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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

JUN 14 PM 4:42

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

COMMISSION CLERK

DATED: JUNE 14, 2010

**SKYLAND UTILITIES, LLC'S PREHEARING STATEMENT**

Applicant, Skyland Utilities, LLC, by and through its undersigned attorneys, hereby files this Prehearing Statement pursuant to Order No. Order PSC-10-0105-PCO-WS issued in Docket No. 090478-WS on February 24, 2010 and states:

**I. WITNESSES.**

A. **Mr. Gerald C. Hartman**, GAI Consultants, Inc., 301 East Pine Street, Suite 500, Orlando, FL 32801.

Mr. Hartman will testify on both direct and rebuttal as an expert in support of the application of Skyland Utilities, LLC including testimony regarding the exhibits filed with that application and any revisions to those exhibits subsequently filed. Mr. Hartman will testify as to the identity of Skyland Utilities, LLC, why Skyland Utilities, LLC is applying for a certificate, the technical ability of Skyland Utilities, LLC to provide service, the need for service, the need for certification of this territory, the existence and nature of other utilities in the area, the comprehensive plans of the surrounding governmental entities, and the formulation of appropriate rates and charges for service. Mr. Hartman will also provide rebuttal testimony to

the direct testimony of the various complainants/ intervenors in this docket.

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B. **Mr. Daniel B. DeLisi**, DeLisi Fitzgerald, 1605 Hendry Street, Fort Myers, FL 33901.

Mr. DeLisi will testify as an expert in support of the application of Skyland Utilities, LLC. Mr. DeLisi is an expert in planning and will testify regarding the Comprehensive Plans of the various parties, the relationship between the application and the operation of the proposed Utility to those Comprehensive Plans, the implementation of the various plans, and the basic philosophies, policies, and purposes of comprehensive planning itself. Mr. DeLisi will also testify regarding the scheme and goals of comprehensive planning as created by the various Florida Statutes, particularly the State Growth Management Act.

C. **Mr. Ronald Edwards**, Evans Properties, Inc., 660 Beachland Boulevard, Suite 301, Vero Beach, FL 32963-1708.

Mr. Edwards will testify as the Manager of Skyland Utilities, LLC and as President and CEO of Evans Properties, Inc., the owner of the land which Skyland proposes to certificate. Mr. Edwards will testify as to the identity of Skyland Utilities, LLC, why Skyland Utilities, LLC is applying for a certificate, the financial and technical ability of Skyland Utilities, LLC to provide service, the need for service, and the need for certification of this territory.

## II. EXHIBITS.

Skyland Utilities, LLC will request, at the time of hearing, that the Commission take judicial notice of Skyland Utilities, LLC's entire application with revisions as contained within the Commission's files. Skyland Utilities, LLC also anticipates that it will use certain demonstrative exhibits at the time of hearing for the convenience of the Panel, the staff and the parties. These demonstrative exhibits will be comprised of various maps, possibly with overlays,

which provide visual assistance to the testimony of the witness. Prefiled Direct and Rebuttal Exhibits are as follows:

1. Gerald Hartman.

<u>Exhibit No.</u>	<u>Exhibits</u>
GCH-1	Application for Original Water Certificate in Volusia and Brevard Counties.
GCH-2	Order Nos. PSC-08-0846-FOF-WS and PSC-09-0430-PAA-WS.
GCH-3	Resume.
GCH-4	Section 373.016 and 403.021, Florida Statutes.
GCH-5	Development Phases – Final.

2. Daniel B. DeLisi

<u>Exhibit No.</u>	<u>Exhibits</u>
DBD-1	Resume.

3. Ronald Edwards

<u>Exhibit No.</u>	<u>Exhibits</u>
RE-1	Letter from SunTrust.

4. Skyland reserves the right to identify additional exhibits for the purposes of cross examination.

III. SKYLAND'S STATEMENT OF BASIC POSITION.

There is a need for potable water, agricultural/irrigation water, wastewater services, and there is expected to be a need for bulk raw water services throughout the territory

applied for by Skyland Utilities, LLC. The Applicant is ready, willing and able from both a technical and financial standpoint to provide those services currently needed and to meet additional needs as they arise. No other utility can provide service to the territory as economically or efficiently as Skyland Utilities, LLC. The proposed certification of Skyland Utilities, LLC is in the public interest and is not inconsistent with the Comprehensive Plans of any of the protestants or intervenors in this case developed pursuant to §163.3161-163.3211, Fla. Stat. In fact, the certification of Skyland Utilities, LLC will facilitate effective and orderly growth management and resource preservation and allocation within the proposed territory comprised of lands owned by Skyland Utilities, LLC's affiliated entities. If the Commission finds such an inconsistency exists under these facts and circumstances, it should grant the certificate to Skyland notwithstanding.

IV. ISSUES OF FACT, LAW, AND POLICY.

**1. Has Skyland presented evidence sufficient to invoke the Commission's exclusive jurisdiction over Skyland's application for original certificates for proposed water and wastewater systems?**

Skyland's Position:

Yes, Skyland has presented all evidence sufficient to invoke such exclusive jurisdiction and the Commission has exclusive jurisdiction under the provisions of Chapter 367, Florida Statutes and any attempts by local government to assert jurisdiction over those issues, is contrary to law and ineffectual. (Hartman, Edwards)

**2. Is there a need for service in Skyland's proposed service territory and, if so, when will service be required?**

Skyland's Position:

Yes, there is an immediate need for potable water and wastewater services throughout the proposed service territory and additional needs are anticipated in the near future. (Hartman, Edwards)

**3. Is Skyland's application inconsistent with Hernando County's comprehensive plan?**

Skyland's Position:

No, certification of Skyland Utilities, LLC in the area applied for in its application is consistent with the Comprehensive Plan of Hernando County. If the Commission finds such an inconsistency exists under these facts and circumstances, it should grant the certificate to Skyland notwithstanding. (DeLisi, Hartman)

**4. Is Skyland's application inconsistent with Pasco County's comprehensive plan?**

Skyland's Position:

No, certification of Skyland Utilities, LLC in the area applied for in its application is consistent with the Comprehensive Plan of Pasco County. If the Commission finds such an inconsistency exists under these facts and circumstances, it should grant the certificate to Skyland notwithstanding. (DeLisi, Hartman)

**5. Will the certification of Skyland result in the creation of a utility which will be in competition with, or duplication of, any other system pursuant to Section 367.045(5)(a), Florida Statutes?**

Skyland's Position:

No, there are no other existing utility systems other than those operated by Skyland within the proposed territory or immediately adjacent thereto. (Hartman, Edwards)

**6. Does Skyland have the financial ability to serve the requested territory?**

Skyland's Position:

Yes, Skyland has demonstrated the financial ability to serve the requested territory. (Hartman, Edwards)

**7. Does Skyland have the technical ability to serve the requested territory?**

Skyland's Position:

Yes, Skyland has the necessary technical ability. Skyland is currently operating the water systems within the proposed territory and has retained and will employ or retain additionally qualified individuals and/or entities to assist in the operation of the Utility as additional needs arise. (Hartman, Edwards)

**8. Has Skyland provided evidence that it has continued use of the land upon which the utility treatment facilities are or will be located?**

Skyland's Position:

Yes, Skyland has provided a lease between the Utility and the landowner, which has been executed by the Utility and the landowner. That lease will allow Skyland the use of lands throughout the proposed territory as and when needed on a long term basis for Utility treatment facilities. The landowner is fully committed to the utility's operation and will continue to work with Skyland as to the utility's need for the continued use of the land. (Hartman, Edwards)

**9. Is it in the public interest for Skyland to be granted water and wastewater certificates for the territory proposed in its application?**

Skyland's Position:

Yes, there is a need for service and Skyland is in the best position to provide such service. No other entity has facilities in place which will allow it to provide the service efficiently and effectively. Skyland is in the best position to properly provide the services needed and to operate those facilities in an efficient manner which will best utilize and preserve available resources for all of the customers within the proposed territory now and in the future. (Hartman, Edwards)

**10. If the certificates for the proposed water and wastewater system are granted, what is the appropriate return on equity for Skyland?**

Skyland's Position:

The appropriate return on equity for Skyland is the return on equity yielded by the most current leverage formula order in effect at the time the Commission issues its Final Order in this proceeding. (Hartman)

**11. If the certificates for the proposed water and wastewater system are granted, what are the appropriate potable water and wastewater rates for Skyland?**

Skyland's Position:

The appropriate potable water and wastewater rates are those proposed by Skyland in its application. (Hartman)

**12. If the certificates for the proposed water and wastewater system are granted, what are the appropriate service availability charges for Skyland?**

Skyland's Position:

The appropriate service availability charges for Skyland are those as proposed by Skyland in its application. (Hartman)

**13. If the certificates for the proposed water and wastewater system are granted, what is the appropriate Allowance for Funds Used During Construction (AFUDC) rate for Skyland?**

Skyland's Position:

The appropriate Allowance for Funds Used During Construction (AFUDC) rate for Skyland is that yielded by use of the leverage formula in effect at the time the Commission issues its Final Order in this proceeding and the cost of debt as outlined in the application of Skyland. (Hartman)

**14. Should this docket be closed?**

Skyland's Position:

Upon issuance of the certificates requested, this docket should be closed.

**V. STIPULATED ISSUES.**

Skyland is aware of no issues which have been stipulated by the parties as of the date of filing of Prehearing Statements.

**VI. PENDING MOTIONS.**

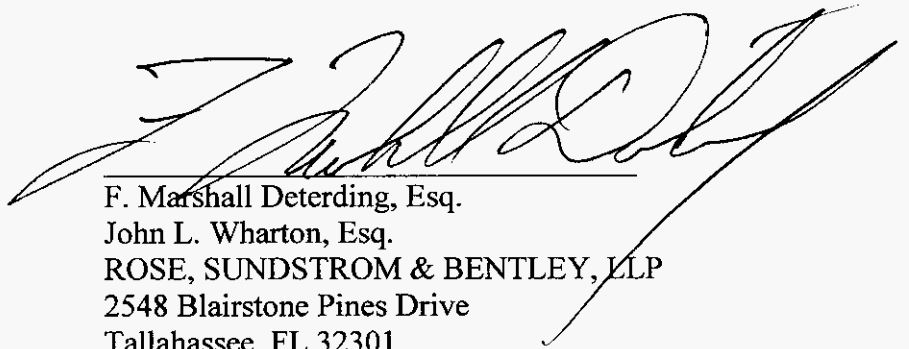
None at this time.

**VII. COMPLIANCE WITH PREHEARING ORDER REQUIREMENTS.**

Skyland Utilities, LLC is not as of the filing of this Prehearing Statement aware of any specific requirements of the Prehearing Order that cannot be complied with.



DATED this 14th day of June, 2010.

A large, stylized handwritten signature in black ink, appearing to read 'F. Marshall Deterding', is written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement has been furnished by email this 14<sup>th</sup> day of June, 2010, to:

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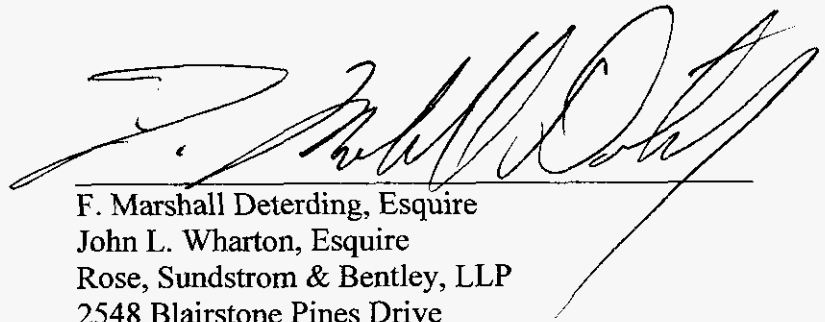
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