



Public Service Commission

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RECEIVED FPSC

DATE: AUGUST 26, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF LEGAL SERVICES (VAN LEUVEN) *DL*
DIVISION OF WATER AND WASTEWATER (MESSER, REDEMANN, CLAPP) *RM*

RE: DOCKET NO. 990988-WS - INVESTIGATION INTO THE RETENTION OF THE CERTIFICATED AREA OF MAD HATTER UTILITY, INC. LOCATED ON LAKE THOMAS AND SCHOOL ROAD IN PASCO COUNTY. COUNTY: PASCO

AGENDA: SEPTEMBER 7, 1999 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\LEG\WP\990988.RCM

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CASE BACKGROUND

Mad Hatter Utility, Inc. (MHU or utility), is a Class A utility located in south central Pasco County, Florida, which is in the Northern Tampa Bay Water-Use Caution Area, as designated by the Southwest Florida Water Management District. MHU owns and operates water and wastewater facilities in three separate communities: Linda Lakes, Foxwood, and Turtle Lakes. According to its 1998 annual report, MHU serves approximately 2,129 water and 1,041 wastewater customers with combined annual operating revenues of \$1,335,532 and a combined net loss of \$16,076.

On July 21, 1999, staff received a letter from Ms. Deloras Johnson, a realtor in Pasco County, asking the Commission to review Mad Hatter's "franchise".

According to Mrs. Johnson, Mad Hatter has made no actual or apparent efforts to provide utility service to a portion

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(approximately 150 acres) of Mad Hatter's certificated area. Furthermore, Ms. Johnson states that the owner of the unserved property has lost several opportunities to sell his property due to the unavailability of utility service.

In addition, Ms. Johnson states that Pasco County has utilities close to the property and is willing to serve the property provided the franchise rights are clarified. Lastly, Mrs. Johnson believes that developing the property will provide needed homes and enlarge the tax base of Pasco County.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission initiate proceedings to investigate service to territory authorized in Mad Hatter Utility, Inc.'s Certificates Nos. 297-S and 340-W, for possible deletion of a portion of the utility's certificated area?

RECOMMENDATION: Yes. The Commission should initiate a proceeding to investigate service to territory authorized in Mad Hatter Utility, Inc.'s Certificates Nos. 297-S and 340-W. The proceeding should be initiated by issuing legal notice of the investigation pursuant to Section 367.045(6), Florida Statutes. (VAN LEUVEN)

STAFF ANALYSIS: As stated in the Case Background, there appears to be sufficient information to initiate an investigation into a possible deletion of a portion of the certificated territory of Mad Hatter Utility, Inc. Section 367.111(1), Florida Statutes, states that

If utility service has not been provided to any part of the area which a utility is authorized to serve, whether or not there has been a demand for such service, within 5 years after the date of authorization for service to such part, such authorization may be reviewed and amended or revoked by the commission.

In order for the Commission to properly initiate an investigation which might lead to the amendment and deletion of certificated area, notice must be given pursuant to Section 367.045(6), Florida Statutes. Section 367.045(6), Florida Statutes, states that the Commission shall give 30 days notice before it initiates a revocation, suspension, deletion or amendment of a certificate of authorization. Therefore, Staff recommends that notice should be issued in accordance with Section 367.045(6), Florida Statutes, and Rule 25-30.030(2), (6), (7), Florida Administrative Code.

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Subsections (2) and (6) of Rule 25-30.030, Florida Administrative Code, require that certain governing bodies, governmental agencies, and affected persons, including customers in the territory at issue, be noticed by regular mail or personal service. Subsection (7) of Rule 25-30.030, Florida Administrative Code, requires that notice be published once in a newspaper of general circulation in a territory proposed to be deleted. Additionally, Staff recommends that notice be published in the Florida Administrative Weekly.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No. If the Commission approves Staff's recommendation in Issue 1, this docket should remain open in order to investigate whether a portion of Mad Hatter's certificated territory should be deleted. (VAN LEUVEN)

STAFF ANALYSIS: If the Commission approves Staff's recommendation in Issue 1, this docket should remain open in order to investigate whether a portion of Mad Hatter's certificated territory should be deleted.