

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for certificate to provide
water service in Volusia and Brevard Counties
by Farnton Water Resources, LLC.

DOCKET NO. 021256-WU
ORDER NO. PSC-04-0589-PHO-WU
ISSUED: June 10, 2004

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on May 17, 2004, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

F. MARSHALL DETERDING, ESQUIRE, and JOHN L. WHARTON,
ESQUIRE, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive,
Tallahassee, Florida 32301

On behalf of Farnton Water Resources LLC (Utility)

PATRICK J. MCNAMARA, ESQUIRE, de la Parte & Gilbert, P.A., Post Office
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On behalf of the City of Titusville, Florida

SCOTT KNOX, ESQUIRE, Office of the County Attorney, 2724 Judge Fran
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On behalf of Brevard County

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West Indiana Avenue, DeLand, Florida 32720-4613

On behalf of Volusia County

KATHERINE E. FLEMING, ESQUIRE, and MARTHA C. BROWN, ESQUIRE,
Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
Florida 32399-0850

On behalf of the Florida Public Service Commission (Staff).

DOCUMENT NUMBER-DATE

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FPS-COMMISSION OF PUBLIC

PREHEARING ORDER

I. **CONDUCT OF PROCEEDINGS**

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

II. **CASE BACKGROUND**

On December 20, 2002, Farnton Water Resources LLC (Farnton or utility) filed its Application for Certificate to Provide Water Service in Volusia and Brevard Counties. Volusia County, Brevard County, and the City of Titusville objected to the application. Accordingly, this matter has been scheduled for an administrative hearing on June 22-24, 2004.

III. **JURISDICTION**

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 120 and 367, Florida Statutes. This hearing will be governed by said Chapter and Chapters 25-22, 25-30, and 28-106, Florida Administrative Code.

IV. **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.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

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

- a) 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.
- b) 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.
- c) 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.
- d) 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.
- e) 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 the Commission Clerk and Administrative Services' confidential files.

V. POST-HEARING PROCEDURES

If no bench decision is made, each party shall 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. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, 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 40 pages and shall be filed at the same time.

VI. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and Staff 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. Summaries of testimony shall be limited to five minutes. 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.

VII. ORDER OF WITNESSES

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Gerald C. Hartman	Farmton	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11
Howard M. Landers	Farmton	1, 2, 3, 4, 5, 11
Charles W. Drake	Farmton	1, 2, 3, 4, 6, 7, 8, 9, 10, 11
Earl M. Underhill	Farmton	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
Tara L. Hollis	Farmton	1, 2, 3, 7, 11, 12, 13, 14, 15
Raynetta C. Grant	Titusville	2, 4, 6, 8, 11, 13
Henry Thomas	Titusville	6, 11, 13
*Michael L. Thomas (adverse)	Titusville	
Richard H. Martens	Brevard	4, 5, 6, 9, 11
Mel W. Scott	Brevard	5, 11
Gloria Marwick	Volusia	1, 4, 5, 6, 8, 11
John Thomson	Volusia	1, 4, 5, 11
Richard H. Burklew	Staff	
Valerie James	Staff	5
<u>Rebuttal</u>		
Gerald C. Hartman	Farmton	
Earl M. Underhill	Farmton	
Charles W. Drake	Farmton	
Howard M. Landers	Farmton	

* Titusville has deposed Mr. Michael L. Thomas and intends to file his deposition transcript in the docket in lieu of testimony since he is an adverse witness.

VIII. BASIC POSITIONS

FARMTON:

There is a need for potable water, fire protection, and there is expected to be a need for bulk raw water services, throughout the territory applied for by Farmton Water Resources LLC. The applicant is ready, willing and able from both a technical and financial standpoint to provide those services currently needed and to meet additional needs as they arise. No

other utility can provide service to the territory as economically or efficiently as Farmton Water Resources LLC. The proposed certification of Farmton Water Resources LLC is in the public interest and is in no way inconsistent with the Comprehensive Plans of any of the protestants or intervenors in this case developed pursuant to §§ 163.3161-163.3211, Fla. Stat. In fact, the certification of Farmton Water Resources LLC will facilitate effective and orderly growth management and resource preservation and allocation within the proposed territory comprised of lands owned by Farmton Water Resources LLC's affiliated entities.

TITUSVILLE:

The City of Titusville objects to the Farmton Water Resources Application for Original Water Certificate ("Farmton Application"). Farmton's Application fails to meet the requirements for issuance of an original water certificate. Generally, the reasons include, but are not limited to, the following: First, Farmton has failed to establish a need for service in the proposed service area. Second, Farmton has failed to establish that the Farmton Application is consistent with local comprehensive plans. Third, Farmton has failed to establish that it has the financial and technical ability to provide the proper service. In addition, the service proposed by Farmton is exempt from PSC regulation. The City of Titusville's position is more fully set forth in the City of Titusville's Objection to Application for Original Water Certificate and Petition for Final Hearing.

BREVARD:

The Farmton application for a certificate of authorization should be denied.

VOLUSIA:

County of Volusia objects to the Farmton Water Resources Application for Original Water Certificate. The reasons for the County's objection include an inconsistency between the Application and the County's Comprehensive Plan; the significant risk that approval of this Application will encourage urban sprawl; the disastrous effect this previously unplanned, unanticipated and unmodeled water system would have upon the County's overall provision of water to its residents; the undesirability of having a major private water utility within the County which is not eligible to become a member of the County's Water Alliance group and therefore cannot participate in long-range planning decisions concerning a vital natural resource; and the total lack of need for water service in this undeveloped, rural, forested and uninhabited wilderness area. County also adopts and incorporates the positions of Brevard County and City of Titusville, as to all other arguments and positions taken by them.

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

IX. ISSUES AND POSITIONS

ISSUE 1: **Does the Commission have exclusive jurisdiction over the certification of private utilities?**

POSITIONS

FARMTON: Yes, the Commission has exclusive jurisdiction under the provisions of Chapter 367, Florida Statutes and any attempts by local government to assert jurisdiction over those issues, is contrary to law and ineffectual. None of the intervenors' protestants have jurisdiction equal to or superior to that of the Florida Public Service Commission regarding the proposed service territory and the rates of Farnton Water Resources LLC. The provisions of Chapter 367 could not be more clear on this point. (Hartman, Landers, Drake, Underhill, Hollis)

TITUSVILLE: The Commission's jurisdiction is governed by Chapter 367, Florida Statutes. Chapter 367, Florida Statutes, also provides for exemptions from the Commission's jurisdiction.

BREVARD: Brevard adopts the position of Volusia County.

VOLUSIA: County of Volusia has, by ordinance and through its Comprehensive Planning Process, made a legislative decision that all new water utility providers within the County shall be government owned and controlled. The reasons for this decision have to do with the scarcity of water, necessitating the careful and deliberate management of this valuable but limited natural resource, through planning and computer modeling processes, performed by a governmental coalition known as WAV, to which only sovereign entities may belong. Additionally, it has been the experience of the County that private utilities frequently end up abandoned, necessitating the expenditure of County taxpayers' money to take over these systems and invest the monetary resources necessary to run them properly, after they have been neglected by their prior non-

governmental owners. Furthermore, the County's Comprehensive Plan, required by the Florida Legislature, inherently permits (requires) the County to become involved in control of growth and development, thus entangling the County in decisions regarding provision of water services. (Thomson, Marwick)

STAFF: Yes. Pursuant to Section 367.011, Florida Statutes, the Commission has exclusive jurisdiction over each utility with respect to the utility's service territory and rates.

ISSUE 2: **Is the service proposed by Farmton Water Resources LLC exempt from Commission jurisdiction?**

POSITIONS

FARMTON: No, the service proposed by Farmton Water Resources LLC is not exempt from jurisdiction under the provisions of Chapter 367, Florida Statutes. (Hartman, Landers, Drake, Underhill, Hollis)

TITUSVILLE: Yes. Farmton's Application does not provide a basis for the creation of a certificated area. (Grant)

BREVARD: Any proposal for bulk service may be exempt to the extent provided by law.

VOLUSIA: Provision of bulk water services are exempt, and Farmton's remaining proposed services do not create the need for certification.

STAFF: No position at this time pending further development of the record.

ISSUE 3: **Has Farmton met the filing and noticing requirements pursuant to Rules 25-30.030 and 25-30.033, Florida Administrative Code?**

POSITIONS

FARMTON: Yes, Farmton has met all of the filing and noticing requirements required by Commission Rules for this Application. (Hartman, Landers, Drake, Underhill, Hollis)

TITUSVILLE: No. Farnton's application does not meet the requirements of Chapter 25, Florida Administrative Code, and Chapter 373, Florida Statutes. Further, the documents filed by Farnton establish that it did not comply with the notice requirements of 25-30.030. See other issues.

BREVARD: Brevard adopts the position of the City of Titusville.

VOLUSIA: County of Volusia adopts the position and arguments of the City of Titusville.

STAFF: Yes. Farnton has met the minimum filing requirements.

ISSUE 4: **Is there a need for service in Farnton's proposed service territory and, if so, when will service be required?**

POSITIONS

FARMTON: Yes, there is an immediate need for potable water and fire protection services throughout the proposed service territory and additional needs are anticipated in the near future. (Hartman, Landers, Drake, Underhill)

TITUSVILLE: No. Farnton's Application provides no basis for a need for service in the proposed service territory. Further, the Volusia County and Brevard County comprehensive plans do not include land uses in the proposed territory that will support a demand or need for service. (Grant)

BREVARD: There is no need for service. (Martens)

VOLUSIA: Absolutely not. This area is a sparsely populated wilderness without need for such services at this time, or into the near future. (Thomson, Marwick)

STAFF: Yes. It appears that there is a need for service. However, it is not known when all forms of service will be required.

ISSUE 5: Is Farmton’s application inconsistent with Brevard County’s or Volusia County’s comprehensive plans?

POSITIONS

FARMTON: No, certification of Farmton Water Resources LLC in the area applied for in its Application is not inconsistent with the Comprehensive Plans of either Brevard or Volusia Counties. The protestors possess sufficient alternative growth management tools to prevent growth of so called “urban sprawl” in their jurisdictions. The usurpation of the Public Service Commission’s authority over utility service territory is therefore not only contrary to law and contrary to the public interest, but an unnecessary attempt to utilize utility certification prevention as a tool of growth management. (Hartman, Landers, Underhill)

TITUSVILLE: Yes. The comprehensive plans do not contemplate development that would require the provision of water service as set forth in Farmton’s Application.

BREVARD: The application is inconsistent with the Brevard County plan. (Martens, Scott)

VOLUSIA: Definitely. Testimony from John Thomson will demonstrate that the County of Volusia’s Future Land Map designates the entire service area contained within the County of Volusia for low-density uses, and such areas are intended to be maintained for uses inconsistent with the creation of a water service.

STAFF: Witness James takes the position that the application is inconsistent with the Brevard and Volusia comprehensive plans. Non-testifying staff takes no position pending further development of the record.

ISSUE 6: Will the certification of Farmton result in the creation of a utility which will be in competition with, or duplication of, any other system?

POSITIONS

FARMTON: No, there are no other existing utility systems, other than those operated by Farmton, within the proposed territory or immediately adjacent thereto. None of the intervenors or protestants in this docket are currently serving

or have the present intentions to serve the territory for which Farmton Water Resources LLC seeks a certificate, and have no plans to do so. (Hartman, Drake, Underhill)

TITUSVILLE: Yes. (Grant, Thomas)

BREVARD: Yes, any newly constructed water system will duplicate existing Brevard County facilities. (Martens)

VOLUSIA: Yes. The County of Volusia has the financial and technical ability to provide water service to this area if or when the need ever arises, and that the area is within unincorporated Volusia County, thus overlapping into an area which the County intends to serve if the need ever arises. Therefore, Farmton's proposed Application will duplicate the County's intended services. (Marwick)

STAFF: No position at this time pending further development of the record.

ISSUE 7: **Does Farmton have the financial ability to serve the requested territory?**

POSITIONS

FARMTON: Yes, Farmton has demonstrated the financial ability to serve the requested territory. (Hartman, Drake, Underhill)

TITUSVILLE: No. Farmton Water Resources, LLC is a limited liability company with no directors or officers and it has produced no financial statements or tax returns. Farmton's Application has not established that it has the financial ability to create and sustain a private water utility.

BREVARD: Brevard adopts the position of the City of Titusville.

VOLUSIA: No. County of Volusia adopts the position and arguments put forth by City of Titusville.

STAFF: Yes.

ISSUE 8: Does Farmton have the technical ability to serve the requested territory?

POSITIONS

FARMTON: Yes, Farmton has the technical ability and is currently operating the water systems within the proposed territory and has the expertise and will acquire additional qualified individuals to assist in the operation of the Utility as additional needs arise. (Hartman, Drake, Underhill)

TITUSVILLE: No. Farmton's Application does not demonstrate it has the technical ability to provide service. Farmton's experience has been with one potable water well serving one equivalent residential connection (ERC).

BREVARD: Brevard adopts the position of the City of Titusville.

VOLUSIA: No. County of Volusia adopts the position and arguments put forth by City of Titusville. (Marwick)

STAFF: Yes.

ISSUE 9: Does Farmton have sufficient plant capacity to serve the requested territory?

POSITIONS

FARMTON: Yes, Farmton has sufficient plant capacity to serve the requested territory and any needs in the reasonable foreseeable future. (Hartman, Drake, Underhill)

TITUSVILLE: No. Farmton does not propose to construct any plant.

BREVARD: No. (Martens)

VOLUSIA: No. County adopts the position and arguments put forth by City of Titusville and Brevard County.

STAFF: Yes. Farmton appears to have adequate existing and proposed plant capacity to provide water service to the requested territory.

ISSUE 10: **Has Farmton provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?**

POSITIONS

FARMTON: Yes, Farmton has provided a draft lease between the Utility and the landowner, which they will execute upon approval of certification by the Florida Public Service Commission. That lease will allow Farmton the use of lands throughout the proposed territory as and when needed on a long term basis. (Hartman, Drake, Underhill)

TITUSVILLE: No position.

BREVARD: No position.

VOLUSIA: No position.

STAFF: Yes.

ISSUE 11: **Is it in the public interest for Farmton to be granted a water certificate for the territory proposed in its application?**

POSITIONS

FARMTON: Yes, there is a need for service and Farmton is in the best position to provide such service. No other entity has facilities in place which will allow it to provide the service efficiently and effectively. Farmton is in the best position to properly provide the services needed and to operate those facilities in an efficient manner which will best utilize and preserve the resources for all of the customers within the proposed territory, now and in the future. (Hartman, Landers, Drake, Underhill, Hollis)

TITUSVILLE: No. (Grant, Thomas)

BREVARD: No. The County has adopted an ordinance establishing a water and sewer district under the authority vested in counties under chapter 153, part II, Florida Statutes. In accordance with section 153.86, Florida Statutes, the District governing body must consent before Farmton can construct a water supply system. Farmton has not received such consent.

* Consequently, Farmton cannot demonstrate the legal ability to serve as required by section 367.045(2)(b), Florida Statutes. (Martens, Scott)

VOLUSIA: No. Please see answer to issue number 1 for explanation. (Thomson, Marwick)

STAFF: No position at this time pending further development of the record.

ISSUE 12: **What is the appropriate return on equity for Farmton?**

POSITIONS

FARMTON: The appropriate return on equity for Farmton is the return on equity yielded by the most current leverage formula order in effect at the time the Commission issues its Final Order in this proceeding. (Hollis)

TITUSVILLE: No position.

BREVARD: No position.

VOLUSIA: No position.

STAFF: Return of equity should be based on the current leverage graph formula in effect at the time of the Commission vote in this proceeding.

ISSUE 13: **What are the appropriate potable water, fire protection, and bulk raw water rates and charges for Farmton?**

POSITIONS

FARMTON: The appropriate potable water, fire protection, and bulk raw water rates are those proposed by Farmton (as revised). (Hollis)

TITUSVILLE: Farmton has no contracts to provide bulk water service. Farmton has no requests for bulk water service. Bulk water service by Farmton is not needed. At this time, the quantities of bulk water and the costs for providing such water are unknown and speculative at best. Therefore, the establishment of bulk water rates is not appropriate at this time. Further,

providing of bulk water service to a government utility such as City of Titusville is exempt from PSC regulation. (Grant, Thomas)

BREVARD: No position.

VOLUSIA: No position.

STAFF: No position at this time pending further development of the record.

ISSUE 14: **What are the appropriate service availability charges for Farmton?**

POSITIONS

FARMTON: The appropriate service availability charges for Farmton are those as proposed by Farmton. (Hollis)

TITUSVILLE: The charges proposed by Farmton in the initial application are not appropriate.

BREVARD: No position.

VOLUSIA: No position.

STAFF: No position at this time pending further development of the record.

ISSUE 15: **What is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Farmton?**

POSITIONS

FARMTON: The appropriate Allowance for Funds Used During Construction rate for Farmton is that yielded by use of the leverage formula in effect at the time the Commission issues its Final Order in this proceeding. (Hollis)

TITUSVILLE: No position.

BREVARD: No position.

VOLUSIA: No position.

STAFF: The AFUDC rate should be based on the current leverage graph formula in effect at the time of the Commission vote in this proceeding.

X. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
<u>Direct</u>			
Gerald Hartman	Farmton	<u>GCH-1</u>	Application for Original Water Certificate in Volusia and Brevard Counties.
Gerald Hartman	Farmton	<u>GCH-2</u>	Resume.
Howard Landers	Farmton	<u>HML-1</u>	Resume.
Howard Landers	Farmton	<u>HML-2</u>	Consistency of zoning classifications with future land use map series, Chapter 62 Code of Ordinances, November 12, 2002.
Howard Landers	Farmton	<u>HML-3</u>	Gerald Hartman , FPSC certification public interest example.
Howard Landers	Farmton	<u>HML-4</u>	Matrix for consistent zoning classification with future land use categories.
Howard Landers	Farmton	<u>HML-5</u>	Florida Department of Community Affairs Technical Memo.
Charles Drake	Farmton	<u>CWD-1</u>	Resume

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Tara Hollis	Farmton	<u>TLH-1</u>	Order No. PSC-02-0898-PAA-WS
Tara Hollis	Farmton	<u>TLH-2</u>	Resume
Raynetta Curry Grant	Titusville	<u>RCG-1</u>	Resume
Raynetta Curry Grant	Titusville	<u>RCG-2</u>	City of Titusville Consumer Confidence Report
Raynetta Curry Grant	Titusville	<u>RCG-3</u>	St. Johns River Water Management District, District Water Supply Plan (2000)
Raynetta Curry Grant	Titusville	<u>RCG-4</u>	Correspondence Between City of Titusville and Representatives of Miami Corporation
Henry Thomas	Titusville	<u>HT-1</u>	Resume
Richard H. Martens	Brevard	<u>RHM-1</u>	Brevard County Comprehensive Plan, Chapter 6, Potable Water Element.
Richard H. Martens	Brevard	<u>RHM-2</u>	Brevard County Ordinance No. 03
Richard H. Martens	Brevard	<u>RHM-3</u>	Copy of Minutes from the July 22, 2003 Meeting of the Brevard County Board of County Commissioners.
Richard H. Martens	Brevard	<u>RHM-4</u>	Graphic of Existing County Water Distribution and Supply Lines Connected to the North Brevard Water System.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Richard H. Martens	Brevard	<u>RHM-5</u>	Graphics of Water Treatment Capacity of the Plant, Plant Flows, Average Annual Daily Flows from the Plant and Projected Average Annual Daily Flows; Graphics of Total Residential Customers, Projected Residential Customers, Total Equivalent Resident Connections, ERC's, Projected ERC's, Both of Which Are Based upon 250 Gallons per Day of Consumption per Residential Unit, as well as the Concurrency Capacity of the Mims Water Treatment Plant and North Brevard Water System Data
Richard H. Martens	Brevard	<u>RHM-6</u>	Map 1, Potable Water Treatment Plants, and Map 2, the Existing Potable Water Customers and Future Service Areas
Richard H. Martens	Brevard	<u>RHM-7</u>	Graphic and Calculations of the Number of Years Before the Mims Plant Will Require Expansion.
Mel Scott	Brevard	<u>MWS-1</u>	Excerpts from text of Future Land Use Element of the Brevard County Comprehensive Plan.
Mel Scott	Brevard	<u>MWS-2</u>	Future Land Use Map covering area identified in the Farnton Application.
Mel Scott	Brevard	<u>MWS-3</u>	Brevard County Comprehensive Plan.
John Thomson	Volusia	<u>JT-1</u>	Chapter 1, Future Land Use Element

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
John Thomson	Volusia	<u>JT-2</u>	Future Land Use, Farmton Water Resources LLC map
John Thomson	Volusia	<u>JT-3</u>	Excerpts of the Volusia Comprehensive Plan, Future Land Use Categories
John Thomson	Volusia	<u>JT-4</u>	Future Land Use Element Policies
John Thomson	Volusia	<u>JT-5</u>	Chapter 7, Potable Water Sub-Element
Richard H. Burklew	Staff	<u>RHB-1</u>	Resume.
<u>Rebuttal</u>			
Gerald Hartman	Farmton	<u>GCH-R1</u>	Service areas and locations of major facilities within the areas.
Gerald Hartman	Farmton	<u>GCH-R2</u>	FPSC certification public interest example.
Gerald Hartman	Farmton	<u>GCH-R3</u>	Chapters 373.016 and 403.021, Florida Statutes.
Gerald Hartman	Farmton	<u>GCH-R4</u>	Revised Farmton resources requested certification area and legal description.

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

XI. PROPOSED ADDITIONAL DIRECT INTERVENOR EXHIBITS

Intervenors have identified these additional exhibits which they intend to proffer as part of their direct case. These exhibits may be objected to at the hearing.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Raynetta Curry Grant	Titusville	_____	Final Report – City of Titusville Future Water Development and Implementation Plan
Raynetta Curry Grant	Titusville	_____	Grant of Permanent Easement from Florida East Coast Railway LLC to City of Titusville
Raynetta Curry Grant	Titusville	_____	City of Titusville’s Response to Farmton’s First Set of Interrogatories (Nos. 1-29)
	Titusville	_____	Deposition Transcript of Michael L. Thomas with exhibits
John Thomson	Volusia	_____	Future Land Use Maps for Volusia County, for the entire County as well as the Farmton/Miami Corp. and surrounding areas
John Thomson	Volusia	_____	County of Volusia Comprehensive Plan and amendments
Gloria Marwick	Volusia	_____	Volusian Water Alliance Supply Plan
Gloria Marwick	Volusia	_____	District Water Supply Plan from St. Johns River Water Management District
Gloria Marwick	Volusia	_____	Interlocal Agreement Creating the Water Authority of Volusia (WAV)
Gloria Marwick	Volusia	_____	Existing Consumptive Use Permit

Gloria Marwick	Volusia		Pending Consumptive Use Permit
Gloria Marwick	Volusia		Petitions and Court Orders naming County as Receiver for Privately-held Utility Systems
John Thomson	Volusia		Letters from DCA providing opinions on the Application
Gloria Marwick	Volusia		Letters from the Water Management District providing opinions on the Application

XII. PROPOSED STIPULATIONS

There are no proposed stipulations at this time.

XIII. PENDING MOTIONS

There are no pending motions at this time.

XIV. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality claims or requests.

XV. OTHER MATTERS

The City of Titusville objects to Farnton witness Earl M. Underhill in the event he is proffered as an expert.

XVI. RULINGS

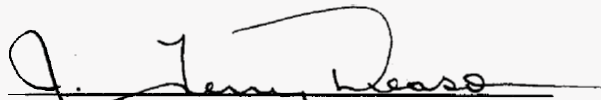
Opening statements, if any, shall not exceed ten minutes per party.

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'Based on the foregoing, it is

^{*}
ORDERED by Commissioner J. Terry Deason, 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 J. Terry Deason, as Prehearing Officer, this 10th day of June, 2004


J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

KEF

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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 25-22.0376, Florida Administrative Code; or (2) 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,

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Division of the Commission Clerk and Administrative Services, 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.