



**STATE OF ALABAMA**  
PUBLIC SERVICE COMMISSION  
P.O. BOX 304260  
MONTGOMERY, ALABAMA 36130

TWINKLE ANDRESS CAVANAUGH, PRESIDENT

JOHN A. GARNER, EXECUTIVE DIRECTOR

JEREMY H. ODEN, ASSOCIATE COMMISSIONER

CHRIS "CHIP" BEEKER, JR., ASSOCIATE COMMISSIONER

**ECO-PRESERVATION SERVICES LLC,**

**Respondent/Petitioner,**

**OFFICE OF THE ATTORNEY GENERAL OF  
ALABAMA,**

**Intervenor,**

**D.R. HORTON, INC.-BIRMINGHAM,**

**Intervenor.**

**INVESTIGATION PROCEEDING TO  
CONSIDER THE ISSUANCE OF A  
CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY  
FOR ECO-PRESERVATION  
SERVICES LLC AND TO  
DETERMINE THE RATES, TERMS  
AND CONDITIONS OF SERVICE TO  
BE IMPLEMENTED BY ECO-  
PRESERVATION SERVICES, LLC**

**DOCKET 33335**

**PROCEDURAL RULING**

Through a procedural ruling issued on March 14, 2024, Eco-Preservation Services, LLC ("Eco-Preservation" or "Respondent/Petitioner") was directed to respond to upcoming data requests from Commission Staff within 10 business days and to file any objections to Staff's data requests within 5 business days of the request. On March 27, 2024, Staff emailed Eco-Preservation the first data request and indicated that responses were "due to all parties no later than April 10, 2024," in accordance with the procedural ruling.

Respondent/Petitioner filed no objections and timely responded on April 10, 2024. However, for several of the requested items, Eco-Preservation only responded, "DOCUMENTS UNAVAILABLE AT THIS TIME. WILL PROVIDE AT LATER DATE." And, for other requests, Eco-Preservation represented that the responsive documents contain, "EASILY IDENTIFIED PERSONAL FINANCIAL INFORMATION OF ITS CUSTOMER THAT IS NOT EASILY REDACTED." Related to the general ledger, which was requested but not

provided. Eco-Preservation indicated that, "NON DISCLOSURE AGREEMENTS FROM THIRD PARTIES SHOULD BE IN PLACE." Further, Respondent/Petitioner did not provide the responsive documents to Intervenor D.R. Horton, Inc.-Birmingham ("DR Horton") for reasons to be explained in a contemporaneous motion.

That motion was filed on the same day, April 10, 2024. In that motion, Eco-Preservation seeks to exclude the City of Lake View ("Lake View") and DR Horton from receiving information that it labels as "confidential." Eco-Preservation represents that Lake View and DR Horton are "presently engaged in actions and activities detrimental and harmful to Eco-Preservation Services, LLC," purportedly in violation of a franchise agreement related to sewer service.

Regarding the Respondent/Petitioner's motion and response to the data request, the undersigned rules as follows:

1. Eco-Preservation should have presented its confidentiality concerns within the 5-day deadline to submit objections to the Staff's data request, as described in the procedural ruling issued on March 14, 2024. For future data requests, any issue that limits complete disclosure shall be addressed within this 5-day deadline.

2. Currently, Lake View is not a party in this proceeding. The city has asked to be included on the service list but has not filed for intervention. Based on this status, Lake View has access to publicly available documents but does not need to be included in the responses to data requests.

3. While Eco-Preservation has noted concerns about DR Horton's access to certain information, Respondent/Petitioner has not presented any reason why it failed to provide the requested documents to Commission Staff and the Office of the Attorney General of Alabama ("Attorney General"). These requested documents include evidence to support the calculation of

sewer rates, specifically support for the prudence of certain expenses. Failure to timely produce supporting evidence may result in these expenses not being included in the rate calculation.<sup>1</sup>

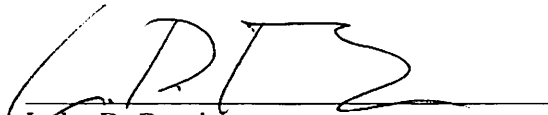
**Therefore, Eco-Preservation shall provide all requested information to Staff and the Attorney General by the close of business on April 19, 2024.**

4. Before ruling on Respondent/Petitioner's motion, the Intervenor shall have an opportunity to address Eco-Preservation's assertions about confidential information and the proposed action. **Any Intervenor response shall be filed with the Secretary of the Commission by the close of business on April 30, 2024.**

5. This investigation will involve a public hearing. That hearing will be scheduled through a future procedural ruling, along with deadlines for the submission of evidence, including pre-filed testimony.

IT IS SO RULED.

Done at Montgomery, Alabama this 17th day of April 2024.

  
Luke D. Bentley  
Administrative Law Judge

c: All parties of record

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<sup>1</sup> As Eco-Preservation has been made aware, the burden of proving the reasonableness of the proposed rates falls on Respondent/Petitioner. 73B C.J.S. Public Utilities § 135 (referencing *Southwest Gas Corporation v. Public Utilities Commission of Nevada*, 504 P.3d 503, 138 Nev. Adv. Op. No. 5 (Nev. 2022) (stating that "public utilities do not enjoy a presumption of prudence with respect to the expenses they incur; rather, the utility must show that the expenses were prudently incurred").