

State of Florida



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: May 19, 2005

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Rieger)
Office of the General Counsel (Gervasi)

RE: Docket No. 050255-WU – Application for "quick take" amendment of Certificate No. 339-W in Lake County by Brendenwood Water System, Inc.

AGENDA: 05/31/05 – Regular Agenda – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\050255.RCM.DOC

Case Background

Brendenwood Water System, Inc. (Brendenwood or utility) is a Class C water and wastewater utility located in Lake County. According to its 2004 annual report, Brendenwood serves 58 water connections with annual operating revenues of \$23,374, and a net income of (\$692).

On April 13, 2005, the utility simultaneously filed the initial and completed applications for a "Quick Take" amendment to Water Certificate No. 339-W in Lake County, Florida, pursuant to Rule 25-30.036(2), Florida Administrative Code. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve Brendenwood's "Quick Take" application to amend Certificate No. 339-W?

Recommendation: Yes, the Commission should approve Brendenwood's amendment application to expand its territory. The proposed territory amendment is described in Attachment A. Brendenwood should charge the customer in the added territory the rates and charges contained in its tariff until it is authorized by the Commission to change them in a subsequent proceeding. (RIEGER, GERVASI)

Staff Analysis: On April 13, 2005, the utility simultaneously filed the initial and completed applications for a "Quick Take" amendment to Water Certificate No 339-W in Lake County, Florida, pursuant to Rule 25-30.036(2), Florida Administrative Code. The application is the result of a recent discovery that in 1999, Brendenwood had inadvertently provided service outside its approved service territory to a newly constructed single family home. The proposed area is adjacent to the utility's existing service territory.

The provision of service outside of its approved territorial boundary to this customer is an apparent violation of section 367.045(2), Florida Statutes, which provides that "[a] utility may not delete or extend its service outside the area described in its certificate of authorization until it has obtained an amended certificate of authorization from the commission." Nevertheless, staff does not believe this apparent violation rises to the level of a show cause action because the utility has filed the application at issue in order to come into compliance with the statutory requirement.

The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate. The utility's water treatment facility is made up of one well with chlorination employed as the primary treatment process.

The utility has provided verification that it owns the land upon which its treatment facility is located. Adequate service territory maps and a territory description have also been provided. A description of the proposed amendment territory is appended to this recommendation as Attachment A. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida Administrative Code. No objections to the application have been received and the time for filing such has expired.

The "Quick Take" amendment is designed to provide water and/or wastewater service quickly for areas that serve less than 25 ERCs. Typically, a well or septic tank fails or service is otherwise not available and service is needed as soon as possible. The request for service territory expansion and amendment of existing certificates is considered approved when the utility complies with Rule 25-30.036(2), Florida Administrative Code, and if no protest is timely filed to the notice of application. Staff believes that since service to only one ERC is affected, the simplified "Quick-Take" filing is appropriate for this case.

Staff has contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation issued for the Brendenwood water treatment facility. Staff recommends that the rates and charges approved by the Commission for the Brendenwood service area should be applied to the customer in the new service territory. The utility has filed revised tariff sheets incorporating the additional territory into its tariff and returned its certificate for entry reflecting the additional territory.

Based on the above information, staff believes it is in the public interest to approve the "Quick Take" amendment application filed by Brendenwood to add the additional territory described in Attachment A.

Issue 2: Should this docket be closed?

Recommendation: Yes, no further action is required and the docket should be closed. (GERVASI)

Staff Analysis: No further action is required and the docket should be closed.

Docket No. 050255-WU
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Attachment A

BRENDENWOOD WATER SYSTEM, INC.
EXTENTION OF SERVICE TERRITORY

Township 18 South, Range 26 East, Lake County, Florida

Section 32: The East 278.35 feet of the North 156.50 feet of the South 369.2 feet of the Northwest 1/4 of the Southeast 1/4 of Section 32, Township 18 South, Range 26 East in Lake County, Florida
LESS the East 33 feet for Rd R/W.