

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Application for amendment of)
Certificates Nos. 340-W and 397-S to) Docket No.: 021215-WS
add territory in Pasco County by)
MAD HATTER UTILITY, INC.)

MAD HATTER'S SECOND MOTION FOR CONTINUANCE

Mad Hatter Utility, Inc. ("MadHatter"), by and through its undersigned attorneys, hereby files this Second Motion for Continuance and would state and allege as follows:

1. Mad Hatter's request for an extension of its certificated territory necessarily involves the prior orders, directives and mandates of the Federal Court in the case of 94-1473-CIV-T-25-E. In the present action, the County *is* maintaining that Mad Hatter does not have the wastewater capacity to serve the areas for which it has sought an extension of certificate. Mad Hatter is contending that it is the obligation of the County to provide, through the current bulk arrangement by which Mad Hatter sends it wastewater to Pasco County for treatment and disposal, that capacity necessary to provide service to the extension area under the prior directives of the Federal Court.

2. As noted in Mad Hatter's First Motion for Continuance filed with the Commission on March 4, 2004, Mad Hatter filed with the Federal Court on April 12, 2004 a further request for clarification of the Federal Court's orders and directives such that Mad Hatter's position in this proceeding **will** be made clear and the County's position in this proceeding - that *is* does not have to provide the capacity to Mad Hatter to serve the extension area.

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development - will be shown to be erroneous. This issue is the pivotal issue which is before the Commission in Mad Hatter's extension application. The Federal Court's resolution will not only clarify that pivotal issue but may, in fact, substantially narrow the issues in the case.

3. While the Utility has requested a hearing on its April 12, 2004 Motion filed in the Federal Court, no hearing has been set and therefore, there is real concern that the hearing, much less the decision from the Federal Court will not be rendered until after the date currently set for hearing on the matter before the Public Service Commission (September 22, 2004 and September 23, 2004).

4. A continuance of this matter so that the Federal Court may adjudicate this issue will not prejudice the Commission, the County, the public, or the customers within the extension area. Pasco County made clear at recent depositions that it **is** proceeding to hook up customers in the area for which Mad Hatter has extended, despite Mad Hatter's pending request. A granting of the continuance **so** that the Federal Court may clarify these issues will promote judicial economy and will prevent Mad Hatter, the County, and the Commission and its staff from wasting precious resources which may not need to be expended given the Federal Court's ultimate ruling.

5. Without a clarification from the Federal Court, the Commission will be placed in a position of attempting to interpret the prior orders of the Federal Court based on **its** reading of those prior orders and the testimony in this case. The Commission has in the past declined to engage in such an interpretation.

Additionally, the County is stating that it will not provide the needed capacity to Mad Hatter and the Commission is in no position to direct the County to provide such capacity even if it believes the prior Federal Court orders clearly require the County to do so. Only the Federal Court is in that position, and this is why Mad Hatter is once again turning to the Federal Court for relief with regard to these issues.

6. Counsel for Mad Hatter has consulted with counsel for the County regarding this motion and represents that counsel for the County does not oppose this continuance.

WHEREFORE, and in consideration of the above, Mad Hatter respectfully requests that the Commission continue this case and all controlling dates therein, including the date for rebuttal testimony and hearing for a period of at least **six** (6) additional months beyond the continuance dates already granted, so that the Federal Court may rule on Mad Hatter's motion for clarification of issues, including the issues which are the pivotal issues in this administrative proceeding.

Respectfully submitted this 25th
day of July, 2004 by:

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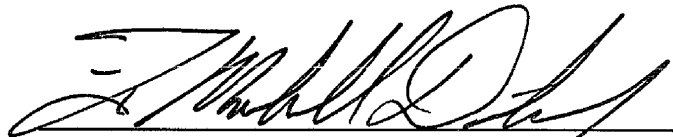
John L. Wharton
F. Marshall Deterding

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was provided via hand delivery (* > or U.S. Mail this 6th day of July, 2004, to:

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