

**ORIGINAL
FILE COPY**

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for Amendment
of Certificate No. 187-S to Delete
and Extend Territory in Lee County
by Sanibel Sewer System Partners, Ltd.

Docket No. 900802-SU
910476-SU

PREHEARING STATEMENT FOR CITY OF SANIBEL

(A) Names and addresses of known witnesses that may be called, and Subject Matter.

1. William A. Mills, 800 Dunlop Rd. Sanibel, FL 33957
Subject Matter-Background of city and of sewer systems. Current city regulations. Damage to public interest caused by SSS proposal. Practical difficulty in providing central sewer service in areas proposed to be deleted. Need for central sewer in Sanibel.
2. Gerald C. Hartman, P.E., Southeast Bank Building, Suite 1000, 201 East Pine Street, Orlando, FL 32801
Subject Matter-Background of activities on behalf of City concerning sewer system. analysis of system and other sewer systems and treatment methods in Sanibel.
3. Bruce A. Rogers (or Ken Pfalzer), 800 Dunlop Rd. Sanibel, FL 33957
Subject Matter-Sanibel Comprehensive Land Use Plan and Land Development Code. Inconsistency of proposal with Plan and Code.

(B) Description of Exhibits, Contents, Whether Identified on Composite basis, Witness sponsoring.

1. Map of Sanibel Island prepared by William A. Mills.
Contents-Existing certificated areas, areas proposed for addition of service, areas proposed for deletion of service.
Composite-yes
Witness-William A. Mills
2. Excerpts of Sanibel Comprehensive Land Use Plan
Contents-Chapter 163 Plan; plan as to sewer service in City.
Composite-yes
Witness-Bruce A. Rogers
3. Excerpts of Sanibel Land Development Code
Contents-Wastewater systems regulations
Composite-yes
Witness-Bruce A. Rogers or William A. Mills

DOCUMENT NUMBER-DATE

04404 MAY-6 1991

FPSC-RECORDS/REPORTING

4. Resolutions/Ordinances pertaining to wastewater systems.
Contents-Regulations for SSS and other systems.
Composite-yes
Witness-William A. Mills or Bruce A. Rogers
5. Reports of Malfunctions
Contents-See City Answers to Interrogatories Att.C
Composite-yes
Witness-William A. Mills
6. Amended Settlement and Mutual Release
Contents-See City Answers to Interrogatories Att. D
Composite-yes
Witness-William A. Mills
7. Wulfert Treatment Plant Design Criteria Review
Contents-City plans for treatment plant to service west end of island. See City Answers to Interrogatories Att. D (cont.)
Composite-yes
Witness-Gerald C. Hartman
8. Development Potential of Vacant Land in Areas Proposed to be Deleted
Contents-See City Answers to Interrogatories Att. F
Composite-yes
Witness-William A. Mills
9. Estimated Number of Existing Septic Systems in Areas Proposed to be Deleted
Contents-See City Answers to Interrogatories Att.G
Composite-yes
Witness-William A. Mills
10. General Environmental Sensitivity of Areas Proposed to be Deleted
Contents-See City Answers to Interrogatories Att.H
Composite-yes
Witness-William A.Mills
11. Malfunctioning or Inadequate Package Plants
Contents-See City Answers to Interrogatories Att.I
Composite-yes
Witness: William A. Mills or Gerald C. Hartman
12. Engineering report-Sanibel Sewer System
Acquisition-May 1988
Contents-Evaluation, analysis and appraisal of SSS
Witness-Gerald C. Hartman
13. Engineering report for the City of Sanibel-Update
3/8/91
Contents-Update on evaluation, analysis and appraisal

numerous islands where there will be no service available, and little chance for there ever to be central sewer service. The Comprehensive Land Use Plan of the City will be irreparably harmed. Injury to the environment of this fragile barrier island is inevitable.

The proposal is not in the public interest. It results from SSS' own business decisions, and disregard for the jurisdiction of the Commission and the rights of the public. The utility ought not be able to escape accountability.

(D) Statement of Questions of Fact at Issue; City's Position; Witnesses addressing

1. Cost of providing service to areas proposed for deletion.
City Position-Cost is much lower than represented by SSS, and that service can be provided economically.
Witness-Gerald C. Hartman
2. Fact that the so-called capacity crisis was created by SSS' own business decision to refuse to invest in the system, and to fail to follow the law in adding territory without permission.
City Position-SSS' need to delete area is a direct result of its policy of adding territory without permission, failing to seek rate increases when needed, and neglecting its plant and equipment.
Witness-Gerald C. Hartman
3. Whether additional land must be purchased for effluent disposal, in order to expand.
City Position-Additional land is not needed. With the expansion of one of the two golf courses, there is plenty of capacity.
Witness_Gerald C. Hartman
4. Whether expansion of plant capacity is the event which would trigger Class I reliability.
City Position-No, Class I reliability has already been triggered, although FDER has erroneously and negligently failed to so find, so far.
Witness-Gerald C. Hartman
5. Whether the method of determining which areas to delete is unreasonable, arbitrary and discriminatory.
City Position-It is unreasonable, arbitrary and discriminatory.
Witness-Gerald C. Hartman

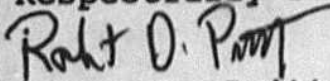
(E) Questions of Law; City Position

1. Whether SSS' repeated addition of service area over the course of many years is a violation of Sec. 367.045 F.S.
City Position-yes. Further, while such failure may be excusable in an isolated instance, the repeated

3. Whether the Commission can amend the certificate to delete territory where extension of service to persons reasonably entitled thereto can be done at a reasonable cost, under Sec. 367.111(1).
City Position-no. The only remedies in such a case are to refuse to amend, or to revoke the entire certificate.
4. Whether SSS has violated Class I reliability standards.
City Position-yes. Therefore, the cost of meeting Class I reliability is not a valid reason for claiming excessive cost to expand.
5. Whether the proposed amendments are in the public interest as required by Sec. 367.045(5)(a) F.S.
City Position-no
6. Whether the proposed amendments are inconsistent with the Sanibel Comprehensive Land Use Plan (See Sec. 367.045 (5)(b)).
City Position-yes

- (F) Statement of Policy Questions
Except as stated above, none.
- (G) Statement of Stipulated Issues
None
- (H) Statement of pending motions
None
- (I) Statement of other requirements
None

Respectfully submitted,


Robert D. Pritt

Attorney for City
of Sanibel
800 Dunlop Rd.
Sanibel, FL 33957
(813)472-4359
Fl.Bar No. 0196571

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served by ordinary mail upon Catherine Bedell, Staff Counsel Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399-0850 and upon Kathryn G.W. Cowdery, Attorney for Applicant, 1709-D Mahan Drive, Tallahassee, FL 32308, by ordinary mail this 6th day of May, 1991.



Robert D. Pritt