

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

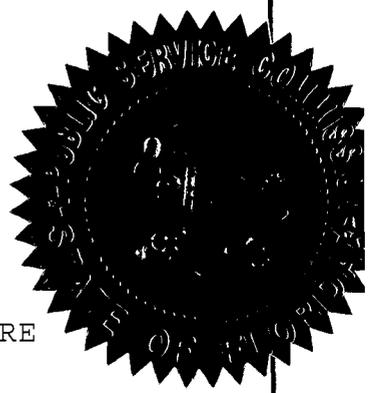
In the Matter of:

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

DOCKET NO. 021215-WS

APPLICATION FOR AMENDMENT OF
CERTIFICATE NO. 340-2 TO ADD
TERRITORY IN PASCO COUNTY BY MAD
HATTER UTILITY, INC.

DOCKET No. 041342-WU



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PROCEEDINGS: AGENDA CONFERENCE
ITEM NO. 12

BEFORE: CHAIRMAN LISA POLAK EDGAR
COMMISSIONER MATTHEW M. CARTER, II
COMMISSIONER KATRINA J. McMURRIAN
COMMISSIONER NANCY ARGENZIANO
COMMISSIONER NATHAN A. SKOP

DATE: Tuesday, July 31, 2007

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

1 PARTICIPATING:

2 MARSHALL DETERDING, ESQUIRE and JOHN WHARTON,
3 ESQUIRE, representing Mad Hatter Utility, Inc.

4 JENNIFER BRUBAKER, ESQUIRE, representing the Florida
5 Public Commission Staff.

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P R O C E E D I N G S

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2 CHAIRMAN EDGAR: As I mentioned when we began, we've
3 had a request from a Commissioner to take Item 8 up last, so
4 that will move us to Item 12. And once again we'll give our
5 staff and the interested parties a moment to come forward.

6 MS. BRUBAKER: Commissioners, Jennifer Brubaker for
7 legal staff. Item 12 is staff's recommendation on amendment
8 dockets for Mad Hatter Utility.

9 Issue 1 is staff's recommendation to approve a
10 settlement between Mad Hatter and Pasco County, which would
11 obviate the need to go to hearing on Pasco County's objection
12 to the amendment.

13 Issue 2 is staff's recommendation to show cause, Mad
14 Hatter, in the amount of \$500 for apparent violation of the
15 amendment statute. And Marty Deterding is present to speak on
16 behalf of Mad Hatter.

17 CHAIRMAN EDGAR: Thank you. Mr. Deterding.

18 MR. DETERDING: Thank you. F. Marshall Deterding,
19 Rose Sundstrom & Bentley Law Firm, here on behalf of Mad Hatter
20 Utility.

21 My concern with the show cause obviously is based
22 upon the fact that I don't believe this utility had a whole
23 heck of a lot of choice on whether or not to serve some of
24 these customers, and let me just briefly explain both of the
25 situations where they are serving outside their territory.

1 The first, as you've read in the recommendation,
2 concerns a single mobile home, a man who's well went bad and
3 asked Mad Hatter for service. We agreed to provide him
4 temporary emergency service. And when it became apparent that
5 we were going to have to continue for some indefinite time
6 providing this man service, we proposed to the county during
7 our settlement negotiations, because this occurred just before
8 we got into settlement negotiations, that we agreed to allow
9 Mad Hatter to request that that individual be moved into Mad
10 Hatter's territory. The county disagreed, said that they
11 wanted to serve him ultimately, so we came to the resolution
12 that we'd serve him temporarily until the county was ready.

13 I don't think it sets good policy to suggest that
14 that is somehow an inappropriate action on the part of the
15 utility to serve an individual, one individual right next-door
16 to our property, right next-door to an existing line when he's
17 in need of that type of emergency service.

18 The second basis for the show cause, the larger
19 parcel, concerns a subdivision called Oak Grove. Oak Grove has
20 been the subject of litigation between Mad Hatter and the
21 county for probably close to ten years now. When we filed this
22 extension in 2002, it was immediately after we got a final
23 order from the federal court agreeing with Mad Hatter that
24 their territory had been invaded, that the Mad Hatter
25 subdivision should be served by Mad Hatter, and requiring that

1 the county turn over the facilities that were already providing
2 service to Mad Hatter.

3 Therefore, the utility had an obligation upon that
4 action by the federal court to immediately begin providing
5 service to the customers on that system. If it had not, we
6 would have had to cut lines, cut off people with existing
7 service. What we did was both we and the county believed that
8 that area was already within Mad Hatter's territory. When we
9 found out it was not, we immediately put together this
10 application and requested that extension. So based on those
11 two circumstances, I do not believe this is an appropriate case
12 for a show cause.

13 CHAIRMAN EDGAR: Thank you.

14 Commissioners, questions or discussion?

15 Commissioner McMurrian.

16 COMMISSIONER McMURRIAN: I have one for staff. I
17 mean, as I understand it, in a show cause proceeding, once that
18 proceeding starts, the utility has the ability to make those
19 same arguments in writing, and perhaps the \$500 fine wouldn't
20 be levied, given the, given the arguments that they make in
21 their defense.

22 MS. BRUBAKER: That's correct, Commissioner. If they
23 request that we initiate a, basically a hearing proceeding
24 based on whatever is ordered today, they would have the
25 opportunity to present any mitigating circumstances they feel

1 are appropriate to, to mitigate or do away with the fine.
2 Certainly depending on what the Commissioners decide today,
3 they could reduce that fine here today if they prefer to wait
4 to see what information might be, provided that Mad Hatter does
5 respond in writing and request a hearing proceeding, what
6 mitigating circumstances they put forth. That's certainly
7 within your discretion as well.

8 CHAIRMAN EDGAR: Commissioner Carter.

9 COMMISSIONER CARTER: Thank you, Madam Chair. I was
10 zeroing in on the Issue 2 as well. It may not be -- I think
11 the gentleman was saying that they had to provide service for
12 someone outside of their territory. That may very well be
13 true, but, by the same token, as an entity under this
14 Commission's jurisdiction I think there could have been
15 something in the context of notice. Then we wouldn't be
16 entertaining a show cause. But to say that we should deny or
17 ignore the show cause motion would say that the, the
18 perspective, the perspective is such that everything was all
19 hunky-dory. But I don't see that to be the case. I see that a
20 show cause is necessary to let companies know that we're
21 serious as an entity. And if you're forced to do something by
22 a county that's outside of the confines of your permit that you
23 filed with this Commission, it would behoove you to move
24 expeditiously to, to make that known. And at this point in
25 time after the fact, I'm, I mean, I'm less sympathetic toward

1 that, so.

2 CHAIRMAN EDGAR: Commissioner Carter, and for the
3 record I'll state that I'm very serious. I take it all very
4 seriously.

5 Other thoughts? Commissioner Skop.

6 COMMISSIONER SKOP: Thank you, Madam Chair. Again,
7 I'd echo Commissioner Carter's concern. Again, staff
8 recommendation supports a show cause, and I'm on board with
9 that also, even in light of the testimony that we just
10 received.

11 CHAIRMAN EDGAR: Any other discussion?
12 Commissioner Carter.

13 COMMISSIONER CARTER: I would move staff.

14 CHAIRMAN EDGAR: Is there a second?

15 COMMISSIONER SKOP: Second.

16 CHAIRMAN EDGAR: Okay. Commissioners, we have a
17 motion and a second. Is there further discussion? Seeing
18 none, all in favor of the motion, say aye.

19 (Unanimous affirmative vote.)

20 Opposed? Show it adopted. Thank you.

21 (Agenda Item 12 concluded.)

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1 STATE OF FLORIDA)
 :
 2 COUNTY OF LEON)

CERTIFICATE OF REPORTER

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I, LINDA BOLES, RPR, CRR, Official Commission Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 7th day of August, 2007.

Linda Boles

 LINDA BOLES, RPR, CRR
 FPSC Official Commission Reporter
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