



## INDIAN RIVER COUNTY, FLORIDA DEPARTMENT OF UTILITY SERVICES

**Date:** November 1, 2018  
**To:** Jason E. Brown, County Administrator  
**From:** Vincent Burke, P.E., Director of Utility Services  
**Prepared By:** Cindy Corrente, Utility Finance Manager  
**Subject:** Reserve Accounts

### **BACKGROUND**

On December 20, 2016, the Indian River County Board of County Commissioners (BCC) approved conducting an updated rate study. On July 18, 2017, the BCC approved a Professional Services Agreement with Raftelis Financial Consultants to conduct a Comprehensive Water, Wastewater, and Reclaimed Rate Study. The scope of work included looking at recouping any cost of construction and the future renewal and replacement costs. It also included an analysis of impact fees, and line extension charges in order to ensure that they are meeting the capital costs affiliated with the related growth. In doing so, some related situations were reviewed with the consultant in order to assure that other operational concerns were addressed and incorporated into the study.

One of the related areas involves reserve accounts. Reserve accounts are defined as accounts wherein impact fees were voluntarily paid in order to guarantee capacity in the water and/or wastewater system. Reserve accounts contain a certain number of equivalent residential units (ERUs). An ERU is defined as “the amount of water used or wastewater produced by a typical residential unit”, or a maximum of 7,500 gallons per month. Once an impact fee is paid, there is a monthly service availability fee affiliated with that reserve account. Monthly service availability fees cover the operating costs affiliated with maintaining the reserved capacity in the water and wastewater system. Currently, Indian River County Department of Utility Services (IRCDUS) has 972 water reserve accounts with 3,736 ERUs and 998 sewer reserve accounts with 4,411 ERUs. The chart below depicts the total number of utility accounts and ERUs as well as the number of reserve accounts and ERUs.

Type of Account	Total Accounts All Types	Total Active Accounts	Total ERUs All Accounts	Total Active ERUs	Reserve Accounts	Reserve ERUs
Water	49,994	49,022	69,213	65,477	972	3,736
Sewer	29,770	28,772	49,241	44,830	998	4,411
<b>Total</b>	<b>79,764</b>	<b>77,794</b>	<b>118,454</b>	<b>110,307</b>	<b>1,970</b>	<b>8,147</b>

**ANALYSIS**

It is important to understand that once an impact fee is paid, a utility account is established. Until the property is actually connected to the utility system, the account is referred to as a reserve account. Immediately upon receiving payment of an impact fee, IRCDUS is obligated to set aside and maintain the customer’s share of capacity in the system. Once that happens, IRCDUS incurs certain reoccurring costs in order to maintain that capacity. IRCDUS is reimbursed for these reoccurring costs through the monthly service availability fees.

For this analysis, the reserve accounts have been described in groups wherein there are similarities in the accounts within the group. These categories include accounts where the reserves were recently purchased in order to secure a building permit, accounts where the ERUs were purchased during various voluntary assessment programs and accounts where reserves were purchased for future development and often were required for a developer to obtain a concurrency certificate. Staff will describe concerns regarding some accounts within each category. Among more than one category, there are a small percentage of accounts where the account holder is not paying the monthly service availability fees. Even though IRCDUS is incurring the costs of maintaining the capacity, we are not receiving the reimbursement of the costs. This dilemma was reviewed extensively with our rate consultant. Second, amongst more than one category, there are accounts that have more ERUs than can be utilized on the property affiliated with the account, even at maximum buildout. Third, there are account holders amongst all groups that desire to relinquish their ERUs. Descriptions of the various categories follow below.

**Reserve Accounts where the impact fees were paid in order to secure a building permit**

In this group, there are a total of 412 water accounts that contain a total of 421 ERUs and 378 sewer accounts with 382 ERUs. Most of these accounts are for single family homes and were purchased in order to secure building permits. The majority of these accounts will become active service accounts within six months or less of the date of purchase of the ERUs. These accounts are all being kept current. For the most part, there are no concerns to be addressed under this category. Occasionally, an ERU is purchased with the intention of building in the near future and for some reason building does not take place. Currently, there is no allowance in County code for the return of these ERUs. However, staff will be recommending modifications to County Code to allow refunds under certain circumstances, including the one just described.

<b>Type of Account</b>	<b>Number of Accounts</b>	<b>Number of ERUs</b>
Water	412	421
Sewer	378	382
<b>Total</b>	<b>790</b>	<b>803</b>

**Reserve Accounts where impact fees were paid during a voluntary assessment project**

Between 1984 and 1989, IRCDUS adopted resolutions that were affiliated with various voluntary assessment projects. During this time frame, IRCDUS promoted assessments in lieu of impact fees in order to generate revenues for expansion of the system. The assessment values equated to ERUs. The funds generated were expended many years ago for expansion of the utility. The service availability revenues generated from these voluntary assessments were pledged for coverage of various bond issues affiliated with many of the expansion projects. The majority of these voluntary assessment projects were sewer projects wherein the funds generated were used to make sewer available, primarily in the north part of the county and the State Road 60 area. No one was forced to participate in the assessment project nor required to purchase ERUs. Customers purchased them strictly on a voluntary

basis. Once the ERUs were purchased, service availability fees began to accrue. Over 11,000 ERUs were sold through these voluntary assessment projects. Over time, many of the parcels containing the reserves have been developed. However, 233 voluntary water and sewer reserve accounts remain in the system today. Those 233 reserve accounts hold a total of 1,277 reserves. Over ninety-percent of these account holders continue to pay their monthly service availability fees.

<b>Type of Account</b>	<b>Number of Current Accounts*</b>	<b>Number of ERUs originally purchased</b>	<b>Number of ERUs remaining</b>
Water	78	2,050	219
Sewer	155	9,176	1,058
<b>Total</b>	<b>233</b>	<b>11,226</b>	<b>1,277</b>

\*This is the number of accounts remaining that are affiliated with ERUs that were purchased during one of the voluntary assessments. The original number of accounts is irrelevant since oftentimes the parcels consisted of tens or even hundreds of acres each. As the properties were carved out for development, accounts were added to accommodate the carve outs.

Included among the remaining account holders are some who have no plans to develop their property or connect to the county system, even though their properties are located within the urban service boundary. Some of them have expressed an interest in relinquishing their reserves. An allowance for such is discussed below in the recommendation section of this report. Most of these account holders continue to pay their monthly service availability fees. However, there are 21 accounts that are not paying the monthly service availability fees. These properties all have utility liens on them. It is important to understand that these few accounts have a large impact on cash flow and accounts receivable. Below is a chart that depicts the type of account, affiliated ERUs, and past due accounts receivable balances.

<b>Type of Account</b>	<b>Number of Past Due Accounts</b>	<b>Number of ERUs</b>	<b>Accounts Receivable as of 6/30/18</b>
Water	9	100	\$108,041
Sewer	12	187	\$370,418
<b>Total</b>	<b>21</b>	<b>287</b>	<b>\$478,459</b>

**Reserve Accounts where impact fees were purchased for a Planned Unit Development (PUD)**

Primarily, the ERUs in this group were purchased between Fiscal Year (FY) 2004 and FY 2007. At the time, there was an economic upswing, and residential development was widespread throughout the County, with heavy concentration in South County. A new practice became the standard during this time frame. Developers were buying up vacant land for PUDs. They then purchased reserves in quantities that were sufficient to cover every residence and building in the PUD. Between FY 2004 and 2007, a total of 17,244 water ERUs and 12,724 sewer ERUs were purchased. The majority of these ERUs became active water and sewer accounts within a few years of the original purchase. Some of the PUDs were fully developed while others only partially developed. Today, about twenty percent of these locations remain undeveloped, and fourteen percent of those are in the process of being developed. Only six percent are not being developed. Coincidentally, only six percent of these account holders are not paying their service availability charges either.

Below is a table that depicts the past due balance on the six percent of the total accounts.

<b>Type of Account</b>	<b>Number of Past Due Accounts</b>	<b>Number of ERUs</b>	<b>Accounts Receivable</b>
Water	9	882	\$1,731,490
Sewer	6	876	\$2,944,197
<b>Total</b>	15	1,758	\$4,675,687

**OPTIONS FOR CONSIDERATION:**

Several factors were considered before staff was able to suggest recommendations regarding reserve accounts. The first key factor was whether or not the service availability fees have been kept current. Overall, only six percent of the total ERUs sold by IRCDUS during one of the voluntary assessment projects or purchased for a PUD are affiliated with accounts that are not current. However, the impact of those few accounts on cash flow is quite significant. In reviewing these accounts with the rate consultant, it was concluded that when service availability fees are not maintained, the owner of the ERUs loses their rights to the capacity related to those ERUs. A similar concept was written into Resolution 87-142, which was adopted on December 1, 1987. At that time, the County could reclaim the ERUs and resell them. Staff is unsure when this practice was discontinued. In order to prevent excessive balances accruing on reserve accounts in the future, staff is recommending that after twenty-four months of service availability fees become delinquent, the county reclaim the ERUs affiliated with those service availability fees. Account holders would be notified and given the opportunity to bring the account current prior to the County reclaiming the ERUs. The manner in which those reserves are reclaimed will be elaborated upon within each applicable category of ERU discussed below.

Other factors that were reviewed include the circumstance under which the ERUs were purchased, the time period during which they were purchased, the volume of other similar purchases, and whether or not the funds collected for such sales have already been expended to expand the system. Relative to the total number of ERUs sold by IRCDUS since its inception, most have been utilized to establish active service. IRCDUS utilized the impact fees that were collected to expand the capacity of the system and now provides service to those areas. Less than two percent of all ERUs sold are affiliated with reserve accounts. Within that two percent, there are some situations described herein that require some action on the part of IRCDUS in order to resolve various areas of financial concern. A very small percentage of these accounts are not in good credit standing with IRCDUS. Before considering any recommendations, the financial impact to IRCDUS was considered. Staff was tasked with making recommendations that would relieve some properties of a lien that has become so excessive, the properties are no longer marketable while not creating a policy that would be viewed as unfair by all of the thousands of customers who purchased reserves, paid for them in full, and kept their service availability fees current.

**Reserve Accounts where the impact fees were paid in order to secure a building permit**

Staff recommends updating County Code to allow for the refund of impact fees paid in order to secure a building permit if such request is within twenty-four months of the purchase of the ERU. The policy should include language that the impact fee can be refunded if the account is in good credit standing, you were the original purchaser of the ERU and if the parcel that it is attached to is intact as it was when the ERU was purchased. In other words, the parcel has not been combined with other parcels, nor was there a parcel split. This policy would be helpful to customers who purchased an ERU with the intention to build in the near future but for some reason their plans changed. Situations like this do not occur often and staff contends that there should be an allowance in County Code for such a refund. There is no concern that this would have any significant impact on revenues nor create any other issues for the utility.

**Reserve Accounts that were purchased during a voluntary assessment project**

There are currently account holders whom possess ERUs that were purchased during one of the voluntary assessments and now have expressed the desire to relinquish their ERUs. Staff recommends updating County Code to allow for the relinquishment of such ERUs. With a few exceptions, staff is not recommending the refund of any of the impact fees paid during this time since the funds generated from the voluntary assessments were expended years ago in order to expand the system, and such refunds could have a large impact on fund reserves that are needed for near future expansion of the system. However, there are a few instances where service is unavailable within two hundred feet of the property. In these instances, a refund of the impact fee paid is recommended. Before relinquishment, the account balance would have to be brought current. A chart that reflects the potential impact if refunds were allowed for all reserve accounts is below.

<b>Type of Account</b>	<b>Number of ERUs</b>	<b>Annual Revenue Generated (Service Availability Fees)</b>	<b>Cost to Refund Impact Fees</b>
Water	219	\$ 23,783	\$ 295,650
Sewer	1,058	\$201,486	\$1,428,300
<b>Total</b>	<b>1,277</b>	<b>\$225,269</b>	<b>\$1,723,950</b>

Within this same group of ERU accounts, there are 21 accounts with 287 ERUs that are past due. Eight accounts make up eighty-four percent of the past due accounts receivable category. Staff recommends giving the owner the opportunity to bring their account current within 90 days of receiving notice by certified mail. At the end of the 90-day period, if the account is not current, exercising the option to foreclose should be seriously considered. Failure to do so will result in further compounding the receivable problem.

**Reserve Accounts that were purchased for a PUD**

Staff has analyzed this group of account holders and recommends several actions related to this category. First, our rate consultant has advised, if service availability fees have not been paid, then the account holder loses their rights to the ERUs. Therefore, staff is recommending an update to County Code that defines the consequences of not paying service availability fees on reserve accounts. Before taking any action, staff recommends giving the owner the opportunity to bring their account current within 90 days of being notified by IRCDUS via certified mail. After expiration of the 90 days, if the account is not current, exercising the option to foreclosure should be seriously considered. Failure to do so will result in further compounding the receivable problem. Due to the complexity of factors related to the accounts receivable balances and the potential policy shift of reclaiming ERUs, staff shall utilize this time to work with the County Attorney’s office to research the legal, financial, and operational logistics of foreclosure.

It is possible that another unique situation exists amongst holders of ERUs purchased during a voluntary assessment or purchased for a PUD. It may be that the property contains more ERUs than can be utilized, even if the parcel were developed to its maximum buildout as allowed under the County’s Comprehensive Plan. In these circumstances, staff is recommending that the account holder be allowed to relinquish the number of ERUs owned over the maximum buildout allowed. Such relinquishment could only take place if the account was current. Once current, any subsequent bills would be based on the lower number of ERUs.

A last recommendation by staff shall be to provide one last 90-day amnesty program. The amnesty program gives the owner the option to maintain ownership of the ERUs affiliated with the property. Included in this program would be an option for the owner to elect to turn in any of their ERUs after bringing the account current. Any subsequent billing would be based on the reduced number of ERUs. If the account should become delinquent again, the ERUs will be reclaimed by the County after twenty-four months of service availability fees become past due.

In order to accommodate the recommendations contained herein, modifications to County Code will be necessary. In all situations where a modification to County Code is recommended, staff would work with the County Attorney on said modification. Once complete in form, those modifications would come before the BCC for final approval.

## **FUNDING**

There is no funding affiliated with this agenda item at this time.

## **RECOMMENDATIONS**

A summary of the recommendations contained herein is listed below:

1. Modify County Code to allow for the refund of impact fees paid, if such request is made within twenty-four months of the purchase of the ERU(s). It is recommended that this modification become effective January 1, 2019.
2. Modify County Code to allow for the relinquishment of ERUs purchased during one of the voluntary assessment programs provided that the property remains undeveloped and/or service is not available within two hundred feet of the parcel. Such relinquishment shall include a refund of any impact fees paid only if service is unavailable within 200 feet of the property. Accounts shall be brought current before allowing any such relinquishment.
3. Modify County Code to allow for the relinquishment of ERUs purchased at any time if the buildout of the property under the current comprehensive plan does not allow for utilization of all ERUs affiliated with the property. Unless the ERUs were purchased within the past twenty-four months, relinquishment shall not include a refund of impact fees. Accounts shall be brought current before allowing any such relinquishment.
4. Modify County Code to accommodate the County reclaiming any ERUs wherein twenty-four months of service availability fees are past due.
5. Modify County Code to provide a 90-day amnesty period that also provides the property owner an opportunity to relinquish ERUs upon the account becoming current.
6. Direct staff to work with the County Attorney's office to research the logistics of foreclosing on properties that have excessive accounts receivable balances and enforcing the foreclosure option moving forward.

## **Attachments**

Resolution 87-142