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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20200226-SU

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

_____ /

PROCEEDINGS: PREHEARING CONFERENCE

COMMISSIONERS
PARTICIPATING: COMMISSIONER MIKE LA ROSA
PREHEARING OFFICER

DATE: Wednesday, January 26, 2022

TIME: Commenced: 9:30 a.m.
Concluded: 10:16 a.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK
Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:

2 MARTIN S. FRIEDMAN, ESQUIRE, Dean Mead &
3 Dunbar, 5300 S. Atlantic Avenue, Apt. 12605, New Smyrna
4 Beach, Florida 32169; JOHN L. WHARTON and JORDANE WONG,
5 ESQUIRES, Dean Mead Law Firm, 106 E. College Avenue,
6 Suite 1200, Tallahassee, Florida 32301, appearing on
7 behalf of Environmental Utilities, LLC (EU).

8 RICHARD GENTRY, PUBLIC COUNSEL; ANASTACIA
9 PIRRELLO, ESQUIRE, OFFICE OF PUBLIC COUNSEL, c/o The
10 Florida Legislature, 111 West Madison Street, Room 812,
11 Tallahassee, Florida 32399-1400, appearing on behalf of
12 the Citizens of the State of Florida (OPC).

13 BRAD E. KELSKY, ESQUIRE, Kelsky Law Firm, 150
14 S. Pine Island Road, Suite 300, Plantation, Florida
15 33324, appearing on behalf of Palm Island Estates
16 Association, Inc. (PIE).

17 LINDA COTHERMAN, Post Office Box 881, Placida,
18 Florida 33946, Pro Se.

19 JENNIFER CRAWFORD and RYAN SANDY, ESQUIRES,
20 FPSC General Counsel's Office, 2540 Shumard Oak
21 Boulevard, Tallahassee, Florida 32399-0850, appearing on
22 behalf of the Florida Public Service Commission (Staff).

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1 APPEARANCES (CONTINUED):

2 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE
3 HELTON, DEPUTY GENERAL COUNSEL, Florida Public Service
4 Commission, 2540 Shumard Oak Boulevard, Tallahassee,
5 Florida 32399-0850, Advisor to the Florida Public
6 Service Commission.

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

2 COMMISSIONER LA ROSA: Hello, good morning,
3 everybody. Today is January 26th, 2022. The
4 prehearing is now called to order.

5 Staff, can you please read the notice?

6 MR. SANDY: Pursuant to notice, this time and
7 place has been set for -- has been set for a
8 prehearing conference in Docket No. 20200226-SU
9 regarding the application for an original
10 certificate and rates to provide wastewater service
11 in Charlotte County by Environmental Utilities,
12 LLC. The purpose of this hearing is as set forth
13 more fully in the notice, Mr. Chair.

14 COMMISSIONER LA ROSA: Thank you, Mr. Sandy.

15 Let's take appearances at this time.

16 Environmental Utilities.

17 MR. FRIEDMAN: Thank you.

18 Marty Friedman and John Wharton of the Dean
19 Mead Law Firm on behalf of Environmental Utilities.

20 COMMISSIONER LA ROSA: Thank you.

21 OPC.

22 MS. PIRRELLO: Anastacia Pirrello and Richard
23 Gentry for the Office of Public Counsel.

24 COMMISSIONER LA ROSA: Palm Island Estates
25 Association.

1 MR. KELSKY: Brad Kelsky on behalf of Kelsky
2 Law.

3 COMMISSIONER LA ROSA: Linda Cotherman. I
4 believe she's on the phone.

5 MS. COTHERMAN: Yes, Linda Cotherman here.

6 COMMISSIONER LA ROSA: Thank you.

7 The Little Gasparilla Property Owner's
8 Association.

9 MS. DWYER: Barb Dwyer.

10 COMMISSIONER LA ROSA: William Lee Roberts.
11 Staff.

12 MR. SANDY: This is Ryan Sandy, and with me
13 Jennifer Crawford on behalf of staff.

14 MS. HELTON: And Mary Anne Helton is here with
15 your Advisor -- as your Advisor. I would also like
16 to enter an appearance for your General Counsel,
17 Keith Hetrick.

18 COMMISSIONER LA ROSA: Thank you.

19 Staff, are there any preliminary matters that
20 we need to address before we get into the draft
21 prehearing order?

22 MR. SANDY: Yes, sir.

23 I would note for the record that the following
24 parties to this proceeding are not here this
25 morning. Deric Flom, Joseph Bokar, Laurie

1 Tremblay, Rhonda Olson, Richard Laydon, Roy
2 Petteway and William Lee Roberts. The order
3 establishing procedure provides that, unless
4 excused by you for good cause shown, each party
5 shall personally appear at this prehearing
6 conference. Further, failure of the party to
7 appear shall constitute a waiver of each party's
8 issues and positions. I would also note that that
9 party may be dismissed from the proceeding.

10 I note for the record that the parties not in
11 attendance are pro se. None of these individuals
12 prefiled testimony or exhibits, nor filed a
13 prehearing statement.

14 Staff counsel contacted each of these
15 individuals by email on January 20th and advised
16 them of the requirement that they attend the
17 prehearing conference, and the possible
18 consequences for failure to attend.

19 At this time, consistent with the provisions
20 of the OEP, we would recommend that these
21 individuals are dismissed from these proceedings
22 for failure to participate.

23 COMMISSIONER LA ROSA: All right. I will take
24 that under advisement.

25 Is there anything else?

1 MR. SANDY: EU timely filed a notice of intent
2 to use a deposition of former Charlotte County
3 employee Craig Rudy. We recommend that this matter
4 be taken up when we get into Section V of the
5 prehearing order regarding prefiled testimony and
6 exhibits.

7 COMMISSIONER LA ROSA: Does any other party
8 have any other preliminary matters that they wish
9 to address?

10 MR. FRIEDMAN: Commissioner La Rosa, we would
11 just concur with the staff, that those persons who
12 did not participate today be stricken as parties.

13 COMMISSIONER LA ROSA: I will take that under
14 advisement.

15 Anybody else?

16 All right. Then let's go through the draft
17 prehearing order now. I will identify the
18 sections, but I want the parties to let me know if
19 there is any corrections or changes that ultimately
20 need to be made. We may go through these quickly,
21 so please speak up if you have any changes or
22 corrections that ultimately need to be made.

23 Section I, Case Background.

24 Section II, Conduct of Proceedings.

25 Section III, Jurisdiction.

1 Section IV, Procedure for Handling
2 Confidential Information.

3 Section V, Prefiled Testimony, Exhibits and
4 Witnesses.

5 MR. SANDY: We would recommend that the
6 witness -- summaries of their testimony are no
7 longer than three minutes.

8 COMMISSIONER LA ROSA: All parties in
9 agreement with that time limit?

10 MR. FRIEDMAN: Yes.

11 MR. KELSKY: Yes.

12 COMMISSIONER LA ROSA: All right. Staff,
13 anything else?

14 MR. SANDY: EU timely filed a notice of intent
15 to use the deposition of Mr. Craig Rudy. There
16 have been no objections filed to EU's notice of
17 intent. You may make your ruling at this time, or
18 take this matter under advisement on whether it
19 should be admitted into the docket.

20 COMMISSIONER LA ROSA: No -- no objections?

21 MR. KELSKY: No objection.

22 MS. PIRRELLO: No objection.

23 COMMISSIONER LA ROSA: All right. I will take
24 that issue under advisement, then we will mark
25 three minutes as the timeframe for summaries.

1 MR. FRIEDMAN: Commissioner La Rosa, may I --
2 I know you have a right to take it under
3 advisement, but would you keep in mind, please,
4 that if you don't allow that deposition, even
5 though no one has objected, that we -- our
6 alternative is we have to subpoena somebody, and
7 that's going to take some time. And I would hate
8 to subpoena somebody with the County and have them
9 show up and then them not have to testify because
10 of the -- using the deposition of Mr. Rudy, so I
11 would just ask that you be sensitive to that.

12 COMMISSIONER LA ROSA: Sure.

13 MR. FRIEDMAN: Thank you.

14 COMMISSIONER LA ROSA: Thank you.

15 All right. Let's move on then to Section VI
16 here, Order of Witnesses. Are there any changes to
17 the order of witnesses?

18 MR. SANDY: We are not aware of any changes at
19 this time.

20 If the party -- parties know of any witnesses
21 that they can stipulate to, we can confirm with
22 Commissioners that any identified witnesses are
23 excused. If the Commissioners do not have any
24 questions for those witnesses, the witnesses may be
25 excused from the hearing and their testimony will

1 be entered into the record at the hearing as though
2 read.

3 COMMISSIONER LA ROSA: Any witnesses that can
4 be stipulated to?

5 MR. FRIEDMAN: I have one comment. I notice
6 that Ms. Cotherman is listed as a rebuttal witness
7 and I don't think that that's --

8 MS. CRAWFORD: That's correct. That was a
9 scrivener's error on our part, and we have
10 subsequently --

11 MR. FRIEDMAN: All right.

12 MS. CRAWFORD: -- corrected that. Thank you.

13 COMMISSIONER LA ROSA: Thank you, staff.
14 Anything else?

15 All right. Let's -- let's move on to Section
16 VII. Do the parties have any changes to their
17 basic positions? Then we can move on to the other
18 issues. Any changes?

19 MR. SANDY: I would just note that if any
20 changes are announced for any positions that they
21 be -- staff be notified no later, in writing, than
22 the close of business tomorrow at five o'clock.

23 COMMISSIONER LA ROSA: Thanks.

24 MS. CRAWFORD: And one additional point, if I
25 may, Commissioner.

1 COMMISSIONER LA ROSA: Yes.

2 MS. CRAWFORD: I note that Ms. Dwyer is
3 participating at today's prehearing conference.
4 She did not file a prehearing statement, so we
5 currently have no position from her, no basic
6 position from her.

7 Unless there is an objection from somebody on
8 the issue, I recommend that she be given the
9 opportunity to file positions by no later than
10 tomorrow, consistent with the -- the leeway given
11 to the other parties.

12 MR. FRIEDMAN: And I would point out that she
13 purports to represent an association, and I don't
14 think that she's been qualified as a qualified
15 party. She's not an attorney, I do not believe,
16 and I don't think that she's been qualified
17 otherwise as a representative. So I don't think
18 that she's appropriate to -- to be a party, or to
19 be a representative of a party.

20 COMMISSIONER LA ROSA: Okay.

21 MR. KELSKY: And I have a question.

22 Tomorrow I have a trial in Punta Gorda and
23 will not be able to provide a revised position
24 statement by 5:00 p.m. If I could have until the
25 next day, and I don't anticipate changing it, but

1 my trial is going to take all day and I will not
2 have time to revise the pretrial position --
3 prehearing statement, excuse me.

4 COMMISSIONER LA ROSA: So the request would be
5 then to move it to -- to January 28th?

6 MR. KELSKY: Correct.

7 COMMISSIONER LA ROSA: That would be Friday.
8 Staff, I am going to look to you on that.

9 MS. CRAWFORD: That -- that's fine with staff.

10 COMMISSIONER LA ROSA: It doesn't put any
11 undue burdens on us? Okay. So then we will -- we
12 will make a note of that, that we will move that
13 date to January 28th.

14 MS. CRAWFORD: And -- and for clarity, that's
15 for all parties, not just Palm Island?

16 COMMISSIONER LA ROSA: Yes, correct. Thank
17 you for adding that for all parties. So January
18 28th will be the deadline by 5:00 p.m. close of
19 business.

20 Okay. Moving on. Let's move on to Section
21 VIII, Issues and Positions. Staff, do we have
22 anything there?

23 MR. SANDY: I would note that there are
24 several -- several places where a party other than
25 staff has taken a position of no position, or no

1 position at this time. Pursuant to the OEP, if a
2 party does not take a position on the issue, their
3 position will be shown as no position in the
4 prehearing order.

5 Also pursuant to the OEP, if a party takes no
6 position on the issue, they waive the opportunity
7 for cross-examination on that issue, as well as
8 filing a post-hearing brief on that issue.

9 COMMISSIONER LA ROSA: We will move on to the
10 exhibit list. Staff, anything there?

11 MR. SANDY: We've prepared an --

12 MS. CRAWFORD: We also need to go through the
13 issues. If you would like to take them up in
14 blocks, we can do that. If you would like to go
15 issue by issue, we can do that too, but just to
16 confirm whether parties know of any changes to
17 their positions or the issues at this time.

18 COMMISSIONER LA ROSA: No problem. Let me
19 just pull the issue list.

20 Staff, I am going to come back to you on this.
21 Just to double check, we have 14 total issues?

22 MR. SANDY: Yes, sir. That is correct.

23 COMMISSIONER LA ROSA: Okay. I don't think I
24 necessarily need to go through each one one by one,
25 but maybe in tranches of five, if that's okay with

1 everybody here.

2 So let's -- are there any issues with Issue 1
3 through 5?

4 MR. FRIEDMAN: Yes, Mr. Commissioner La Rosa.

5 COMMISSIONER LA ROSA: Yes.

6 MR. FRIEDMAN: My comment would be that with
7 regard to the noticing, and we have the affidavits
8 that we published, the notice of the upcoming
9 hearing, and we sent this notice of the upcoming
10 hearing to all the property owners, and we will
11 present that at the appropriate time. But it seems
12 like the only objection that is made on -- by Ms.
13 Cotherman on the notice is that she doesn't like
14 the text of the notice. She's not questioning that
15 we sent it and we published it. She doesn't like
16 the text of it. And the text of it is that -- the
17 staff basically signs off on the text of it.

18 So I am not sure how we deal with something
19 that the staff had done for Ms. Cotherman to say
20 she doesn't think that's appropriate. So my bottom
21 line is I think that this is really an issue that
22 should be stipulated to.

23 COMMISSIONER LA ROSA: Okay. Any other items
24 in those first five issues? Mr. Friedman.

25 MR. FRIEDMAN: No, I just -- I am used to

1 taking them one by one so I am having to scroll
2 through this --

3 COMMISSIONER LA ROSA: Oh, I'm sorry.

4 MR. FRIEDMAN: -- pretty quickly. I am sorry.

5 COMMISSIONER LA ROSA: Yep.

6 MS. CRAWFORD: And perhaps while we are
7 waiting for parties to look through the issues,
8 does Ms. Cotherman have any response to Mr.
9 Friedman's comments just now?

10 COMMISSIONER LA ROSA: Ms. Cotherman, you are
11 recognized if you do have a comment.

12 MS. COTHERMAN: No. I think my comment was
13 stated in the issue. But there was -- for the next
14 notices, I had a concern about those if they
15 were -- but I guess this is not the time to bring
16 up the next notice.

17 COMMISSIONER LA ROSA: Mr. Friedman.

18 MR. FRIEDMAN: I would be interested to hear
19 if she's got a concern about the notice of the
20 hearing, which the staff also prepared. I would be
21 interested to hear what that concern is as well,
22 because I think that we could encompass all of that
23 and a stipulation on Issue 1 once we resolve
24 whatever her concern is.

25 MS. CRAWFORD: And I am unclear weather Ms.

1 Cotherman is proposing an additional issue. If --
2 if she wishes to do that, this is the time to do
3 that. She doesn't get to raise it after the
4 prehearing conference.

5 COMMISSIONER LA ROSA: And, Ms. Cotherman, if
6 you could -- you are recognized to maybe explain
7 the issue that you are referencing.

8 MS. PIRRELLO: Yes. Mr. Boyer sent out two
9 emails with -- sent out two emails to Island
10 residents, I think I from a long list, I am not
11 sure how many residents, but it had the incorrect
12 time on it. But then he attached -- the first one,
13 he sent out he attached the wrong information
14 sheet. He sent out a second one with the wrong
15 time also, telling people, in an email, telling
16 people when they could speak. And at first he said
17 it was ten o'clock at the hearing -- the hearings
18 in Venice, and then -- or 10:30 and then he said it
19 was ten o'clock, and then -- but then the email, or
20 the snail mail one, which I have not received yet,
21 but I have seen it from others, is the correct
22 information. But there was a lot of misinformation
23 from Mr. Boyer directly to residents with time and
24 what they could do prior to the arrival of the
25 snail mail.

1 MR. FRIEDMAN: She's -- she's confusing or --
2 or mistaking emails with the formal notice that we
3 are required to give pursuant to your rule, and we
4 are dealing -- this issue deals with your rules and
5 did we give the notice as required by your rule.

6 COMMISSIONER LA ROSA: Staff, I am going to
7 look to you for any further comments related to
8 this.

9 MS. CRAWFORD: One of the things I am
10 struggling with is, of course, with respect to the
11 notice of the customer meeting, there has been no
12 opportunity to prefile testimony because it's only
13 really recently occurred.

14 I agree with Mr. Friedman's comments, that
15 emails are not notice. Notice is the FAR and the
16 agency notice that staff published, and it's the
17 customer notice that staff reviewed and approved
18 that was subsequently emailed out by the utility.

19 I -- I struggle how to craft an issue to
20 address what Ms. Cotherman has identified and what
21 evidence would be appropriately put in the record
22 to address it. I don't know if Ms. Helton has
23 any --

24 COMMISSIONER LA ROSA: Yeah, Ms. Helton, I
25 will come to you on this. Is this something I can

1 taken under advisement and, please, your thoughts
2 on this?

3 MS. HELTON: I think this is something you
4 could take under advisement, but let me ask. So
5 the email with the correct -- incorrect time in the
6 body of the email had the correct attachment to it,
7 and the utility just sent out an email, another
8 email to the customers and say we gave you the
9 wrong time in the text of the email but the correct
10 information was attached. This is the time for the
11 hearing, and then we could -- it sounds like we
12 should be able to cure any confusion that there
13 might be.

14 MS. COTHERMAN: Okay. So the body of the
15 first email said that the customers could speak --
16 and I have copies of that -- could speak at 10:30,
17 and gave the address in Venice. It attached the
18 whole document that the parties received talking
19 about the prehearing statement -- or prehearing
20 conference, all the issues, and all of those is
21 what was attached.

22 The second hearing -- or the second email that
23 went out talked about a 55-gallon drum, and it said
24 that the new time -- the time was ten o'clock, and
25 attached the Charlotte County ordinance and

1 something else, but not the actual notice that was
2 subsequently sent via mail.

3 So the emails that went around did not contain
4 the approved form that was later sent in the mail
5 to residents, and I have copies of all those I
6 could send.

7 MS. HELTON: I guess I am struggling, Mr.
8 Chairman, with -- I understand that there was an
9 incorrect time on that first email, but they
10 subsequently corrected that. And I think that the,
11 you know, best course of action when we our down in
12 Venice is that if we have no customers at 10:00, we
13 would wait until 10:30 to ensure that if someone
14 read the notice wrong because of that email, that
15 we could hear their testimony. So it seems to me
16 this is kind of a non-issue in my mind.

17 MS. COTHERMAN: Okay. The first -- the first
18 one was 10:30, and then it was corrected to 10:00,
19 but other than that, that's it.

20 COMMISSIONER LA ROSA: And I think we could
21 take a similar action if we had to be there early
22 and be prepared, I know that we would be.

23 MS. CRAWFORD: I think based on what staff --

24 MS. COTHERMAN: Just one more thing --

25 MS. CRAWFORD: Ms. Cotherman --

1 MS. COTHERMAN: -- this was for both dates.
2 This was the 8th and the 9th to appear to be able
3 to speak at first at 10:30, and be able to speak
4 the second time at ten o'clock, but on both days.

5 MS. CRAWFORD: So based on what I have heard
6 here today, I would not recommend identifying a
7 separate issue. It sounds like any confusion can
8 be relatively easily resolved at the service
9 hearings themselves.

10 MR. FRIEDMAN: And this issue is the official
11 notices issue. It's not did we send an email that
12 said something that may have been incorrect. This
13 issue is did we send the notice as required by
14 Commission rule? We sent those notices, and that
15 should be the end of the story. I mean, this issue
16 should not be an issue. It should be basically a
17 stipulated issue.

18 MS. CRAWFORD: And Mr. -- Commissioner, if I
19 may.

20 Mr. Friedman has put out the proposition that
21 this be a stipulated issue. We can certainly take
22 that up off-line with the parties and pursue any
23 other stipulations that may be appropriate to this
24 proceeding. I don't think we are likely to get an
25 agreement at today's prehearing conference on it,

1 and I recommend that we move on.

2 COMMISSIONER LA ROSA: Okay. I agree, and --
3 and we will do that.

4 So let's -- as we are in the middle of the
5 issue list. We went through 1 through 5. -- Mr.
6 Friedman.

7 MS. HELTON: Mr. Chairman, I am so sorry, but
8 I just want to clarify one thing --

9 COMMISSIONER LA ROSA: Yes.

10 MS. HELTON: -- from Mr. Futrell.

11 The ten o'clock start time is not the time of
12 the service hearing. The ten o'clock start time on
13 February 8th is the time that the technical hearing
14 starts. The service hearing on the 8th starts at
15 6:00 p.m., and the -- and then there is a second
16 service hearing scheduled on February 9th at 9:30
17 a.m.

18 I was misunderstanding, thinking that she was
19 talking about the service hearing, but it's
20 actually the technical hearing starts at ten
21 o'clock on February 8th. And it sounds -- I agree
22 with Mr. Friedman, that if they have correctly
23 published the notice, then this is an issue that,
24 it sounds like, should be able to be stipulated.

25 COMMISSIONER LA ROSA: I think we have a good

1 understanding of what we need to do and we will do
2 that after this is over. So let's move on if there
3 is no other -- no other items.

4 Mr. Friedman.

5 MR. FRIEDMAN: I am sorry, I do have a
6 question about 4 --

7 COMMISSIONER LA ROSA: Sure.

8 MR. FRIEDMAN: -- in which -- this is the one
9 whether the -- whether the certification will
10 result in a duplication or will be in competition
11 with other systems. Nobody takes the position
12 except Ms. Cotherman, and her position is legally
13 insufficient.

14 COMMISSIONER LA ROSA: Okay. We will take
15 that comment in our thoughts under advisement.

16 Anything else on Issues 1 through 5?

17 Let's move on to issues 6 through 10. Issues
18 6 through 10. I will give you guys a guy few
19 seconds to look over those.

20 Mr. Friedman, you are recognized.

21 MR. FRIEDMAN: Issue No. 7 is does the utility
22 have sufficient plant capacity to serve? Nobody
23 has a position -- we say yes, nobody has a position
24 except, again, Ms. Cotherman, and she says it
25 doesn't have the capacity.

1 They've got a bulk service agreement with
2 Charlotte County for Charlotte County to treat it.
3 And the agreement provides for more capacity than
4 the application says we need, and she doesn't agree
5 only because she says there is a difference in
6 gallons per day flow data. But the gross
7 gallage -- the gross gallonage is we are buying
8 the capacity from the county, and the county has
9 got the capacity.

10 COMMISSIONER LA ROSA: Okay. Is there a
11 request on this issue?

12 MR. FRIEDMAN: I mean, I don't think it's an
13 issue. I mean, I think it should be a stipulated
14 issue as well.

15 MR. SANDY: If I may, Mr. Commissioner.

16 COMMISSIONER LA ROSA: Yes, sir.

17 MR. SANDY: I see as listed under Issue 7
18 revised position is that EU does not have the
19 sufficient tank capacity for serving their
20 requested area, and they will present a witness
21 that will present evidence of their position. So
22 it looks as if it is in conflict at this moment
23 unless I am misreading the position before that.

24 COMMISSIONER LA ROSA: Mr. Friedman, any
25 clarity on that? I will take that under

1 advisement.

2 Any other -- any other items in that group of
3 issues, 6 through 10.

4 Let's move on to Issues 11, the last sections,
5 Issues 11 through 14. 11 through 14.

6 Seeing none, let's move on to the exhibit
7 list. Staff.

8 MR. SANDY: We have prepared and circulated a
9 comprehensive exhibit list which includes all
10 prefiled exhibits. It also includes those exhibits
11 that staff wishes included in the record. Those
12 are items 24 through 41 on the comprehensive
13 exhibit list.

14 Staff has requested that the parties advise
15 whether they have any objections to the
16 comprehensive exhibit list or any staff exhibits
17 entering the record. Are there any parties here
18 this morning who would stipulate for having the
19 staff exhibits entered into the record?

20 COMMISSIONER LA ROSA: Any parties willing?

21 MR. FRIEDMAN: We have no -- on behalf of
22 Environmental Utilities, we have no objection to
23 admitting those when the time comes at the hearing.

24 COMMISSIONER LA ROSA: Okay.

25 MR. KELSKY: PIE has no objection either.

1 MS. PIRRELLO: No objection.

2 COMMISSIONER LA ROSA: Hearing --

3 MS. COTHERMAN: Linda Cotherman --

4 COMMISSIONER LA ROSA: I am sorry, could you
5 clarify that, because I couldn't hear you
6 correctly, Ms. Cotherman?

7 MS. COTHERMAN: No objection.

8 COMMISSIONER LA ROSA: Okay.

9 MS. CRAWFORD: And then also from --

10 MR. SANDY: Ms. Dwyer, what is your position,
11 ma'am?

12 MS. DWYER: No objection.

13 MR. SANDY: Thank you, ma'am.

14 COMMISSIONER LA ROSA: Okay. All right.

15 Hearing no objections, let's move on to the
16 proposed stipulations. Staff, is there anything
17 there?

18 MR. SANDY: Staff previously contacted the
19 parties and asked whether they would be willing to
20 stipulate to entry of the Charlotte County comp
21 plan and master sewer plan. It looks as if, from
22 the record as it is now, that all the parties wish
23 to have some conversation about those plans in some
24 way, shape or form. And perhaps the parties can
25 now indicate whether they have any objection to

1 stipulating entering those in the record.

2 COMMISSIONER LA ROSA: Parties, any objections
3 to stipulating the county comp plan or master sewer
4 plan?

5 MR. FRIEDMAN: No objection.

6 MR. KELSKY: No objection.

7 MS. PIRRELLO: No objection.

8 MS. COTHERMAN: Linda Cotherman, no objection.

9 MR. SANDY: Ms. Dwyer?

10 MS. DWYER: Dwyer, no objection.

11 COMMISSIONER LA ROSA: No objections.

12 Let's move on to pending motions. It's my
13 understanding that there are currently no motions
14 pending at this time, is that correct?

15 MR. SANDY: Yes, sir.

16 COMMISSIONER LA ROSA: Let's move on to
17 pending confidentiality matters. It's my
18 understanding that there are no pending motions for
19 confidentiality at this time, is that also correct?

20 MR. SANDY: Yes, sir. That is also correct.

21 COMMISSIONER LA ROSA: Okay. Let's -- staff,
22 let's move on to post-hearing procedures.

23 MR. SANDY: We recommend that post-hearing
24 briefs are no longer than 40 pages. We also
25 recommend that parties' post-hearing position

1 summaries are no more than 50 words. And we
2 propose that post-hearing briefs are filed no later
3 than March 16th of this year.

4 COMMISSIONER LA ROSA: Are all parties in
5 agreement with that?

6 MR. KELSKY: No objection.

7 MR. FRIEDMAN: No objection.

8 MS. PIRRELLO: No objection.

9 COMMISSIONER LA ROSA: Ms. Cotherman, any
10 objection?

11 MS. COTHERMAN: No objection.

12 COMMISSIONER LA ROSA: Ms. Dwyer?

13 MS. DWYER: No objection.

14 COMMISSIONER LA ROSA: Okay. Anything else,
15 staff?

16 MR. SANDY: Yes, sir.

17 I would -- I would also recognize that there
18 are several members -- parties in this matter who
19 have not engaged in a Commission hearing in the
20 past. I would like to clarify to all the parties
21 that post-hearing briefs are a critical component
22 of our post-hearing recommendations. For those
23 individuals who have not participated in these
24 matters, it's your opportunity for letting the
25 Commissioners know what you think and how they

1 should resolve this case based on the testimony,
2 witnesses and evidence in the case. Having your
3 brief formatted in a way that mirrors how the
4 post-hearing rec will be structured ensures that
5 your arguments are correctly captured.
6 Consequently, staff will be happy to circulate to
7 everybody sample briefs from prior dockets as a
8 reference that show how these should be written and
9 formatted, if that's helpful for all the parties.

10 COMMISSIONER LA ROSA: Okay. Excellent.

11 So as discussed earlier, opening statements
12 will be limited to three minutes.

13 Mr. Friedman.

14 MR. FRIEDMAN: I had requested that the staff
15 expand that to five minutes. To have any
16 meaningful opening statements, three minutes is --
17 you can't get much said in three minutes. So I
18 would just respectfully ask that you increase that
19 to five minutes.

20 Thank you.

21 COMMISSIONER LA ROSA: Any objection to
22 changing it to five minutes?

23 MR. KELSKY: No objection.

24 MS. PIRRELLO: No objection.

25 COMMISSIONER LA ROSA: I was hoping everyone

1 would talk quickly. All good? Understood. So
2 let's make it five minutes. So opening statements
3 shall be limited, then, to five minutes. Briefs
4 shall be limited to 40 pages. No objections to
5 that.

6 Let's move on to other matters. Are there any
7 other matters to address in this prehearing
8 conference?

9 MS. HELTON: Yes. Commissioner, I think that
10 Mr. Friedman has a point with respect to Ms. -- I
11 am not sure if it's Dwyer or Dyer's --
12 participation. If she is representing just
13 herself, I think it's appropriate for her to appear
14 pro se. If she is representing the, I am not sure
15 which homeowners' association, but a homeowners'
16 association --

17 COMMISSIONER LA ROSA: Little Gasparilla
18 Property Owner's Association.

19 MS. HELTON: Yes, then I think there is more
20 that she needs to do. She would need to file a
21 request to be a qualified representative, and she
22 would need to be able to show that she meets the
23 requirements set out in the uniform rules to be a
24 qualified representative. So I guess we need to
25 hear from her what her intention is.

1 COMMISSIONER LA ROSA: And, Ms. Dyer, can I
2 ask you for clarification on that? I mean, that's
3 a good -- a good point. Do you have further
4 comments or clarifications on representation and
5 intent?

6 MS. DWYER: My name is Dwyer, just for
7 clarification sake.

8 I joined in this -- this proceeding as a
9 member of the LGPOA. I am not prepared to act on
10 my own, but my purpose in being in this -- in this
11 meeting was to keep the door open for the LGPOA.

12 Respectfully, you know, there is a lot of --
13 there is a lot of dissent amongst the board, so
14 there was no clear position that we had, you know,
15 at the time that things were supposed to be filed.
16 So I am here to gather information, like I said, to
17 keep the door open. If it's not appropriate for us
18 to be participants because of lack of participation
19 previously, it's understood, but --

20 COMMISSIONER LA ROSA: Okay, Ms. Dwyer --

21 MS. DWYER: -- there is still discussion -- go
22 ahead.

23 COMMISSIONER LA ROSA: Okay, I am going to ask
24 staff -- and I know they have been in communication
25 with you. I have not seen the day-to-day

1 communication as I -- as I can't, but I am going to
2 ask staff if they can chime in maybe to give little
3 bit more thoughts on this.

4 Ms. Crawford, you are recognized.

5 MS. CRAWFORD: Thank you, sir.

6 It seems to me that this is kind of the
7 tipping point. Prehearing conference is where, as
8 they say, the rubber meets the road. And I have
9 had previous exchanges with Ms. Dwyer about her
10 participation, what it looks like as a party versus
11 what it looks like as not a party.

12 As a party, you are expected to file
13 prehearing statements, to take positions on issues,
14 and so forth. It -- it comes with the ability to
15 cross-examine witnesses and file post-hearing
16 briefs, and it brings appellate rights.

17 I agree with Ms. Helton, that absent her being
18 either an attorney or an approved qualified
19 representative pursuant to 25 -- I'm sorry,
20 28-106.106(4) Florida Administrative Code, she
21 cannot represent others. She can represent her own
22 interests in this proceeding.

23 If the board is not willing to put all of its
24 members forward in a represented way -- I would
25 emphasize that if they are not -- if they are

1 parties, they are not going to be able to testify
2 to the Commission at the customer service hearings.
3 The parties' opportunity to present testimony to
4 the Commission is with the prefiled testimony, and
5 for intervenors that was November of 2021.

6 If the individuals who are going to be
7 prospective customers of the utility are not
8 parties, they can testify at the service hearings,
9 and they are going to be able to tell the
10 Commissioners what they think should be done in
11 this case. But also, if you are not a party, you
12 don't get to cross-examine witnesses. You don't
13 get to file briefs.

14 And so I have had discussions with Ms. Dwyer
15 by email previously about the rights that a party
16 status brings, but also the obligations that being
17 a party brings. And so what we need from her is a
18 clear statement, and I think today is the day to do
19 it, whether she wishes to proceed as a party; and
20 if so, it needs to be either on her individual
21 basis, or get a qualified rep or an attorney to
22 represent the board. It may be too late at this
23 juncture, because you have to -- I guess we would
24 have to discuss whether this is time to have a
25 qualified representative be approved.

1 COMMISSIONER LA ROSA: Ms. Helton.

2 MS. HELTON: We are -- we are pushing the
3 deadline. The hearing is in, you know, less than
4 two weeks, I think.

5 And it's a little frustrating honestly, Mr.
6 Chairman, because I think that Ms. Brew -- I am
7 sorry -- Ms. Crawford has been working very hard to
8 understand the party status of these individuals,
9 and she has, I think, shared a lot of information
10 with them trying to get them to the right status
11 today.

12 So I agree with Ms. Crawford, that today is
13 the day when we need to know from Ms. Dwyer whether
14 she intends to seek to be a qualified
15 representative -- which we don't know yet today
16 whether she can even meet those requirements under
17 the rule -- or whether she's going to represent
18 herself pro se, or whether she will not participate
19 as a party at all, which means she can then testify
20 at the service hearing.

21 COMMISSIONER LA ROSA: Ms. Dwyer, I am going
22 to throw it back to you. I think staff has truly
23 laid this out pretty -- pretty clear, and it sounds
24 like there are some options and ramifications if
25 one decision is made over another.

1 Can we ask you to clarify your intent in how
2 you would like to move forward?

3 MS. DWYER: I guess, based on -- based on
4 information presented to me, it would be best to
5 remove myself as a party.

6 COMMISSIONER LA ROSA: Okay. Understood.

7 And, staff, that -- that -- that's -- that's
8 clear enough from what we would have to make, and
9 obviously I would take it under advisement for now,
10 we will make a final decision after today -- after
11 this proceeding.

12 MS. HELTON: Yes, sir, I think that's
13 sufficient.

14 COMMISSIONER LA ROSA: Okay. Thank you, Ms.
15 Dwyer, and I think we've got that cleared up.

16 Let's move on to any other matters. Staff, is
17 there -- are there any other matters to address in
18 the prehearing conference?

19 MR. SANDY: Yes, sir. I just have a few
20 comments for the parties.

21 At the hearing, the parties, Commissioners and
22 staff already have access to all the prefiled
23 testimony and exhibits. Now, you do not have to
24 bring copies of these items for any of the other
25 parties. However, all exhibits you wish to use at

1 the hearing for the purposes of cross-examination,
2 impeachment -- or impeachment must be provided in
3 the following manner:

4 For each exhibit that you intend to use, you
5 must bring 20 paper copies with each copy having a
6 cover sheet that you will be provided.

7 For each exhibit, you will need to fill out
8 everything that is on the cover sheet, except the
9 exhibit number. That will be provided at the time
10 the exhibit is identified at the hearing.

11 Please be sure that each exhibit has a brief
12 title that describes what the exhibit is.

13 COMMISSIONER LA ROSA: Parties, any other
14 matters?

15 MR. KELSKY: We have one matter.

16 This is a bridgeless barrier island, and that
17 means that for residents to come testify at the
18 hearing they have to take ferries. Ferry service
19 stops at 9:30 p.m., and it's about a 45-minute
20 drive from the ferry location to the hearing
21 location. And the concern was that if public
22 comments started at 6:00 p.m., that people who wish
23 to speak might not be able to because they wouldn't
24 be able to get back home.

25 I raised this issue with Ms. Crawford right

1 after the hearing notice came out, and we haven't
2 had a discussion that led to a result. So that's
3 an area of concern for the residents of -- that
4 make up PIE because they wish to speak at the
5 hearing.

6 COMMISSIONER LA ROSA: Can I ask you, just for
7 clarification, how many residents are on the
8 island?

9 MR. KELSKY: I'm under the impression that it
10 may be as many as 40.

11 COMMISSIONER LA ROSA: Ms. Crawford?

12 MS. CRAWFORD: May I?

13 COMMISSIONER LA ROSA: Yes.

14 MS. CRAWFORD: And I apologize if I haven't
15 gotten back with you on that.

16 We do want to make sure that the service
17 hearings are as open and accessible to all
18 residents as possible. I wish we could have found
19 a suitable location on the island where the ferry
20 travel wouldn't have even been necessary, but
21 unfortunately we have technical and logistical
22 issues with our hearings. They have to be
23 broadcast, and they have to have a certain size,
24 and so on, and unfortunately, the location we have
25 is what we have, and it does necessitate ferry

1 travel.

2 So I hope we have robust turnout to both
3 service hearings. There are two available. And we
4 will have, I believe, Chairman -- or I am sorry,
5 Commissioner Clark as the senior officer will most
6 likely be presiding officer. I have yet to see him
7 do anything but run a very sharp meeting. And so
8 we are going to be very efficient with our time.
9 We are going to make sure that everybody has an
10 opportunity to have their voices heard.

11 I have been to some very, very large service
12 hearings for Utilities, Inc., for Florida Power &
13 Light Company. I have yet to see one, in recent
14 memory, that goes past three hours. But certainly
15 we do want to make sure people are able to get home
16 safely, and so we can announce in advance of the
17 meeting that parties be -- or that individuals
18 testifying be efficient in their comments, and that
19 if we are -- if they have something to say that has
20 already been said, to just basically say me too and
21 ditto, and not repeat necessarily the same
22 information.

23 In addition, if we are running against the
24 time where they would need to leave as, you know,
25 inconvenient as that might be, they do have other

1 means of communicating their comments to the
2 Commission. They can either come in the morning
3 session if it's -- if the evening session is not
4 able to afford them the opportunity to speak. They
5 can also file comments in writing to the
6 Commissioners. And the Commissioners and staff do
7 read and are aware of those comments. They are --
8 they don't go unread.

9 So there are some other avenues available if
10 we get to that, but I think first we would have to
11 get to that point. I suspect we are going to be
12 rocking and rolling pretty efficiently on those
13 service hearings.

14 COMMISSIONER LA ROSA: And I will make sure
15 that the Chairman is aware of the circumstances if
16 something has to be done or changed there at the
17 meeting to move things around, we -- the Chairman
18 will be very efficient.

19 MR. KELSKY: Thank you.

20 COMMISSIONER LA ROSA: Sure.

21 Any other matters?

22 Okay. So I see no other matters. I think we
23 are good to conclude, and this prehearing
24 conference will be adjourned. Thank you.

25 (Proceedings concluded at 10:16 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

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

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

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

DATED this 7th day of February, 2022.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH31926
EXPIRES AUGUST 13, 2024