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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment  
of Certificate No. 427-W to add  
territory in Marion County by  
Windstream Utilities Company.

Docket No. 960867-WU

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PREFILED DIRECT TESTIMONY  
OF  
TERESE MANNING

On Behalf of Marion County, Florida  
and  
Joe Lettelleir/Barrett Family Partnership IV, Ltd. (JB Ranch)

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
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- LIN Stoy \_\_\_\_\_
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_

Thomas A. Cloud, Esquire  
Fla. Bar No. 293326  
GRAY, HARRIS & ROBINSON, P.A.  
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SEG Redemann  
WAS \_\_\_\_\_

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 96-0867-WU

MARION COUNTY, FLORIDA and

JB RANCH

In Re: Application for amendment of Certificate No.  
427-W to add territory in Marion County by  
Windstream Utilities Company.

PREFILED DIRECT TESTIMONY OF TERESE MANNING

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. Terese Manning, 2631 SE 3rd Street, Ocala, Florida 34471.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR  
POSITION?

A. I am the Planning Director for the Marion County Board of  
County Commissioners.

Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. In 1980 I received a Bachelor of Science degree in  
Geography and Biology from Western Illinois University.  
Following that, I took 48 hours of graduate level courses  
toward a Masters degree in Geography with an emphasis  
on planning from Western Illinois University.

Q. CAN YOU PLEASE GIVE ME A BRIEF SUMMARY OF YOUR  
PRIVATE EMPLOYMENT EXPERIENCE?

A. Since 1995 I have been the Planning Director for the  
Marion County Planning Department, employed by the

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Marion County Board of County Commissioners. Prior to that, I served as a Planning Manager for 5 years and a Planner IV for 2 years at the Florida Department of Community Affairs, an agency of the State of Florida. I have prepared an exhibit outlining my professional planning experience which is attached to and incorporated in this prefiled testimony as Exhibit TMM-1.

Q. HAVE YOU PREVIOUSLY BEEN RECOGNIZED BY ANY COURT OR ADMINISTRATIVE AGENCY AS AN EXPERT IN THE AREA OF COMPREHENSIVE PLANNING AND GROWTH MANAGEMENT?

A. Yes, I have been qualified as an expert in comprehensive planning and growth management on numerous occasions in cases tried or heard by the Florida circuit courts, the Florida Division of Administrative Hearings, and local governments.

Q. WILL YOU BRIEFLY DESCRIBE THE STRUCTURE OF FLORIDA'S COMPREHENSIVE PLANNING PROCESS?

A. Chapter 163, Part II, Florida Statutes ("Growth Management Act"), requires each local government in Florida to adopt a comprehensive plan, prescribes the general content of the plan, and establishes the means by which this plan must be adopted. A local comprehensive plan is a policy-setting document which prescribes "principles, guidelines, and standards for the orderly and

1 balanced future economic, social, physical, environmental,  
2 and fiscal development" of the local jurisdiction. Each  
3 local comprehensive plan must include certain elements,  
4 including a future land use element, a capital  
5 improvements element, and a sanitary sewer element.  
6 Prior to its adoption, the proposed local comprehensive  
7 plan must be submitted to the Department of Community  
8 Affairs for a compliance review. Applying its minimum  
9 criteria rule, Chapter 9J-5, Florida Administrative Code,  
10 which has been approved by the Florida Legislature, the  
11 Department of Community Affairs reviews each local  
12 comprehensive plan to ensure that it is consistent with  
13 state law. Each amendment to an adopted local  
14 comprehensive plan must also be submitted to the  
15 Department of Community Affairs for a compliance  
16 determination.

17 After a local comprehensive plan has been adopted, all  
18 development, and all local government actions concerning  
19 development or development orders, must be consistent  
20 with the adopted plan. Affected citizens have standing to  
21 challenge local government development orders on the  
22 grounds of inconsistency with the adopted local plan.  
23 Accordingly, the local comprehensive plan has been  
24 described by Florida courts as a "constitution for all future  
25 development within the governmental boundary."

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**Q. WHAT IS THE PURPOSE OF FLORIDA'S COMPREHENSIVE PLANNING PROCESS?**

**A. As set forth in the Growth Management Act, Florida's comprehensive planning process has several major purposes. First, it is intended to strengthen the role and powers of local governments in the adoption and implementation of comprehensive planning programs to control future development. Second, it is intended to enhance the ability and power of local governments to promote, protect, and improve the public health, safety, and general welfare of its residents and citizens. Through the achievement of various goals, including the protection of environmental and natural resources and the facilitation of the adequate and efficient provision of public facilities and services such as sewage treatment and disposal. Third, it is intended to enhance the ability and power of local government to guide and control the timing and location of development within its jurisdiction and to coordinate the approval of development with the provision of adequate public facilities. More specifically, through implementation of the state concurrency requirement, the comprehensive planning process is intended to ensure that no future development is permitted unless there will be adequate public facilities, including sewage facilities, available to serve development concurrent with its**

1 impacts.

2  
3 Q. DURING THE COURSE OF YOUR PROFESSIONAL  
4 CAREER, HAVE YOU HAD THE OPPORTUNITY TO  
5 MEASURE THE CONSISTENCY OF A PROPOSED  
6 PROJECT WITH THE GOALS, POLICIES AND OBJECTIVES  
7 OF AN ADOPTED LOCAL COMPREHENSIVE PLAN?

8 A. Yes, on numerous occasions, as an employee of the  
9 Department of Community Affairs, and as the Planning  
10 Director for Marion County, I have had the opportunity and  
11 responsibility to consider the consistency of proposed  
12 development projects with the goals, policies and  
13 objectives of an adopted local comprehensive plan and to  
14 formulate and render opinions or make recommendations  
15 or decisions concerning the consistency issue.

16 Q. IS IT IMPORTANT THAT A PROJECT BE CONSISTENT  
17 WITH ALL COMPONENTS OF A COMPREHENSIVE PLAN?

18 A. Yes. From both a planning and legal perspective, a  
19 proposed project or action affecting a development order  
20 must be consistent with all elements of an adopted local  
21 comprehensive plan. In order to achieve the overall goals,  
22 policies, and objectives of the local comprehensive plan,  
23 a proposed project or development must be consistent  
24 with all applicable provisions of the local comprehensive  
25 plan. Consistency with only one element or goal or policy  
does not necessarily mean that the proposal will be

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consistent with other elements, goals, or policies in the plan. In fact, a specific proposal may be consistent with the goals, policies, and objectives in one element but not with the goals and policies of another element or even within a single element, a proposal may be consistent with some goals and policies and inconsistent with others.

Legally, the courts of this state have held that a proposed development project must strictly conform with each and every element of a local comprehensive plan. It is not sufficient to consider only one element of the local plan. Rather, the local comprehensive plan in its entirety must be reviewed and evaluated in determining consistency of a particular proposed project.

Q. IN THIS CASE, HAVE YOU HAD THE OPPORTUNITY TO REVIEW WINDSTREAM UTILITIES' APPLICATION FOR AN AMENDMENT TO ITS CERTIFICATE?

A. Yes, I have reviewed the application in its entirety.

Q. HAVE YOU ALSO HAD THE OPPORTUNITY TO REVIEW MARION COUNTY'S COMPREHENSIVE PLAN?

A. Yes, I have reviewed the entire Marion County comprehensive plan. I conducted my review of the Marion County comprehensive plan for the specific purpose of formulating an opinion about the consistency of the Windstream Utilities application with the County's comprehensive plan.

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**Q. BASED ON YOUR REVIEW OF THE WINDSTREAM UTILITIES APPLICATION AND MARION COUNTY'S COMPREHENSIVE PLAN, HAVE YOU FORMULATED AN OPINION AS TO WHETHER WINDSTREAM'S PROPOSAL VIOLATES OR IS INCONSISTENT WITH THE COUNTY'S COMPREHENSIVE PLAN?**

**A. Yes. In my opinion, based on my review of the application and the County's comprehensive plan, the Windstream application is inconsistent with the County's comprehensive plan. The proposed request by Windstream is inconsistent with the Marion County comprehensive plan, as amended, for the following reasons:**

- **The proposed service area is located in Southern Service Area/Southwest Service Area/SR 200 Corridor Subregional Service Area in the June 1993 Marion County Water Supply and Wastewater Master Plan prepared by Post, Buckley, Schuh & Jernigan, Inc. The Master Plan is referenced in Sanitary Sewer Sub-element Objective 2.0 and Potable Water Sub-Element Objective 1.0.**

- **The 1993 Marion County Water Supply and Wastewater Master Plan identifies that the potential service providers for the SR 200 Corridor would be the County, City of Ocala, and the Oak Run and On**



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Top of the World DRI developments. The master plan does not identify Windstream Utilities as a provider of water for this area.

- The goal for the Sanitary Sewer Sub-element is to ensure the provision of adequate sewage treatment systems that protect the quality of surface and ground water, provide sewer service at the lowest practicable cost and to promote orderly, compact development.
- Sanitary Sewer Sub-element Objection 2.0 and Potable Water Sub-element Objective 1.0 and their implementing policies require to the extent practicable that the plans for the Southwest Service Area shall be consistent with the Marion County Water Resource Protection and Water/Wastewater Utilities Plan (the "Game Plan") adopted May 21, 1996, as amended.
- As a part of the Marion County comprehensive plan, as amended, the Game Plan provides that the County will be the provider of central water and wastewater services in the State Road 200 Subregional Service Area.
- Potable Water Sub-element Policy 1.1a. states that the water supply master plan for the Southwest area, including the SR 200 Corridor, shall be

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coordinated with wastewater master plan for the area.

- Potable Water Sub-element Policy 1.2 and Capital Improvements Element Policies 1.1 and 5.2 require the adequate fire flow shall be provided. Windstream has not demonstrated that fire flow can be provided.

- Future Land Use Element Objective 1 and Policy 1.1 require that growth and development will be coordinated with the availability of services and facilities and discourage urban sprawl through the adoption of land development regulations. Windstream is not proposing to provide sanitary sewer facilities.

- Future Land Use Element Policy 1.3 requires that central water and sewer facilities shall be constructed in accordance with the Sanitary Sewer and Potable Water Sub-elements of the Comprehensive Plan.

- Future Land Use Element Policy 1.8 requires that public facilities and services be timed and staged in conjunction with the provision of supporting public facilities and services. Windstream is not proposing sanitary sewer services.

- Future Land Use Element Policy 1.9 requires that

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public facilities and services shall be located to maximize the efficiency of services provided, minimize their cost, and minimize the impacts on natural resources. Failure to maximize facilities and services can promote urban sprawl.

- Future Land Use Element Objective 2 promotes the efficient use of resources and to discourage urban sprawl by allowing higher intensities of land uses in areas in Urban Service and Urban Expansion Areas with adequate facilities and services. Windstream is proposing to serve an area in the Urban Service and Urban Expansion Areas with no sanitary sewer facilities and services, which will require development at a low density level.
- Future Land Use Element Policy 2.6 directs that capital improvements expenditures, including publicly provided central water and sewage treatment facilities be directed to the designated urban expansion areas to encourage infill development and to discourage urban sprawl. Failure to encourage infill development and to discourage urban sprawl allows for land use patterns for timing of development which disproportionately increases the cost in time money and energy of providing and maintaining facilities

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and services, including potable water and sanitary sewer systems.

- **Future Land Use Element Policy 2.16 encourages compact urban development patterns by requiring new residential development in the Urban Service and Urban Expansion Areas exceeding 4 units per acre to provide both central water and sewer services.**
- **Future Land Use Element Policy 2.18 requires that land being added to the Urban Service and Urban Expansion Areas through a plan amendment that is currently designated as Urban Reserve be developed with central water and sewer.**
- **Potable Water Sub-element Objective 4.0 states that the County will enter into agreements with privately owned public water systems to ensure the availability of water in the Urban Service and Urban Expansion Areas. As of this date, no agreements have been approved.**
- **Potable Water Sub-element Policy 4.3 allows, but does not mandate or guarantee, a private utility to serve contiguous development within the unincorporated County.**
- **Potable Water Sub-element Policy 4.4 provides for franchise agreements with privately owned public**

1 water systems and includes criteria for the  
2 agreements. As of this date, no agreements have  
3 been approved.

4 • Capital Improvements Element Policy 2.2 requires  
5 the County capital improvements to be funded in  
6 part based on the need to fulfill the County's legal  
7 commitment to provide facilities and services. The  
8 County has entered into an agreement to provide  
9 water and sewer to this area.

10 • Capital Improvement Element Objective 1.0 and its  
11 implementing policies require the County to provide  
12 for capital improvements needs and projects based  
13 on needs and projects identified in the other  
14 elements of the Comprehensive Plan. The Sanitary  
15 sewer and Potable Water Sub-elements identify that  
16 both sanitary sewer and potable water are needed  
17 for this area. Windstream is only proposing to  
18 provide water.

19 Q. FROM A PLANNING PERSPECTIVE COULD THERE BE  
20 ADVERSE RESULTS FROM APPROVING WINDSTREAM'S  
21 PROPOSAL?

22 A. Yes, I believe there would be several adverse  
23 consequences. First, approval of the application will  
24 undermine the central strategy of the County's  
25 comprehensive planning strategy to control the timing and

1  
2 location of development, and control of central water and  
3 sewer service and the State Road 200's original service  
4 area. Second, it will undermine the County's ability to  
5 achieve various other goals and policies in its  
6 comprehensive plan through the provision of both central  
7 water and wastewater services such as preventing or  
8 minimizing environmental impacts, ground water  
9 pollution, and protection of water resources. Third, it will  
10 undermine and make more difficult the County's  
11 comprehensive planning strategy to provide the most cost  
12 effective utility facilities to residents of Marion County.  
13 Fourth, it will make it more difficult for the County to  
14 officially and economically provide water and wastewater  
15 services for its projected service area because of its  
16 inability to realize the benefits of economies of scale of its  
17 facilities.

18 Q. IS THERE ANYTHING ELSE YOU WOULD LIKE TO ADD?

19 A. Local conference of plans are the pre-eminent statement  
20 of local policy concerning land use, development and  
21 gross management issues. In addition, the local  
22 conference of plans are the documents through which  
23 state standards and policies regarding land use,  
24 development and growth issues are translated into action  
25 at the local level. If the local and state policy reflected in  
these local conference of plans are to be achieved, then

1           the local conference of plan must be respected not only by the  
2           local government but by other state agencies who are issuing  
3           permits or approvals which affect growth and development in the  
4           local jurisdiction. Accordingly, this agency, the Public Service  
5           Commission, should give great weight to the Marion County  
6           Conference of Plan, as amended, as Marion County's  
7           interpretation of the plan. Otherwise, the action of this agency  
8           can harm and even prevent the achievement of the important  
9           local and state policies reflected in the local conference of plans,  
10          including the Marion County Conference of Plan, as amended.

11          Q.    DOES THAT CONCLUDE YOUR TESTIMONY?

12          A.    Yes.

**TERESE M. MANNING**

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 Ocala, Florida 34471-9101  
 (352) 620-3394  
 Suncom 667-3394

TMM-1  
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**EXPERIENCE**

**PLANNING DIRECTOR**  
 Marion County Planning Department

**YEARS EMPLOYED: 1995-PRESENT**  
 Ocala, Florida

Directs the activities of the County's Planning Department, and provides staff assistance to the Board of County Commissioners, and the County's Planning Commission, Scenic Roads Advisory Committee, and the Community Development Block Advisory Committee in the area of comprehensive planning, development review, and community development for the community and the government. Responsible for amendments and updates to the County's Comprehensive Plan and drafting of the Plan's Evaluation and Appraisal Report. Processes, reviews and monitors Developments of Regional Impact and Florida Quality Development projects. Implements the County's Transportation Impact Fee Program. Coordinates with regional and state planning and community development programs and agencies, including the review of new legislation and agency regulations as they affect Marion County. Supervises planning staff, both County personnel and consultants on contract. Develops data and policies related to planning and community development. Participates in grant and loan fund programs. Provides public assistance with regard to planning and community development programs and regulations. Provides review and consultation with other County agencies related to land use regulations and capital improvements implementation. Serves on the County's Development Review Committee and Vesting Committee. Prepares and monitors the Planning Department's budget and revenues.

**PLANNING MANAGER**  
**PLANNER IV**  
 Florida Department of Community Affairs,  
 Bureau of Local Planning

**YEARS EMPLOYED: 1990-95**  
 1988-90  
 Tallahassee, Florida

Reviewed and analyzed local government comprehensive plans, plan amendments, evaluation and appraisal reports, Development of Regional Impact projects, and Florida Quality Development projects to ensure compliance with Chapters 163, 187, and 380, Florida Statutes, and Rules 9J-2, 9J-5, 9J-11, and 9J-24, Florida Administrative Code. Prepared analytical reports documenting the results of the review process. Provided technical assistance to local governments, developers and the general public in meeting the applicable statutory and administrative rule requirements for comprehensive planning and development projects. Negotiated settlement agreements to resolve statutory and administrative rule inconsistencies concerning local government comprehensive plans, Development of Regional Impact projects, and Florida Quality Development projects. Served as an expert witness in comprehensive planning and growth management in administrative hearing and circuit court cases. As Planning Manager, supervised and trained lower level planners.

**FIELD REPRESENTATIVE**  
 Kansas Department of Commerce,  
 Small Cities Program

**YEARS EMPLOYED: 1986-88**  
 Topeka, Kansas

Provided technical assistance to local governments, developers and the general public on federal and state grant and loan program requirements for comprehensive planning, housing, community improvement, and economic development projects. Conducted compliance monitoring of state grant and loan recipients. Evaluated community improvement, planning, housing, and economic development grant applications. Developed program guidelines and a manual for housing rehabilitation grant recipients.



**PROJECT PLANNER**  
Southeast Kansas Regional Planning Commission

**YEARS EMPLOYED: 1983-86**  
Chanote, Kansas

In an eleven county region, initiated, implemented, and managed comprehensive planning, housing, community improvement and economic development programs and projects. Editor of a quarterly agency newsletter. Comprehensive planning activities included conducting housing, population and income surveys; providing technical assistance, support and training to local government planning and zoning commissions; developing and implementing capital improvement plans; and assisting in developing and implementing a regional economic development plan. Program development activities included proposing and developing local government enterprise zones; initiating grant and loan applications for local governments; and serving on the Board of Directors of a twelve county regional tourism agency. Administrative activities included grant and loan project administration for local government comprehensive planning, community improvement, housing and economic development projects; and reviewing federal grant applications.

**RESEARCH INTERN**  
National Association of Regional Councils

**YEARS EMPLOYED: JULY - DECEMBER 1982**  
Washington, D.C.

Provided research and technical assistance to association staff and members; conducted surveys; wrote newsletter articles and special reports; and conducted intergovernmental coordination activities.

**ASSOCIATE PLANNER**  
Western Illinois Regional Council

**YEARS EMPLOYED: JANUARY - MAY 1982**  
Macomb, Illinois

Responsible for the development of a downtown business district improvement plan for a city.

**LIBRARY TECHNICAL ASSISTANT**  
Western Illinois University, Map Library

**YEARS EMPLOYED: 1978-82**  
Macomb, Illinois

Only full-time employee and was responsible for the management of a technical library. Assisted library patrons with reference and research services. Supervised five part-time employees. Participated in the 1978 Special Summer Project and Training Program of the Library of Congress, Geography and Map Division, in Washington, D.C. Was promoted to this position after two years of part-time employment in the library.

## EDUCATION

**BACHELOR OF SCIENCE DEGREE**  
Western Illinois University

**YEARS ATTENDED: 1874-80**  
Macomb, Illinois

Major in Geography with a minor in Biology.

**GRADUATE SCHOOL**  
Western Illinois University

**YEARS ATTENDED: 1978-82**  
Macomb, Illinois

Forty-eight semester hours of graduate study credit in Geography, with an emphasis in rural and regional planning.

## PROFESSIONAL MEMBERSHIPS

- American Planning Association, 1983-Present
- Florida Planning and Zoning Association, 1995-Present

**TMM-1**  
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