

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20240032-SU

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

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 5

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER GARY F. CLARK
COMMISSIONER GABRIELLA PASSIDOMO

DATE: Tuesday, April 1, 2025

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and
Notary Public in and for
the State of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. Let's get started. I
3 don't think you guys are listening to me. Five
4 minutes does actual actually mean five minutes.

5 Okay. Staff, Item No. 5.

6 MS. WATTS: Commissioners, Item 5 is staff's
7 recommendation on Environmental Utilities, LLC's,
8 application for an original certificate to provide
9 wastewater service in Charlotte County. EU seeks
10 to provide wastewater service to approximately
11 1,248 residential customers at build-out.

12 The Commission held an evidentiary hearing and
13 two service hearings on January 28th and 29th of
14 2025. A total of 104 customers spoke at the
15 service hearings, and over 440 written comments
16 were received in the docket file.

17 Staff is recommending the application for a
18 wastewater certificate be approved. Additionally,
19 staff's recommended wastewater rates are shown on
20 Schedule No. 4 of the recommendation.

21 This is a post-hearing decision with
22 participation limited to Commissioners and staff.
23 Staff is available to answer any questions.

24 CHAIRMAN GRAHAM: Thank you, staff.

25 Commissioners, since I don't have the lights

1 in front of me, you are just going to have to wave
2 if you would like to speak.

3 Commissioner Passidomo Smith.

4 COMMISSIONER PASSIDOMO SMITH: Thank you,
5 Commissioner Graham.

6 Okay. I think I just want to kind of lay out
7 this general process a little bit, and maybe a
8 little bit of my thoughts, and I am curious to hear
9 from, you know, my colleagues here.

10 This was a very significant application for a
11 wastewater. This wasn't something that we normally
12 see. And I say that because the territory that
13 they would be operating is very unique in a barrier
14 island. I think that's something that the
15 geographic region is something to take into
16 account.

17 And then the people who live there were --
18 that had a huge impact on me, in that they -- them
19 taking a ferry over and speaking to us about --
20 during this the service hearings, and it went late
21 into the night and then long the next day, and
22 people were really passionate, and that was
23 impactful. I think that this is -- this isn't just
24 any other original certificate for a wastewater.

25 I appreciate staff's recommendation here. I

1 think that they did -- y'all did a really good job
2 of laying out, okay, well, what -- staff, you know,
3 what -- 367.045 an original certificate
4 application, what's -- what a company needs to put
5 in there, and addressing each component of it.

6 And then I see that -- for me, I really am
7 going to be focusing on subpart (5)(a), and that
8 is, and that is, to me, almost like an
9 all-encompassing public interest. And that is
10 there is a lot of Commission discretion in there.

11 You know, we -- there is other requirements
12 that we have for things to consider, and I think
13 you guys did a really good job in the
14 recommendation of considering those things, and I
15 -- I am also -- I also have considered all of those
16 things, and as far as going through the record, and
17 what we heard during the technical hearing. And so
18 I am, like -- I don't want to -- I give too much, I
19 guess, where my thoughts are going, but, you know,
20 I -- here, I will say these few things.

21 I -- reading through the briefs, some of the
22 intervenors kept bringing up the previous
23 application from Environmental Utilities for this
24 territory, and that this is exactly the same as the
25 2021 situation. I disagree with that. I do think

1 that this isn't exactly the same as 2021 -- I am
2 sorry, 2020, but there are some consistencies and
3 then there are some -- so the -- we are looking
4 through the record, the fact that Environmental
5 Utilities this time -- it's important -- you know,
6 it required in 367.045 that you -- that there has
7 to be some sort of, you know, need request by a
8 potential customer. We historically have been --
9 it doesn't matter the relationship or anything of
10 who that needed -- who the filing has been from,
11 but that there has to be -- so that's something
12 that's different.

13 The utility this time did submit 29 requests
14 for service, but I am looking at the overwhelming
15 majority of custom -- potential customers who are
16 opposed to this project. To me, that's -- that
17 weighs in the public interest.

18 I -- then another distinction. So 2020, this
19 time the utility did bring a County witness to
20 support the County resolution that was passed. I
21 want to also make a distinction, because we heard
22 from some intervenors about -- that it was passed
23 by consent agenda. That's not persuasive to me.
24 We, just because it's consent agenda, that does not
25 negate the validity of the vote.

1 But what was more impactful to me was the -- I
2 was not persuaded by that County, the witness
3 testimony of that during the hearing. He was --
4 the County witness was asked several questions
5 about the resolution and -- from my recollection.
6 And then from combing through, you know, the
7 transcript, I didn't get -- I didn't see answers
8 that really supported that resolution. I didn't
9 see him actually answering those questions. So I
10 wasn't persuaded by his testimony.

11 And I think that when you take those things
12 that are brought forth in this case versus the 2020
13 one, and when -- just I can only speak on behalf of
14 myself, but I wasn't convinced -- I wasn't
15 convinced by them. I wasn't persuaded that the
16 public interest is served by those new components
17 brought in. Because we said in 2020 that a need
18 had not been established, and that was it. And the
19 utility did change things this time to establish
20 that need, but I wasn't -- but I -- to me, I -- I
21 didn't -- I am not persuaded that there is still a
22 need that has been -- that there is still a need
23 here. And so once I see that -- I don't think that
24 there has been a need established, I don't really
25 need to go much through the other components of the

1 statutory requirements.

2 I don't want to keep rambling, but those are
3 my thoughts, and I wanted to throw it back to you
4 guys.

5 CHAIRMAN GRAHAM: Commissioner Smith, I think
6 you have done a fantastic job, and I don't think
7 you are rambling, and you about took care of half
8 of my notes.

9 Commissioner Clark.

10 COMMISSIONER CLARK: I was going to say the
11 same thing, Mr. Chairman. You did an outstanding
12 job. You kind of outlined the key drivers that I
13 am looking at as well, but -- and I am going to
14 take a dangerous step, and people will cringe, but
15 I am going to go some steps beyond that.

16 There are some key things that I think are a
17 factor in here as well. I could possibly have even
18 considered granting the certificate based on
19 long-term needs of the community and the potential
20 benefits that this system is going to bring. I
21 don't argue that one bit in the world. I do have
22 some problems with an inability to bifurcate the
23 rates from the original certificate order. And I
24 just can't see the rates as -- the rates are a
25 component of this. There is no way to separate

1 that issue out. And it comes down to some
2 reasonable cost to me.

3 The fact that the County would not impose a
4 moratorium on septic tanks, people are continuing
5 to make investments in facilities that they have,
6 and then within 365 days, they are going to have to
7 double that investment and pay for a connection
8 fee. And I realize the cost of these systems, and
9 I understand how CAIC works, but I do not believe
10 these are what I would consider reasonable costs,
11 and I don't think the rates are reasonable that go
12 beyond that. I think you have some very, very
13 serious duplicative costs, and I don't like the
14 mandatory connection concept for folks that have
15 just made that particular investment, so...

16 And the most overwhelming thing to me was the
17 lack of desire for the system from the consumers.
18 It was an overwhelming amount of consumers that are
19 not interested in this system. And I think until
20 the County puts a moratorium on development, I
21 think that this system is not ever going to be
22 needed or wanted -- or not going to be wanted by
23 this community.

24 So I appreciate your sentiments as well,
25 Commissioner Passidomo.

1 Mr. Chairman.

2 CHAIRMAN GRAHAM: Well, okay. I think I
3 should just shut up and call the question.

4 No, I -- I thought it was interesting as I was
5 going through the case background, and as staff has
6 told us, it says: The Commission will not address
7 the approval of this system -- it will not address
8 the approval of the system design, environmental
9 concerns or legal issues about the -- about the
10 easements. And I thought to myself, if we are not
11 going to look at the environmental issues, why is
12 this even before us? I thought that was the whole
13 premise of all of this stuff, was the environmental
14 issues.

15 So if we are not looking at the environmental
16 issues, that also has an effect on the resolution,
17 because the resolution speaks to enhance the
18 health, welfare and the safety of our citizens.
19 And I have didn't see anything -- I didn't hear
20 anything, really, nothing in the docket file that
21 specifically spoke to the health and the
22 environmental issues here, and also with the
23 resolution.

24 And I agree with Commissioner Smith,
25 regardless if this went through the consent agenda

1 or if it had an open hearing and it, you know, it
2 got 200 people that spoke to it, the fact of the
3 matter is, these County Commissioners voted for it
4 and this resolution is before us, but I still agree
5 with -- in this case, I agree with staff, that -- I
6 have read more of my fair share of comp plans, and
7 I don't think that this is consistent with the comp
8 plan regardless of what this resolution says.

9 So if we are not looking at the environmental,
10 and I don't think it agrees with the comp plan,
11 basically the only thing this resolution is saying
12 is that it's -- that it's in line with the sewer
13 master plan. And I don't think being in line with
14 the sewer master plan overcomes, as Commissioner
15 Clark said earlier, the amount of costs of this
16 system. And I think it's absolutely overwhelming.

17 And also, I think it's interesting, when I
18 think about a wastewater system -- and I don't now
19 if it needs to have some kind of mechanical work
20 done to this, or if it needs to be more than just
21 one resident for it to be considered a system. And
22 I read staff has defined what a system was. But if
23 I am a resident on this island and I paid for a
24 septic tank to go on there, as far as I am
25 concerned, I have a system that's handling my

1 wastewater. And so this thing that's being
2 proposed, in my mind, is still a duplication, even
3 though statutorily it would not be a duplication.

4 And so if I had to pay that monthly fee
5 that -- and it depends, if you go with the utility
6 or you go with staff, but either way, it's over
7 \$150 a month, plus the connection fee. And that's
8 anywhere from 17,000 to, as we heard someone say
9 \$40,000. That becomes cost-prohibitive in my
10 opinion.

11 So that all being said, I am open for a
12 motion.

13 Commissioner Passidomo Smith.

14 COMMISSIONER PASSIDOMO SMITH: All right. So
15 I am going to move to deny staff's recommendation
16 on all issues, which would deny EU's application to
17 provide wastewater service.

18 COMMISSIONER CLARK: Second.

19 CHAIRMAN GRAHAM: It's been moved and seconded
20 to deny the application.

21 Any further discussion?

22 Seeing none, all in favor say aye.

23 (Chorus of ayes.)

24 CHAIRMAN GRAHAM: Any opposed?

25 (No response.)

1 CHAIRMAN GRAHAM: By your action, you have
2 approved the motion to deny the application.

3 MS. CRAWFORD: For clarification, with your
4 denial of the certificate, are you also voting on
5 the rates issues? Because pursuant to what we did
6 last year -- or with the last case, if you deny the
7 certificate, the rates issues would be moot and no
8 vote is necessary on those, so if we can get some
9 clarification.

10 CHAIRMAN GRAHAM: So what are you suggesting?

11 MS. CRAWFORD: I -- it's certainly your call.
12 If you would like to both deny the certificate and
13 also deny the rates issues, you may do so. I think
14 it might be cleanest just to regard the rate issues
15 as moot, but --

16 CHAIRMAN GRAHAM: So if we regard that as
17 moot, then we are done?

18 MS. CRAWFORD: Correct.

19 CHAIRMAN GRAHAM: Then we are done.

20 This meeting is adjourned.

21 (Agenda item concluded.)

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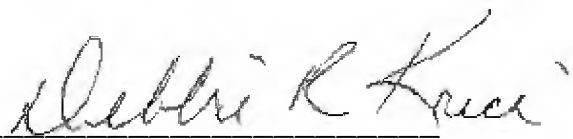
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COUNTY OF LEON)

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financially interested in the action.

DATED this 15th day of April, 2025.


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