

FLORIDA PUBLIC SERVICE COMMISSION

**Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850**

M E M O R A N D U M

September 12, 1991

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

**FROM: DIVISION OF LEGAL SERVICES (DAVIS) *Asst Dir*
DIVISION OF WATER AND SEWER (WILLIAMS) *W Williams***

**RE: UTILITY: BETMAR UTILITIES, INC.
DOCKET NO. 891280-WS
COUNTY: PASCO
CASE: OBJECTION TO NOTICE OF APPLICATION OF BETMAR
UTILITIES, INC. FOR AMENDMENT OF CERTIFICATES 137-W AND
98-S IN PASCO COUNTY**

**AGENDA: SEPTEMBER 24, 1991 - CONTROVERSIAL - PARTIES MAY NOT
PARTICIPATE**

CRITICAL DATES: FINAL ORDER MUST BE ISSUED BY OCTOBER 14, 1991

CASE BACKGROUND

Both Pasco County (County) and the City of Zephyrhills (City) filed timely objections to Betmar Utilities, Inc.'s (Betmar or utility) application to amend its certificated territory. The case was referred to the Division of Administrative Hearings (DOAH) for hearing. Subsequently, the County and Betmar resolved their differences. The case was returned to the Commission whereupon it was discovered that the City's objection had not been resolved. It was referred again to DOAH for resolution of the remaining objection.

The hearing was held on May 9, 1991. The City, Betmar and Staff filed Proposed Findings of Fact and Conclusions of Law with DOAH. The Hearing Officer's Recommended Order was filed on July 16, 1991. Exceptions to the Recommended Order were filed by the utility and Staff.

Under Rule 28-5.405(2), Florida Administrative Code, the Agency must issue its final order within 90 days of receipt of the

DOCUMENT NUMBER-DATE

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Recommended Order. The Recommended Order must be considered at a public meeting. It cannot be a de novo review, but must be confined to the record submitted to the agency together with the Recommended Order.

Pursuant to Section 120.57(10), Florida Statutes, the agency may adopt the Recommended Order as the final order of the agency. The statute further states that the agency

may reject or modify the conclusions of law and interpretation of administrative rules in the recommended order, but may not reject or modify the findings of fact unless the agency first determines from a review of the complete record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law.

DISCUSSION OF ISSUES

ISSUE 1: Should the exceptions to the Hearing Officer's Recommended Order be accepted?

RECOMMENDATION: Yes. The exceptions filed by the Petitioner (utility) to the rejection of its proposed Findings of Fact 14 and 26 and to the Conclusions of Law should be accepted. The exceptions filed by the utility to the Hearing Officer's Finding of Fact 20 should be rejected as that finding has record support. The utility's exception to the Hearing Officer's Finding of Fact 21 should be accepted. The exceptions filed by Intervenor Staff regarding rejection of Petitioner's proposed Finding of Fact 14 and the Conclusion of Law should be accepted. (DAVIS)

STAFF ANALYSIS: Exceptions to Findings of Fact - The Hearing Officer rejected two of the utility's proposed findings of fact, and the utility filed exceptions to these rejections. The rejected proposed findings of fact are as follows:

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Utility Proposed Finding of Fact 14 - Betmar provides sewer collection services only. Sewer treatment services are provided by Pasco County under an agreement with Betmar Utilities.

Utility Finding of Fact 26 - No further investment in the sewer or water plant is required for Betmar to provide service in the area for which extension has been requested.

The Hearing Officer rejected Proposed Finding of Fact 14 as an improper legal conclusion. In Reviewing Staff's opinion, the two sentences are statements of fact and are supported by competent substantial evidence in the record. (See T.18, 32, 33)

The Hearing Officer rejected Proposed Finding of Fact 26 as an improper legal conclusion, referring the reader to Hearing Officer Finding of Fact 17. That finding states: "Betmar anticipates a reduction in water and sewer rates if the extension is approved." In Reviewing Staff's opinion, Betmar's Proposed Finding of Fact 26 is not a legal conclusion and is supported by competent substantial evidence in the record. (See T. 45, 46) Further, the Hearing Officer's reference to her Finding of Fact 17 is confusing because that finding addresses Betmar's anticipated reduction in water and sewer rates and has nothing to do with the issue of need for additional investment.

Based on the foregoing, Reviewing Staff recommends these exceptions be accepted.

The utility also filed exceptions to the Hearing Officer's Findings of Fact 20 and 21. The utility stated Finding of Fact 20 is improper since it is a speculative conclusion unsupported by competent substantial evidence and that Finding of Fact 21 is irrelevant. Finding of Fact 20 states that the County has placed a possible qualification on the term of years (in the bulk services agreement) in stating its first responsibility is to its own customers. Finding of Fact 21 states the bulk services agreement has not been approved by the Public Service Commission.

In Reviewing Staff's opinion, the Hearing Officer's Finding of Fact 20 is supported by the record and the utility's exception should be rejected. (See Ex. 3 and T. 33) Staff agrees that the Hearing Officer's Finding of Fact 21 is irrelevant. It is also not

supported by competent substantial evidence in the record. Therefore, the utility's exception should be accepted.

Intervenor Staff's exception is that the Hearing Officer failed to find that the utility's wastewater service was a wastewater collection system only. Her rejection of the utility's proposed Finding of Fact 14 led to an improper legal conclusion and overlooked the record support showing that the utility provides collection services, not treatment services. This exception should be accepted.

EXCEPTIONS TO CONCLUSIONS OF LAW: The utility also filed exceptions to the Hearing Officer's Conclusions of Law in two areas:

1) The Hearing Officer concluded that the 25-year bulk services agreement does not meet the land ownership or long-term 99 year lease requirement of Rule 25-30.036, Florida Administrative Code, and that the application was thereby materially deficient.

The utility argues that the rule does not even contemplate a situation in which treatment is provided by a governmental entity to a private utility that only provides collection service. The rule clearly pertains to a utility providing treatment facilities where it must demonstrate ownership or lease the site upon which the facilities are located. The Hearing Officer's conclusion as to the legal effect of that rule is erroneous as a matter of law. Reviewing Staff concurs in the utility's analysis.

2) The Hearing Officer concluded that the amendment application is "contrary to the public interest to cause future Betmar customers to rely on a wastewater treatment agreement that lacked certainty. The conditions subsequent [See Findings of Fact 20] which are out of Betmar's control, makes the proposed agreement with the County unreliable even for the proposed 25-year term."

The utility argues that the agreement is not proposed, but executed and in effect, and that the Hearing Officer's reliance on her Finding of Fact 20 in no way eliminates the responsibility to provide the treatment services provided for in the agreement and any conclusion to that effect is speculation and not supported by evidence of record.

The utility also takes exception to the Hearing Officer's recommendation as contrary to the competent substantial evidence which demonstrated that the utility has an existing 25-year agreement with the County. Further, there is no competent substantial evidence to establish that the utility will not receive continued use of the County's Subregional Wastewater Treatment Plant for the term of the agreement.

Reviewing Staff agrees with the utility's analysis and recommends accepting the exceptions to the Conclusions of Law.

Intervenor Staff also filed an exception to the Hearing Officer's Conclusions of Law, stating that the Hearing Officer misinterpreted the rule. The rule was intended to apply to utilities which own their treatment facilities. The rule would not be applicable to Betmar since it has no treatment facilities.

The Hearing Officer also neglected to find that Betmar was a collection system only when it rejected the utility's proposed Finding of Fact 14 which so stated. Relying on that factual error and misapplying the rule, led to the Hearing Officer's erroneous ultimate conclusion, that the application for amendment should be denied.

Reviewing Staff concurs with this analysis and recommends acceptance of Intervenor Staff's exceptions.

ISSUE 2: Should the Hearing Officer's Recommended Order be adopted?

RECOMMENDATION: The Recommended Order should be adopted in part and rejected in part. Betmar's application for amendment should be granted. (DAVIS)

STAFF ANALYSIS: The Recommended Order is attached to this recommendation. The Hearing Officer found, in pertinent part, that:

- a) Both Betmar and the City have the technical and financial ability to provide service in the disputed territory. (Finding of Fact 12)

- b) City does not serve the disputed territory, but it does own water and sewer lines on the north side of Geiger Road. Other City lines extend below the south side of Geiger Road at the far eastern portion of the area for which Betmar is seeking extension. (Finding of Fact 4)
- c) In an interlocal agreement, City and County designated service areas for water and sewer service. (Finding of Fact 5)
- d) City is not operating within the disputed area. City would have to annex area first, pursuant to ordinance, to provide service to it. City is not prepared to build utility lines to the disputed area until new by-pass to Geiger Road is built and proper right-of-way obtained. (Finding of Fact 9)
- e) Betmar has water and sewer lines abutting or located in disputed territory. (Finding of Fact 11)
- f) Owners of property abutting Geiger Road have contacted the utility about possibility of service. One developer has made a formal request for service (Finding of Fact 14)
- g) Betmar's sewage collection facilities are abutting Geiger Road gravity lines. (Finding of Fact 15)
- h) Betmar does not charge an impact fee for connection into its system; the City does. (Finding of Fact 16)
- i) Betmar has an agreement with the County that states the County will provide bulk wastewater treatment to Betmar for the purpose of offering centralized wastewater services from the County's South east Subregional Wastewater Treatment Plant for a 25-year term. (Finding of Fact 19)
- j) The County has placed a possible qualification on the term of the agreement by stating in the agreement its first responsibility is to the customers. (Finding of Fact 20)

The Hearing Officer concludes that the placing of the bulk service agreement into the record, instead of a deed or long term lease as required by Commission rule, triggered a legal issue as to whether Betmar's application was materially deficient. The Hearing Officer concluded it was deficient and that even the "proposed 25-year agreement" contained conditions subsequent that severely limit the County's obligation under the agreement. The Hearing Officer further concluded that although the application contains numerous public benefits, "it is contrary to the public interest to cause future Betmar customers to rely on a wastewater treatment agreement that lacks certainty." The Hearing Officer then recommended that the application be denied because "it has failed to provide that it will be allowed the continued use" of the County's plant for the 25-year term in the agreement.

Reviewing Staff recommends that Findings of Fact 1 through 20 should be adopted since they are supported by competent substantial evidence in the record. Finding of Fact 21 should be rejected as Staff was unable to find any record support for the statement.

The exceptions to the Hearing Officer's rejection of the utility's proposed finding of fact 14 and the exception regarding the omission of a specific finding that Betmar is a collection system only, and not a treatment system, have been discussed in Issue 1. Based on the review of the record, Staff recommends that the Hearing Officer's Conclusion of Law and recommendation must be rejected as a matter of law because the Hearing Officer has misapplied Rule 25-30.036(d), Florida Administrative Code. The rule does not apply to a utility such as Betmar since it owns no treatment facilities. Therefore, Betmar did not need to present evidence of ownership of, or long-term access to, the land underlying the treatment facilities. This rule is not applicable to the bulk services agreement. The statement in the bulk services agreement about the County's first responsibility being to its customers really is irrelevant because the term of the bulk services agreement has no relationship to the rule which is intended for a utility that has treatment facilities.

The material deficiency in the application asserted by the Hearing Officer does not exist. Thus, the application of Betmar should be granted based on the Findings of Fact discussed above which show Betmar has the ability to provide service, is ready,

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willing and able to provide service, and that there is a need for service.

ISSUE 3: Should Betmar Utilities, Inc.'s currently approved rates and charges be charged in the amended territory?

RECOMMENDATION: Yes, Betmar Utilities, Inc. should charge its currently approved rates and charges in the amended territory which is described in Attachment A to this recommendation. Betmar should return its Certificates Nos. 137-W and 98-S for entry to include the additional territory and filed revised tariff sheets.
(WILLIAMS)

STAFF ANALYSIS: On November 13, 1989, Betmar Utilities, Inc. filed its application for amendment of its water and wastewater certificates to include additional territory in Pasco County. Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(1)(e), (f) and (i), Florida Administrative Code. A description of the territory requested by the utility is appended to this memorandum as Attachment A. The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission.

The utility should be ordered to return the certificates for entry to include the additional territory granted and file revised tariff sheets which reflect the amended territory description.

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ATTACHMENT A

BETMAR UTILITIES, INC.

TERRITORY DESCRIPTION

The following described lands located in portions of Sections 9 and 10, Township 26 South, Range 21 East, Pasco County, Florida:

The East 1/2 of Section 9, Township 26 South, Range 21 East, Pasco County, Florida, AND the West 1/2 of Section 10, Township 26 South, Range 21 East, Pasco County, Florida

LESS AND EXCEPT: The East 1/4 of the North 1/2 of the Northwest 1/4 of Section 10; the North 124.81 feet of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 10; the East 174.02 feet of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 10, LESS the North 124.81 feet; the East 1/4 of the North 1/4 of the Southwest 1/4 of Section 10; the West 1/2 of the North 259.32 feet of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 10; the East 1/2 of the North 213.63 feet of the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 10; the North 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 9; AND the Southwest 1/4 of the Southwest 1/4 of the Southeast 1/4 of Section 9.

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The utility's approved rates and charges were effective April 2, 1991 pursuant to Order No. 24225, a staff assisted rate proceeding.

Although there was testimony in the record regarding an anticipated reduction in monthly service rates as a result of this extension of service area, Staff recommends that the currently approved rates and charges be applied to customers in the new service territory.

ISSUE 4: Should the docket be closed?

RECOMMENDATION: Yes. (DAVIS)

STAFF ANALYSIS: Since there is no further action to be taken, this docket may be closed.

LEG/BETMAR.NSD

MEMORANDUM

September 17, 1991

TO : DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF LEGAL SERVICES (DAVIS) *nsd*

RE : DOCKET NO. 891280-WS - OBJECTION TO NOTICE OF
APPLICATION OF BETMAR UTILITIES, INC. FOR
AMENDMENT OF CERTIFICATES NOS. 137-W AND 98-S
IN PASCO COUNTY

Attached is the Recommended Order which was inadvertently omitted from the Recommendation in the above-referenced docket.

NSD/slc

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BETMAR UTILITIES, INC.,)
)
 Petitioner,)
)
 vs.)
)
 CITY OF ZEPHYRHILLS,)
)
 Respondent,)
 and)
)
 FLORIDA PUBLIC SERVICE COMMISSION,)
)
 Intervenor.)

CASE No. 91-1159

RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Hearing Officer, Veronica E. Donnelly, held a formal hearing in the above-styled case on May 9, 1991, in Dade City, Florida.

APPEARANCES

For Petitioner: Scott L. Knox, Esquire
28870 U.S. Highway 19 North
Suite 230
Clearwater, Florida 34621

For Respondent: Thomas P. McAlvanah, Esquire
37818 Highway 54 West
Zephyrhills, Florida 34248

For Intervenor: Robert J. Pierson, Esquire
101 East Gaines Street
Tallahassee, Florida 32399-0863

STATEMENT OF THE ISSUES

Whether Betmar Utilities, Inc.'s application for an expansion of territory under its water and wastewater certificates in Pasco County should be approved by the Public Service Commission.

used in the Recommended Conclusions of Law as the April rule revisions were not available at hearing. It was further agreed that the statute in effect at the time the application was filed would be the controlling statutory law.

During the hearing, two witnesses were presented by Betmar and four exhibits were moved into evidence. The City submitted three exhibits, and applicable portions of the Pasco County Land Use Plan were admitted as Hearing Officer Exhibit #1. Leave to file the land use plan and the Tariff Sheet marked Petitioner's Exhibit #4 posthearing was granted by the Hearing Officer. These exhibits were filed May 20, 1991, and all exhibits were admitted without objection.

The transcript of the hearing was filed May 22, 1991. Proposed Recommended Orders were filed by all parties by June 3, 1991. Rulings on the proposed findings of fact are in the Appendix to the Recommended Order.

FINDINGS OF FACT

1. Betmar Utilities, Inc. is a private utility company who owns and holds Florida Public Service Commission Certificates Number 137W and No. 98S. These certificates grant Betmar the right to operate a water and wastewater system in a specified territory within an unincorporated area of Pasco County.

2. Betmar seeks an extension of its certified territory into the areas immediately to the north and south in an unincorporated area of the county. There is, or will be in the near future, a need for water and wastewater services in the

proposed amended territory. An Application for Amendment of Territory was filed with the Commission to allow Betmar to service the area on November 13, 1989.

3. When Betmar noticed the City of its pending application, an objection was filed to the proposed expansion. The objection specifically relates to the property on the south side of Geiger Road, which extends 330 feet south of the roadway, and adjoins the City's boundaries.

4. Although the City does not currently provide services to this locale, it does own water and sewer lines on the northern side of Geiger Road in the Silver Oaks area. Other water and sewer lines in the City's system extend below the south side of Geiger Road at the far eastern portion of the area for which Betmar is seeking the extension of territory.

5. In an interlocal agreement between the City and the County dated February 9, 1988, these governmental entities established designated service areas for water and wastewater services in this particular area of the county. The purpose of the agreement was to promote the economic delivery of services to citizens in the area, and to provide for the necessary long-range planning inherent in the provision of these services. Prior to the agreement, the County was authorized to provide the services to the areas for which an extension is sought by Betmar.

6. The service area boundaries delineated in the agreement were to be periodically reviewed in conjunction with the review of each party's respective comprehensive plans.

7. Pursuant to this agreement, the City and County determined that the City's Service Area Boundry would include the area south of Geiger Road that abuts Betmar's current service area.

8. The City and the County each relied upon this interlocal agreement in the creation of their respective comprehensive plans. However, no additional action has been taken by the City to service the area.

9. The City is not actually operating within the disputed area for a number of reasons. First of all, the City has adopted an ordinance which requires annexation of contiguous property as a condition of receiving its water and sewer services. The disputed portion of the proposed amended territory is not within the city limits and has not been annexed. Secondly, the City is not prepared to build utility lines to service the disputed proposed amended territory until the new bypass road along Geiger Road is built, and the proper right-of-way is obtained. At that time, the City would like to extend the Silver Oaks line under Geiger Road to the south, and the line along the eastern side of the disputed portion of territory to the west. These anticipated expansions correlate with the City's Service Area Boundry in the interlocal agreement which remains unchanged between the City and the County. A proposed service date was not provided by the City at the formal hearing.

10. The City seeks to control land use and development of property along the Geiger Road corridor though its ability to provide or withhold utility services.

11. Betmar also has water and sewer lines abutting or located on all properties described in its application for extension, including the area in controversy. These lines are currently active due to Betmar's water and sewer system which is in the center of the area targeted for expansion.

12. Both Betmar and the City have the technical and financial ability to provide water and wastewater services in the proposed amended territory.

13. Betmar has a tariff approved by the Commission which allows it to charge 110% of the cost of the extension of service from its existing lines to any property seeking service.

14. Owners of property abutting Geiger Road have contacted Betmar about the possibility of providing service. A formal request for service has been made by Jake Developers for service in that area.

15. Betmar's sewage collection facilities abutting the Geiger Road property are gravity lines. The City's sewage collection facilities in close proximity to the area are force mains.

16. Betmar does not charge impact fees for connection into its system. The City charges a water impact fee of \$350.00 and a sewer impact fee of \$1,278.00 for connection into its system.

17. Betmar anticipates a reduction in water and sewer rates if the extension is approved.

18. Betmar presented no evidence about plans for further financial investment which would enable the utility to provide service in the area for which the extension has been requested because Betmar believes further investment is unnecessary.

19. Betmar has an agreement with the County that states the County will provide bulk wastewater treatment to Betmar for the purpose of offering centralized wastewater services from the County's Southeast Subregional Wastewater Treatment Plant for a twenty-five year term.

20. The County has placed a possible qualification on the term of years in the agreement by inserting the following clause:

... its first responsibility is to the customers inside its own service limits and that it reserves the right to act in the best interest of those customers in all circumstances.

21. The agreement between the County and Betmar has not been approved by the Commission.

CONCLUSIONS OF LAW

The Division of Administrative Hearings has jurisdiction over the parties and the subject matter pursuant to Sections 367.045(4) and 120.57(1), Florida Statutes.

When a utility applies for an amended certificate of authorization from the Commission, it is required to provide all information required by rule or order of the Commission. Section 367.045(2), Florida Statutes.

Rule 25-30.036(d), Florida Administrative Code, requires a utility proposing to extend its service area to provide:

[E]vidence that the utility owns the land upon which the utility treatment facilities that will serve the proposed territory are located or a copy of an agreement, such as a 99-year lease, which provides for the continued use of the land.

In this case, Betmar has an agreement with the County, who currently has jurisdiction to service the area in controversy. The agreement states the county will provide bulk wastewater treatment to Betmar in the area for a twenty-five year term, subject to the County's need to use its Southeast Subregional Wastewater Treatment Plant for customers within its own service area. When this agreement was placed into evidence instead of a deed or a long-term lease as required by rule, a legal issue arose as to whether Betmar's request for an amended certificate of authorization is materially deficient under the statutory and regulatory framework.

During a cursory review of the pending amendment application, it appears that there would be numerous public benefits if Betmar were to obtain the amended certificate and expand its territory to all of the requested area. The County has no objection, and the City is unable to act ultra vires in the area due to its ordinance which prevents the provision of City utilities in an unincorporated area. Further scrutiny reveals the amendment application is materially deficient in that the required ownership or long-term 99-year lease regarding

utility treatment facilities is nonexistent. Even the proposed twenty-five year permitted use agreement regarding the treatment facilities contains conditions subsequent that severely limit the County's obligations under the agreement. As a matter of law, the agreement lacks the certainty required by Rule 25-30.036, Florida Administrative Code.


The applicant has the burden to prove that his request for the amendment is in the public interest. Although the proposed amendment application contains numerous public benefits, it is contrary to the public interest to cause future Betmar customers to rely on a wastewater treatment agreement that lacks certainty. The conditions subsequent, which are out of Betmar's control, make the proposed agreement with the County unreliable, even for the proposed twenty-five year term.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED:

The Commission should deny Betmar's application for an amendment to its certified territory in Pasco County as the applicant has failed to provide that it will be allowed the continued use of the County's Southeast Subregional Wastewater Treatment Plant for the twenty-five year term set forth in the agreement presented at hearing.

DONE and ENTERED this 16th day of July, 1991, in
Tallahassee, Leon County, Florida.


VERONICA E. DONNELLY
Hearing Officer
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-1550
(904)488-9675

Filed with the Clerk of the
Division of Administrative Hearings
this 16th day of July 1991.

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS: All parties have the right to submit written exceptions to this Recommended Order. All agencies allow each party at least 10 days in which to submit written exceptions. Some agencies allow a larger period within which to submit written exceptions. You should contact the agency that will issue the final order in this case concerning agency rules on the deadline for filing exceptions to this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.

Copies furnished:

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Tallahassee, Florida

APPENDIX TO RECOMMENDED ORDER
IN CASE No. 91-1159

Petitioner's proposed findings of fact are addressed as

follows:

1. Accepted. See HO #2.
2. Accepted. See HO #1.
3. Accepted. See HO #3.
4. Accepted. See HO #11.
5. Accepted. See HO #4.
6. Accepted. See HO #9.
7. Accepted. See HO #11.
8. Accepted. See HO #13.
9. Accepted. See HO #14.
10. Accepted. See HO #9.
11. Accepted. See HO #9.
12. Accepted. See HO #11.
13. Accepted.
14. Rejected. Improper legal conclusion.
15. Accepted. See HO #5.
16. Accepted. See HO #8.
17. Accepted. See HO #14.
18. Accepted. See HO #14.
19. Accepted.
20. Accepted.
21. Accepted.
22. Accepted.
23. Accepted. See HO #15.
24. Accepted. See HO #15.
25. Accepted. See HO #16.
26. Rejected. Improper legal conclusion. See HO #17.
27. Accepted. See Preliminary Statement.

Respondent's proposed findings of fact are addressed as

follows:

1. Accepted. See Preliminary Statement.
2. Accepted. See Preliminary Statement.
3. Accepted that an interlocal agreement between City and county existed. See HO #5. The rest of the paragraph is rejected as legal argument.

Intervenor's proposed findings of fact are addressed as

follows:

1. Accepted. See HO #2.
2. Accepted. See HO #12.
3. Accepted. See HO #12.
4. Accepted. See HO #3.
5. Accepted. See HO #11.
6. Accepted. See HO #4.
7. Accepted. See HO #12.
8. Accepted. See HO #9.
9. Accepted. See HO #9.
10. Accepted. See HO #9.
11. Accepted. See HO #5.