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June 27, 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 Utility, Inc.; Docket No. 960576-WS  
Application for Amendment of Water and Wastewater Certificates  
Our File No. 28023.07

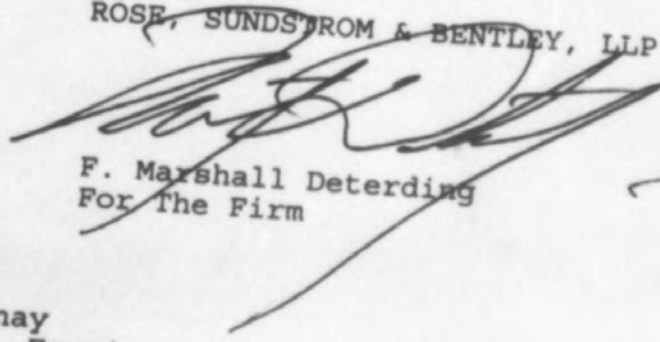
Dear Ms. Bayo:

Attached are the original and 8 copies of the Post-Hearing Memorandum and the Post-Hearing Statement of Issues and Positions 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, LLP

  
F. Marshall Deterding  
For The Firm

ACK \_\_\_\_\_  
AFA \_\_\_\_\_  
APP \_\_\_\_\_  
CAF \_\_\_\_\_  
CMU \_\_\_\_\_  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_  
LEG  EMD/lts  
LIN 3 cc: Mr. Larry DeLucenay  
OPC \_\_\_\_\_ Rosanne Capeless, Esquire  
RCM \_\_\_\_\_ Marion Hale, Esquire  
SEC \_\_\_\_\_  
WAS Brady  
OTH \_\_\_\_\_

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**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**

**MAD HATTER UTILITY, INC.'s  
POST-HEARING STATEMENT OF ISSUES AND POSITIONS**

Pursuant to Rule 25-22.056(3)(a), F.A.C., Mad Hatter Utility, Inc. ("MHU" or "Utility"), files this Post-Hearing Statement of Issues and Positions. MHU is simultaneously filing a Post-Hearing Brief, in which the positions taken on the issues in this filing are developed and supported more fully.

**Statement of Issues and Positions**

**ISSUE 1:** Does MHU include in its amendment application all of the uncertificated territory in which it currently provides service as required by Order No. PSC-96-0172-FOF-WS, issued February 7, 1996, in Docket No. 940761-WS, and what are those specific areas?

**MHU:** \*Yes. Those are parcels A-3, A-4, B-21, B-22, B-23, B-24, C-6 and C-6A, C-7 and C-8.\*

**ISSUE 2:** Does MHU include in its amendment application territory in which it currently does not provide service, and what are those specific areas?

**MHU:** \*Yes. B-1A, B-20, B-25, B-26, B-27, C-9, C-10.\*

**ISSUE 3:** Pursuant to Section 367.045(2)(b), Florida Statutes, is there a need for service in the territory which MHU seeks to add to its certificate of authorization?

**MHU:** \*Yes. In all the areas requested for inclusion in the utility certificate.\*

**ISSUE 4:** Does MHU have the technical ability and adequate capacity to serve the territory which it seeks to add to its certificates of authorization?

**MHU:** \*MHU has, in the past, and will continue in the future, to have the technical ability and adequate capacity to provide service to its entire existing service

territory and the additional territory requested in the amendment as and when needed.\*

**ISSUE 5:** Does MHU have the financial ability to serve the territory which it seeks to add to its certificates of authorization?

**MHU:** \*Yes. As demonstrated by recent refinancing, bank correspondence, and the statements of Mr. DeLucenay and Mr. Nixon.\*

**ISSUE 6:** Does MHU own the land upon which its treatment facilities that serve or will serve the proposed territory are located, or, if not, is the utility entitled to continued use of that land?

**MHU:** \*Yes. MHU owns or has an arrangement for continued use all of the existing water and wastewater treatment plant sites. To the extent additional sites are necessary, those can be acquired by the Utility. The Foxwood sewage treatment plant site can also be incorporated into that use.\*

**ISSUE 7:** Does service exist from other sources within geographical proximity to the areas that MHU seeks to add to its certificates of authorization?

**MHU:** \*Pasco County has attempted to extend services into some of the areas adjacent to those currently certificated and/or served by MHU and proposed for service hereunder counter to the requirements of the provisions of Section 153, Florida Statutes.\*

**ISSUE 8:** Would the proposed amendment of MHU's territory result in the extension of a system which would be in competition with, or duplication of, any other system or portion of a system?

**MHU:** \*No. Pasco County's attempts to extend services into and adjacent to the areas currently served by MHU's systems since 1975, is a duplication of MHU's existing service, and is contrary to law and public policy. To the extent duplications exists under relevant law, it has or will result from action by Pasco County.\*

**ISSUE 9:** If the proposed amendment of MHU's territory would result in the extension of a system which would be in competition with, or duplication of, any other system or portion of a system, is such other system or portion thereof inadequate to meet the reasonable needs of the public or are the persons operating it unable, refusing, or neglecting to provide reasonably adequate service?

**MHU:** \*In addition to the points raised in response to Issue 8 above, there are several areas within MHU's proposed extension territory for which neither the County

or any entity other than MHU has any facilities in a position which renders them readily able to serve.\*

**ISSUE 10:** Stricken.

**ISSUE 11:** Withdrawn.

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

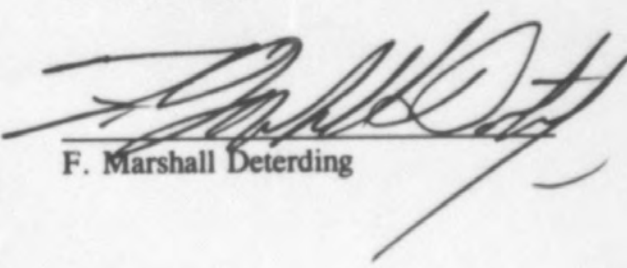
**MHU:** \*MHU does not believe there will be any impact on monthly rates or service availability charges other than the possible reduction in any upward pressure on rates resulting from full utilization of existing facilities and economies of scale.\*

**ISSUE 13:** Pursuant to Section 367.045(5)(a), Florida Statutes, is it in the public interest for the Commission to grant MHU's amendment application?

**MHU:** \*Yes. It is in the public interest to grant MHU's application for extension of service territory and it is not in the public interest to allow the County to continue its brazen disregard for the public interest, Florida Statutes, and the specific findings of regulatory bodies and courts and attempt to duplicate the facilities of MHU.\*

Respectfully submitted this  
27th day of June, 1997, by:

ROSE, SUNDSTROM & BENTLEY, LLP  
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F. Marshall Deterding



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by \*Hand Delivery or U.S. Mail to the following parties this 27th day of June, 1997.

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

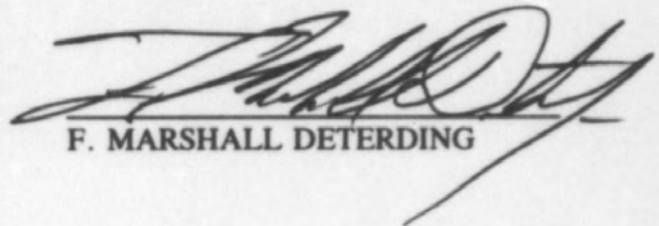
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\*Rosanne Capeless, Esq.  
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Marion Hale, Esq.  
Johnson, Blakely, Pope, et al.  
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F. MARSHALL DETERDING