



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: DECEMBER 3, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF LEGAL SERVICES (MCRAE) *S.M. PPR*
DIVISION OF WATER AND WASTEWATER (REDEMANN) *[Signature]*

RE: DOCKET NO. 980887-SU - APPLICATION BY RAMPART UTILITIES, INC. FOR AMENDMENT OF CERTIFICATE NO. 497-S IN CHARLOTTE COUNTY TO EXTEND TERRITORY TO SERVICE SAN ANTONIO CATHOLIC CHURCH.

AGENDA: DECEMBER 15, 1998 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\980887.RCM

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CASE BACKGROUND

On July 13, 1998, Rampart Utilities, Inc. (Rampart or utility) filed an application, pursuant to Section 367.045, Florida Statutes, to amend Wastewater Certificate 497-S to extend its territory to service San Antonio Catholic Church.

On July 21, 1998, Ms. Jane Bart timely filed a letter objecting to the utility's amendment application. Staff replied to Ms. Bart's objection letter on July 27, 1998, and asked if she wanted to pursue a formal hearing. Ms. Bart did not contact staff within the time period specified and did not indicate that she wanted to commence formal proceedings.

On July 23, 1998, Ms. Marge Kerr also timely submitted a letter protesting Rampart's application. Staff replied to this letter on July 27, 1998, and asked her if she wanted to initiate a

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formal hearing. Ms. Kerr did not respond to staff's letter and did not indicate that she wanted to pursue a formal hearing.

On August 6, 1998, Maple Leaf Estates Homeowners' Corporation (Maple Leaf) timely filed an objection to Rampart's proposed amendment and requested a formal proceeding pursuant to Section 367.045(4), Florida Statutes. On August 7, 1998, Florida Water Services Corporation (FWSC) also timely filed an objection to Rampart's application and demanded a formal hearing. Accordingly, a hearing was scheduled for April 21-22, 1999. FWSC filed a notice withdrawing its objection and request for formal hearing on August 28, 1998. No other protests were filed, and the time for filing such has expired.

On November 19, 1998, Rampart filed a notice withdrawing its application to extend its service area, stating that San Antonio Catholic Church withdrew its request for service. This recommendation addresses whether the Commission should acknowledge Rampart's Notice of Withdrawal of its application.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge Rampart Utilities, Inc.'s notice to withdraw its application to extend its service area to serve San Antonio Catholic Church?

RECOMMENDATION: Yes. The Commission should acknowledge Rampart Utilities, Inc.'s notice to withdraw its application. If Rampart's Utilities Inc.'s application is acknowledged as withdrawn, Maple Leaf Estates Homeowners Corporation's protest to the application will be moot. (MCRAE, REDEMANN)

STAFF ANALYSIS: As stated earlier, Rampart filed a Notice of Withdrawal of its application to amend its wastewater certificate to extend service to San Antonio Catholic Church on November 19, 1998. In the past with cases such as this that have pending objections, the Commission has formally acknowledged such notices of withdrawal.

This Commission has accepted voluntary withdrawals or dismissals from applicants in the past. In In Re: Application for amendment of Certificate No. 249-S in Volusia County by North Peninsula Utilities Corporation, Docket No. 930851-SU, Order No. PSC-94-1352-FOF-SU, issued November 7, 1994, this Commission acknowledged the utility's notice to withdraw its application where the utility was not currently serving the additional territory, even though objections to the application were pending. Furthermore, in In Re: Application for amendment of Certificate No. 427-W to add territory in Parcels A, B, C, D, and E in Marion County by Windstream Utilities Company, Docket No. 960866-WU, Order No. PSC-97-0095-FOF-WU, issued January 27, 1997, this Commission acknowledged the utility's notice to withdraw its application, despite pending objections, where the Commission had not yet taken any action on the application.

This Commission has not taken any action on Rampart's application for amendment. Moreover, Rampart is not currently serving the requested territory. Also, on November 17, 1998, counsel for Rampart stated that the San Antonio Catholic Church withdrew its request for service because it had installed a septic tank; therefore, withdrawal of Rampart's application will not impair wastewater service for the church. Thus, staff recommends that the Commission acknowledge Rampart's notice to withdraw its application for amendment of Certificate No. 497-S to extend service to San Antonio Catholic Church. As a consequence of acknowledging the withdrawal of Rampart's application, Maple Leaf's

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objection to Rampart's application and request for formal hearing becomes moot.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. If staff's recommendation in Issue 1 is approved, this docket should be closed because no further action is required. (MCRAE)

STAFF ANALYSIS: If staff's recommendation in Issue 1 is approved, Maple Leaf's objection to Rampart's application and request for formal hearing will be moot. Therefore, this docket should be closed because no further action is required.

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



CAPITAL CIRCLE OFFICE CENTER
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Public Service Commission

December 3, 1998

Barbara B. Levin, Esquire
Post Office Box 49948
Sarasota, Florida 34230-6948

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Re: Docket No. 980887-SU - Application by Rampart Utilities, Inc. for amendment of Certificate No. 497-S in Charlotte County to extend territory to service San Antonio Catholic Church and

Docket No. 980888-SU - Application by Rampart Utilities, Inc. for amendment of Certificate No. 497-S in Charlotte County to extend territory to service Pilgrim United Church of Christ

Dear Ms. Levin:

Enclosed are copies of the Staff Recommendations filed in the above matters on December 3, 1998. The Commission is expected to consider these Recommendations at its December 15, 1998, Agenda Conference which will be held in Room 148, Betty Easley Conference Center, 4075 Esplanade Way, in Tallahassee beginning at 9:30 a.m. Due to the number of items to be covered at this conference, we cannot state the exact time at which these items will be heard. You are welcome to come to this Agenda Conference and observe and/or participate in the discussion of these items. If you have any questions, please feel free to call me at (850) 413-6202.

Sincerely,

A handwritten signature in cursive script that reads "Samantha A. McRae".

Samantha McRae
Staff Attorney

SAM/lw
cc: Division of Water and Wastewater (Redemann)