

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for ) DOCKET NO. 941342-WS  
certificates to provide water ) ORDER NO. PSC-95-0750-FOF-WS  
and wastewater service in ) ISSUED: June 22, 1995  
Charlotte County under )  
grandfather rights by RAMPART )  
UTILITIES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman  
J. TERRY DEASON  
JOE GARCIA  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER GRANTING CERTIFICATES NOS. 572-W AND 497-S  
ESTABLISHING INITIAL RATES AND GRANTING  
GROSS-UP AUTHORITY FOR CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION  
ON AN INTERIM BASIS, SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

On September 27, 1994, the Board of County Commissioners of Charlotte County adopted a resolution pursuant to Section 367.171, Florida Statutes, declaring the privately owned water and wastewater utilities in that County subject to the provisions of Chapter 367, Florida Statutes. We received the County's resolution on September 30, 1994. The effect of the resolution is to invoke the provisions of the Water and Wastewater Regulatory Law, Chapter 367, Florida Statutes. Pursuant to Section 367.031, Florida Statutes, all utilities subject to our jurisdiction must obtain either a certificate to provide water and wastewater service or an order recognizing the exempt status of the system.

Rampart Utilities, Inc. (Rampart or Utility) was established as Maple Leaf Utilities, Inc. on October 19, 1976 to serve water and wastewater customers in Charlotte County, Florida. The Utility services residential customers as well as commercial customers for a total of approximately 1,239 water customers and approximately 1,236 wastewater customers.

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FPSC-RECORDS/REPORTING

and the newly appointed receiver of the Utility. The homeowners rejected a draft that included a ninety-nine year term. The lease that was finally executed specified a ten year term subject to renewal. The lease was contingent upon several factors, one of which was that the association will continue to lease the land/facilities to Rampart as long as it holds a certificate to provide Utility service.

We find that this provision meets the intent of the rule, which is to ensure that the Utility will have control of the land upon which the facilities are located. In addition, the lease is negotiated between the homeowners and the Utility, so that it is in the homeowners' best interests to allow the Utility to operate in a manner consistent with regulatory rules. Furthermore, should the Utility engage in transfer proceedings at a later date, the rules require the transferee to hold either a warranty deed or a ninety-nine year lease. Also, the Utility shall notify us of any change in the status of the current lease.

The application is in compliance with the governing statute, Section 367.171, Florida Statutes, and administrative rules concerning an application for a grandfather certificate. The rules and statutes do not require noticing for grandfather certificate applications. The application contains a check in the amount of \$2,000.00, which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.035(9), (10), and (11), Florida Administrative Code. The territory description provided by the Utility details the service area approved by the Charlotte County Board of County Commissioners. A description of the territory requested by the applicant is appended to this memorandum as Attachment A. We have contacted the Department of Environmental Protection and learned that there are no outstanding notices of violation.

Based on the above information, we hereby grant Rampart Utilities, Inc. Water Certificate No. 572-W and Wastewater Certificate No. 497-S to serve the territory described in Attachment A.

#### RATES

The rates Rampart had in effect on the date that we received jurisdiction had been approved in Charlotte County Docket No. 90-201-WS by the Charlotte County Board of County Commissioners on August 23, 1994. On December 30, 1994, we approved a pass-through

rate increase to recognize any difference in regulatory assessment fees. (Subsection 367.171(2)(c), Florida Statutes, provides for approving rates prior to the actual issuance of a grandfather certificate.) The Utility's rates and charges are as follows:

Monthly Service Rates

Residential Service - Water

<u>Base Facility Charge</u>	<u>Rate</u>
Meter Size: 5/8 & 3/4"	\$19.03
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$3.60

General Service - Water

<u>Base Facility Charge</u>	<u>Rate</u>
Meter Size: 5/8 & 3/4"	\$19.03
1.0"	\$47.58
1.5"	\$95.15
2.0"	\$152.24
3.0"	\$304.48
4.0"	\$475.74
6.0"	\$951.49
<u>Gallonage Charge</u>	
Per 1,000 gallons	\$3.60

Residential Service - Wastewater

<u>Base Facility Charge</u>	<u>Rate</u>
5/8 & 3/4"	\$24.42
<u>Gallonage Charge</u>	
Per 1,000 gallons (10,000 gallons cap)	\$2.54

General Service - Wastewater

<u>Base Facility Charge</u>	<u>Rate</u>
Meter Size:	
5/8 & 3/4"	\$24.42
1.0"	\$61.05
1.5"	\$122.10
2.0"	\$195.36
3.0"	\$390.72
4.0"	\$610.50
6.0"	\$1,221.00

Gallonage Charge

Per 1,000 gallons	\$2.54
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Customer Deposits

<u>Water</u>	<u>Residential</u>	<u>General Service</u>
5/8" X 3/4"	\$60.00	\$60.00
1.0"	\$150.00	\$150.00
1.5"	\$300.00	\$300.00
+2.0"	\$480.00	\$480.00
<u>Wastewater</u>	<u>Residential</u>	<u>General Service</u>
5/8" X 3/4"	\$65.00	\$65.00
1.0"	\$162.50	\$162.50
1.5"	\$325.00	\$325.00
+2.0"	\$520.00	\$520.00

Miscellaneous Service Charges

<u>Water</u>	
Initial connection	\$15.00
Normal reconnection	\$15.00
Violation reconnection	\$15.00
Premises visit	\$10.00
<u>Wastewater</u>	
Initial connection	\$15.00
Normal reconnection	\$15.00
Violation reconnection	Actual Cost
Premises visit	\$10.00

WATER TARIFF

Service Availability Charges

<u>Back Flow Preventor Installation Fee</u>	
All meter sizes	No Charge
<u>Customer Connection (Tap-In) Charge</u>	
All meter sizes	No Charge
<u>Guaranteed Revenue Charge</u>	
With Prepayment of Service Avail. Charges	
Residential per ERC/month (225 GPD)	No Charge
All others per gallon/month	No Charge
Without Prepayment of Service Avail. Charges	
Residential per ERC/month (225 GPD)	BFC
All others per gallon/month	BFC / 225
<u>Inspection Fee</u>	
All Customers	Actual Cost
<u>Main Extension Charge</u>	
Residential per ERC (225 GPD)	Actual Cost
All others per gallon	Actual Cost
or	
Residential per lot (100 ft frontage)	Actual Cost
All others per gallon	Actual Cost
<u>Meter Installation Fee</u>	
All meter sizes	No Charge
<u>Plan Review Charge</u>	
All customers	No Charge
<u>Plant Capacity Charge</u>	
Residential per ERC (225 GPD)	\$ 485.00
All others per gallon	\$ 2.16 / Gallon

WASTEWATER TARIFF

Service Availability Charges

Customer Connection (Tap-In) Charge

All meter sizes

Actual Cost

Guaranteed Revenue Charge

With Prepayment of Service Avail. Charges

Residential per ERC/month (190 GPD) No Charge  
All others per gallon/month No Charge

Without Prepayment of Service Avail. Charges

Residential per ERC/month (190 GPD) BFC  
All others per gallon/month BFC / 190

Inspection Fee

All customers

Actual Cost

Main Extension Charge

Residential per ERC (250 GPD) Actual Cost  
All others per gallon Actual Cost

or

Residential per lot (100 ft frontage) Actual Cost  
All others per front foot Actual Cost

Plan Review Charge

All customers

Actual Cost

Plant Capacity Charge

Residential per ERC (190 GPD) \$ 415.00  
All others per gallon \$ 2.18 / Gallon

In addition to the water and wastewater service availability charges listed above, the Utility also bills Allowance for Funds Prudently Invested (AFPI) charges, which are identified in its tariff as Carrying Cost Recovery Charges (CCRC). These charges apply until 1998. The CCRC charges are listed on Attachment B.

The Utility has filed a tariff which reflects the above rates and charges. We hereby find that these rates are just and reasonable and therefore approve them. Rampart shall continue to

charge these rates and charges until we authorize any change. The tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets.

CONTRIBUTIONS-IN-AID-OF-CONSTRUCTION

Rampart was previously authorized by the Charlotte County Board of County Commissioners to collect gross-up for contributions-in-aid-of-construction (CIAC). By Order No. 16971, issued December 18, 1986, we granted approval for water and wastewater utilities to amend their service availability policies to meet the tax impact of CIAC resulting from the amendment of Section 118(b) of the Internal Revenue Code. By Order No. 23541, issued October 1, 1990, we ordered utilities currently grossing-up CIAC to file a petition for continued authority to gross-up and also ordered that no Utility may gross-up CIAC without first obtaining our approval.

The detailed review described in Order No. 23541 is beyond the scope of this docket. However, if we do not authorize the Utility to continue collecting gross-up taxes at this time, the Utility may lose monies to which it might ultimately be found to be entitled. Therefore, we hereby authorize the Utility to continue collecting gross-up of CIAC on an interim basis, subject to refund with interest. Any gross-up taxes collected by the Utility from September 27, 1994 forward shall be placed in an interest bearing escrow account.

Additionally, pursuant to Rule 25-30.360(6), Florida Administrative Code, the Utility shall be required to provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. The Utility shall also file the information required in Order No. 23541, for authority to gross-up, within 90 days of the issuance date of this Order so that a final determination can be made.

Finally, Orders Nos. 16971 and 23541 discuss the accounting treatment of CIAC gross-up collections and allow periodic withdrawals of monies for the payment of estimated taxes. Because the gross-up is being allowed on an interim basis and may not be permitted after further examination, no monies collected from September 27, 1994 forward shall be withdrawn from the escrow account until a final determination is made regarding the Utility's authority to collect gross-up for CIAC.

ANNUAL REPORT

As discussed earlier, Rampart has paid the regulatory assessment fees and notified us that they are in the process of preparing the annual report. We are unable to verify that the amount of regulatory assessment fees paid is correct until the 1994 annual report is received and reviewed. Rampart shall file its 1994 annual report within forty-five days of the issuance of this Order. Since no further action is required, this docket is hereby closed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Rampart Utilities, Inc.'s application for a grandfather certificate to provide water and wastewater service is hereby granted. It is further

ORDERED that Certificate Nos. 572-W and 497-S shall be issued to Rampart Utilities, Inc. to serve the territory described in attachment A of this Order. It is further

ORDERED that Rampart Utilities, Inc. shall notify the Commission of any change in the status of Rampart Utilities, Inc.'s current lease. It is further

ORDERED that Rampart Utilities, Inc. shall charge its customers the rates and charges approved herein until authorized to change by this Commission. It is further

ORDERED that the tariff sheet submitted by Rampart Utilities, Inc. shall be approved, and the tariff shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheet. It is further

ORDERED that Rampart Utilities, Inc. is hereby authorized to collect gross-up for contributions-in-aid-of-construction on an interim basis, subject to refund. It is further

ORDERED that any gross-up taxes collected by Rampart Utilities, Inc. from September 27, 1994 forward shall be placed in an interest bearing account. It is further

ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, Rampart Utilities Inc. shall provide a report by the twentieth day of each month indicating the monthly and total revenue collected subject to refund. It is further



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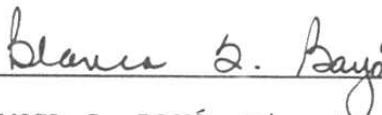
ORDERED that Rampart Utilities, Inc. shall file the information required in Order No. 23541, for authority to gross-up, within ninety days of the issuance date of this Order. It is further

ORDERED that no monies collected by Rampart Utilities, Inc. from September 27, 1994 forward shall be withdrawn from the escrow account until a final determination is made regarding Rampart Utilities, Inc's. authority to collect gross-up for CIAC. It is further

ORDERED that Rampart Utilities, Inc. shall file its 1994 annual report with the Commission within forth-five days of the issuance of this Order.

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 22nd day of June, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone Utility or the First District Court of Appeal in the case of a water and/or wastewater Utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

**SERVICE AREA**  
DESCRIPTION OF TERRITORY SERVED

Being a part of Sections 7, 8 and 18 of Township 40 South, Range 23 East, Charlotte County, Florida, more particularly described as follows:

Commencing at the SW corner of said Section 7, thence S 49°23'00" E, along the South line of Section 7, 702.04 feet to a point on the Easterly Right-of-Way line of Kings Highway and the Point of Beginning;

Thence N 18°09'17" E, along said Easterly Right-of-Way line lying 50 feet southeasterly of the centerline of said Kings Highway, 1,065.76 feet to the Point of Curvature of a circular curve concave northwesterly having a radius of 2,918.28 feet and a chord that bears N 13°12'32" E, 486.26 feet;

Thence northeasterly along the arc of said curve to the left through a central angle of 09°33'29" a distance of 486.83 feet to the Point of Tangency;

Thence N 08°35'48" E, along said Southerly Right-of-Way line, 1,831.21 feet;

Thence in an easterly direction along the southerly boundary of the Port Charlotte Village Mobile Home Park, the following 12 courses:

- 1) S 81°24'04" E, 870.02 feet;
- 2) S 08°08'33" E, 82.84 feet;
- 3) S 75°42'15" E, 502.57 feet;
- 4) N 08°32'48" E, 214.91 feet;
- 5) S 81°24'36" E, 381.67 feet;
- 6) N 18°04'06" E, 77.69 feet;
- 7) S 42°27'14" E, 285.03 feet;
- 8) N 78°44'13" E, 211.14 feet;
- 9) S 58°24'19" E, 468.66 feet;
- 10) N 67°20'59" E, 501.16 feet;
- 11) S 28°43'47" E, 206.51 feet;
- 12) N 62°17'50" E, 196.03 feet to a point of the Southwesterly limited access Right-of-Way line of I-75;

DESCRIPTION OF TERRITORY SERVED  
(continued)

Thence southeasterly along said limited access right-of-way line the following 3 courses:

1) S 28°43'48" E, 1,691.15 feet to the point of Curvature of a circular curve concave southwesterly having a radius of 22,277.61 feet and a chord that bears S 27°04'03" E, 1,292.64 feet;

2) Southeasterly along the arc of said curve to the right through a central angle of 03°19'30" a distance of 1,292.82 feet to the Point of Tangency;

3) S 25°24'18" E, 218.20 feet to a point on the Northerly Right-of-Way line of Rampart Boulevard;

Thence Westerly, along said Northerly Right-of-Way line following 4 courses:

1) N 89°51'25" W, 403.66 feet;  
2) S 84°14'53" W, 50.32 feet;  
3) S 84°15'40" W, 437.19 feet;  
4) N 89°23'00" W, 1,355.35 feet to a point at the intersection of said Northerly Right-of-Way line with the northerly extension of the east line of Maple Leaf Estates;

Thence S 00°18'30" W, along said east line, 2,721.54 feet;

Thence S 00°18'20" W, along said east line, 668.15 feet to a point on the Southerly Right-of-Way line of Suncoast Boulevard;

Thence N 89°10'26" W, along said right-of-way line, 700.89 feet to a point at the NE corner of Lot 4 of Country Charm Estates as recorded in Plat Book 16 on Page 24 of the Public Records of Charlotte County, Florida;

Thence S 00°49'34" W, along the east line of Lots 3 and 4, 597.55 feet;

DESCRIPTION OF TERRITORY SERVED  
(continued)

Thence S 89°10'26" E, 70.00 feet;

Thence S 00°15'31" W, 70.00 feet to a point  
on the south line of Country Charm Estates;

Thence N 89°10'26" W, along said  
south line, 692.71 feet;

Thence S 00°15'31" W, 1,333.71 feet to a point  
on the south line of said Section 18;

Thence N 89°03'00" W, along said south line,  
2,655.52 feet to the SW corner of said  
Section 18;

Thence N 00°09'17" E, along the west line of  
said Section 18, 1,037.55 feet;

Thence S 89°06'56" E, departing said section  
line 410.47 feet;

Thence N 00°09'18" E, 958.46 feet;

Thence N 89°10'26" W, 410.47 feet returning to  
a point on said west section line;

Thence N 00°09'17" E, along said west line,  
1,240.59 feet to a point on the Southeasterly  
Right-of-Way line of Kings Highway;

Thence N 18°09'17" E, along said right-of-way  
line lying 25 feet SE of the centerline of said  
Kings Highway, 2,186.94 feet to a point on the  
north line of said Section 18;

Thence S 89°23'00" E, along said north line  
26.22 feet to the Point of Beginning,  
containing 718.30 acres, more or less.