

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION RECEIVED FPSC

MAR 23 AM 10:36

IN RE: APPLICATION FOR AMENDMENT
OF CERTIFICATES NOS. 340-W AND
297-S TO ADD TERRITORY IN PASCO
COUNTY BY MAD HATTER UTILITY, INC.

DOCKET NO. 024215
COMMISSION
CLERK

PASCO COUNTY'S PRE-HEARING STATEMENT

Pursuant to Order No. PSC-03-0233-PCO-WS issued on February 19, 2003, Pasco County files the following pre-hearing statement:

A. All Known Witnesses

Bruce Kennedy
Jeffrey W. DeBosier
Francis Liner
Frank Marinelli
R. Mark Willett

All witnesses will testify concerning whether it is in the public interest to duplicate the County's existing utility service by expanding Mad Hatter's certificated territory. Mr. Kennedy will also testify about the County's service in the area and Mad Hatter's lack of capacity to provide service. Messrs. Liner, Marinelli and Willett will testify about the economic hardship which they will face if the PSC expands Mad Hatter's territory to include the properties they are developing. Mr. DeBosier will testify that the most cost effective method is to permit the County to continue providing service.

B. All Known Exhibits

BK-1, BK-2, BK-3 and Exhibit 3 to BK-3, BK-4, BK-5, BK-6, BK-7, BK-8, BK-9, BK-10, BK-11 and BK-12 to the pre-filed testimony of Bruce Kennedy and JD-1 to the pre-filed testimony of Jeffrey W. DeBosier.

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

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

AUS _____
CAF _____
CMP _____
COM 3 _____
CTR _____
ECR _____
GCL _____
OPC _____
MMS _____
SEC 1 _____
OTH _____

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 compliance with all applicable laws, statutes, codes, ordinances and regulations.

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

C. Pasco County's Statement of Basic Position

Mad Hatter lacks the capacity to serve the areas for which it seeks to amend its PSC certificates. 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. It does not have the capacity to treat the wastewater collected as it has exceeded the cap in its contract with the County. Furthermore, the County does not have to accept wastewater from any area which is not described in the parties' agreement.

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

POSITION: Yes. Development is progressing in the area and may be substantially completed by the time the Commission considers this request.

ISSUE 3: Will expanding Mad Hatter's territory compete with another utility?

POSITION: Yes. Pasco County has service in the area.

ISSUE 4: 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 in the area.

ISSUE 5: Does Mad Hatter have the financial and technical ability to provide service in the area requested?

POSITION: No. Mad Hatter does not have a Department of Environmental Protection permit to provide wastewater treatment service.

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

POSITION: No.

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. Mad Hatter erroneously believes the County will continue to accept wastewater for treatment at the County's plant although Mad Hatter has exceeded the cap in the parties' agreement.

ISSUE 8: 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 9: 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. In addition, it owns no real property for the construction of a wastewater treatment facility.

ISSUE 10: 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 area. It would require the developers who are constructing buildings on those parcels to reconfigure and then reconstruct their utility connections at great expense. Mad Hatter has applied to amend its certificates at a time in which it will work an economic hardship upon the developers which is not in the public interest. Furthermore, it would be less expensive for the developers to use Pasco County Utilities as the rates charged by the County are lower and the cost of connecting to the County's utility system will be less.

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

None.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been served by regular U.S. mail upon Jennifer Rodan, Esq., 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, this 18th day of March, 2004.

JOHNSON, POPE, BOKOR,
RUPPEL & BURNS, LLP

By: 

MARION HALE
FBN 441351
STEVEN H. WEINBERGER
FBN 0175374
Post Office Box 1368
Clearwater, FL 33757
(727) 461-1818
(727) 441-8617 (fax)
Attorneys for Pasco
County

296956