

From: Merciel, James
Sent: Tuesday, December 13, 2005 12:02 PM
To: 'Pam Holstead'
Cc: Humme I, Martin; Johansen, Dale; Weston, Mary
Subject: RE: Orler / Big Island / Folsom Ridge

I would agree that there are essentially the two possible types of utilities, either a regulated company or a 393 nonprofit. There seems to be a lot of talk regarding a regulated utility being substantially more expensive than other types of utilities, however the only additional costs that regulated utilities directly incur is an annual assessment, which is approximately one and a half percent of revenue for water utilities, and approximately 8% for sewer utilities (this is a substantial cost), and income tax which is associated with return on equity investment. Other expenses including management, operations/maintenance, billing, bookkeeping, cost of capital and other expenses would be similar regardless of the type of utility.

I also agree that the board of directors of a nonprofit or an association type of utility should not have the power to stop further development. I think the by-laws of the utility would need to state that service may not be refused unless due to violation of some legitimate state rule, and also address the developer responsibility regarding what capacity the developer would need to be provided in order to get utility service for the new areas. We have an example of a nonprofit utility set of by-laws, but I don't have it in my possession and the person who does is not here at the moment. I will check it to see if it addresses capacity for future development and let you know.

If this system ends up as a 393 nonprofit, Commission approval of the sale is not required since

the utility is not regulated now, although I expect it would be reviewed here in the context of the formal complaints.

Jim Merciel

FILED²

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Missouri Public
Service Commission

Order Exhibit No. 38
Case No(s) WC-2006-0082, et al
Date 2-28-07 Rptr xt