

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: APPLICATION OF MAD HATTER
UTILITY, INC. FOR AMENDMENT OF
WATER AND WASTEWATER CERTIFICATES
IN PASCO COUNTY, FLORIDA

DOCKET NO. 960576-WS

PASCO COUNTY'S PRE-HEARING STATEMENT

Pursuant to Order No. PSC-96-1037-PC0-WS issued on August 9, 1996, Pasco County files the following pre-hearing statement:

A. All Known Witnesses

- John Gallagher
- Michael Orsi
- H. Clyde Hobby
- Douglas S. Bramlett
- Michael Moses
- Joseph Squitieri
- Thomas O'Connor
- Dr. Robert C. Kratz

Mr. Gallagher, Mr. Bramlett, Mr. Squitieri, Mr. O'Connor and Dr. Kratz will testify concerning Mad Hatter's capacity or lack thereof. Mr. Bramlett, Mr. Orsi and Mr. Hobby will testify concerning whether Mad Hatter's provision of service is in the public interest. Mr. Moses will testify concerning Mad Hatter's financial wherewithal.

Since Mad Hatter has not explained in its pre-filed testimony how it plans to serve the territory for which it seeks a PSC certificate nor has it complied with the requirements of Rule 25-30.036 of the Florida Administrative Code, Pasco County reserves the right to call additional witnesses.

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1 _____
- LIN 3 _____
- OPC _____
- RCH _____
- SEC 1 _____
- WAS _____
- OTH _____

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B. All Known Exhibits

1-DB, 2-DB, 3-DB and exhibit 3 to 3-DB as exhibits to the pre-filed testimony of Douglas Bramlett; exhibit 4-CH to the pre-filed testimony of Clyde Hobby and exhibit 5-MM to the pre-filed testimony of Michael Moses.

All documents relating to the sale of the Foxwood and Turtle Lakes perc ponds and Mad Hatter's failure to notify the PSC.

All documents relating to Mad Hatter's financial ability to provide service.

All documents relating to Mad Hatter's capacity to provide service.

All Florida Department of Environmental Protection Records relating to Mad Hatter.

All exhibits introduced at the trial of Mad Hatter Utility, Inc. v. Pasco County, United States District Court, Middle District of Florida, Case No. 94-1473-Civ-T-25E.

All documents produced in discovery.

All documents relating to whether it is in the public interest for Mad Hatter to provide service.

All documents relating to Mad Hatter's failure to provide credits to customers who paid up front impact fees.

All documents relating to Mad Hatter's compliance with all applicable laws, statutes, codes, ordinances and regulations.

All documents relating to any PSC action against Mad Hatter.

All documents relating to Mad Hatter's failure to pass on to customers Pasco County's reduction in wastewater treatment rates.

Excerpts of the transcript of the trial of Mad Hatter Utilities, Inc. v. Pasco County, Case No. 94-1473-Civ-T-25E.

Since Mad Hatter has not explained in its pre-filed testimony how it plans to serve the territory for which it seeks a PSC certificate nor has it complied with the requirements of Rule 25-30.036. Pasco County reserves the right to seek to introduce additional exhibit. at the hearing.

C. Pasco County's Statement of Basic Position

Mad Hatter lacks the capacity to serve the area for which it seeks a PSC certificate and lacks the financial ability to obtain that capacity. Furthermore, it is not in the public interest to have Mad Hatter serve those areas.

D. Issues of Fact, Law and Policy

The following are issues identified by Pasco County and its position on those issues. Its positions are preliminary, are based on material filed by Mad Hatter and are intended to inform the parties of Pasco County's preliminary positions. The County's final positions will be based upon an analysis of the evidence presented at the hearing and through discovery which is on-going.

ISSUE 1: Does Mad Hatter have the ability to provide both water and wastewater service to the uncertificated territory?

POSITION: No. Mad Hatter does not have the capacity to provide service nor does it have the financial ability to obtain capacity.

ISSUE 2: Is there a need for service in the area which Mad Hatter seeks to add to its certificated territory?

POSITION: Yes.

ISSUE 3: Is there service from other sources within the geographical proximity to the area that Mad Hatter seeks to add to its certificated territory?

POSITION: Yes. Pasco County has service and is completing the construction of additional lines.

ISSUE 4: Does Mad Hatter have the financial and technical ability to provide service in the area requested?

POSITION: No. Mad Hatter has represented to the Court in the federal action it initiated against Pasco County that it is on the brink of financial ruin. Furthermore, it does not have any Department of Environmental Protection permit to provide wastewater treatment service.

ISSUE 5: Is the provision of service by Mad Hatter consistent with the water and wastewater sections of the Local Comprehensive Plan at the time the application was filed?

POSITION: No.

ISSUE 6: Does Mad Hatter own the land upon which the utility treatment facilities that will serve the proposed territory are located?

POSITION: Since Mad Hatter has not specified how it plans to treat the sewage, Pasco County does not know whether Mad Hatter owns the land beneath the alleged utility treatment facilities.

ISSUE 7: Is the utility planning to build a new wastewater treatment plant or upgrade an existing plant to serve the proposed territory?

POSITION: No. The utility lacks the financial ability to build a new wastewater treatment plant or to upgrade the existing plant.

ISSUE 8: Has Mad Hatter met the procedural requirements for extending its territory?

POSITION: No. Mad Hatter has failed to comply with the requirements of Rule 25-30.036.

ISSUE 9: What are the numbers and dates of the permits issued for the proposed wastewater treatment system by the Florida Department of Environmental Protection?

POSITION: Mad Hatter has no such permits.

ISSUE 10: How does Mad Hatter propose to finance the construction and what is the projected impact upon Mad Hatter's capital structure?

POSITION: Mad Hatter lacks the ability to finance the construction of any new facilities. Furthermore, even if it could finance the construction, the impact would be devastating upon its capital structure.

ISSUE 11: Where are the types of customers anticipated to be served by the extension of Mad Hatter's certificate?

POSITION: Mad Hatter has provided no information regarding the customers it plans to serve.

ISSUE 12: What is the projected impact of the extension on the utility's monthly rates and service availability charges, if any?

POSITION: Mad Hatter has provided no information regarding how it plans to serve the territory and thus the County cannot determine the impact on the utility's monthly rates and service availability charges, if any.

ISSUE 13: Is it in the public interest to have Mad Hatter serve the areas for which it seeks to extend its certificate?

POSITION: No. It is not in the public interest to have Mad Hatter serve the areas.

D. Stipulated Issues

There are no issues that have been stipulated at this time.

E. Pending Matters

None.

F. Requirements That Cannot Be Complied With

Since Mad Hatter has failed to meet the requirements of Rule 25-30.036, Pasco County has been unable to determine all of the witnesses and exhibits which will be needed for the hearing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been served upon Roseanne Capeless, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399, and F. Marshall Deterding, Rose Sundstrum & Bentley, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, by regular U.S. mail and facsimile this 20 day of March.

JOHNSON, BLAKELY, POPE,
BOKOR, RUPPEL & BURNS, P.A.

By: 

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