

**RANCH OFFICE**

7606 S.W. Hwy. 200  
Ocala, FL 34474  
352-873-3534  
FAX 352-873-8521



**FLORIDA'S WESTERN  
FAMILY RESORT**

August 26, 1996

**CORPORATE OFFICE**

300 S. Duncan Ave., Suite 296  
Clearwater, FL 34615  
813-447-0488  
FAX 813-449-2415

ORIGINAL

FILE COPY

960866WU  
960867WU

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Public Service Commission  
Capital Circle Office Center  
2540 Shumark Oak Boulevard  
Tallahassee, FL 32399-0850

Dear Ms. Bayo:

Enclosed you will find a formal objection to the Application for Amendment of Certificate 427-W to Add Territory in Marion County, Florida, Filed by Windstream Utilities Co.

In reviewing the PSC's files, I note Mr. Dlouhy has enclosed a letter from me to the effect that I am agreeable to his providing water service. Mr. Dlouhy has been somewhat less than forthcoming, and I would like to make as a matter of record his letter back to me adding additional "extras" and my response (copies enclosed).

Sincerely,

JB RANCH

*Redemana*

Joseph T. Kestellon  
President

JTL:cm

Enclosures: Original plus 15 copies of Petition plus one diskette

cc: Alice Crosby, Esquire, PSC with copy of Petition  
F. Marshall Deterding, Esquire with copy of Petition

**SENT VIA FEDERAL EXPRESS**

Visit our web site at <http://www.jbranch.com>

DOCUMENT NUMBER-DATE

MEMBER: Professional Rodeo Cowboys' Assoc.; Sunshine State Horse Council, Inc.; The Dude Ranchers' Assoc.; The Florida Cattlemen's Assoc

09126 AUG 27 1996

FPSC-RECORDS/REPORTING

ACK  
AFA  
APP  
CAF  
CMU  
CTR  
EAG  
LEG  
LIN  
CFC  
R  
S  
WZS  
OTH



July 31, 1996

Mr. Joseph T. Lettelleir  
J B Ranch  
300 S. Duncon Avenue, #296  
Clearwater, FL 34615

RE: Water Service

Dear Mr. Lettelleir,

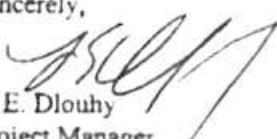
As per our phone conversation on Monday, July 29, 1996, Windstream Utilities Company will provide you with domestic and fireflow to meet your needs for the 1st Phase of J B Ranch.

As in your letter dated July 16, 1996, you agreed to pay for the 1st Phase \$100,000 worth of ERC's (\$515 per ERC). Also, any extras needed for upgrade of the water plant site, Windstream will provide over the \$100,000.

I would like to meet with your engineers to go over the requirements that will be needed.

If you should have any questions regarding the above, please contact me.

Sincerely,

  
L. E. Dlouhy  
Project Manager

LED:sd

**RANCH  
OFFICE**

7606 S W Hwy 200  
Ocala, FL 34474  
352-873-3534  
FAX 352-873-8521



**FLORIDA'S WESTERN  
FAMILY RESORT**

**CORPORATE  
OFFICE**

300 S Duncan Ave., Suite 296  
Clearwater, FL 34615  
813-447-0488  
FAX 813-449-2415

August 3, 1996

Mr. L. E. Dlouhy  
Project Manager  
Windstream Utilities Co.  
P. O. Box 4201  
Ocala, FL 34478

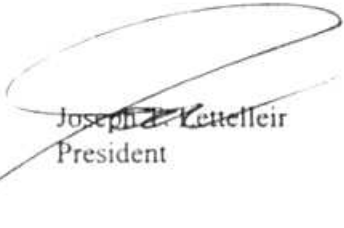
Dear Butch:

Thank you for your letter of July 31, 1996. It is in error inasmuch as I don't remember agreeing in our uncompleted negotiations to pay for any extras needed for upgrade of the water plant site.

This brings to mind another issue. Numerous comments have been made regarding water quality and complaints - citations - etc. regarding Windstream. While my terminology may be wrong, do you have a record of any such items?

Sincerely,

JB RANCH

  
Joseph Z. Kettelleir  
President

Visit our web site at <http://www.jbranch.com>

MEMBER: Professional Rodeo Cowboys' Assoc., Sunshine State Horse Council, Inc., The Dude Ranchers' Assoc., The Florida Gattlemen's Assoc.

ONE COPY

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

BARRETT FAMILY PARTNERSHIP IV, LTD.,  
a Florida Limited Partnership,

Petitioner,

Commission Docket No.: 960867-WU  
960866-WU

vs.

WINDSTREAM UTILITIES COMPANY,  
a Florida Corporation, and the  
PUBLIC SERVICE COMMISSION,

Respondents.

PETITION IN OPPOSITION TO APPLICATION  
FOR AMENDMENT OF CERTIFICATE 427-W  
TO ADD TERRITORY IN MARION COUNTY, FLORIDA,  
FILED BY WINDSTREAM UTILITIES CO.

Petitioner, **BARRETT FAMILY PARTNERSHIP IV, LTD.**, a Florida Limited Partnership (hereinafter "JB Ranch"), files this Petition in Opposition To Application For Amendment of Certificate 427-W to Add Territory in Marion County, Florida, filed by Respondent, **WINDSTREAM UTILITY CO.** (hereinafter "Windstream"), and states:

1. This Petition is filed pursuant to the provisions of Section 367.045, Florida Statutes, and Fla. Admin. Code Rules 25-22.036, 25-30.036, and 25-30.031.

**STATEMENT OF THE PARTIES TO THIS PROCEEDING**

2. Barrett Family Partnership IV, Ltd., is a Florida Limited Partnership whose corporate office is located at 300 S. Duncan Avenue, Suite 296, Clearwater, Florida, 34615, and whose ranch

DOCUMENT NUMBER-DATE

09126 AUG 27 88

FPSC-RECORDS/REPORTING

office is located at 7606 S.W. Highway 200, Ocala, Florida, 34474. For purposes of this Petition, all notices, pleadings and correspondence regarding this matter should be sent to:

Joseph T. Lettelleir, President  
JB RANCH  
300 S. Duncan Avenue, Suite 296  
Clearwater, FL 34615

3. Respondent Windstream Utilities Co. is a Florida Corporation operating as a utility supplying water to certain areas of Marion County, Florida, as authorized by the Public Service Commission. Windstream's street address is 3002 N.W. 10th Street, Ocala, Florida, 34475, its Post Office Box address is P.O. Box 4201, Ocala, Florida, 34478-4201.

4. Respondent Public Service Commission is the State Agency charged with approval or denial of Windstream's application for amendment of certificate No. 427-W.

**STATEMENT OF WHEN AND HOW NOTICE WAS RECEIVED**

5. JB Ranch received notice of Windstream's request by mail, the letter was dated August 9, 1996.

6. This petition has been filed within 30 days of JB Ranch receiving notice of Windstream's application for amendment.

**STATEMENT OF SUBSTANTIAL INTERESTS AFFECTED**

7. JB Ranch's substantial interests will be affected by the proposed extension requested by Windstream in that:

a. JB Ranch owns a fully approved 459-acre development requiring 790 ERCs of water and sewer service, located in the area to which Windstream proposes to extend its service area for water service only;

b. In the event that Windstream's request is granted, JB Ranch will be required to purchase water service only from Windstream;

c. If Windstream is not capable of financing or providing adequate water and sewer service, JB Ranch will be left without a water provider;

d. If Windstream is not technically able to provide adequate water and sewer service, JB Ranch will be faced with an inadequate water system and no sewer system to meet its needs;

e. If Windstream is unable to meet the time deadlines for providing both water and sewer service, JB Ranch will lose substantial sums of money; and

f. If Windstream is permitted to provide water service only to JB Ranch, JB Ranch will be precluded from providing both water and sewer service either through itself or Marion County at better quality, less cost, and better timing, thus causing JB Ranch to experience potentially disastrous results.

**STATEMENT OF ALL KNOWN DISPUTED ISSUES OF MATERIAL FACT**

8. The following disputed issues of material fact are known as of the date of the filing of this Petition:

- a. Whether the Application for Amendment to Certificate 427-W is consistent with the Marion County Comprehensive Plan;
- b. Whether Windstream can provide adequate fire flow;
- c. Whether Windstream can provide both water and sewer service;
- d. Whether all agreements required to be executed by and between Windstream and JB Ranch for the proposed extension are in place and effective;
- e. Whether Windstream gave appropriate notice as required by Section 367.045(1)(a), Florida Statutes, and Fla. Admin. Code Rule 25-30.030;
- f. Whether Windstream has the financial ability to provide the service for the area requested;
- g. Whether Windstream has the technical ability to provide water and sewer service for the area requested;
- h. Whether there is a need for water service only for the area requested;
- i. Whether, if the amendment is not consistent with the Marion County Comprehensive Plan, the amendment is in the public interest;
- j. Whether Windstream owns the land upon which the water and sewer facilities that will serve the proposed territory are located, or, alternatively, whether Windstream has appropriately secured the rights to use the land required;

k. Whether the legal description submitted with the application is correct and accurate;

l. Whether Windstream has submitted a detailed system map showing the proposed lines, treatment facilities, and the territory proposed to be served;

m. Whether Windstream has submitted a copy of the official county tax assessment map or other map showing township, range, and section, with the appropriate scale, and with the proposed territory accurately plotted thereon by use of meter and bounds or quarter sections, and with a defined reference point of beginning;

n. Whether Windstream has provided the required statement describing the capacity of the existing lines, the capacity of the treatment facilities, and the design capacity of the proposed extension;

o. Whether Windstream has supplied the numbers and dates of any permits issued for the proposed systems by Marion County, the Florida Department of Environmental Protection and the appropriate Water Management District;

p. Whether Windstream has supplied a detailed statement regarding the proposed method of financing the construction, and the projected impact on Windstream's capital structure;



q. Whether Windstream has supplied an affidavit that the utility has tariffs and annual reports on file with the Commission;

r. Whether Windstream has provided an appropriate statement regarding the projected impact of the extension on the utility's monthly rates and service availability charges;

s. Whether Windstream has submitted the original Certificate No. 427-W for possible amendment;

t. Whether Windstream has specified which rate and charge it intends to charge the customers in the proposed development;

u. Whether Windstream's proposed rate and charge is justified;

v. Whether Windstream has specified which water treatment plant will be providing water to customers in the proposed territory;

w. Whether Windstream can provide the most cost-effective and environmentally acceptable water and sewer service to JB Ranch; and

x. Whether it is JB Ranch's preference to receive any service from Windstream.

Because Windstream's application is substantially and recklessly inadequate and incomplete, JB Ranch reserves the right

to raise additional issues, if and when Windstream is able to file a complete application.

**STATEMENT OF THE ULTIMATE FACTS ALLEGED**

9. JB Ranch contends that the following deficiencies exist with regard to Windstream's application:

a. The proposed amendment is not consistent with the Marion County Comprehensive Plan;

b. Windstream has failed to demonstrate that it can provide adequate fire flow;

c. Windstream has failed to demonstrate it can provide both water and sewer service to JB Ranch;

d. Windstream has failed to give appropriate notice as required by Section 367.045(1)(a); Florida Statutes, and Fla. Admin. Code Rule 25-30.030;

e. Windstream has failed to demonstrate that it has the financial ability to provide the service for the area requested;

f. Windstream has failed to demonstrate that it has the technical ability to provide the service for the area requested;

g. Windstream has failed to demonstrate that there is a need for water service only for the area requested;

h. Windstream has failed to demonstrate whether, if the amendment is not consistent with the Marion County Comprehensive Plan, that the amendment is in the public interest;

i. Windstream has failed to establish who owns the land upon which the utility treatment facilities that will serve the proposed territory are located, or, alternatively, whether Windstream has appropriately secured the rights to use the land required;

j. Windstream has failed to submit a proper legal description;

k. Windstream has failed to submit a detailed system map showing the proposed lines, treatment facilities, and the territory proposed to be served;

l. Windstream has failed to submit a copy of the official county tax assessment map or other map showing township, range, and section, with the appropriate scale, and with the proposed territory accurately plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning;

m. Windstream has failed to provide the required statement describing the capacity of the existing lines, the capacity of the treatment facilities, and the design capacity of the proposed extension;

n. Windstream has failed to provide the numbers and dates of any permits issued for the proposed systems by Marion County, the Florida Department of Environmental Protection and the appropriate water management district;

o. Windstream has failed to supply a detailed statement regarding the proposed method of financing the construction, and the projected impact on Windstream's capital structure;

p. Windstream has failed to supply an affidavit that the utility has tariffs and annual reports on file with the Commission;

q. Windstream has failed to provide an appropriate statement regarding the projected impact of the extension on the utility's monthly rates and service availability charges;

r. Windstream has failed to submit the original Certificate No. 427-W for possible amendment;

s. Windstream has failed to specify which rate and charge it intends to charge the customers in the proposed development;

t. Windstream has failed to justify its proposed rate and charge;

u. Windstream has failed to specify which water treatment plant will be providing water to customers in the proposed territory;

v. Windstream has failed to demonstrate it is the most cost effective and environmentally acceptable water and sewer service provider for JB Ranch; and

w. Windstream has deliberately misrepresented that it has the consent and preference of JB Ranch to receive any service from Windstream.

10. In addition to the deficiencies with the application, JB Ranch contends that the application must be denied because:

a. The proposed amendment is not consistent with the Marion County Comprehensive Plan;

b. Windstream cannot provide adequate fire flow;

c. Windstream cannot provide sewer service;

d. All necessary agreements are not in place to provide the service;

e. If the extension is granted, JB Ranch will be forced to be served by Windstream at unreasonable rates;

f. The application is incomplete and blatantly misrepresents facts known to the applicant;

g. JB Ranch prefers to be served by others; and

h. Windstream has failed to prove compliance with applicable statutes and rules of the FPSC.

11. JB Ranch is entitled to relief under the provisions of Section 367.045, Florida Statutes, and Fla. Admin. Code Rules 25-30.030, 25-30.036(3).


#### **DEMAND FOR RELIEF**

12. JB Ranch respectfully requests that a hearing be convened to examine Windstream's Application for Amendment of Certificate

427-W to Add Territory in Marion County, Florida, that JB Ranch be allowed to present evidence, testimony, and cross-examine witnesses presented by other parties to this action, and that Windstream's application for Amendment be denied.

Respectfully submitted,

**BARRETT FAMILY PARTNERSHIP, IV.**

By:   
Joseph T. Lettelleir, its  
Attorney-in-Fact  
300 S. Duncan Avenue  
Clearwater, Florida 34615  
813/447-0488

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing was served on the 26<sup>th</sup> day of August, 1996, to the following:

Original and 15 copies, together with the document on diskette, via overnight delivery to:

**Blanca S. Bayo, Director**  
**Division of Records and Reporting**  
Public Service Commission  
Capital Circle Office Center  
2540 Shumark Oak Boulevard  
Tallahassee, FL 32399-0850

**Alice Crosby, Esquire**  
Public Service Commission  
Capital Circle Office Center  
2540 Shumark Oak Boulevard  
Tallahassee, FL 32399-0850  
Counsel for the PSC

**F. Marshall Deterding, Esquire**  
Rose, Sunstrom & Bentley  
2548 Blairstone Pines Drive  
Tallahassee, FL 32301  
Counsel for Windstream Utilities Co.



Joseph T. Lettelleir, its  
Attorney-in-Fact