

Marguerite McLean

090478-WS

From: Barbara G. Sanders [barbaras@penningtonlaw.com]
Sent: Friday, June 25, 2010 4:15 PM
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Subject: Docket Filing - Docket No. 090478-WS
Attachments: objections to comp exhibit list.pdf

In accordance with the electronic filing procedures of the Florida Public Service Commission, the following filing is made:

- a. The name, address, telephone number and e-mail for the person responsible for the filing is:

William H. Hollimon
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- b. This filing is made in Docket No. 090478-WS, In re: Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.
- c. The document is filed on behalf of Pasco County.
- d. There are a total number of 4 pages in the document.
- e. The attached document is Pasco County's Notice of Objection to Staff's Comprehensive Exhibit List.

6/25/2010

DOCUMENT NUMBER-DATE

5290 JUN 25 2010

FPSC-COMMISSION CLEAR

STATE OF FLORIDA
PUBLIC SERVICE COMMISSION

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

Case No.: 090478-WS

NOTICE OF OBJECTION TO STAFF'S COMPREHENSIVE EXHIBIT LIST

Pasco County ("Pasco"), a political subdivision of the State of Florida, hereby objects to the admissibility of certain exhibits/documents identified in Staff's Comprehensive Exhibit List for Entry into Hearing Record (the "List"). In support of its motion Pasco states:

Background

In this proceeding, direct testimony has been filed by Skyland Utilities, LLC ("Skyland"), Herando County ("Hernando"), Pasco, and Staff. Skyland has also filed rebuttal testimony. Each direct testimony witness also sponsors one or more exhibits to his respective testimony. Similarly, Skyland's rebuttal witnesses sponsor exhibits that are included with their rebuttal testimony. The parties' have also taken the deposition of many of the identified witnesses, and these depositions have been transcribed.

Staff, to facilitate keeping track of documents entered into the record, developed the List, and on June 15, 2010, Staff provided a copy of the List to all parties. Currently, the List contains the following broad categories: 1) exhibits sponsored by direct or rebuttal witnesses; 2) discovery responses; and 3) deposition transcripts. A copy of the List is attached as Exhibit 1.

Argument

1. Objections to Exhibits Sponsored by Witnesses

Pasco objects to the entry into the hearing record of any witness exhibit that was not created by the witness, or that otherwise is not based on the witness' personal knowledge. Specifically, Pasco objects to the exhibit numbered GCH-1 (Application for Original Water Certificate in Pasco and Hernando Counties) because it contains documents that were not authored by the witness (Hartman or his company) and about which Hartman has no personal knowledge. These documents include, for example, letters requesting service from Skyland, various lease agreements, and a funding agreement. Because Hartman is not competent to authenticate these documents they should be excluded from the record. Further, other aspects of the Application are not based on the personal knowledge of witness Hartman. Pasco does not object to the portions of GCH-1 that were authored by the sponsoring witness or his firm. Pasco has filed a Motion to Strike directed to this issue.

2. Objections to Witnesses

Pasco, as stated in its Motions to Strike, objects to testimony of Skyland witnesses Hartman and Edwards.

3. Objections to Discovery Responses

Pasco objects to the entry into the record of discovery responses, unless such responses are properly authenticated by the party offering the response into the record.

3. Objections to Deposition Transcripts

Staff proposes to enter into the hearing record the deposition transcript of each witness deposed in this proceeding. The Uniform Rules of Administrative Procedure,

Rule 28-106.206, F.A.C., states that discovery shall be conducted “through the means and in the manner provided in Rules 1.280 through 1.390, Florida Rules of Civil Procedure.”

Rule 1.330, Florida Rules of Civil Procedure, establishes guidelines for the use of depositions in proceedings. Generally, a deposition may be used by any party to impeach a witness, by an adverse party if the witness is a corporate representative, or by any party if the witness is unavailable or the witness is an expert. *See* Rule 1.330(a)(1)-(3), Fla.R.Civ.P. Notably, this rule does not allow a party to use the deposition of its own non-expert witness unless that witness is unavailable. Here, there is no indication that any witness is unavailable. Thus, Pasco objects to the use of deposition transcripts in any manner that is inconsistent with Rule 1.330 or Rule 28-106.213, F.A.C. Further, Pasco preserves a hearsay objection for each such deposition transcript.

Submitted this 25th day of June, 2010.

/s/ William H. Hollimon
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 25, 2010, a copy of the foregoing Notice of

Objections was served, via e-mail and U.S. Mail, to the following:

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