

ORIGINAL
FILE COPY

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. 960967-WU

PREHEARING STATEMENT OF
MARION COUNTY

MARION COUNTY ("County"), by and through its undersigned attorneys and pursuant to Rule 25-22.038(2), Florida Administrative Code, and PSC Order No. PSC-96-1273-PCO-WU, files this Prehearing Statement.

(a) The names and addresses of all known witnesses that may be called by the County, and the subject matter of their testimony is as follows:

- Gerald C. Hartman, P.E.
HARTMAN & ASSOCIATES
201 E. Pine Street, Suite 1000
Orlando, FL 32801

Mr. Hartman will testify on utility certification, engineering, planning, financial and management issues in this case, competing/duplicative systems and facilities, other sources, and on the public interest. Mr. Hartman will also provide rebuttal testimony to Butch Dlouhy and George McDonald.

- Andrew Woodcock, P.E.
HARTMAN & ASSOCIATES
201 E. Pine Street, Suite 1000
Orlando, FL 32801

Mr. Woodcock will testify on utility planning and engineering issues, competing/duplicative systems and facilities, other sources, the S.R. 200 Master Plan, and on the public interest.

ACK _____
 VFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAG _____
 LEG 1
 LIN 3
 OFC _____
 RCH _____
 SEC 1
 (KAS) _____
 OTH _____

DOCUMENT NUMBER-DATE

04896 MAY 16 5

FPSC-RECORDS/REPORTING

3. Terese Manning, Planning Department Director
MARION COUNTY
2631 S.E. Third Street
Ocala, FL 34471-9101

Ms. Manning will testify as to comprehensive planning in general, the County's Comprehensive Plan and master plans, concurrency, the State's Comprehensive Plan, need in the area, and on the public interest. Ms. Manning will also provide rebuttal testimony to Butch Dlouhy and George McDonald.

4. L. Lyle Titterington, P.E., County Engineer
MARION COUNTY
412 S.E. 25th Avenue
Ocala, FL 34471

Mr. Titterington will testify as to the history of Marion County utilities, the County's ability to serve, the negotiations with Windstream Utilities Company, and on the public interest.

5. Commissioner Randy Harris
601 S.E. 25th Avenue
Ocala, FL 34471-2690

Commissioner Harris will testify as to the negotiations between the County and the private utilities in Marion County, negotiations between the County and Windstream, and on the public interest.

6. Honorable Jeff Gann
13980 S.E. 146th Court
East Lake Weir, FL 32133

Mr. Gann will testify as to the County's Comprehensive Plan and master plans, the history of Marion County utilities, negotiations with Windstream, the County's financial capabilities, and on the public interest.

7. Sharon Dlouhy, President
Windstream Utilities Company
3002 N.W. 10th Street
Post Office Box 4201
Ocala, FL 34478-4201

Mrs. Dlouhy will be called to testify as an adverse party witness regarding Windstream's technical and financial ability, the need for

service, the preparation of the application and responses to FPSC staff, and management decisions regarding the proposed service area.

(b) A description of all known exhibits that may be used by the County and whether they may be identified on a composite basis, all exhibits attached to the prefiled and rebuttal witness testimonies sponsored by the respective witness, including, but not limited to, each as follows:

WITNESS SPONSORING	DESCRIPTION
Hartman	Resume of Hartman
Hartman	Map of Existing Certificated Area
Hartman	Map of County Projected Service Area
Hartman	Map of Existing and Proposed Windstream Service Area
Hartman	Fax letter from Dlouhy to Hartman, dated 11/11/96
Hartman	12/6/96 Redrafted Water Supply Agreement
Hartman	Resolution No. 96-R-18
Hartman	Pigeon Plaza STP Construction Permit
Hartman	Aerial of Pigeon Plaza STP
Hartman	Photos of existing system
Hartman, Woodcock	S.R. 200 Service Area Maps
Hartman, Woodcock	Land Ownership Maps
Hartman, Woodcock	S.R. 200 Facilities Maps
Hartman, Woodcock	JB/Zacco Area Facilities Maps
Hartman, Woodcock	S.R. 200 Water & Wastewater Master Plan
Hartman	County's Permit Summary
Hartman	Hartman BCC Presentation (plus BCC Minutes & Tape) and Preliminary Evaluation, November 12, 1996

Hartman	Marion County Water Resource Protection & Water/Wastewater Utilities Plan, dated May 21, 1996
Hartman	Marion County Utility Standards
Hartman	Photographs of existing facilities in the area
Hartman	Barrett Family Trust/Cherry Developers and Marion County agreement
Hartman	FDEP Rules and Regulations
Hartman	FDEP Information and Correspondence
Hartman	Inspection Report
Hartman	Pressure Records
Hartman	Capacity Charts
Hartman	Ocala/Marion County Territorial Agreement
Hartman	Ocala Meadows Subregional Agreement
Hartman	County/DECCA Utilities Agreement
Hartman	Marion County Utility Code, including Ordinance Nos. 96-36, 96-36 and 96-37, plus Resolution No. 96-R-280
Woodcock	Woodcock Resume
Woodcock	March 10 Water Program Analysis
Titterington	Resume of Titterington
Manning	Resume of Manning
Manning	Future Land Use Map
Manning	Existing Land Use Map
Manning	Needs Map
Manning	Needs Study
Manning	FDCA Comprehensive Plan Amendment Package
Manning	Fla. Admin Code 9J-5
Manning	Chapter 163, F.S.
Manning	Chapter 187, F.S.

Manning	Marion County Comprehensive Plan
Butch Dlouhy, Sharon Dlouhy	Developer's Agreement, March 21, 1990, between Majestic Oaks, Inc. & Windstream Utilities Company
Butch Dlouhy, Sharon Dlouhy	Developer's Agreement, dated January 23, 1991, between Pigeon Park and WUC
Butch Dlouhy, Sharon Dlouhy	Loan from Majestic Oaks
Butch Dlouhy, Sharon Dlouhy	Loan from Pigeon Park
Butch Dlouhy, Sharon Dlouhy	Sun Country Estates Transfer Order and Agreement
Butch Dlouhy, Sharon Dlouhy	Annual Reports
Butch Dlouhy, Sharon Dlouhy	Letter from Joe Lettelleir to Butch Dlouhy, July 16, 1996
Butch Dlouhy, Sharon Dlouhy, Joe Lettelleir	July 31, 1996 letter from Butch Dlouhy to Joe Lettelleir
Butch Dlouhy, Joe Lettelleir	August 3, 1996 letter from Joe Lettelleir to Butch Dlouhy
Butch Dlouhy, Joe Lettelleir	August 9, 1996 letter from Joe Lettelleir to Butch Dlouhy
Butch Dlouhy, Sharon Dlouhy	Application for Amendment of Certificate filed by Windstream Utilities Company, dated July 24, 1996
Sharon Dlouhy	FPSC letter to Sharon Dlouhy from Richard Redemann, P.E., re: need for additional information, dated August 8, 1996
Sharon Dlouhy	Letter to Richard Redemann, P.E., FPSC from Sharon Dlouhy, dated September 12, 1996, re: response to August 8, 1996 request for information
Sharon Dlouhy	Windstream's letter to Richard Redemann, P.E., FPSC, as a follow-up on information requested August 8, 1996, signed by Sharon Dlouhy, dated September 30, 1996
Butch Dlouhy, Sharon Dlouhy	Letter to Richard Redemann, P.E., FPSC from F. Marshall Deterding re: responses to August 8, 1996 request for information, dated October 9, 1996

Butch Dlouhy, Sharon Dlouhy	Letter from Richard Redemann, PSC, to Marshall Deterding, dated November 27, 1996
Butch Dlouhy, Sharon Dlouhy	Prefiled Direct Testimony of Butch Dlouhy, dated December 9, 1996
Butch Dlouhy, Sharon Dlouhy	Notice of Amendment to Application filed by Marty Friedman on December 18, 1996
Butch Dlouhy, Sharon Dlouhy	FPSC letter to Martin S. Friedman from Donna Cyrus-Williams re: the fact that the information requested to complete the applications outstanding deficiencies had still not been received, dated February 11, 1997
Butch Dlouhy, Sharon Dlouhy	Letter from Sharon Dlouhy to PSC Division Director, dated February 28, 1997
Sharon Dlouhy	March 11, 1997 letter from Sharon Dlouhy to Blanca Bayo
Butch Dlouhy	March 21, 1997 letter from M. Deterding to Donna Cyrus-Williams
Butch Dlouhy, Sharon Dlouhy	Letter from Tom Cloud to Randy Harris, dated February 6, 1997, containing memorandum of minutes between Butch Dlouhy, Randy Harris and Tom Cloud
Butch Dlouhy, Sharon Dlouhy	Letter from Dlouhys dated February 11, 1997 to Randy Harris
Butch Dlouhy, Sharon Dlouhy	February 13, 1997 letter from Dlouhys to Marion County

The County may also offer as exhibits any exhibits listed by other parties to this proceeding, any deposition taken in this proceeding, any documents produced through discovery and public record requests in this proceeding, any answers to interrogatories in this proceeding, and any demonstrative evidence and/or exhibits utilized in this proceeding by the parties, witnesses, or expert witnesses. Furthermore, exhibits may include any relevant statutes, laws, rules, judicial, governmental, and administrative decisions, orders, or policies.

(c) A statement of the County's basic position in this proceeding is:

There is no need for water service within the territory into which Windstream proposes to extend, Windstream lacks the technical, managerial, and financial ability to provide such water service, Windstream lacks adequate capacity in its facilities to meet present and future needs within its current territory and in its proposed extension territory, the proposed amendment of Windstream's territory will result in the extension of a system in competition with or duplication of another system, service exists from other sources within geographical proximity to the areas Windstream seeks to add, Windstream's certificate amendment is inconsistent with Marion County's Comprehensive Plan, and it is not in the public interest to grant Windstream's amendment application.

(d) A statement of each question of fact the County considers at issue, its position on each such issue, and which of its witness will address the issue is as follows:

1. Is there a need for service in the territory which Windstream seeks to add to its certificate of authorization?

- a. No.
- b. Hartman and Manning

2. What is the approximate present need for service in Windstream's existing territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow for Majestic Oaks/Pigeon Park and Sun Country?

a.	<u>Majestic Oaks/Pigeon Park</u>	<u>Sun Country</u>
(i)	190,000 gpd	20,000 gpd
(ii)	400,000 gpd	60,000 gpd
(iii)	1.0 mgd	200,000 gpd

(iv) 1.5 mgd

780,000 gpd

b. Hartman

3. What is the approximate total need (both existing and future) for service in Windstream's existing territory through build-out expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow for Majestic Oaks/Pigeon Park and Sun Country?

a.	<u>Majestic Oaks/Pigeon Park</u>	<u>Sun Country</u>
(i)	483,000 gpd	58,000 gpd
(ii)	966,000 gpd	145,000 gpd
(iii)	1,932,000 gpd	360,000 gpd
(iv)	2,046,000 gpd	865,000 gpd

b. Hartman

4. What is the current need for service for each parcel of land located within the proposed additional territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow?

a. Zero

b. Hartman and Manning

5. What is the projected need at build-out for service for each parcel of land located within the proposed additional territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow?

a. Currently unknown and unidentified

b. Hartman and Manning

6. Does Windstream presently have facilities with adequate capacity

complying with applicable governmental requirements to meet present needs within its existing territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow?

a.	<u>Majestic Oaks/Pigeon Park</u>	<u>Sun Country</u>
	(i) YES	YES
	(ii) NO	YES
	(iii) NO	YES
	(iv) NO	NO
b.	Hartman	

7. Does Windstream presently have facilities with adequate capacity complying with applicable governmental requirements to meet combined existing and future needs for service through build-out within its existing territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire?

a.	<u>Majestic Oaks/Pigeon Park</u>	<u>Sun Country</u>
	(i) NO	YES
	(ii) NO	NO
	(iii) NO	NO
	(iv) NO	NO
b.	Hartman	

8. Does Windstream presently have facilities with adequate water capacity to serve existing and future demand at build-out in its existing territory and the proposed additional territory expressed in terms of (i) average daily flow, (ii) maximum daily flow, (iii) peak flow, and (iv) maximum day plus fire flow?

a.	<u>Majestic Oaks/Pigeon Park</u>	<u>Sun Country</u>
(i)	NO	NO
(ii)	NO	NO
(iii)	NO	NO
(iv)	NO	NO
b.	Hartman	

9. Does Windstream have the technical ability to serve the territory which it seeks to add to its certificate of service?

- a. No
- b. Hartman, Harris and Sharon Dlouhy

10. Does Windstream presently have the financial ability to serve its existing territory, and does it presently have the financial ability to serve both its existing and proposed territory?

- a. No
- b. Hartman and Sharon Dlouhy

11. Can the County provide service to the proposed additional territory in a timely manner?

- a. Yes
- b. Hartman, Woodcock and Titterington

12. Would service to the proposed additional territory by Windstream be inconsistent with the local comprehensive plan of Marion County?

- a. Yes
- b. Manning, Harris, and Gann

13. Would the proposed amendment of Windstream's territory result in the extension of a system which would be in competition with, or duplication of, any other system or portion of a system?

- a. Yes
- b. Hartman and Woodcock

14. Does service exist from other sources within the geographical proximity to the areas that Windstream seeks to add to its certificate of authorization?

- a. Yes
- b. Hartman and Woodcock

15. Is it in the public interest for the Commission to grant Windstream's application?

- a. No
- b. Hartman, Woodcock, Manning, Titterington, Gann, & Harris

(e) A statement of each question of law the County considers at issue, its position on each issue are as follows:

1. Has Windstream submitted a complete and appropriate application to amend its certificate?

- a. No

2. Has Windstream met its burden of proof that (a) there is a need for water service within the proposed extension of territory, (b) it has the technical, managerial, and financial ability to provide such water service, (c) it has adequate capacity in its facilities to meet present and future needs within its current territory and its proposed expansion territory, (d) its proposed amendment will not result in the extension of a system

in competition with or duplication of another system, (e) service does not exist from other sources within geographical proximity to the areas Windstream seeks to add, (f) Windstream's certificate amendment is not inconsistent with Marion County's Comprehensive Plan, and (g) it is in the public interest to grant Windstream's amendment application?

a. No.

(f) A statement of each policy question that the County considers at issue, the County's position on each such issue, and which of the County's witnesses will address the issue:

None at this time.

(g) A statement of issues that have been stipulated to by the parties:
In effect, the parties have substantially stipulated to issues 1, 9, 10, 12, 13, 14 and 15.

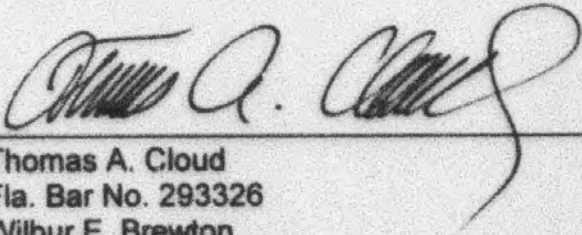
(h) A statement of all pending motions or other matters the County seeks action upon are as follows:

1. Marion County's Motion to Strike Prefiled Direct Testimony of George McDonald or in the Alternative for Extension of Time and Leave to File Additional Prefiled Direct and/or Rebuttal Testimony.
2. Marion County's Motion to Allow Testimony By Subpoena Without Prefiled Testimony.
3. Location of Hearing.
4. Inspection of the Windstream system by the County's engineer.

(i) A statement as to any requirements set forth in the Order No. PSC-96-1273-PCO-WU, Order No. PSC-96-1274-PCO-EU, Order No. PSC-97-0306-PCO-WU, Order No. PSC-97-0430-PCO-WU, Order No. PSC-97-0481-PCO-WU, and PSC-97-0510-PCO-WU that cannot be complied with:

None at this time.

Respectfully submitted,



Thomas A. Cloud
Fla. Bar No. 293326
Wilbur E. Brewton
Fla. Bar No. 110408
Lee Killinger
Fla. Bar No. 607320
GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 11189
Tallahassee, FL 32302-3189

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and 7 copies, was served together with the document on diskette, via hand overnight delivery to:

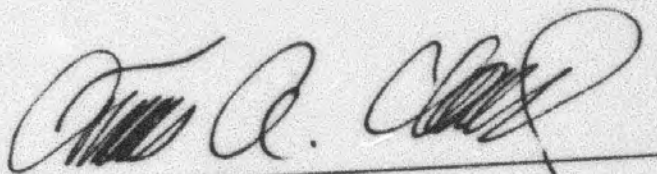
- (1) Blanca S. Bayo, Director
Division of Records and Reporting
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
904/413-6770

With a copy via U.S. Mail to:

- (2) Donna Cyrus-Williams, Esquire
Florida Public Service Commission, Legal Division
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
Counsel for the PSC

- (3) Martin S. Friedman, Esquire
ROSE, SUNDSTROM & BENTLEY
2548 Blairstone Pines Drive
Post Office Box 1567
Tallahassee, FL 32302-1567
904/877-6555
Counsel for Windstream Utilities Co.
- (4) Carlyle Ausley
AUSLEY CONSTRUCTION COMPANY
1107 E. Silver Springs Blvd., #2
Ocala, FL 34470
- (5) Joseph Lettelleir
JB Ranch
300 S. Duncan Avenue, Suite 296
Clearwater, FL 34615

this 14th day of May, 1997.



Thomas A. Cloud, Esquire
Fla. Bar No. 293326
GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 3068
Orlando, FL 32802-3068
Telephone: (407) 843-8880
Facsimile: (407) 244-5690

Wilbur E. Brewton
Fla. Bar No. 110408
GRAY, HARRIS & ROBINSON, P.A.
Post Office Box 11189
Tallahassee, FL 32302-3189
Telephone: (904) 222-7717
Facsimile: (904) 222-3494