

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION CLERK
FPSC

DATE: JANUARY 23, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (WALDEN)
OFFICE OF THE GENERAL COUNSEL (CROSBY, HELTON)

Handwritten initials and signatures: P.D., J.D.J., and others.

RE: DOCKET NO. 020982-WS - APPLICATION FOR AMENDMENT OF
CERTIFICATE NOS. 340-W AND 297-S TO ADD AND DELETE
TERRITORY IN PASCO COUNTY BY MAD HATTER UTILITY, INC.
COUNTY: PASCO

AGENDA: FEBRUARY 4, 2003 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020982.RCM

CASE BACKGROUND

Mad Hatter Utility (MHU) is a Class B water and wastewater utility in Pasco County, providing service to 2880 water ERCs and 2652 wastewater ERCs in 2001, per the utility's annual report. Combined water and wastewater revenues for that year were \$1,457,238, with operating income of \$40,795. The utility's service area is located in the Southwest Florida Water Management District, in the North Tampa Bay Water Use Caution Area.

On September, 13, 2002, MHU filed an application requesting approval of the implementation of an Agreement of Exchange of Service Territory between MHU and Pasco County (County). MHU has an undeveloped parcel in its service area referred to as Lake Talia, that currently has no customers. The County has agreed to provide service to the Lake Talia parcel, after the area is released from the service territory of MHU.

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The County has agreed that as a result of the release of the Lake Talia parcel from MHU's service territory, the County will support a request from MHU to include a different parcel, referred to as the Apex property, in the service territory of MHU. MHU and the County have a signed agreement providing for the deletion of the Lake Talia parcel, and the addition of the Apex property, to MHU's service territory. This recommendation addresses that agreement, and recommends that the Commission grant the request to implement the agreement.

Because this application involves a deletion of territory, as well as an amendment of territory, this item is being brought to the Commission agenda. The Commission has jurisdiction pursuant to Section 367.045, Florida Statutes.

ISSUE 1: Should the Commission grant Mad Hatter's application to amend Certificates Nos. 340-W and 297-S?

RECOMMENDATION: Yes. The Commission should grant the application and recognize the Agreement for Exchange of Service Territory, and amend Mad Hatter Utility, Inc.'s Certificates Nos. 340-W and 297-S. The territory recommended for deletion is shown on Attachment A, and the area recommended for amendment is shown on Attachment B. Mad Hatter should charge the customers in the territory added herein, the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (WALDEN)

STAFF ANALYSIS: This application for amendment and deletion of territory related to Certificates Nos. 340-W and 297-S was filed on September 13, 2002. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and rules concerning applications for amendment and deletion of territory. Notice required by Rule 25-30.030, Florida Administrative Code, was given in September and October, 2002. No objection to the notice was received. The correct filing fee of \$800 for this application per Rule 25-30.020, Florida Administrative Code, was paid. The applicant has provided evidence in the form of warranty deeds for the well sites for the water system as required by Rule 25-30.036(3)(d), Florida Administrative Code. Wastewater treatment is provided by Pasco County through a bulk wastewater agreement. A review of this application by the Department of Community Affairs states that both properties are undeveloped and that the application is consistent with the Pasco County Comprehensive Plan.

Mad Hatter Utility currently has an area referred to as Lake Talia in its certificated territory. This territory was included in MHU's certificated territory as a result of Order No. 16976, issued December 18, 1986, in Docket No. 860859-WS. No water or wastewater service has been provided, and MHU has no current plans to provide service to this area. Being nearly three miles from the active service territory of MHU, it will take considerable investment to serve the Lake Talia property by MHU. This application requests deletion of this territory from the water and wastewater certificates of MHU.

Adjacent to MHU's service territory is an area referred to as the Apex property, which Pasco County was planning to serve. No

water or wastewater service is currently being provided. This application requests amendment of MHU's water and wastewater certificates to include this territory. Due to the proximity of this parcel to the active service territory of MHU, the County is supporting the request of MHU to include the Apex property in MHU's water and wastewater certificated territory, in return for Mad Hatter relinquishing any right it has to provide service to the Lake Talia property. Although the agreement included as an exhibit in this application is titled "Agreement for Exchange of Service Territory", it should be clear that while the Commission has granted the Lake Talia property to MHU pursuant to Chapter 367, Florida Statutes, the Commission has not granted territory to Pasco County, since the Commission is without jurisdiction to grant certificates of authority to municipally owned systems.

MHU has a water system with sufficient capacity to provide service to the Apex property. For wastewater service, MHU has an agreement for bulk treatment of wastewater with the County referred to as the Bulk Wastewater Treatment Agreement dated February 11, 1992. The County is agreeing to provide wastewater service to the Apex property, up to 174 ERCs, through a separate and additional allocation and Agreement for capacity. Customers proposed to be served in this property are a combination of single family and multi-family homes. In its application, MHU states that it has the requisite technical and financial ability to serve the area, demonstrated by its compliance with all environmental regulations and more than \$5.5 million in total assets.

Staff recommends the Commission grant the application in this docket and delete the Lake Talia territory from the water and wastewater certificates of MHU, and that the Apex property be amended to the water and wastewater certificates of MHU. Territory to be deleted from MHU's certificates is shown on Attachment A; territory to be amended is shown on Attachment B. Rates and charges as contained in MHU's current tariffs will apply to the territory being amended until those charges are authorized to change by this Commission in a subsequent proceeding.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, because no further action is necessary, this docket should be closed. (CROSBY, HELTON)

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STAFF ANALYSIS: This docket should be closed because no further action is necessary.

MAD HATTER UTILITY, INC.

WATER AND WASTEWATER AREA TO BE DELETED

LAKE TALIA

PASCO COUNTY

In Sections 12, 13, and 14, Township 26 South, Range 18 East, Pasco County:

The NW 1/4 of the NW 1/4 of Section 13, and that part of the NE 1/4 of the NW 1/4 of said section, more particularly described as follows: Beginning at the NE corner of the NW 1/4 of the NW 1/4 of said Section 13, run thence east 210.8 feet more or less to the right-of-way of State Road #45 (formerly State Road #5) and also known as Federal Highway #41; thence southeasterly along said right-of-way 600 feet; thence southwesterly 561.7 feet more or less to a point on the western boundary of said NE 1/4 of the NW 1/4 of said section; thence north 978 feet along the western boundary of said NE 1/4 of the NW 1/4 to the Point of Beginning.

AND

The S 1/2 of the NW 1/4 of the SW 1/4 of the SW 1/4; the SW 1/4 of the SW 1/4 of the SW 1/4; the SE 1/4 of the SW 1/4 of the SW 1/4, less the north 210 feet of the east 420 feet thereof; and the south 210 feet of the north 420 feet of the SW 1/4 of the SE 1/4 of the SW 1/4 lying west of the paved road in Section 12.

AND

The E 3/4 of the NE 1/4 of the NE 1/4 of Section 14.

AND

The W 1/4 of the NE 1/4 of the NE 1/4 of Section 14, less the south 414 feet thereof, less the maintained right-of-way for Drexel Road.

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ATTACHMENT A (continued)

AND

That part of the south 237 feet of the SW 1/4 of the SE 1/4 of the SW 1/4 of Section 12, lying west of the Old State Road #5.

Above described property contains 106.96 acres of land, more or less.

MAD HATTER UTILITY, INC.

WATER AND WASTEWATER AREA TO BE AMENDED AND INCLUDED

APEX PROPERTY

PASCO COUNTY

In Section 36, Township 26 South, Range 18 East, Pasco County:

Beginning at the SW corner of the E 1/4 of the NW 1/4 of the SW 1/4 of said Section 36, run thence north 659.54 feet along the west boundary of said E 1/4 of the NW 1/4 of the SW 1/4; thence west 320 feet along the south boundary of the NE 1/4 of the NW 1/4 of the SW 1/4; thence north 660 feet to a point in the north boundary of the NE 1/4 of the NW 1/4 of the SW 1/4, being 10.7 feet east of the NW corner of said NE 1/4 of the NW 1/4 of the SW 1/4; thence east 5.7 feet along the north boundary of the NE 1/4 of the NW 1/4 of the SW 1/4; thence north 330 feet along a line parallel to and 16.4 feet east of the west boundary of the SE 1/4 of the SW 1/4 of the NW 1/4; thence east 393.15 feet along a line parallel to and 330 feet north of the south boundary of the SE 1/4 of the SW 1/4 of the NW 1/4 to a point in the westerly boundary of the Seaboard Coastline Railroad (formerly Tampa Northern R.R.) which point is 50 feet from the centerline of the track of said Seaboard Coastline Railroad; thence southeasterly along said westerly boundary 1788.92 feet to a point in the south boundary of the NE 1/4 of the SW 1/4; thence west along the south boundary of the NE 1/4 of the SW 1/4, and the NW 1/4 of the SW 1/4, 760.41 feet to the Point of Beginning. Being all in Section 36, Township 26 South, Range 18 East, Pasco County, Florida.

TOGETHER WITH the west 5.7 feet of the following described tract:

A tract of land in the NW 1/4 of Section 36, Township 26 South, Range 18 East, Pasco County, Florida, more particularly described as follows: Commencing at the SE corner of the SW 1/4 of the NW 1/4 of said Section 36; thence N 89°39'14" W, 569.84 feet to the Point of Beginning; thence continue N 89°39'14" W, 80.88 feet; thence N 00°20'46" E, 330 feet; thence S 89°39'14" E, 80.88 feet; thence S 00°20'46" W, 330 feet to the Point of Beginning.