

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for) DOCKET NO. 941121-WS
amendment of Certificates Nos.) ORDER NO. PSC-96-0415-PHO-WS
359-W and 290-S to add territory) ISSUED: March 26, 1996
in Broward County by SOUTH)
BROWARD UTILITY, INC.)
_____)

Pursuant to Notice, a Prehearing Conference was held on March 18, 1996, in Tallahassee, Florida, before Commissioner Joe Garcia, as Prehearing Officer.

APPEARANCES:

Scott G. Schildberg, Esquire, James L. Ade, Esquire, Martin, Ade, Birchfield & Mickler, P.A., 3000 Independent Square, Jacksonville, Florida 32202.
On behalf of South Broward Utility, Inc.

John R. Marks, III, Esquire, Katz, Kutter, Haigler, Alderman, Marks, Bryant & Yon, P.A., 106 East College Avenue, Suite 1200, Tallahassee, Florida 32301, Susan Kornspan, Esquire, Nason, Gildan, Yeager, Gerson & White, P.A., United National Bank Tower, 1645 Palm Beach Lakes Boulevard, Suite 1200, West Palm Beach, Florida 33401.
On behalf of The City of Sunrise.

Tim Vaccaro, Esquire, Lila A. Jaber, Esquire, Florida Public Service Commission, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.
On behalf of the Commission Staff.

PREHEARING ORDER

I. **CASE BACKGROUND**

South Broward Utility, Inc. (SBU or Utility) provides water and wastewater service in Broward County and services approximately 1,853 water and wastewater customers. The annual report for 1993 shows that the consolidated annual operating revenue for the system is \$1,319,408 and the net operating income is \$30,802. The utility is a Class B utility under Commission jurisdiction.

On October 18, 1994, pursuant to Section 367.045, Florida Statutes, SBU applied for an amendment of its water and wastewater Certificates Nos. 359-W and 290-S to add additional territory in

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Broward County, in Docket No. 941121-WS. The proposed additional territory would consist of the "Carr Property" (97.95 acres) and "Imagination Farms" (900 acres). SBU states that the property owners plan to create single-family developments, totalling 1,200 units within the two properties.

On September 1, 1994, the City of Sunrise (Sunrise or City) filed a declaratory action in the Circuit Court in and for Broward County (Broward circuit court), in Case No. 94-010527. Sunrise petitioned the court to secure an order declaring that Sunrise had the exclusive right to serve the territory SBU wished to add to its service area. On September 26, 1994, SBU filed a motion to dismiss Sunrise's complaint, which was granted by the court on December 29, 1994, for lack of subject matter jurisdiction.

On November 17, 1994, Sunrise filed with the Commission Sunrise's Objection to and Motion to Dismiss, or in the alternative, Motion to Stay Consideration of, South Broward Utility, Inc.'s Application for Amendment of Water Certificate No. 359-W and Wastewater Certificate No. 290-S in Broward County, Florida ("Sunrise' Objection").

On January 6, 1995, Sunrise filed with the circuit court an amended complaint. Sunrise alleged that it already had the right to serve the territory based upon local comprehensive plans and case law. Sunrise also alleged that it was required by Florida Statutes and the Florida Administrative Code to plan for future water service in the territory. Sunrise asserted that SBU's application raised doubt over Sunrise's responsibilities for planning and jeopardized the City's expenditures for planning.

SBU filed a motion to dismiss in circuit court, in which it alleged that the Commission had exclusive jurisdiction pursuant to case law and Chapter 367, Florida Statutes. Further, SBU asserted that Sunrise failed to join the Commission as an indispensable party. Finally, SBU asserted that it has no right to serve the territory until the Commission approved its application pursuant to Section 367.045, Florida Statutes. Therefore, a justiciable controversy did not exist.

On April 14, 1995, the Commission filed, with the circuit court, a Petition for Leave to Intervene, or in the Alternative, to Appear as Amicus Curiae and Memorandum in Support of South Broward Utility, Inc.'s Motion to Dismiss, asserting that it had exclusive jurisdiction over this matter as provided by case law and Chapter 367, Florida Statutes. Furthermore, the Commission asserted that Sunrise failed to exhaust its administrative remedy of a Section 120.57, Florida Statutes hearing pursuant to Section 367.045(4),

Florida Statutes. Finally, the Commission asserted that pursuant to Section 367.045(5)(b), Florida Statutes, the Commission was not bound by Sunrise's comprehensive plans.

On April 18, 1995, the Broward County Circuit Court held a hearing on SBU's motion to dismiss. The court dismissed Sunrise's amended complaint without ruling on the Commission's petition to intervene and directed the City to litigate its claim before the Commission.

On May 3, 1995, Sunrise filed a Petition for Writ of Mandamus and Certiorari in the District Court of Appeal of the State of Florida Fourth District. On August 15, 1995, the court entered an order treating Sunrise's petition as an appeal from a final order. On October 3, 1995, Sunrise filed its Initial Brief with the court. On October 30, 1995, the Commission filed a Motion for Leave to File Amicus Curiae Brief and the accompanying brief with the court. The Commission argued that Section 367.045, Florida Statutes, grants Sunrise standing to object to SBU's application, by authorizing it to request a Section 120.57, Florida Statutes, hearing before the Commission. In determining the parties' claims, the Commission is required to consider, but is not bound by, Sunrise's local comprehensive plans. Because immediate legal relief is available to Sunrise via its requested Section 120.57, Florida Statutes, hearing, the trial court ruled that it lacked subject matter jurisdiction to resolve Sunrise's claim pursuant to the Declaratory Judgment Act. The appeal is pending. The formal hearing on South Broward Utility, Inc.'s application is scheduled for April 8 - 9, 1996.

II. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- 1) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.
- 2) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- 3) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- 4) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- 5) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the

proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

III. POST-HEARING PROCEDURES

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding.

A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 60 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause shown. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

IV. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

V. ORDER OF WITNESSES

<u>Witness</u>	<u>Appearing For</u>	<u>Issues #</u>
<u>Direct</u>		
Thomas W. Goodell	SBU	1-6, 9
Eugene F. Cassidy	SBU	4-5, 9
Donald Bayler	Sunrise	1, 6-9
Thomas A. Kassawara	Sunrise	1-3, 7-9
Ella Medley Brown	Sunrise	1, 4-9
Carol Emery Rogers	Sunrise	1, 6-7, 9
Anthony L. Elia	Sunrise	4-5, 9
<u>Rebuttal</u>		
Thomas W. Goodell	SBU	1-3, 5-9
Eugene F. Cassidy	SBU	4-5, 9
Sumner Waitz	SBU	1, 5, 7-9

VI. BASIC POSITIONS

SBU: There is a need for water and wastewater service for development in the which South Broward Utility, Inc. seeks to add to its PSC certificate. South Broward Utility, Inc. has filed an application to extend its certificate in order to be able to provide such water and wastewater service. South Broward Utility, Inc. has proven it has the ability to provide such service and that it is in the public interest for South Broward Utility, Inc. to serve the territory which South Broward Utility, Inc. seeks to add to its PSC certificate. Accordingly, the Commission should grant the application.

SUNRISE: It is Sunrise's basic position that the Commission does not have the jurisdiction or the authority to determine the City's rights and responsibilities regarding the provision of water and wastewater service in Broward County. Pursuant to Section 367.022(2), Florida Statutes, the City is completely and totally exempt from the Commission's jurisdiction. Additionally, in Southern Gulf Utilities, Inc. vs. Mason, 166, So. 2d 138 (Florida 1964), it was determined that the FPSC cannot resolve service territorial disputes between a Commission regulated water and sewer utility and a governmentally owned and operated water and sewer utility. All territorial disputes between FPSC regulated water and sewer utilities and governmentally owned, operated, managed and controlled utilities have been resolved exclusively in the court system and not before the Commission.

It is the City's position that the encroachment territory is inside Sunrise's established and historic utility service territory and Sunrise is ready, willing and able to provide service. Further, Sunrise has the prior legal right to serve the encroachment territory and the present ability to promptly, properly and efficiently met its obligations and duty to provide such service. See City of Mt. Dora vs. JJ Mobile Homes, Inc. 579 So. 2d, 219, 225 (Fla. 5th DCA 1991).

It is the City's position that the Commission can only make a determination as to whether the applicant, South Broward Utilities should serve the disputed territory.

Among other relevant provisions, Section 367.045(2) (b), F.S. states that the applicant utility shall:

Provide all information required by rule or order of the Commission, which information may include a detailed inquiry into the ability or inability of the applicant to provide service, the need or lack of need for the service in the area that the applicant seeks to ...add; the existence or nonexistence of service from other sources within geographical proximity to the area that the applicant sees to ...add... (Emphasis added).

This section of the statute refers to the applicant, in this instance SBU, and there is absolutely no indication that an affected municipality who is provided notice pursuant to Section 367.045(2)(a), F.S. and who subsequently files an objection, subjects itself to the jurisdiction or authority of the Commission. To the contrary, Section 367.022(2), F.S. expressly exempts systems "owned, operated, managed or controlled by governmental authorities" from FPSC jurisdiction.

The City's Objection was filed for the purpose of assisting the Commission in its review and evaluation of SBU's Application. It is the City's position that there is no need for the applicant's service in the encroachment territory. The applicant's service is not consistent with the applicable comprehensive plans and is not in the public interest. The applicant does not have the financial and/or technical ability to provide service consistent with its application. The applicant does not have the present ability to promptly, properly or efficiently provide service to both its existing territory and the encroachment territory.

STAFF: Staff's positions listed below are preliminary and based on materials filed by the parties and discovery. These positions are offered to apprise the parties of those preliminary positions. Staff's final positions will be based on analysis of the evidence presented at hearing.

VII. ISSUES AND POSITIONS

ISSUE 1: Is there a need for service in the territory which South Broward Utility, Inc. seeks to add to its PSC certificate?

SBU: Yes. There is a need for service in the territory which South Broward Utility, Inc. seeks to add to its PSC certificate. (Goodell, Waitz)

SUNRISE: No. SBU cannot demonstrate that there is a need for service in the territory it seeks to add. SBU filed its Application with the Commission to add this territory because of asserted inquiries that SBU made to the owners of the property within the territory. The Commission has already been informed directly from the owners of the majority of the property that, despite any representations by SBU, they have never requested service from SBU. Moreover, the territory is inside Sunrise's

service territory; the property owners have repeatedly requested that Sunrise serve the property; and Sunrise is obligated and has agreed to provide service to the territory. (Bayler, Brown, Kassawara, Rogers)

STAFF: No position pending further development of the record.

ISSUE 2: When will service be required to the territory which South Broward Utility, Inc. seeks to add to its PSC certificate?

SBU: It is South Broward Utility, Inc.'s understanding that water and wastewater service will not be needed in the territory which South Broward Utility, Inc. seeks to add to its PSC certificate until Spring of 1997 at the earliest. (Goodell)

SUNRISE: It is Sunrise's understanding that, based on requests for Sunrise to serve the territory, service is required as soon as Sunrise completes the installation of the water main currently under construction and in summer to fall of 1996. (Kassawara)

STAFF: No position pending further development of the record.

ISSUE 3: What are the total projected ERCs to be served in the territory which South Broward Utility, Inc. seeks to add to its PSC certificate? (Goodell)

SBU: 1,200 ERCs or less.

SUNRISE: As to projected, there have been proposed land use plan amendments. Based on current zoning, approximately 1200 ERCs. (Kassawara)

STAFF: No position pending further development of the record.

ISSUE 4: Does South Broward Utility, Inc. have the financial ability to serve the territory which it seeks to add to its PSC certificate?

SBU: Yes. South Broward Utility, Inc. has the financial ability to serve the territory which it seeks to add to its PSC certificate. (Goodell, Cassidy)

SUNRISE: No. SBU cannot demonstrate that it has the financial ability to serve its existing service territory and the territory it seeks to add to its PSC certificate. SBU has already operated at a loss in just serving its existing service territory and based on SBU's Annual Reports, SBU has run deficits in past years. In fact, last year SBU showed a profit only on the basis of AFPI that they received during the year, absent which SBU would have again run a deficit. (Brown, Elia)

STAFF: Yes.

ISSUE 5: Does South Broward Utility, Inc. have the plant capacity and technical ability to serve the territory which it seeks to add to its PSC certificate, and when can it provide service?

SBU: Yes. South Broward Utility, Inc. has the plant capacity to provide water and wastewater service to the territory which South Broward Utility, Inc. seeks to add to its PSC certificate, has lines which can be quickly extended to service such territory, and has the operational, technical, and financial ability to provide water and wastewater service to such territory. (Goodell, Cassidy, Waitz)

SUNRISE: No. SBU cannot demonstrate that it has the plant capacity and technical ability to serve its existing service territory and to serve the territory it seeks to add to its PSC certificate. SBU cannot demonstrate that it can provide service promptly, properly and efficiently. (Brown, Elia)

STAFF: Whether South Broward Utility, Inc. has the current capacity to serve the territory which it seeks to add to its PSC certificate will depend on a decision concerning the total projected ERCs.

ISSUE 6: Would service to the territory which South Broward Utility, Inc. seeks to add to its PSC certificate by South Broward Utility, Inc. be inconsistent with the local comprehensive plan?

SBU: No. Service by South Broward Utility, Inc. to the territory which South Broward Utility, Inc. seeks to add

to its PSC certificate would be consistent with the local comprehensive plan. (Goodell)

SUNRISE: Yes. SBU cannot demonstrate that service by SBU to the territory is consistent with the local comprehensive plans. Moreover, the Broward County Comprehensive Plan establishes the county-wide policy to centralize and regionalize utilities and to stop the proliferation of small utility systems. The Comprehensive Plans of Broward County, the City of Sunrise and the Town of Davie all recognize and provide that Sunrise's utility system is the regional provider of utility service for western Broward County, including the territory that SBU seeks to add to its certificate. The regional status of Sunrise's system is further recognized and provided for in the 201 Facilities Plan for Broward County, adopted as part of the Federal Program to stem the proliferation of small wastewater systems. These above Comprehensive Plans are consistent with a Broward Circuit Court order approving the inclusion of this territory within Sunrise's utility service territory. (Bayler, Brown, Rogers)

STAFF: No position pending further development of the record. If it is inconsistent with the local comprehensive plan, Section 367.045, Florida Statutes, provides that if service is inconsistent with the local comprehensive plan, the Commission shall consider, but is not bound by, the local comprehensive plan.

ISSUE 7: Would the granting to South Broward Utility, Inc. of the territory which South Broward Utility, Inc. seeks to add to its PSC certificate result in an extension of a system which would be in competition with or a duplication of any other system or a portion of a system?

SBU: No. The granting to South Broward Utility, Inc. of the territory which South Broward Utility, Inc. seeks to add to its PSC certificate would not result in an extension of a system which would be in competition with or a duplication of any system or a portion of any system. (Goodell, Waitz)

SUNRISE: Yes. SBU cannot demonstrate that there is not water and wastewater service available from other sources within geographical proximity of the territory which SBU seeks to add. SBU cannot demonstrate that an extension of its system would not be in competition with, or a duplication

of, any other system or portion of a system. For example, such an extension would be in competition with and a duplication of Sunrise's system. The territory is inside Sunrise's service territory and has been since Sunrise acquired a former PSC-regulated utility, the sale and transfer of which the Commission acknowledged and approved. Sunrise is already serving the property adjacent to the east, west and north of the territory; Sunrise is already serving the county landfill in the midst of the territory; and Sunrise has already been requested to serve the territory. Pursuant to numerous legal requirements, including bond covenants and contracts, Sunrise is obligated to serve the territory, and Sunrise has accordingly planned, budgeted, designed and constructed the facilities necessary to serve the territory. (Bayler, Brown, Kassawara, Rogers)

STAFF: No position pending further development of the record.

ISSUE 8: If the granting of the territory which South Broward Utility, Inc. seeks to add to its PSC certificate to South Broward Utility, Inc. would result in an extension of a system which would be in competition with or a duplication of any other system or a portion of a system, are those systems inadequate to meet the reasonable needs of the public or are the persons operating those systems unable, refusing or neglecting to provide reasonably adequate service?

SBU: Yes. (Goodell, Waitz)

SUNRISE: No. SBU cannot demonstrate that any other systems or any portion of other systems are inadequate to meet the reasonable needs of the public. SBU cannot demonstrate that the persons operating such systems or portions of systems are unable, refusing or neglecting to provide reasonably adequate service. In fact, Sunrise has been requested to provide service to the territory, Sunrise is obligated to provide service to the territory and Sunrise has agreed to do so. (Bayler, Brown, Kassawara)

STAFF: No position pending further development of the record.

ISSUE 9: Is it in the public interest for the Commission to grant South Broward Utility, Inc.'s Application?

SBU: Yes. It is in the public interest for South Broward Utility, Inc. to serve the territory which South Broward Utility, Inc. seeks to add to its PSC certificate. South Broward Utility, Inc. has the capacity and ability to serve the territory which South Broward Utility, Inc. seeks to add to its PSC certificate and it is in the public interest for South Broward Utility, Inc. to serve the territory which South Broward Utility, Inc. seeks to add to its PSC certificate. Following its duty to act in the public interest, the Commission should grant South Broward Utility, Inc.'s Application. (Goodell, Cassidy, Waitz)

SUNRISE: No. SBU cannot demonstrate that it is in the public interest for the Commission to grant SBU's Application. SBU cannot demonstrate that there is not water and wastewater service available from other sources within geographical proximity of the territory which SBU seeks to add. SBU cannot meet the statutory burden to prove it is entitled to amend its certificate to add the territory it seeks. Moreover, the Broward Circuit Court has already approved in a court order that the territory at issue is inside Sunrise's service territory. The territory has been in Sunrises's service territory since Sunrise acquired a former PSC-regulated utility, the sale and transfer of which the Commission acknowledged and approved. Sunrise is still obligated, under that utility purchase and sale agreement, to serve the territory at issue. All the local governing bodies, Broward County, Davie and Sunrise, have designated and agreed to Sunrise as the utility service provider to this territory. Additionally, the property owners have never requested service from SBU. The property owners have requested service from Sunrise, moved forward with their development plans with Sunrise as the utility service provider, and directly informed the Commission that, despite SBU's representations, they never requested SBU to serve the territory. (Bayler, Brown, Elia, Kassawara, Rogers)

STAFF: This issue is dependent upon the resolution of the other issues.

VIII. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas W. Goodell	SBU	_____ (TWG-1)	Legal Description of Proposed Additional Service Area
Thomas W. Goodell	SBU	_____ (TWG-2)	Map - Existing and proposed territory of South Broward Utility
Thomas W. Goodell	SBU	_____ (TWG-3)	Letter dated August 2, 1993, to Hank Pownell from Thomas W. Goodell
Thomas W. Goodell	SBU	_____ (TWG-4)	Location Map and Area Tabulation of Disputed Territory
Thomas W. Goodell	SBU	_____ (TWG-5)	Letter dated October 4, 1993, to Lynn R. Delorenzo from Thomas W. Goodell
Thomas W. Goodell	SBU	_____ (TWG-6)	Letter dated July 22, 1994, to Howard Zimmerman from Thomas W. Goodell
Thomas W. Goodell	SBU	_____ (TWG-7)	Letter dated August 4, 1994, to Thomas W. Goodell from Howard J. Zimmerman

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas W. Goodell	SBU	_____ (TWG-8)	South Broward Utility Annual Report for year ended 12/31/94 - Sheet Nos. 1, 2, W-7, W-8(A), and W-8(B)
Thomas W. Goodell	SBU	_____ (TWG-9)	South Broward Utility Annual Report for year ended 12/31/94 - Sheet Nos. 1, 2, S-6, S-7, and S-8
Thomas W. Goodell	SBU	_____ (TWG-10)	Analysis of South Broward Utility's Existing Water Demand, and Proposed Additional Demand within existing service area and within the Disputed Territory
Thomas W. Goodell	SBU	_____ (TWG-10)	Analysis of South Broward Utility's Existing Water Demand, and Proposed Additional Demand within existing service area and within the Disputed Territory
Thomas W. Goodell	SBU	_____ (TWG-11)	Analysis of South Broward Utility's Existing Wastewater Demand, and Proposed

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas W. Goodell	SBU	_____ (TWG-11) (cont'd)	Additional Demand within existing service area and within the Disputed Territory
Thomas W. Goodell	SBU	_____ (TWG-12)	South Broward Utility Map - Water Facilities
Thomas W. Goodell	SBU	_____ (TWG-13)	South Broward Utility Map - Wastewater Facilities
Thomas W. Goodell	SBU	_____ (TWG-14)	Estimate of Cost of South Broward Utility's Extension to the Disputed Territory
Thomas W. Goodell	SBU	_____ (TWG-15)	Application for Amendment of Certificate filed by South Broward Utility and a copy of the filing fee check
Thomas W. Goodell	SBU	_____ (TWG-16)	Sunrise's Map of its alleged service area, plant locations and city limits
Thomas W. Goodell	SBU	_____ (TWG-17)	Map showing the five developments in the Imagination Farms Property

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas W. Goodell	SBU	_____ (TWG-18)	Letters from Sunrise regarding lack of facilities on or near Shotgun Road
Thomas W. Goodell	SBU	_____ (TWG-19)	Sunrise's Construction Permit Application - Water - to HRS
Thomas W. Goodell	SBU	_____ (TWG-20)	Sunrise's Notice of intent to Use General Permit for Wastewater Collection/Transmission System - to FDEP
Thomas W. Goodell	SBU	_____ (TWG-21)	Sunrise's Application for Installation of Wastewater Collection/Transmission System - to DNR
Thomas W. Goodell	SBU	_____ (TWG-22)	HRS Construction Permit for line extension issued to Sunrise
Thomas W. Goodell	SBU	_____ (TWG-23)	DNR License for the Installation of Wastewater Collection/Transmission system issued to Sunrise

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas W. Goodell	SBU	_____ (TWG-30)	Excerpts of Local Comprehensive Plan, Broward County, Florida
Thomas W. Goodell	SBU	_____ (TWG-31)	Excerpts of Town of Davie Comprehensive Plan
Eugene F. Cassidy	SBU	_____ (EFC-1)	South Broward Utility Annual Report for year ended 12/31/94 - Sheet Nos. 1, F-1(a), F-1(b), F-2(a), F-2(b), F-3(a), F-3(b), F-3(c)
Eugene F. Cassidy	SBU	_____ (EFC-2)	South Broward Utility's Financial Statements - 1994
Sumner Waitz	SBU	_____ (SW-1)	Resume of Waitz
Sumner Waitz	SBU	_____ (SW-2)	Map - Water - showing South Broward Utility's existing service area, the Disputed Territory, the southern half of Sunrise's alleged service area, and major water facilities

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Sumner Waitz	SBU	_____ (SW-3)	Map - Wastewater - showing South Broward's Utility's existing service area, the Disputed Territory, the southern half of Sunrise's alleged service area, and major wastewater facilities
Donald Bayler	Sunrise	_____ (DAB-1)	Relevant sections of the Broward County Comprehensive Plan.
Donald Bayler	Sunrise	_____ (DAB-2)	Relevant sections of the City of Sunrise's Comprehensive Plan.
Donald Bayler	Sunrise	_____ (DAB-3)	Relevant sections of the Town of Davie's Comprehensive Plan.
Donald Bayler	Sunrise	_____ (DAB-4)	Relevant sections of Broward County's 201 Facilities Plan Update.
Donald Bayler	Sunrise	_____ (DAB-5)	A map which shows the boundaries of the service territory Sunrise purchased from a former FPSC certificated utility (West

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Donald Bayler	Sunrise	_____ (DAB-5) (cont'd)	Broward Utilities, Inc.), which encompasses the entire encroachment territory.
Thomas A. Kassawara	Sunrise	_____ (TAK-1)	A letter dated December 6, 1994 from Howard Zimmerman of H.J. Zimmerman and Associates developers of Imagination Farms to the Florida Public Service Commission.
Thomas A. Kassawara	Sunrise	_____ (TAK-2)	A letter dated December 22, 1994 from Lehigh Robinson Kerr and Associates, Inc., land planner for Imagination Farms, to Thomas J. Masterson, P.E., Assistant City Engineer, City of Sunrise.
Thomas A. Kassawara	Sunrise	_____ (TAK-3)	A letter dated February 21, 1995 from Leo M. Schwartzburg, P.E. of H.J. Zimmerman and Associates, Inc., engineer for Imagination Farms, to Thomas

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Thomas A. Kassawara	Sunrise	_____ (TAK-3) (cont'd)	Kassawara, Director of Planning and Development, City of Sunrise.
Thomas A. Kassawara	Sunrise	_____ (TAK-4)	A letter dated February 27, 1995 from Thomas A. Kassawara, P.E., Director of Planning and Development, City of Sunrise to Mr. Leo M. Schwartzburg, P.E. of H.J. Zimmerman and Associates, Inc.
Thomas A. Kassawara	Sunrise	_____ (TAK-5)	The proposed developer agreement between Sunrise and H.J. Zimmerman, Inc./Pasadena Homes.
Carol Emery Rogers	Sunrise	_____ (CER-1)	Agreement of Purchase between the stockholders of West Broward Utilities, Inc. and The City of Plantation.
Carol Emery Rogers	Sunrise	_____ (CER-2)	Agreement of Purchase between The City of Sunrise and The City of Plantation regarding former FPSC certificated

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Carol Emery Rogers	Sunrise	_____ (CER-2) (cont'd)	utility West Broward Utili- ties, Inc.
Carol Emery Rogers	Sunrise	_____ (CER-3)	Broward County Circuit Court Order and Agree- ment between The City of Sunrise and the Town of Davie designating The City of Sunrise as Service provider to encroachment territory.
Anthony L. Elia	Sunrise	_____ (ALE-1)	Resume of back- ground and experience.

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

IX. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

X. PENDING MOTIONS

South Broward Utility, Inc.'s Motion for Order Compelling Production of Documents.

South Broward Utility, Inc.'s Motion for Protective Order, Including Request for Confidential Classification with respect to the propriety confidential business information of the owner of South Broward Utility, Inc.

XI. RULINGS


The City of Sunrise's renewal of its Motion to Dismiss was denied.

It is therefore,

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ORDERED by Commissioner Joe Garcia, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Joe Garcia, as Prehearing Officer, this 26th day of March, 1996.



JOE GARCIA, Commissioner and
Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.