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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Emergency Petition by ) DOCKET NO. 981609-WS  
D.R. Horton Custom Homes, Inc. )  
to eliminate authority of )  
Southlake Utilities, Inc. to )  
collect service availability )  
charges and AFPI charges in Lake )  
County )

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In re: Complaint by D.R. Horton ) DOCKET NO. 980992-WS  
Custom Homes, Inc. against )  
Southlake Utilities, Inc. In )  
Lake County regarding collection )  
of certain AFPI charges. )  
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**REBUTTAL  
TESTIMONY  
OF  
PATRICK L. PHILLIPS  
ON BEHALF OF SOUTHLAKE UTILITIES, INC.**

Q. Please state your name and address.  
A. My name is Patrick L. Phillips. My business address  
is 1101 Connecticut Avenue, N.W., Suite 750,  
Washington, DC 20036.  
Q. Are you the same Patrick L. Phillips who previously  
filed direct testimony in this proceeding?  
A. Yes.  
Q. Have you reviewed the prefilled direct testimony and  
exhibits of James L. Boyd filed on behalf of D. R.  
Horton Custom Homes ("D.R. Horton")?  
A. Yes.  
Q. What is the purpose of your testimony?

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04212 APR-56  
FPSC-RECORDS/REPORTING

1 A. To respond to certain statements contained in Mr.  
2 Boyd's testimony concerning the growth rate in the  
3 service area of Southlake Utilities, Inc.  
4 ("Southlake").

5 Q. Please comment on Mr. Boyd's testimony addressing  
6 the Economics Research Associates ("ERA") growth  
7 report which was attached to your direct testimony  
8 as Exhibit PLP-2 ("Growth Report").

9 A. On page 15, line 22 of Mr. Boyd's Testimony, he  
10 noted that the Growth Report estimated that the  
11 number of units expected to be permitted in the  
12 Southlake Service Area in 2000 was 430 units.

13 Q. How did ERA arrive at this estimate?

14 A. ERA obtained partial year data for the period  
15 January 2000, through May 2000, from the Lake County  
16 Planning Department and projected that the number of  
17 units to be permitted in 2000 for the Southlake  
18 Service Area would be 430 units. This was the best  
19 data available to ERA for this growth component for  
20 the year 2000 when ERA was preparing its report.

21 Q. Please clarify how ERA used building permit data in  
22 the Growth Report.

23 A. We reviewed the permits for 1995 through 1999 and  
24 information for the period from January 2000 through  
25 May 2000. We determined the number of units

1 permitted for the Southlake Service Area by year as  
2 follows: 116 units in 1995; 190 units in 1996; 267  
3 units in 1997; 434 units in 1998; and 398 units in  
4 1999. We projected that 430 units would be  
5 permitted in 2000, as I just discussed. Although  
6 the Growth Report refers in some places to permits  
7 issued instead of units, the Growth Report was  
8 actually prepared by reviewing the units permitted  
9 in each of those years - not the number of permits  
10 issued.

11 Q. Did Mr. Boyd also obtain information from Lake  
12 County?

13 A. According to page 16, lines 1-6 of his testimony,  
14 Mr. Boyd obtained data from Lake County as to  
15 building permits for an area which corresponds to  
16 Southlake's Service Area.

17 Q. Please summarize Mr. Boyd's analysis of the building  
18 permit data.

19 A. Mr. Boyd split the permits into two types: (1)  
20 permits which, in his opinion, represented new  
21 habitable structures and (2) permits which, in his  
22 opinion, did not represent new habitable structures.  
23 Actually, when a new habitable structure is  
24 permitted, often many of the permits characterized  
25 by Mr. Boyd as not representing new habitable

1 structures would be issued. For example, a single  
2 family residence (SF) might require permits for its  
3 garage (GA), plumbing (PL), driveway (CC), alarm  
4 system (AL), electric services (EL), mechanical  
5 (MC), and pool (RP). Mr. Boyd determined that there  
6 were 249 building permits which were "growth-type,"  
7 that is, permits which represented a new habitable  
8 structure. Mr. Boyd then erroneously compared the  
9 249 building permits with the 430 units that ERA  
10 projected would be permitted in 2000.

11 Q. Why was Mr. Boyd's comparison erroneous?

12 A. Mr. Boyd compared apples to oranges. He compared the  
13 number of permits issued (249) with the number of  
14 units expected to be permitted (430). The number of  
15 units expected to be permitted could have been  
16 permitted with just one permit for 430 units. Under  
17 Mr. Boyd's form of analysis, an area with 50  
18 building permits for one single-family residence on  
19 each permit would have twice as much growth as an  
20 area with 25 building permits, even if each of the  
21 25 building permits were for ten-unit buildings.  
22 The Growth Report compared units, which correlates  
23 with growth, not just the number of permits issued  
24 as Mr. Boyd did.

25

1 Q. Were any of the permits considered by Mr. Boyd in  
2 arriving at his 249 permits issued for a permit for  
3 more than one unit?

4 A. Yes. The types of permits considered by Mr. Boyd as  
5 representing new habitable structures include  
6 permits for more than one unit per permit, including  
7 FF - Five or More Family Building and HM - Hotel  
8 Motel Accommodation. A review of the raw permit  
9 data attached as Exhibit JCB-26, 44 of the permits  
10 were issued for buildings containing at least five  
11 units, (i.e., the FF category).

12 Q. What impact would the 44 FF permits have on the  
13 total number of units permitted?

14 A. Assuming that of the 249 permits, each one of the  
15 other 205 permits was for a single-family residence,  
16 the 249 permits would represent 425 units  $[(205 \times 1)$   
17  $+ (44 \times 5) = 425$  units], which are only five units  
18 from ERA's mid 2000 projection of 430 units.  
19 However, the impact of the non FF permits could be  
20 greater and Mr. Boyd may have proven that the growth  
21 rate for Southlake should be higher than the  
22 conservative rate used in the Growth Report.

23 Q. Please elaborate.

24 A. The FF category is for building permits of multi-  
25 family buildings for at least five family units. It

1 is more realistic, based upon development patterns  
2 in Southlake's service area, to assume that each  
3 such multi-family building permit represents an  
4 average of eight units per permit. Using eight units  
5 for the 44 FF permits and one unit for the other  
6 permits results in 557 units permitted in 2000.  
7  $[(44 \times 8) + (205 \times 1) = 557]$ . In addition, the  
8 total units permitted in 2000 could be even higher  
9 considering that some of the 205 non FF permits are  
10 permits other than single-family (SF) permits -  
11 including the two (2) permits for Hotel/Motel  
12 Accommodation (HM) and the seven (7) permits for  
13 Other Nonresidential Buildings (NR). These other  
14 non FF and non SF permits presumably would be for  
15 more than one unit per permit and further increase  
16 the total of units permitted in 2000. The increase  
17 in the number of permitted units would increase the  
18 permit component used in the derivation of  
19 Southlake's growth rate. The increase in the  
20 component would serve to increase Southlake's  
21 overall growth rate.

22 Q. Please respond to Mr. Boyd's discussion regarding  
23 the Raintree Apartments.

24 A. Mr. Boyd takes the position that the Raintree  
25 Apartments should be counted as growth in 2001.

1 ERA's fieldwork showed that the Raintree Apartments  
2 were under construction in 2000. The Raintree  
3 Apartments were included in the year 2000 in the  
4 Growth Report's Projected Development Data analysis.  
5 If the Raintree Apartments are counted in 2001  
6 instead of 2000, then Southlake's growth component  
7 for Projected Development Data will be increased,  
8 which, in turn, will increase Southlake's overall  
9 growth rate.

10 Q. On pages 19 and 20 of his testimony, Mr. Boyd  
11 attacks the use of developer projections in  
12 evaluating Southlake's overall growth rate. Please  
13 respond.

14 A. Developers, as those closest to the process of  
15 building and marketing new projects, are a valuable  
16 source of information about future development plans  
17 and growth. This is particularly true in fast-  
18 growing areas like Southlake's service area, where  
19 official data sources may lag the actual pace of  
20 development on the ground. As noted in the Growth  
21 Report, these qualitative and judgment-oriented  
22 estimates made by the development community were one  
23 source of information used in ERA's forecast.  
24 However, ERA's methodology relied on weighing the  
25 relative merits of several forecasts and indicators.

1 In our judgment, omitting the projections of  
2 developers would have unnecessarily limited our use  
3 of available information. In fact, if ERA had not  
4 considered the developer's projections in estimating  
5 the future growth of the Southlake service area, the  
6 Growth Report would be subject to serious criticism.  
7 As noted in our report, our ultimate projections  
8 reflect growth rates that are lower than those  
9 indicated by either building permit trends or  
10 developer projections. They reflect an informed  
11 judgment regarding future growth of the region based  
12 on a number of relevant indicators. Accordingly, Mr.  
13 Boyd's assertion and conclusion that "[g]iven the  
14 apparent uncertainty of the developer projections,  
15 it may be more prudent to base unit growth  
16 projections on historical data, adjusted as  
17 appropriate to reflect other reasonable growth  
18 indicators" is wrong. It would be imprudent not to  
19 take developer projections into account.  
20 Furthermore, the Growth Report does use historical  
21 data on units permitted and combines it with other  
22 reasonable growth indicators.

23 Q. Please respond to Mr. Boyd's conclusions on page 19  
24 of his testimony.



1 A. First, Mr. Boyd is wrong when he concludes that the  
2 Growth Report partially relied upon an assumed  
3 number of building permits (430) number issued in  
4 2000. The 430 number is the number of units which  
5 were anticipated to be permitted in 2000.  
6 Accordingly, because Mr. Boyd starts from an  
7 incorrect interpretation of the Growth Report, Mr.  
8 Boyd's findings on growth in his testimony are  
9 tainted and inaccurate. Mr. Boyd's research in fact  
10 actually corroborates that the number of units to be  
11 permitted in 2000 was, at a minimum, 425 units,  
12 which is only five units less than ERA's midyear  
13 projection. With respect to his comments on the use  
14 of the developer projections, as I explained above,  
15 it would be wrong not to use such information as a  
16 component of evaluating growth in the Southlake  
17 service area.

18 Q. Does this conclude your rebuttal testimony?

19 A. Yes. However, I will be glad to answer any  
20 questions that anyone would like to ask.  
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