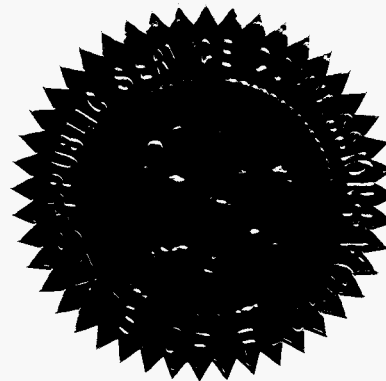


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

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.



VOLUME 4

Pages 549 through 701

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THE OFFICIAL TRANSCRIPT OF THE HEARING,
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PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: COMMISSIONER LISA POLAK EDGAR
COMMISSIONER NATHAN A. SKOP
COMMISSIONER ART GRAHAM
COMMISSIONER RONALD A. BRISÉ

DATE: Thursday, September 23, 2010

TIME: Commenced at 9:34 a.m.
Concluded at 12:03 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida 34604-6899

REPORTED BY: LINDA BOLES, RPR, CRR
Official FPSC Reporter
(850) 413-6734

APPEARANCES: (As heretofore noted.)

DOCUMENT NUMBER-DATE
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I N D E X

WITNESSES

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EXHIBITS

NUMBER:		ID.	ADMTD.
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P R O C E E D I N G S

(Transcript follows in sequence from
Volume 3.)

COMMISSIONER SKOP: At this point we're going to reconvene the technical hearing where we left off, and I believe that was on July 7th. Okay. And July 7th and 8th was the dates of the prior hearing. So at this time I'd like to begin by taking appearance of counsel.

MR. WHARTON: John Wharton and Marty Deterding of Rose, Sundstrom & Bentley for Skyland Utilities, LLC.

COMMISSIONER SKOP: Thank you.

MR. McATEER: Derrill McAteer for the City of Brooksville.

MR. KIRK: Good morning. Jeff Kirk on behalf of Hernando County, Hernando County Water and Sewer District, and Hernando County Water and Sewer Regulatory Authority.

MR. HOLLIMON: Bill Hollimon with Hollimon, P.A., on behalf of Pasco County.

MR. REHWINKEL: Charles Rehwinkel and Steve Reilly on behalf of the Office of Public Counsel.

COMMISSIONER SKOP: Staff.

MS. KLANCKE: Caroline Klancke and Lisa Bennett on behalf of the Commission staff.

MS. CIBULA: Samantha Cibula, Commission

1 advisor.

2 **COMMISSIONER SKOP:** All right. Thank you.
3 And, staff, at this time are there any preliminary
4 matters that we need to consider?

5 **MS. KLANCKE:** There are a few. Staff notes
6 that the parties have raised several objections to the
7 exhibits to staff's Comprehensive Exhibit List. At the
8 hearing on July 7th, the parties agreed to brief all
9 objections based on hearsay. Staff notes, however, that
10 the parties were further advised that all non-hearsay
11 objections to the admissibility of a document should be
12 raised at the time that the party sponsoring the
13 document moves the Presiding Officer to enter the
14 document into the record. The Presiding Officer will
15 then issue a ruling on the admissibility of that
16 particular exhibit.

17 **COMMISSIONER SKOP:** Okay. And with respect to
18 that, you know, that's been the process that the
19 Commission has followed, that if there is a
20 contemporaneous objection to the admission of an
21 exhibit, that we'll take up the objection at that time.

22 Also, too, for the planning purposes for the
23 day, it's my intent that -- we have six witnesses to go
24 through. It's my intent for my colleagues to go until
25 12:00, and at that time we'll take a break for lunch

1 from 12:00 to 1:15 and reconvene at that time.

2 And hopefully -- you know, we have time limits
3 for witness summaries. We'll be exercising that to move
4 things along this morning. But I'd just ask the parties
5 to work together cooperatively so that we can move
6 forward and conclude the technical portion of the
7 hearing in the allotted time. And, staff, are there any
8 other additional preliminary matters that we need to
9 take up?

10 **MS. KLANCKE:** Yes, sir. As you mentioned and
11 as specified in the, in the Prehearing Order, each
12 witness summary is limited to five minutes.

13 Staff has distributed for your ease of
14 reference an order of remaining witnesses. As indicated
15 in the order of remaining witnesses sheet, the
16 surrebuttal witnesses will be taken up immediately
17 following the Utility's rebuttal witnesses.

18 Staff notes that the Comprehensive Exhibit
19 List has been marked as Exhibit Number 1 and moved into
20 the record. All other exhibits on the list should be
21 moved into the record during the sponsored, sponsoring
22 witness's testimony.

23 Staff would also like to note that although we
24 included Exhibits 30, 31 and 32 on staff's Composite
25 Exhibit List, we will not seek to have those exhibits

1 entered into the record.

2 **COMMISSIONER SKOP:** Very well. Any additional
3 preliminary matters before we move forward?

4 **MS. KLANCKE:** None that I am aware of.

5 **COMMISSIONER SKOP:** Okay. My understanding is
6 where we left off on July 8th for the technical portion
7 of the hearing was that Skyland was putting on rebuttal
8 with the testimony of Mr. Hartman. Mr. Hartman was
9 attempting to rebut the Service Hearing testimony of
10 Mr. Radacky, and there's transcript reference to that on
11 page 13, line 10, that granted Skyland's request to
12 narrowly rebut the testimony of Mr. Radacky. And I
13 believe that where we left off on page 546, lines 24
14 through 25, Mr. Deterding from Skyland or on behalf of
15 Skyland asserted that they only had one or two more
16 questions for Mr. Hartman regarding Mr. Radacky's
17 testimony. So we'll proceed with that, and then we'll
18 move forward with allowing Mr. Hartman to give his
19 summary of his rebuttal testimony, and then Mr. Hartman
20 will be tendered for cross-examination. So Mr. Wharton
21 or Deterding, you may proceed.

22 **MR. WHARTON:** Commissioner Skop, just very
23 briefly. Because these facilities are a little more
24 spread out than were those at the district, these are
25 the same two demonstratives on easels that were on

1 easels when we broke then. We did make four copies of
2 those same demonstratives for the Commissioners and one
3 for the staff, if you would care to have them.

4 **COMMISSIONER SKOP:** Okay. And have you shown
5 those to opposing counsel?

6 **MR. WHARTON:** I did.

7 **COMMISSIONER SKOP:** Okay. Any objection from
8 the parties?

9 **MR. KIRK:** Hernando County would renew its
10 objection to the extent as -- they may be used as
11 demonstratives, but to the extent that the witness in
12 that -- some of the data on the demonstrative was not
13 actually generated by this company.

14 **COMMISSIONER SKOP:** All right. Very well.
15 Any other objections?

16 **MR. McATEER:** The City of Brooksville would
17 renew its objection to the use of the arsenic
18 illustration for better -- or a better explanation, the
19 triangle document, due to the reasons set forth earlier
20 about the lack of any predicate, the lack of any source
21 explanation. This looks like it was self-generated.
22 And we certainly would strenuously object to it being
23 entered into evidence as, as a formal exhibit. Which if
24 that happens in the future in this hearing, I'm sure
25 there will be mutual objections throughout this side of

1 the table.

2 **COMMISSIONER SKOP:** All right. Very well.

3 Any other comments?

4 **MR. HOLLIMON:** Pasco County does not object to
5 the use of these as demonstrative exhibits.

6 **COMMISSIONER SKOP:** All right. Mr. Rehwinkel?

7 Okay. All right. Staff, my, if my memory
8 serves me correctly, that as we proceeded on the
9 July 7th and July 8th hearing, that the exhibits by
10 ruling of the Presiding Officer would be allowed for
11 demonstrative purposes, noting that there was an
12 objection as to the indications of, of arsenic
13 contamination on there by the parties. So I believe
14 that's where we're at.

15 **MR. WHARTON:** And I -- and respectfully,
16 Commissioner Skop, I believe there was a ruling from the
17 bench that an adequate foundation had been laid for
18 demonstrative purposes.

19 **COMMISSIONER SKOP:** Right. Okay. All right.
20 So that's what we're going to proceed forward with.
21 Those exhibits will be allowed for demonstrative
22 purposes. And if they are sought to be moved into
23 evidence, we'll take up any objections at the
24 appropriate time.

25 **MS. KLANCKE:** Mr. Presiding Officer, I believe

1 that although the witnesses were previously sworn in, it
2 may be beneficial to swear them in once again.

3 **COMMISSIONER SKOP:** And I was just getting to
4 that. So if the witnesses could stand that will appear
5 today, and I'll swear you in. If you could raise your
6 right hand, please.

7 (Witnesses collectively sworn.)

8 Thank you. Okay. Mr. Deterding, you may
9 proceed.

10 **MR. DETERDING:** Thank you, Commissioner.

11 As you'll recall, we were in the middle of
12 having Mr. Hartman testify concerning Mr. Radacky.

13 **DIRECT EXAMINATION**

14 **BY MR. DETERDING:**

15 **Q.** Mr. Hartman, would you please state your name
16 and employment address.

17 **A.** Gerald Charles Hartman, GAI Consultants,
18 301 East Pine Street, Orlando, Florida.

19 **Q.** And you, at the July 8th hearing you had
20 presented your rebuttal testimony and had begun your
21 responses to Mr. Radacky; correct?

22 **A.** I presented the rebuttal of Mr. Radacky, had
23 not gotten to the summary of my rebuttal testimony.

24 **Q.** Right. But you had, you had affirmed the,
25 that you had prepared your testimony.

1 **A.** I had affirmed that I prepared the rebuttal
2 testimony and made the -- I believe there's, there were
3 two or three little corrections.

4 **Q.** Right. Okay. Let's get back to where we were
5 with Mr. Radacky. You had already discussed the issue,
6 issues he had raised about water banking and mining of
7 water and transfer of water supplies. I believe you had
8 addressed those issues already. So unless you had
9 something further on those, I think we can move to the
10 other few questions that I had concerning Mr. Radacky's
11 comments.

12 You heard Mr. Radacky's comments about
13 governmental versus private utilities and his
14 experiences concerning those. Can you speak to that
15 issue?

16 **A.** Yes. Mr. Radacky said that basically private
17 utilities are bad and, and governmental utilities are
18 good. I think as a matter of record, at the Commission
19 there's a -- you know, I previously provided to the
20 Commission a white paper on East Central Florida
21 Services, which showed all the public interest benefits
22 for investor-owned utilities. There's four orders
23 relative to cases, you know, *B and C*, *D and E*, *ECFS* and
24 *Farmton*, that address this issue very clearly. I've
25 been a functioning professional engineer in the State of

1 Florida for about 35 years in the areas of water and
2 wastewater utilities, and it is not all one-sided.

3 There are, there are -- various utilities run
4 into various problems at any time. There are tremendous
5 benefits for investor-owned utilities, and that's the
6 whole situation here for the Florida Public Service
7 Commission. And the tremendous benefit and why we have
8 both governmental and investor-owned public utilities
9 are that, the public benefit of central service, and
10 that has been found through the state as the primary
11 overriding factor as a preference over well and septic
12 tanks because you have operations and many other
13 aspects.

14 Q. Mr. Hartman, did you hear Mr. Radacky's
15 comments about the cost advantages of governmental
16 versus private utilities?

17 A. Yes. He stated that all governmental
18 utilities were less expensive than private utilities,
19 and that's simply not the case. I'll take the Water
20 Management District's, which is an agency of the,
21 there's five of them, agencies of the State of Florida,
22 rate summaries. Their rate summaries for governmental
23 entities show that the rates and charges for
24 governmental entities range from about \$30 per month to
25 \$150 per month combined water and wastewater. Taking

1 the 2,000, December 2009 FPSC listing, which is your
2 staff's listing of all the rates and charges of the
3 investor-owned utilities in the State of Florida, the
4 range is from \$20 to \$190 per month combined water and
5 wastewater utilities. These records are readily
6 available, they're comparable. There's not a preference
7 generally.

8 Q. Mr. Hartman, you had previously identified
9 your exhibits that you're sponsoring with your rebuttal
10 testimony, GCH-4 and GCH-5. I'm not sure if those were
11 marked when we left, by the time we left.

12 MS. KLANCKE: I don't believe so, not yet.

13 MR. DETERDING: Okay. And I would request
14 that those be marked for identification purposes.

15 COMMISSIONER SKOP: Excuse me. That's --
16 staff, can you --

17 MS. KLANCKE: That's number 37 and 38.

18 COMMISSIONER SKOP: 38? Yeah. That's what I
19 thought.

20 MS. KLANCKE: On the Comprehensive Exhibit
21 List.

22 (Exhibits 37 and 38 marked for
23 identification.)

24 COMMISSIONER SKOP: Okay. All right. Those
25 have been marked for identification purposes. You may

1 proceed.

2 **MR. DETERDING:** Thank you, Commissioner.

3 **BY MR. DETERDING:**

4 **Q.** Mr. Hartman, can you please provide us with a
5 brief summary of your rebuttal testimony?

6 **A.** Yes. My rebuttal testimony, of course,
7 addresses the Intervenor testimony of the three
8 entities.

9 First I'll address Brooksville. Brooksville
10 did not provide any testimony. The objection from a
11 technical standpoint I saw in the areas of water
12 resources permitting and withdrawals which is conjecture
13 and speculation, of course, in my opinion, and are the
14 purview of the Southwest Florida Water Management
15 District and not really the Commission. The Commission
16 doesn't grant water use permits or things like that.

17 In addition, the Southwest Florida Water
18 Management District hydrogeologist testified in a time
19 period that Evans has an existing, it's an existing
20 prior agency action for 841,000 gallons per day, which
21 is existing water use permit, and testified that it is
22 an adequate quantity for the demand shown in the
23 application. That is all I have on Brooksville.

24 Relative -- I've testified as county
25 regulatory staff or an expert for six counties on

1 proceedings such as these, as well as my experience here
2 in front of the Commission. When a service area -- this
3 addresses the two counties. When a service area is
4 multicounty; the counties are adjacent; the areas are
5 relatively close; the areas are financially related; in
6 this application, the rates and charges would be the
7 same; the operations are for one area; the
8 administration are the same; historically, the practice
9 of the Commission is to find that this, these
10 circumstances provide for the jurisdiction of the
11 Florida Public Service Commission. And, again, these
12 four previous dockets that I referenced before support
13 that.

14 A major issue in this case, I think really the
15 major issue in this case is central service versus no
16 service. Central service versus no service. And no
17 service is no central service. When you say well and
18 septic, you're saying no service.

19 **MR. KIRK:** I'm going to object. He's going
20 beyond what Mr. Radacky testified about.

21 **COMMISSIONER SKOP:** Hold on. Mr. Deterding to
22 the objection.

23 **MR. DETERDING:** He, he's not responding to
24 Mr. Radacky. He is summarizing his rebuttal testimony
25 in which he did address these issues.

1 **COMMISSIONER SKOP:** All right. The objection
2 is overruled. You may proceed.

3 **THE WITNESS:** The FPSC purpose is to regulate
4 central service, all Intervenor utilities and their
5 operations, where they run their utilities, provide
6 central service, the state agencies of the State of
7 Florida. The rules and regulations of this state have
8 found that it is in the public interest to have central
9 service. Central service is planned and efficient, been
10 found to be so. No service is well and septic tanks.

11 Both Hernando and Pasco County and Pasco
12 County, except for one land area, say well and septic.
13 In other words, they're saying no service, which means
14 no efficient planning.

15 Skyland wants central service. They want that
16 obligation for service. And in this area, as we heard
17 before, it's essential. We have arsenic contamination
18 in over 300 wells in this area.

19 Skyland meets all the criteria for public
20 interest, as shown in my rebuttal testimony. The
21 statements that central service is uneconomic for each
22 county is the same thing as denying service. Those
23 areas within Skyland are similar, they're owned by
24 Evans, and Skyland provided evidence of continued use of
25 the land. These areas constitute the customer class as

1 shown in the application. The American Water Works
2 Association rate setting management practice say the
3 cost causing behavior should be recovered from that
4 customer class. You should pay for what you get. So
5 that is the premise for setting rates and charges. Our
6 application does not require other customers to
7 subsidize this customer class. It is not in the public
8 interest for such subsidies to occur.

9 Monthly rates are not the total cost of
10 service and can be misleading. The total cost of
11 service involves everything that goes into the cost of
12 service, the capital as well as the operational costs.
13 And when you have, and as testified in this hearing,
14 over \$10 million to serve central service for 250 to
15 300 customers, that's a very high capital cost.

16 Statements by both counties is that Skyland
17 central service is inefficient, yet both counties state
18 that they cannot serve Skyland economically with central
19 service. There are no cost of service studies by either
20 to compare. The only evidence in front of you is the
21 cost of service study by Skyland. There are no other
22 competing cost of service studies. You cannot compare
23 because there are no other -- there is no other
24 evidence.

25 Well and septic tanks are not economical,

1 they're not as efficient, they're not as effective, they
2 do not have the same planning or public health --

3 **COMMISSIONER SKOP:** Mr. Hartman, your time has
4 expired. Can you please briefly conclude?

5 **THE WITNESS:** Well, basically the bottom line
6 here is that, is that this is about central service, the
7 only central service being provided, and the only entity
8 showing for central service is Skyland. Skyland is
9 showing an immediate need for its residential,
10 commercial and agriculture use, agribusiness use.
11 Around Skyland there isn't any because there are well
12 and septic tanks as well as satellite facilities around
13 Skyland. To say that there's no need doesn't recognize
14 the existing situation and --

15 **COMMISSIONER SKOP:** All right. Mr. Hartman,
16 again, you've gone well over your time, so I'd ask you
17 to stop at this point. And, Mr. Deterding, you're
18 recognized.

19 **MR. DETERDING:** Thank you, Commissioner. I
20 would request that Mr. Hartman's rebuttal testimony be
21 inserted into the record as though read.

22 **COMMISSIONER SKOP:** The rebuttal testimony of
23 Mr. Hartman will be entered into the record as though
24 read.

25

1 BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

2 APPLICATION FOR ORIGINAL CERTIFICATES

3 FOR PROPOSED WATER AND WASTEWATER SYSTEMS

4 IN HERNANDO AND PASCO COUNTIES

5 AND REQUEST FOR INITIAL RATES AND CHARGES

6 FOR SKYLAND UTILITIES, LLC

7 DOCKET NO. 090478-WS

8 ON BEHALF OF SKYLAND UTILITIES, LLC

9 REBUTTAL TESTIMONY OF GERALD C. HARTMAN

10 Q. What is your name and employment address?

11 A. Gerald C. Hartman, PE, BCEE, ASA, GAI Consultants, Inc., 301 E. Pine
12 Street, Suite 500, Orlando, Florida 32801.

13 Q. Are you the same Gerald C. Hartman who provided direct testimony in
14 this docket?

15 A. Yes.

16 Q. Are you aware of the interveners in the Skyland Utilities, LLC
17 Docket?

18 A. I am aware that representatives from the City of Brooksville,
19 Hernando County and Pasco County have intervened in this case.

20 Q. Have you reviewed the direct testimony of anyone from the City of
21 Brooksville?

22 A. No, the City of Brooksville did not file direct testimony in this
23 docket.

24 Q. Have you reviewed the direct testimony of Ronald A. Pianta, AICP, on
25 behalf of Hernando County, Florida?

1 A. Yes.

2 Q. Have you reviewed the direct testimony of Joseph Stapf on behalf of
3 Hernando County, Florida?

4 A. Yes.

5 Q. Have your reviewed the direct testimony of Paul L. Weiczorek, AICP,
6 on behalf of Hernando County, Florida?

7 A. Yes.

8 Q. Have your reviewed the direct testimony of Bruce Kennedy, PE, on
9 behalf of Pasco County, Florida?

10 A. Yes.

11 Q. Have your reviewed the direct testimony of Richard E. Gehring on
12 behalf of Pasco County, Florida?

13 A. Yes.

14 Q. Have your reviewed the direct testimony of Daniel W. Evans on behalf
15 of the Florida Public Service Commission?

16 A. Yes.

17 Q. Have your reviewed the direct testimony of Paul M. Williams on
18 behalf of the Florida Public Service Commission?

19 A. Yes.

20 Q. What is the purpose of your rebuttal testimony?

21 A. I will provide rebuttal in general to the overall contention that
22 Skyland should not be granted water and wastewater certificates by the
23 Florida Public Service Commission as well as to certain portions of the
24 aforementioned individuals' direct testimony.

25

1 Q. Mr. Hartman, have you served as the staff and/or testified as an
2 expert witness on behalf of counties which have taken back jurisdiction
3 from the FPSC?

4 A. Yes.

5 Q. In which counties have you served or testified as an expert?

6 A. St. Johns County, Flagler County, Collier County, Hillsborough
7 County, Sarasota County and DeSoto County.

8 Q. Have you participated in cases involving multi-county investor-owned
9 utilities in Florida related to questions of the proper regulatory
10 authority of the FPSC versus County regulation of those entities?

11 A. Yes. In the case of General Development Utilities in Sarasota and
12 Charlotte Counties on behalf of the City of North Port.

13 Q. What was the outcome?

14 A. In that matter, the FPSC asserted jurisdiction due to the multi-
15 county nature of the utility. In that case the FPSC interpreted it had
16 jurisdiction to regulate the system because its service was located in
17 more than one county.

18 Q. Are you aware of similar cases?

19 A. Yes. A quick summary includes the following:

20 1) Lake Suzy Utilities, Inc. case vs. DeSoto County - Result FPSC
21 Jurisdiction;

22 2) Nocatee Utilities, Inc. case vs. St. Johns County - Result FPSC
23 Jurisdiction

24 3) United Utilities case - Result FPSC Jurisdiction

25

1 4) Florida Water Services Corporation cases (various) - Result FPSC
2 Jurisdiction, to name a few.

3 Q. What is your opinion of the proper venue for Skyland, LLC to seek
4 water and wastewater certificates?

5 A. It is my opinion, based on the facts of this docket, that the FPSC
6 has exclusive jurisdiction to grant water and wastewater certificates to
7 Skyland. This is in keeping with the cases I previously cited.

8 Q. Have you reviewed the testimony of Mr. Ronald A. Pianta for Hernando
9 County, Mr. Paul L. Wieczorek for Hernando County and Mr. Richard Gehring
10 for Pasco County relative to the causal relationship between FPSC
11 certification and urban sprawl?

12 A. Yes. In the middle of Page 6 of Mr. Pianta's testimony, near the
13 top of Page 3 of Mr. Wieczorek's testimony, and the middle of Page 6 of
14 Mr. Gehring's testimony they each make reference to the certification of
15 Skyland as violating the provisions of the local government Comprehensive
16 Plan's provisions to limit urban sprawl. It is my personal knowledge, in
17 serving several investor-owned utilities throughout the State, that I am
18 not aware of any FPSC certification that led to urban sprawl. I have
19 served as a consultant to ECFS, Inc. which is a major investor-owned
20 utility in Brevard, Orange and Osceola Counties. I was a member of the
21 Policy Advisory Committee representing the State of Florida American
22 Society of Civil Engineers under Lt. Governor Jim Williams on the original
23 drafting of the utility element of the State Comprehensive Plan. During
24 all the sessions, I cannot recall any correlation between a FPSC
25 certificate and urban sprawl ever being discussed or consideration that

1 the utility element of the Comprehensive Plan would preclude FPSC
2 certification in and of itself. Moreover, I have assisted several Florida
3 cities and counties on the Chapter 9J5 portions of their approved
4 comprehensive plans. To my knowledge, there has never been a correlation
5 between a FPSC certificate and urban sprawl in those utility elements of
6 the comprehensive plans under Chapter 9J5. As evidenced in almost two
7 decades of operation, ECFS, Inc. has appropriately operated and
8 facilitated beneficial activities in the public interest through its
9 operations of a regulated utility and its certification has not resulted
10 in any of the alleged planning nightmares which the planners in this case
11 had assigned to certification of the utility during its original PSC
12 process.

13 Q. Have you reviewed the testimony of Mr. Paul L. Wieczorek for
14 Hernando County, Mr. Joseph Stapf for Hernando County and Mr. Bruce
15 Kennedy for Pasco County relative to their comment that the FPSC
16 certification of Skyland is not in the public interest?

17 A. Yes. Mr. Wieczorek near the top of Page 3 of his testimony, Mr.
18 Stapf on the last line of Page 6 of his testimony, and Mr. Kennedy near
19 the middle of Page 4 of his testimony all state they do not believe the
20 granting of utility certificates to Skyland is in the public interest. I
21 believe that the Skyland application is in the public interest.

22 Q. As a professional engineer specializing in Florida water and
23 wastewater utilities for over 30 years, have you had an occasion to
24 address the public policy and interest declarations as stated in Chapter
25 373.016 and Chapter 403.021 Florida Statutes?

1 A. Yes, I have.

2 Q. Would you address the above-referenced public policies as they
3 relate to the Skyland application?

4 A. Yes. I will address Chapter 373.016 F.S. and 403.021 F.S. (Exhibit
5 GCH-4) with the number and letter subsection (if applicable) provided at
6 the beginning. Chapter 373.016 F.S. states the following to the policies
7 of the State which are to be promoted:

8 *"(1) The waters in the state are among its basic resources. Such*
9 *waters have not heretofore been conserved or fully controlled so as*
10 *to realize their full beneficial use.*

11 *(2) The department and the governing board shall take into account*
12 *cumulative impacts on water resources and manage those resources in*
13 *a manner to ensure their sustainability.*

14 *(3) It is further declared to be the policy of the Legislature:*

15 *(a) To provide for the management of water and related land*
16 *resources;*

17 *(b) To promote the conservation, replenishment, recapture,*
18 *enhancement, development, and proper utilization of surface and*
19 *ground water;*

20 *(c) To develop and regulate dams, impoundments, reservoirs, and*
21 *other works and to provide water storage for beneficial purposes;*

22 *(d) To promote the availability of sufficient water for all existing*
23 *and future reasonable-beneficial uses and natural systems;*

24 *(e) To prevent damage from floods, soil erosion, and excessive*
25 *drainage;*

1 (f) To minimize degradation of water resources caused by the
2 discharge of stormwater;

3 (g) To preserve natural resources, fish, and wildlife;

4 (h) To promote the public policy set forth in s. 403.021;

5 (i) To promote recreational development, protect public lands, and
6 assist in maintaining the navigability of rivers and harbors; and

7 (j) Otherwise to promote the health, safety, and general welfare of
8 the people of this state.

9 (4) (a) Because water constitutes a public resource benefiting the
10 entire state, it is the policy of the Legislature that the waters in
11 the state be managed on a state and regional basis. Consistent with
12 this directive, the Legislature recognizes the need to allocate
13 water throughout the state so as to meet all reasonable-beneficial
14 uses. However, the Legislature acknowledges that such allocations
15 have in the past adversely affected the water resources of certain
16 areas in this state. To protect such water resources and to meet the
17 current and future needs of those areas with abundant water, the
18 Legislature directs the department and the water management
19 districts to encourage the use of water from sources nearest the
20 area of use or application whenever practicable. Such sources shall
21 include all naturally occurring water sources and all alternative
22 water sources, including, but not limited to, desalination,
23 conservation, reuse of nonpotable reclaimed water and stormwater,
24 and aquifer storage and recovery. Reuse of potable reclaimed water
25 and stormwater shall not be subject to the evaluation described in

1 s. 373.223(3)(a)-(g). However, this directive to encourage the use
2 of water, whenever practicable, from sources nearest the area of use
3 or application shall not apply to the transport and direct and
4 indirect use of water within the area encompassed by the Central and
5 Southern Florida Flood Control Project, nor shall it apply anywhere
6 in the state to the transport and use of water supplied exclusively
7 for bottled water as defined in s. 500.03(1)(d), nor shall it apply
8 to the transport and use of reclaimed water for electrical power
9 production by an electric utility as defined in section 366.02(2)."

10 §(2) states that it is the Department of Environmental Regulation
11 and the Governing Board of the Water Management District who take into
12 account the cumulative impacts of water resources and it is through these
13 Departments that appropriate management of these resources is conducted to
14 ensure their sustainability. It is not the responsibility or within the
15 authority of Hernando or Pasco Counties to attempt to do so through their
16 home rule powers or within their municipal boundaries.

17 §(3)(a), is similar to §(2), the Department provides for the
18 management of water and related land resources.

19 §(3)(b) states that the Department promotes conservation. Only
20 Skyland and its related landowner could implement such activities to
21 replenish, recapture, enhance, and develop the proper utilization of
22 surface and groundwater on the property which they own.

23 §(3)(d) seeks to promote the availability of sufficient water for
24 all existing and future reasonable-beneficial uses and natural systems is
25 the declaration of policy in these areas. The natural systems of Skyland

1 are on the related party's property and the availability of sufficient
2 water for such future reasonable-beneficial uses is to be promoted.

3 §(3)(e) addresses the need to prevent damage from floods, soil
4 erosion, and excessive drainage which is proper stewardship of lands is of
5 extreme interest to the landowner and Skyland to maintain the value and
6 sustainability of their property and to protect the resource which
7 sustains it and properties surrounding it.

8 §(3)(f) addresses minimization of the degradation of water resources
9 caused by the discharge of stormwater. Skyland's related party owns the
10 property where stormwater accumulates from rainfall and can best minimize
11 the degradation of water resources by containing stormwater for recharge.

12 Other entities which do not have adequate land area, cannot avail
13 themselves of the utilization of stormwater to minimize the degradation of
14 water resources.

15 §(3)(g) provides for the preservation of natural resources, fish and
16 wildlife. Skyland's related party landowner is in the business of
17 preserving the natural resources of the property and, in fact, the natural
18 resources of the property are integral to the operations of this entity.

19 ECFS, Inc., as an example, has preserved the natural resources, fish and
20 wildlife in an effective manner in past by becoming certificated to
21 provide very similar water services and it is anticipated by Skyland that
22 such certification will enable it to do the same things.

23 §(3)(h) refers to Chapter 403.021 of the Florida Statutes and that
24 section provides in (1) thereof that the pollution of the air and waters
25 of the State constitute a menace to the public health and welfare; creates

1 public nuisances; is harmful to wildlife and fish and other aquatic life;
2 and impairs domestic, agricultural, industrial, recreational, and other
3 beneficial uses of air and water. Both Hernando and Pasco Counties have
4 allowed for the pollution of groundwaters through the inducement of
5 saltwater intrusion. This fact has significant effects and was
6 categorically one of the primary reasons for the certification of ECFS,
7 Inc. in Brevard, Orange and Osceola Counties. The success of ECFS, Inc.
8 in these arenas has maintained the ability to develop alternative water
9 supplies (Taylor Creek Reservoir), maintained water resources which are
10 not polluted for agricultural, domestic, industrial, recreational and
11 other beneficial uses, and has provided for enhanced water resource
12 management.

13 §(3)(j) provides for the promotion of the health, safety and general
14 welfare, which certainly public utility systems, whether investor-owned or
15 governmentally-owned, should do in their practice and operations.

16 §(4)(a) speaks to the protection of such water resources and the need to
17 meet the current and future needs of those areas with abundant water.
18 Herein the Legislature directs the Department and the water management
19 districts to encourage the use of water from sources nearest the area of
20 use or application whenever practicable. This has been generally
21 described as a portion of the "local sources first" doctrine which
22 reflects the preferred by the State of Florida to have service provided to
23 an area from sources within that area. The Skyland application
24 accomplishes this declaration of State policy and no other service
25 provider would be able to accomplish the same within the Skyland area

1 since Skyland's related party owns the property and existing facilities
2 within the proposed certificated area.

3 Q. To your knowledge, have similar statements as those made by Mr.
4 Wieczorek, Mr. Stapf and Mr. Kennedy in their direct testimony been made
5 previously by others in a similar setting? What was the outcome?

6 A. Yes. Statements concerning public interest have been proffered by
7 others previously in a similar nature and in similar cases. The facts are
8 that no other entity but Skyland can as efficiently or effectively serve
9 the customers requiring service within the proposed certificated area.
10 Pasco and Hernando Counties utility assets are miles away from most of the
11 proposed service area and would require a costly ~~duplication~~ ^{extension} of pipelines
12 for service. Additionally, such service could not be as efficient or
13 effective as service provided by Skyland. Witnesses for Brevard County
14 and the City of Cocoa offered testimony similar to that proffered here by
15 Mr. Wieczorek, Mr. Stapf and Mr. Kennedy, in the ECFS, Inc. certification
16 case. In my opinion, none of those statements were valid, and they have
17 been demonstrated not to be valid over the past two decades.

18 Q. Are there additional reasons the FPSC should grant water and
19 wastewater certificates to Skyland?

20 A. Yes. First and foremost, the granting of a certificate to provide
21 water and wastewater service is just that, an opportunity to provide water
22 and wastewater service as and when needed. The granting of water and
23 wastewater certificates does not grant the right to develop a service area
24 in any particular way, but rather only the right to provide utility
25 services within the service area. The FPSC is tasked with the duty to

1 address requests for water and wastewater certificates by private
2 utilities by Chapter 367, Florida Statutes. Specific development within a
3 service area is governed by local Comprehensive Plans and permit
4 processes. The FPSC has made this determination in numerous cases
5 including Farmton Water Resources, LLC, Docket Number 021256-WS, and East
6 Central Florida Services, Inc., Docket Number 910114-WU. FPSC Order
7 Number PSC-04-0980-FOF-WU, on page 16, states, in part: "The evidence
8 presented clearly shows that a county's control over development is not
9 reduced with the issuance of a certificate. The counties' hands are not
10 tied when it comes to enforcement of their own comprehensive plans if and
11 when rezoning is needed. Our certification does not deprive the counties
12 of any authority they have to control urban sprawl on the Farmton
13 properties." In this Docket, both Hernando and Pasco Counties have
14 determined that the entire County, excluding those areas already served,
15 is their utility service area. The same was true in Marion, Desoto,
16 Volusia, and Brevard Counties to name a few, yet in those counties only a
17 smaller area receives facilities and service. I do not believe the fact
18 that the Counties contention that the entire County is their service area
19 means development has been approved in all such areas.

20 Secondly, I would like to discuss the need for a utility to serve
21 Skyland's proposed service area. As stated in Exhibit A of Skyland's
22 application they are an affiliate of Evans Properties, Inc. Evans
23 Properties owns all of the land within Skyland's proposed service area
24 which is in Hernando and Pasco Counties. Evans Properties has been in the
25 agribusiness industry in Florida for over 50 years. As a company in the

1 agribusiness industry, Evans Properties is very aware of the concept of
2 and need for water resource planning. As a large land-owner Evans
3 Properties is an environmental steward and acutely aware of the need for
4 proper planning and use of natural resources. Evans Properties, in
5 looking for ways to diversify their business interests and take advantage
6 of opportunities as they are presented, determined that creating a utility
7 company to provide additional utility services to their property would be
8 the most cost efficient, effective method for utility service delivery.
9 The ability to provide utility service is important to the diversification
10 opportunities of Evans Properties. Therefore, Skyland Utilities, LLC was
11 formed to facilitate access to those diversification opportunities upon
12 Evans Properties' owned land in a timely fashion. Skyland will be able to
13 plan the management of water resources and ensure water quality by the
14 provision of appropriate wastewater services. Skyland, as a utility
15 company, will have the appropriate standing to work with regulators and
16 potential customers in providing utility services while maintaining
17 adherence to the regulations that provide for the public health, safety
18 and welfare in the provision of those services. The FPSC has consistently
19 dealt with large service areas owned by a single entity. The FPSC stated,
20 in part, in the East Central Florida Services, Inc. final order: "We do
21 not think it is in the public interest at this time to carve up a vast
22 territory, which is all owned by one entity, so as to certificate only
23 scattered portions thereof." Skyland received a request for service from
24 Evans Properties for existing structures within the service area, as well
25 ~~as~~ ^{as the opportunity for} service for future intensified agribusiness and future planned

1 development. In addition, in an email dated November 20, 2009, Mr.
2 Charles Coultas with the DEP stated that DEP was dealing with some 200 or
3 so contaminated potable private wells south of Brooksville and that DEP
4 had talked to Hernando County Utilities about the issue but the County was
5 not interested in extending their water mains into that area. He wondered
6 if Skyland's proposal would go through. This is a request for service to
7 those areas and we are willing to seriously consider it to determine if
8 Skyland can assist those areas in some way once we obtain our certificate.
9 This is a perfect example of an unexpected and unforeseen need for utility
10 service. Evans Properties has been approached regarding opportunities
11 relating to bio-fuels production, ^{not at this property yet,} water cleansing, etc. and as such
12 desires to be in the position of pursuing those opportunities.

13 Thirdly, I would like to discuss what the FPSC looks at when
14 deciding to grant a water and/or wastewater certificate and how that
15 relates to the testimony of the intervenors. Chapter 367.031 Florida
16 Statutes gives the FPSC the authority to grant certificates of
17 authorization for utility services. That authorization must be given
18 prior to a utility getting Florida Department of Environmental Protection
19 permits to construct plants or consumptive use permits or well drilling
20 permits by water management districts. Therefore, the first step in
21 establishing a private utility system such as Skyland is to file with the
22 FPSC for an Original Certificate and Skyland made that filing on October
23 16, 2009. The rules of the FPSC, as they apply to water and wastewater,
24 are contained in Florida Administrative Code, Chapter 25-30. Florida
25 Administrative Code, Chapter 25-30.033 is the FPSC rule outlining the

1 process for an Application for Original Certificate of Authorization and
2 Initial Rates and Charges. There are 20 separate areas of information
3 required in the Application for Original Certificate of Authorization.

4 These areas of information include:

- 5 1. the applicant's name and address
- 6 2. the financial and technical ability of the applicant to
7 provide service and the need for service in the proposed area
- 8 3. whether the provision of service will be consistent with the
9 water and wastewater sections of the comprehensive plan
- 10 4. the date applicant plans to begin serving customers
- 11 5. the number of equivalent residential connections proposed to
12 be served
- 13 6. a description of the types of customers anticipated
- 14 7. evidence that the utility owns the land upon which the utility
15 treatment facilities are or will be located or a copy of an agreement
16 which provides for the continued use of the land
- 17 8. one original and two copies of a sample tariff
- 18 9. a description of the territory to be served
- 19 10. a copy of a detailed system map showing the proposed lines,
20 treatment facilities and the territory proposed to be served
- 21 11. a copy of the official county tax assessment map or other map
22 showing township range and section
- 23 12. a statement regarding the separate capacities of the proposed
24 lines and treatment facilities in terms of ERCs and gallons per day
- 25 13. a description of the type of treatment to be used

1 14. a statement describing the reason for not using reuse if it is
2 not being used

3 15. a detailed financial statement

4 16. a list of entities upon which the applicant is relying to
5 provide funding to the utility

6 17. a cost study

7 18. a schedule showing the projected cost of the proposed systems
8 by uniform system of accounts

9 19. a schedule showing the projected operating expenses

10 20. a schedule showing the projected capital structure

11 Of these 20 areas of information there is only one that is fully in
12 dispute and one that is partially in dispute by the intervenors. The
13 disputes of the intervenors are consistency with the comprehensive plan
14 and the need for service. The vast majority of information provided is
15 not disputed by the intervenors.

16 Q. Have you reviewed the direct written testimony of Mr. Ronald F.
17 Pianta, AICP, Planning Director for Hernando County. What are your
18 comments?

19 A. Yes. On Page 2, lines 20 through 22, he states "Based upon my
20 review of the goals, objectives and policies of the County's adopted
21 Comprehensive Plan, a water/wastewater utility would not be consistent
22 with the Hernando County Comprehensive Plan at this location." In support
23 of his statement on Page 3, lines 2 through 4, he states "Infrastructure
24 in the Rural area is to be consistent with the level of development
25 allowed, and the County will not provide infrastructure that will support

1 urban development (Future Land Use Policy 1.01B6).” The properties within
2 the Skyland service area in Hernando County have a designation as Rural.
3 Section D, Page 2, of the Hernando County Comprehensive Plan shows that
4 residential development with densities no greater than 1 unit per 10 acres
5 is allowed in the Rural designation. Skyland’s application clearly shows
6 that the allowed density is what has been anticipated in the proposed
7 service area. Exhibit GCH-5 is Figure 3(a) from Appendix I in the
8 Skyland’s application. Exhibit GCH-5 shows the Development Phases
9 relating to the need for utility services. Parcel ID numbers 2, 5, 8, 10A
10 and 10B are the parcels located within Hernando County. The approximate
11 acreage and planned dwelling units are shown on the map. In all, there
12 are approximately 791 acres of Skyland’s proposed service area in Hernando
13 County. Utility services are planned to serve the equivalent of
14 approximately 75 dwelling units. This density is within that 1 unit per
15 10 acres as presented in Hernando County’s Comprehensive Plan for
16 properties with the Rural designation. Additionally, the County plan
17 speaks to County provided facilities. Skyland is not requesting that the
18 County provide infrastructure. Utility infrastructure will be provided by
19 Skyland.

20 Q. Did Mr. Pianta have an opinion regarding Skyland’s application and
21 its conformity to the comprehensive Plan?

22 A. Yes. On Page 3, lines 12 through 13 of his testimony, Mr. Pianta
23 was asked “In your professional opinion, would the siting of the proposed
24 water/wastewater utility on the Evans property as proposed conform to or
25 violate the County’s Comprehensive Plan?” Mr. Pianta’s answer on lines 14

1 through 18, shows "In my professional opinion, the proposed utility would
2 not be consistent with the adopted goals, objectives and policies of the
3 Comprehensive Plan and would violate the intent of the Plan to direct
4 future development to urban areas, discourage urban sprawl as an unwanted
5 and inefficient land use, and protect the character of rural areas from
6 incompatible development trends." Mr. Pianta does not go into any details
7 about why the utility would not be consistent with the adopted goals,
8 objectives and policies of the Comprehensive Plan other than to say that
9 the proposed utility would violate the intent to direct future development
10 to urban areas, discourage urban sprawl as an unwanted and inefficient
11 land use, and protect the character of rural areas from incompatible
12 development trends. Skyland's application does not propose a level of
13 service that violates the Hernando County Comprehensive Plan. The
14 certification of Skyland's proposed Territory cannot violate the County
15 Comprehensive Plan if the County's designation of the same areas as County
16 Utility Territory does not. Evans Properties could provide the same level
17 of service via central service or by private wells and on-site septic
18 systems as being proposed by Skyland and be adherent to the Hernando
19 County Comprehensive Plan. The granting of an FPSC Certificate, in and
20 out of itself, does not trigger any type of development, as previously
21 discussed. The determination of land use, zoning, etc. remains firmly in
22 the hands of the County and any "urban sprawl" would have to be endorsed
23 by the County. The granting of an FPSC certificate does not supersede the
24 authority of the County to issue permits, grant zoning variances, etc. I
25 have previously discussed Mr. Pianta's "urban sprawl" comment.

1 Q. Does this conclude your review of Mr. Pianta's testimony?

2 A. Yes.

3 Q. Would you review the direct written testimony of Mr. Paul L.

4 Weiczorek, AICP, Senior Planner with the Hernando County Planning

5 Department, and provide your comments?

6 A. Yes. Page 2, lines 23 through 25, and Page 3, lines one through

7 five, shows the question "Finally, Mr. Pianta was asked "In closing, do

8 you have a professional opinion on Skyland's proposed operation of a

9 water/wastewater utility on the Evans property as proposed and, if so,

10 what is that opinion?" and he answered "In summary, in my professional

11 opinion is that the request to operate a utility at that location is

12 inconsistent with the adopted comprehensive plan for Hernando County

13 related to the provision of services, the protection of the character for

14 rural areas, the discouragement of urban sprawl and would not be in the

15 public interest." Do you agree or disagree with his conclusion?" Mr.

16 Weiczorek's answer as shown on Page 3, line 6 is "I agree".

17 Q. Is that the extent of Mr. Weiczorek's testimony?

18 A. No. Page 3, lines 8 through 10 of his testimony shows "In my

19 professional planning opinion, this project is not consistent with the

20 Hernando County Comprehensive Plan and land Development Regulations, and

21 is otherwise not in the public interest." That statement provides the sum

22 of Mr. Weiczorek's testimony. There are no specific instances of

23 inconsistencies shown in Mr. Weiczorek's testimony, therefore his

24 testimony provides no independent, factual, or legal basis for his

25 conclusory opinion. I would point out, however, that even if the granting

1 of a utility certificate were not consistent with the Hernando County
2 Comprehensive Plan, the FPSC is not bound by local comprehensive plans.
3 Section 367.045(5)(b), Florida Statutes provides that "the commission
4 shall consider, but is not bound by, the local comprehensive plan or the
5 county or municipality." In City of Oviedo v. Clark, 699 So. 2d 316, 318
6 (Fla. 1st DCA 1997), the court held:
7 "We hold that the PSC correctly applied the requirements of section
8 367.045(5)(b). The plain language of the statute only requires the PSC to
9 consider the comprehensive plan. The PSC is expressly granted discretion
10 in the decision of whether to defer to the plan." I have addressed Mr.
11 Weiczorek's public interest comment elsewhere in this rebuttal.

12 Q. Does this conclude your review of Mr. Wieczorek's testimony?

13 A. Yes.

14 Q. Would you review the direct written testimony of Mr. Joseph Stapf,
15 Utilities Director of Hernando County, and provide your comments?

16 A. Yes. Mr. Stapf's testimony does not specifically say what his
17 objections are with Skyland's application, therefore I will address his
18 comments from the testimony where I feel appropriate.

19 Q. Does Mr. Stapf address the need for service in the proposed Skyland
20 service area?

21 A. Yes. On Page 2, lines 5 through 17 of his testimony, Mr. Stapf
22 discusses the issue of whether Evans Properties had requested water
23 service from the Hernando County Utilities Department or if other property
24 owners in the area had requested service. Mr. Stapf's response is that no
25 requests have been received from Evans Properties nor has the utilities

1 department received "petitions or organized requests for water supply
2 system installation in this area." (lines 16 and 17). Evans Properties did
3 not request utility service from Hernando County for several reasons.
4 First, and most importantly, the proposed Skyland service area encompasses
5 property in both Hernando and Pasco Counties. Because this service area
6 traverses county boundaries, it would not be possible for the Hernando
7 County Utility Department to provide service. Second, Evans Properties
8 was not aware of any Hernando County utility services in the vicinity.
9 Third, Evans Properties felt that a private utility company dedicated to
10 the utility needs in their service area would be the quickest, most
11 efficient and responsive way to have the needed utility services provided.
12 Additionally, Mr. Stapf's testimony on Page 3, lines 2 through 13,
13 discusses if it is efficient to provide utility services to Skyland's
14 proposed 155 Equivalent Residential Connections. Mr. Stapf's answer,
15 shown on lines 9 through 13, is "In my experience, and in my professional
16 opinion, attempting to provide water and wastewater service to such a
17 comparatively small number of customers is difficult at best. There is
18 little opportunity to achieve any significant and meaningful economies of
19 scale. In fact, it is quite the opposite. There are few customers over
20 which to spread large infrastructure cost." I would like to point out
21 that Mr. Stapf does not appear to be objecting to Skyland's application.
22 He appears to be stating an opinion that the provision of utility services
23 to the number of customers shown in the Skyland's application is difficult
24 at best and that there are no meaningful economies of scale. It is my
25 experience, as outlined in Exhibit GCH-3 attached to my direct pre-filed

1 testimony, that there are many utility facilities in Florida and across
2 the nation (both public and private) that provide service to similar
3 numbers of customers. While Mr. Stapf believes it might be more difficult
4 to provide service to customers in smaller systems, it certainly is a
5 common practice. The provision of utility services in the proposed
6 Skyland service area will be as efficient as possible to maintain utility
7 services that are in the best interests of the public health, safety and
8 welfare for the proposed service area. While it is true that greater
9 densities typically promote economies of scale, there are many instances
10 of utility services being provided in less dense service areas. One of
11 the leading indicators of economies of scale is price. The level of rates
12 proposed in Skyland's application is not uncommon, especially for similar
13 types of service areas. In addition, Skyland is in the best position to
14 meet the needs of the proposed service territory for water and sewer
15 services as a result of many factors including its relationship with the
16 related party landowner and resulting ability to provide efficient, timely
17 and economical service to these areas as needed.

18 Q. Does Mr. Stapf discuss the possibility of Hernando County providing
19 service to the Skyland proposed service area?

20 A. Yes. On Page 3, lines 14 through 25, and Page 4, lines 1 through 15
21 of his testimony Mr. Stapf discusses the fact that all of Hernando County
22 is ostensibly in the service area of the Hernando County Utilities
23 Department and that service could potentially be provided by the Hernando
24 County Utilities Department, if the level of interest is consistent with
25 established County policy (Page 4 lines 1 and 2) and the Hernando County

1 Board of County Commissioners voted to approve it and the benefitting
2 parties would be assessed the price (Page 4 lines 6 and 7). I do not
3 agree with Mr. Stapf's contention that the Hernando County Utilities
4 Department can timely, competitively, and potentially, ~~and~~ institutionally
5 provide service to the Evans Properties land. Skyland's proposed service
6 area traverses county boundaries and therefore the service area requested
7 is outside the Hernando County service area. In addition, Hernando County
8 Utilities would have to determine if the request for service warranted the
9 provision of utility service. Mr. Stapf's testimony clearly states that
10 he does not feel 155 ERCs is viable for the proposed service area. That
11 number includes 35 ERCs in Hernando County. Given Mr. Stapf's testimony, I
12 cannot see how he could not help but conclude that 35 ERCs is even less
13 viable than 155 ERCs. Even where the County Utility desirous of serving
14 the proposed service area in Hernando County, the Hernando County Board of
15 County Commissioners would still have to approve it. Even if the Board
16 were to approve it, ultimately Evans Properties would still have to pay
17 for it. This process is tenuous at best and would be time consuming and
18 would still require Evans Properties to pay for utility infrastructure.
19 Evans Properties, in order to diversify, must have utility services
20 available in the proposed service area now rather than later to ensure the
21 ability to take advantage of any opportunity available.

22 Q. Does Mr. Stapf discuss the written requests received by Skyland
23 requesting service?

24 A. Yes. Starting on Page 4, line 16, and continuing through Page 5,
25 line 9 of his testimony, Mr. Stapf discusses written requests for service

1 in Skyland's proposed service area. Mr. Stapf acknowledges that there
2 have been several requests from Evans Properties to Skyland for service.
3 Page 5, lines 7 through 8, shows Mr. Stapf's final comment on the need for
4 service to be "In my opinion, this does not suggest any outcry for public
5 water supply service in this area, or in any of the surrounding area."
6 Skyland's proposed service area encompasses approximately 4,000 acres of
7 land within Hernando and Pasco Counties. I am not sure what Mr. Stapf
8 considers a "public outcry" but in my opinion a request from a significant
9 land owner such as Evans Properties constitutes a need for service.

10 Q. Does Mr. Stapf have an opinion on the financial viability of the
11 Hernando County Utility Department if Skyland is granted a water and
12 wastewater certificate by the FPSC?

13 A. Yes. Mr. Stapf, on Page 6, lines 17 through 19 of his testimony,
14 states "It could potentially jeopardize Hernando County's ability to repay
15 current and future bonds, and therefore potentially jeopardizes the
16 County's Bond Rating, as well as its capacity to effectively implement its
17 ongoing Capital Improvements Program." Mr. Stapf does not give a specific
18 example to show what effect, if any, the granting of a utility
19 certification would have on the outstanding bonds of the county utility.
20 I have reviewed Hernando County Utilities' outstanding 2004 bond issue.
21 This bond was issued to pay for the acquisition of the Spring Hill utility
22 system from Florida Water and to fund certain other utility improvements.
23 Utility revenues were pledged for the repayment of the bond. Appendix I
24 of that report is the Consulting Engineers and Bond Feasibility Report.
25 Pages 62 and 63 detail where future system growth is anticipated to take

1 place and thus this information is used to project future revenues. There
2 is no mention of any of the properties included in Skyland's proposed
3 service area. Therefore, there is no direct link between future revenues
4 pledged for the 2004 Bond Issue and Skyland's proposed service area. Mr.
5 Stapf's contention that the 35 ERCs proposed in Hernando County in Phase I
6 of Skyland's application could somehow effect the repayment of a
7 \$41,000,000 bond issue backed by the revenues of over 80,000 water and
8 wastewater customers (2008 projection pages 63 and 64 of the Bond
9 Feasibility Report) is very suspect. Regarding any future bond issues, at
10 the time such a bond issue is contemplated by the county utility, a
11 Consulting Engineers and Bond Feasibility Report will be done taking into
12 consideration the utility system statistics at that time. If Skyland is
13 certificated the Bond Feasibility Report will not include any revenues
14 associated with that certification, thus, the existence of a Skyland
15 Utilities certificate will not impact any future bonding repayment.

16 Q. Does Mr. Stapf have an opinion regarding the public interest of
17 granting Skyland's certificates?

18 A. Yes. I have addressed the general issue of public interest
19 elsewhere in my testimony but I would like to add additional rebuttal to
20 Mr. Stapf's testimony on the point. On Page 6, line 25, and continuing on
21 Page 7 lines 1 through 13 of his testimony, Mr. Stapf states "In my
22 professional opinion it is NOT in the public interest. This proposal is a
23 long term threat to the integrity and financial viability of the already
24 established Hernando County Water and Sewer System which serves
25 approximately 125,000 water customers and 65,000 sewer customers. This

1 system is governed by the Hernando County Board of County Commissioners
2 serving as the Board of the Water and Sewer District. These Commissioners
3 are elected at large in the County, and are directly accountable to the
4 voters/taxpayers/utility customers. The lack of accountability presented
5 by a utility provider was a major factor in the County's acquisition of
6 the Florida Water System in 2004. The County has made and will continue
7 to make significant improvements to the former Florida Water physical
8 plant in order to establish and maintain an effective and necessary level
9 of service mandated by federal and state regulatory agencies. Moreover,
10 providing (or attempting to provide) water sewer service in an area in
11 which the maximum allowed density is one house per ten acres is generally
12 cost prohibitive, and in my professional experience and opinion
13 impractical."

14 Mr. Stapf begins his dissertation on why the establishment of Skyland is
15 not in the public interest by explaining that Skyland poses a long term
16 threat to the already established county utility which services almost
17 200,000 customers. The only "threat" discussed anywhere in Mr. Stapf's
18 testimony is the current and future bond issues. As previously noted,
19 Skyland's proposed service area is not considered in the current bond
20 issues and won't be considered in future. Therefore, it is not a long-
21 term threat as defined anywhere in Mr. Stapf's testimony. Mr. Stapf then
22 discusses the lack of accountability presented by a private utility. A
23 private utility is accountable to the same state and federal agencies as
24 is a public utility. The private utility in this instance would be
25 accountable to the FPSC regarding rate and charges and customer service

1 matters versus the County Commission. The FPSC has been in existence
2 since 1887. It has significant experience in providing regulatory
3 oversight for private utilities. Mr. Stapf then states the County has
4 made and will make significant improvements to the former Florida Water
5 physical plant in order to establish and maintain an effective and
6 necessary level of service mandated by federal and state regulatory
7 agencies. While I am not sure what this has to do with the "public
8 interest" considerations in granting Skyland a utility certificate, I will
9 point out that private utilities are also held accountable by federal and
10 state regulatory agencies to provide an effective and necessary level of
11 service. The exact same standards and rules that are applicable to
12 Government-Run utilities. Mr. Stapf concludes his testimony by stating
13 that providing or attempting to provide water/sewer service in an area in
14 which the maximum allowed density is one house per ten acres is generally
15 cost prohibitive, and in his opinion impractical. Again, I am not sure
16 how this statement supports the argument that the granting of Skyland's
17 utility certificate is not in the public interest. In my opinion, the
18 provision of centralized water and wastewater service is always in the
19 public interest in that it provides for the health, safety and welfare of
20 utility customers. Regarding Mr. Stapf's statement that the cost to
21 provide service in the proposed service area is generally cost prohibitive
22 and generally impractical, Evans Properties has requested service from
23 Skyland and is well aware of the rates proposed by Skyland to provide
24 service and is willing to pay those rates. Skyland is willing to build
25 the necessary utility infrastructure to provide the service. Therefore,

1 Mr. Stapf's comments don't appear to apply to the facts which underlie
2 this particular application.

3 Q. Does this conclude your rebuttal of Mr. Stapf's direct testimony?

4 A. Yes.

5 Q. Would you review the direct written testimony of Mr. Bruce Kennedy,
6 PE, Assistant County Administrator, Utilities Services for Pasco County,
7 and provide your comments?

8 A. Yes, Page 2 of Mr. Kennedy's testimony, lines 1 through 3 shows the
9 purpose of Mr. Kennedy's testimony to be "My testimony relates to the
10 water and wastewater utility services provided by Pasco County and the
11 deficiencies in Skyland's application from a utility and engineering
12 perspective."

13 I failed to find any mention of a specific deficiency in Skyland's
14 application in the remainder of Mr. Kennedy's testimony. Therefore, as I
15 did with Mr. Stapf from Hernando County, I will rebut Mr. Kennedy's
16 statements from his testimony where I feel it is warranted.

17 Q. Does Mr. Kennedy state whether Pasco County provides service in the
18 proposed service area?

19 A. Yes. On Page 4, lines 4 through 17 of his testimony, Mr. Kennedy
20 states "There are numerous reasons why we are not serving this area. We
21 have not received any requests for service. The area is adequately and
22 appropriately served by private water wells and individual septic tanks.
23 The Comprehensive Plan does not forecast any need for central water and
24 sewer service in the area and the Plan also prohibits such service in the
25 area for numerous reasons as explained by Richard Gehring, Planning and

1 Growth Management Administrator, in his testimony. Additionally, it is
2 not efficient, cost effective, good utility practice, or in the public
3 interest to provide central water and sewer to such low density (one unit
4 per 10 cares) as is proposed by Skyland. Skyland's proposed water and
5 sewer rates will be substantially higher than those charged by Pasco
6 County Utilities. It is not efficient, cost-effective, good utility
7 practice, or in the public interest to provide central water and sewer to
8 such widespread, non-contiguous parcels of property. Generally, density
9 of at least 2 units per acre is necessary for central water and sewer
10 service to be economical."

11 It would appear from Mr. Kennedy's testimony that had Pasco County
12 received a request for service in the proposed service area, it would not
13 have been met with a positive response. Additionally, the proposed
14 service area traverses county boundaries, therefore Skyland is best able
15 to serve the entire service area.

16 Q. Do you have additional comments from your prior testimony regarding
17 the public interest statement Mr. Kennedy made?

18 A. Yes. In my opinion it is in the public interest for the health,
19 safety and welfare of the public to provide central water and wastewater
20 service where possible, instead of private wells and on-site septic
21 systems. Private wells are not monitored for pollutants and are not
22 subject to the Safe Drinking Water Act. When private wells become
23 contaminated it is sometimes difficult for individual owners to correct
24 the problem. On November 19, 2009, an email was sent from Mr. Charles
25 Coultas from the Florida Department of Environmental Protection to the

1 FPSC. His email stated that the FDEP was dealing with 200 or so
2 contaminated private potable wells south of Brooksville in Hernando
3 County. The FDEP contacted Hernando County Utilities but it was not
4 interested in extending their water mains into the area of contamination
5 and that the homeowners could not afford to pay for the extension of
6 Hernando County's water lines. Mr. Coultas was inquiring if Skyland might
7 be able to help this situation. This situation can and does routinely
8 occur. Senate Bill 550, currently pending Governor Crist's signature, is
9 significant legislation regarding among other things, on-site septic
10 systems. The Bill requires the inspection of on-site septic systems with
11 a five year evaluation cycle (Beginning at Page 108, line 3123). This
12 legislation is the result of numerous problems around the State with on-
13 site septic systems that are not operating appropriately and therefore
14 causing significant ground and surface water pollution. On-site septic
15 systems are not monitored for their adherence to the Clean Water Act.
16 Skyland is willing and able to provide central water and wastewater
17 service to the proposed service area and in my opinion this is in the
18 interest of the public health, safety and welfare.

19 Q. Do you have comments regarding Mr. Kennedy's issue with the level of
20 rates for Skyland?

21 A. Yes. Mr. Kennedy asserts that the proposed water and sewer rates
22 will be substantially higher than those charged by Pasco County Utilities.
23 In my experience there are numerous utilities with lower rates than Pasco
24 County Utilities and many with higher rates. The level of rates is not
25 the only indicator of efficiency. There are no customers in the proposed

1 service area who are unaware of Skyland's requested rates and those rates
2 have not been protested. Skyland has received a request for service from
3 Evans and Evans is aware of the level of the water and sewer rates.
4 Future customers will also be aware of the level of the rates before they
5 connect to the utility system.

6 Q. Does Mr. Kennedy make any comments regarding Pasco County's ability
7 to serve Skyland's proposed service area?

8 A. Yes. Mr. Kennedy, on Page 5, lines 7-10 of his testimony states "PCU
9 maintains an existing water system less than 0.5 miles to the East from
10 the proposed area and PCU maintains other water facilities within 1.53
11 miles from the Skyland proposed area and wastewater facilities with (SIC)
12 2.54 miles from the proposed area."

13 Q. Do you agree with Mr. Kennedy that Pasco County has the ability to
14 serve Skyland's proposed service area?

15 A. No. Mr. Kennedy does not state with exactness which parcel the
16 existing Pasco County facilities are near. Exhibit GCH-5 shows that Pasco
17 County Utilities has facilities within a mile of Parcel ID 7c which is
18 anticipated to require utility services during Phase II which will not
19 occur for at least six years from the date of certification. Phase I,
20 Parcel IDs 1, 3 and 4 are substantially further from the Pasco County
21 Utilities shown. Additional water facilities are within 1.53 miles and
22 wastewater facilities are within 2.54 miles according to Mr. Kennedy's
23 testimony. Again, he does not state with specificity which parcel or
24 parcels the facilities are near. Mr. Kennedy's testimony states with no
25 uncertainty that serving the proposed service area is not something Pasco

1 County Utilities feels is necessary, cost effective, efficient or good
2 utility practice. Therefore, the existence of Pasco County utility assets
3 within one to three miles of select parcels of the over 4,000 acres of the
4 Skyland proposed service area is not relevant. In the event Pasco County
5 decided it was in the public interest to serve the proposed service area
6 they could only serve the Pasco County portions and would require
7 significant capital outlays to pay for the extension of water and
8 wastewater lines to where anticipated utility services would initially be
9 required. Additional significant outlays would be required to provide
10 service throughout the service area. Skyland is willing and able to
11 provide utility service and can do so more effectively than Pasco County
12 and can provide utility service to the entire proposed service area.

13 Q. Does Mr. Kennedy feel that Pasco County should serve Skyland's
14 proposed service area?

15 A. No. Mr. Kennedy states in his testimony, Page 5, lines 14 - 22, that
16 "We have no plans to serve most of these parcels because they would be
17 adequately and efficiently served by individual well and septic consistent
18 with the Comp Plan but one of the parcels (Parcel ID 4) of the proposed
19 service area is within a designated Employment Center for which PCU plans
20 to provide water and wastewater service consistent with the Pasco County
21 Strategic and Comprehensive Plans. The proposed certificate, if granted,
22 will result in private water and wastewater utility service to County
23 citizens that will be significantly more costly than service that could be
24 provided through individual wells and septic systems or that could be
25 provided by Pasco County Utilities."

1 Q. Would you like to comment on Mr. Kennedy's statements regarding
2 Pasco County's plans to serve the proposed service area?

3 A. Yes. The parcel of land Mr. Kennedy says Pasco County would provide
4 service for, Parcel ID 4, is wholly owned by Evans Properties and they
5 have requested service from Skyland for all of the property they own in
6 Hernando and Pasco Counties, including Parcel ID 4. Mr. Kennedy does not
7 elaborate on when service would be available to Parcel ID 4 in his
8 testimony. Evans' need for service is in the near future and is not
9 limited to Parcel ID 4. The County's "citizens", as Mr. Kennedy is
10 referring to in his testimony, is in this case Evans Properties since they
11 own all of the land in Parcel Id 4 and they have requested service from
12 Skyland and are aware of the associated costs.

13 Q. Does Mr. Kennedy feel there is a need for service in Skyland's
14 proposed service area?

15 A. No. When asked what is his basis of that opinion Mr. Kennedy answers
16 on Page 6, lines 2 through 12 of his testimony "Again, we have not
17 received a request for service in the area or nearby and the existing
18 buildings and land uses are adequately served by individual wells and
19 individual septic tanks. Skyland's application contains no specific
20 information as to need and the future development and bulk sales noted in
21 the application is purely speculative at this time. The only development
22 projects (Trilby Estates, Saran Ranch and Pine Ridge Estates) approved in
23 the vicinity of Skyland's proposed service area will be developed on
24 individual well and septic, consistent with the Pasco Comprehensive Plan.
25 Furthermore, there are numerous private residences that would be encircled

1 by Skyland's proposed service area (particularly Parcels ID 9, 11, 12A and
2 12B) and these property owners, currently on private well and septic, have
3 not asked for central service."

4 Q. Would you like to comment on Mr. Kennedy's reasoning on why he feels
5 there is not a need for service in Skyland's proposed service area?

6 A. Yes. As discussed earlier in my rebuttal Evans did not request
7 service from Pasco County because there are no Pasco County utility
8 facilities in the immediate vicinity of the proposed service area for
9 which Evans has requested service from Skyland and if Pasco County had
10 facilities immediately adjacent to Parcel ID 3 (Phase I in Pasco County)
11 it certainly couldn't easily serve Parcel IDs 1 and 4 in Pasco county from
12 that facility nor could they serve Parcel ID 2 (Phase I in Hernando
13 County). Mr. Kennedy's assertion that Skyland's application contains no
14 specific information as to need and the future development and bulk sales
15 in the service area is not accurate. Skyland's application provides the
16 planning of utility services to Phase I requirements and has a year by
17 year anticipated need for service. Additionally, the conceptual utility
18 layout has been provided for both water and wastewater services along with
19 the associated costs. Evans has not applied for permitting with Hernando
20 or Pasco County at this time pending the granting of utility certificates
21 from the FPSC. As such time as utility certificates are granted by the
22 FPSC Evans will seek appropriate permitting. Mr. Kennedy also discusses
23 numerous private residences that would be encircled by Skyland's proposed
24 service area. Those residences are outside Skyland's proposed service
25

1 area and therefore could not be served by Skyland without Skyland filing
2 for additional service territory.

3 Q. Does Mr. Kennedy feel that Skyland would be in competition with or
4 duplication of Pasco County's Utility?

5 A. Yes. On Page 6, lines 16 through 25 and Page 7, lines 1 and 2 of
6 his testimony Mr. Kennedy says "PCU maintains an existing water and
7 wastewater system less than 0.5 miles from the proposed area and PCU
8 maintains other water facilities within 1.53 miles from the Skyland
9 proposed area. These facilities could be extended to provide service to
10 proposed service area, if service was needed. Additionally, one of the
11 parcels (Parcel ID 4) of the proposed service area is within a designated
12 Employment Center for which PCU plans to provide water and wastewater
13 service consistent the Pasco County Strategic and Comprehensive Plans.
14 See Exhibit 3, Northeast Pasco Future Land Use Map. Furthermore, Pasco
15 has established as its service territory the entire unincorporated area of
16 the County not currently served by a legally existing private utility.
17 See § 110-28, Pasco County Code. Accordingly, Skyland's proposed service
18 will be in competition with, or duplication of, the PCU system."

19 Q. Do you have any comment on Mr. Kennedy's testimony regarding
20 Skyland's supposed competition with or duplication of Pasco County's
21 Utility?

22 A. Yes. I have provided detail rebuttal regarding the existing PCU
23 system and the potential provision of service, by PCU, to Parcel ID 4. In
24 summary, PCU does not have facilities now that could easily provide
25 service to the entire Skyland proposed service area. The facilities they

1 do have in closer proximity do not appear to be in close proximity to the
2 areas designated as Phase I. The County certainly does not have
3 facilities, nor is it able to provide service to the Hernando County
4 portion of the proposed service area. In my opinion there is no way that
5 Skyland's utility would be in duplication of the PCU system. Mr.
6 Kennedy's statement that the entire unincorporated area of Pasco County
7 not currently served by a utility is PCU's service territory is a broad
8 assertion. Mr. Kennedy has testified that Pasco County does not have
9 utility assets in all the unincorporated areas of the County nor it has
10 plans to extend utility services in its planning horizon. Competition can
11 only exist when parties can provide similar services. Skyland can't be in
12 competition with PCU in the proposed service area because PCU is not able
13 to provide utility services there. Skyland, as a private utility company,
14 has appropriately requested original water and wastewater certificates
15 from the FPSC for the proposed service area. The granting of those water
16 and wastewater certificates is rightly within the authority of the FPSC in
17 this instance (Chapter 367, Florida Statutes).

18 Q. Does this conclude your rebuttal of Mr. Kennedy's testimony?

19 A. Yes.

20 Q. Would you review the direct written testimony of Mr. Richard E.
21 Gehring, Pasco County Planning and Growth Management Administrator, and
22 provide your comments?

23 A. Yes, Mr. Gehring states, Page 2, lines 1 through 3 "My testimony is
24 directed to the issue of whether Skyland's application to provide water

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1 and wastewater services in Pasco County is consistent with the Pasco
2 County comprehensive plan."

3 Q. Do you have any comments regarding Skyland's consistency with the
4 Pasco County Comprehensive plan?

5 A. Yes. As I discussed earlier in my general rebuttal comments, the
6 FPSC may consider but is not bound by the County's comprehensive plan when
7 granting water and wastewater certificates to private utilities.

8 Mr. Gehring testifies on Page 2, lines 22 through 26 that "The
9 Comprehensive Plan designates all of the proposed service area as part of
10 the Northeast Pasco Rural Area, within which central water and sewer is
11 prohibited except under very limited circumstances (SEW 3.2.6). The
12 proposed service area does not meet the limited criteria for central water
13 and sewer service. (SEW 3.2.6)." Mr. Gehring's comments while technically
14 correct could use some elaboration. First, Skyland's proposed service
15 area traverses county boundaries between Hernando and Pasco County so the
16 Hernando parcels are not in the Northeast Pasco Rural Area.

17 Secondly, the certification of a utility service area cannot be in
18 consistent with the comp plan. If it were then the County's designation
19 of the entire county as its Service Area would be even less consistent
20 with that plan.

21 Third, even assuming that the certification of a utility in these
22 rural areas is in and of itself inconsistent with the comp plan, Evans
23 could request and be granted a conservation subdivision designation and
24 then the development of a private central system would be consistent with
25 the comprehensive plan. Evans has not requested such designation at this

1 time but could in the future if Skyland is granted water and wastewater
2 certificates.

3 Mr. Gehring, Page 5, line 15 of his testimony states "The PSC is not
4 required to defer to the Pasco County comprehensive plan." I concur with
5 Mr. Gehring and have elaborated on this in my general rebuttal comments.

6 Q. Does Mr. Gehring have an opinion whether Skyland's application will
7 promote "urban sprawl"?

8 A. Yes. Mr. Gehring spends a significant portion of his testimony
9 discussing the concern of "urban sprawl" (Pages 5 - 10) and his belief
10 that the granting of a certificate to Skyland will promote "urban sprawl".
11 I have addressed the issue of urban sprawl elsewhere in my testimony but
12 would like to reiterate several points. The granting of a water and
13 wastewater certificate does not grant any rights or privileges regarding
14 development of any kind. Growth management tools are still firmly in the
15 hands of the County and it is up to the County to ultimately approve the
16 "urban sprawl" that Mr. Gehring focus. The granting of a water and
17 wastewater certificate can't foster "urban sprawl" as defined by Mr.
18 Gehring. It is ultimately up to the Board of County Commissioners to
19 allow "urban sprawl", not a utility certificate from the FPSC.

20 Q. Does Mr. Gehring have an opinion whether Skyland's application
21 should be approved by the FPSC?

22 A. Yes. Mr. Gehring ends his testimony, Page 11, lines 11 through 13,
23 with the statement "The PSC should deny Skyland's application and preserve
24 Pasco County's ability to implement its Comprehensive Plan for growth
25 management and efficient development of utility services."

1 Q. Do you have any comments regarding Mr. Gehring's feeling that the
2 FPSC should not grant Skyland's application to preserve Pasco County's
3 ability to impement its Comprehensive Plan for growth management and
4 efficient development of utility services?

5 A. Yes. As discussed earlier, the granting of a FPSC certificate does
6 nothing to erode Pasco County's ability to implement its Comprehensive
7 Plan for growth management and efficient development of utility services.
8 Any changes in land use would still have to be approved at the County
9 level. Utility infrastructure still would have to be permitted by the
10 County. They still have the ability to control those things that Mr.
11 Gehring has issues with.

12 Q. Does this conclude your rebuttal of Mr. Gehring's testimony?

13 A. Yes.

14 Q. Would you review the direct written testimony of Mr. Daniel W.
15 Evans, on behalf of the staff of the FPSC staff and employed by the
16 Division of Community Affairs, and provide your comments?

17 A. Yes, in general Mr. Evans' testimony reflects portions of Mr.
18 Gehring's testimony on behalf of Pasco County, Mr. Ronald F. Pianta, AICP
19 on behalf of Hernando County and Mr. Paul L. Wieczorek, AICP also on
20 behalf of Hernando County. I refer to my earlier rebuttal regarding
21 issues raised in relation to consistency with the comprehensive plans of
22 Hernando and Pasco counties. I will reiterate, however, that the FPSC is
23 not bound by county comprehensive plans but may take them into
24 consideration when granting a water and/or wastewater certificate for a
25 private utility company. Also, the granting of a water and/or wastewater

1 certificate does not grant any right for development. County Boards still
2 must grant permits and any changes to comprehensive plans would have to be
3 approved by them.

4 Q. Does this conclude your rebuttal of Mr. Evans?

5 A. Yes.

6 Q. Would you review the direct written testimony of Mr. Paul M.
7 Williams, on behalf of the staff of the FPSC staff and employed by the
8 Southwest Florida Water Management District (SWFWMD), and provide your
9 comments?

10 A. Yes. Mr. Williams discusses existing water permits in Skyland's
11 proposed service area as well as general water supply issues in the
12 proposed service area and the permitting procedure that Skyland might go
13 through. While I don't basically disagree with most of Mr. William's
14 testimony, I would like to point out that according to Florida Statutes
15 367.031 Skyland can't be issued a consumptive use permit or well drilling
16 permit until such time as the FPSC has granted utility certification to
17 them. It is Skyland's intention to seek permitting when the FPSC has
18 granted water utility certification.

19 Q. Does Mr. Williams feel there is enough existing groundwater for
20 Skyland to provide water service?

21 A. Yes. Mr. Williams response regarding the current groundwater
22 availability in the area to be served by Skyland on Page 3, lines 2
23 through 19 shows "Groundwater quantities that can be permitted in the area
24 are generally constrained by limitations associated with the Pasco County
25 portion of the Northern Tampa Bay Water Use Caution Area (NTBWUCA) and

1 limitations associated with the Weeki Wachee spring shed (located in Pasco
2 and Hernando Counties). Neither of the two general constraints described
3 above individually precludes additional permitted quantities in the area.
4 There are some locations within the NTBWUCA where no new groundwater
5 quantities can be permitted, and there are other areas where new
6 quantities can be authorized if conditions and cautions are included with
7 the permit. These conditions may include, for example, environmental
8 monitoring, water-level collection, and wetland hydration. The Evans
9 permits in Pasco County are in an area where additional groundwater
10 quantities may be permitted if the NTBWUCA conditions and cautions are
11 included with the permits.

12 Two of the three Evans permits located in Hernando County are within
13 the Weeki Wachee spring water shed area as noted on Exhibit PMW-2.
14 Additional groundwater quantities are currently not constrained in this
15 area. However, the SWFWMD is currently reviewing the potential for
16 additional groundwater development in this area. Both Hernando County and
17 Tampa Bay water currently pump large quantities of groundwater from wells
18 in the spring water shed area. Hernando County will likely develop future
19 new supplies outside of the spring water shed area to minimize additional
20 impacts to the area." I would agree with Mr. Williams that it is possible
21 for Skyland to permit wells in the proposed service area.

22 Q. Does Mr. Williams discuss existing water use permits for Skyland's
23 proposed service area and their effect on gross water use in the area?

24 A. Yes. Mr. Williams' testimony discusses in detail the water use
25 permits currently held by Evans Properties and the anticipated effect on a

1 gross water use basis if the demand shown in the application is a
2 replacement for the agricultural use on the properties (Page 3, lines 22
3 through 25 and Page 4 lines one through 15). Mr. Williams does discuss
4 the area Parcel ID 4 that has a mixed use future land use designation
5 which allows up to 32 units per acre. Figure 3(a) of Appendix I of
6 Skyland's application and attached here as Exhibit GCH-5 reflects this and
7 shows a potential for 1847 dwelling units but as Mr. Williams points out
8 Table D-1 of the Skyland Application does not reflect that proposed number
9 of dwelling units. As discussed in the application, it is the intention
10 of Evans for utility service needs in Parcel ID 4 to be similar to what is
11 anticipated to exist in the rest of the proposed service area. Mr.
12 Williams does discuss his estimated total annual average day quantities if
13 the water use in the permit areas were converted to residential
14 equivalents. His estimate is that the water demand would be less than the
15 currently permitted agricultural use. Mr. Williams believes that the
16 water supply demands of the potential dwelling units shown on Exhibit GCH-
17 5 constitute all of the water use in the permitted area.

18 Mr. Williams discusses the fact on Page 4, lines 21 through 25 of
19 his testimony, that neither Skyland nor Evans have requested a new water
20 use permit, an increase to an existing water use permit, or a transfer of
21 a water use permit from Evans to Skyland. I agree with Mr. Williams that
22 neither Skyland nor Evans have requested a new, increased, or transferred
23 water use permit at this time. Skyland and Evans will make the
24 appropriate filing necessary to secure water supply for the proposed
25 service area upon FPSC certification.

1 Mr. Williams concludes his testimony discussing the process involved
2 in modifying water permits and the difference between agricultural and
3 public supply. I agree with Mr. Williams' comments.

4 Q. Does this conclude your rebuttal of Mr. Williams' testimony?

5 A. Yes.

6 Q. Do you believe that County utility Service Area can be inconsistent
7 with their own comprehensive plans?

8 A. Yes, our firm serves many Florida counties and in general, they are
9 consistent with their comprehensive plans, but a few do have
10 inconsistencies with their own comprehensive plans which are either
11 perfected with the modification of the comprehensive plan by the Board of
12 County Commissioners and then sent for approval to DCA in Tallahassee, or
13 another mechanism is utilized. But the simple answer is yes, counties
14 have in the past been inconsistent with their own comprehensive plans.

15 Q. Are you familiar with any other instances in which private utilities
16 were able to fill the void created by a lack of county or municipal
17 utilities in a way that benefitted and demonstrated the public interest?

18 A. Yes, several. One of those is the provision of water supply to the
19 Osceola County Fire Station in Eastern Osceola County on US 192 by ECFS.
20 Definitely in the public interest and there was a lack of County or City
21 facilities to provide service.

22 Q. Does that complete your rebuttal testimony?

23 A. Yes

24

25

1 **MR. DETERDING:** And tender the witness for
2 cross.

3 **COMMISSIONER SKOP:** All right. Thank you. At
4 this point for cross-examination, Pasco, you're
5 recognized. Yes.

6 **MR. HOLLIMON:** Thank you.

7 **CROSS EXAMINATION**

8 **BY MR. HOLLIMON:**

9 **Q.** Good morning, Mr. Hartman.

10 So if I understand your summary correctly,
11 you're saying that it's always in the public interest to
12 have central services; is that correct?

13 **A.** Over no service, yes. It's a public interest
14 benefit to have central service versus no service.

15 **Q.** And that's irrespective of the cost.

16 **A.** No. Because we've done the study specific
17 to -- and that's why I said all cases relative to
18 Skyland. The cost for no service is greater than the
19 cost for central service. The cost for no service, for
20 well and septic tanks, runs in the order of \$21,000 per
21 unit. The cost for connection to Skyland is in the
22 \$5,000 range. Sure there's rates and charges, but the
23 present value between the two running over a 25-year
24 period, which we did, shows that there's a lower cost to
25 that customer class with central service.

1 And the benefits are significant. The
2 benefits are you have an operator operating the system
3 versus the resident operating the system. You're in an
4 area where it has arsenic contamination. DEP is asking
5 for central service in this area.

6 And, additionally, DEP is laying out and
7 tracking the contaminated wells. This, this land, these
8 4,000 acres have wells that are contaminated abutting
9 the service area. So when you compare to well and
10 septic tank, not only is central service more
11 cost-effective, but protects the public health, safety
12 and welfare. I'm a professional engineer in the State
13 of Florida registered to make that statement, to make
14 the statement it is in the public's interest relative to
15 public health, safety and welfare to have central
16 service. You can provide for treatment. The wells from
17 Skyland go down some 500 feet deeper than well and
18 septic. And if you went down to the same depths, it's
19 astronomical costs to be on well and septic.

20 So what you're looking at is putting people
21 and perpetuating an untenable and really a deplorable
22 situation in both Pasco and Hernando County,
23 predominantly in Hernando County where you have
24 contaminated wells, and depriving a service area from
25 having central service, having treatment, having

1 operators and having, and having the proper service. I
2 think that's inappropriate.

3 **MR. HOLLIMON:** Mr. Chairman, I move to strike
4 that response as nonresponsive.

5 **COMMISSIONER SKOP:** All right. Staff? Or
6 actually Mr. Deterding.

7 **MR. DETERDING:** Yeah. May I respond?

8 **COMMISSIONER SKOP:** You may. I'm sorry.

9 **MR. DETERDING:** He, he had a very broad
10 question and Mr. Hartman responded to his question. And
11 I don't see how you can strike his response to his
12 question because it was on subject.

13 **COMMISSIONER SKOP:** All right. Staff, to the,
14 to the objection.

15 **MS. CIBULA:** I think it was responsive;
16 however, maybe he could make his answers a little bit
17 shorter.

18 **COMMISSIONER SKOP:** I agree.

19 Mr. Hollimon, again, the witness responded to
20 your question, and the objection or the motion to move
21 to strike came at the very end of a lengthy response.
22 So I'd look to the parties to, you know, either object
23 or to frame their questions a little bit more narrowly
24 so the witness, you know, would tighten up his response.
25 That was a very lengthy response, but --

1 **MR. HOLLIMON:** Would the Commission prefer for
2 the objection to be raised during the middle of the
3 response?

4 **COMMISSIONER SKOP:** Again, you're free to
5 object any time you want, subject to ruling.

6 But my ruling would be to deny the motion to
7 strike, and just we'll ask both parties to try and work
8 to making the responses a little bit less lengthy, if we
9 could.

10 **THE WITNESS:** Yes.

11 **MR. HOLLIMON:** Thank you.

12 **BY MR. HOLLIMON:**

13 **Q.** Mr. Hartman, you referenced arsenic
14 contaminated wells. Isn't it true that the arsenic
15 contaminated wells you referred to are not within the
16 area sought to be certificated?

17 **A.** That's correct. In fact, some of them abut
18 them and there's a distance away from them. In, in the
19 area where the only facilities are owned by Skyland,
20 they're deeper and they do, they're not contaminated.
21 They're very deep Floridan Aquifer wells versus typical
22 well and septic.

23 **Q.** If you could refer to page 11 of your rebuttal
24 testimony, please. And you make a statement beginning
25 on line 7 that the facts are that no other entity but

1 Skyland can as efficiently or effectively serve the
2 customers requiring service within the proposed
3 certificated area.

4 I want to ask you a couple of questions about
5 that statement. Now isn't it true that Skyland is a
6 distinct and separate entity from Evans Properties?

7 **A.** Yes. There's -- it's a separate entity, but
8 Evans owns the land and Evans is the parent company.

9 **Q.** And isn't it true that Skyland is a distinct
10 and separate entity from Evans Utilities?

11 **A.** Yes.

12 **Q.** Okay. Is there something magic about Skyland
13 that gives it superpowers to be the only entity that can
14 perform these functions?

15 **A.** I was making that comment in reference to the
16 objectors; the objectors being, or the Intervenors being
17 Hernando and Pasco County.

18 **Q.** So you're saying that any third-party entity
19 other than the counties could, could actually serve more
20 efficiently or effectively than the counties?

21 **A.** No. I stated that -- I said that Skyland
22 could.

23 **Q.** Right. And my point is is there anything
24 special about Skyland as opposed to some other
25 third-party entity?

1 **A.** Oh, absolutely. There's quite a bit. First,
2 Skyland owns the facilities in the area. They own the
3 wells.

4 **Q.** Excuse me.

5 **A.** Nobody else owns, nobody else in the area owns
6 the infrastructure that's on the property.

7 **Q.** Now your testimony is that Skyland owns the
8 infrastructure on the property?

9 **A.** Once certificated, they will, they will be
10 having the facilities there. They have the lease for
11 the use of those facilities. Evans presently owns them.
12 But these, these facilities that are going to be used
13 for service that are, are in place on the property and
14 no one can compete with that.

15 **Q.** Right. Any third-party entity that was the
16 provider would also own the facilities; isn't that
17 correct?

18 **A.** Any? No. The people that own the facilities
19 own the facilities. And under -- with the Skyland
20 situation, how it's set up there, the refurbishment cost
21 is shown in our cost of services study. But that's all
22 we're talking about is providing some upgrades for
23 central service relative to that.

24 But the big costs are the large, deep Floridan
25 Aquifer wells. That's by far the big cost, and that's

1 sunk costs already there.

2 Q. Yeah. And those wells are owned by Evans
3 Properties; correct?

4 A. Presently.

5 Q. Yeah.

6 A. As well as the CUP is Evans Properties'
7 presently.

8 Q. Okay. And you referred to the customers
9 requiring service in that statement. And isn't it true
10 that you're referring to the customers that have
11 actually requested service from Skyland at this time?

12 A. Yeah. Yes, I am. The -- that and future and
13 potential. The -- right now Evans Properties has
14 requested service from Skyland, and there are
15 projections for, and as was testified earlier relative
16 to the land uses, the ERCs that we put in there tripped
17 the thresholds for the FPSC. So, yes, there's a demand
18 capability, residential, commercial and agribusiness,
19 right there on the property.

20 Q. Mr. Hartman, as we sit here today, isn't it
21 true that the only, only facilities that have requested
22 service from Skyland are a house and a barn?

23 A. Facilities that requested service. There
24 are -- you mean existing structures?

25 Q. Yes.

1 **A.** Okay. If you, if you take it to existing
2 structures, that's, that's correct. But it's not
3 unusual in every one of these certifications that the
4 projected uses are what we talk -- there's a -- you
5 can't get the cart before the horse. Sure, there's some
6 existing, but then you build out. So every one of
7 these, we start off with no, very little or very little
8 existing need, you know, right in place existing
9 structures because you have to build it yet.

10 **Q.** And there are no firm plans as we sit here
11 today for any development on this property in excess of
12 the existing uses, the house and the barn on the
13 property?

14 **A.** Well, there's land use entitlements relative
15 to uses on the property. And it was testified by the
16 county planners that showed that the ERCs delineated in
17 our need section can be attained through the present
18 land uses without land use designations.

19 **MR. HOLLIMON:** Can I ask the court reporter to
20 read back the question, please.

21 **COMMISSIONER SKOP:** You may. If the court
22 reporter would.

23 (Foregoing question read by the court
24 reporter.)

25 You may proceed.

1 **THE WITNESS:** Well, the plans that I know of
2 are the ones that I've gone over with Skyland, and which
3 are delineated in our application. The application
4 shows the plans that I know of. There are -- if you
5 would call it put on paper. Other than that there are
6 discussions.

7 There's a grant that Skyland has put in for
8 castor beans to create biofuels that we talked about and
9 other aspects for agribusinesses, and they want to be
10 able to also provide service for agribusiness, multiple
11 agribusinesses.

12 **BY MR. HOLLIMON:**

13 **Q.** Mr. Hartman, under the Skyland proposal as
14 outlined in the application, when will the existing
15 employee house and the barn receive central wastewater
16 services?

17 **A.** That's based upon the build out of the system.
18 That's a, that's variables always that way in these
19 circumstances. The timing is based upon the build out.

20 **Q.** So is it a Phase I part of the project?

21 **A.** Well, it depends on the demand. The Phase I
22 will be adjusted to the demand. So any kind of phasing
23 is flexible to demand. Whenever you have utilities, you
24 react to the demand.

25 **Q.** So there's no -- the party that's requested

1 service from Skyland has no assurance that it will ever
2 receive central service; is that correct?

3 A. Well, there's an obligation to serve with the
4 certification. I think that when I worked for, when I
5 worked with the DCA and the public utility element in
6 the State Comprehensive Plan under Lieutenant Governor
7 Jim Williams in 1977, there's only two service areas
8 that have the obligation of service, federal and FPSC.
9 No other entity has the obligation to service in the
10 State of Florida, and I think that's still the case
11 today.

12 Q. Well, when exactly is, is Skyland obligated to
13 provide wastewater services to the existing house that's
14 on the property?

15 A. Within a reasonable period of time pursuant to
16 the rules of the Florida Public Service Commission.

17 Q. And what type of wastewater system is proposed
18 in the application for these existing structures?

19 A. A -- initially it will be a, an advanced
20 septic tank treatment system.

21 Q. Serving only those two structures?

22 A. Well, it depends on the demand.

23 Q. Well, how much demand does there have to be
24 before you would, before the advanced septic tank would
25 actually be installed?

1 **A.** Well, typically in the absorption of
2 nutrients, if you have only one ERC, that's not
3 necessary with the land area that is controlled by, by,
4 by Evans. But once you get that up to a range in the
5 few ERCs, three to five ERCs, then that -- or two to
6 three ERCs and more, then, then you would provide for
7 that. As the demand increases, the level of treatment
8 changes, et cetera, over time. And facilities, of
9 course, match up with the demand.

10 **Q.** Mr. Hartman, isn't it true that the rates
11 that, that Skyland proposes are approximately double
12 those charged by Pasco County?

13 **A.** Yes. I think approximately my analysis showed
14 it's about double Pasco County's rates on a rate basis,
15 but Pasco County requires all kinds of dedication.
16 That's a misleading answer from the standpoint, if you
17 take it by itself, the total cost of service includes
18 everything. And the risk of loss is with the utility,
19 not the -- excuse me.

20 **Q.** Mr. Hartman, I am --

21 **A.** I'm not the customer. So I apologize, I hit
22 this thing. And, and so, you know, if you go well and
23 septic, the risk of loss is to the customer, not to the
24 utility, and that is not in the public interest. Thank
25 you.

1 **Q.** Mr. Hartman, the development density that
2 Skyland proposes to serve in the application is one unit
3 per ten acre; correct? One unit per ten acres; isn't
4 that correct?

5 **A.** Gross.

6 **Q.** Okay. So that's correct?

7 **A.** That's on a gross basis, not a net basis.

8 **Q.** Okay. And you would agree that one unit per
9 10 acres on a gross basis is not a dense development,
10 wouldn't you, in Pasco or -- excuse me. Let me strike
11 that. Let me rephrase.

12 You would agree that the, that the development
13 density of one unit per ten acres in Pasco or Hernando
14 County is not a dense development.

15 **A.** On a gross basis. But that is a situation
16 that you can cluster. And in these previous
17 applications of this kind we cluster and still attain a
18 one in ten acres.

19 **Q.** So the answer to my question then was, yes,
20 you do agree that one unit per ten acres in Pasco and
21 Hernando Counties is not a dense development?

22 **A.** Generally, no. I've done a lot of public
23 utility planning, and, and, no, one in ten acres gross
24 is not dense, as I stated before.

25 **Q.** Okay. And you would agree that greater

1 densities, meaning more than one unit per ten acres,
2 promotes economies of scale with respect to provision of
3 central wastewater services?

4 **A.** It depends on the configuration. But if you
5 cluster it, it versus non-clustering, that's not the
6 case. But if you assumed everyone clusters, yes, it is
7 the case.

8 **Q.** Okay. So in your testimony when you say,
9 "While it is true that greater densities typically
10 promote economies of scale," are you standing by that
11 testimony on page 22, line 8, of your rebuttal
12 testimony?

13 **A.** Yes. Because I'm assuming clustering as I
14 assumed in the application. So one has to take the
15 premise and not just the one sentence.

16 **Q.** And you agree that one of the benefits of
17 economies of scale is that consumers see a lower price
18 for services; is that correct?

19 **A.** Absolutely. That's the theoretical aspect.
20 In fact, I performed the utility cost of, the economy of
21 scales study I think in 1996 that I provided to the
22 Commission laying out the economies of scale for various
23 size utilities throughout the State of Florida, various
24 treatment technologies, et cetera.

25 **Q.** And, Mr. Hartman, you would agree that a

1 development in Pasco County with a density of one unit
2 per ten acres could be effectively served with private
3 wells and septic systems, would you not?

4 **A.** It could be. In this case it would be
5 inappropriate, but it could be. That's a hypothetical.
6 And then when you take it applied to Skyland, it's
7 inappropriate.

8 **Q.** And you would agree that a development in
9 Hernando County at a density of one unit per ten acres
10 could be effectively served via private wells and septic
11 systems?

12 **A.** Which is no service in my, in my opinion. But
13 absolutely with the same answer, it could be
14 hypothetically. In this case it's totally
15 inappropriate.

16 **Q.** In your testimony, your rebuttal testimony,
17 you talk about the need for Skyland to serve. And I
18 know you're familiar with the October 2nd and the
19 October 9th letters or, excuse me, the October 2nd
20 letter from Evans Properties to the Public Service
21 Commission and the October 9th letter from Evans
22 Properties to Skyland Utilities. You're familiar with
23 those letters, aren't you, sir?

24 **A.** Yes.

25 **Q.** Okay. And isn't it true that in your opinion

1 that those letters standing alone demonstrate the
2 entirety of need that this Commission needs to see in
3 order to approve this application?

4 **A.** Relative to the initial application, yes. It
5 meets the requirements for need. When you have a
6 landowner, just like General Development Utilities --
7 I'm going way back in time. General Development
8 Utilities wrote a letter to GDU for their, for their --
9 that was the initial need letter. That's all it is,
10 because it hasn't started yet. This is an original
11 certification. It hasn't started yet.

12 So, yes, the landowner who wants service wants
13 central service and, and wants the obligation of
14 service, writes the letter for service. That's typical.
15 Each landowner that comes in, it's typical they write
16 letters for, to show that there's a need for service and
17 there's a request for service. So, therefore, there's a
18 basis for certification and there would be need going
19 forward. There's both existing planned need, unforeseen
20 need, and extra-territorial need that all can be applied
21 to investor-owned utilities with central service.

22 **Q.** Mr. Hartman, isn't it true that you advised
23 Evans Properties to send those two letters?

24 **A.** I, I advised Evans Properties that they had to
25 have -- we had -- there's 20 requirements to have a

1 complete application. The staff found our application
2 complete. One of the requirements is a request for
3 service. So I stated to them, yes, they need to have a
4 request for service to have a complete application.
5 Absolutely.

6 Q. Okay. I'm going to refer you now to page 14
7 of your rebuttal testimony, and you talk about an e-mail
8 from a Mr. Charles Coultas with the DEP. Do you see
9 that part of your testimony, sir?

10 A. Yes, I do.

11 Q. And isn't it true that that e-mail was not
12 sent to you but was provided to you by counsel?

13 A. That's correct.

14 Q. Okay.

15 A. Since that time we've --

16 Q. Excuse me. There's no question pending.

17 **MR. WHARTON:** Commissioner Skop, I object to
18 him interrupting the witness. The Prehearing Order
19 expressly says that a witness may answer yes or no, and
20 then will be allowed to explain his answer. He
21 shouldn't be cutting off the witnesses.

22 **COMMISSIONER SKOP:** Staff.

23 **MS. CIBULA:** I agree that they should be able
24 to clarify their answer or explain their answer.

25 **COMMISSIONER SKOP:** To the witness and to

1 Mr. Hollimon, the witness will be allowed to, you know,
2 give a yes or no response and to elaborate on his
3 answer.

4 But, Mr. Hartman, I would ask that you not go
5 off point. If there's something that you need to add,
6 please keep it brief and limit it to the question
7 presented. You may proceed.

8 **THE WITNESS:** Thank you. The -- yes was, was
9 the answer. And then clarifying the answer was since
10 that time, we did contact him as well as his assistant
11 associated with that and we, and we've been working with
12 them ever since that time. So, yes, the initial contact
13 was that. But since that time we followed up and did
14 the technical work associated with it.

15 **BY MR. HOLLIMON:**

16 **Q.** Okay. And, Mr. Hartman, on page 14, the same
17 area we just discussed, you characterize that as a
18 request for service, do you not?

19 **A.** It's a notification of need that FDEP was
20 asking us to provide help relative to serving those
21 customers that have arsenic contamination of their wells
22 abutting -- one is two feet from our service area
23 boundary. So because they're so close, it was something
24 that we looked into.

25 **Q.** And my question was you characterize in your

1 testimony this e-mail from DEP as a request for service,
2 do you not?

3 **A.** Extra-territorial service. Absolutely.

4 **Q.** Okay. The words actually used in your
5 testimony is "This is a request for service."

6 **A.** Absolutely. A request of service, as I stated
7 earlier, can be planned, it can be existing, planned,
8 unforeseen and extra-territorial. The subset, the
9 request for service is the higher set, and there's four
10 divisions of a request for service. You can have
11 requests for service outside of your service area. It
12 happens all the time.

13 **Q.** Mr. Hartman, do you recall at your deposition
14 we discussed what constitutes a request for service?

15 **A.** Yes.

16 **Q.** Okay. And isn't it true that you said that a
17 request for service is a communication from a potential
18 customer?

19 **A.** Yes.

20 **Q.** And that it has to come from within the
21 certificated area?

22 **A.** Did I say it has to?

23 **Q.** Isn't it true that you said --

24 **A.** I don't think I said -- where was that?

25 **Q.** Page 86 of your deposition.

1 **A.** Page what?

2 **Q.** 86.

3 **A.** 86 of my deposition.

4 **Q.** I'll refer you to Page 86, beginning on line
5 9.

6 "Question, So let's assume that we have
7 somebody -- we're only talking about the existing
8 certificated area. So to have a request for service,
9 would you have to -- let me see if this is correct, what
10 you're saying, you'd have to have a property owner
11 within the certificated area who expressed a need for
12 service and communicated the need to the utility."

13 Your answer, "It doesn't have to be a property
14 owner. It could be a potential customer."

15 **A.** That's exactly what I just stated.

16 **Q.** Okay. So let me finish.

17 "Okay. A potential customer?"

18 "Yes."

19 "Within the certificated area?"

20 "Yes."

21 "Who communicates a --"

22 "Yes."

23 "-- request or a need or a need or a request
24 for service?"

25 "That's correct."

1 **A.** It could be --

2 **Q.** Do you stand by that testimony?

3 **A.** I absolutely do.

4 **Q.** Thank you.

5 **A.** It means both. I stated before in the
6 general. And then you asked within, for the obligation
7 to service, and I also responded in the affirmative.
8 Both are true.

9 **Q.** So do you recall in your deposition we also
10 discussed whether this e-mail from Mr. Coultas actually
11 constitutes a request for service?

12 **A.** Where was that?

13 **Q.** Page 94 of your deposition.

14 **A.** Okay.

15 **Q.** You can look -- are you there?

16 **A.** Yes, I am.

17 **Q.** Okay. So beginning on line 19, "Okay. So
18 does this meet the definition of a request for service
19 that we just discussed earlier?" And we're referring to
20 the Coultas e-mail there.

21 And your answer is, "And I was going to put
22 no, and I should insert some wording here to clarify.
23 This is the type of potential request for services.
24 This is the type of potential request for services.
25 Thank you."

1 **A.** That's correct. That went to solely the
2 e-mail. And the e-mail was a request basically asking
3 if services could be provided thereafter, when we
4 followed up, they desired the services to be provided.

5 **Q.** I want to refer you now to page 21 of your
6 testimony, and particularly I want to refer you to the
7 area where you, beginning on line 5 where you state that
8 "Because this service area traverses county boundaries,
9 it would not be possible for the Hernando County Utility
10 Department to provide service." Do you see that?

11 **A.** You're at page 21 of my rebuttal testimony?

12 **Q.** Yes. Line, beginning, it's on line 5. And
13 this testimony has to do with the ability of, of the
14 local governments to serve the areas sought to be
15 certificated.

16 **A.** At the time that's true because there was not
17 an interlocal agreement between the parties to allow for
18 that.

19 **Q.** Yes. But isn't it true that if the parties
20 did enter into an interlocal agreement, either Pasco
21 County or Hernando County could serve customers in the
22 other county?

23 **A.** I already testified that, yes, that is true.

24 **Q.** Okay.

25 **A.** I don't understand. This is at that time.

1 There is no interlocal agreement to my knowledge that
2 provides for retail service in Pasco County for Hernando
3 County. There isn't one. I haven't found it.

4 **MR. HOLLIMON:** I have no further questions.
5 Thank you.

6 **COMMISSIONER SKOP:** Thank you.
7 Mr. Kirk, from Hernando County.

8 **CROSS EXAMINATION**

9 **BY MR. KIRK:**

10 **Q.** Good morning, Mr. Hartman. During your,
11 during your, when we closed out in your direct
12 testimony, your direct testimony of your rebuttal, you
13 indicated that Evans Properties, Inc., owns eight wells
14 within, within the proposed certificated area?

15 **A.** Off the top of my head, I don't recall the
16 exact number right now. But I have it right here. Let
17 me see.

18 There's 14 total wells in the service area,
19 and eight of which we would look at as potential for
20 Skyland Utilities. The other four would remain in
21 agricultural use.

22 **Q.** And these wells are owned by Evans Properties,
23 Inc., currently?

24 **A.** That's to my knowledge. Yes.

25 **Q.** And approximately how big is each well site?

1 **A.** That's covered by the lease.

2 **Q.** Okay. Do you have, do you have the
3 application with you?

4 **A.** Yes, I do.

5 **Q.** Okay. How many of these wells are covered
6 under the lease?

7 **A.** Each well that's planned for use is covered
8 under the lease.

9 **Q.** Okay.

10 **A.** There's a separate form of lease for each well
11 that would be covered.

12 **Q.** Actually, if you could, can you refer -- let
13 me refer you -- take a look at the rates, the cost of
14 rate study table. And can you go to Table 1? It's on
15 page 8-6. It's called O&M Assumptions, Potable Water
16 Supply.

17 **A.** Okay. I'm in the cost of service study. I'm
18 sorry, Counselor. What page?

19 **Q.** Page 8-6.

20 **A.** 8-6. Thank you. Thank you. I'm there.

21 **Q.** Okay. Could you please read subparagraph 8,
22 Rents?

23 **A.** Excuse me?

24 **Q.** Could you please read paragraph 8, Rents?

25 **A.** Paragraph 8, Rents? What?

1 Q. Yeah. Please read that.

2 A. I don't understand what you're saying.

3 Q. Are you at Table 1, O&M Assumptions?

4 A. No. I'm in Exhibit 8.

5 Q. Okay. I was referring to page 8-6. It would
6 be either --

7 A. Okay. Parens -- okay. Okay. Got it now.
8 Which one?

9 Q. Paren 8, titled Rents?

10 A. Rents. Okay. "Each water treatment plant is
11 assumed to be four acres."

12 Q. Continue reading.

13 A. "Hernando County has one site and Pasco County
14 has four sites." I mean, Pasco only has three sites,
15 excuse me, with royalty payments as delineated.

16 Q. Okay. Then go to your, the water lease,
17 please.

18 A. Yes.

19 Q. Okay.

20 A. You're speaking about page 8-11, the water
21 rates, Table 4?

22 Q. No. I'm actually referring to the water
23 lease.

24 A. The water rates?

25 Q. The water lease.

1 **A.** Oh, the water lease.

2 **Q.** Yes.

3 **A.** I'll have to -- Counselor, could you provide
4 that to me, the water lease? I think it's, it's Exhibit
5 4. Is it, is it Appendix 4? Let me see. Okay. I got
6 it. Okay. Okay. Thank you. October 1, 2009, Water
7 Lease Agreement?

8 **Q.** Yes.

9 **A.** Okay.

10 **Q.** Can you tell from, from this, initially from
11 this lease agreement how many of the wells are being
12 conveyed from, leased from Evans Properties, Inc., to
13 Skyland Utilities?

14 **A.** It was assumed under this that the 16 acres
15 would be, with the assumption of four acres per well
16 site, would be four.

17 **Q.** Okay. Which, which, which of the four well
18 sites are covered by this lease?

19 **A.** The 16 acres would cover, would cover them. I
20 think there's four.

21 **Q.** My question is which four?

22 **A.** They're, they're delineated Skyland 209080, X
23 coordinates 28.456633, and the other coordinate is
24 82.332933.

25 **Q.** Where in the lease are you reading?

1 **A.** They're the four wells that are delineated
2 total into the 16 acres.

3 **Q.** Okay. But where in the lease? I'm kind of
4 lost. I'm looking at the lease agreement.

5 **A.** Well, this is a form of lease which is as --
6 this was already discussed in the seventh and eighth
7 hearing, same area, and that was shown. There's a form
8 of lease that's submitted for review and approval and
9 that kind of thing, and then the details are done and
10 approved later after certification. That's typical in
11 the process.

12 **Q.** So how, how would the PSC, looking at the
13 water lease agreement, determine, in the application
14 determine which of the four, which of the four wells are
15 being leased from?

16 **A.** The yellow ones.

17 **Q.** Okay. And where would I find that?

18 **A.** Right here.

19 **Q.** Where in the application?

20 **A.** I don't know if it's in the, in the
21 application itself.

22 **Q.** Okay. So someone looking at the application
23 could not tell?

24 **A.** Well, there's all kind -- the record has all
25 kinds of information. It's a very extensive record.

1 Q. Did there -- what is going -- what becomes of
2 the other four wells that are not part of the 16-acre
3 lease?

4 A. Those, those would be provided as the demand
5 occurs.

6 Q. Okay. And they would be provided for free by
7 Evans Properties or would there be a cost associated to
8 them?

9 A. On the same basis that we have here. It's
10 the -- the only rate recovery aspect protecting the
11 customers is as shown in our cost of service study. So
12 anything else, the risk of loss goes to Evans. So it
13 doesn't go to the customer. So here, you know, it's --
14 we've delineated the 14 total wells, we've delineated
15 the four that are covered by the 16 acres. And then
16 as -- it is assumed it's transferred on the same basis
17 as delineated before.

18 Q. Okay. Mr. Hartman, in the cost, rate cost
19 study, did that take into account the leasing of
20 additional wells?

21 A. Once the demand got to it. But it hasn't
22 tripped the demand requirement.

23 Q. So if I understand correctly, the, the cost
24 rate study did not take into account the leasing of
25 additional wells?

1 **A.** It would not until the customer base had grown
2 to do so. And once the customer base had grown to do
3 so, then it would be amortized in the same basis as the
4 previous wells for the previous customer base. So it's
5 a, it's a wash. It's the same type of situation.

6 **Q.** Going back to their -- referring to the water
7 lease, Section 1, Mr. Hartman, what is meant by
8 drilling?

9 **A.** Well, this provides for rights and privileges.
10 Drilling provides for a right to drill if they need to.

11 **Q.** So this would be, this is the possibility of
12 drilling like additional wells?

13 **A.** To -- you could drill. If there's -- why you
14 are providing a lease ability to drill is, is when we
15 put in liners, it's a drilling apparatus that we use and
16 we route (phonetic) it in. If there's a well failure or
17 a casing failure that, let's say, some of the arsenic
18 came from the upper stratas in the, in the, you know,
19 50- to 250-foot range that comes down into the lower
20 Floridan Aquifer, which would be bad but hopefully would
21 never occur, then, then you may have to drill a
22 replacement well.

23 **Q.** Okay. Let me refer you to Section 6 of the,
24 of the water lease agreement. Why is there a
25 requirement to start drilling within one year?

1 **A.** Excuse me? Where?

2 **Q.** Paragraph 6.

3 **A.** Of the water lease agreement?

4 **Q.** Water lease agreement, beginning on page 1.

5 **A.** Well, the drilling operations, again, there's
6 a refurbishment right off the bat.

7 **Q.** Is the cost --

8 **A.** That's in the cost of service study. That's
9 the \$30,000 refurbishment costs that we show in the cost
10 of service study.

11 **Q.** Now in the water lease agreement, we -- you
12 indicated that it covers four, approximately four acre
13 well sites. Are the well sites specific -- there's no
14 specific denomination that -- how do we -- how can we
15 tell from the lease agreement that it's, that, that any
16 of the wells are on, any of these four wells are within
17 the 16 acres?

18 **A.** As stated in the seventh and eighth hearings,
19 this is the same area that we went over there, that the
20 legal description would be provided at the final portion
21 of the finalization of the form of the lease.

22 **Q.** For the land. How about for the use and
23 operation of the well?

24 **A.** Well, typically when you provide a legal
25 description on the boundary, we also describe where the

1 facility assets are.

2 Q. Mr. Hartman, you, in your rebuttal you talked
3 a lot about the, the arsenic, the wells with, with
4 arsenic in them and there being a need. Is arsenic
5 discussed anywhere within the application?

6 A. No, it's not.

7 MR. KIRK: Thank you. I have -- Hernando has
8 no further questions.

9 COMMISSIONER SKOP: Thank you.

10 Mr. McAteer, for Brooksville.

11 MR. McATEER: Thank you. Thank you, sir.

12 **CROSS EXAMINATION**

13 **BY MR. McATEER:**

14 Q. Mr. Hartman, during your direct testimony in
15 July, not your deposition but your direct rebuttal
16 testimony, you, there was an exchange on page 534 of the
17 transcript, transcript Volume 3 between yourself and
18 Chairman Argenziano regarding the flow of the aquifer.

19 A. Yeah. Would you please direct me --

20 Q. Sure. I'd be happy to. It's transcript
21 Volume 3, I'm looking at page 534, beginning at line 12.
22 Let me know when you're ready.

23 A. That's near the very end.

24 Q. Close.

25 A. Okay. Go ahead. I'm there.

1 **Q.** All right. Do you see at line 12 where the
2 Chair asked, "What is the directional flow of the water
3 at that point?" Again, take your time.

4 **A.** Excuse me?

5 **Q.** Do you see at line 12 where the Chair asks,
6 "What is the directional flow of the water at that
7 point?"

8 **A.** Yes. And I answered --

9 **Q.** You answered my question. I've got another
10 one.

11 **A.** Okay.

12 **MR. WHARTON:** Well, once again, Commissioner
13 Skop, I would point out the Prehearing Order says --

14 **COMMISSIONER SKOP:** Turn the mike on.
15 Microphone.

16 **MR. WHARTON:** Once again, Commissioner Skop,
17 respectfully we would point out that the Prehearing
18 Order says that the witness may answer yes or no, and
19 then be allowed to explain his question. And I don't
20 think he should be cut off right after he says yes or
21 no. Neither should their witnesses.

22 **MR. McATEER:** I asked him if he found a line.

23 **COMMISSIONER SKOP:** I'm sorry. I didn't hear
24 the last.

25 **MR. McATEER:** I asked him if he found a line

1 of testimony. So, I mean, this is getting -- it's
2 becoming direct testimony all over again is what it's
3 becoming.

4 **COMMISSIONER SKOP:** I understand. Just if we
5 can, you know, ask a question, respond yes or no,
6 provide any elaboration, brief elaboration necessary
7 directed to the specific question asked. But let's move
8 forward.

9 **BY MR. McATEER:**

10 **Q.** And if you'll look down to line 25, I'll make
11 this quick myself as well. I had -- we were discussing
12 the arsenic exhibit, the one with the triangles marking
13 supposedly or allegedly contaminated wells, and you were
14 speaking about the flow of the aquifer and the
15 directional flow of the aquifer. And I asked you if
16 that flow took those waters towards the City of
17 Brooksville, and you answered in the affirmative. Is
18 that consistent with your testimony?

19 **A.** Yes. But the original question was the
20 Floridan Aquifer versus, which is deeper, and then, and
21 then in the surficial it also flows toward the city but
22 much slower, much attenuated in the surficial sands.

23 **Q.** I didn't ask if it was slow or fast, but I did
24 ask does it flow towards the City of Brooksville.

25 **A.** And I said yes.

1 **Q.** So the wells that are in place or shall be in
2 place, the infrastructure is either in place or shall be
3 in place would tap, you say in the superficial aquifer,
4 waters which currently flow towards the City of
5 Brooksville; is that correct?

6 **A.** No.

7 **Q.** Then please, please correct me and let me
8 understand what you --

9 **A.** As I stated earlier, the Skyland wells are,
10 you know, 750 feet deep, 700 feet deep. They're deep
11 Floridan Aquifer wells. They're way down and they're
12 not in the surficial where all the pollution is. The
13 pollution is up, up higher where you have contamination
14 from the surficial system.

15 There's, as I stated last time, the 7th and
16 8th, that we do not have any record of any arsenic
17 contamination in the Evans wells.

18 **Q.** Very well. Then let me ask the question a
19 different way. Either aquifer level, both flow towards
20 the City of Brooksville from the well areas; is that
21 correct?

22 **A.** They flow slight -- primarily west and
23 slightly northwest. Yes.

24 **Q.** Towards the City of Brooksville.

25 **A.** Well, somewhat. Yes.

1 Q. Somewhat or towards the City of Brooksville?

2 A. Well, some of it does, yes.

3 Q. All right. Because, and I raise this issue to
4 the board only because there was some indication in
5 Mr. Hartman's testimony that the City's involvement was
6 superficial. We do have a different panel than we had
7 in the previous hearings, and I just wanted to raise the
8 point that the City of Brooksville is at issue here, and
9 I wanted to make that clear on the record even though it
10 had been testified to before because we do have a
11 different cast this morning. Thank you. No further
12 questions.

13 COMMISSIONER SKOP: All right. Thank you.
14 Mr. Rehwinkel, Public Counsel.

15 MR. REHWINKEL: Thank you, Mr. Chairman.

16 **CROSS EXAMINATION**

17 **BY MR. REHWINKEL:**

18 Q. Good morning, Mr. Hartman. Just one question
19 following up on Mr. Kirk's questions. Just for clarity
20 of the record, you referenced a document that listed
21 wells. Can you tell me what document you were referring
22 to and is that document in the record?

23 A. I think we have an ID in our maps, ID-1, 2, 3
24 and 4, which show, which is -- and I don't recall where
25 all the maps have come through on, into the record,

1 depositions and various other things. I think the IDs
2 show up, but the specific permit numbers come right from
3 this chart, which is in the water use permit which is in
4 the record. So, you know, I would assume that it's in
5 the record.

6 **Q.** Okay. I just wanted to know what document
7 you're referring to. And that's a, that is a part of
8 the Consumptive Use Permit?

9 **A.** Yes. It has a permit number. It's from the
10 CUP permit.

11 **Q.** Okay. Thank you. Okay. Generally would you
12 agree that some of the purposes of your rebuttal
13 testimony are to, one, address the overall contentions
14 against the certificate application?

15 **A.** Yes.

16 **Q.** Two, to testify that the granting of the
17 application would be in the public interest; correct?

18 **A.** Well, my rebuttal was -- again, the
19 Intervenors are saying it's not in the public interest.
20 My rebuttal is saying that I believe it's in the public
21 interest. That's rebuttal of saying it's not in the
22 public interest, and the original application said it
23 was in the public interest.

24 **Q.** Okay. So part of your rebuttal is to testify
25 affirmatively that granting the application would be in

1 the public interest; correct?

2 A. Yes.

3 Q. You also are here to ask the Commission to
4 accept your expertise and experience in order for you to
5 opine on the applicability of prior legal precedent to
6 this case, specifically the *ECFS* and *Farmton* cases;
7 correct?

8 A. I just stated them and referenced them. I was
9 an expert witness in all four cases. I have personal
10 knowledge of them. I'm providing, as I was an expert in
11 those cases, my personal knowledge of the rulings in all
12 four cases.

13 Q. Okay. And you're asking the Commission to
14 accept your opinion that those cases apply to the facts
15 and circumstances of the Skyland application; correct?

16 A. As I described, from a technical standpoint,
17 engineering standpoint, absolutely. It's my, as a
18 professional engineer, there's similar circumstances.
19 Since I was an expert, now, you know, an expert in those
20 four plus this one, all five, I understand the
21 engineering, I have personal knowledge relative to it.
22 I have been accepted as an expert in front of the
23 Commission relative to these issues. I'm testifying
24 that, yes, there are previous orders that address these
25 issues.

1 Q. Okay. And you're also here to testify that
2 Skyland is the only utility that can effectively and
3 efficiently provide water and wastewater service to
4 customers in the proposed service territory?

5 A. For central service, to provide central
6 service, it, Skyland has the benefit of the existing
7 facilities. And --

8 Q. So was that a yes?

9 A. It's a yes from the standpoint it has certain
10 advantages that no other utility would have.

11 Q. But my question is they're the only one that
12 can do it?

13 A. Well, now, well, maybe the term only is, you
14 know, if you change the name of Skyland and Evans owned
15 another utility and -- you know, I can't get into all
16 the permutations legally of that. I don't know.

17 Q. So maybe there are others?

18 A. Well, you know, from a legal standpoint --
19 from a practical standpoint, the entity, an engineering
20 standpoint, the entity, Evans provides the advantage of
21 having the existing facilities and requests the service
22 from and et cetera, et cetera, et cetera, that has a
23 beneficial situation. No other utility could compete
24 with that.

25 Q. And you're also here to testify that the rates

1 in the cost study are cost based?

2 **A.** Yes. They're a cost of service study.

3 **Q.** Okay. And you're also here to testify that
4 Evans Properties want to diversify its business
5 interests and its land holdings in Pasco and Hernando
6 Counties?

7 **A.** That's what I've been informed. Ron Edwards
8 is the representative of the entity. Yes.

9 **Q.** Okay. But you filed testimony, rebuttal
10 testimony at the same time Mr. Edwards did; correct?

11 **A.** Yes. I'm not saying no. I said, I said yes.

12 **Q.** Okay. And all of your testimony here today
13 and including in your deposition contains statements
14 that you were authorized to make on behalf of the
15 corporations; correct?

16 **A.** I made them as an expert witness, yeah. I
17 was -- I've been retained by Skyland. I don't know if
18 Skyland, I don't know if Mr. Edwards approved every word
19 that I -- and, of course, since I'm doing this
20 contemporaneously, he's not approving every word I'm
21 saying. So, so it's -- I work as an expert and an agent
22 for Skyland, as I have in the past on those other cases.

23 **Q.** Okay. But you've filed prefiled direct
24 testimony, prefiled rebuttal testimony, and your
25 deposition has been already admitted into the record as

1 Exhibit 15. So my question is as to those three
2 documents, are all those statements in there ones that
3 you are authorized to make on behalf of Evans Properties
4 and Skyland Utilities?

5 A. As -- because I am their agent, those, those
6 are either my opinions or they are items that I have
7 been, I've discussed. Or as their agent with that
8 authorization, I have that authorization.

9 Q. Okay. And nothing that you've testified to in
10 those three documents have you been told that you were
11 not authorized to say those; is that correct?

12 A. I don't recall.

13 Q. You don't recall?

14 A. I don't -- right now you're asking me a
15 question would I -- has, has the company said that I
16 said things that were, they would have said it
17 differently? Maybe. But the gist of what I've said the
18 company has accepted.

19 Q. Okay. Well, my question to you in front of
20 this tribunal is can they rely on the statements that
21 you've made in your direct, rebuttal and deposition
22 testimonies?

23 A. Yes.

24 Q. Okay. You're also here to advise the
25 Commission as to the impact that they, that Evans

1 Properties' acceptance of the rates proposed in the
2 Skyland application should have on their consideration
3 of this application; is that correct?

4 **A.** If I understand your question, I think your
5 question is that the rates and charges that are
6 delineated are proper for the cost of service study.
7 Yes is my answer.

8 And secondarily, Skyland takes on the
9 responsibility of the risk of loss associated with the
10 rates and charges, as every certificated investor-owned
11 utility does.

12 **Q.** But isn't it true that you want the Commission
13 to accept that because Evans accepts the rates, that
14 that's all the Commission should care about?

15 **A.** All? I think that's one factor, but not all.
16 If Evans accepts the rates, they're the only request for
17 service right now within the certificated area. So,
18 yes, you have -- and that's the way it always is when
19 you start up. All? I don't know if you can use that
20 term.

21 **Q.** Okay. And you're also here to tell the
22 Commission that availability of water should not be a
23 concern.

24 **A.** Oh, there's an existing Consumptive Use Permit
25 that is more than adequate to meet the demands as

1 delineated in the application, and so testified not only
2 by myself, but also by the Water Management District.
3 So I think it's pretty strong.

4 Q. All right. Now you cite the *ECFS* and *Farmton*
5 cases as cases supporting the granting of the
6 application; correct?

7 A. Yes. As well as *B and C* and *D and E*.

8 Q. And this means that you're familiar with both
9 of these cases and feel qualified to render an opinion
10 as to their precedential value; correct?

11 A. Yes. I'm familiar with all four.

12 Q. Aren't you also familiar with the *Silver Lakes*
13 case, a 2007 case involving 350,000 acres of Lykes
14 Brothers land?

15 A. No.

16 Q. You have no -- you didn't look at that case at
17 all?

18 A. I don't -- I may -- I'm not an, I was not an
19 expert as in the other four cases.

20 Q. I understand that. But you, you do know what
21 that case was about, don't you?

22 A. I -- right now I don't recall it real well.

23 Q. But you've looked at it, haven't you?

24 A. I don't -- right now I can't recall. I have
25 not been, I've not been retained by Lykes Brothers to do

1 any of their work.

2 Q. I understand that. But you're here testifying
3 about the *ECFS* and *Farmton* cases.

4 A. *B and C* and *D and E*.

5 Q. Yeah. And isn't it true that Silver Lakes is
6 very similar in size to *ECFS*, 350,000 acres to
7 300,000 acres? Aren't they very similarly situated?

8 A. I, I don't know.

9 Q. How many total acres are in Skyland's
10 application?

11 A. In excess of 4,000.

12 Q. But less than five?

13 A. I believe so.

14 Q. Okay. And just so the Commissioners
15 understand, *ECFS* -- I mean, Skyland is seeking a water
16 and a wastewater certificate for the entire amount of
17 property in Pasco and Hernando Counties; correct?

18 A. That's correct.

19 Q. And is all of Evans Properties' land in those
20 two counties contained within this Skyland application?
21 Is there any land that they own in those two counties
22 that are not part of the application?

23 A. Not to my knowledge.

24 Q. Okay.

25 A. I don't, I don't recall. I should say I don't

1 recall. I'm -- there, there may be some interests that
2 I don't know about.

3 Q. Okay. On page 12 of your rebuttal testimony,
4 lines 22 through 24.

5 A. Yes. Page 12, lines 22 to 24.

6 Q. Okay. Just for clarity of the record, and I
7 think we touched about this on your direct, but you say,
8 "Evans Properties owns all the land within Skyland's
9 proposed service area, which is in Hernando and Pasco
10 Counties." Correct?

11 A. Correct.

12 Q. Okay. Now the Commissioners have been passed
13 out a map that shows a red line with the certificated
14 boundaries on it, correct, that is the same as the two
15 maps that are on the board?

16 A. Well --

17 Q. Right?

18 A. The --

19 Q. Let's look at the one closest to you, which
20 says "Draft" in the lower right-hand corner. Do you see
21 that?

22 A. Right.

23 Q. Okay. And my understanding of the
24 representation is that map on a smaller scale has been
25 passed out to all the Commissioners; correct?

1 **A.** Both of them have been.

2 **Q.** Okay. But the one that says "Draft" --
3 there's one that has all yellow in Pasco and one all
4 blue in -- I'm not talking about that one. I want to
5 talk about the one, the one that's the closest to you,
6 close to your right hand there.

7 **A.** This one.

8 **Q.** All right. There are, there is a red line
9 that the legend says "Proposed certificate."

10 **A.** Yeah. This is a draft, and, and it's really
11 for illustrative purposes where we're showing the
12 properties here are all on the application.

13 **Q.** Okay. I just want to -- but there's a red
14 line on there, and the legend says "Proposed
15 certificated" -- I don't know -- what's it say, line?
16 Can you tell me what the red line legend says?

17 **A.** Limit.

18 **Q.** Limit. Okay.

19 **A.** It's a limit.

20 **Q.** All right. Those red lines that link the
21 parcels are not part of the certificate.

22 **A.** Oh, absolutely.

23 **Q.** Absolutely what, yes or no?

24 **A.** Absolutely they're not.

25 **Q.** Okay.

1 **A.** They were never intended to be.

2 **Q.** Okay. But just so the Commissioners know
3 that, those, that line doesn't delineate the certificate
4 boundary that's --

5 **A.** It's the limit. It's the limit. It's
6 different than the boundary. Yes.

7 **Q.** What's a limit mean?

8 **A.** Well, that's the limit where we plan running
9 facilities.

10 **Q.** Okay. And you do not have any interest
11 whatsoever in the line, in the area that's shown on
12 those lines between the boundaries; correct? You
13 meaning Evans Properties or Skyland Utilities or any
14 affiliate of Evans; correct?

15 **A.** You mean -- interest, you mean ownership?

16 **Q.** Ownership interest. Correct.

17 **A.** Yeah. That's correct.

18 **Q.** Okay. So those lines are not intended to
19 convey that you have one contiguous piece of property
20 that is the subject of the certificate; correct?

21 **A.** That's correct.

22 **Q.** Okay. And in order to put facilities in those
23 lines, within those red lines that are between the
24 parcels, you would have to either acquire an interest,
25 whether by lease or fee simple or a permit to access

1 right-of-way in those areas; correct?

2 A. Those are two. There are others. Yes.

3 Q. Well, I just said three.

4 A. What?

5 Q. A lease, fee simple or a permit.

6 A. Right-of-way, a right-of-way utilization.

7 Q. Access, permit to access the right-of-way.

8 A. Right-of-way, right-of-way utilization permit.

9 Q. What other way would there be?

10 A. Oh, if there's a, you know, a small parcel
11 somewhere in there that we had to get across, it's a
12 public utility when you have a granted certification.
13 If you needed to do that, which you don't have to do
14 right now, that's, that's a future hypothetical,
15 investor-owned utilities have also the right of
16 acquisition through eminent domain.

17 Q. Okay. And, and so that's, that's a fourth
18 way; right?

19 A. That's correct.

20 Q. Okay. None of those, none of the costs of any
21 of those hypothetical connections between the parcels
22 are included in the cost study that you reference in
23 your testimony; correct?

24 A. Between the parcels?

25 Q. Yes.

1 **A.** I mean -- you mean like from the far east side
2 to the far west side?

3 **Q.** Any --

4 **A.** You mean the little red lines that you're
5 talking about?

6 **Q.** Any of those little red lines. None of the
7 cost of running the facility, of either acquiring the
8 right to use them or running facilities in them is
9 included in your cost of study that's referenced in your
10 rebuttal testimony; correct?

11 **A.** Abso -- you're correct, and there's absolutely
12 no doubt about that.

13 **MR. REHWINKEL:** Mr. Chairman, at this point
14 I'd like to pass out two exhibits for cross-examination
15 purposes.

16 **COMMISSIONER SKOP:** All right. Do you need
17 numbers for those exhibits?

18 **MR. REHWINKEL:** Yes, I think so.

19 **COMMISSIONER SKOP:** All right. The first one
20 will be --

21 **MR. REHWINKEL:** Mr. Reilly will -- oh, he's
22 giving them to the, to the staff. One of them is
23 entitled --

24 (Simultaneous conversation.)

25 **COMMISSIONER SKOP:** We've got too many people

1 talking. So go ahead, Mr. Rehwinkel.

2 **MR. REHWINKEL:** One is entitled
3 "Skyland/ECFS/Farmton Maps," and I guess that needs a
4 number.

5 **COMMISSIONER SKOP:** That'll be Exhibit Number,
6 marked for ID for Exhibit Number 43.

7 **MR. REHWINKEL:** Four three?

8 **COMMISSIONER SKOP:** Yes, sir.

9 (Exhibit Number 43 marked for identification.)

10 **MR. REHWINKEL:** And the next one, the next one
11 would be Silver Lake Utility Service Territory. Would
12 that be 44?

13 **COMMISSIONER SKOP:** Yes, it would. So that's
14 been marked for identification as Exhibit 44.

15 (Exhibit Number 44 marked for identification.)

16 **MS. KLANCKE:** May we have a short title for
17 both of those?

18 **COMMISSIONER SKOP:** I believe he read those
19 in.

20 **MR. REHWINKEL:** Yeah.

21 **COMMISSIONER SKOP:** For 43, the short title is
22 Skyland/ECFS/Farmton Maps; and for Exhibit 44, Silver
23 Lake Utility Service Territory. Is that correct,
24 Mr. Rehwinkel?

25 **MR. REHWINKEL:** Yes. Correct.

1 **COMMISSIONER SKOP:** And you may proceed.

2 **BY MR. REHWINKEL:**

3 **Q.** Okay. First I want to ask you about
4 Exhibit 43, Mr. Hartman. Do you have a copy of that?

5 **A.** Okay. Is it -- just give me the --

6 **Q.** It's Skyland/ECFS.

7 **A.** Okay. That's 43?

8 **Q.** Okay. That's 43.

9 **A.** Yes, I do.

10 **Q.** And it's three pages. And the first page is
11 the oft-used Exhibit 3A, which is very similar to the
12 map we just discussed behind you, except it has the
13 build out units and the acreage and it's a little less
14 colorful. Would you agree with that? This is Exhibit
15 3A to -- or Figure 3A. I think it's part of your
16 application, and it's also an exhibit to several
17 depositions.

18 **A.** Yes.

19 **Q.** Do you see that? Okay. And the next page is
20 something I got off the Internet that just shows a very
21 high level map representation of the ECFS territory.
22 Now you were and I guess are still a consultant to ECFS;
23 correct?

24 **A.** I've been a consultant for over 20 years to
25 them.

1 Q. Yes. Would you agree this map shows a, two
2 very large parcels in the eastern Central Florida area
3 with a general width of about 26 miles and a general
4 length of 42 miles; is that right?

5 A. That's what this graphic generalization shows.

6 Q. Okay.

7 A. It's a, it's a major generalization. There's
8 all kinds of pockets and out parcels, et cetera.

9 Q. Okay. But there are -- you would agree, would
10 you not, that there's approximately 300,000 acres in
11 ECFS?

12 A. Yes.

13 Q. And that you would also agree that the vast
14 bulk of that certificated territory are two very large
15 monolithic parcels of land; correct?

16 A. Primarily monolithic. I would not -- there's
17 all kinds of pockets and separate pieces also in there.
18 This is just, it's -- when you do it to this scale, it's
19 a graphic representation.

20 Q. Right.

21 A. It's not, it's not the service area.

22 Q. And the third page is, is something that was
23 prepared by Volusia County, but is it, is it your
24 opinion that this is an accurate representation of the
25 Farmton certificated territory, 40,000 acres in Volusia

1 County and 10,000 acres in Brevard?

2 A. Approximately. Yes.

3 Q. Okay. And, again, essentially a monolithic
4 parcel of land, 50,000 acres; right?

5 A. That's correct.

6 **COMMISSIONER SKOP:** Mr. Rehwinkel, on the last
7 map showing Farmton, you mentioned it was certificated.
8 Can you elaborate on that a little bit further?

9 **MR. REHWINKEL:** Well, my question -- okay.
10 I'll ask Mr., ask the witness a question.

11 **BY MR. REHWINKEL:**

12 Q. Does this generally, this dotted line, the red
13 dotted line, it says, "Area of Farmton within Volusia
14 County," is this representation here coextensive with
15 the certificated utility boundaries of Farmton?

16 A. No.

17 Q. In what regard is it not?

18 A. With the City of Edgewater, which is, if
19 you'll see at the northeastern corner where you see the
20 development there, we came off, and the road that goes
21 across there, their wells, the City of Edgewater wells
22 go along that road where underneath the word "Exhibit
23 B." I designed all their wells across there. There's a
24 three section breakout, breakdown below that. This is
25 not a depiction of the certificated area.

1 Q. In no way is it?

2 A. Oh, on some parts it does.

3 Q. What -- so you said there's, there's some out
4 parcels that are not included in it?

5 A. Oh, no. Well, there's, the northern part is
6 nowhere close to being the same.

7 Q. So this is not what Farmton's territory looks
8 like?

9 A. Somewhat. Generally if you took it from a
10 satellite in outer space and looked at it, it's sort of
11 generally the, the overall generalized area but not
12 specifically to the certificated area.

13 Q. Okay. But Farmton is, 50,000 acres is roughly
14 the size of that certificated territory?

15 A. Somewhat less than that, yes.

16 Q. How much less?

17 A. Just a little bit less than that. Yeah.

18 Q. Okay. And generally it is a monolithic parcel
19 of property that's owned by Miami, what is it, Miami
20 Corporation?

21 A. Miami Corporation.

22 Q. And it generally follows the representation on
23 this map; is that correct?

24 A. No. But it's -- it doesn't generally follow
25 it, but this map is an approximation of it.

1 Q. Okay. So this is what Farmton looks like in
2 a, on a very generalized basis.

3 A. A generalized basis and incorrect in several
4 places, but yes.

5 Q. Okay. My point is if you look at page 1, the
6 map that shows the, the Evans Properties is not in any
7 way, shape or form a monolithic parcel of land; correct?

8 A. Never stated to be so. That's correct.

9 Q. Okay.

10 A. It's similar to Aqua America and Utilities,
11 Inc., that has, you know, certification of multiple
12 pieces of property, and they don't have to be all --
13 there's no requirement to be a monolithic piece of
14 property.

15 Q. Okay. But you quote in your testimony the
16 ECFS order that says the Commission does not want to
17 carve up vast territories of property in the
18 certification process, don't you? Do you not?

19 A. Oh, yes. That -- there -- I do reference
20 ECFS, and one of many statements in that order does say
21 that. Yes.

22 Q. Okay. Now there's no need to avoid carving up
23 the Evans Properties within Hernando and Pasco Counties;
24 correct?

25 A. That's correct.

1 Q. Because they already are essentially carved up
2 relative to these three examples that we just looked at;
3 right?

4 A. Relative to the two examples on Exhibit 43
5 that I looked at.

6 Q. The two, yes. Yes.

7 A. That I looked at. But they are very similar
8 to Utilities, Inc., and Aqua America. It's, it's
9 typical. There's a lot of utilities throughout the
10 State of Florida that have multiple sites. And as --
11 I'll stand by my summary of my rebuttal testimony as I
12 discuss this issue.

13 Q. Okay. Can I get you to turn to Exhibit 44?

14 A. Okay.

15 Q. All right. Now will you accept my
16 representation, and I believe that staff has advised the
17 Commission that we don't need to put orders into the
18 record because they can take official notice of the
19 Commission's orders, that the *Silver Lakes Utilities*
20 case, Docket Number 060726 issued the Order
21 PSC-07-0717-FOF-WI issued September 4th, 2007, dealt
22 with the, the certification of approximately
23 350,000 acres of Lykes Brothers land for a water
24 utility?

25 A. I didn't work on this.

1 Q. Okay. But is this like the first time you've
2 ever heard of this? You deal with these very large
3 parcels of land, and you're saying you've never heard of
4 the *Silver Lakes* case?

5 A. In general conversation, but I don't have -- I
6 have no specific knowledge.

7 Q. Okay. And would you accept my representation
8 that this is the official map that was filed with the
9 Public Service Commission for this utility?

10 A. I don't know.

11 Q. Okay. So you can't accept that
12 representation?

13 A. I just don't know.

14 Q. If, if this is 350,000 acres of Lykes Brothers
15 lands that were certificated into three parcels here, if
16 you look at the lower parcel that's carved up by Fish
17 Eating Creek and then the part above it and then a
18 little outlier parcel, does this look like ECFS -- I
19 mean, Evans Properties' property in Pasco and Hernando
20 County?

21 A. You mean just checking this map?

22 **MR. WHARTON:** Commissioner Skop, we would
23 object at this point. This is not helpful to the
24 record. It sounds like legal argument that should be
25 made in the briefs. He said he's not familiar with the

1 case. He's referring to a Commission order.

2 **COMMISSIONER SKOP:** Mr., Mr. Rehwinkel, to the
3 objection.

4 **MR. REHWINKEL:** Yes. To the objection is
5 Mr. Hartman refers on pages 3, 4, 10 and 12 and 13 to
6 cases of the Public Service Commission and asks you to
7 take recognition of his opinion of how those cases apply
8 to this case. And I wanted to ask him about a case that
9 he doesn't cite, and the two points that I want to make
10 is that they should be aware of it because it cites the
11 cases that he cites, *ECFS* for one, and very similar to
12 one of the case that he cites, *ECFS*. And if the
13 Commission wants to accept his expert testimony about
14 these cases that he gives opinion about, uses the word
15 opinion, then it's fair game to ask him about what he
16 doesn't include in what he asks the Commission to take
17 recognition of.

18 **MR. DETERDING:** And, Commissioner, he's, he's
19 admitted he's not familiar with the case. And if that
20 is the point, then he's made it.

21 **COMMISSIONER SKOP:** I understand. The
22 objection is overruled. Mr. Rehwinkel, you may proceed
23 to ask the question. The witness will be directed to
24 answer the question to the best of his ability. And if
25 he does not have personal knowledge, just state that you

1 don't have knowledge. You may proceed.

2 **BY MR. REHWINKEL:**

3 Q. Would you agree that in the, in the *Silver*
4 *Lakes* case that Silver Lakes/Lykes Brothers sought to
5 certificate the entire 350,000 acres for water, but only
6 1,784.41 acres for wastewater?

7 A. I have no personal knowledge.

8 Q. Okay. You have no awareness whatsoever that
9 they did not come in and ask for a wastewater
10 certificate for the entire 350,000 acres?

11 A. No, I don't.

12 Q. Okay. All right. You have only cited *Farmton*
13 and *ECFS* for the applicability of -- for precedent for
14 how the Commission should treat large landowner parcels
15 in the original certificate case in your prefiled
16 testimony; correct?

17 A. I thought I referenced *B and C* and *D and E*
18 also. And, and then verbally to -- in the prefiled
19 you're correct, with the, with the addition of the other
20 two.

21 Q. Okay. But you would agree, would you not,
22 that Evans Properties' application to the Commission in
23 this case is a question of first impression?

24 A. A question of first impression?

25 Q. With respect to the configuration of the, of

1 the property, the so-called checkerboard configuration.

2 A. No, I don't -- I -- my understanding of a case
3 of first impression, and I'm not a lawyer, so this is a
4 nonlawyer's understanding of a legal aspect, is it's the
5 first time, you know, in front of the body or whatever.
6 And, and as I stated earlier and I'll repeat again, Aqua
7 America and Utilities, Inc., have checkerboard service
8 areas, if you want to call it that, all over the place.

9 Q. Did they involve a private landowner coming in
10 and asking to have his, his, or the private landowner's
11 property certificated coterminous with the boundaries of
12 that property?

13 A. I do not have personal knowledge of all the
14 different applications, but there are a lot of them.

15 Q. But Aqua was, was not also a company that
16 owned the land, were they?

17 A. My knowledge of Aqua America is they purchased
18 many of the systems that my co-worker, Tony Isaacs, when
19 he was working for Southern States Utilities, sold to
20 them.

21 Q. Okay. But they didn't own the land that the
22 customers resided on; correct?

23 A. Not -- that's correct. They -- it wasn't
24 agricultural. It was -- they were a bunch of utilities.

25 Q. Okay. And just on Exhibit 43, which in the

1 first page, which has this Figure 3A on it, can you tell
2 me, for example, do you see parcels 1 and 2? They're
3 kind of on the left-hand side of the map, they're green.

4 A. Yes.

5 Q. Can you tell me the distance between those two
6 parcels, if you follow the red line?

7 A. Approximately two miles.

8 Q. Okay. And that's not a crow's distance but
9 along the lines, is that what that -- did you do it that
10 way?

11 A. It's approximately two miles.

12 Q. Okay. How, before you put that up, how about
13 the distance between Parcel 4 and Parcel 6? Do you see
14 that?

15 A. Parcel 4.

16 Q. 4 is just right below 1.

17 A. Oh, I see what you're talking about.

18 Q. And then I think 6 is over there in blue from
19 the points following the line.

20 A. Approximately 2.5 miles, between 2.5 and 2.7
21 or so.

22 Q. Okay. All right. Page 22 of your testimony,
23 would you agree that the location of, of the, the
24 installation of utilities, central utility services in
25 an area like the Evans Properties is a matter of

1 economic significance?

2 A. I don't understand.

3 Q. Okay. It's not an easy thing to do. You have
4 to go, you have to, you have to get the certification
5 from the Public Service Commission, you have to go
6 through whatever land use regulation process that's
7 required; correct?

8 A. Oh, absolutely. A certificate from this
9 Commission does not provide for the development
10 approval. It's not a development approval. It still --
11 it doesn't tie the hands of the county relative to those
12 things at all.

13 Q. And you agree it is, it's a capital intensive
14 process; correct?

15 A. It depends. Going through the process has not
16 been capital intensive. It can be made capital
17 intensive by intervenors, yes.

18 Q. Well, I mean, from, from the, from the process
19 all the way to actually building and putting it in.

20 A. No. No. I disagree with you. I don't think
21 it's that incredibly capital intensive when you consider
22 ownership of 4,000 acres has a lot more value in the
23 property and the continued use and the stewardship of
24 that property than this process.

25 Q. Well, part of the reason for certification

1 means that there's only going to be one provider.
2 There's, there's a public interest prohibition or
3 purpose behind not having duplication of services
4 because of the cost, for one thing, of providing utility
5 services; correct?

6 A. That's one factor for duplication of services.

7 Q. Yeah.

8 A. And since the assets are, you know, there's
9 wells there and, and this provider can react to the
10 demand, owns property, has access, et cetera, much
11 easier than anyone else, it is the most efficient way to
12 serve these properties is through central service, which
13 is appropriate and is the most cost-effective.

14 Q. And once these facilities are in place and the
15 area certificated to whichever entity, whether a
16 customer is a related party or, if circumstances change,
17 not a related party, the customer who resides in that
18 certificated area is, is essentially stuck with that
19 utility for utility services; correct?

20 A. For water and wastewater service, they have
21 the -- yes. It's a monopoly and that's how water and
22 wastewater utilities run.

23 Q. And those customers are also stuck with
24 whatever cost structure underlies that utility service;
25 correct?

1 **A.** Within the certificated area, yes.

2 **Q.** Yes. And with whatever rates that result
3 initially from that cost structure; correct?

4 **A.** Once the rates are established and approved
5 for application, yes.

6 **Q.** And in the long-term whatever rates result
7 from the development or evolution of the provision of
8 that service in the territory; correct?

9 **A.** Yes. As going through the public process and
10 the accountability of this Commission, staff's review,
11 audit, Office of Public Counsel, which you represent,
12 the board and, you know, and everyone. It's a complete
13 public hearing process. And I have not seen many rates
14 and charges proposed by an investor-owned utility that
15 came back the same in future rate cases.

16 **Q.** Okay. And it should not matter, should it, to
17 the Commission in establishing appropriate initial rates
18 whether the customer asking for service is related to
19 the utility or not, should it?

20 **A.** There's no, there's no requirement relative to
21 that aspect, no.

22 **Q.** But my question is to you should it matter to
23 the Commission about whether the customer asking for
24 service is a related party?

25 **A.** On initial certification?

1 Q. Yes.

2 A. Absolutely not. Because that's how you start
3 up these, on initial certification. Later on, I think
4 you're thinking more of a rate case, related parties
5 might have a different situation --

6 Q. No. My question --

7 A. -- farther down the thing. But now, we're
8 talking about this instant proceeding, this is an
9 original certification, a start-up situation. The
10 landowner wants to have service. Of course it's going
11 to be a related party.

12 Q. Okay. That's, my -- I didn't ask the question
13 right. My question to you is should the Commission give
14 additional weight to the rates that are proposed because
15 the party asking for service is a related party, because
16 that potential customer is a related party?

17 A. Additional weight? I don't understand.

18 Q. Should it matter more to them that the
19 customer is related than not related with respect to how
20 they view your initial rates?

21 A. Well, this, this has never come up to me.
22 What we always do is we do a cost of service study and
23 that's audited, reviewed, tested factually, and that's
24 what the rates fall out as. So I don't understand --
25 there's no subterfuge here at all.

1 Q. So your answer is no, it shouldn't --

2 A. It shouldn't.

3 Q. The nature of the customers shouldn't matter.

4 A. No. It's a straightforward process. I mean,
5 we go through all the forms, provide it to them, they're
6 found complete. It's been gone through the entire
7 process.

8 Q. Okay. Shouldn't the Commission give great
9 weight to the rates that result from the lowest cost to
10 the end user?

11 A. No. The Commission should give great weight
12 to the lowest total cost of service. The total cost of
13 service, not necessarily just rates.

14 Q. Are you aware -- go ahead.

15 A. Because the capital aspect -- I think one
16 example is the statements from both counties that they
17 cannot economically serve that customer base because
18 they don't want to get into the subsidy situation. So
19 they want no service or well and septic.

20 If you want service to that customer class,
21 then you should, those customers should pay their costs
22 of service. You should pay for what you get and those
23 rates are shown. The rates in this case are right in
24 the middle of the range of rates that the PSC shows as
25 of 2009. We're right in the middle. So, it so happens

1 to be double the rates and charges of Pasco County. But
2 the total cost of service is much more cost-effective
3 than well and septic, and that's the alternative. Or,
4 and there is no evidence, there is no cost of service
5 study by Pasco County or Hernando County or any other
6 entity to serve this customer class or this area. And
7 because of that, there's no evidence on one side. Well
8 and septic, it's stated on the other side, is more, more
9 costly. This is the least cost and most economical
10 service, and it's appropriate service for the public
11 health, safety and welfare. Thank you.

12 Q. Okay. If, if Evans Properties divested itself
13 after certification -- let's assume that the Commission
14 certificated as you apply for. Could you accept that
15 premise for my question?

16 A. For a hypothetical, go ahead.

17 Q. And Evans Properties ultimately divested
18 itself of its utility operations and sold off parcels of
19 land to unrelated parties, and the costs that were in
20 your cost study did not include all of the relevant
21 costs that an unrelated party would bear in providing
22 utility service, would the Public Service Commission be
23 required to authorize higher rates if that party came
24 in, unrelated party came in and asked for rates to be
25 set on a cost basis? Do you understand my question?

1 **A.** There's a hypothetical on top of a
2 hypothetical and a third hypothetical, and there's so
3 much variance in each one of those hypotheticals, it's
4 difficult.

5 But to answer it simply, I believe it's proper
6 to have rates and charges set based upon cost causing
7 behavior pursuant to the Manuals of Practice of Rate
8 Setting, American Water Works Association. So if the
9 cost of service is greater, the rates should follow the
10 cost of service. That's -- and so I don't think this
11 Commission is required to do anything. It's their
12 judgment and the staff's judgment, and they, and they
13 adjudicate as they feel appropriate.

14 **Q.** Okay. But I guess where I'm headed with this
15 question is if you don't include all of the relevant
16 costs in the, in the cost study that you have provided
17 to the Commission and circumstances change down the
18 road, customers who buy property or buy residences in
19 the certificated territory could have, could get a wrong
20 signal about what their true cost of utility service is;
21 correct?

22 **A.** If you accept your hypotheticals, which I do
23 not, then the third hypothetical may result, which is
24 speculative but could, it's, there is a potential.

25 **Q.** Okay.

1 **A.** But there is no requirement. There's nothing
2 binding relative to that.

3 **Q.** Binding in what regard?

4 **A.** I mean, it has to go through, you have to go
5 through a process to look at rates and charges.

6 **Q.** So on page 22 of your rebuttal testimony,
7 between lines 10 and 17, you state that "The level of
8 rates proposed in Skyland's application is not
9 uncommon."

10 **A.** That's correct.

11 **Q.** "Especially for similar types of service
12 areas." Why does it matter whether it's common or not
13 if they're cost-based? And your testimony is that your
14 cost of study has set rates that are cost-based, isn't
15 it?

16 **A.** Yes. And that's just a statement that's not
17 uncommon. And as I testified earlier, the Florida
18 Public Service Commission's own reports as of the end of
19 2009 show combined water and wastewater rates for a
20 typical customer going from \$20 to \$190 per month. Ours
21 are halfway between that or less.

22 **Q.** Okay. And can you turn to page 30 of your
23 testimony, your rebuttal?

24 **A.** Page 13?

25 **Q.** Three zero.

1 **A.** Oh, 30.

2 **Q.** Yes. All right. At the bottom of 30 on line
3 24 you state, "The level of rates is not the only
4 indicator of efficiency. There are no customers in the
5 proposed service area who are unaware of Skyland's
6 requested rates and those rates have not been protested.
7 Skyland has received a request for service from Evans
8 and Evans is aware of the level of the water and sewer
9 rates."

10 **A.** That's true.

11 **Q.** "Future customers will also be aware of the
12 level of the rates before they connect to the utility
13 system." Do you see that?

14 **A.** Yes. That's true.

15 **Q.** All right. Now if the customers, if there are
16 costs that are not included today but they will
17 ultimately find their way into the cost of service and
18 cause rates to go up, the customers may not well be
19 aware of those costs, wouldn't you, wouldn't you agree,
20 unrelated third-party future customers?

21 **A.** Well, you said that would cause the rates to
22 go up.

23 **Q.** Yes.

24 **A.** Okay. So, see, there's costs that may come in
25 in the future that are unknown right now that are

1 inappropriate to be applied right now that, that, if
2 included, with the increasing number of customers the
3 rates could still stay the same or go, even be
4 maintained with inflation probably, you know, the same
5 or going up. And, and if some unusual cost regulatory
6 expense, whatever comes in, yes, there's cost drivers
7 all the time that are not shown in initial rate and
8 charge cost of service studies. Who knew about total
9 trihalomethanes before they came out and get
10 regulations? So there's all kind of things that happen
11 in all utility structures.

12 You know, hopefully Bruce doesn't have to do
13 too much in alternative water supply and spend too much
14 money in Pasco County relative to that, you know. I
15 mean, there's just, there's all kinds of regulations
16 that come out that have cost pressures on utilities.
17 There's no doubt about it. There's future risks in cost
18 and cost of service. That's life.

19 Q. But your testimony here is that, that really
20 what matters is that Evans is aware of the level of
21 rates.

22 A. Well, they're the initial individual starting
23 up. That's the way it is. Yes.

24 Q. Okay. And that's all that the Commission
25 should really be concerned with is what Evans thinks of

1 the rates?

2 **A.** No, I didn't say that. What I said is that
3 the rates are set based upon a cost of service study
4 that's been gone through and it's a fallout. It's a
5 cost of service study. This is not a negotiated rate
6 between Evans and the PSC staff. No. It is a -- this
7 is a factually based cost of service study delineated
8 with engineers' best cost estimates and management
9 consulting costs going over time and absorptions and
10 brought back through the standard process of the Florida
11 Public Service Commission. It's a mathematical fallout.

12 **Q.** Okay. Do you have your testimony, your
13 deposition that Mr. Hollimon took on --

14 **A.** Yes, I do.

15 **Q.** On page 131.

16 **A.** Yes.

17 **Q.** And starting on line 1, you were asked, "On
18 page 27, line 20, your testimony is, regarding Mr.
19 Stapf's statement, that the cost to provide service in
20 the proposed service area is generally cost prohibitive
21 and generally impractical. Do you disagree with that
22 statement?"

23 "Answer, Yes."

24 **A.** I do.

25 **Q.** "Question, Okay. Why do you disagree with

1 that statement?"

2 "Answer, Because, you know, I don't, I don't
3 believe it to be -- it's shown in the application and I
4 don't think the costs shown in our application are
5 prohibitive or impractical. And, in fact, Evans
6 Properties, who requested the service, have reviewed the
7 proposed rates and charges and agree with them. So how
8 can it be prohibitive and impractical when you have
9 someone willing to do it?"

10 A. And that was, that was a, that was an example.
11 And as I stated to you again, the septic tank and wells
12 cost more than central service. So if you don't grant
13 the application, the future customers in this area will
14 have to pay even more. Central service provides a lower
15 cost than well and septic. So, so are you, if you're
16 really looking out for the customer and costs and just
17 look at costs only, you'd grant central service.

18 Secondarily, public health, safety and welfare
19 gives you tremendous benefit relative to central
20 service. What fire protection do you get from an
21 individual well and septic tank? I don't, you know, I
22 could go -- there's so many factors and you know that.
23 I don't, I don't mean to -- I'll stop talking.

24 Q. Is it your testimony that the rates that are
25 in your cost study, I think on page 16 of your testimony

1 you note that you have to file a cost study and
2 projected costs, correct, in your --

3 A. Yeah. Well, that's how it's done. A cost
4 study includes projected costs through a pro forma
5 pursuant -- you know, yeah, you know that.

6 Q. So is it your testimony that the costs -- that
7 the rates that are proposed are cost-based?

8 A. Yes.

9 Q. And that they include all of the costs that
10 they should?

11 A. Yes.

12 Q. And that they are not artificially low?

13 A. Correct.

14 Q. Isn't it true that the Commission should
15 compare the monthly recurring rates and service
16 availability charges of Skyland to the existing monthly
17 recurring rates and any end user assessed service
18 availability equivalent type charges that the respective
19 counties might charge in evaluating the application?

20 A. That can be a component if desired, but that
21 is not the total cost of service. You can do that. I
22 mean, that's not, that's informational.

23 Q. Hasn't the Commission compared the rates of
24 private applicants and governmental Intervenor in cases
25 like this?

1 **A.** When there's competition for service -- are
2 you talking about the *Windstream* case?

3 **Q.** Well, the *Groveland, Florida Cities Water* --
4 (Simultaneous conversation.)

5 THE COURT REPORTER: I'm sorry. You're
6 talking over each other.

7 **MR. REHWINKEL:** I'm sorry.

8 **THE WITNESS:** The one I know, have personal
9 knowledge is the *Windstream versus Marion County* case
10 where Marion County had a contract for service and there
11 was a competition relative to that and had a lease for
12 service. Very different than this situation.

13 **BY MR. REHWINKEL:**

14 **Q.** What about *Florida Cities Water*
15 *Services/Groveland*?

16 **A.** *Florida Cities Water Services*?

17 **Q.** You're not familiar with that one?

18 **A.** *Florida Cities Water Services*?

19 **Q.** Not Florida Cities. I get confused with that
20 title. *Florida Water Services Corporation*.

21 **A.** *Florida Water Services Corporation*?

22 **Q.** Yes.

23 **A.** You're talking about the old Southern States
24 Utilities?

25 **Q.** Yes.

1 **A.** Whew. I don't, I don't recall all those
2 cases. Yes, I was an expert witness on several cases
3 for them, but I don't know -- you'd have to give me the
4 documents.

5 **Q.** Okay. This would be docket, Docket Number
6 99166-WU, Order PSC-01-2501-FOF.

7 **A.** I do not have that in front of me.

8 **Q.** Okay.

9 **COMMISSIONER SKOP:** Mr. Rehwinkel, at this
10 point, I want to take a five-minute break to give the
11 court reporter a rest.

12 **MR. REHWINKEL:** Okay.

13 **COMMISSIONER SKOP:** We've been going for two
14 hours. So we'll stand on recess for five minutes.

15 (Recess taken.)

16 Okay. At this point we're going to go back on
17 the record. And, Mr. Rehwinkel, you're recognized.

18 **MR. REHWINKEL:** Thank you, Mr. Chairman.

19 **BY MR. REHWINKEL:**

20 **Q.** Mr. Hartman, do you know what the CIAC
21 level -- well, first of all, in your cost study, CIAC is
22 set to recover 55 percent of the relevant capital costs;
23 is that correct?

24 **A.** I believe so.

25 **Q.** Okay. And the Commission has a rule or a --

1 **A.** No. Excuse me.

2 **THE COURT REPORTER:** You need to speak into
3 the microphone, sir.

4 **THE WITNESS:** It shows --

5 **MR. REHWINKEL:** Gerald, you need to hit your
6 button.

7 **THE WITNESS:** Oh, I'm sorry. The buttons are
8 off.

9 I believe the utility is anticipating
10 40 percent equity contribution, 60 percent to be
11 financed through debt.

12 **BY MR. REHWINKEL:**

13 **Q.** Okay. But I'm talking about the level of
14 CIAC.

15 **A.** Probably in that order, yes.

16 **Q.** 55 percent?

17 **A.** Uh-huh.

18 **Q.** Okay. Why didn't you set it at 75 percent?

19 **A.** Well, that's based upon our, our layout.
20 That's, that's the percentage that fell out. Whatever
21 we have in the study.

22 **Q.** Okay. And ECFS, did they use a 75 percent
23 level?

24 **A.** I don't recall.

25 **Q.** What about Farmton?

1 **A.** I don't --

2 **Q.** 75 percent?

3 **A.** I don't recall.

4 **Q.** Okay. I guess the order would speak for
5 itself there?

6 **A.** Yes.

7 **Q.** Okay. When you developed your service
8 availability charge, was a portion of the capital costs
9 allocated to developer recovery, recovery from
10 developers?

11 **A.** In the pro forma we do show developer
12 recovery. There's a return on and a return of
13 investment, yes.

14 **Q.** How would that recovery occur from the
15 developer?

16 **A.** Through the capital charges, which are shown
17 in the connection fee.

18 **Q.** Well, do you have your -- let me ask you this.
19 If you could turn to -- do you have Schedule 6A for your
20 water system? Do you know where that is?

21 **A.** Schedule 6A?

22 **Q.** Yes.

23 **A.** Within the -- yes, I've got Schedule 6.

24 **Q.** I'm looking at Schedule 6A, which is
25 contributions-in-aid-of-construction, overall percentage

1 check, preliminary estimate in year six, water. It
2 should be right after page 21 of 21 of Schedule 6.

3 A. Right.

4 Q. Do you see that?

5 A. Yes, I do.

6 Q. Okay. Now this shows that you have -- it says
7 Trilby Utilities Investment. That was kind of a straw
8 name for the utility while you were working this up?

9 A. Yes. That, that would be Skyland.

10 Q. Okay. And then to the right of that you have
11 a column entitled CIAC with the subcolumns Developer and
12 Customer. Do you see that?

13 A. Yes.

14 Q. Okay. So the overall allocation of, of
15 capital costs to the utility through recovery, for
16 recovery through recurring monthly rates is 31 percent;
17 correct?

18 A. No. These are contributions-in-aid-of-
19 construction overall percentage change, not, not the
20 recurring rates.

21 Q. Okay. So -- well, under the CIAC column, if
22 you look on page 2 of 2, it shows 69 percent; right?

23 A. Yes. 69 percent total CIAC and 31 percent
24 investment.

25 Q. Okay. So the investment, the 31 percent is,

1 that's allocated to recurring rate recovery?

2 A. Yes. That would go into the investment
3 aspect.

4 Q. That would --

5 A. That would then apportion used and useful, and
6 going through all the rest of the processes would then
7 show up as investment capital.

8 Q. Right. And so that, that, that number there
9 is for use in developing the monthly recurring rate
10 calculation, correct, the 31 percent?

11 A. The 31 percent.

12 Q. Okay. So over here on the 69 percent, that
13 is, that is split between customer and developer;
14 correct?

15 A. Yes.

16 Q. All right. Now assuming that in year six,
17 which is what this calculation is targeted to; correct?

18 A. That's correct.

19 Q. Assuming in year six that Skyland and Evans
20 were constituted the same as they are today, no
21 divestiture of any land holdings in the certificated
22 area or utility investment, the developer piece of this
23 would just be something that would stay on the books of,
24 of Evans; correct? It wouldn't be allocated to any
25 customer charge.

1 **A.** It's, it's the, the, that's the investment
2 that gets the return of and return on the investment.
3 Yes.

4 **Q.** Okay. Now if the utility was divested and the
5 development, the associated development was also
6 divested, would this amount that the developer arm of
7 Evans would be absorbing in these first six years, would
8 that have to then be recovered from an unrelated
9 developer?

10 **A.** No, it doesn't have to be.

11 **Q.** How would a utility get, recover their money?

12 **A.** Well, it's based upon used and useful. It's
13 based on ratemaking. There's -- you recover it through
14 your normal, your pro forma rates and charges, and then
15 your rate base carryforward if you divest. And you
16 would look at -- there's many other aspects that go into
17 this than that.

18 **Q.** Okay. These charges though could be allocated
19 to customer-borne CIAC charges or they could be
20 reallocated to this column that is now 31 percent;
21 correct?

22 **A.** Reallocation coming back would have to come
23 back through -- it would be a rate case, I would think,
24 and it would come back to this Commission and go through
25 the entire process.

1 Q. Okay. But it could happen; correct?

2 A. Well, rate cases could happen.

3 Q. Yes.

4 A. There's no doubt about it.

5 Q. Okay. So in effect, this developer column
6 represents a potential subsidy to the end user rates
7 under the affiliated relationship of Evans and Skyland;
8 correct?

9 A. It's the investment. And, and that's one of
10 the major differences when you look at cost, total cost
11 of service, and that's one of the benefits of
12 investor-owned utilities.

13 Governmental utilities collect 100 percent
14 from the customer. Investor-owned utilities require
15 investment. So there's an -- that's an advantage of the
16 investor-owned utility.

17 Q. But isn't it also a function of the related
18 party status of, of Evans and Skyland?

19 A. It need not be.

20 Q. Okay. But do you have your deposition on
21 pages 78 and 79?

22 A. Yes, I do.

23 Q. Mr. Hollimon asked you a series of questions
24 starting on line 6 of page 78, continuing on to the next
25 page. And I want to understand if what you're

1 testifying about in the deposition, which is in the
2 record now, is the same as the point we just went over
3 here? There's a question that starts on the bottom of
4 line, on line 25 of page 78 where he says, "Okay. So
5 you're not referring to costs." And your answer is,
6 "Holistically when you look at development costs, user
7 costs and utility costs, it's probably quite
8 cost-effective, potentially pushing costs to one of the
9 other various entities."

10 Are you referring to this, some of these costs
11 being allocated to the developer?

12 **A.** Well, what I'm saying is that all the
13 entities, when they share in the cost, it's quite
14 effective. And, and the, and you have the development
15 costs, the user costs, the utility costs, and, and by
16 doing so you get a very cost-effective and efficient --
17 I'm talking about cost-effectiveness and efficiency
18 here.

19 **Q.** Okay. But the developer portion of the costs
20 that are shown on page 1 of 2 of Exhibit, Schedule 6A,
21 are costs that at least in the related party status
22 would be borne by the Evans Properties entity, assuming
23 they were the developer as well; correct?

24 **A.** Well, that's several assumptions. And, you
25 know, whoever is the developer would, would, would have,

1 incur those developer costs.

2 Q. Well, correct me if I'm wrong. Isn't the plan
3 and isn't all the testimony about all the benefits of
4 having Evans run the whole show is that you also would
5 be the developer of this land as well; correct?

6 A. Not necessarily. Not all, all the
7 developments would be -- it doesn't have to be. No.
8 It's not unusual that you have a large area of land,
9 thousand acres, whatever, 500 acres, and you could be,
10 you could develop a portion of it, another guy could
11 develop a portion in different phases. I mean, there's,
12 it could be several parties.

13 Q. I thought the plan was, at least now that
14 Evans was going to be developing, providing utility
15 service and owning the land.

16 A. Well, that's what it is currently.

17 Q. Okay. That's -- thank you.

18 If an unaffiliated developer ultimately
19 provided service -- or strike that.

20 If an unaffiliated developer ultimately
21 developed properties within the certificated territory,
22 would you assign the cost of plant the exact same way
23 that it's shown in your cost of service study?

24 A. Well, the recovery of costs and rates and
25 charges would be the same as the cost of service study.

1 The developer, let's say, let's say a biofuel, using
2 beans, a developer of that comes in, they have their
3 specific cost specific to that development that get
4 contributed into the utility. So that's normal. That's
5 what happens.

6 Q. Well, in your proposed rates, do you have a
7 plant capacity charge or a main extension charge that
8 would be a recovery mechanism from a developer?

9 A. Yes, we do. We have a, we have connection
10 fees, and the connection fees are shown in the cost of
11 service study.

12 Q. And do the connection fees recover expansion
13 of treatment plant or central facilities?

14 A. That's what their, the intent is is to recover
15 costs for central service.

16 Q. Okay. Page 27 of your testimony, lines 20
17 through 25.

18 A. Okay.

19 Q. Okay. And once again, like on page 30, you
20 state that "Evans Properties has requested service from
21 Skyland and is well aware of the rates proposed by
22 Skyland to provide service and is willing to pay those
23 rates." Do you see that?

24 A. Yes.

25 Q. Okay.

1 **A.** That's true.

2 **Q.** Was there any kind of negotiation between
3 Evans Properties and Skyland to, to reach this level of
4 willingness?

5 **A.** No. There's no negotiation at all. What it
6 was was a fallout of the rates and the cost of service
7 study.

8 **Q.** Okay. So --

9 **A.** And if they didn't want to move forward with
10 the -- if the rates and charges and the cost of service
11 was deemed prohibitive or uneconomical to Evans, they
12 would have ceased going through the certification
13 process. Why spend the money for this if it's not, if
14 it's not cost-effective to you?

15 **Q.** Okay.

16 **A.** We've already proven it's less cost than well
17 and septic and better.

18 **Q.** Do you believe that, that any cost comparison
19 between what Evans and Skyland have proposed and the
20 counties is not relevant because Evans has agreed and
21 accepted the rates?

22 **A.** Not relevant?

23 **Q.** For the Commission to consider.

24 **A.** No. I already testified -- well, that's a
25 repeat question. You asked me is it one of the

1 components that could be considered by the Commission.
2 I said, yes, it's informational. But it's not directly
3 applicable to these customers, this cost of service or
4 this cost of service study. The proper recovery costs
5 for these customer bases is shown here. So, yes, it's
6 informational, as I provide information. It's within
7 the range that this Commission regulates, and it's also
8 within the range that governmental utilities have
9 charged throughout the State of Florida.

10 Q. Okay.

11 A. That's information.

12 Q. And does Evans in any way stand in the shoes
13 of future unrelated customers of Skyland Utilities in
14 its acceptance of the rates as you testify to on pages
15 27 and 30 of your rebuttal testimony?

16 A. Your question is does Evans Properties stand
17 in the shoes of an unrelated --

18 Q. Future?

19 A. How could they if they're unrelated? I don't
20 understand the question. There's no way they could be.
21 Is that your question? Do they stand in the shoes of
22 unrelated, is that what you said?

23 Q. Yeah. My, my question is this. Is, is --
24 because Evans -- is Evans a surrogate for the customers
25 that are to come down the road that are unrelated to

1 Evans Properties or Skyland with respect to the
2 acceptability of those rates?

3 A. Well, the customers would come -- they are
4 what it is now.

5 Q. Uh-huh.

6 A. And coming down the road, any customer who
7 wishes service within the certificated area will know
8 what the costs are and it's their choice. This is a
9 free country. You know, their choice whether they want
10 to have this cost of service and work in this, and have
11 service in this certificated area and have the benefits
12 that accrue therefrom, or be at the, at the whim of, not
13 the whim, or the circumstances -- I should take that
14 word out, whim -- the circumstances of, of groundwater
15 pollution and well and septic outside, adjacent if they
16 want to live in this general area. And, and for me, my
17 preference as a professional engineer, I sure would like
18 to have something I'm not drinking arsenic.

19 Q. But you would agree, would you not, that Evans
20 Properties knows what Evans, or has an idea of what
21 Evans wants to do with the property in the short-term
22 and maybe even in the long-term; correct?

23 A. Evans has discussed opportunities with the
24 property, they've discussed their circumstances. It's
25 quite delineated in the testimony, in the record that

1 there's, the present activities need to go to some type
2 of transition because of the impacts on the agricultural
3 aspects and they're looking for that transitional
4 aspect.

5 Q. Is it your testimony that Evans has shared all
6 of its plans for the use of this property with the
7 Public Service Commission?

8 A. Shared all of its --

9 Q. Plans.

10 A. -- discussions of every kind?

11 Q. Plans. The word was plans.

12 A. Plans. Well, plans is broad and, and, and
13 they change from time to time. I think that that's,
14 that's an impossibility.

15 Have they shared representations with the
16 Commission? Absolutely. But have they shared any, any,
17 anything that could possibly occur that has ever been
18 discussed? I mean, it's, it's hard for me to answer
19 that.

20 Q. I guess my question is, and I think in -- you
21 mentioned this is a free country, and I guess free
22 enterprise rules. I don't think they have any
23 obligation to share their strategic plans with their
24 property. My question is are there strategic plans that
25 they have that they may be unwilling to share with the

1 public? And that's fine. I'm just asking if there are
2 and if they've, if they've not shared them with the
3 Commission?

4 **A.** If there's anything confidential relative to
5 financial aspects, I think it's dealt with by the
6 procedures of the Florida Public Service Commission.
7 Outside of those situations, I think it's a better
8 question asking Mr. Edwards than myself.

9 **Q.** Okay. And just one last question on these
10 lines. Is it true then that Evans as the requesting
11 customer in this application may know more about the
12 impact of future costs on the utility cost structure
13 than unrelated future purchasers of residences in the
14 certificated territory?

15 **A.** It's possible.

16 **Q.** Okay. So there could be an uneven level of
17 information with respect to what Evans knows today
18 versus what Mr. and Mrs. Jones, who might buy one unit
19 per ten acre land homesite in the future?

20 **A.** It is possible. It's the same in every
21 utility. Quite honestly, you know, I was just down in
22 North Miami Beach, is one of my clients. The management
23 structure in North Miami Beach knows a lot more about
24 what the future rates and costs are going to be in North
25 Miami Beach's system than a customer coming in and

1 connecting to their system. Absolutely. There's no
2 doubt about it. Because we're constantly planning,
3 looking at the impact of regulations, looking at the
4 nuclear criteria rules, looking at all those different
5 things and saying what are our costs to meet alternative
6 water supplies, et cetera, if they get imposed upon us?
7 There's all kinds of things that utilities understand
8 more than their customers do. That's why they're
9 delegated to professionals to run their utilities.

10 Q. Okay. But my question was beyond utilities.
11 It's to the customer itself.

12 A. Oh, absolutely.

13 Q. Okay.

14 A. There's no doubt about it.

15 Q. All right. That's a type of customer, Evans.
16 And this Mr. and Mrs. Jones, the hypothetical that I
17 referred to, that's a different type of customer. They,
18 they don't have the knowledge that Evans has as a
19 customer; right?

20 A. Yes.

21 Q. Okay.

22 A. Just as in the same example I just gave you
23 before, the City of North Miami Beach, who is a customer
24 of the system, has a lot more knowledge and has the
25 utility.

1 Q. And isn't it true that Evans Properties has
2 discussed divestiture of some of the parcels that are
3 the subject of this application?

4 A. Excuse me?

5 Q. Isn't it true that Evans -- let me ask it a
6 different way. Isn't it true that Evans may have an
7 intention to divest itself of the ownership of some of
8 the parcels that are the subject of this application?

9 A. Again, it's a hypothetical.

10 Q. Well --

11 A. Yeah. You, you -- they, if they may -- they
12 may because, of course, to have another developer to
13 come in and do, as you would do in any development, a
14 cluster here, let's say ABC Company comes in and does
15 that, then they come in and they buy the property and
16 they do the little cluster development and they become a
17 customer of the system and that's normal. Of course.

18 Q. And as of June 17th, the date of your
19 deposition, they were actively considering that option;
20 correct?

21 A. Of course. They're looking at multiple
22 agribusinesses and looking for cluster developments,
23 they're looking for transitional property. We've
24 already testified to that.

25 Q. Okay.

1 **COMMISSIONER SKOP:** Mr. Rehwinkel, at this
2 point it's 12:00.

3 **MR. REHWINKEL:** Yes.

4 **COMMISSIONER SKOP:** And I specified we're
5 going to break for lunch. So at this point why don't we
6 recess for lunch and return at 1:15.

7 **MR. REHWINKEL:** All right. I think I can
8 quickly -- I mean, a few more minutes after lunch, but
9 I'll shorten it.

10 **COMMISSIONER SKOP:** Okay. Or if it's the will
11 of the Commission, I mean, we can --

12 **MR. REHWINKEL:** I -- it's probably best to go
13 to lunch.

14 **COMMISSIONER SKOP:** Okay. All right.

15 **MR. REHWINKEL:** But I will work -- my, my, my
16 point is I will work on -- I think I can streamline the
17 rest of what I have.

18 **COMMISSIONER SKOP:** Okay. We'll reconvene at
19 1:15.

20 (Recess taken at 12:03 p.m.)
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1 STATE OF FLORIDA)
 2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

3
 4 I, LINDA BOLES, RPR, CRR, Official Commission
 5 Reporter, do hereby certify that the foregoing
 6 proceeding was heard at the time and place herein
 7 stated.

8 IT IS FURTHER CERTIFIED that I stenographically
 9 reported the said proceedings; that the same has been
 10 transcribed under my direct supervision; and that this
 11 transcript constitutes a true transcription of my notes
 12 of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
 14 employee, attorney or counsel of any of the parties, nor
 15 am I a relative or employee of any of the parties'
 16 attorneys or counsel connected with the action, nor am I
 17 financially interested in the action.

18 DATED THIS 30th day of September,
 19 2010.

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