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April 29, 1997
VIA HAND DELIVERY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Mad Hatter Utilities, Inc.; Docket No. 960576-WS
Application for Amendment of Water and Wastewater Certificates
Our File No. 28023.06

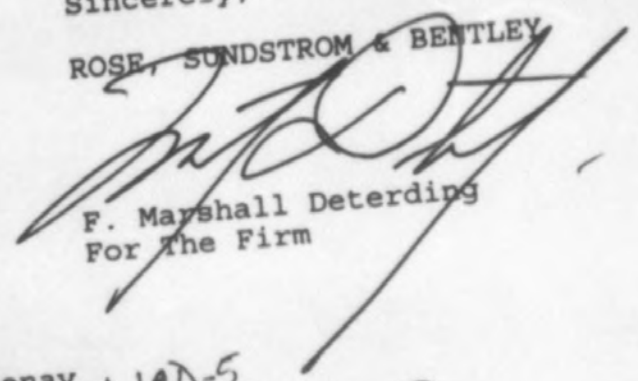
Dear Ms. Bayo:

Attached are the original and 15 copies of the rebuttal testimony and exhibits of Larry G. DeLucenay, Robert C. Nixon, CPA, and Edwin J. Rogers, P.E. submitted on behalf of Mad Hatter Utility, Inc. in the above-referenced docket.

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

Sincerely,

ROSE, SUNDBSTROM & BENTLEY



F. Marshall Deterding
For The Firm

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
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- RCH _____
- SEC _____
- WAS _____
- OTH _____

FMD/lts
Enclosures

cc: Mr. Larry DeLucenay
Maps exp LGD-5
WAW
Matilda

DOCUMENT NUMBER-DATE
04309 APR 29 5
FPSC-RECORDS/REPORTING

Nixon
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1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 DOCKET NO. 960576-WS

3 MAD HATTER UTILITY, INC.

4 APPLICATION FOR AMENDMENT OF CERTIFICATE

5 NOS. 340-W AND 297-S IN PASCO COUNTY

6 PREFILED REBUTTAL TESTIMONY OF LARRY G. DELUCENAY

7 Q Please state your name and employment address.

8 A My name is Larry G. DeLucenay, and my address is 1900
9 Land O'Lakes Boulevard, Suite 113, Lutz, Florida 33549.

10 Q Have you previously provided testimony in this proceed-
11 ing?

12 A Yes. I provided prefiled direct testimony previously.

13 Q What is the purpose of this rebuttal testimony?

14 A To respond to the direct testimony of the witnesses for
15 Pasco County.

16 Q Have you read the testimony of Mr. Michael Orsi?

17 A Yes, I have.

18 Q Are you familiar with the facts surrounding Mr. Orsi's
19 statement?

20 A Yes. I am the main contact person for the Utility with
21 regard to any negotiation of service contracts and was in
22 1994 as well. Sunfield Homes contacted Mad Hatter
23 Utility and requested that we provide them with a
24 standard service contract for the Oak Groves subdivision.
25 We sent a draft contract which is attached to Mr. Hobby's

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1 testimony. As you can see from the copy provided by Mr.
2 Hobby, this was a standard form contract very similar if
3 not identical to those provided to all developers seeking
4 service within the Utility's territory and the same as
5 that approved by the PSC for service to the Lake Heron
6 development.

7 Q What was the next step in the negotiation of this
8 agreement for service with Mr. Orsi?

9 A There were a few informal discussions on issues including
10 the proposed siting of a well and loan arrangement
11 related thereto, but after a brief time the developer
12 simply discontinued such discussions. Rather than
13 discussing with us any concerns that the developer had
14 about the provision of water and wastewater service, the
15 next thing we heard was that the County had entered into
16 an agreement to provide service with the developer
17 without any notice to Mad Hatter or an opportunity to
18 discuss this with County officials.

19 Q Did Mr. Orsi or his counsel ever contact you concerning
20 further negotiations or concerns which they had with the
21 draft agreement or the requirements for service from Mad
22 Hatter?

23 A No. They did not.

24 Q Did they file a complaint with the Public Service
25

1 Commission as to their concerns with the proposed
2 agreement for service?

3 A No. They did not. As I understand the Commission's
4 rules, should a developer have any concerns with the
5 Utility's requirements for service, they have the right
6 to file a complaint proceeding under Rule 25-30.560,
7 Florida Administrative Code. No such complaint was
8 filed.

9 Q Were you surprised by the County and developer actions in
10 agreeing to a service by the County to this development
11 and school?

12 A Yes. We had just prior to the discussions with the
13 developer received the attached letter from the Pasco
14 County attorney, Mr. Thomas Bustin, which have included
15 as Exhibit LGD-3. In that letter, the County attorney
16 states that Pasco County recognizes Mad Hatter's certifi-
17 cate and will not compete with the corporation in that
18 area. Apparently, then a few months later, they entered
19 into an agreement with Mr. Orsi not only directly
20 contrary to the assertions in that letter, but also
21 without ever discussing the matter with Mad Hatter or its
22 representatives or allowing Mad Hatter Utility to present
23 our case to the Board of County Commissioners.

24 Q Mr. Orsi states that you did not have sufficient potable

25

1 water for his project, is that correct?

2 A No. As is always the case with a prudently run utility,
3 we may not have the capacity to meet his needs at build-
4 out. Having such excess capacity idle would be imprudent
5 on any utility's part. A utility does not build capacity
6 before the demand exists or is expected to exist in the
7 future. If the utility can anticipate demand, then they
8 try to build to meet the immediate needs for development
9 within their service territory. Mad Hatter had the
10 ability to provide immediate water and wastewater service
11 to the developer's property and, in fact, to this date,
12 the developer has placed very little demand on the
13 County's water and wastewater system and is just in the
14 initial phases of development approximately three years
15 after the first draft of the developer agreement was
16 forwarded to them. As such, it would have been foolish
17 for Mad Hatter to have had in place capacity to serve the
18 developer's needs three years ago.

19 Q What about Mr. Orsi's statement that the Utility asked
20 Sunfield Homes to lend Mad Hatter \$100,000 to develop two
21 new wells on his property?

22 A We had informally discussed the possibility of funding
23 one well at the time we provided them with the draft form
24 agreement. This is an arrangement that we have undertak-

25

1 en with other developers before and we believe it is
2 appropriate for a developer of the size of Mr. Orsi's
3 project. Mr. Orsi is proposing to develop an area of
4 over 800 equivalent residential connections and we
5 envision that at some point in the future we would need
6 additional water capacity to provide service to his
7 development. We have wells in the Turtle Lakes subdivi-
8 sion and Carpenter's Run subdivision on both the east and
9 west sides of Mr. Orsi's property and lines ready to
10 provide immediate service and to allow looping of those
11 two existing water systems. However, that well would not
12 be needed in order to provide initial service and we
13 indicated that to the developer. Once the new well was
14 needed, the logical place for location of those facili-
15 ties was on his property. We therefore initially
16 proposed that he would loan the money to construct those
17 facilities and the Utility would repay him over a 20 year
18 period.

19 Q Is such an arrangement unusual?

20 A No. In fact, several previous developers have been
21 required to provide similar loans and those agreements
22 have been filed with the Public Service Commission and
23 approved. Therefore, this is in accordance with our
24 standard service availability policy. Mr. Orsi's

1 property is as large a development as we have had begin
2 construction in our area in quite some time and if any
3 developer was to be required to provide funding for and
4 location for wells in order to avoid placing those
5 burdens on the other customers of the system, the Oak
6 Grove subdivision was the appropriate funder of such
7 costs. As I stated previously, similar arrangements have
8 been recently approved by the Commission for other
9 developments within our territory, specifically and most
10 recently, the Lake Heron agreement. In addition, the
11 costs of that loan to Mr. Orsi would not be anywhere near
12 as expensive as the County's water connection fees for
13 800 units even if the \$100,000 were CIAC instead of a
14 loan.

15 Q Mr. Orsi states that Mad Hatter refused to guarantee
16 service to Oak Grove, is this true?

17 A No. Because we were approaching the level of wastewater
18 capacity committed by Pasco County for bulk service our
19 draft agreement did require that Sunfield Homes go to the
20 County to ensure that the County was willing to provide
21 the additional bulk service necessary to serve their
22 development at build-out. This is only logical given the
23 fact that we did not believe Pasco County would provide
24 additional wastewater capacity to Mad Hatter without a

1 specific request from a developer within our area. This
2 is the standard required practice for any new service
3 within our territory under our agreement with Pasco
4 County. The developer must first go to the County, pay
5 the applicable fees for commitment of capacity directly
6 to the County, and then receive service through Mad
7 Hatter.

8 Q Did you ever state to Mr. Orsi or his attorney or any
9 other representatives of Sunfield Homes that Mad Hatter
10 refuses to guarantee service?

11 A No. I believe Mr. Orsi and Mr. Hobby are referring to
12 the language contained in Paragraph 19 of the agreement
13 on Page 12 which says that the Utility will not guarantee
14 its ability to provide service in the event the company
15 is prohibited or limited from doing so by local, state or
16 federal government agencies having jurisdiction. I
17 believe this is an appropriate clause. There is always
18 the possibility that some agency will restrict us from
19 providing that capacity and we are simply making sure
20 that the Utility is not held liable for that by the
21 developer. This is effectively a *force majeure* clause as
22 I understand is standard in all contracts, especially
23 those for regulated industries, and I believe it is
24 appropriate to protect the Utility and its other custom-
25

1 | ers.

2 | Q Did Mr. Hobby or Mr. Orsi question you about this
3 | provision?

4 | A No. No further discussions were had between us after I
5 | forwarded the draft form agreement to them other than the
6 | well construction and only a few on that subject.

7 | Q Does Paragraph 19 on guarantees of service exist in other
8 | contracts which the Utility has executed with developers?

9 | A Yes. It does. This is our standard form contract which
10 | we sent to Sunfield Homes and it has been approved
11 | previously by the Florida Public Service Commission, most
12 | recently and most specifically in the Lake Heron develop-
13 | er agreement which contains identical language.

14 | Q Has Mad Hatter taken any legal action as a result of
15 | Sunfield Homes' decision to receive service from Pasco
16 | County?

17 | A Yes. As part of our federal suit against Pasco County,
18 | we alleged that they violated Mad Hatter's due process
19 | rights by entering into an agreement with Sunfield Homes
20 | for the provision of water and wastewater service without
21 | informing us and giving us an opportunity to participate
22 | in that decision. A federal jury found that, in fact,
23 | the County's action did violate Mad Hatter's due process
24 | rights for this action. The issue of damages is being
25 |

1 sent back to a federal jury in the coming months.

2 Q Mr. Orsi makes some comments about Sunfield Homes'
3 ability to provide its own water through a non-profit
4 organization and to provide sewer service through septic
5 tanks. Do you believe these are viable alternatives?

6 A No. Mad Hatter is in an excellent position to provide
7 water and wastewater service to the Oak Grove subdivision
8 and to the Denham Oaks School. While they certainly
9 could seek approval to provide their own water service,
10 we would object to that in that we surround this develop-
11 ment with our Turtle Lakes and Carpenter Run systems, and
12 we are well situated to provide that service. We have
13 existing systems on both the east and west side of his
14 proposed development with lines in place to provide that
15 service and stubbed out immediately adjacent to his
16 property. We had ample capacity to provide service both
17 to the school and to the first phase of his development
18 before needing to get into the construction of any new
19 well for the long term and we would certainly oppose his
20 attempts to create such a water system simply because it
21 would be inefficient and be detrimental not only to our
22 other customers, but to the customers in his development
23 in the long run.

24 As to his suggestions that he would consider septic

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1 tanks, I do not believe any environmental regulatory
2 authority would permit septic tanks, especially with the
3 availability of central sewer from Mad Hatter immediately
4 adjacent on both sides of his property. In addition, I
5 believe the lot sizing that he has planned would never
6 qualify for septic tanks, and I believe Mr. Orsi knows
7 that.

8 Q Do you have anything else to add with regard to the
9 testimony of Mr. Orsi?

10 A Yes. Mr. Orsi makes the statement that our actions in
11 bringing administrative proceeding "forced the school-
12 children into double sessions". If anything caused the
13 children into double sessions, it was Mr. Orsi's blatant
14 disregard for our right to provide service within our
15 territory, failure to negotiate with us concerning the
16 provision of service or to seek appropriate remedies of
17 the PSC if they believe that our requirements for service
18 were unreasonable, and the actions of Pasco County which
19 a Federal Court has recently determined to be illegal.
20 Mr. Orsi's statement is a lot like a bank robber claiming
21 that the bank guard is at fault for any injuries that
22 occur during the robbery because of their attempts to
23 stop the robber.

24 Q What about any other comments that Mr. Hobby made as
25

1 counsel to Mr. Orsi in his testimony?

2 A Mr. Hobby states that we required Sunfield Homes to loan
3 Mad Hatter \$93,000 for wells. While it is true that we
4 certainly discussed that as an addition to the agreement,
5 you can see from the draft agreement attached to his
6 testimony that no such provision is specifically included
7 within the draft agreement. That is because we were
8 still in the negotiation stages at the time Sunfield
9 Homes cut off such negotiations. The next thing we knew,
10 it had entered into an agreement with the County without
11 the County giving us a right to participate despite the
12 fact that the County and Sunfield were both very much
13 aware of the fact that this development was within our
14 certificated service territory and which our existing
15 systems surrounded.

16 Q Do you have anything further to add concerning Mr.
17 Hobby's comments about the Utility's refusal to guaran-
18 tee.

19 A No. Mr. Hobby has added nothing new to that testimony
20 provided by Mr. Orsi and my comments in response to Mr.
21 Orsi were also fully applicable to Mr. Hobby's testimony.

22 Q Do you have any response to Dr. Kratz's testimony?

23 A Very little. Only that Mad Hatter had looked to Winde-
24 mere as a possible source for some wastewater treatment

1 capacity, however, it has been clear to us for some time,
2 that despite excess capacity, Dr. Kratz was not inter-
3 ested in providing that additional capacity for use by
4 Mad Hatter. The reasons are inexplicable to me. It
5 probably has to do with the fact that Scarecrow Utility
6 Company, a separate utility owned by myself and my wife,
7 sued Mr. Kratz for breach of fiduciary duties related to
8 Windemere Utility Company. That suit is still pending in
9 the Hillsborough Circuit Court.

10 Q Have you reviewed the testimony of Mr. Doug Bramlett?

11 A Yes, I have.

12 Q Do you have any comments with regard to Mr. Bramlett's
13 testimony?

14 A Yes. I have several. First of all, Mr. Bramlett notes
15 that the 1992 Bulk Wastewater Treatment Agreement between
16 Mad Hatter and Pasco County does not "obligate" the
17 County to treat wastewater in excess of 350,000 gallons
18 per day in committed capacity unless the County in its
19 discretion has additional capacity to do so. I believe
20 this is an unreasonable reading and interpretation of the
21 contract. If you will refer to the contract at Paragraph
22 2D on Page 5, it specifically includes a section called
23 "Excess Capacity" and states:

24 "The County agrees to treat wastewater in
25

1 excess of 350,000 gallons per day pursu-
2 ant to this agreement provided sufficient
3 unused and uncommitted capacity is avail-
4 able at the County's wastewater treatment
5 facilities as determined by the County,
6 and all appropriate permits have been
7 obtained by Mad Hatter from state regula-
8 tory agencies. Mad Hatter agrees to pay
9 the per thousand gallon rate for such
10 services as set forth above."

11 Mr. Bramlett's testimony implies that the County does not
12 have any obligation to provide additional capacity to Mad
13 Hatter. We and our attorneys have always read this
14 agreement as recognizing that the County must provide it
15 if it has that capacity. As Mr. Bramlett notes, the
16 County has substantial excess capacity at its Wesley
17 Chapel Wastewater Treatment Plant, which is available to
18 our area now. Mr. Bramlett goes on to suggest that the
19 agreement limits the County's responsibility to treat
20 only sewage from the Mad Hatter's then existing service
21 area. However, given the expansion of capacity provi-
22 sion outlined above, I believe that agreement envisioned
23 possible the expansion of Mad Hatter's service territory
24 and the resulting need for more capacity. Therefore, we
25 believe that to the extent that the Utility has an
expanded territory and needs additional capacity, the
agreement provides that the County shall provide it if
they have that additional capacity. Even with the

1 identified service area at the time of the contract
2 execution which was attached as an exhibit thereto, I
3 believe this paragraph envisions a change in the Util-
4 ity's territory and therefore its capacity needs.

5 Q Mr. Bramlett refers to the fact that Mad Hatter's sewage
6 is currently sent to the Land O'Lakes Wastewater Treat-
7 ment Plant and that that plant is currently exceeding its
8 permitted capacity. As a result, he states that the
9 County has no additional capacity to give to Mad Hatter.
10 Do you have a response to that point?

11 A Yes. It seems strange to me that on the one hand Mr.
12 Bramlett says the County has no additional capacity, but
13 on the other hand, says that they have ample capacity to
14 provide the service directly themselves. Our water and
15 wastewater facilities are already interconnected and
16 place us in the best possible position to provide the
17 water and wastewater services to the areas proposed in
18 our application to the extent we are not already provid-
19 ing service there and yet the County is in effect
20 proposing to extend its lines into these areas and
21 effectively duplicate the facilities already existing
22 from Mad Hatter. To justify this, they suggest an
23 interpretation of the agreement for bulk service that
24 contrary to the language found in the agreement itself.

1 They suggest the County cannot provide capacity to Mad
2 Hatter while it has ample capacity itself to perform the
3 same function through separate and redundant lines. This
4 does not make any sense and is clearly contrary to the
5 public interest. Mr. Bramlett talks about extending
6 lines along State Road 54, however, there is a large gap
7 in the County's lines along Highway 54 where Mad Hatter
8 has existing facilities ample in size to serve those
9 areas not already served and proposed for service by Mad
10 Hatter. The County is preparing to run parallel lines
11 to those currently in existence and which have been in
12 existence for many years and owned by Mad Hatter. Along
13 U.S. 41, the County's water lines do not even cross south
14 of Highway 54 where the majority of Mad Hatter's
15 proposed extension areas exist. The only facilities
16 anywhere near this intersection is a very small well at
17 the northeast corner of these two main roads. It is
18 therefore at least one-half mile from the County's
19 existing water facilities to the closest area which Mad
20 Hatter is proposing to serve which Mad Hatter is not
21 already serving. Mad Hatter has existing facilities in
22 this area and once again any construction by the County
23 along these roads would be redundant to that currently
24 existing from Mad Hatter.

1 The County's wastewater system is also not as well
2 situated to serve those areas as is Mad Hatter. The
3 County's existing sewer lines only exist a very short
4 distance south of Highway 54 along this U.S. 41 corridor.
5 Once again, the proposed extension of these facilities by
6 the County to serve areas proposed for service by Mad
7 Hatter will be redundant to the existing facilities
8 already in this area owned and run by Mad Hatter for
9 several years.

10 Q Have you read Mr. Bramlett's response to your comment
11 concerning the County's aggressive campaign to extend
12 lines which duplicate those of Mad Hatter?

13 A Yes, I have.

14 Q Do you have any further comment in that regard?

15 A Only that Mr. Bramlett's answer totally evades the
16 question. My comment was that the County was extending
17 facilities into areas where Mad Hatter was currently
18 providing service and where the PSC had previously found
19 that Mad Hatter was in the best position to provide
20 service. At the time the Public Service Commission first
21 considered a major extension for Mad Hatter, approxi-
22 mately 8 years ago, the County came before the Commission
23 and proposed that the Commission not grant the additional
24 territory to Mad Hatter because the County wished to get

1 into the utility business in this area. At that time, the
2 County had no facilities anywhere near the service
3 territory. Based upon those facts, the Commission ruled
4 that Mad Hatter was in the best position to provide
5 service and as the Commission statute and rules required
6 at that time, told the Utility to go forward with the
7 extension of facilities to enable it to provide that
8 service. Despite this decision by the Commission in a
9 case in which Pasco County actively participated, the
10 County continued with its extension and duplication of
11 facilities adjacent to and parallel to those of Mad
12 Hatter. As can be seen from the comments of Mr. Bramlett
13 and the maps which he has provided, they are continuing
14 in their efforts to duplicate the facilities of Mad
15 Hatter to this day. The fact that Mr. Bramlett refers to
16 these actions by the County as "responsible" does not
17 change the fact that they are in duplication of Mad
18 Hatter's and plainly contrary to the findings of this
19 Commission about who was best able to provide service
20 approximately 8 years ago.

21 Q Concerning the Oak Grove subdivision, do you have any
22 response to the testimony provided by Mr. Bramlett?

23 A Yes. I have previously provided testimony in response to
24 Mr. Orsi's testimony and those responses are equally
25

1 applicable to Mr. Bramlett's testimony on this issue.
2 However, one additional comment made by Mr. Bramlett
3 requires separate response. He states that "to alleviate
4 that situation, the County told Mad Hatter to provide
5 service. However, Mad Hatter did not do so and thus,
6 Sunfield Homes asked the County for service which the
7 County has provided." Originally, in early 1994, the
8 County had informally told us that they agreed that this
9 area constituted our service territory and that we should
10 provide service. We received a letter to that effect
11 from the County Attorney in May of 1994. That is the
12 item that I have attached as Exhibit LGD-3. In approxi-
13 mately August of 1994, we signed the concurrency permits
14 for the developer to allow them to begin construction of
15 facilities, committing to provide the necessary water and
16 wastewater capacity as required by the County Development
17 Review Agency. Immediately thereafter, we began provid-
18 ing water service to the school site and continued doing
19 so for approximately one year. Then in June or July of
20 1995, we were informed by the school construction
21 superintendent that they were discontinuing the receipt
22 of water and wastewater service from Mad Hatter and that
23 they were to receive service from Pasco County on a
24 permanent basis. It is then that we began legal action to
25

1 stop service by the County to the school and to the Oak
2 Grove subdivision. Mr. Bramlett's suggestion that Mad
3 Hatter "did not" provide service is therefore ridiculous.
4 We were in fact providing that service at the time the
5 County entered into an agreement with the developer to
6 take over the provision of water and wastewater service.
7 If the County had maintained its position that Mad Hatter
8 was allowed to provide service as shown in the attached
9 letter and not interfered with such service, Mad Hatter
10 would be providing service to that territory now.
11 However, instead the County chose, without even consult-
12 ing Mad Hatter Utility, to invade that territory. The
13 Federal District Court has already found that the County
14 acted inappropriately and deprived Mad Hatter of its due
15 process rights by invading that territory without even
16 giving Mad Hatter the opportunity to address the County
17 Commission on this issue. It is still yet to be seen
18 whether the Federal Court will require the County to
19 remove its facilities from service to this area or
20 whether the Court will instead award Mad Hatter damages
21 for this invasion.

22 Q Mr. Bramlett talks about the reduction in bulk wastewater
23 rates that Pasco County recently enacted. Do you have
24 any comments with regard to this issue?

1 | A Yes. First of all, I believe it is inappropriate for
2 | this to be retried here. It is currently the subject of
3 | a separate Commission docket which we are working to
4 | resolve. Secondly, Mr. Bramlett states that Mad Hatter
5 | has refused to pass the price reduction on to its
6 | customers. In my opinion, this is simply another attempt
7 | by Pasco County to divert blame from itself. For many
8 | years, Mad Hatter Utility has operated at a loss. The
9 | fact that we have a reduction in one cost does not
10 | automatically mean we should reduce rates. We are
11 | currently discussing that issue with the Commission and
12 | its Staff to try and reach a resolution. In addition, it
13 | should be noted that the County "discovered" that it was
14 | charging too much to its bulk customers after its bulk
15 | service customers had been telling it for many years that
16 | the rates were unreasonable and too high. You would
17 | think this would be obvious since those bulk rates were
18 | higher than the retail rates. In fact, a suit by a
19 | private utility is what led to the reduction in rates
20 | charged to bulk service customers, not any benevolence by
21 | Pasco County. I would note that Pasco County has never
22 | offered to refund the monies to its bulk service custom-
23 | ers for the many years it overcharged us as is indicated
24 | by that rate study.

1 Q Mr. Bramlett speaks about credits to customers for impact
2 fees.

3 A Yes. Pasco County has stated that it is issuing credits
4 by not charging the \$1.00 impact fee surcharge on a
5 portion of the sewage treated by the County. However,
6 despite our repeated attempts, including written requests
7 for information concerning how the County came up with
8 the amount on which they do not impose this surcharge, we
9 have yet to receive an explanation from the County. We
10 cannot know to whom any such impact fee credits apply in
11 what amounts or even consider how they should be account-
12 ed for if we are not provided the information by the
13 County. In addition, the Public Service Commission
14 specifically recognized in our last rate order that any
15 such "credit" would be impossible to administer and, as
16 such, did not establish separate rate schedules. We
17 believe that the County should not charge the up-front
18 impact fee in order to make it easier both on the County
19 and on the Mad Hatter to properly bill in a non-discrimi-
20 natory manner. By doing this, we can then bill all
21 customers the same charges for wastewater service, since
22 that is all that the Utility can charge under its tariff.

23 Q Mr. Bramlett also raises the subject of the sale of the
24 Foxwood and Turtle Lakes percolation pond land. Do you

25

1 have any comments to provide in this regard?

2 A Yes. Once again, Mr. Bramlett is attempting to suggest
3 that the Utility has done something wrong without knowing
4 or at least not stating the facts. We are currently
5 involved in a totally separate docket on this matter and
6 it should not be tried a second time within this proceed-
7 ing. It should be noted, however, that the Utility did
8 not and could not achieve any gain on the disposition of
9 the former wastewater treatment plant lands and that has
10 been fully explained to the Public Service Commission
11 Staff and, in addition, no violation of the PSC order
12 occurred because no sale occurred. Mr. Bramlett is well
13 aware of these facts and was present through the three
14 federal trials at which these same allegations were
15 thoroughly discussed and refuted.

16 Q Do you have any comments concerning Mr. Gallagher's
17 testimony?

18 A No. My comments to Mr. Bramlett's testimony also relate
19 to those from Mr. Gallagher.

20 Q Do you have any further testimony to provide?

21 A Not at this time. However, I have attached three maps
22 showing the location of Mad Hatter's current certificated
23 service territory, color-coded in blue; with the areas
24 shown in pink where Mad Hatter is currently providing

25

1 service but which areas are not within its currently
2 certificated area; and then finally in green, showing
3 those areas applied for in this application which are not
4 being served at this time, but which Mad Hatter is in the
5 best position to provide service. These are attached as
6 Exhibit LGD-4. I have also enclosed copies of maps
7 (Exhibit LGD-5) prepared for the PSC Staff to show the
8 location of Mad Hatter's treatment facilities and major
9 transmission distribution and collection facilities to
10 demonstrate that Mad Hatter Utility has facilities
11 currently in place immediately adjacent to the areas not
12 already served and which place Mad Hatter Utility is in
13 a unique position to provide service to all of the
14 extension areas. I believe it should be plain to the
15 Commission and its Staff from a review of these maps that
16 Mad Hatter is in the best position to provide service to
17 all areas proposed in its application. It should also be
18 clear that the County's action in objecting to even those
19 areas where Mad Hatter is already serving and those where
20 Mad Hatter has lines immediately adjacent and where the
21 County has no facilities for some distance, is indicative
22 of an attitude by the County which has been shown to the
23 Federal Courts and on which the Federal Courts ruled in
24 Mad Hatter's favor, effectively finding that the County

1 had been, and continued to act inappropriately, and
2 effectively condemned the property of Mad Hatter in
3 addition to other illegal and inappropriate actions. No
4 only should the Commission recognize these facts as
5 recognized by the Federal Court, but they should not
6 allow Pasco County to retry the same case in a different
7 forum.

8 Q Have you investigated the possible availability of
9 financing for any required improvements including the
10 possible construction of wastewater treatment plant or
11 construction of other water facilities as needed?

12 A Yes, I have. We have recently financed all of our
13 outstanding debt with CoBank. We have thus far had a
14 very good relationship with CoBank and they have ex-
15 pressed an interest in meeting any financing needed that
16 the Utility may have in the future. I have specifically
17 obtained a letter from Mr. John Cole, Vice President at
18 CoBank, indicating a willingness to provide additional
19 financing to Mad Hatter as needed. This is attached to
20 my testimony as Exhibit LGD-6.

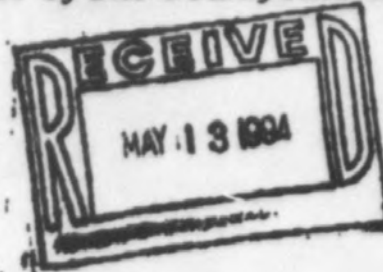
21 Q Do you have any further testimony in this regard.

22 A No, I do not.



PASCO COUNTY, FLORIDA

Office Of The County Attorney



Thomas A. Bustin
County Attorney

Karla A. Stotter
Robert D. VanHorne
John M. LeRoux
Anthony V. Policastro
Mark A. Boyle

May 12, 1994

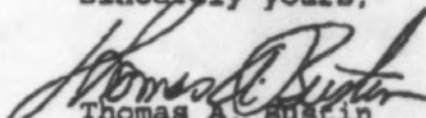
Gerald T. Buhr, Esq.
P.O. Box 1647
Lutz, FL 33549-1647

Dear Mr. Buhr:

Pursuant to Mr. Douglas Bramlett, Assistant County Administrator for Utility Services, I am writing this letter to set forth Pasco County Utilities' position with respect to the operation of Mad Hatter Utility, Inc.

Pasco County Utilities recognizes that Mad Hatter Utility, Inc. has been granted a certificate from the Public Service Commission pursuant to Section 367.045 Florida Statutes. In light of that fact, Pasco County Utilities does recognize that within the area embraced by the certificate Mad Hatter has what may be termed a franchise and will not compete with the corporation in that area as long as Mad Hatter is fully able to provide the service for which it was granted a certificate.

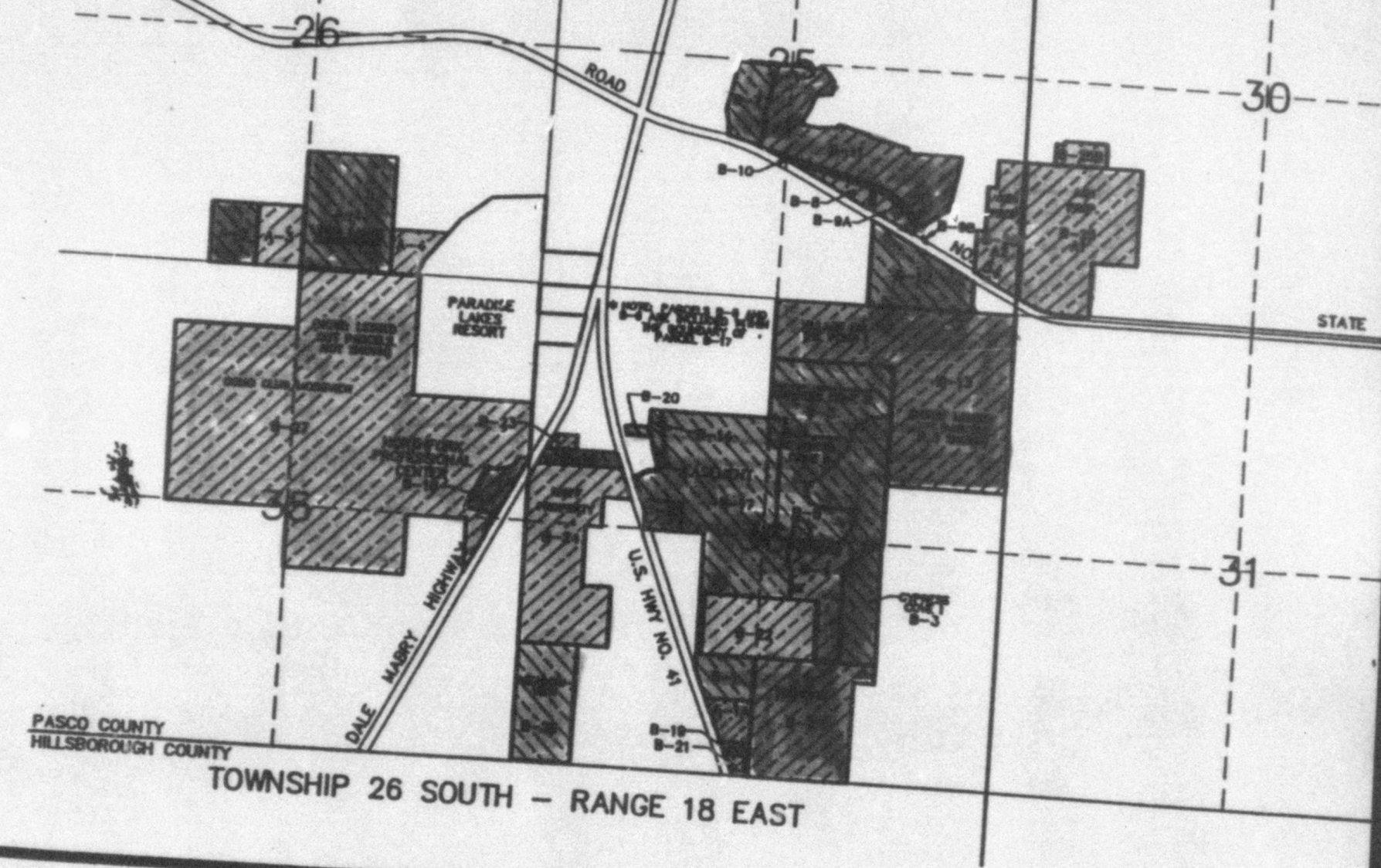
Sincerely yours,


Thomas A. Bustin
County Attorney

TAB:bl



Existing Water & Sewer Territory
 Proposed Territory Where Service
 Currently Provided
 Proposed Territory Where No Service
 Currently Provided



OOKS AND AMADEN, INC.

RIDGEWOOD AVENUE • BRANDON, FLORIDA 33510 • TELEPHONE (813) 653-1125
 BOX 1129 • BRANDON, FLORIDA 33508-1129 • FAX (813) 653-1679
 and Environmental Engineering • Land Surveying and Planning

EXHIBIT
 LGD-4

ORDER NO.:

30

29

28

27

STATE

COLLIER PARKWAY

ROAD

NO. 54

31

C-2

LIVINGSTON AVE.

32

34

TOWNSHIP 26 SOUTH - RANGE 19 EAST

PARTY CHIEF

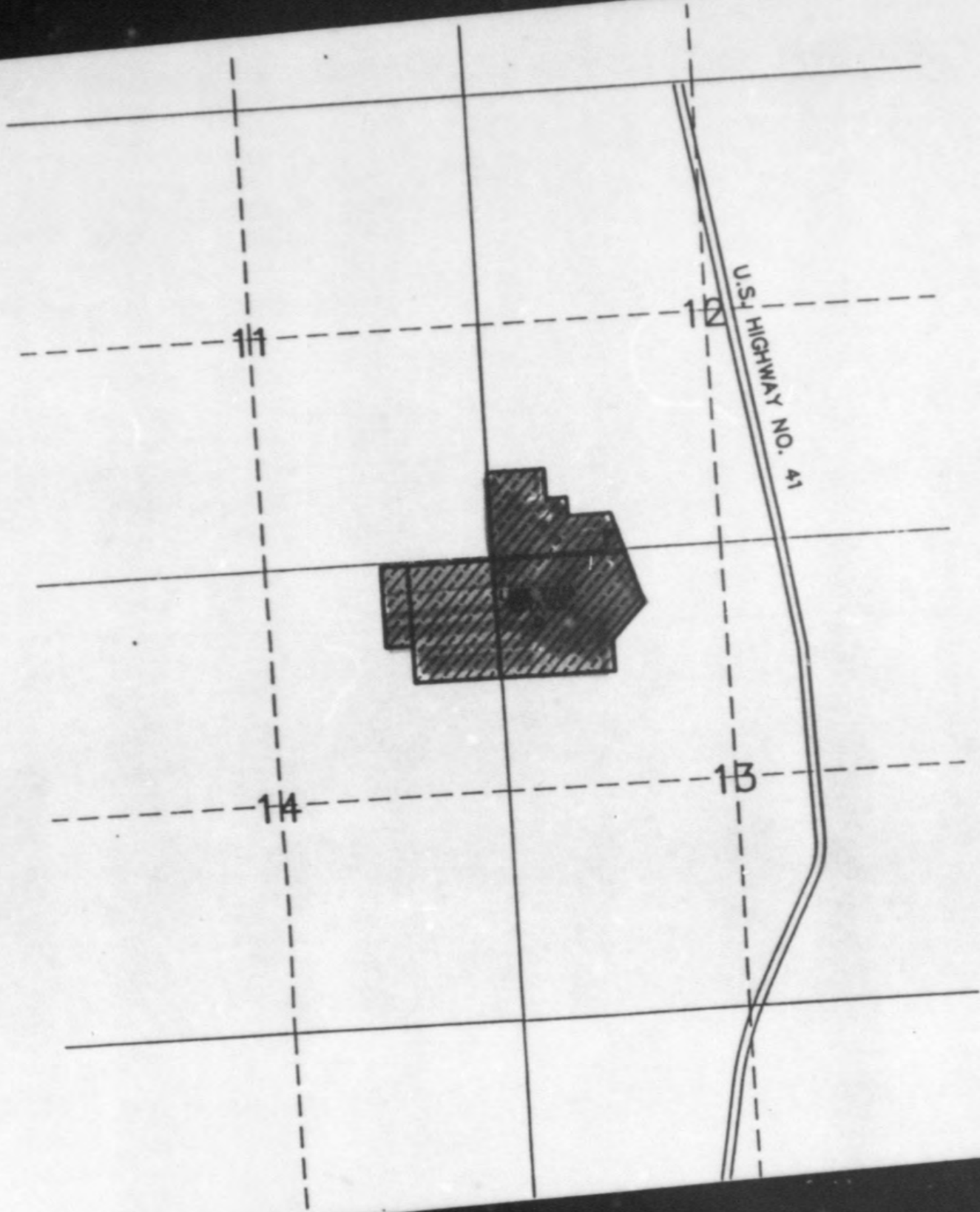
DRAWN BY

W.S.L.

PREPARED FOR

MAD HATTER UTIL
1900 LAND O' LAKE

2



(PARCEL A-2)
CERTIFICATES:
DOCKET NO.:
ORDER NO.:

(PARCEL A-3)
CERTIFICATES:
DOCKET NO.:
ORDER NO.:

(PARCEL A-4)
CERTIFICATES:
DOCKET NO.:
ORDER NO.:

(PARCELS B-1 &
ORIGINAL CERTIFICATES:
ORIGINAL ORDER NO.:
ORIGINAL ORDER NO.:
TRANSFER CERTIFICATE:
DOCKET NO.:
ORDER NO.:

(PARCEL B-1A)
CERTIFICATES:
DOCKET NO.:
ORDER NO.:

(PARCELS B-3, B-
CERTIFICATES:
DOCKET NO.:
ORDER NO.:

CoBANK
Rural America's Cooperative Bank

200 Galleria Parkway N.W.
Suite 1900
Atlanta, Georgia 30339
Phone: (770) 818-3200
Fax: (770) 618-3202

April 17, 1997

Mr. Larry G. DeLucenay, President
Mad Hatter Utility, Inc.
1900 Land O'Lakes Boulevard
Suite 113
Lutz, FL 33549

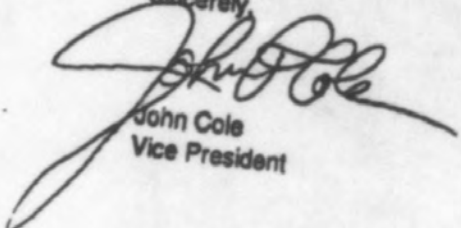
Dear Mr. DeLucenay:

I understand that you may be in need of some financing to serve an additional 500 to 800 customers and need to know if CoBank has any preliminary interest.

Mad Hatter has been making its payments as scheduled, and on time, over the last several years. Mad Hatter's cash flows have also improved since becoming a CoBank borrower. Based upon the most recent cash flows I have seen, it would appear that Mad Hatter has additional borrowing capacity. As you know, CoBank makes loans to numerous investor owned water systems in Florida for capital improvement and expansion projects.

This letter does not represent a commitment to lend and is only for the purpose of expressing an interest in discussing your financing needs further. When you would like to discuss this matter in more detail, please give me a call.

Sincerely,



John Cole
Vice President

