreciation balance of \$9,919,052. (EXH 13) In rebuttal, witness Swain provided an updated accumulated depreciation balance of \$9,933,997. (EXH 39) Staff recalculated accumulated depreciation using the depreciation rates established by Rule 25-30.140, F.A.C., based on the adjustments made to plant in service as described above. As a result, staff recommends a decrease to accumulated depreciation of \$464,552. Based on the above, staff recommends an accumulated depreciation balance of \$9,454,500.

In its original filing, the Utility proposed contributions in aid of construction (CIAC) and accumulated amortization of CIAC balances of \$16,153,462 and \$7,230,578, respectively. (EXH 13) In rebuttal, witness Swain provided updated balances of \$16,967,390 and \$6,980,166 for CIAC and accumulated amortization of CIAC, respectively. (EXH 39) Based on staff's recommended connection fees, staff has recalculated CIAC and accumulated amortization of CIAC. As such, staff recommends a balance of \$16,967,393 and \$7,558,202 for CIAC and accumulated amortization of CIAC, respectively.

In its original filing, the Utility proposed a working capital balance of \$174,443. (EXH 13) This total was calculated using the balance sheet method consistent with Rule 25-30.433(3), F.A.C., for Class A utilities. Staff does not have any adjustments to working capital. As such, staff recommends a working capital balance of \$174,443 should be approved.

In total, EU proposed a rate base of \$3,033,115. (EXH 13) Based on the adjustments discussed above, staff recommends that rate base be decreased by \$587,117. As such, staff recommends an adjusted rate base of \$2,445,998. Rate base calculations are shown on Schedule No. 1-A. Staff's adjustments are shown on Schedule No. 1-B.

Net Operating Income

In its original filing, the Utility requested net operating income (NOI) of \$262,292. (EXH 13) In rebuttal, witness Swain updated EU's requested NOI to \$119,320. (EXH 39) Based on the adjustments above, staff recommends an NOI of \$211,074. Staff's recommended NOI reflects the full return on investment resulting from recommended projections of rate base and overall cost of capital. The projected NOI is shown in Schedule No. 3-A.

Operation and Maintenance Expense

In its original filing, EU proposed total operation and maintenance (O&M) expense of \$1,071,003. (EXH 13) In rebuttal, witness Swain provided an updated total O&M expense projection of \$1,202,516. (EXH 39) As discussed by witness Swain, the increase in O&M

Date: March 20, 2025

expense is due to the 80 percent capacity year being shifted from 2034 to 2038, leading to extra years of inflation for the expenses. (TR 360-361) Staff believes the costs projected in witness Swain's rebuttal testimony are reasonable. Therefore, staff recommends an adjustment of \$131,513 to total O&M expense, reflecting the updated O&M projections. As such, staff recommends a total O&M expense of \$1,202,516.

Net Depreciation Expense

In its original filing, the Utility reflected net depreciation expense of \$216,798. (EXH 13) In rebuttal, witness Swain provided an updated net depreciation expense of \$246,605 (EXH 39) Based on staff's adjustments to rate base and accumulated depreciation, corresponding adjustments should be made to decrease net depreciation expense by \$59,866. As such, staff recommends net depreciation expense of \$156,932.

Amortization Expense

In its original filing, EU requested \$17,644 of amortization expense. (EXH 13) In rebuttal, witness Swain updated EU's amortization expense to \$18,993. (EXH 39) Staff recommends an amortization expense of \$18,993 be approved.

Taxes Other Than Income

In its original filing, the Utility included total taxes other than income (TOTI) expense of \$245,479. (EXH 13) In rebuttal, witness Swain provided an updated TOTI amount of \$237,588, which is a total decrease of \$7,891 corresponding to the decreased revenue requirement in her filing. (EXH 39) Staff has recalculated the property tax expense based on the recommended UPIS and accumulated depreciation balances and recommends an adjustment be made to decrease TOTI by \$6,335. Additionally, staff recommends decreasing regulatory assessment fees by \$90 to recognize the appropriate revenue requirement, as discussed below. As such, staff recommends total TOTI expenses of \$239,053.

Income Taxes

In its filing, the Utility indicated that it requested to be taxed as a C Corporation. (EXH 13, BSP C5-590) EU proposed income taxes of \$88,944. (EXH 13) Based on staff's adjustments to NOI, staff recommends total income tax expense of \$71,585.

Revenue Requirement

In its original filing, the Utility proposed a revenue requirement of \$1,902,160. (EXH 13) The Utility's projected revenue requirement includes O&M expenses, depreciation and amortization expense, taxes other than income, income taxes, and a return on investment. Staff recommends an adjusted revenue requirement of \$1,900,154. The recommended revenue requirement will allow the Utility the opportunity to recover its expenses and earn an 8.63 percent return on its investment in rate base, as shown on Schedule No. 3-A. Staff adjustments are shown on Schedule No. 3-B.

Projected Rates and Rate Structure

The Utility's proposed wastewater rates are in accordance with Rule 25-30.033(2), F.A.C., which requires that a base facility and usage rate structure, as defined in Rule 25-30.437(5), F.A.C., be used for metered service. In its brief, EU asserted that the financial expert provided required financial schedules in accordance with the Commission requirements to establish rates and

Date: March 20, 2025

charges. (EU BR 16) EU's proposed rates were designed to generate the Utility's requested revenue requirement, as updated in witness Swain's rebuttal testimony, of \$1,864,929 for its wastewater system. (EXH 39, BSP 1073)

Staff's recommended rates shown on Schedule No. 4 reflect generate revenues of \$1,899,644 which is staff's recommended revenue requirement of \$1,900,154 less miscellaneous revenues of \$510. EU proposed a rate structure which consists of a base facility charge (BFC) and gallonage charge for its residential and general service customers. In addition, EU proposed a 10,000 gallon cap for residential usage. (EXH 39, BSP 1064) In EU witness Swain's rebuttal testimony, the Utility's proposed wastewater rates recover 70 percent of wastewater revenues through the BFC. (EXH 39, BSP 1073) It is Commission practice to recover 50 percent, or greater, of the revenue through the BFC for the purpose of recognizing the capital intensive nature of wastewater plants.²¹ In response to staff's interrogatories, witness Swain indicated that the customer base is seasonal and will remain seasonal. (EXH 42, BSP 1191 and 1194) Therefore, staff believes the Utility's proposed allocation is reasonable in this case.

Since EU is a wastewater-only utility, the water providers to the potential customers of EU are Bocilla Utilities and Little Gasparilla Water Utility. (EXH 42, BSP 1192) In her testimony, witness Swain defines an ERC as 90 GPD. (EXH 44, BSP 1224) The 90 GPD is the average water consumption for the customers. (TR 110) The anticipated number of ERCs at design capacity for the Utility is 1,248. (EXH 13, BSP 573) Rates in this proceeding are based on 80 percent of the design capacity of the system, which is 998.4 ERCs. Witness Swain estimated billable gallons by multiplying 998.4 x 90 x 365, which results in 32,797,440. (EXH 42, BSP 1196). Staff agrees with witness Swain's calculation of proposed billable gallons.

Furthermore, witness Swain also proposed a 10 percent repression adjustment to reduce the proposed billable gallons. (EXH 13, BSP 589; EXH 39, BSP 1073; EXH 42, BSP 1196) Witness Swain asserted that the Commission does not typically do a repression adjustment for a wastewater-only Utility and does not agree with the Commission's practice. (TR 110) As is the Commission's practice, witness Swain indicated that wastewater billable gallons are based on water usage. (TR 114, TR 358) Witness Swain also indicated that the average consumption for this customer base is low coupled with a very high seasonality; however, EU believes a repression adjustment is appropriate in this case. Witness Swain explained that when the seasonal customers are in residence, there may be higher levels of discretionary usage. (TR 112-113)

Witness Swain also believes that customers will reduce their water consumption based on the Utility's proposed wastewater bill. (TR 114) The Commission, as a result of an increase in the price of water, has applied a corresponding wastewater repression adjustment when the water and wastewater provider are the same utility.²² Even in cases with a single water and wastewater utility provider, there still has been no recognition of an adjustment due to an increase in the price of wastewater, but only the recognition of the effect of an increase in the price of water on

²¹ Order No. PSC-2020-0118-PAA-WS, issued April 20, 2020, in Docket No. 20190071-WS, *In re: Application for staff-assisted rate case in Polk County by Deer Creek RV Golf & Country Club, Inc.*

²² Order No. PSC-2017-0459-PAA-WS, issued November 30, 2017, in Docket No. 160176-WS, *In re: Application for staff-assisted rate case in Polk County by Four Lakes Golf Club, Ltd.*

customer demand. It is Commission practice that an increase in the price of water is the catalyst for whether or not there is a repression adjustment which would ultimately flow through to wastewater.

As mentioned previously, EU is not the water provider to its potential customers. The potential customers are served by two separate water utilities, which are Bocilla and Little Gasparilla. In its brief, EU asserted that witness Swain believes that although the customers receive water service from another utility consumption will be reduced when water customers begin paying for wastewater service based upon their water usage. (EU BR 16) Consistent with existing Commission practice, there would have to be an increase in the price of water provided by those two entities to determine whether there should be a repression adjustment to the billable gallons for wastewater. There is nothing in the record to demonstrate or evaluate price increases in water for Bocilla and Little Gasparilla.

In addition to a lack of precedent for a wastewater repression adjustment, there is no incentive to restrict usage because the demographics of the area is 65 percent rental properties or vacation rentals by owner. (EXH 42, BSP 1191; TR 384) The renters are not paying the utility bill, which results in no incentive to restrict usage based on cost. Based on the above, staff does not believe a repression adjustment is appropriate for the Utility.

Lastly, the Utility proposed a residential wastewater cap of 10,000 gallons for its wastewater rates. (EXH 13, BSP 579) The wastewater cap is to recognize that not all water consumption is returned to the wastewater system.²³ Staff believes the proposed cap of 10,000 gallons is reasonable for that recognition. Witness Swain made no adjustments to the billable gallons because the requested cap does not have an impact on gallons billed. (EXH 42, BSP 1195) As a result, the appropriate gallons for ratesetting purposes are 32,797,440. With EU's proposed revenue requirement, rates with repression based on average consumption of 2,463 result in an average bill of approximately \$156. (EU BR 16; TR 366). Based on staff's recommended revenue requirement, rates without a repression adjustment based on an average consumption of 2,737 result in an average bill of approximately \$159.

CONCLUSION

Staff's recommended wastewater rates, shown on Schedule No. 4, should be approved. The Utility's proposal to include a repression adjustment should be denied; therefore, the staff-recommended rates shown on Schedule No. 4 do not include a repression adjustment. The rates should be effective for services rendered or connections made on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. The Utility should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding.

²³ Order No. PSC-2017-0459-PAA-WS, issued November 30, 2017, in Docket No. 160176-WS, *In re: Application for staff-assisted rate case in Polk County by Four Lakes Golf Club, Ltd.*

Date: March 20, 2025

Issue 12: What are the appropriate initial customer deposits for Environmental Utilities, LLC?

Recommendation: The appropriate initial customer deposit is \$318 for wastewater for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding. (Sibley)

Position of the Parties:

LC: Not Applicable.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: The customer deposit should be equal to the estimated average charge for wastewater service for two months pursuant to Rule 25-30.311(7), F.A.C, based upon the approved final rates.

Staff Analysis:

ANALYSIS

EU requested an initial customer deposit of \$320, pursuant to Rule 25-30.311(7), F.A.C., based on its average customer bill of \$155.65 for its wastewater system. (EXH 39, BSP 1074; EU BR 16) No argument was provided in the post-hearing briefs for LGIPA or PIE on this issue. LC argues that the initial customer deposits cannot be accurately calculated due to unsubstantiated construction and installation costs. (LC BR 23-24). All costs at this juncture are projections, but the projected costs are reasonable as discussed in Issue 11.

Rule 25-30.311, F.A.C., contains criteria for collecting, administering, and refunding customer deposits. Rule 25-30.311(1), F.A.C., requires that each company's tariff contains its specific criteria for determining the amount of initial deposits. Customer deposits are designed to minimize the exposure of bad debt expense for a utility and, ultimately, the general body of ratepayers. In addition, collection of customer deposits is consistent with one of the fundamental principles of ratemaking, ensuring that the cost of providing service is recovered from the cost-causer.

Rule 25-30.311(7), F.A.C., authorizes utilities to collect new or additional deposits from existing customers not to exceed an amount equal to the average actual charge for water and/or wastewater service for two billing periods for the 12-month period immediately prior to the date of notice. The two billing periods reflect the lag time between the customer's usage and a utility's collection of the revenues associated with that usage. It is Commission practice to set initial customer deposits equal to two months bills based on the average consumption for a 12-

Date: March 20, 2025

month period for each class of customers.²⁴ In its brief, EU agrees that it is Commission precedent that customer deposits are equal to two months average bills. (EU BR 16) Staff has reviewed the financial information provided. Based on the staff recommended wastewater rates and average residential demand of 2,737 gallons, the average monthly residential bill is \$159 with a resulting initial customer deposit of \$318 based on the 2-month period.

CONCLUSION

The appropriate initial customer deposit is \$318 for wastewater for the residential 5/8 inch x 3/4 inch meter size. The initial customer deposit for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill. The approved customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. The Utility should be required to collect the approved initial customer deposits until authorized to change them by the Commission in a subsequent proceeding.

²⁴ Order No. PSC-2020-0059-PAA-WS, issued February 24, 2020, in Docket No. 20190147-WS, *In re: Application for certificates to provide water and wastewater service in Brevard County by River Grove Utilities, Inc.*

Issue 13: What are the appropriate miscellaneous service charges for Environmental Utilities, LLC?

Recommendation: The appropriate miscellaneous service charges are shown on Schedule No. 5 and should be approved. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for services rendered on or after the stamped approval date on the tariff sheet provided customers have received notice pursuant to Rule 25-30.475(1), F.A.C. The Utility should provide proof of noticing within 10 days of rendering the approved notice. (Sibley)

Position of the Parties:

LC: Not Applicable.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU: Premises Visit \$30.00
Violation Reconnection Charge Actual Cost
Late Payment Fee\$ 7.50
Bad Check ChargePursuant to §68.065(2), Fla. Statutes

Staff Analysis:

ANALYSIS

In witness Swain’s testimony, the Utility proposed miscellaneous service charges consisting of initial connection, normal reconnection, and premises visit charges of \$30 during normal business hours. EU also proposed that its violation reconnection charge be actual cost. The Utility proposed a late payment charge of \$7.50 and non-sufficient funds (NSF) charges pursuant to statute. (EXH 13 BSP 578; EXH 39, BSP 1063) EU’s proposed miscellaneous charges were accompanied by a cost justification as required by Section 367.091(6), F.S. No argument was provided in the post-hearing briefs for LGIPA or PIE on this issue. LC argues that the miscellaneous service charges cannot be accurately calculated due to unsubstantiated construction and installation costs. (LC BR 24) EU contends its proposed miscellaneous service charges are supported by its cost justification, and are in line with miscellaneous service charges the Commission has approved for other utilities. (EU BR 16)

The purpose of these charges is to place the burden for requesting or causing these services on the cost-causer rather than the general body of ratepayers. The Utility requested the recovery of \$26.60 of field and supervisorial labor associated with processing miscellaneous services based on an hourly salary of \$20 and the time it takes to perform all job functions, which is estimated to be 1.33 hours. Additionally, EU requested recovery of vehicle mileage of \$3.48 based on a mileage rate of \$0.58 per mile for six miles. (EXH 13, BSP 578; EXH 39, BSP 1063) The

Date: March 20, 2025

Utility's cost justification for its requested miscellaneous service charges is shown below on Table 13-1.

Table 13-1
Miscellaneous Service Charges Cost Justification

Labor (\$20 x 1.33)	\$26.60
Vehicle (\$0.58 x 6)	\$3.48
Total	\$30.08

Source: Utility's Cost Justification (EXH 13, BSP 578)

Rule 25-30.460, F.A.C., does not allow for initial connection and normal reconnection charges. Pursuant to Rule 25-30.460, F.A.C., the definitions for initial connection charges and normal reconnection charges were incorporated in the definition of the premises visit charge. EU's proposed charges for initial connection and normal reconnection charges are obsolete and inconsistent with the rule. However, in its briefs, EU proposed its miscellaneous service charges consistent with the rule by removing the initial connection and normal reconnection charges. (EU BR 16) Therefore, the Utility's proposed premises visit charge of \$30 and violation reconnection charge at actual cost should be approved pursuant to Rule 25-30.460, F.A.C.

Late Payment Charge

The Utility's requested late payment charge of \$7.50 is to recover the cost of supplies and labor associated with processing late payment notices. Within its cost justification, EU included \$5.00 for clerical labor associated with processing late payments based on the clerical employee who is paid \$20 per hour and the amount of time it takes the employee to process a single late payment charge of 15 minutes. (EXH 13 BSP 578; EXH 39, 1063) This is consistent with Commission practice, in which the Commission has found that 10 to 15 minutes is an appropriate amount of time for a billing employee to process a single late payment.²⁵ Furthermore, EU requested to recover supervisory labor of \$2.00 based on the supervisor's hourly salary of \$25 per hour and the time it takes the supervisor to review a late payment charge of eight minutes, which is consistent with prior Commission cases.²⁶ The Utility is also requesting a recovery of \$0.10 for supplies and \$0.50 for postage. (EXH 13 BSP 578; EXH 39, 1063) EU's cost justification totals \$7.60. The Utility rounded down its requested late payment charge to \$7.50. Staff notes the Commission has previously approved a late payment charge of \$7.50.²⁷ Staff believes the Utility's requested late payment charge is reasonable and should be approved. The Utility's cost justification for its requested miscellaneous service charges is shown on Table 13-2.

²⁵ Order No. PSC-2020-0059-PAA-WS, issued February 24, 2020, in Docket No. 20190147-WS, *In re: Application for certificates to provide water and wastewater service in Brevard County by River Grove Utilities, Inc.*

²⁶ Order No. PSC-2024-0100-PAA-WU, issued April 17, 2024, in Docket No. 20230071-WU, *In re: Application for staff-assisted rate case in Polk County by Pinecrest Utilities, LLC.*

²⁷ Order No. PSC-2022-0193-FOF-WS, issued May 25, 2022, in Docket No. 20190168-WS, *In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc.*

Table 13-2
Late Payment Charge Cost Justification

Clerical Labor (\$20 x 0.25)	\$5.00
Supervisor Labor (\$25 x 0.08)	\$2.00
Printing Supplies and Postage	\$0.60
Total	\$7.60

Source: Utility's Cost Justification (EXH 13, BSP 578)

Staff recommends that EU should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- 1) \$25, if the face value does not exceed \$50,
- 2) \$30, if the face value exceeds \$50 but does not exceed \$300,
- 3) \$40, if the face value exceeds \$300,
- 4) or 5 percent of the face amount of the check, whichever is greater.

CONCLUSION

Staff believes that EU has provided adequate cost justification in the record to support staff's recommended miscellaneous service charges. The appropriate miscellaneous service charges are shown on Schedule No. 5 and should be approved. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective for services rendered on or after the stamped approval date on the tariff sheet provided customers have received notice pursuant to Rule 25-30.475(1), F.A.C. The Utility should provide proof of noticing within 10 days of rendering the approved notice.

Date: March 20, 2025

Issue 14: What are the appropriate service availability charges for Environmental Utilities, LLC?

Recommendation: The appropriate service availability charges are shown on Schedule No. 5 and should be approved. In addition, the Utility’s proposed service availability policy should be approved. The approved charges and policy should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. EU should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding. (Sibley)

Position of the Parties:

LC: Not Applicable.

LGIPA: LGIPA adopts the position of PIE and LC.

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

EU:

<u>Main Capacity Charge</u>	
Residential per ERC	\$ 15,587.00
All others per gallon	\$ 72.16
<u>Sewer Lateral Installation Fee</u>	\$ 1,414.25

Staff Analysis:

ANALYSIS

EU proposed a main capacity (main extension) charge of \$15,587 to recover a portion of the cost of the Utility’s collection system from future customers. (EU BR 17; EXH 39 BSP 1061) In addition, the Utility proposed a sewer lateral installation charge to recover the cost of piping used to connect customers to mains. In her rebuttal testimony, witness Swain provided a revised sewer lateral charge in the amount of \$1,414.25 due to the increase in cost for the force main construction. (EXH 39, BSP 1062; TR 362-363) The Utility states that its proposed service availability charges result in a contribution level of 83.37 percent at design capacity. (EXH 39, BSP 1061) LC does not believe the estimates used in preparation of service availability charges were accurate, nor provided the necessary level of detail. Additionally, she argued that the service availability charges should be identical to those charged by Charlotte County Utilities. (LC BR 24-27) No argument was provided in the post-hearing briefs for LGIPA and PIE on this issue.

Pursuant to Rule 25-30.580(1), F.A.C., the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of depreciation, of the Utility’s facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(2), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by water transmission and distribution and sewage collection systems. Service availability charges are one-time charges applicable to new connections, which allow customers to pay their pro rata share of the facilities and plant costs.

Date: March 20, 2025

EU asserted that the guidelines of Rule 25-30.580(2), F.A.C do not always apply in a case, wherein the system is designed entirely of a collection system. Following the guidelines that the minimum CIAC should not be less than the cost of the collection system, it results in a 100 percent CIAC, which is higher than the maximum guideline. (EU BR 18) In this case, EU's wastewater system in its entirety is a collection system, which represents 83.37 percent of total UPIS. In witness Swain rebuttal testimony, the contribution level is reflected at 71.74 percent at design capacity, which includes the depreciation of plant and amortization of CIAC over time. (EXH 39, BSP 1062) However, the contribution level does not include the sewer lateral installation cost. Staff added the sewer laterals cost, which results in a contribution level of 77.70 percent. Staff recommends the proposed main extension and sewer lateral installation charges are reasonable and should be approved.

The Utility's proposed service availability policy states that the sewer lateral and low-pressure system tank for each residence will be installed by the Utility. The customer will be responsible for the plumbing and electrical to connect from the residence to the tank. The customers will be required to pay the Commission's recommended service availability charges as well as existing charges imposed by Charlotte County. Furthermore, the service availability policy states that the existing property owners will have 365 days from the written notice that the wastewater system is available to its property within which to connect. If the property owner fails to connect to the system within the deadline, the property owner will be subject to code enforcements and will begin billing the property owner the approved BFC. (EXH 48, BSP 1375)

In its briefs, EU asserted that some property owners asked why they had no option to pay over time. EU stated that pursuant to Section 381.00655(1)(a), F.S., customers will have the option of prepaying the amortized value or required connection charges in equal monthly installments over a period not to exceed two years from the date of the initial notification of anticipated availability. Furthermore, if EU is granted a wastewater certificate, property owners can request an option to pay the service availability charges in monthly installments as required by the statute. (EU BR 19) Staff agrees that the installment option is available pursuant to the statute.

In conclusion, staff believes there is sufficient information and detail in the record to calculate service availability charges. Further, it would not be appropriate to set EU's charges to be identical to those charged by Charlotte County Utilities; each utility has its own unique operational costs, service area, and customer base, meaning a simple comparison could lead to unfair pricing for consumers depending on the situation.

CONCLUSION

The appropriate service availability charges are shown on Schedule No. 5 and should be approved. In addition, the Utility's proposed service availability policy should be approved. The approved charges and policy should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. EU should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 15: Should this docket be closed?

Recommendation: This docket should be closed. (Thompson, Dose)

Position of the Parties:

LC: Yes.

LGIPA: Yes, EU's application should be denied and the docket should be closed.

PIE: Yes, the docket should be closed.

EU: Yes

Staff Analysis:

ANALYSIS

The parties all agree that the docket should be closed, although for different reasons: LC, LGIPA, and PIE contend that the application should be denied and the docket closed. (LC BR 27-28; LGIPA BR 28; PIE BR 17) EU argues that upon issuance of a wastewater certificate to EU, no further action is required in the docket and it should be closed. (EU BR 19)

If the Commission approves staff's recommendation, a final order should be issued granting EU a wastewater certificate and establishing initial rates and charges. Upon issuance of the final order, this docket should be closed.

TERRITORY DESCRIPTION
Environmental Utilities, LLC
Charlotte County
Wastewater Service

ISLANDS

AN INDIVIDUAL SERVICE AREA OVER A PORTION OF THE FOLLOWING DESCRIBED LANDS, LYING IN THE FOLLOWING DESCRIBED FRACTIONAL SECTIONS OF LAND: SECTION 28, TOWNSHIP 41 SOUTH, RANGE 20 EAST; SECTION 29, TOWNSHIP 41 SOUTH, RANGE 20 EAST; SECTION 32, TOWNSHIP 41 SOUTH, RANGE 20 EAST; SECTION 33, TOWNSHIP 41 SOUTH, RANGE 20 EAST; SECTION 3, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 4, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 10, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 15, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 16, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 21, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 22, TOWNSHIP 42 SOUTH, RANGE 20 EAST; SECTION 27, TOWNSHIP 42 SOUTH, RANGED 20 EAST; CHARLOTTE COUNTY, FLORIDA, SAID LANDS BEING BOUNDED ON THE WEST BY THE GULF OF MEXICO, BOUNDED ON THE EAST BY LEMON BAY AND GASPARILLA SOUND, BOUNDED OF THE SOUTH BY LITTLE GASPARILLA PASS AND BOUNDED ON THE NORTH BY THE FOLLOWING DESCRIBED LINE:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 29; THENCE NORTH 00°00'00" EAST A DISTANCE OF 2,717.15 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 29; THENCE SOUTH 89°58'58" WEST ALONG SAID SOUTH LINE OF THE NORTH HALF OF SAID SECTION 29 A DISTANCE OF 60 FEET MORE OR LESS TO THE INTERSECTION WITH WESTERLY MEAN HIGH WATER LINE OF LEMON BAY AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°58'58" WEST ALONG SAID SOUTH LINE OF THE NORTH HALF OF SAID SECTION 29, TOWNSHIP 41 SOUTH, RANGE 20 EAST, A DISTANCE OF 1,730.0 FEET MORE OR LESS TO THE INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF NORTH GULF BOULEVARD (66 FOOT RIGHT-OF-WAY) AS SHOWN ON THE PLAT OF PALM ISLAND VILLAGE, A CONDOMINIUM, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN CONDOMINIUM BOOK 4, PAGES 24-A THROUGH 24-E, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE SOUTH 60°34'11" WEST, A DISTANCE OF 66.0 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF SAID NORTH GULF BOULEVARD; THEN SOUTH 29°25'45" EAST, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF NORTH GULF BOULEVARD, A DISTANCE OF 105.0 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT; THENCE ALONG THE ARC OF SAID CURVE IN A NORTHWEST DIRECTION; HAVING A RADIUS DISTANCE OF 100.0 FEET, A CENTRAL ANGLE OF 90°00'00", WHOSE RADIUS POINT BEARS SOUTH 60°34'15" WEST, AN ARC DISTANCE OF 157.08 FEET TO THE POINT OF TANGENT OF SAID CURVE; THENCE NORTH 29°25'45" WEST, A DISTANCE OF 5.0 FT; THENCE SOUTH 60°34'11" WEST, A DISTANCE OF 342.0 FEET MORE OR LESS TO THE MEAN HIGH

WATER LINE OF THE GULF OF MEXICO AND THE POINT OF TERMINUS OF SAID LINE.

LESS AND EXCEPT:

A PARCEL OR TRACT OF LAND KNOWN AS PARCEL I, HIDEAWAY BAY BEACH CLUB, A CONDOMINIUM, AS RECORDED IN CONDOMINIUM PLAT BOOK 7, PAGES 82-A THROUGH 82-1, OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA.

SAID PARCEL I BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 11, TOWNSHIP 42 SOUTH, RANGE 20 EAST; THENCE SOUTH $00^{\circ}11'00''$ WEST ALONG THE EAST LINE OF SAID SECTION 11, A DISTANCE OF 1,421.76' TO A POINT ON THE SOUTHEASTERLY BOUNDARY LINE OF PORTOFINO SUBDIVISION UNIT NO. 1, AS RECORDED IN PLAT BOOK 10, PAGES 2-A AND 2-8 OF THE PUBLIC RECORDS OF CHARLOTTE COUNTY, FLORIDA; THENCE SOUTH $41^{\circ}57'00''$ WEST ALONG SAID SOUTHEASTERLY BOUNDARY A DISTANCE OF 386.28 FEET TO INTERSECT WITH THE NORTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD 776 (100 FOOT RIGHT-OF-WAY); THENCE NORTH $48^{\circ}03'00''$ WEST ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, A DISTANCE OF 165.72 FEET; THENCE SOUTH $41^{\circ}57'00''$ WEST, A DISTANCE OF 100.00 FEET TO INTERSECT WITH THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF SAID COUNTY ROAD 776; THENCE NORTH $48^{\circ}03'00''$ WEST ALONG SAID SOUTHWESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 100.00 FEET TO THE NORTHWESTERLY BOUNDARY LINE OF PARCEL III PER SAID HIDEAWAY BAY BEACH CLUB; THENCE SOUTH $41^{\circ}57'00''$ WEST ALONG SAID NORTHWESTERLY BOUNDARY LINE A DISTANCE 533.97 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL III; THENCE SOUTH $41^{\circ}09'25''$ WEST ALONG A SURVEY TIE LINE, A DISTANCE OF 4996.6 FEET MORE OR LESS TO INTERSECT WITH THE SOUTHWESTERLY APPROXIMATE MEAN HIGH WATER LINE OF GASPARILLA SOUND AND THE NORTHERLY BOUNDARY LINE OF SAID PARCEL I, FOR THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH $61^{\circ}40'25''$ WEST ALONG THE NORTHWESTERLY BOUNDARY LINE OF SAID PARCEL I, A DISTANCE OF 1,290 FEET MORE OR LESS TO INTERSECT WITH THE APPROXIMATE MEAN HIGH WATER LINE OF THE GULF OF MEXICO; THENCE IN A SOUTHEASTERLY DIRECTION ALONG SAID APPROXIMATE MEAN HIGH WATER LINE, A DISTANCE OF 541 FEET MORE LESS TO INTERSECT WITH THE SOUTHEASTERLY BOUNDARY OF SAID PARCEL I, SAID SOUTHEASTERLY BOUNDARY ALSO BEING 540.00 FEET SOUTH OF AT RIGHT ANGLE TO THE SAID NORTHWESTERLY BOUNDARY; THENCE NORTH $61^{\circ}40'25''$ EAST ALONG SAID SOUTHEASTERLY BOUNDARY A DISTANCE OF 1,683 FEET MORE OR LESS TO INTERSECT WITH THE SAID SOUTHWESTERLY APPROXIMATE MEAN HIGH WATER LINE OF GASPARILLA SOUND; THENCE IN A NORTHWESTERLY DIRECTION ALONG SAID MEAN HIGH WATER LINE, A DISTANCE OF 724 FEET MORE OR LESS TO THE POINT OF BEGINNING.

FLORIDA PUBLIC SERVICE COMMISSION

**authorizes
Environmental Utilities, LLC
pursuant to
Certificate Number 585-S**

to provide wastewater service in Charlotte County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
*	*	20240032-SU	Original Certificate

***Order Number and date to be provided at time of issuance**

Environmental Utilities, LLC		Schedule No. 1-A		
Schedule of Wastewater Rate Base		20240032-SU		
80% Design Capacity				
Description		Test Year Per Utility	Staff Adjust- ments	Staff Adjusted Test Year
1	Plant in Service	\$20,900,608	(\$565,362)	\$20,335,246
2	Land and Land Rights	800,000	0	800,000
3	Accumulated Depreciation	(9,919,052)	464,552	(9,454,500)
4	CIAC	(16,153,462)	(813,931)	(16,967,393)
5	Amortization of CIAC	7,230,578	327,624	7,558,202
6	Working Capital Allowance	<u>174,443</u>	<u>0</u>	<u>174,443</u>
7	Rate Base	<u>\$3,033,115</u>	<u>(\$587,117)</u>	<u>\$2,445,998</u>

Environmental Utilities, LLC		Schedule No. 1-B
Adjustments to Rate Base		20240032-SU
80% Design Capacity		
Explanation		Wastewater
Plant In Service		
To reflect appropriate level of plant in service.		<u>(\$565,362)</u>
Accumulated Depreciation		
To reflect appropriate level of accumulated depreciation.		<u>\$464,552</u>
CIAC		
To reflect appropriate level of CIAC.		<u>(\$813,931)</u>
Accumulated Amortization of CIAC		
To reflect appropriate level of accumulated amortization of CIAC.		<u>\$327,624</u>

Environmental Utilities, LLC					Schedule No. 3-A	
Statement of Wastewater Operations					20240032-SU	
80% of Design Capacity						
Description	Proposed Per Utility	Staff Adjustments	Staff Adjusted	Revenue Increase	Revenue Requirement	
1	Operating Revenues:	<u>\$1,902,160</u>		<u>\$1,902,160</u>	<u>(\$2,006)</u> -0.11%	<u>\$1,900,154</u>
	Operating Expenses					
2	Operation & Maintenance	\$1,071,003	131,513	\$1,202,516		\$1,202,516
3	Depreciation	216,798	(59,866)	156,932		156,932
4	Amortization	17,644	1,349	18,993		18,993
5	Taxes Other Than Income	245,479	(6,335)	239,144	(90)	239,053
6	Income Taxes	<u>88,944</u>	<u>(16,874)</u>	<u>72,070</u>	<u>(486)</u>	<u>71,585</u>
7	Total Operating Expense	<u>1,639,868</u>	<u>49,787</u>	<u>1,689,655</u>	<u>(576)</u>	<u>1,689,079</u>
8	Operating Income	<u>\$262,292</u>	<u>(\$49,787)</u>	<u>\$212,505</u>	<u>(\$1,430)</u>	<u>\$211,074</u>
9	Rate Base	<u>\$3,033,115</u>		<u>\$2,445,998</u>		<u>\$2,445,998</u>
10	Rate of Return	<u>8.65%</u>		<u>8.69%</u>		<u>8.63%</u>

Environmental Utilities, LLC		Schedule No. 3-B
Adjustments to Operating Income		20240032-SU
80% Design Capacity		
Explanation	Wastewater	
Operation and Maintenance Expense To reflect correct amount of O&M Expense.	<u>\$131,513</u>	
Depreciation Expense - Net To reflect correct amount of plant in service and amortization rate for CIAC.	<u>(\$59,866)</u>	
Amortization-Other Expense To reflect the correct amount of amortization expense.	<u>\$1,349</u>	
Taxes Other Than Income To reflect the correct amount of property tax.	<u>(\$6,335)</u>	

**Environmental Utilities, LLC
 Monthly Wastewater Rates**

**Schedule No. 4
 DN 20240032-SU**

	UTILITY REQUESTED RATES*	STAFF RECOMMENDED RATES
<u>Residential Service</u>		
Base Facility Charge- All Meter Sizes	\$109.29	\$110.99
Charge per 1,000 gallons- Residential 10,000 gallon cap	\$18.82	\$17.38
<u>General Service</u>		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$109.29	\$110.99
3/4"	\$163.93	\$166.49
1"	\$273.22	\$277.48
1-1/2" Turbine	\$546.44	\$554.95
2" Turbine	\$874.30	\$887.92
3" Turbine	\$1,912.53	\$1,942.33
Charge per 1,000 gallons - General Service	\$22.59	\$20.85
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>		
3,000 Gallons	\$165.75	\$163.13
6,000 Gallons	\$222.21	\$215.27
10,000 Gallons	\$297.49	\$284.79

Initial Customer Deposits

Residential Service and General Service

5/8" x 3/4" \$318.00

All over 5/8" x 3/4" 2x Average Estimated Bill

*Utility requested rates as shown in witness Swain's rebuttal testimony.

Environmental Utilities, LLC

**Schedule No. 5
 DN 20240032-SU**

Service Availability Charges

	Utility Requested Rates	Staff Recommended Rates
Main Capacity Charge		
Residential per ERC	\$15,587.00	\$15,587.00
All others per gallons	\$72.16	\$72.16
Sewer Lateral Installation Charge	\$1,414.25	\$1,414.25

**Utility Requested
 Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$30.00	N/A
Normal Reconnection Charge	\$30.00	N/A
Violation Reconnection Charge	Actual Cost	Actual Cost
Premises Visit Charge	\$30.00	N/A
Late Payment Charge		\$7.50
NSF Check Charge		Pursuant to Section 68.065, F.S.

**Staff Recommended
 Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Premises Visit Charge	\$30.00	N/A
Violation Reconnection Charge	Actual Cost	Actual Cost
Late Payment Charge		\$7.50
NSF Charges		Pursuant to Section 68.065, F.S.