

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of Mad Hatter
Utility, Inc. for amendment of water
certificate in Pasco County, Florida Docket No. 041342-Wu

**PASCO COUNTY'S OBJECTION TO APPLICATION FOR AMENDMENT
OF CERTIFICATE FOR AN EXTENSION OF TERRITORY**

Pursuant to Rule 25-30.031 of the Florida Administrative Code and Fla. Stat. §§120.54(5)(b)(4), 120.569, 120.57(1), and 367.045, Pasco County objects to the application of Mad Hatter Utility, Inc. (Mad Hatter) for amendment of its water certificate to add territory in Pasco County, Florida (the application), and requests an administrative hearing.

**OBJECTION TO APPLICATION FOR AMENDMENT
OF CERTIFICATE FOR AN EXTENSION OF TERRITORY**

1. Pasco County objects to the application as the County has an existing water and wastewater system near the proposed territory. Mad Hatter seeks to add territory to its certificates which would duplicate the County's service and thus the application does not comply with Fla. Admin. Code R. 25-30.036. As the application seeks to duplicate existing water and wastewater service, it should be denied. The Florida Public Service Commission (Commission) should not permit Mad Hatter to take territory from the County in

light of the County's present ability to serve those prospective customers.

2(a). The name and address of petitioner:

Pasco County, Florida
Attn: John Gallagher, County Administrator
7530 Little Road
New Port Richey, Florida 34656

2(b). Notices and communications with respect to this docket should be addressed to:

Marion Hale, Esq.
Johnson, Pope, Bokor
Ruppel & Burns, LLP
P.O. Box 1368
Clearwater, Florida 34617

Copy to:
Robert Sumner, Esq.
Pasco County Attorney's Office
7530 Little Road
New Port Richey, Florida 34656

3. Pasco County is a duly organized political subdivision of the State of Florida which provides potable water service and wastewater treatment service to customers residing within the County's limits, including the territory which Mad Hatter has requested permission to serve.

4. Mad Hatter alleges it seeks to serve one single family home and one commercial daycare center. Mad Hatter asserts that the two property owners are requesting water service because each has a private well which is contaminated. Mad Hatter alleges service is necessary, and there is no other utility capable to provide, or willing to

provide, adequate service to the two parcels. Mad Hatter has no PSC certificated territory in the Livingston corridor and it would not be in the public interest to have Mad Hatter's ratepayers bear the cost of the expansion of the service.

5. The Livingston corridor has always been within the boundaries of the County's service territory. Furthermore, there have been several developers within this area who have approached the County for water and sewer service. The County has made commitments to serve many of the larger parcels in the corridor. To permit Mad Hatter to expand water service to this area would unnecessarily duplicate service. The Livingston corridor is natural boundary between the County's service area and Mad Hatter's territory.

6. Pasco County is willing and better suited to provide service to the proposed territory. It is more efficient for the same utility to provide water and wastewater service to the area. None of the Livingston corridor lies within Mad Hatter's area for which the County must provide wastewater treatment service pursuant to the parties' 1992 agreement. Thus, Mad Hatter cannot provide wastewater service to the area. To permit Mad Hatter to provide water service will split the corridor between the County which must provide wastewater service to customers

there and Mad Hatter. Splitting water and wastewater service is not in the public interest.

7. Mad Hatter attaches the affidavit of Larry DeLucenay, Mad Hatter's president, who states the proposed service areas are located immediately adjacent to Mad Hatter's existing water service territory. That is incorrect. Mad Hatter mistakenly claims that there is no other utility capable or willing to provide service. The County is both willing and able to provide both water and wastewater service. The west parcel Mad Hatter seeks to serve will be an isolated parcel surrounded by the County's service area and the County's facilities resulting in a duplication of service and facility infrastructure.

8. Mad Hatter has not explained how it will provide adequate fire protection to the proposed territory or within the Livingston corridor.

9. The other larger parcels which the County will serve provide for economies of scale and more cost effective delivery of service on a per ERU basis. The County has existing water and wastewater lines nearby at the corner of Livingston and State Road 54. It is inappropriate for Mad Hatter to encroach into the Livingston corridor.

10. As outlined above, Pasco County is the utility best suited to serve the areas Mad Hatter seeks to add to its territory.

PETITION FOR ADMINISTRATIVE HEARING

Pursuant to Fla. Stat. §§120.569, 120.57 and 367.045(4), Pasco County requests a hearing on its objection. The County incorporates herein paragraphs 1 through 10.

11. Pasco County is the better utility to provide service. Pasco County's substantial interests are subject to determination in this proceeding as 1) its citizens are the prospective customers who will be forced to accept service from Mad Hatter and forced to pay the cost of Mad Hatter providing that service if the application is granted, and 2) the decision will determine whether the County, which is best able to serve, will lose customers to a private utility which cannot provide the service as cost effectively.

12. The following issues of material facts are in dispute in this proceeding:

- a. Whether Mad Hatter has the ability to serve the proposed territory cost effectively; and
- b. Whether Mad Hatter or Pasco County is the utility best suited to serve the area.

13. Pasco County reserves the right to raise additional issues or dispute any issues of material fact which develop during the course of this proceeding.

14. Pasco County alleges as a concise statement of the ultimate facts that Mad Hatter does not have the present ability to provide service to the Livingston corridor and that expansion of its PSC certificated area is not in the public interest.

15. The following statutes and rules entitle Pasco County to relief: Chapters 367 and 120 of the Florida Statutes, Rule 25-22, 25-30 of the Florida Administrative Code. Pasco County reserves the right to rely on additional statutory and regulatory authorities.

WHEREFORE, Pasco County requests a hearing pursuant to Fla. Stat. §§120.54(5)(b)(4), 120.569, 120.57(1), and §§367.045 and denial of Mad Hatter's application.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and seven copies hereof have been served by Federal Express upon Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0850 and one copy upon F. Marshall Deterding, Rose Sundstrum & Bentley, 2548

Blairstone Pines Drive, Tallahassee, Florida 32301 this 2nd
day of December, 2004.

JOHNSON, POPE,
BOKOR, RUPPEL & BURNS, LLP

By: *Mark H. Went*

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Joanne Reid

From: Steven Weinberger
Sent: Tuesday, December 21, 2004 10:45 PM
To: Marion Hale; Joanne Reid
Cc: Susan A. Wood
Subject: RE: pasco mad hatter

I am done. I made some minor revisions including adjusting the numbering which was off. It is ready to go

-----Original Message-----

From: Marion Hale
Sent: Tuesday, December 21, 2004 3:36 PM
To: Joanne Reid
Cc: Steven Weinberger
Subject: pasco mad hatter

when steve is done with the objection 333724, please file with the PSC. Its due next Monday but it would be better to file tomorrow if possible.

O + 7 to Com. Fed Ex

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