

Dorothy Menasco

From: Tonya Simpson [TSimpson@RSBattorneys.com]
Sent: Friday, December 16, 2011 3:02 PM
To: Filings@psc.state.fl.us; Patti Daniel
Cc: Caroline Klancke
Subject: Farmton Water Resources - Daniel Letter
Attachments: _1216145049_001.pdf

a. F. Marshall Deterding, Esquire

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 Tallahassee, FL 32301

PHONE: 877-6555

- b. Farmton Water Resources LLC; Application for Original Certificate to Provide Wastewater Service in Volusia and Brevard Counties; Docket No. 110298-SU
- c. Farmton Water Resources LLC
- d. 6 page letter and 2 page attachment (8 total pages)

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December 16, 2011

Ms. Patti Daniel
Chief Bureau of Certification
Division of Economic Regulation
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Farmton Water Resources LLC's Application for Original Certificate to Provide Wastewater Service in Volusia and Brevard Counties; PSC Docket No. 110298-SU Our File No. 36029.04

Dear Ms. Daniel:

I am in receipt of your letter dated November 28, 2011. In order to expedite the processing of this application, we have accumulated the additional information requested in your letter well in advance of the December 30, 2011 deadline that you outlined in your letter. However, we are concerned that your questions, and two of the noted items are referred to as "deficiencies" in your letter. We do not believe any deficiency exists.

Outlined below are your questions and our responses to each of the issues raised in your November 28, 2011 letter.

1. **Date of Service.** Pursuant to Rule 25-30.033(1)(g), Florida Administrative Code (F.A.C.), FWR's application must provide the date it plans to begin serving customers. Staff understands that the Utility must complete Commission certification and permitting and construction of facilities before it can provide service. Please confirm whether the dates provided in Table 5 of Exhibit 2 are the target dates on which the Utility intends to begin serving customers of the respective development phases.

Utility Response: The dates provided in Table 5 of Exhibit 2 are the dates on which the Utility intends to begin serving customers of the respective

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development phases as delineated therein. In addition, in the Utility's initial pleading it is noted on Page 5 and Page 6 that there is an immediate need for service to the commercial development in Phase 1 of the proposed service territory and the Utility's intends to begin design, permitting, and construction immediately after certification so that service can be provided without delay. The relevant provisions of the pleading are underlined in the excerpts attached hereto.

Based upon the information provided in both the pleading and in Exhibit 2, Table 5, we do not believe that a deficiency exists in complying with the requirements of the rule. While we are happy to provide any clarification needed by the staff, we believe that the information provided complies with the rule requirement.

2. **Utility Funding.** Rule 25-30.033(1)(s), F.A.C., requires that the application include financial statements of the entities upon which FWR is relying to provide funding to the Utility, as well as copies of any financial agreements between those entities and the Utility. Staff is in receipt of Farmton Management LLC'S (Farmton Management) October 24, 2011 summary balance sheet and Miami Corporation's affidavit of financial commitment to FWR, which were submitted as Exhibit 3 of the application. Please provide a detailed balance sheet for Farmton Management that includes liabilities, as well as a detailed income statement for Farmton Management for the preceding calendar or fiscal year. If FWR is relying upon any other entity for funding, please identify and provide the same for each of those entities.

Utility Response: In response to the requirements of Rule 25-30.033(1)(s), the Utility has provided a balance sheet for Farmton Management, LLC and an affidavit of financial commitment to FWR from Farmton Management LLC's Managing Member. In your letter you refer to the October 24, 2011 balance sheet provided as a "summary balance sheet." We are unclear why this document is referred to as such, nor do we understand what is requested as far as a "detailed balance sheet" for Farmton Management LLC. Farmton Management, LLC has no liabilities and therefore none are shown on the balance sheet. The exhibit provided is the most recent detailed balance sheet of Farmton Management LLC.

In addition, you have requested a detailed income statement for Farmton Management for the preceding calendar or fiscal year. We will be happy to provide that, to the extent it exists. However, based upon Commission's past practice, we do not believe such an income statement has been required in order to determine compliance with the provision of Rule 25-30.033(1)(s), F.A.C. in past cases.

Based upon the above, we do not believe that the additional information requests constitutes a deficiency based on past Commission practice or a reasonable reading of the Commission's rule. As such, while we are more than happy to provide the Commission with additional information as needed, we believe we have complied with the requirements of the rule and that no deficiency exists.

3. **Location of Facilities.** According to Page 4 of the application, a 99-year lease agreement between the property owner and the Utility will be executed after the Commission approves the Utility's application and the needed locations for wastewater facilities are determined. The application includes system maps that show the proposed service territory, as well as the proposed lines and treatment facilities for Water Reclamation Facility (WRF) No. 1. In addition, Figures 1 and 2 of Exhibit 2 show the location of WRF No. 1. Please confirm whether the locations of only WRF No. 2 and WRF No. 3 have yet to be determined, as discussed on Page 14 of Exhibit 2.

Utility Response: The Utility has determined an approximate location for Water Reclamation Facility No. 1 as noted in the Application and in the attached maps. However, the locations for WRF No. 2 and WRF No. 3 have been shown as an approximation on the maps included, in order to give staff an idea of where those are expected to be located. Their actual location and the size of both the facility and the underlying property to be utilized for those facilities, will have to be determined based upon the needs, regulations, permitting requirements, etc. which exist at the time that service is actually sought and undertaken. Therefore, we can confirm that the exact location for the facilities for WRF No. 2 and WRF No. 3 have yet to be determined, as discussed on Page 14 of Exhibit 2 and that the

location of WRF No. 1 is approximate based upon our projected needs for that area. Once the certificate is granted, the exact size, location and configuration of the WRF No. 1 will be confirmed immediately, the lease will be executed and the facilities designed, permitted and constructed.

4. **Need for Service.** It is staff's understanding that the application has been filed in anticipation of need for service in the near future in Phases 1 through 5 of development of the Farmton property, and certification by the Commission is the first step required in order for the Utility to plan, permit, and construct wastewater facilities and provide wastewater service within the proposed service territory. However, Page 1 of Exhibit 2 states that the Utility "now desires to provide wastewater service to its current and future customers." Please confirm whether "current customers" refers to those customers currently being served by FWR's water facilities, as described on Page 2 of Exhibit 2.

Utility Response: The reference to current customers as outlined in Page 1 of Exhibit 2 does refer to "current customers," however, no customers are currently receiving wastewater service and as such, this is a reference to FWR's water customers (to the extent wastewater is required) and to those in immediate need for service in Phase 1 as outlined within Exhibit 2.

5. **Flow per Unit.** Table 2 of Exhibit 2 indicates that the flow per square foot for general service connection is 0.15 GPD. Please describe how this figure was determined.

Utility Response: The flow per unit for general service connections (retail/office/commercial) was estimated using the fixture unit method. Accordingly, for every 1,600 square feet (SF) of general service development, it is anticipated that the following fixture units will be installed:

- Water Closet
- Urinal
- Lavatory
- Drinking Fountain

The wastewater flow generated by the above fixture units is estimated in the following table:

Fixture Unit	Fixture Unit Value ¹	Flow per Fixture Unit (GPD) ¹	Flow (GPD)
Water Closet	6.0	25	150
Urinal	2.0	25	50
Lavatory	1.0	25	25
Drinking Fountain	0.5	25	<u>12.5</u>
Total			<u>237.5</u>

Table Notes

¹Fixture unit value and flow per fixture unit were obtained from Appendix E of the "Standards and Construction Specifications Manual," Orange County Utilities (Florida), February 11, 2011.

The corresponding flow per square foot is calculated as follows:

$$237.5 \text{ GPD}/1,600 \text{ SF} = 0.15 \text{ GPD/SF}$$

6. **Phase 1 ERCs.** Table 2 of Exhibit 2 indicates that Phase 1 development includes no residential connections (ERCs). Please confirm.

Utility Response:

Phase 1 development is anticipated to consist entirely of commercial customers. However, in the unlikely event that residential connections are requested within this area, we have included a schedule of residential rates in the event they are needed. This was done to avoid the need to come back to the PSC to obtain approval of tariffs for residential service, which are basically identical to those proposed for commercial service.

7. **Meter Size.** Please confirm that all general service connections will use meter size 5/8" x 3/4" as indicated in Table 2 of Exhibit 2.

December 16, 2011

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Utility Response:

At the present time, the Utility does not know the exact configuration or type of commercial customers who will be receiving service within Phase 1 and as such, does not know the meter sizes that will be utilized. By using 5/8" x 3/4" meters (equivalent to 1 ERC) the total meters are equal to the ERC capacity of the Phase 1 plant, which is equivalent to the needs within the Phase 1 area. Therefore, it is irrelevant what the final meter configuration turns out to be since the amount of revenue that will be derived from the proposed rates is based on the ERCs which can be served by Phase 1 plant, when operating at 80% of design capacity.

Please consider the above additional information and give us your thoughts as quickly as possible so that we can resolve your concerns with alleged deficiencies. As noted, we are more than happy to cooperate with staff and provide additional information. However, we do not believe that either one of the items noted as deficiencies in fact rise to that level, and would like clarification in that regard.

I will be providing you, within the next day or two, updated sections of the original application that are necessary in order to recognize the restrictive amendment to the proposed service territory, as outlined in my letter dated December 8, 2011.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding
For The Firm

FMD/tms

cc: Commission Clerk
Caroline Klancke, Esq.
Barbra Goering, Esq.
Mike Brown
Glenn Storch, Esq.
Jim Boyd, P.E.
Robert C. Nixon, CPA

for wastewater facilities are determined. The Utility will employ, either through direct employment or through contractual arrangements, those same personnel and hire additional qualified persons as needed in order to provide high quality of wastewater services as additional need for such services arise.

IX.

There is currently a need for wastewater service within the proposed service territory applied for herein. That service consists of immediate wastewater service needed for commercial development in Phase 1 of the Utility's wastewater service area. Phase 2 and 3 will need such wastewater service in the near future. Certification is necessary immediately to allow for immediate planning and construction to meet Phase 1 needs and long term planning for services to Phase 2 and 3, so that such services can be provided efficiently and effectively when needed.

The needs for these various services are throughout the service territory as depicted in the maps including Figure 1 and Figure 2 of **Exhibit "2"**. The Utility has inquired from other Utilities within the area who might be able to provide service to this territory. The City of Titusville has expressed that they have no interest in serving the area and have provided a letter stating that they have no objection to the granting of the Certificate. None of the other local governments have expressed any interest in providing the proposed services and in fact, the

recently approved Comprehensive Plan changes approved by the adjoining counties envision service by the Applicant. The Utility currently operates a water utility under Certificate No. 622-W granted by the Commission, and will continue to meet all water service needs as they arise. Any attempts to obtain wastewater service from any outside source would dramatically increase the cost of providing such service and could quite possibly result in a decrease of the quality of service provided. In addition, the cost of running wastewater mains to the areas in need of wastewater service within the territory, or to the locations where the need for service will be needed in the future, from any other Utility with the ability to provide the quantity needed within the service territory would be extraordinarily high and extremely inefficient given the ability of the Applicant to develop those needed facilities onsite and provide those needed services in conjunction with its provision of water service to the same areas.

In addition to the immediate needs for service as outlined in Exhibit "2" hereof, there has been a request for the provision of wastewater to Phases 2, 3, 4 and 5 of the proposed wastewater system development by the related landowner. Facilities will be constructed to meet those needs in accordance with the schedule outlined in Tables 2, 3, 4, 5 and 6 of Exhibit "2".