

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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
ORDER NO. PSC-10-0037-PCO-WS
ISSUED: January 15, 2010

ORDER GRANTING MOTION FOR LEAVE
TO AMEND ITS OBJECTION

On November 13, 2009, City of Brookville (Brooksville or City) timely filed its Objection to the Application of Skyland Utilities, LLC and Request for Formal Evidentiary Hearing (Brooksville's Objection). On December 15, 2009, Brooksville filed its Motion for Leave to Amend Objection to the Application of Skyland Utilities, LLC, and Request for Formal Administrative Hearing (Motion). In its Motion, Brooksville reiterates its request for an evidentiary hearing and seeks to reference and incorporate an Interlocutory Agreement entered into by Brooksville and Hernando County denoting the boundaries of the "first right to serve areas" and containing an aerial depiction of the close proximity of the two parcels that Skyland wishes to serve to Brooksville's First Right to Serve Boundary. Brooksville also seeks to join and incorporate by reference Hernando County's Objection to Application of Skyland Utilities, LLC, and Request for Formal Administrative Hearing (Hernando's Objection). Finally, Brooksville requests the same relief requested in Section V of Hernando's Objection and seeks to incorporate the same by reference. No objection has been filed in opposition to Brooksville's Motion.

In the interest of fairness and to afford the Commission with all relevant information pertaining to Brooksville's Objection, the City shall be allowed to amend its objection. The City shall amend its objection only with respect to those issues raised in its Motion. Therefore, the City of Brooksville's Motion for Leave to Amend Objection to the Application of Skyland Utilities, LLC, and Request for Formal Administrative Hearing is hereby granted.


This order is issued pursuant to the authority granted by Rule 28-106.211, Florida Administrative Code (F.A.C.), which provides that the presiding officer before whom a case is pending may issue any orders necessary to effectuate discovery, prevent delay, and promote the just, speedy, and inexpensive determination of all aspects of the case.

Based on the foregoing, it is

ORDERED by Commissioner Nathan A. Skop, as Prehearing Officer, that the Motion for Leave to Amend Objection to the Application of Skyland Utilities, LLC, and Request for Formal Administrative Hearing filed by the City of Brooksville is hereby granted as set forth in the body of this Order.

DOCUMENT NUMBER-DATE
00383 JAN 15 2010
FPSC-COMMISSION CLERK

By ORDER of Commissioner Nathan A. Skop, as Prehearing Officer, this 15th day of January, 2010.



NATHAN A. SKOP
Commissioner and Prehearing Officer

(S E A L)

CMK

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Marguerite McLean

090478-WS

From: Derrill McAteer [Derrill@hoganlawfirm.com]
Sent: Tuesday, December 15, 2009 2:28 PM
To: Filings@psc.state.fl.us
Subject: Brooksville Motion For Leave To Amend Objection Case No. 090478-WS
Attachments: _1215104504_001.pdf

To Whom It May Concern,

Attached please find for filing (second attempt); The City of Brooksville's Motion for Leave to Amend Objection, along with the proposed Amended Objection (attached as an exhibit to the motion and including its own corresponding exhibits) for consideration in Case No. 090478-WS.

Total pages of Motion for Leave to Amend with Exhibits: 22

Sincerely,

Derrill McAteer
Hogan Law Firm
City of Brooksville Attorney

Contact Information:

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The Hogan Law Firm
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(352) 799-8423 Telephone
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12/15/2009

DOCUMENT NUMBER DATE
11978 DEC 15 8
FPSC-COMMISSION CLERK

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE: APPLICATION OF SKYLAND
UTILITIES, LLC, TO OPERATE A WATER
AND WASTEWATER UTILITY IN HERNANDO
AND PASCO COUNTIES, FLORIDA

Case No.:090478-WS

**THE CITY OF BROOKSVILLE'S MOTION FOR LEAVE TO AMEND
OBJECTION TO APPLICATION OF
SKYLAND UTILITIES, LLC
AND REQUEST FOR FORMAL ADMINISTRATIVE HEARING**

COMES NOW, the City of Brooksville, an incorporated municipality located within the boundaries of Hernando County, Florida ("City"), hereby moves to amend its Objection to Application of Skyland Utilities, LLC and Request for Administrative Hearing in the manner indicated by Exhibit "A" attached hereto and incorporated herein, in support therefore states:

1. Specifically, the City wishes to reference and incorporate an Interlocal Agreement denoting first right to serve areas and an aerial illustrating the close proximity of two (2) parcels Skyland Utilities, LLC wishes to serve to the City's First Right to Serve Boundary.

WHEREFORE, the City requests that the Public Service Commission issue an order allowing amendment to the aforementioned objection.

Submitted December 15, 2009.

s/Derrill Lee McAteer
Derrill Lee McAteer (FBN 0628972)
Hogan Law Firm
City Attorney
20 South Broad Street
Brooksville, FL 34601
Phone (352) 799-8423
Fax: (352) 799-8294

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DOCUMENT NUMBER-DATE

11978 DEC 15 8

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent to the following this ____ day of December, 2009, by electronic filing (to the Clerk of the PSC) and U.S. Mail to all others listed below.

s/Derrill Lee McAteer

Joseph D. Richards
Senior Assistant County Attorney
Pasco County
7530 Little Road Suite 340
New Port Richey, FL 34654

Director, Division of Commission Clerk
and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Garth Coller
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Brooksville, FL 34601

{00183382}

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE: APPLICATION OF SKYLAND
UTILITIES, LLC, TO OPERATE A WATER
AND WASTEWATER UTILITY IN HERNANDO
AND PASCO COUNTIES, FLORIDA

Case No.:090478-WS

**THE CITY OF BROOKSVILLE'S AMENDED OBJECTION
TO THE APPLICATION OF
SKYLAND UTILITIES, LLC
AND REQUEST FOR FORMAL ADMINISTRATIVE HEARING**

1. The City of Brooksville, an incorporated municipality located within the boundaries of Hernando County, Florida ("City"), pursuant to Sections 367.045 and 365.171, Florida Statutes and Rule 25-30.031, Florida Administrative Code, hereby files its Objection to the *Application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges* filed by Skyland Utilities, LLC (the "Application").

2. Brooksville continues to request that a formal administrative hearing be held on the Application in accordance with Sections 120.569 and 120.57, Florida Statutes.

3. Brooksville hereby attaches as Exhibit "A", joins in and incorporates by reference as if stated herein *in haec verba* Hernando County's Objection to Application of Skyland Utilities, LLC and Request for Formal Administrative Hearing ("Hernando's Objection"), specifically those provisions relevant or applicable to Brooksville, including, but not limited to, Identifying the Parties, The Total Proposed Utility Territory, The Proposed Utility Area within the boundaries of Hernando County, The Proposed Utility Operation, the Funding of the Proposed Utility Operation, the Technical Experience of Skyland to Operate the Proposed Utility and other provisions stated therein as applicable.

5. Brooksville requests the same "Relief Requested" in Section V of Hernando's Objection as incorporated herein.

6. On or about August 5, 2002 the City and Hernando County entered into an Interlocal Agreement denoting the boundaries of the "first right to serve area" for potable water services and sewer services for the two jurisdictions. A copy of the Interlocal Agreement is attached hereto as Exhibit "B" and incorporated herein *in haec verba*. As denoted by an aerial diagram provided by City staff, attached hereto and incorporated herein *in haec verba* as Exhibit "C", at least one of the parcels Skyland proposes to serve is located in Hernando County's first right to serve area, less than three (3) miles from the

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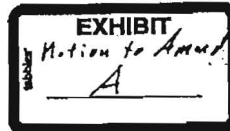


EXHIBIT NUMBER DATE
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boundary of the City's first right to serve area. Under paragraph two (2) of the Interlocal Agreement, if the County does not wish to provide services to a developer in its first right to serve area, the City has the right to provide services before a private utility may. Moreover, pursuant to Paragraph nine (9), only one (1) year's notice is required to terminate the Interlocal Agreement, in which case the City's first right to serve could be expanded to the limits allowed by Chapter 180, Florida Statutes. Thus, the City has a strong interest in this matter, given the close proximity of multiple parcels Skyland intends to serve to the first right to serve boundary of the City, as illustrated by Exhibit "C", and the presence of such parcels within five (5) miles of the incorporated boundaries of the City as indicated by Skyland's application.

Submitted December _____, 2009.

s/Derrill Lee McAteer
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City Attorney
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Fax: (352) 799-8294

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent to the following this 15th day of December, 2009, by electronic filing (to the Clerk of the PSC) and U.S. Mail to all others listed below.

s/Derrill Lee McAteer

Joseph D. Richards
Senior Assistant County Attorney
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STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

IN RE: APPLICATION OF SKYLAND
UTILITIES, LLC, TO OPERATE A WATER
AND WASTEWATER UTILITY IN
HERNANDO AND PASCO COUNTIES,
FLORIDA

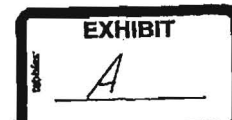
Case No.: 090478-WS

**HERNANDO COUNTY'S OBJECTION TO APPLICATION OF
SKYLAND UTILITIES, LLC AND
REQUEST FOR FORMAL ADMINISTRATIVE HEARING**

Hernando County, a political subdivision of the State of Florida, through counsel and pursuant to §§ 367.045, 365.171, Fla. Stat., and Rule 25-30.031, Fla. Admin. Code, hereby files its Objection to the *Application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges* ("Application")¹ filed with the Public Service Commission ("PSC") by Applicant, Skyland Utilities, LLC ("Skyland").

Pursuant to § 367.045(4), Fla. Stat., Hernando County, a governmental authority, further requests that a formal administrative hearing be held on this Application in accordance with §§ 120.569 and 120.57(1), Fla. Stat.

¹ The Application will be referred to as "App. at p. ___" and the page number(s) shall correspond to the page number(s) of the Application as found online at the PSC's online Docket in this matter (<http://www.psc.state.fl.us/dockets/cms/docketList.aspx?docketType=openWater>). Parenthesized material after App. at p. ___ will describe the document or exhibit.



Utilities, LLC] Utility and is the sole managing member of the Utility.” App. at p. 591 (Application, Appendix – *Funding Agreement* at p. 1). As described later, Evans will be providing the land for the Utility’s operations and will be providing all of the funding for the proposed Utility.

B. The Total Proposed Utility Territory

8. All of the land owned by Evans as specifically referenced in the subject Application shall hereinafter be referred to as the “Land” or the “Total Proposed Utility Territory” as these terms may be used interchangeably. The portion of the Land situated in Hernando County shall be referred to as the “Proposed Hernando Utility Territory” and the portion of the Land situated in Pasco County shall be referred to as the “Proposed Pasco Utility Territory”.

9. The Total Proposed Utility Territory consists of approximately 4,089 acres. App. at p. 62 (Application, Appendix – *Development Phases – Draft*) and is situated primarily in rural northeastern Pasco County and rural southeastern Hernando County.

10. A portion of the Land will be leased from Evans to Skyland so that Skyland can conduct its utility operations. “Skyland will not own any of the land where the Utility’s water facilities will be located. Instead, the Utility will lease the land from the Landowner, Evans Properties, Inc.” App. at 26 (Application, Exhibit E). Similarly, “Skyland will not own any of the land where the Utility’s wastewater facilities will be

D. The Proposed Utility Operation

15. Pursuant to its Application, Skyland "proposes to provide potable and non-potable water and wastewater services to bulk exempt, bulk non-exempt, intensified agribusiness, residential and general service customers from the service territory described in this application." App. at 17 (Application, Exhibit A at ¶ 1).

16. Specifically, as part of its proposed operations, Skyland indicated that it is "also considering selling bulk water." App. at 620 (Application, Appendix – *Skyland Utilities, LLC Cost of Service Study*) (emphasis added).

17. The proposed utility operation is planned over five phases. App. at p. 17 (Application, Exhibit A at ¶ 3); and see App. at 610 (Application, Appendix – *Skyland Utilities, LLC Cost of Service Study*).

(i) Phase 1

18. Wastewater treatment and disposal for Phase 1 "will be pre-engineered wastewater treatment plants utilizing an extended aeration/MLE treatment process with percolation ponds." App. at p. 9 (Application at p. 5). However, Skyland states that "[i]f the full extent of treatment required for future Phases has not yet been determined." *Id.* (emphasis added).

19. According to Skyland's Application:

"In Hernando County, Phase 1 utility services are planned for ID 2 [see Map, App. at 62] that can serve the equivalent of developing the approximately 349 acres with an allowed density of 1 dwelling unit per 10 acres or approximately 35 ERCs [Equivalent Residential Connections].

(ii) Future Phases

24. "The future phases will begin upon the completion of Phase I." App. at 23 (Application, Exhibit D at ¶ 2).

25. However, according to the Application, "Phases II through V have not been conceptually designed at this time . . ." App. at 23 (Application, Exhibit D at ¶ 2).

Similarly, the *Cost of Service Study*, which is a portion of the Application, states:

"It is anticipated that the future phases will be utilized in the order indicated on the proposed service area map in Appendix I and as discussed in more detail in Exhibit A. There have been no conceptual plans developed as of this time for future development phases. Where units and/or consumption have been assumed in future phases in this filing, the maximum permitted dwelling units have been used without consideration of any restrictive issues."

App. at 610 (Application, Appendix – *Skyland Utilities, LLC Cost of Service Study* at p. 1) (emphasis added).

(iii) Future Phases – Physical Interconnection Traversing Hernando and Pasco Counties

26. Finally, "[p]hysical interconnections will occur that traverse county lines [between Hernando and Pasco Counties] during future phases." App. at p. 22 (Application, Exhibit C at ¶ 1, last sentence).

27. It is further noted that the two contiguous parcels that are owned by Evans and which "could" connect Hernando and Pasco Counties are not planned for any development as part of Phase I. See App. at 62 (Application, Appendix – *Development Phases – Draft*) (Map depicting parcels owned) and referencing text.

individualized notice -- even as a courtesy if not statutorily required -- was provided to David Hamilton, the County Administrator, Joseph Stapf, the County Utilities Director, or Garth Coller, the County Attorney. By all actions to date, it appears, perhaps, that Skyland was hoping that its Application would stay off of Hernando County's radar screen until the thirty-day objection period had expired.

H. Hernando County's Comprehensive Plan -- Relevant Objectives and Policies

32. The following goals, objectives and policies of Hernando County's Comp Plan are relevant to the subject Application:

Chapter 1: Future Land Use

POLICY 1.01B(6): Allow new development within the Rural Land Use Category which is compatible with the level of public services provided. 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.

POLICY 1.01B(7): The County shall establish a procedure to evaluate the potential conversion of agricultural lands to non-agricultural uses which incorporate a site assessment process that considers the following:

- a. Adjacent land uses;
- b. Viability of adjacent parcels for continued or future agricultural use;
- c. Compatibility of proposed use with existing land characteristics;
- d. Comprehensive development plans;
- e. Available infrastructure;

PROJECTED DEVELOPMENT AND MINIMIZE THE
FACILITIES' IMPACT ON NEARBY NATURAL RESOURCES
AND EXISTING LAND USES.

POLICY 1.01U(1): The location of major public facilities shall be approved only after adequate opportunity has been provided for public review and comment.

POLICY 1.01U(2): As part of the major public facility locational review process, a statement of impact shall be prepared for new facilities describing the current condition of adjacent natural resources and land uses, the projected impact of the proposed facility on these adjacent areas and how the projected impact will be mitigated or minimized.

Chapter 5: Sanitary Sewer

OBJECTIVE 4.01A: THE COUNTY SHALL CONTINUE TO DEVELOP A WASTEWATER SERVICE PLAN FOR A TWENTY (20) YEAR PERIOD AT FIVE (5) YEAR INTERVALS TO BE UPDATED ANNUALLY WHICH EVALUATES THE DEMANDS AND SUPPLY OF WASTEWATER TREATMENT FACILITIES AND ESTABLISHES CRITERIA AND COSTS FOR THE DEVELOPMENT OF SERVICE AREAS WHICH DISCOURAGES URBAN SPRAWL.

POLICY 4.01A(2): The County will initiate the construction of wastewater treatment facilities based on the Wastewater Service Plan as required in Objective 4.01A.

POLICY 4.01A(5): All future wastewater collection and treatment systems within Hernando County should be owned and operated by or under contract with Hernando County, the Hernando County Water and Sewer District, or a municipality within Hernando County.

Chapter 8: Potable Water

OBJECTIVE 4.11G THE COUNTY SHALL PLAN FOR BUILDING NEW WATER SUPPLY FACILITIES OVER AT LEAST A TEN YEAR PLANNING PERIOD AS NECESSARY TO SERVE EXISTING AND NEW DEVELOPMENT.

impacts on surrounding and proposed land uses and the aquifer and require mitigation of significant negative impacts.

POLICY 4.13A(4): With the exception of cities within Hernando County, the County will be the sole franchiser of water production or supply.

POLICY 4.13B(6): Hernando County shall provide for the development of water supplies to meet the demands of existing and projected populations within the County. Development of water supplies will be in accordance with the statutorily mandated Minimum Flows and Levels established by the Southwest Florida Water Management District to protect the water resources of the citizens of Hernando County.

II. GOVERNING LAW

33. This matter is governed by Chapters 120, 125, 163 (Part II), and 367, Fla. Stat., Rule Chapters 25-22 and 25-30, Fla. Admin. Code, Florida decisional law, and established principles of statutory interpretation.

III. OBJECTIONS TO APPLICATION OF THE PROPOSED UTILITY

34. Paragraphs 1 thru 33 above are incorporated herein by reference as if fully set forth herein.

A. Siting of Skyland Utility Where Proposed in Hernando County is Inconsistent with Hernando County's Adopted Comprehensive Plan

The Proposed Hernando County Utility Territory is in a rural and largely undeveloped region of the County. The siting of a public water and/or wastewater utility system in this region violates the 'Rural' FLUM designation assigned to the Evans' properties.

subjected to the future jurisdiction of the proposed Utility must pay higher water and wastewater rates due to lack of cost effectiveness, inefficiency, lack of economies of scale and/or the inexperience of the owner. (See facts set forth in Sections I.D, I.E and I.F, *supra*).

Second, the Proposed Hernando Utility Territory is wholly within the service district of the HCWSD, therefore, it is not in the public interest to duplicate or overlap utility service providers.

Third, as previously stated, it is not in the public interest to violate the goals, objectives and policies of Hernando County's adopted Comp Plan.

Fourth, it is not in the public interest to promote "urban sprawl" by encouraging new development and growth to occur prematurely in an area that is presently rural and largely undeveloped and without proper planning and infrastructure in place including roads, utility network, urbanized services and adequate electric power, without limitation. The presence of centralized water and sewer would encourage other development to occur in a leap frog and unplanned manner.

Fifth, it is not in the public interest to delete or reduce the service territory of the Hernando County Water and Sewer District if the geographic area being deleted was contemplated as being served in connection with bonds that have been issued or planned and the potential impact to the bondholders resulting from diminution of the secured interests.

compensation” also begs the question as to who is paying whom when one examines the inter-relationships between Evans Properties, Inc., Evans Utilities, Inc. and Skyland Utilities, LLC. In this regard, it is noted that the proposed Funding Agreement (App. at p. 591) was signed by Ronald L. Evans, as President of Evans Properties, Inc., and counter-signed by Ronald L. Evans, as Manager, Skyland Utilities, LLC. Accordingly, the term “the public” envisions a broader base than oneself (or a closely related/affiliated entity or alter ego) and “for compensation” envisions something more than shifting balance sheets among related entities. Skyland has not adequately demonstrated that it will be serving the “the public” “for compensation”.

E. Mere Speculation to Provide Cross-County Service does Not Constitute “Transversing” for purposes of § 367.171(7), Fla. Stat. – PSC Lacks Jurisdiction over Hernando County, a Non-Jurisdictional County

As explained in Hernando County’s *Motion to Dismiss* dated November 13, 2009 as separately filed in this matter (the content and arguments contained therein are incorporated into this pleading by reference as if fully set forth herein), the PSC lacks jurisdiction to grant the relief requested in Skyland’s Application. No infrastructure owned or controlled by Skyland currently traverses any border between Hernando County and Pasco County. The actual existence – and transversing – of such infrastructure is a prerequisite to the exercise of jurisdiction by the PSC over a water or wastewater utility situated in a non-jurisdictional county.

Application, then Hernando County makes demand for a formal administrative proceeding in accordance with §§ 120.569 and 120.57(1), Fla. Stat.

A. The affected agency is the Florida Public Service Commission.

B. The name, address and telephone number of the Applicant, Skyland Utilities, LLC, is set forth in the Application. App. at 1 *et seq.* The name address of Hernando County and other parties entitled to notice are set forth in the signature block and certificate of service at the end of this document.

C. Petitioner, Hernando County, received notice as described in Section I.G.

D. In the event that the PSC does not dismiss, or summarily deny, Skyland's Application, then the following issues of material fact are in dispute:

- (i) Whether Skyland's Application comports with all of the requirements set forth in § 367.045, Fla. Stat. and Rule 25.30.033, Fla. Admin. Code;
- (ii) Whether the siting of the Utility where proposed by Skyland will violate Hernando County's adopted Comprehensive Plan;
- (iii) Whether the siting of the Utility where proposed by Skyland will encourage "urban sprawl" in southeastern Hernando County;
- (iv) Whether the Utility proposed by Skyland will compete with and/or duplicate the services of the Hernando County Water and Sewer District;

(xi) All disputed issues of material fact timely raised by Pasco County and any other objector to this proceeding.

E. Hernando County restates and incorporates by reference, as ultimate facts, all facts and matters set forth in Section I above (Paragraphs 1 thru 32) as if fully set forth herein.

F. This matter is governed by Chapters 120, 125, 163 (Part II) and 367, Fla. Stat., Rule Chapters 25-22 and 25-30, Fla. Admin. Code, Florida decisional law, and established principles of statutory interpretation.

G. Petitioner, Hernando County, seeks the relief requested immediately below.

V. RELIEF REQUESTED

WHEREFORE, Hernando County prays for the entry of an Order:

1. Dismissing Skyland's *Application for Original Certificates for Proposed Water and Wastewater System and Request for Initial Rates and Charges* for lack of jurisdiction pursuant to § 367.171, Fla. Stat.; or,
2. Alternatively, if jurisdiction is rendered, deny the Application; or,
3. If the PSC will not dismiss or summarily deny the Application, then PSC is requested to refer this matter to formal administrative hearing pursuant to §§ 120.569 and 120.57(1), Fla. Stat.; and,
4. Granting such other and further relief as the Public Service Commission deems just and proper consistent with the foregoing.

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Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399
(by hand delivery)

Michael Milton, Esq.
Dean, Mead, Minton & Zwemer
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Fort Pierce, Florida 34947
(by U.S. Mail)

Ronald Edwards, Manager
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(by U.S. Mail)

J.R. Kelly, Public Counsel
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400
(by U.S. Mail)

INTERLOCAL AGREEMENT

THIS AGREEMENT is made and executed, and shall be effective as of the date provided for below, by and between the **CITY OF BROOKSVILLE**, a municipal corporation under the laws of the State of Florida (hereinafter "CITY"), and **HERNANDO COUNTY**, a political subdivision of the State of Florida, (hereinafter "COUNTY").

WITNESSETH:

WHEREAS, the CITY and the COUNTY desire to coordinate their efforts to provide water and sewer services so as to most effectively and efficiently provide for the needs of their current and future utility customers; and

WHEREAS, to cooperatively work together in providing water and sewer utility services, the CITY and COUNTY desire to jointly designate areas where each respective party shall be the primary water and/or sewer utility provider and shall have the first right to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the CITY and the COUNTY hereby agree:

1. The CITY shall have the first right to serve any existing development or proposed development with water and/or sewer services within its municipal limits and in the area outside of its municipal limits as designated on the attached map, **EXHIBIT A**, as the CITY's first right to serve area. If the CITY chooses not to provide water and/or sewer service, the COUNTY shall have the opportunity to serve the development.

2. In all unincorporated areas of Hernando County except for those designated in **EXHIBIT A** as a CITY first right to serve area, the COUNTY shall have the first right to



*cc. Council
EPA
Dunn
E. J. King
Bill S.*

DOCUMENT NUMBER-DATE

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serve any existing development or proposed development. If the COUNTY chooses not to provide water and/or sewer services to any such development, the CITY may, if it chooses, provide service to the development.

3. Should either the CITY and COUNTY choose not to serve a developer within its first right to serve area, the other entity may provide services if services are available. If neither entity wishes to serve the developer, the developer shall work with the entity having the first right to serve.

4. The COUNTY agrees that it shall cooperate in its review procedures under COUNTY subdivision and land development and zoning ordinances to ensure that subdivisions and other developments involving water or sewer facilities, or both, and located inside the boundaries of the CITY'S an entity's first right to serve area as illustrated on EXHIBIT A, as routinely submitted to the CITY for review and comment as to the CITY'S desire to provide such water and/or sewer facilities and service. For subdivision and site plan reviews and for the issuance of building permits for new developments not requiring subdivision or site plan review, the COUNTY shall give the CITY thirty (30) days' notice prior to approving such subdivision or site plan or issuing such building permit, in order to allow the CITY to advise the COUNTY and the developer of the CITY'S intent to serve and the requirements therefor. If no such written advisory is given, the COUNTY may provide utility service if it chooses to do so.

5. Upon the filing of an initial plan for development, a determination of right to serve shall be made according to EXHIBIT A. This determination shall only indicate which party, in accordance with EXHIBIT A, has the first right to serve. The entity with the first right to serve may at any time after the determination enter into negotiations with the developer in contemplation of providing service.

complete agreement of the parties and supercedes and controls over any and all prior agreements, understandings, representations, correspondence and statements, oral or written. Any provisions of this agreement shall be read in pari materia with all other provisions hereof.

18. The effective date of this agreement shall be the later of the two dates of execution of the parties below.

IN WITNESS WHEREOF the parties hereto have caused the execution by their duly authorized officials as of the date stated above.



Karen Nicolai
Attest: KAREN NICOLAI,
Clerk

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA.**

By: Hannah M. Robinson
HANNAH M. ROBINSON,
Chairperson

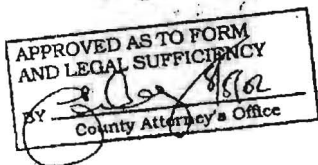
Date: 8/5/02

Attest: Karen Phillips
KAREN PHILLIPS,
Clerk

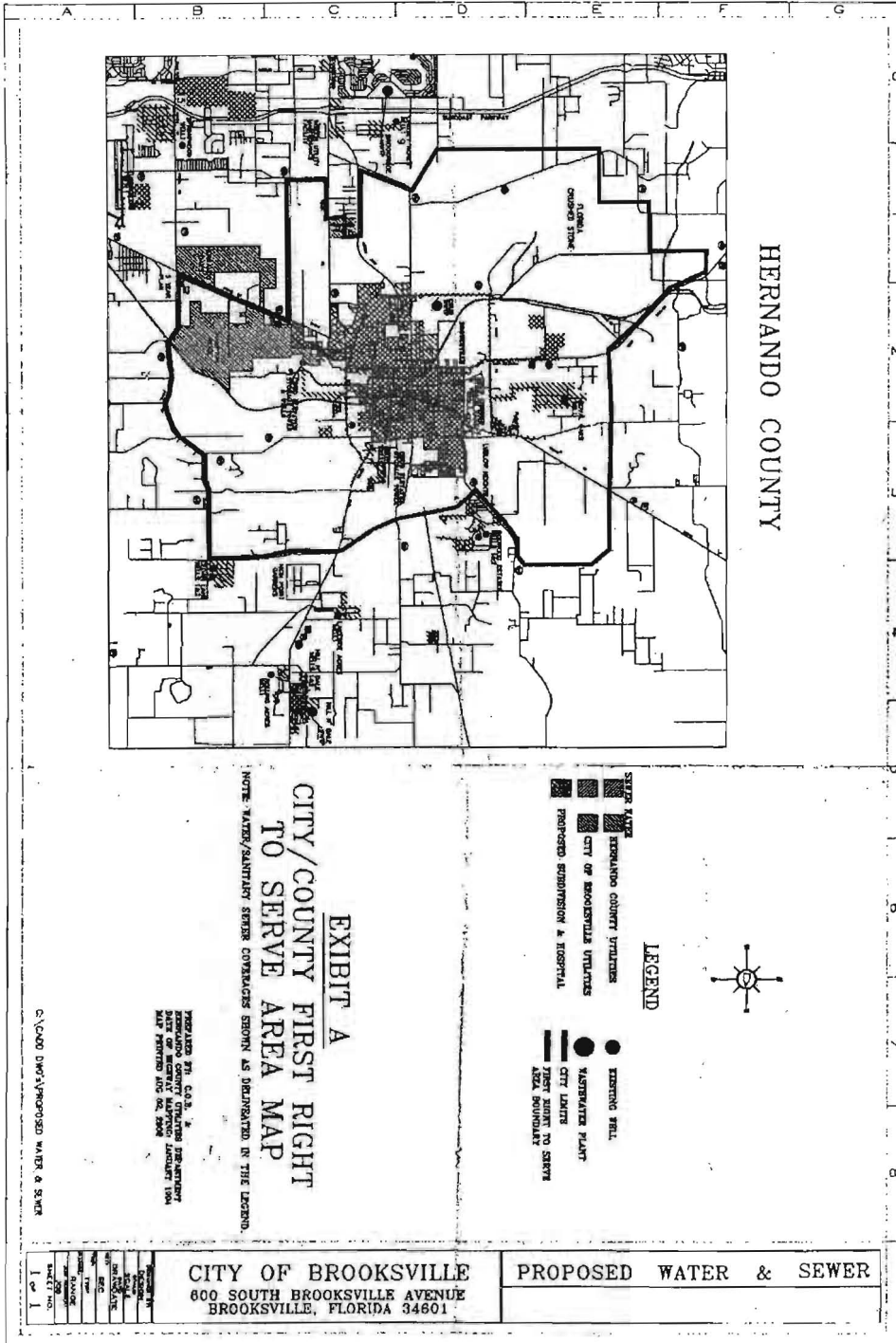
CITY OF BROOKSVILLE

By: E. E. Wever, Jr.
E. E. "Ernie" Wever, Jr.,
Mayor

Date: 8/5/02

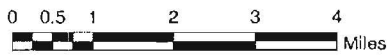


Approved:
David LaCroix
David LaCroix,
City Attorney





Distance from proposed USA to 1st Right to Serve Area
2009 Aerial Map



This map information provided
by the Hernando County Property
Appraiser's office.
It was created by the Brooksville
City Development Department.
Owner: This map is intended for
information purposes only, and should
not be used to determine the precise
location of any feature shown thereon.
Project/Private Utility 11132609.mxd

DOCUMENT NUMBER - DATE
11978 DEC 15 8
FPSC - COMMISSIONER C-117