

# GRAY, HARRIS & ROBINSON

PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

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WRITER'S DIRECT DIAL

June 16, 1997

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WILLIAM G. BOLTIN, III

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KENT L. HIPPI  
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OF COUNSEL  
MALCOLM R. KIRSCHENBAUM  
SYDNEY L. JACKOWITZ  
THEODORE L. SHINKLE  
LILA INGATE MCHENRY

## Via FEDERAL EXPRESS Overnight Delivery

Blanca S. Bayo, Director  
Division of Records and Reporting  
FLORIDA PUBLIC SERVICE COMMISSION  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re: Application for Amendment of Certificate No. 427-  
W to Add Territory in Marion County by  
Windstream Utilities Co., Docket No. 960867-WU**

Dear Ms. Bayo:

Enclosed herewith for filing is a Notice of Withdrawal of Protest in the above-styled cause. Thank you for your assistance in this matter.

Sincerely yours,

Thomas A. Cloud, Esquire

GRAY, HARRIS & ROBINSON, P.A.

Enclosure

cc: Donna Cyrus-Williams, via FAX Transmittal 904-413-6250  
Marty Deterding, Esquire, via FAX Transmittal - 904/656-4029  
Allan Roe, Utilities Director

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG 1 \_\_\_\_\_
- LIN 3 \_\_\_\_\_
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC 1 \_\_\_\_\_
- WAS 1 \_\_\_\_\_
- OTH \_\_\_\_\_

MELBOURNE  
(407) 727-8100

ORLANDO  
(407) 843-8880

DOCUMENT NUMBER - DATE

06090 JUN 17 97

(904) 222-7717

FPSC-RECORDS/REPORTING

97 JUN 17 10 40  
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MELBOURNE

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

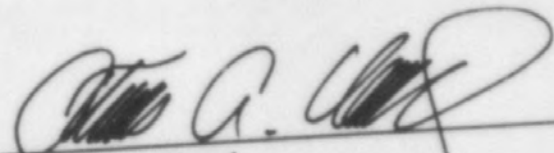
In re: Application for amendment  
of Certificate No. 427-W to add  
territory in Marion County by  
Windstream Utilities Company.

Docket No. 960867-WU

NOTICE OF WITHDRAWAL OF PROTEST

COMES NOW MARION COUNTY (the "County"), by and through its undersigned counsel and files this Notice of Withdrawal of Protest (this "Notice") in Florida Public Service Commission Docket No. 960867-WU. This withdrawal is based upon execution of the Stipulated Agreement, dated June 3, 1997, the filing of the Amendment to Application for Amendment to Certificate, and that letter dated June 10, 1997 deleting the color coded map. These documents are attached to and incorporated in this Notice as Composite Exhibit "A."

Respectfully submitted,



Thomas A. Cloud  
Fla. Bar No. 293326  
GRAY, HARRIS & ROBINSON, P.A.  
Post Office Box 11189  
Tallahassee, FL 32302-3189  
Telephone: (904) 222-7717

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and 7 copies was served via overnight delivery to:

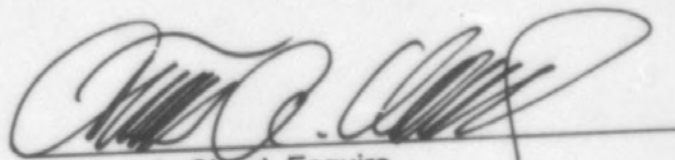
- (1) Blanca S. Bayo, Director  
Division of Records and Reporting

Public Service Commission  
Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
904/413-6770

With a copy via hand delivery/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  
904/413-6222  
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 16~~th~~ day of June, 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

COMPOSITE  
EXHIBIT "A"

STIPULATED AGREEMENT

THIS AGREEMENT made and entered into this 3 day of June, 1997, by and between MARION COUNTY, a political subdivision of the State of Florida (hereafter the "COUNTY"), and WINDSTREAM UTILITIES COMPANY, a Florida corporation (hereafter "WINDSTREAM").

RECITALS

1. WINDSTREAM filed an Application for Amendment of Certificate No. 427-W to add territory in Marion County, Florida.
2. The COUNTY objected to WINDSTREAM's Application.
3. The parties have now agreed to resolve their differences through a territorial settlement.

ACCORDINGLY, for and in consideration of the Recitals, the mutual undertakings and agreements herein contained and assumed, and other good and valuable considerations received by each party from the other, the receipt and sufficiency of which are acknowledged, the parties do hereby agree as follows:

SECTION 1. RECITALS. The above Recitals are true and correct, and form a material part of this Agreement.

SECTION 2. RESOLUTION OF DISPUTE. It is in the best interest of both parties to resolve their dispute concerning the proposed provision of water service to various parcels of property within Marion County currently proposed for service by Windstream Utilities Company in PSC Docket No. 960867-WU, and for other parcels of property in the immediate vicinity thereof.

SECTION 3. MODIFICATION OF APPLICATION BY WINDSTREAM. Mindful of the cost of continued litigation and other valid considerations, Windstream agrees to modify its application currently pending before the Florida Public Service Commission in Docket No. 960867-WU in order to remove lands which the parties agree the County should be allowed to serve in exchange for Marion County agreeing to withdraw their protest in opposition to Windstream's application in Docket No. 96087-WU.

SECTION 4. ALLOCATION OF TERRITORY. Windstream, immediately upon approval of this agreement by the full Marion County Commission, will file an amendment to its application pending before the Florida Public Service Commission to include only the lands described by legal description in Exhibit "1" hereto and as



COMPOSITE  
EXHIBIT "A"

depicted on the map attached as Exhibit "2" hereto within its certificated water service area.

**SECTION 5. COUNTY WITHDRAWAL OF PROTEST.** Once the amended application referenced above is filed, the County will file its Notice of Withdrawal of Protest in Public Service Commission docket No. 960867-WU and to support Windstream's amended application contingent upon revision to that application in conformance with the territory outlined herein and in Exhibit "1" and "2" hereof and contingent upon the executed Stipulated Agreement.

**SECTION 6. NO TERRITORIAL INVASIONS.** Hereafter, neither party will invade the territory of the other or propose to provide water service to such territory of the other unless and until written authorization to do so is provided by the party whose service territory is in question.

**SECTION 7. COOPERATION.** To the extent the County or Windstream is unable to provide service to a portion of its territory as evidenced by a written statement directly to the other party of its inability or unwillingness to do so, the parties will cooperate to ensure that water service is provided by whoever is best able to do so in the quickest and most efficient manner.

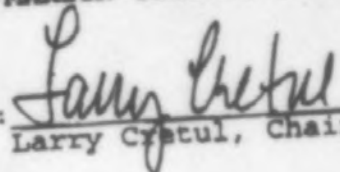
**SECTION 8. SPECIFIC PERFORMANCE.** The Stipulated Agreement shall be specifically enforceable in accordance with its terms by either party against the other by filing with the Fifth Judicial Circuit Court in and for Marion County, Florida."

IN WITNESS WHEREOF, the parties hereto have hereunder executed this Agreement on the date and year first above written.

ATTEST:

  
David Elisperman, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF MARION COUNTY, FLORIDA

BY:   
Larry Crestul, Chairman

STATE OF FLORIDA  
COUNTY OF MARION

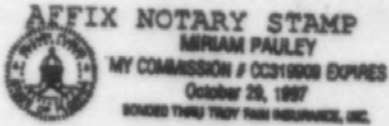
SWORN to and subscribed freely and voluntarily for the purposes therein expressed before me by LARRY CRESTUL, Chairman of the Board of County Commissioners, known to me to be the person described in and who executed the foregoing, this 3rd day of June, 1997.

COMPOSITE  
EXHIBIT "A"

WITNESS my hand and official seal in the County and State last  
aforesaid this 3rd day of June, 1997.

Miriam Pauley  
Signature of Notary Public

Miriam Pauley  
Print Notary Name  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_  
 Personally known, or  
 Produced Identification  
Type of Identification Produced \_\_\_\_\_



SIGNED, SEALED, AND  
DELIVERED IN THE  
PRESENCE OF:

[Signature]

EARL D. JUDD  
(Print Name)

[Signature]

EARL D. JUDD  
(Print Name)

WINDSTREAM UTILITIES COMPANY

BY: Sharon Dlouhy  
Sharon Dlouhy, its President  
[Signature]  
L. E. Dlouhy,  
Remaining Stockholder

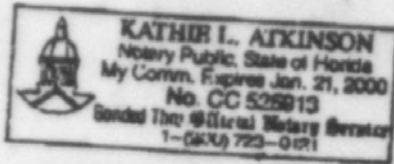
[CORPORATE SEAL]

STATE OF FLORIDA  
COUNTY OF MARION

SWORN to and subscribed freely and voluntarily for the purposes  
therein expressed before me by SHARON DLOUHY, President of  
Windstream Utilities Company, and L. E. DLOUHY, Vice President of  
Windstream Utilities Company, known to me to be the persons  
described in and who executed the foregoing, this 3rd day of  
May, 1997.

COMPOSITE  
EXHIBIT "A"

WITNESS my hand and official seal in the County and State last  
aforesaid this 27<sup>th</sup> day of May, 1997.



AFFIX NOTARY STAMP

Kathie L. Atkinson

Signature of Notary Public

Kathie L. Atkinson

Print Notary Name

My Commission Expires: \_\_\_\_\_

Commission No.: \_\_\_\_\_

Personally known, or

Produced Identification

Type of Identification Produced  
\_\_\_\_\_

COMPOSITE EXHIBIT "A"

LEGAL DESCRIPTIONS:

THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 21, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND

SECTION 16, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, AND THAT PART OF SECTIONS 8, AND 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, LYING SOUTH AND EAST OF STATE ROAD 200.

EXCEPT THE FOLLOWING:

THE SOUTH 1/2 OF THE S.E. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND EXCEPT:

THE SOUTH 1/2 OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND EXCEPT: *(DEER CREEK AND SOUTH EXCEPTION)*

THE WEST 1/2 OF THE S.W. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND EXCEPT: *(MARION LANDING AREA EXCEPTION)*

FROM THE S.W. CORNER OF THE S.E. 1/4 OF SECTION 8, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, AND THE POINT OF BEGINNING: RUN N 0°19'46" E FOR A DISTANCE OF 859.77 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 200; THENCE RUN N 41°47'37" E ALONG SAID RIGHT-OF-WAY LINE FOR A DISTANCE OF 1017.47 FEET TO A POINT; THENCE RUN S 0°26'05" W FOR A DISTANCE OF 1621.43 FEET TO A POINT ON THE SOUTH LINE OF THE S.E. 1/4 OF SAID SECTION 8; THENCE CONTINUE S 0°26'05" W FOR A DISTANCE OF 1323.60 FEET TO A POINT; THENCE RUN S 89°43'37" E FOR A DISTANCE OF 651.34 FEET TO A POINT; THENCE CONTINUE S 89°43'47" E FOR A DISTANCE OF 1377.18 FEET TO A POINT; THENCE RUN S 0°25'25" W, ALONG A LINE PARALLEL TO AND 40.00 FEET WEST OF THE EAST LINE OF THE N.E. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, FOR A DISTANCE OF 1321.19 FEET TO A POINT; THENCE RUN S 0°26'43" W, ALONG A LINE PARALLEL TO AND 40.00 FEET WEST OF THE EAST LINE OF THE S.W. 1/4 OF SAID SECTION 17, FOR A DISTANCE OF 1321.50 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 1/2 OF THE S.W. 1/4 OF SAID SECTION 17; THENCE RUN S 89°59'04" W ALONG SAID SOUTH LINE FOR A DISTANCE OF 2637 FEET \* TO A POINT; THENCE CONTINUE S 89°59'04" W FOR A DISTANCE OF 290.40 FEET TO A POINT; THENCE RUN N 0°31'41" E FOR A DISTANCE OF 1995.16 FEET TO A POINT; THENCE RUN N 89°45'19" E FOR A DISTANCE OF 290.40 FEET TO A POINT; THENCE RUN N 0°31'41" E ALONG THE WEST LINE OF THE EAST 1/2 OF SAID SECTION 17 FOR A DISTANCE OF 1987 FEET \* TO THE POINT OF BEGINNING.

ALL LYING AND BEING IN MARION COUNTY, FLORIDA.



EXHIBIT 2

EXISTING AND PROPOSED CERTIFICATED AREAS

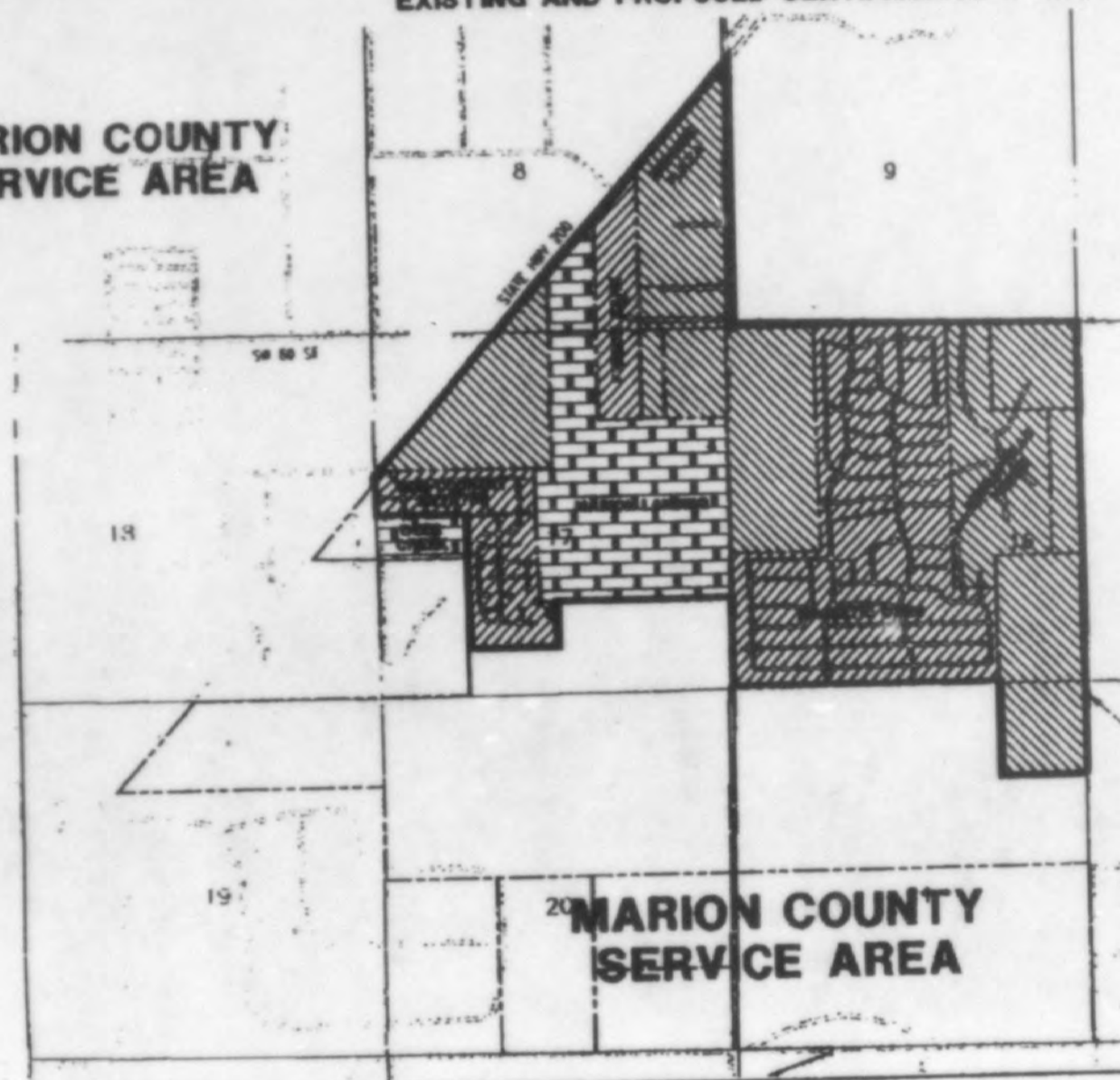
MARION COUNTY SERVICE AREA

MARION COUNTY SERVICE AREA





COMPOSITE EXHIBIT "A"

NEWCO HOMES OF OCALA

9046208688



**LEGEND**

-  EXISTING WELLS SERVICE AREA
-  PROPOSED WELLS SERVICE AREA
-  PROPOSED PROPOSED SERVICE AREA
-  EXISTING WELLS SERVICE AREA

EXISTING COMBINED EXISTING AND PROPOSED SERVICE AREA



LAW OFFICES  
ROSE, SUNDBSTROM & BENTLEY, LLP  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301  
(904) 877-8666

G H & R JAC

JUN 09 1997

File # \_\_\_\_\_

CHRIS H. BENTLEY, PA.  
F. MARSHALL DETERONIG  
BRIAN L. DOSTER  
MARTIN S. FRIEDMAN, PA.  
JOHN R. JENKINS, PA.  
STEVEN T. MINDLIN, PA.  
ROBERT M. C. ROSE  
DAREN L. SHIPPY  
WILLIAM E. SUNDBSTROM, PA.  
DIANE D. TREMOR, PA.  
JOHN L. WHAYTON

**COMPOSITE  
EXHIBIT "A"**

MAILING ADDRESS  
POST OFFICE BOX 1567  
TALLAHASSEE, FLORIDA 32302-1567  
TELECOPIER (904) 866-4076

June 5, 1997

VIA HAND DELIVERY

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

Re: Windstream Utilities Company; Docket No. 960867-WU  
Application for Amendment to Certificate  
Our File No. 26067.02

Dear Ms. Bayo:

In accordance with the Joint Motion for Continuance filed on May 22, 1997, I attended Tuesday's Marion County Commission meeting at which the Commissioners voted unanimously to adopt the Stipulated Agreement which reflects the settlement proposal recently entered into between Commissioner Randy Harris and Butch and Shari Dlouhy of Windstream Utilities. I have attached the Stipulated Agreement executed by the County Commission Chairman and Windstream.

In order to conform with the requirements of the settlement agreement between Windstream and the County, I am attaching hereto a revised legal description as utilized in that settlement agreement to reflect the amended area proposed for extension of service area by Windstream. This legal description removes two small parcels from the application of the Utility as previously noticed, filed and as subsequently amended. Because this is only a restrictive amendment, no further noticing should be required. The map attached hereto also reflects the proposed service territory in conformance with that settlement agreement. I am also attaching revised tariff sheets to reflect this revision to the proposed territory.

You and the members of the Staff should consider this letter as Windstream's restrictive amendment to its application for extension of service territory to include only the areas in the attached legal description and map. That restrictive amendment is, however, contingent upon receipt by you of the County's full withdrawal of their objection to that amendment application as

**COMPOSITE  
EXHIBIT "A"**

Blanca S. Bayo, Director  
June 5, 1997  
Page 2

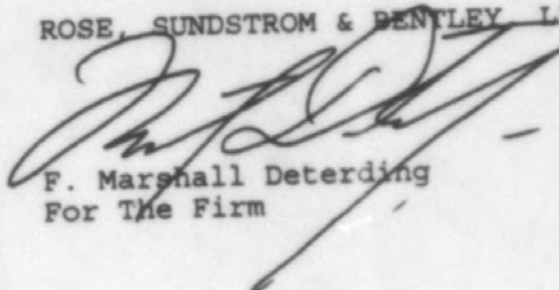
revised herein and their support of that application. You should be receiving something from Tom Cloud, attorney to Marion County, within the next couple of days in this regard.

With the receipt of the attached information and the Stipulated Agreement, as well as Mr. Cloud's withdrawal of objection by Marion County, this matter can now proceed directly to final action by the Commission. Because the Utility is preparing to immediately interconnect its systems through these proposed additional territories, we request that the Commission expeditiously handle the processing of this matter so that we can proceed with the construction of facilities to better provide service to the existing customer base as well as to prepare ourselves for service in the proposed territory.

Should you have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP



F. Marshall Deterding  
For The Firm

FMD/lts

Enclosures

cc: Donna Cyrus-Williams, Esquire  
Thomas Cloud, Esquire  
Ms. Billie Messer  
Richard Redemann, P.E.  
Shari and Butch Dlouhy  
George McDonald, P.E.

**PAGE 8 of 11**

COMPOSITE  
EXHIBIT "A"

LEGAL DESCRIPTION

THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 21, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND

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EXCEPT THE FOLLOWING:

THE SOUTH 1/2 OF THE S.E. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND EXCEPT:

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ALL LYING AND BEING IN MARION COUNTY, FLORIDA.



COMPOSITE  
EXHIBIT "A"

ORIGINAL SHEET NO. 3.0-F

WINDSTREAM UTILITIES COMPANY  
WATER TARIFF

DESCRIPTION OF TERRITORY SERVED

THE N.E. 1/4 OF THE N.E. 1/4 OF SECTION 21, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND

SECTION 16, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, AND THAT PART OF SECTIONS 8, AND 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, LYING SOUTH AND EAST OF STATE ROAD 200.

EXCEPT THE FOLLOWING:

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AND EXCEPT:

THE SOUTH 1/2 OF THE S.E. 1/4 OF THE S.W. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

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THE WEST 1/2 OF THE S.W. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA.

AND EXCEPT: *(MARION LANDING AREA EXCEPTION)*

FROM THE S.W. CORNER OF THE S.E. 1/4 OF SECTION 8, TOWNSHIP 16 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, AND THE POINT OF BEGINNING: RUN N 0°19'46" E FOR A DISTANCE OF 859.77 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF STATE ROAD 200; THENCE RUN N 41°47'37" E ALONG SAID RIGHT-OF-WAY LINE FOR A DISTANCE OF 1017.47 FEET TO A POINT; THENCE RUN S 0°26'05" W FOR A DISTANCE OF 1621.43 FEET TO A POINT ON THE SOUTH LINE OF THE S.E. 1/4 OF SAID SECTION 8; THENCE CONTINUE S 0°26'05" W FOR A DISTANCE OF 1323.60 FEET TO A POINT; THENCE RUN S 89°43'37" E FOR A DISTANCE OF 651.34 FEET TO A POINT; THENCE CONTINUE S 89°43'47" E FOR A DISTANCE OF 1377.18 FEET TO A POINT; THENCE RUN S 0°25'25" W, ALONG A LINE PARALLEL TO AND 40.00 FEET WEST OF THE EAST LINE OF THE N.E. 1/4 OF SECTION 17, TOWNSHIP 16 SOUTH, RANGE 21 EAST, FOR A DISTANCE OF 1321.19 FEET TO A POINT; THENCE RUN S 0°26'43" W, ALONG A LINE PARALLEL TO AND 40.00 FEET WEST OF THE EAST LINE OF THE S.W. 1/4 OF SAID SECTION 17, FOR A DISTANCE OF 1321.50 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH 1/2 OF THE S.W. 1/4 OF SAID SECTION 17; THENCE RUN S 89°59'04" W ALONG SAID SOUTH LINE FOR A DISTANCE OF 2637 FEET TO A POINT; THENCE CONTINUE S 89°59'04" W FOR A DISTANCE OF 290.40 FEET TO A POINT; THENCE RUN N 0°31'41" E FOR A DISTANCE OF 1995.16 FEET TO A POINT; THENCE RUN N 89°45'19" E FOR A DISTANCE OF 290.40 FEET TO A POINT; THENCE RUN N 0°31'41" E ALONG THE WEST LINE OF THE EAST 1/2 OF SAID SECTION 17 FOR A DISTANCE OF 1987 FEET TO THE POINT OF BEGINNING.

ALL LYING AND BEING IN MARION COUNTY, FLORIDA.

Sharon Dlouhy  
ISSUING OFFICER

President  
TITLE

LAW OFFICES  
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EXHIBIT "A"

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June 10, 1997

VIA HAND DELIVERY

G H & R JAC

JUN 12 1997

File # \_\_\_\_\_

Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399

Re: Windstream Utilities Company; Docket No. 960867-WU  
Application for Amendment to Certificate  
Our File No. 26067.02

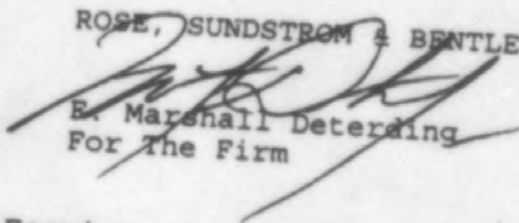
Dear Ms. Bayo:

After further review of the information submitted by my letter of June 5, 1997, I am writing to state that the color coded map included therein should not have been made a part of that submittal as that map may mislead as to the contents of the settlement agreement between Marion County and Windstream. While the area depicted as Windstream's current and proposed service areas are the areas to be agreed upon for service by Windstream, this map should be eliminated from that June 5, 1997 filing and discarded to avoid any controversy about the terms of our agreement with Marion County.

Should you have any questions in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP

  
E. Marshall Deterding  
For The Firm

FMD/lts

cc: Donna Cyrus-Williams, Esquire  
Thomas Cloud, Esquire  
Ms. Billie Messer  
Richard Redemann, P.E.  
Shari and Butch Dlouhy  
George McDonald, P.E.

PAGE 11 of 11