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May 6, 2004

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2540 Shumark Oak Blvd.  
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MAY -7 AM 10:48  
COMMISSION  
CLERK

Re: In Re: Application of Farnton Water Resources, LLC for original Water Certificate in Volusia and Brevard Counties, Florida, Docket No. 021256-WU

Dear Ms. Bayo:

Pursuant to the requirements of the Order Establishing Procedure dated March 18, 2003, as amended by subsequent orders, I enclose the original and fifteen (15) copies of the City of Titusville's Prehearing Statement. I also enclose an extra copy which I request that you date stamp and return it to me in the self-addressed stamped envelope.

Thank you for your attention to this matter. If you have any questions or comments, please call

- CMP \_\_\_\_\_
- COM 3 <sup>me.</sup>
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA PJM/jwd  
Enclosures
- SCR cc: Jennifer A. Rodan [By Federal Express]
- SEC + Cover John L. Wharton [By Federal Express]  
Hr. Scott L. Knox [By Federal Express]
- OTH \_\_\_\_\_ William J. Bosch, III [By Federal Express]

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Sincerely,  
de la PARTE & GILBERT, P.A.  
*[Signature]*  
Patrick J. McNamara

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05346 MAY-7 04  
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**STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION**

**IN RE:**

Application of Farnton Water Resources,  
LLC for original Water Certificate in Volusia  
and Brevard Counties, Florida

DOCKET NO. 021256-WU

**CITY OF TITUSVILLE'S PREHEARING STATEMENT**

Pursuant to the Order Establishing Procedure dated March 18, 2003, as amended by subsequent orders, the City of Titusville files the following prehearing statement:

**(a) The name of all known witnesses that may be called by the party, and the subject matter of their testimony.**

1. Raynetta Grant

The subject matter of Ms. Raynetta Grant's testimony is identified in her prefiled testimony and in her deposition taken in this matter. Generally, Ms. Grant will testify regarding the City of Titusville's objection to Farnton's application, the City of Titusville's water system and water service, and matters relating to the providing of water service.

2. Henry Thomas

The subject matter of Mr. Henry Thomas' testimony is identified in his prefiled testimony and in his deposition taken in this matter. Generally, Mr. Thomas will testify regarding the economics of the City of Titusville's system and his opinion that the Farnton Application is not in the public interest.

3. Other witnesses, including Michael L. Thomas of the Miami Tract Hunt Club, may be included by deposition transcripts filed in these proceedings.

**(b) A description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;**

<b>No.</b>	<b>Description</b>	<b>Witness</b>
1.	Resume of Raynetta Curry Grant	Raynetta Curry Grant
2.	City of Titusville Consumer Confidence Report	Raynetta Curry Grant
3.	St. Johns River Water Management District, District Water Supply Plan (2000)	Raynetta Curry Grant
4.	Correspondence Between City of Titusville and Representatives of Miami Corporation	Raynetta Curry Grant
5.	Final Report - City of Titusville Future Water Development and Implementation Plan	Raynetta Curry Grant
6.	Resume of Henry Thomas	Henry Thomas
7.	City of Titusville's Answer to Interrogatories	Raynetta Curry Grant
8.	Grant of Permanent Easement from Florida East Coast Railway LLC to City of Titusville	Raynetta Curry Grant
9.	Deposition Transcript of Charles Drake with exhibits	Charles Drake
10.	Hartman and Associates Retainer Agreement	Charles Drake/ Gerald Hartman
11.	All documents attached to prefiled testimony and deposition of Charles Drake with exhibits	Charles Drake
12.	Deposition Transcript of Gerald Hartman with exhibits	Gerald Hartman
13.	All documents attached to prefiled testimony and deposition of Gerald Hartman with exhibits	Gerald Hartman
14.	Deposition Transcript of Tara Lynn Hollis with exhibits	Tara Lynn Hollis
15.	All documents attached to prefiled testimony and deposition of Tara Lynn Hollis with exhibits	Tara Lynn Hollis
16.	Deposition Transcript of Howard Landers with exhibits	Howard Landers
17.	All documents attached to prefiled testimony and deposition of Howard Landers with exhibits	Howard Landers
18.	Deposition Transcript of Earl Underhill with exhibits	Earl Underhill
19.	All documents attached to prefiled testimony and deposition of Earl Underhill with exhibits	Earl Underhill
20.	Deposition Transcript of Michael L. Thomas with exhibits	Michael L. Thomas

21. The Lease Agreement between the Miami Corporation and the Miami Tract Hunt Club with exhibits Earl Underhill and Michael L. Thomas
22. All documents produced and to be produced by Farmton in response to discovery requests in this matter
23. All documents produced and to be produced by Titusville in response to discovery requests in this matter
24. All documents produced and to be produced by Brevard County in response to discovery requests in this matter
25. All documents produced and to be produced by Volusia County in response to discovery requests in this matter
26. All documents obtained through continuing discovery in this matter
27. All documents attached to depositions in this matter
28. All documents identified by other parties
29. Demonstrative exhibits as necessary for direct, rebuttal, and impeachment

**(c) A statement of basic position in the proceeding.**

The City of Titusville objects to 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.

**(d) A statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue.**

**ISSUE 1:** Do Volusia County and Brevard County have the ability to regulate the need for water service through their comprehensive plans?

Yes. The counties can control growth and development and derivatively the need for water service through their comprehensive plans. Other parties' witnesses will address this issue. The City of Titusville may elicit facts through cross examination.

**ISSUE 2:** Is the service proposed by Farmton exempt from PSC regulation?

Yes. Farmton's Application does not provide a basis for the creation of a certificated service area. The witnesses who may address facts concerning this issue are Raynetta Curry Grant. The City of Titusville may also elicit facts through cross examination of other parties' witnesses.

**ISSUE 3:** Has Farmton met the filing and notice requirements?

No. Farmton's application does not meet the requirements of Chapter 25, Florida Administrative Code and Chapter 373, Florida Statutes. Further, the documents filed by Farmton establish that it did not comply with the notice requirements of 25-30.030. See other issues. The witnesses who will present facts to address this issue are: See other issues.

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

No. Farmton's Application provides no basis for a need for service in the proposed service territory. The witnesses who may address facts concerning this issue are Raynetta Curry Grant. Other parties' witnesses may also address this issue. The City of Titusville may elicit facts through cross examination of such witnesses. Also, depositions are scheduled to address this issue and transcripts of such depositions may be filed as exhibits.

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

Yes. The comprehensive plans do not contemplate development that would require the provision of water service as set forth in Farmton’s Application. The witnesses who may address facts concerning this issue are other parties’ witnesses. The City of Titusville may elicit facts through cross examination of such witnesses.

**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?

Yes. The witnesses who will address this issue are Raynetta Curry Grant and Henry Thomas. Other parties’ witnesses are also anticipated to provide testimony. The City of Titusville may elicit facts through cross examination of such witnesses.

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

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. The witnesses who will address this issue are other parties’ witnesses. The City of Titusville may elicit facts through cross examination of such witnesses.

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

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”). The witnesses who will address this issue are other parties’ witnesses. The City of Titusville may elicit facts through cross examination of such witnesses.

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

No. Farmton does not propose to construct any plant. The witnesses who will provide facts to address this issue are other parties’ witnesses. The City of Titusville may elicit facts through cross examination of such witnesses.

**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?

The City of Titusville has not reached a conclusion on this issue at this time. The deposition of Farmton's representative Earl Underhill is scheduled to allow the City of Titusville to inquire into this issue.

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

No. The witnesses who may provide facts to address this issue are Raynetta Curry Grant, Henry Thomas, and other parties' witnesses. The City of Titusville may elicit facts through cross examination of other parties' witnesses.

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

At this time, discovery is ongoing on this issue.

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

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. The witnesses who may provide facts to address this issue are Raynetta Curry Grant and Henry Thomas. Other parties' witnesses will also address this issue and the City of Titusville may elicit facts through cross examination of such witnesses.

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

At this time, discovery is ongoing on this issue.

**ISSUE 15:** What is the appropriate AFUDC rate for Farmton?

At this time, discovery is ongoing on this issue.

**(e) A statement of each question of law the party considers at issue and the party's position on each such issue.**

See the City of Titusville's positions on Section (d), above, which includes issues that combine questions of law and fact.

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

See the City of Titusville's positions on Section (d), above, which include policy questions that combine issues of policy and fact.

**(g) A statement of issues that have been stipulated to by the parties.**

None at this time.

**(h) A statement of all pending motions or other matters the party seeks action upon.**

None at this time.

**(i) A statement identifying the parties' pending requests or claims for confidentiality.**

The City of Titusville has no pending requests for confidentiality at this time.

**(j) A statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.**

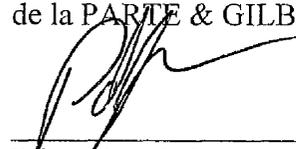
Farmton Waster Resources LLC has made numerous changes in its application in the days prior to the deadline for prehearing statements. Farmton has also advised the parties during discovery that it intends to make additional changes to its application. Because of these recent changes and unknown further changes, the parties cannot identify all witness, exhibits, or issues.

- (k) **Any objections to a witness's qualifications as an expert must be identified in a party's Prehearing Statement. Failure to identify such objection may result in restriction of a party's ability to conduct voir dire.**

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

Respectfully Submitted,

de la PARTE & GILBERT, P.A.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by

Federal Express to the following on May 6, 2004:

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