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April 18, 1997

VIA HAND DELIVERY

ORIGINAL
FILE COPY

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399

Re: Mad Hatter Utility, Inc.; Docket No. **961418-WS**
Proposed Rate Reduction to Reflect a Decrease in Purchased
Water and Wastewater Costs to PSC Regulated Utilities By Pasco
County
Our File No. 28023.01

Dear Ms. Bayo:

As a result of the Commission's action at its April 1, 1997 agenda conference at which the Staff was directed to review the settlement offer contained in my October 17th letter and to review updated 1996 information to the extent made available, I am writing to comply as best we can at this time with the Utility's obligations to the Commission and its Staff in that regard.

First of all, the Commissioners voted to have the Staff review the settlement proposal offered by the Utility prior to final Commission action on this case. I am attaching a copy of our October 17th letter in which that settlement proposal was included. The facts leading up to the proposal itself are important to understanding the appropriateness and the effect of the settlement proposal itself. Our offer for settlement was to reduce the rates for Mad Hatter's Turtle Lakes and Foxwood wastewater system by the entire reduced cost of all bulk wastewater purchases. We proposed this at that time because it appeared as though the great majority of this reduced cost would result in overearnings to the Utility. We now have available the data concerning the actual 1996 purchases of wastewater from Pasco County and the 1996 earnings for Mad Hatter Utility for that period. It is now apparent to us that only approximately one-third of the cost savings will result in overearnings to the Utility, and, as such, an adjustment to that original settlement proposal is necessary to avoid pushing the Utility into a substantial loss position.

The total number of wastewater gallons purchased during that year was 120,979 thousands of gallons. Attached hereto as Attachment "A" is a calculation of the actual 1996 cost savings

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Blanca S. Bayo, Director
April 18, 1997
Page 2

from April 1, 1996 through December 31, 1996, and the annualized cost savings resulting from the reduced cost to the Utility of that purchased wastewater treatment. The actual earnings figures for 1996 as reflected in the attached annual report excerpts (Attachment B) show that this cost savings will only result in overearnings of approximately \$35,494. We must therefore revise our settlement offer as outlined below. We still, however, believe that the proposed settlement offer is advantageous to all in that it will reduce on a going-forward basis, the rates below those which will bring the Utility within its authorized range of returns and do so on an indefinite basis into the future.

Though the amount of overearnings that will result from the reduced purchase sewage treatment is only approximately \$35,000, the Utility proposes to prospectively reduce rates for those two systems by a total of \$70,000. This offer would therefore cover not only any refund which would be appropriate under an earnings test for 1996, but also would include the prospective reduction. In effect, the customers would receive twice the prospective rate reduction to which they are entitled and to receive that reduction on an unlimited prospective basis.

This offer to reduce rates substantially below a level that would be within the Utility's last authorized rate of return is made in order: (1) to avoid the substantial cost and work involved in a refund to the customers of these systems. Because the Utility's existing billing system is incapable of calculating refunds based upon past consumption by customers, that information for each customer, each month would have to be manually inputted into a second computer system with resultant substantial expenditures of time and money to the Utility; (2) to avoid the litigation which would result from any attempts by the Commission to impose a refund or a prospective rate reduction under the pass-through statute.

It is my understanding that the Commission Staff's initial position as to the appropriate rate reduction and/or refunds was based upon 1995 information, as was our original settlement proposal. However, whether the Staff believes that 1995 data was important at the time of the alleged obligation to reduce rates, it is certainly not relevant at this point given the fact that we now have actual data for 1996 showing earnings substantially less than that which would appear from initial review of 1995 data. As such, we believe 1995 data is no longer relevant.

This settlement proposal is also in the public interest in that, to the extent the Commission ultimately prevailed after any appeal in making the Utility prospectively reduce rates in an amount greater than its overearnings, after any appeal, the Utility would be placed in the position of having to immediately seek a

Blanca S. Bayo, Director
April 18, 1997
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rate increase to take it out of the loss position that would result from any such proposed reduction.

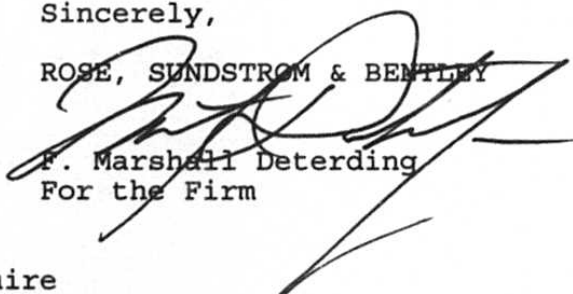
The Attachments A and B hereto provide a calculation of the actual cost savings and 1996 earnings level for your review. We would appreciate the Staff giving full consideration to the facts and circumstances as outlined above and recommend to the Commission acceptance of this settlement proposal to avoid costly litigation and the substantial cost entailed in any potential refund. We believe that in the long run the customers will benefit from this proposal rather than pursuing the refund and rate reduction based upon now outdated information from 1995 or upon statutes which we contend do not allow such refunds or rate reductions and have never before been applied in that manner.

The attractiveness of making this offer and getting Commission approval is based primarily upon our assumption that if this proposal is accepted by the Commission, that action will be taken quickly. The Utility is desirous of immediately implementing this rate reduction if agreement can be reached. We will supply tariff sheets and a proposed customer notice to implement this change as soon as the Commission accepts this proposal. Since this rate change is required by the Commission and because Pasco County is likely (in keeping with its past practice) to change rates more often than once in the next twelve months, this should not be considered as one of the Utility's two authorized pass-throughs under the provisions of Section 367.081(4)(e), Florida Statutes.

Should you have any further questions concerning the revision to this settlement proposal, please do not hesitate to contact me. To the extent there are any questions or concerns, we would like to work this out with Staff before it is taken back before the Commission.

Sincerely,

ROSE, SUNDBSTROM & BENTLEY


F. Marshall Deterding
For the Firm

FMD/lts
Enclosures

cc: Bobbie Reyes, Esquire
Connie McCaskill, CPA
Ralph Jaeger, Esquire
Larry and Janice DeLucenay
Robert C. Nixon, CPA

LAW OFFICES

ROSE, SUNDBSTROM & BENTLEY

A PARTNERSHIP INCLUDING PROFESSIONAL ASSOCIATIONS

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OCT 17 1996

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FFSC-RECORDS/REPORTS TELEPHONE (904) 656-4029

October 17, 1996

RECEIVED & FILED

VIA HAND DELIVERY

FFSC-BUREAU OF RECORDS

Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Mad Hatter Utility, Inc.; Docket No. 960878-WS
Proposed Rate Reduction to Reflect a Decrease in Purchased
Water and Wastewater Costs to PSC Regulated Utilities By Pasco
County
Our File No. 28023.01

Dear Ms. Bayo:

This letter is written on behalf of Mad Hatter Utility, Inc. in response to the Commission Show Cause Order No. PSC-96-1226-FOF-WS, dated September 27, 1996. Mad Hatter Utility, Inc. should not be required to reduce rates or refund monies based upon a reduction in purchased water and wastewater costs for the following general reasons:

A. The pass-through provisions of the statute upon which the Commission order relies do not authorize the Public Service Commission to require a decrease in rates because of a reduction in purchased water or wastewater costs or as a result of a reduction in any of the other categories of costs listed in the pass-through section of Chapter 367, Florida Statutes.

B. If this statutory provision did authorize the Commission to require a negative pass-through based upon a reduction in costs, that negative pass-through must still be based upon a determination by the Commission that failure to pass that cost reduction through will cause the Utility to overearn. No such finding has been made in that order and no such finding can be made with regard to the Mad Hatter systems, without detailed inquiry as to those facts. No attempt to ascertain these facts has been undertaken.

C. Even to the extent the Commission finds that the pass-through or other statutory provisions are available to the Commission to require a reduction in rates and to the extent the

Blanca S. Bayo, Director
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Commission finds that overearnings exist, the Commission has no authority under this statute or any other to require a retroactive reduction in rates to the date of the decrease in costs. If for no other reason, this is evident by the fact that the Commission has long held that a Utility may not implement a positive pass-through in rates retroactive to the effective date of the cost increase. Such a determination, positive or negative, plainly represents retroactive rate making and is contrary to law.

Mad Hatter Utility, Inc., however, believes that it can come to some agreement with the Commission to voluntarily pass-through the reduced costs on a prospective basis for its sewer system. In order to fully understand Mad Hatter's position in this regard, the facts and circumstances surrounding its water and wastewater systems and its purchased utility services must be reviewed separately. These facts are discussed below:

1. Mad Hatter Water System - All of the water of Mad Hatter Utility is pumped from wells, there are no purchases from Pasco County.

2. Mad Hatter Sewer System - Because Mad Hatter purchases the majority of its sewage treatment from Pasco County and because the reduction in purchased sewage treatment cost will have a material impact on the Utility's operations. The Utility does concede that this reduction in costs may result in an achieved rate of return for 1996 which exceeds the Utility's last authorized rate of return. Some portion of this reduced cost will only cause the Utility's achieved rate of return on a prospective basis to approach or equate to their authorized rate of return. However, rather than incur the substantial costs of responding to further inquiries and of litigation, the Utility is willing on a prospective basis to reduce rates for the entire amount of the reduction in purchased sewage treatment for its Foxwood and Turtle Lakes systems (the only systems which purchase sewage treatment from Pasco County).

To the extent that the Commission proposes to retroactively apply this "negative pass-through" or rate reduction, Mad Hatter Utility, Inc. requests a hearing, pursuant to Section 120.57(1), Florida Statutes, on the questions of the appropriate level of any prospective rate reduction and overearnings and on the legality and appropriateness and amount of any retroactive rate reduction.

If the Commission accepts the prospective proposal by Mad Hatter Utility, Inc. to pass-through the reduction in purchased sewage treatment, based upon the difference in the rate applied in 1995 and that effective October 1, 1996, Mad Hatter will

Blanca S. Bayo, Director
October 17, 1996
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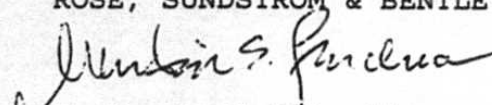
immediately file the information necessary to effectuate that pass-through in wastewater charges.

The second ordering paragraph of Order No. PSC-96-1226-FOF-WS requires that each utility named in the order, file the information required by Rule 25-30.425(1)(a) through (f), Florida Administrative Code, along with a calculation of the rate reduction. Not only does the undersigned believe that this requirement is contrary to the Commission's actual decision at Agenda, but the filing of that information prior to a determination of what, if any, rate reduction is appropriate as to the Utility's two systems is premature and a waste of the Utility's time and resources and consulting fees. Because of the substantial time and cost involved in the preparation of any such information, the Utility hereby requests a waiver of that provision of the order until such time as a determination is made as to the amount, if any, of a rate reduction for the utility systems.

Should the Commission or its Staff require any further information in this regard, please let me know.

Sincerely,

ROSE, SUNDSTROM & BENTLEY


F. Marshall Deterding
For The Firm

FMD/lts

cc: Janice and Larry DeLucenay
Robert C. Nixon, CPA

Mad Hatter Utility, Inc.
Docket No. 961418-WS
Cost Savings on 1996 Gallons of Water Purchased

Month	Gallons (000's Omitted)	Actual Cost Savings (1)	Annualized Cost Savings @ \$.88/thousand
January	3,477 7,910		3,060 6,961
February	6,793 3,047		5,978 2,681
March	2,957 7,709		2,602 6,784
April	3,242 6,714	\$ 2,950 6,109	2,853 5,908
May	2,998 7,501	2,728 6,826	2,638 6,601
June	2,841 7,547	2,585 6,868	2,500 6,641
July	2,802 7,178	2,550 6,532	2,466 6,317
August	7,050 2,858	6,416 2,601	6,204 2,515
September	5,898 2,978	5,367 2,710	5,190 2,621
October	7,111 2,789	6,258 2,454	6,258 2,454
November	7,543 2,872	6,638 2,527	6,638 2,528
December	2,567 6,597	2,259 5,805	2,259 5,805
TOTAL	<u>120,979</u>	<u>\$ 80,183</u>	<u>\$ 106,462</u>

Proposed rate reduction	\$ 106,462
Divide by RAF Expansion Factor	<u>0.955</u>
Proposed revenue reduction	<u>\$ 111,479</u>
Divide by gallons sold (000)	<u>133,625</u>
Proposed rate decrease per 1,000 gallons	<u>\$ 0.83</u>

- (1) \$.91 per thousand gallons (\$4.11 - \$3.20) 04/01/96 through 09/30/96
\$.88 per thousand gallons (\$4.11 - \$3.23) 10/01/96 through 12/31/96

UTILITY NAME: Mad Hatter Utility, Inc.
 SYSTEM NAME: Foxwood and Turtle Lakes

YEAR OF REPORT
 December 31, 1996

SCHEDULE OF YEAR END RATE BASE

ACCT. NO. (a)	ACCOUNT NAME (b)	REF. PAGE (c)	Sewer UTILITY (d)
101	Utility Plant In Service	S-3	\$ 1,183,770
	Less:		
	Nonused and Useful Plant (1)		
108.1	Accumulated Depreciation	S-8	373,544
110.1	Accumulated Amortization		
271	Contributions in Aid of Construction	S-4	955,684
252	Advances for Construction	F-18	
	Subtotal		\$ (145,458)
	Additions:		
272	Accumulated Amortization of Contributions in Aid of Construction	S-5	291,094
	Subtotal		\$ 145,636
	Plus or Minus:		
114	Acquisition Adjustments (2)	F-5	
115	Accumulated Amortization of Acquisition Adjustments (2)	F-5	
	Working Capital Allowance (3)	S-9	86,200
	Other (Specify):		
	RATE BASE		\$ 231,836
	UTILITY OPERATING INCOME		\$ 60,486
	ACHIEVED RATE OF RETURN		26.09 %

NOTES:

- (1) Estimated if not known.
- (2) Include only those Acquisition Adjustments that have been approved by the Commission.
- (3) Calculated using the 1/8th of O & M method.

Authorized 10.78%

Allowed OI \$24,992
Actual 60,486
Diff \$35,494