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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 RESPONSE TO PASCO COUNTY'S MOTION FOR RECONSIDERATION

COMES NOW, Mad Hatter Utility, Inc. (hereinafter "Mad Hatter" or the "Utility"), pursuant to the provisions of Rule 25-22.060, Florida Administrative Code, and files this Response to Pasco County's Motion for Reconsideration of Order No. PSC-97-1173-FOF-WS, and in support thereof states as follows:

1. Pasco County's (hereinafter "Pasco County" or "the County") arguments in its Motion for Reconsideration are nothing more than attempts by the County to have the Commission reweigh evidence in the record and reinterpret the Bulk Wastewater Treatment Agreement Between Mad Hatter Utility, Inc. and Pasco County (hereinafter the "Bulk Wastewater Agreement" or the "Agreement") in favor of the County's position (DB-1 of Exhibit 11). Pasco County urges the Commission to interpret the Bulk Wastewater Agreement to limit use of Mad Hatter's available bulk capacity from the County solely to those areas within the certificated service territory of Mad Hatter as defined in an attachment to the February 1992 Agreement, which purports to (but does not) depict Mad Hatter's service territory.

2. While there is language within the 1992 Bulk Wastewater Agreement which states that the County will not be obligated "to treat additional wastewater from Mad Hatter from areas outside of its certificated area or areas which are not presently served by Mad Hatter unless the County issues written notification."

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG 1 _____
- LIN 3 _____
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- RCH _____
- SEC 1 _____
- WAS _____
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(Emphasis supplied). Nowhere in the Agreement does it specifically limit the geographical area to which Mad Hatter can utilize the capacity granted under the contract.

3. Pasco County has agreed to provide treatment of additional sewage above and beyond that granted to Mad Hatter under the 1992 Agreement. No agreement, either verbal or written, has been entered into between Mad Hatter and Pasco County concerning use of that additional capacity. In fact, that capacity has been granted solely through agreements with additional individual customers of Mad Hatter authorizing them to utilize capacity through the County's treatment system.

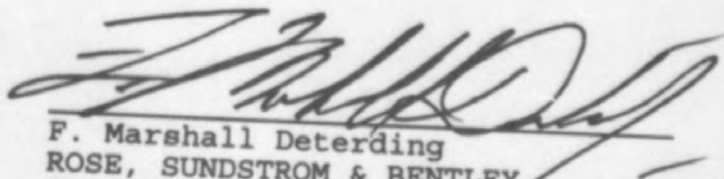
4. The contention of Pasco County that any additional capacity it grants through third parties falls under the 1992 Agreement, much less the County's interpretation of that 1992 Agreement, is without foundation in the record of this proceeding, the contract language itself, or logic. Further, inherent in the County's arguments is a conclusion that Mad Hatter is somehow bound to include the additional capacity granted to third parties in the capacity reserved by Mad Hatter under the 1992 Agreement. This too is without any foundation in the record, much less in the wording of the agreement between the parties.

5. Under the terms of the Agreement at Section II-D, entitled "Excess Capacity", the County specifically agrees to treat wastewater in excess of the limits contained within the contract "provided sufficient unused and uncommitted capacity is available at the County's wastewater treatment plant. . . ". No restrictions whatsoever concerning the geographical area to which this service can be utilized are contained within the Agreement and this

provision is the only portion of the 1992 Agreement which provides for additional capacity to be granted to Mad Hatter by the County.

WHEREFORE Mad Hatter Utility, Inc. requests that the Commission deny the Motion for Reconsideration filed by Pasco County as that Motion is plainly a request by Pasco County for the Commission to reweigh the evidence of record in a light more favorable to the County; to interpret the commitment of any additional capacity by the County to third parties as falling under that 1992 Agreement; and to place restrictions on the use of that capacity not envisioned by the plain wording of the Agreement dealing with additional capacity granted to Mad Hatter. There is no language within the 1992 Agreement or in any supplemental agreements restricting the use of Mad Hatter's bulk capacity to specific areas. A ruling in favor of the County's Motion for Reconsideration is not only plainly contrary to the requirements contained within applicable case law and rules dealing with the contents of such motions, but is plainly contrary to the evidence of record.

Respectfully submitted this 22nd
day of October, 1997, by:



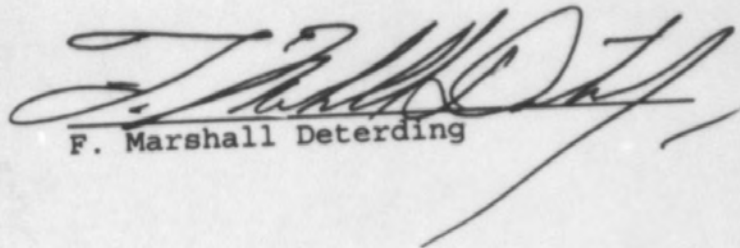
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by *Hand Delivery or U.S. Mail this 22nd day of October, 1997.

Marion Hale, Esq.
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