

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate) DOCKET NO. 910637-WS
increase in Pasco County by MAD) ORDER NO. PSC-92-0327-PCO-WU
HATTER UTILITY, INC.) ISSUED: 5/11/92
_____)

ORDER ESTABLISHING PROCEDURE

On October 18, 1991, Mad Hatter Utility, Inc., (MHU or utility) completed the minimum filing requirements for a general rate increase and that date was established as the official date of filing for this proceeding. The approved test year for determining interim and final rates is the twelve-month period ended December 31, 1990.

By Order No. 25589, issued on January 9, 1992, the Commission suspended MHU's proposed rates and approved interim rates. Additionally, by Order No. 25711, issued February 12, 1992, in Docket No. 911206-SU, the Commission allowed MHU to collect emergency, temporary wastewater rates. In the latter Order, the Commission reserved for this proceeding its final judgment on the appropriate rates and the disposition of escrowed funds.

By Proposed Agency Action (PAA) Order No. PSC-92-0123-FOF-WS, issued March 31, 1992, the Commission approved increased rates, required the refund of excess interim and emergency rates, reduced service availability charges, and found MHU in violation of Commission rules. On April 21, 1992, Mr. Timothy G. Hayes filed a timely protest to the Commission's PAA Order. Pursuant to this protest, this matter is currently set for an administrative hearing.

The scope of this proceeding shall be based upon the issues raised by the parties and the Commission staff (Staff) during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules of this Commission.

Discovery

a. When discovery requests are served and the respondent intends to object to or ask for clarification of the discovery request, the objection or request for clarification shall be made within ten days of service of the discovery request. This procedure is intended to reduce delay time in discovery.

b. The hearing in this docket is presently set for September 2nd and 3rd, 1992. Unless authorized by the Prehearing Officer for

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good cause shown, all discovery shall be completed by August 26, 1992 (one week before the hearing). In addition, to facilitate their identification, all interrogatories, requests for admissions, and requests for production of documents shall be numbered consecutively. Each set of discovery requests shall be numbered sequentially from any previous set(s). Unless authorized by the Prehearing Officer, the following shall apply: interrogatories, including all subparts, shall be limited to 75, and requests for production of documents, including all subparts, shall be limited to 75.

c. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 367.156, Florida Statutes.

Notice and Public Information

The utility shall comply with the requirements of Rule 25-22.0406(6) and (7), Florida Administrative Code. The utility shall utilize first class mail for notices sent to customers with out of town mailing addresses.

Prefiled Testimony and Exhibits

Pursuant to Rule 25-22.048, Florida Administrative Code, each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double-spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding.

Each exhibit which is intended to support a witness' prefiled

testimony shall be attached to that witness' testimony when filed, and identified by his or her initials and a consecutive number beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 12 copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting by the close of business (4:45 p.m.) on the date due. A copy of all prefiled testimony and exhibits shall be mailed to all other parties and Staff no later than the date filed with the Commission.

Prehearing Statements

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket. Staff will also file a prehearing statement. The original and 12 copies of each prehearing statement shall be prefiled with the Director, Division of Records and Reporting by the close of business (4:45 p.m.) on the date due. Filings on diskette as described in Rule 25-22.028, Florida Administrative Code, are encouraged. A copy of the prehearing statement shall be served on all to all other parties and Staff no later than the date it is filed with the Commission. The failure of a party to timely file a prehearing statement shall constitute a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) the name and address of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be sponsored by the party, their contents, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;

(d) a statement of each question of fact the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

(e) a statement of each question of law the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

(f) a statement of each policy question the party considers at issue, the party's position on each such issue and which of the party's witnesses will address the issue;

(g) a statement of issues that have been stipulated to by the parties;

(h) a statement of all pending motions or other matters the party seeks action upon; and

(i) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

Prehearing Conference

A prehearing conference will be held in this docket at the Fletcher Building, 101 East Gaines Street, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. Any party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the

issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue.

When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Controlling Dates

The following dates have been established to govern the key activities of this case.

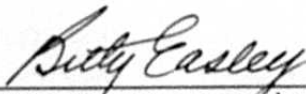
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| 1) Utility's direct testimony and exhibits | <u>May 29, 1992</u> |
| 2) Intervenors' direct testimony and exhibits | <u>June 30, 1992</u> |
| 3) Staff's direct testimony and exhibits, if any | <u>July 20, 1992</u> |
| 4) Rebuttal testimony and exhibits | <u>August 3, 1992</u> |
| 5) Prehearing statements | <u>August 7, 1992</u> |
| 6) Prehearing conference | <u>August 13, 1992</u> |
| 7) Discovery complete | <u>August 26, 1992</u> |
| 8) Hearing at a time and location to be determined | <u>September 2 & 3, 1992</u> |

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Based upon the foregoing, it is

ORDERED by Commissioner Betty Easley, as Prehearing Officer, that the provisions of this Order shall govern this proceeding unless modified by the Commission.

By ORDER of Commissioner Betty Easley, as Prehearing Officer, this 11th day of MAY, 1992.



BETTY EASLEY, Commissioner
and Prehearing Officer

(S E A L)

MJF

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: 1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; 2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or 3) 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 or sewer utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.