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October 17, 1996

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 Utility, Inc.; Docket No. 960878-WS
Proposed Rate Reduction to Reflect a Decrease in Purchased
Water and Wastewater Costs to PSC Regulated Utilities By Pasco
County
Our File No. 28023.01

Dear Ms. Bayo:

This letter is written on behalf of Mad Hatter Utility, Inc. in response to the Commission Show Cause Order No. PSC-96-1226-FOF-WS, dated September 27, 1996. Mad Hatter Utility, Inc. should not be required to reduce rates or refund monies based upon a reduction in purchased water and wastewater costs for the following general reasons:

A. The pass-through provisions of the statute upon which the Commission order relies do not authorize the Public Service Commission to require a decrease in rates because of a reduction in purchased water or wastewater costs or as a result of a reduction in any of the other categories of costs listed in the pass-through section of Chapter 367, Florida Statutes.

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B. If this statutory provision did authorize the Commission to require a negative pass-through based upon a reduction in costs, that negative pass-through must still be based upon a determination by the Commission that failure to pass that cost reduction through will cause the Utility to overearn. No such finding has been made in that order and no such finding can be made with regard to the Mad Hatter systems, without detailed inquiry as to those facts. No attempt to ascertain these facts has been undertaken.

C. Even to the extent the Commission finds that the pass-through or other statutory provisions are available to the Commission to require a reduction in rates and to the extent the

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Commission finds that overearnings exist, the Commission has no authority under this statute or any other to require a retroactive reduction in rates to the date of the decrease in costs. If for no other reason, this is evident by the fact that the Commission has long held that a Utility may not implement a positive pass-through in rates retroactive to the effective date of the cost increase. Such a determination, positive or negative, plainly represents retroactive rate making and is contrary to law.

Mad Hatter Utility, Inc., however, believes that it can come to some agreement with the Commission to voluntarily pass-through the reduced costs on a prospective basis for its sewer system. In order to fully understand Mad Hatter's position in this regard, the facts and circumstances surrounding its water and wastewater systems and its purchased utility services must be reviewed separately. These facts are discussed below:

1. Mad Hatter Water System - All of the water of Mad Hatter Utility is pumped from wells, there are no purchases from Pasco County.

2. Mad Hatter Sewer System - Because Mad Hatter purchases the majority of its sewage treatment from Pasco County and because the reduction in purchased sewage treatment cost will have a material impact on the Utility's operations. The Utility does concede that this reduction in costs may result in an achieved rate of return for 1996 which exceeds the Utility's last authorized rate of return. Some portion of this reduced cost will only cause the Utility's achieved rate of return on a prospective basis to approach or equate to their authorized rate of return. However, rather than incur the substantial costs of responding to further inquiries and of litigation, the Utility is willing on a prospective basis to reduce rates for the entire amount of the reduction in purchased sewage treatment for its Foxwood and Turtle Lakes systems (the only systems which purchase sewage treatment from Pasco County).

To the extent that the Commission proposes to retroactively apply this "negative pass-through" or rate reduction, Mad Hatter Utility, Inc. requests a hearing, pursuant to Section 120.57(1), Florida Statutes, on the questions of the appropriate level of any prospective rate reduction and overearnings and on the legality and appropriateness and amount of any retroactive rate reduction.

If the Commission accepts the prospective proposal by Mad Hatter Utility, Inc. to pass-through the reduction in purchased sewage treatment, based upon the difference in the rate applied in 1995 and that effective October 1, 1996, Mad Hatter will

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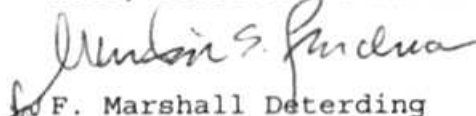
immediately file the information necessary to effectuate that pass-through in wastewater charges.

The second ordering paragraph of Order No. PSC-96-1226-FOF-WS requires that each utility named in the order, file the information required by Rule 25-30.425(1)(a) through (f), Florida Administrative Code, along with a calculation of the rate reduction. Not only does the undersigned believe that this requirement is contrary to the Commission's actual decision at Agenda, but the filing of that information prior to a determination of what, if any, rate reduction is appropriate as to the Utility's two systems is premature and a waste of the Utility's time and resources and consulting fees. Because of the substantial time and cost involved in the preparation of any such information, the Utility hereby requests a waiver of that provision of the order until such time as a determination is made as to the amount, if any, of a rate reduction for the utility systems.

Should the Commission or its Staff require any further information in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY


for F. Marshall Deterding
For The Firm

FMD/lts

cc: Janice and Larry DeLucenay
Robert C. Nixon, CPA