

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

DOCKET NO. 090478-WS

DATED: MAY 24, 2010

COMMISSION CLERK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Direct Testimony of Daniel W. Evans, on behalf of the Florida Public Service Commission, has been furnished by electronic and U.S. mail, on this 24th day of May, 2010, to the following:

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A handwritten signature in black ink, appearing to read 'C. Klancke', written over a horizontal line.

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DOCKET NO.: 090478-WS - Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

WITNESS: Direct testimony of Daniel W. Evans,
Appearing on Behalf of the Staff of the Florida Public Service Commission.

DATE FILED: May 24, 2010

1 DIRECT TESTIMONY OF DANIEL W. EVANS

2 Q. Please state your name and business address.

3 A. My name is Daniel W. Evans. I am employed by the Department of Community
4 Affairs (DCA). My Business address is 2555 Shumard Oak Boulevard, Tallahassee, Florida
5 32399-2100.

6 Q. Please summarize your educational background.

7 A. I hold a Bachelor of Arts degree in Social Science Interdisciplinary Studies from the
8 University of West Florida in Pensacola, 1982. My undergraduate field of study was
9 environmental science. I hold a Master of Public Administration degree from the University
10 of West Florida, 1984. My graduate field of study was coastal zone management.

11 Q. Please describe your work experience.

12 A. My work experience includes 26 years in the fields of urban and regional planning,
13 floodplain management, and hazard mitigation planning. I worked from 1984 to 1997 for the
14 DCA, Divisions of Community Planning and Emergency Management. I worked from 1997
15 to 2003 as a partner in the firm of Hazard Mitigation and Recovery Services, Inc. For the last
16 seven years, I have worked for the Department's Division of Community Planning as a
17 community planner, senior planner, and principal planner conducting compliance reviews of
18 comprehensive plan amendments and developments of regional impact. My job has involved
19 the review of land use amendments and activities within Indian River, Dade, Monroe, Pinellas,
20 Manatee, Hernando, and Polk Counties. Specific duties include the preparation of detailed
21 review reports, oral presentations, negotiations with local governments and developers, and
22 the provision of technical assistance to local governments and private citizens.

23 Q. What is the purpose of your testimony in this proceeding?

24 A. My testimony is given pursuant to a Memorandum of Understanding executed between
25 the DCA and the Public Service Commission (PSC) in which the Department provides

1 information to the PSC concerning local government comprehensive plans and the need for
2 services in the application area.

3 Q. Are you familiar with the Skyland Utilities, LLC (Skyland) application for water and
4 wastewater certificates?

5 A. I am familiar with the application. I have reviewed the application, relevant portions
6 of the comprehensive plans for Pasco and Hernando Counties, as well as the pre-filed
7 testimony of witnesses in this docket who have reviewed the application.

8 Q. What is the DCA's position with respect to whether the Skyland application is
9 consistent with the currently approved Pasco County Comprehensive Plan?

10 A. The application is inconsistent with objectives and policies of the Pasco County
11 Comprehensive Plan which limit the extension of public facilities in agricultural and rural land
12 areas, encourage the conversion of private utilities to publicly operated utilities, and encourage
13 the replacement of package treatment plants with regional wastewater plants. In particular,
14 Policy SEW 3.2.6 of the Infrastructure Element of the Pasco County Comprehensive Plan
15 prohibits the extension of central water and sewer services within the Northeast Pasco Rural
16 Area (most of the proposed service area within Pasco County is located within the Northeast
17 Pasco Rural Area), except under very limited circumstances, which the application does not
18 meet.

19 Q. What is the DCA's position with respect to whether the Skyland application is
20 consistent with the currently approved Hernando County Comprehensive Plan?

21 A. The application is inconsistent with objectives and policies in the Hernando County
22 Comprehensive Plan which discourage the use of public facilities in the Rural Land Use
23 Category, discourage urban sprawl, require the provision of infrastructure in accordance with
24 the long range plans of the County, and encourage the consolidation of wastewater and potable
25 water services within the County.

1 Q. What is the DCA's position with respect to whether the Skyland application is
2 consistent with the currently approved City of Brooksville's Comprehensive Plan?

3 A. The Department's official position stated in its Letter of December 7, 2009, to the PSC
4 which is attached hereto as Exhibit DWE 1 did not identify that the application was
5 inconsistent with any provision of the City of Brooksville's Comprehensive Plan. Further,
6 none of the proposed service territory is contained within the area encompassed within
7 Brooksville's Comprehensive Plan.

8 Q. Has the DCA received a request by either Pasco County or Hernando County to amend
9 the existing comprehensive plan for the area in which Skyland proposes to provide water and
10 wastewater service?

11 A. No.

12 Q. Describe the process to amend a comprehensive plan.

13 A. Generally amendments are transmitted to the Department as a proposed amendment
14 (there are exceptions for some types of amendments). Within 60 days of the receipt of a
15 complete amendment package from the local government, the Department reviews the
16 amendment for consistency with Chapter 163, F.S. and Rule 9J-5, Florida Administrative
17 Code (F.A.C.), and issues an Objection, Recommendations, and Comments (ORC) report.
18 On receipt of the ORC report, the local government generally has 60 days (there are
19 exceptions for DRIs and EAR-based amendments) in which to adopt, adopt with changes, or
20 not adopt the proposed amendment. If the local government adopts the amendment and
21 transmits it to the Department, the Department must issue a notice of intent to find the
22 amendment in compliance or not in compliance with state law within 45 days. Affected
23 parties may file a challenge to the adopted amendment within 21 days of the issuance of a
24 notice of intent. If no challenge is filed, the amendment is in effect.

25 In the review of comprehensive plans, the Department frequently considers such issues

1 as suitability of the site for the intended land use, urban sprawl, the energy efficiency of the
2 land use pattern, the need for the land use based on growth trends in the community, the
3 availability of water facilities and supplies, the availability of sanitary sewer facilities, the
4 adequacy of transportation facilities to accommodate the amendment, the availability of public
5 school facility resources, and consistency with the local government comprehensive plan.

6 Q. Does this conclude your testimony?

7 A. Yes it does.

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STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

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December 7, 2009

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Ms. Ann Cole, Commission Clerk
Office of Administrative Services
Florida Public Service Commission
2540 Shamed Oak Boulevard
Tallahassee, Florida 32399

RE: Skyland Utilities Application for Original Certificates for Proposed Water and Wastewater
Utility Systems; Case No.: 090748-WS

090478

Dear Ms. Cole

The Department of Community Affairs has reviewed the proposal of Skyland Utilities to create a potable water and sanitary sewer service area in eastern Pasco and Hernando Counties. The application is to provide water and sewer services for an area of approximately 4,089 acres, of which 791 acres are located in Hernando County (approximate 19 percent), and the remainder in Pasco County.

The proposed service area is located within areas primarily designated in the Hernando County Comprehensive Plan as Rural land use (1 unit/10 acres); and in the Pasco County Comprehensive Plan as Agricultural (1 unit/10 acres) and Agricultural/Rural (1 unit/5 acres). The service area is divided into 12 sections with the provision of utility services planned in 5 phases. Phase I is scheduled to start between 2010 and 2015. The application is not clear on the dates of the remaining phases. The service area is not wholly contiguous, but is grouped in several clusters within a broad area. For Phase I, the Utility will rely on the use of package treatment plants to provide wastewater services. Additional details concerning provision of services for future phases of service are deferred to resolution in the future.

The Department is concerned about the provision of utility services to these rural and agricultural areas because it will lead to premature conversion of rural agricultural land to urban uses and promote urban sprawl. Chapter 163.3177(6)(a), Florida Statutes specifically requires that the future land use plan be based on, among other things, the discouragement of urban sprawl and the promotion of energy efficient land use patterns and the reduction of greenhouse gas emissions. The proposed utility serve area will promote a land use pattern that is inconsistent with the above cited provisions of Florida Growth Management Laws.

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Ms. Ann Cole
December 7, 2009
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In addition, the proposal for utility services in this area is inconsistent with various provisions of the Hernando and Pasco County Comprehensive Plans. For example Hernando County Comprehensive Plan Future Land Use Policy 1.01B(6) states that "The County will not provide water, sewer, transportation, or other infrastructure to support urban development in the Rural Land Use Category so that urban development can be directed into those areas which are planned to receive such services." Also the application is inconsistent with Pasco County Infrastructure Element Policies WAT 2.14 and SEW Policy 2.26 which states that within the Northeast Pasco County rural Area the County will Continue to rely primarily upon individual water well and septic tank systems for potable water and disposal of wastewater within the Rural Area, and that new development will not be designed or constructed with central sewer and water systems.

Pasco County and Hernando Counties have filed objections with the Public Service Commission to the application on various grounds including inconsistency with the comprehensive plans of both counties. The Department agrees that the proposed application is inconsistent with comprehensive plan policies of both counties which discourage the proliferation of urban sprawl and limit the extension of public utilities into agricultural and rural lands.

Furthermore, both Pasco and Hernando Counties have indicated that there is no consumer need for potable water or wastewater services within the areas Skyland Utilities propose for service. In light of these concerns the Department believes the provision of utilities to these areas is not necessary at this time and does not support it.

If you have any questions about this matter, please contact Dan Evans, Principal Planner at (850) 922-1805.

Sincerely,



Mike McDaniel, Chief
Office of Comprehensive Planning

MM/de

cc. Geoffrey Kirk, Assistant County Attorney, Hernando County
Joseph Richards, Senior Assistant County Attorney, Pasco County